Solicitors Regulation Authority

Hallam Solicitors (Hallam Solicitors)

Lower Ground Floor, 21 Otley Road, Leeds , LS6 3AA

Recognised sole practitioner

494741

Agreement Date: 20 December 2022

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 20 December 2022

Published date: 4 January 2023

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Hallam Solicitors, a recognised sole practice, authorised and regulated by the Solicitors Regulation Authority (SRA), agrees to the following outcome to the investigation:

a. Hallam Solicitors will pay a financial penalty in the sum of £2,000, 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. Hallam Solicitors will pay the costs of the investigation of £600, 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 Hallam Solicitors (the firm), following a proactive AML inspection.

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, the SRA Code of Conduct 2011, the SRA Principles 2019 and the SRA Code of Conduct for Firms 2019.

2.3 The firm did not have in place a compliant AML practice-wide (firm-wide) risk assessment, as required by Regulation 18 of the MLRs 2017, until 2 November 2020 and therefore failed to have sufficient regard for the SRA's warning notice (first issued on 7 May 2019 and updated on 25 November 2019) on this topic.

2.4 The firm also incorrectly made a declaration to us on 23 October 2020, that its firm-wide risk assessment was compliant with Regulation 18 and in line with relevant guidance, when it was not. The MLRs 2017 set out five key risk areas which must be assessed. The firm had not fully assessed, in its risk assessment, any of those key areas as detailed below:

- its customers,
- the countries or geographic areas in which the firm operates,
- the products or services which the firm provides,
- how the firm's products and services are delivered, and
- its transactions.

2.5 The risks associated with conveyancing and controlling client money, a significant area of work for the firm accounting to around 60% of its fee income, should have been addressed on the firm-wide risk assessment but had been omitted.

2.6 In addition, the firm-wide risk assessment failed to have sufficient regard to for the Legal Sector Affinity Group guidance (firstly the 2018 and latterly the 2021 guidance), our sectoral AML risk assessment and the warning notice.

2.7 The firm did not have in place compliant AML policies, controls and procedures (PCPs), as required by Regulation 19 of the MLRs 2017.The firm is required to have established and maintained PCPs, to mitigate and manage effectively the risks of money laundering and terrorist financing. Those PCPs were not compliant until May 2022 because they did not address:

- how to identify and scrutinise complex and/or unusual large transactions,
- how to identify and scrutinise transactions that have no apparent economic or legal purpose,
- how to identify and scrutinise an unusual pattern of transactions,

- transactions that are particularly high risk, and
- customer due diligence, including the nature and extent of identification of checks to be done under simplified, standard and enhanced customer due diligence.

3. Admissions

3.1 The firm admits, and the SRA accepts, that by failing to comply with money laundering legislation up to 2 November 2020 (when the firm brought itself into compliance with Regulation 18 of the MLRs 2017) and May 2022 (when the firm brought itself into compliance with Regulation 19 of the MLRs 2017), the firm has:

From 26 June 2017 to 25 November 2019 (when the SRA Handbook 2011 was in force)

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 comply with its legal and regulatory obligations, in breach of Principle 7 of the SRA Principles 2011.

c. 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.

d. Outcome 7.2 of the SRA Code of Conduct 2011 (the Code) – which states you have effective systems and controls in place to achieve and comply with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable.

e. Outcome 7.3 of the Code – which states you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook if applicable to you and take steps to address issues identified.

f. 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. From 25 November 2019 (when the SRA Standards and Regulations came into force):

g. failed to act in a way that upholds public trust and confidence in the solicitors profession and in legal services provided by authorised persons, in breach of Principle 2 of the SRA Principles 2019.

h. failed to comply with all of the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, in breach of Rule 2.1 of the SRA Code of Conduct for Firms 2019.

i. failed to keep up to date with and follow the law and regulation governing the way you work, in breach of Rule 3.1 of the SRA Code of Conduct for Firms 2019.

4. Why the agreed outcome is appropriate

4.1 The conduct showed a disregard for statutory and regulatory obligations and had the potential to cause harm, by facilitating dubious transactions that could have led to money laundering (and/or terrorist financing).

4.2 This could have been avoided had the firm established an adequate practice-wide (firm-wide) risk assessment prior to November 2020, and PCPs by May 2022. Especially when a substantial percentage (over 60%) of the firm's fee income is derived from conveyancing, which is 'in-scope' of the MLRs 2017 (Regulation 12(1)(a)) and a high-risk area of work, as highlighted by the Government's National Risk Assessment and our Sectoral Risk Assessment, but acknowledging the firm is a small firm with only two to three fee earners undertaking 'in-scope' work.

4.3 It was incumbent on the firm to meet the requirements in the regulations. The firm failed to do so. The public would expect a firm of solicitors to comply with its legal and regulatory obligations to protect against these risks as a bare minimum. This is reinforced by the warning notices we have issued, to alert the profession and those acting in scope of the MLRs 2017, to play their part in preventing and detecting money laundering and terrorist financing.

4.4 The lack of compliance showed an AML control environment failing at the firm, and

a. The agreed outcome 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 solicitors do not comply with anti-money laundering legislation and their professional regulatory rules.

b. There has been no evidence of harm to consumers or third parties and there is now a lower risk of repetition.

c. The firm has assisted the SRA throughout the investigation, admitted the breaches and has shown remorse for its actions.

d. The firm did not financially benefit from the misconduct.

e. The firm recognises that it failed in its basic duties regarding statutory money laundering regulations and regulatory compliance, as identified during our inspection.

4.5 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.

4.6 In deciding the level of the financial penalty reference is made to The SRA's Approach to Setting an Appropriate Financial Penalty (first issued in August 2013 and updated in July 2022). Following the three-step fining process, the SRA has determined the following:

a. the nature of the misconduct was low/medium because the conduct was reckless. There was a failure on the part of the firm to comply with statutory obligations, as imposed by statutory money laundering regulations, and a failure to comply with the SRA's rules that were in force at the time. The Guidance gives this level of impact a score of one.

b. we consider that the impact of the misconduct was medium because there was a failure to have in place a compliant practice-wide risk assessment and compliant policies, controls and procedures, as obliged by statutory legislation. The Guidance gives this level of impact a score of four.

The associated 'Conduct band' is "B", owing to the total score of 5 (1+4) from sub-paragraphs above, giving a penalty bracket of £1,001 to £5,000.

4.7 However, in deciding the level of fine within this bracket, we have considered the aggravating circumstances, and deemed no discount applicable. We consider that a basic penalty towards the middle of the bracket, of £2,000, is appropriate.

5. Publication

5.1 Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules states that any decision under Rule 3.1 or 3.2, including a Financial Penalty, shall be published unless the particular circumstances outweigh the public interest in publication.

5.2 The SRA considers it appropriate that this agreement is published, as there are no circumstances that outweigh the public interest in publication and in the interests of transparency in the regulatory and disciplinary process to do so.

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

6.1 The firm agrees that they will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. That may result in a further disciplinary sanction. Acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 1, 2 and 5 of the SRA Principles contained within the SRA Standards and Regulations 2019 (such SRA Principles having been in force since 25 November 2019).

7. Costs

7.1 The firm agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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