

Nicolas Peacock

Lawyer manager

282870

Fined Date: 7 April 2022

Decision - Fined

Outcome: Fine

Outcome date: 7 April 2022

Published date: 11 April 2022

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Kyles Legal Practice Ltd

Address(es): 20 Northumberland Square, North Tyneside, North Shields
NE30 1PX

Firm ID: 539810

Outcome details

This outcome was reached by SRA decision.

Decision details

1. Agreed outcome

1.1 Mr Nicholas Peacock, a former director of Kyles Legal Practice Ltd (the firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):

- a. he is fined £1,700
- b. to the publication of this agreement
- c. he will pay the costs of the investigation of £450.

Reasons/basis

2. Summary of Facts

2.1 On 27 April 2018 the firm submitted a qualified accountants' report to the SRA. That report detailed breaches of the SRA Accounts Rules identified by the firm's accountants.

2.2 The SRA carried out a forensic inspection and identified that between 31 May 2018 and 6 March 2019, the firm failed to:

- a. complete client account reconciliations at least every five weeks
- b. accurately maintain client ledgers which led to a minimum client account shortage of £25,291.09 and
- c. ensure compliance with the accounts rules due to its failure to maintain its books of accounts

2.3 The firm replaced the shortage in full by 6 March 2019.

2.4 On 6 February 2020 the directors of the firm told the SRA of their decision to close the practice.

2.5 On 16 March 2020 the firm went into liquidation.

3. Admissions

3.1 Mr Peacock makes the following admissions as a principle of the firm which the SRA accepts:

- a. By failing to keep the firm's books of account up to date he breached Rules 1.2 (f), 29.1 (a) and (b), 29.2 (a) and (b) and 29.12 (a) (b) and (c) of the SRA Accounts Rules 2011 (the Accounts Rules)
- b. By allowing a client account shortage to occur and failing to remedy that shortage promptly he breached Rules 1.2 (e) and 7.1 of the Accounts Rules
- c. By failing to accurately maintain client ledgers he breached Rules 1.2 (e) and (f), 20.1 (in its entirety), 29.1 (a) and (b) and 29.2 (a) and (b) of the Accounts Rules
- d. By failing to justify the use of a suspense ledger of concern he breached Rule 29.25 of the Accounts Rules
- e. By virtue of the breaches admitted at (a), (b) and (c) he also breached Rule 6.1 of the Accounts Rules and Principles 8 and 10 of the SRA Principles 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 Mr Peacock and

the following mitigation which he has put forward:

- a. The client account shortages were replaced in full
- b. Mr Peacock has cooperated with the SRA's investigation
- c. Mr Peacock had taken steps to ensure future compliance with the SRA Accounts Rules before the firm closed.

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

- a. The misconduct had the potential to cause significant harm
- b. Mr Peacock, as a director and COFA of the firm had an obligation to ensure its compliance with the SRA Rules and was directly culpable for the misconduct
- c. Mr Peacock, as a director of the firm, was reckless because he disregarded the risk of harm and his regulatory obligations
- d. While the shortages were remedied, the breaches identified continued for a period of almost nine months and therefore longer than reasonable.

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 fine is appropriate because it reflects the seriousness of the misconduct and provides a credible deterrent to Mr Peacock and others. 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).

5.2 Having regard to the Guidance, the SRA and Mr Peacock agree that the nature of the misconduct was high because This is because the conduct has arisen out of recklessness and formed a pattern of behaviour. The Guidance gives this type of misconduct a score of three.

5.3 The SRA considers that the impact of the misconduct was low because Mr Peacock and the other directors did take remedial action by correcting the issues identified by the SRA. The Guidance gives this level of impact a score of two.

5.4 The nature and impact scores add up to five. The Guidance indicates a broad penalty bracket of £1,001 to £5,000 is appropriate.

5.5 In deciding the level of fine within this bracket, the SRA has considered the mitigation at paragraph 4.2 above.

5.6 On this basis, the SRA considers the lack of actual harm caused and the remedial action taken by Mr Peacock and the directors indicate a fine at the lower end of the bracket. However, this must be balanced against the fact that this matter evidences a pattern of behaviour. The SRA considers a basic penalty of £2,000, which is towards the bottom of the bracket, to be appropriate.

5.7 The SRA considers that the basic penalty should be reduced to £1,700. This reduction reflects a 15% reduction in the penalty for Mr Peacock's admission of the misconduct before the matter was referred for a decision.

5.8 Mr Peacock has not made any financial gain or received any other benefit as a result of his conduct. Therefore, no adjustment is necessary to remove this and the amount of the fine is £1,700.

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