

Ashfords LLP (Ashfords Solicitors)

Ashford House, Grenadier Road,
Exeter , EX1 3LH
Licenced body
508761

Agreement Date: 15 November 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 15 November 2023

Published date: 24 November 2023

Firm details

Firm or organisation at date of publication and at time of matters giving rise to outcome

Name: Ashfords LLP

Address(es): Ashford House, Grenadier Road, Exeter, EX1 3LH

Firm ID: 508761

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Ashfords LLP, now a recognised body (but a licensed body during the relevant times), authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation:

- a. Ashfords LLP will pay a financial penalty in the sum of £101,357, under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
- b. to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
- c. Ashfords LLP will pay the costs of the investigation of £1,350, under Rule 10.1 and Schedule 1 of the SRA

Regulatory and Disciplinary Procedure Rules

Reasons/basis

2. Summary of Facts

2.1 We carried out an investigation into Ashfords LLP (the firm), following a report it made to us.

2.2 The investigation identified areas of concern in relation to the firm's compliance with the Money Laundering, Terrorist Financing (Information on the Payer) Regulations 2017 (MLRs 2017), the SRA Principles 2011 and the SRA Code of Conduct 2011.

2.3 The report concerned three conveyancing transactions, carried out by the firm between October 2017 and March 2018, where it acted on behalf of the purchaser.

2.4 In all three matters the firm received its instructions from a third party property investment company, which was instructed by the purchasers of the properties. Transactions One and Two

2.5 The firm were instructed, by the third party property investment company, in the purchases of properties for £3.2m and £550,000 on behalf of Client A, a limited company. A review of the client files identified the following concerns:

- a. Customer Due Diligence held for Client A revealed conflicting information as to its ultimate beneficial owner.
- b. The source of funds for the purchase was not fully understood or evidenced and had changed during the transaction.

2.6 Both of the above issues were raised in an email by the firm's compliance team and were purportedly addressed in a conversation with the fee earner. There is no written record into whether these issues were fully resolved before the transactions completed.

2.7 A retrospective search carried out by the firm, during its own investigation, identified a potential link between one of the purported beneficial owners and an entity subject to UK sanctions.

2.8 Electronic AML searches had not been carried out by the firm for this individual at the time of the purchases, and consequently the firm did not take steps to mitigate sanctions risk. As such, in the absence of documents and information obtained by the firm, to satisfy its customer due diligence and sanctions regime obligations, there was a significant risk that these purchases were funded through a sanctioned entity.

Transaction Three

The firm were instructed in the purchase of a property for just over £3m on behalf of a UK registered charity, Client B. A review of the client file identified the following concerns:

- a. The firm had previously been instructed to act in the purchase of this property on behalf of a different client, before receiving a request to change it to Client B.
- b. Source of funds documentation held for Client B revealed it did not have sufficient funds to complete the purchase. The balance was instead to be loaned to the charity from one of its trustees. The file contained no source of funds information in relation to these funds, nor customer due diligence documentation in relation to the trustee loaning the funds.

2.10 While the firm's compliance team had questioned the source of funds, it had failed to consider any AML risks on the basis that Client B was a UK registered charity.

3. Admissions

3.1 The following breaches of the MLRs 2017 are admitted to:

- a. Regulation 28 of the MLRs 2017
 - i. failure to identify and verify the beneficial owner of Client A.
 - ii. failure to scrutinise the source of funds across all three transactions.
 - iii. failure to assess and/or evidence the purpose of all three transactions.
- b. Regulation 33 of the MLRs 2017
 - i. failure to carry out enhanced customer due diligence and enhanced ongoing monitoring, despite the complex corporate structure of Client A and high value nature of the transaction.
 - ii. failure to obtain independent reliable sources to verify information provided or made available on behalf of Client A.
- c. Regulation 40 of the MLRs 2017
 - i. failure to retain documents and information to satisfy the customer due diligence requirements in Regulations 28 and 33 of the MLRs 2017.

3.2 The firm admits, and we accept, that by failing to comply with the MLRs 2017, the firm has:



- a. failed to behave in a way that maintains the trust the public places in the firm and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011.
- b. failed to carry out the business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SRA Principles 2011.
- c. failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011, which states you comply with legislation applicable to your business, including anti-money laundering and data protection legislation.

4. Why a fine is an appropriate outcome

4.1 Our Enforcement Strategy sets out our approach to the use of our enforcement powers, where there has been a failure to meet its standards or requirements.

4.2 When considering the appropriate sanctions and controls in this matter, we have taken into account the admissions made by Ashfords LLP and the following mitigation which it has put forward:

- a. It accepts that there have been breaches of the MLRs 2017 across the three transactions and admits the failings by the firm in this regard.
- b. It had procedures and controls in place; however, they were not followed in these matters.
- c. There is no suggestion that the transactions actually involved money laundering or any financial crime. These were historic transactions and there has been no findings made following investigations by any other agency or body, which indicates that any harm has been suffered.

4.3 We consider that a fine is the appropriate outcome because:

- a. There were serious breaches of the relevant money laundering regulations and our rules and the firm should have complied with the same.
- b. The conduct had the potential to cause significant harm by facilitating transactions that gave rise to a risk of facilitating money laundering, and because the firm was responsible for the overall conduct.
- c. The agreed outcome is a proportionate outcome in the public interest because the issuing of such a sanction is necessary to maintain standards, by highlighting the risks



arising from the behaviours in question and deterring such repetition.

- d. There has been no evidence of lasting harm to consumers or third parties being caused by the admitted breaches, based on current knowledge.
- e. There is a low risk of repetition, the transactions happened over five years ago, and the firm has stated it has made significant investment in its AML processes and compliance team since these transactions took place. Further, the members of the compliance team involved in the underlying transactions are no longer working for the firm.
- f. The firm brought this matter to our attention initially, has assisted us throughout the investigation, admitted breaches, made changes to systems, policies and procedures as a result, and ensured training to all relevant employees is regularly provided.

4.4 A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

5.1 The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial penalty (the Guidance).

Following the three-step fining process, we have determined the following:

Step 1(a): Determining the basic penalty: Assessing the seriousness of the misconduct.

We and Ashfords LLP agree that the nature of the misconduct was less serious (not more serious) because:

- a. The firm has submitted a detailed report, following its own internal investigations, which openly identifies the failings within the three historic conveyancing transactions.
- b. The evidence suggests that across these matters, questions were raised by the firm's compliance team but the answers were not recorded on the client file. As such, the firm is unable to evidence how it assessed the money laundering risks or scrutinised the transactions.
- c. The conduct was not intentional.

5.3 The Guidance gives this type of serious misconduct a score of one.

5.4 We consider that the impact of the misconduct was medium because:

- a. A number of red flags were missed, not adequately acted upon, or sufficiently recorded, during the course of the three transactions, by both the fee earner and the firm's compliance team
- b. This demonstrated a failure in the firm's client onboarding and ongoing monitoring processes.
- c. These failings have resulted in the firm receiving significant sums into its client account in the absence of source of funds evidence.

5.5 The Guidance gives this level of impact a score of four.

5.6 The "nature" of the conduct and the "impact of harm or risk of harm" added together, give a score of five. This places the penalty in Band "B", as directed by the Guidance.

Step 1(b): Arriving at a broad penalty bracket for the matter.

5.7 A seriousness score of five (5) indicates penalty bracket Band "B" and this confirms the penalty to be a percentage of the firm's annual turnover of between 0.4% to 1.2%.

Step 1(c): Arriving at a specific figure for the basic penalty.

5.8 The turnover relied upon for the calculation is £42,232,000.

5.9 We consider, for the purposes of expediting resolution of this matter now, the penalty scale "B1" is appropriate. We have reached this score primarily to reflect the appetite of the SRA to seek a resolution of this matter now, along with the seriousness of the misconduct which related to these clients and transactions.

5.10 As such, we calculate the basic financial penalty to be 0.4% of turnover, which equates to £168,928.

Step 2: Adjusting the penalty to account for mitigating factors.

5.11 There is an opportunity to adjust the basic penalty for mitigating factors. We have taken the following factors into account.

- a. The firm has a largely unblemished regulatory and disciplinary history.
- b. The firm has cooperated with all of our investigations and brought these matters to the attention of us, following its

own internal investigations.

- c. There is an absence of any pattern of misconduct.
- d. The firm has admitted its breaches from the outset.
- e. After the transactions referred to in this document were identified, the firm has stated it has made significant investment in its AML processes.
- f. The risk of repetition of similar breaches is now low.

5.12 Consequently, our view is that this matter may now be expedited towards a resolution of a financial penalty of £101,357, representing a discount of 40% on £168,928, owing to the above and the firm's full cooperation throughout the investigation.

5.13 Ashfords LLP does not appear to have made any financial gain or received any other benefit, above the level of the basic penalty, as a result of its conduct. Therefore, no adjustment is necessary to remove this and the amount of the fine is £101,357.

Step 3: Remove any financial benefit arising from the conduct giving rise to the breach.

6. Publication

6.1 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Ashfords LLP agrees to the publication of this agreement

7. Acting in a way which is inconsistent with this agreement

7.1 Ashfords LLP agrees that it will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

7.2 If Ashfords LLP denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.

7.3 Acting in a way which is inconsistent with this agreement may also constitute a separate breach of principles 2 and 5 of the Principles and paragraph 3.2 of the Code of Conduct for Firms.

8. Costs

8.1 Ashfords LLP agrees to pay the costs of the SRA's investigation in the sum of £1,350. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

The date of this Agreement is 15 November 2023.

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