

Ashfords LLP (Ashfords Solicitors)
Ashford House, Grenadier Road, Exeter , EX1
3LH
Licenced body
508761

Agreement Date: 11 December 2020

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 11 December 2020

Published date: 23 December 2020

Firm details

Firm or organisation at date of publication

Name: Ashfords LLP

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

Firm ID: 508761

Outcome details

This outcome was reached by SRA decision.

Decision details

1. Agreed outcome

1.1 Ashfords LLP ('the firm'), agrees to the following outcome into the investigation of its conduct:

- a. the firm will pay a financial penalty in the sum £16,200, pursuant to Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules;
- b. to the publication of this agreement, pursuant to Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules;
- c. the firm will pay the costs of the investigation of £1,350, pursuant to Rule 10.1 of the SRA Regulatory and Disciplinary Procedure Rules.

Reasons/basis

2. Summary of Facts

2.1 The firm was a licensed body authorised and regulated by the Solicitors Regulation Authority (SRA), between the period 14 November 2016 and 20 September 2020, and it was during this time that misconduct occurred ("the relevant period"). That license ceased on 20 September 2020, following the firm's application to be granted recognised body status, which was granted, by the SRA, from 21 September 2020 onwards.

2.2 A report was made by the firm to the SRA on 23 July 2018 in relation to a breach of Rule 14.5 of the SRA Accounts Rules 2011 during the relevant period.

2.3 The firm had acted for a client in connection with seven separate building projects, where it held money in its client account and subsequently paid it out, without providing any significant element of legal services.

2.4 The firm had an arrangement, on behalf of its client, where third parties paid funds into the firm's client account. These payments related to building works being completed by the firm's client. The funds were held in the client account until a stage of work was completed, then paid out to the firm's client. In some cases, monies were held for over one year. The total sum of the monies concerned was in excess of £1m.

2.5 Payments into, and transfers or withdrawals from a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of normal regulated activities.

2.6 On attendance at an internal training session, the fee earner with the main conduct of the matters became aware of the breach and informed the firm's Compliance Team. Thereafter, the matter was reported to the SRA.

2.7 The SRA investigated the transactions and concluded there were no money laundering concerns about these transactions; however, the transactions breached SRA Accounts Rules 2011.

3. Admissions

3.1 The firm makes the following admissions which the SRA accepts:

- a. it breached Rule 14.5 of the SRA Accounts Rules 2011, by providing banking facilities through its client account;
- b. it failed to behave in a way that maintains the trust the public places in it and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011;
- c. it failed to comply with its legal and regulatory obligations, in breach of Principle 7 of the SRA Principles 2011;
- d. it failed to run its 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; and
- e. it failed to have effective systems and controls in place to achieve and comply with the Principles, rules and outcomes and other requirements of the Handbook and therefore failed to achieve Outcome 7.2 of the SRA Code of Conduct 2011.

4. Why a fine is an appropriate outcome

4.1 The SRA's Enforcement Strategy sets out its approach to the use of its 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, the SRA has taken into account the admissions made by the firm and the following mitigation which it has put forward:

- a. it reported the matter to the SRA and accepted the allegations at the earliest opportunity;
- b. there was no loss suffered by any client;
- c. steps were taken immediately to ensure the conduct did not continue;

- d. it has co-operated with the SRA's investigation;
- e. it has taken substantive steps to change and improve its procedures, systems and controls to ensure future compliance;
- f. there was no breach of the money laundering regulations, that were in force at the time of the misconduct.

4.3 The SRA considers that a financial penalty is the appropriate outcome because:

- a. the conduct showed a disregard for regulatory obligations and had the potential to cause harm;
- b. the firm had control over and an obligation to ensure compliance with the Accounts Rules, and so was directly culpable for the misconduct;
- c. it is a proportionate outcome in the public interest because it creates a credible deterrent to others, and the issuing of such a sanction signifies the risk to the public, and the legal sector, that arises when firms do not comply with their regulatory obligations.

4.4 Rule 4.1 of the SRA Regulatory and Disciplinary Procedure Rules states that a financial penalty may be appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. There is nothing within this Agreement which conflicts with what is stated in Rule 4.1 and on that basis a financial penalty is appropriate.

5. Amount of the fine

5.1 The firm was a Licensed Body (Alternative Business Structure) in the relevant period. As the licensing authority, the SRA can impose financial penalties pursuant to s95 of the Legal Service Act 2007.

5.2 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.

5.3 Having regard to the guidance, the SRA and the firm agree that the Nature of the misconduct was low, for the reasons as set out above, and the Impact of the misconduct was medium, as the firm held a considerable amount of money in its client account for a prolonged period of time where there was no underlying transaction. The overall Conduct Band for the misconduct is "B".

5.4 The firm is a firm of greater means, as defined in the guidance, and as a result, the basic penalty has been calculated to be £27,000.

5.5 The SRA considers that the basic penalty should be reduced by the maximum allowable 40%, indicating a reduction of £10,800 on the basic penalty, resulting in an overall financial penalty of £16,200. This reduction takes account of the early admissions of the misconduct made by the firm, its cooperation with the SRA's investigation, and that it remedied the breach promptly and took substantive steps to ensure no further breaches would occur in the future.

5.6 The firm does not appear to have made any financial gain or received any other benefit as a result of the misconduct. Therefore, no further adjustment is necessary to address this and the amount of the financial penalty remains at £16,200.

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. The firm agrees to the publication of

this agreement.

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

7.1 The firm 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 the firm denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to the agreement may be considered further by the SRA. That may result in a more severe disciplinary outcome.

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 contained within the SRA Standards and Regulations 2019 (such SRA Principles having been in force since 25 November 2019) and paragraph 3.2 of the Code of Conduct for Firms.

8. Costs

8.1 The firm 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.

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