BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

v

AMIR NAZIR BUTT

(SRA ID: 14411)

Respondent

STATEMENT PURSUANT TO RULE 12 OF THE SOLICITORS (DISCIPLINARY PROCEEDINGS) RULES 2019

I, Hannah Victoria Lane, am a Solicitor employed by Capsticks Solicitors LLP of 1 St George's Road, London, SW19 4DR. I make this statement on behalf of the Applicant, the Solicitors Regulation Authority Limited ("the SRA").

The Allegations

The Allegations made against the Respondent, Amir Nazir Butt, trading as ANB Law ("the Respondent") are that:

1. Between 26 June 2017 and up to approximately 31 December 2022 the Respondent failed to have:

    1.1. a Firm Wide Risk Assessment ("FWRA") in place as required by Regulation 18 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("MLRs 2017");

    1.2. client and matter risk assessments as required by regulation 28 of the MLRs 2017;

    1.3. adequate anti-money laundering policies, controls and procedures as required by regulation 19 of the MLRs 2017;

    1.4. any or any adequate anti-money laundering training for staff at his firm as required by regulation 24 of the MLRs 2017;

In doing so, and to the extent the conduct took place before 25 November 2019, the Respondent:

a) Breached any or all of Principles 6 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles");

b) Failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

In doing so, and to the extent the conduct took place from 25 November 2019, the Respondent:

a) breached Principle 2 of the SRA Principles 2019 Principles ("the 2019 Principles");

b) Breached paragraph 7.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs ("the 2019 Code").

The facts and matters in support of this Allegation are set out in paragraphs 8 to 40 below.

2. On or around 31 January 2020, the Respondent made a declaration to the SRA which was false and misleading in that it confirmed that the Firm had in place a fully compliant FWRA as required by regulation 18 of the MLRs 2017 when, in fact, there was no such FWRA in place.

   In doing so the Respondent acted in breach of any or all of Principles 2 and 5 of the 2019 Principles and Paragraph 7.4 of the 2019 Code.

   The facts and matters giving rise to this allegation are set out in paragraphs 41 to 54 below.

3. Between November 2014 and December 2022 the Respondent failed to ensure that client money was returned promptly to the client.

   In doing so, and to the extent the conduct took place prior to 25 November 2019, the Respondent breached:

   a) Principle 6 of the 2011 Principles;

   b) Rules 14.3 and 7.1 of the SRA Accounts Rules 2011.

   In doing so, and to the extent the conduct took place from 25 November 2019, the Respondent breached:

   a) Principle 2 of the 2019 Principles;

   b) Rules 2.5 and 6.1 of the SRA accounts Rules 2019

   The facts and matters giving rise to this allegation are set out in paragraphs 55 to 71 below.

Appendices and Documents

4. I attach to this statement:

    4.1. Appendix 1 which contains the Relevant Rules and Regulations;

    4.2. A bundle of documents, marked Exhibit HVL1, to which I refer in this statement. Unless otherwise stated, the page references ("Exhibit HVL1, p.x") in this statement relate to documents contained in that bundle.

Professional details

5. The Respondent was admitted to the Roll of Solicitors on 2 September 2002. Since 1 November 2011 he has been in practice as a sole practitioner trading as ANB Law. The Respondent holds a current practising certificate. The Respondent is the sole principal and owner of ANB Law ("the Firm"). According to information provided to the SRA by the Respondent, the Firm employs four conveyancing executives and eight administration support staff. Approximately 85% of the Firm's income is from residential conveyancing and 10% from commercial conveyancing **[HVL1, p.45, para.8]**.
6. At all relevant times, the Respondent was the COLP, COFA, MLRO and MLCO of the Firm.

Facts and the matters relied upon in support of the Allegations

7. In respect of all allegations The SRA relies on the documents contained in HVL1 and on the Forensic Investigation Report dated 28 December 2022 ("the FIR") prepared by Lindsey Barrowclough ("the FIO") **[HVL1, pp.42-58]**.

Allegation 1: Failure to comply with the MLRs 2017

8. The matters giving rise to this allegation are set out in section D of the FIR **[HVL1, pp.46-54]**.
9. The MLRs 2017 came into force on 26 June 2017. The MLRs 2017 applied to the Respondent as a sole practitioner under regulation 12(1).
10. The FIR identified that the Respondent failed to comply with the MLRs 2017 in the following respects **[HVL1, p.46]:**

    10.1. The Firm did not have a written FWRA in place prior to the start of the investigation;

    10.2. The AML policy was out of date;

10.3. The Respondent was unable to produce any records of and said the Firm did not carry out:

a) Formal anti-money laundering ("AML") training of staff except for training completed as part of the Law Society Conveyancing Quality Scheme ("CQS");

b) written client and matter risk assessments;

c) independent audits of its AML regime.

11. Under Regulation 18 of the MLRs 2017, the Respondent was required, amongst other things:

11.1. To carry out a risk assessment to identify and assess the risks of money laundering and terrorist financing to which its business was subject;

11.2. To keep an up-to–date record in writing of that risk assessment;

11.3. To provide the risk assessment to the SRA on request.

12. The SRA published a warning notice on 7 May 2019 (updated on 25 November 2019) **[HVL1, pp.410-412]**. This confirmed that firms were required to:

> *Take steps to identify the risks of money laundering and terrorist financing that are relevant to it. Your firm-wide risk assessment must be in writing, kept up to date and provided to us upon request. It also must accurately set out what risks your firm is exposed to and you must also record the steps you have taken to prepare the risk assessment.*

13. On 29 October 2019, the SRA published guidance on competing FWRAs **[HVL1, pp.442-449]**.

14. Before the start of the SRA's investigation on 19 October 2022, the Respondent's Firm did not have an FWRA in place in line with the requirements of regulation 18 of the MLRs 2017. In response to a request for an FWRA from the FIO, the Respondent produced one on 18 October 2022 **[HVL1, pp.99-105].**

15. The Respondent was interviewed by the FIO on 2 December 2022 **[HVL1, pp.59-98]**. At interview, he admitted that the Firm did not have a FWRA prior to 18 October 2022 when he created the document he provided to the FIO **[HVL1, p.82].**

16. Under regulation 19 of the MLRs 2017, the Respondent was required to:

> *(a) establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment undertaken by the* [Respondent] *under regulation 18(1)* ;
>
> *(b) regularly review and update the policies, controls and procedures established under sub-paragraph (a);*
>
> *(c) maintain a record in writing of :*

(i) the policies, controls and procedures established under sub-paragraph (a);

(ii) any changes to those policies, controls and procedures made as a result of the review and update required by sub-paragraph (b); and

(c) the steps taken to communicate those policies, controls and procedures, or any changes to them, within the [Respondent's] *business.*

17. At the start of the SRA's investigation, the Respondent produced his firm's Anti-Money Laundering Policy ("AML Policy") **[HVL1, pp.106-110]**. The document was undated but the footer of the document showed that it had been drafted using a 2012 template produced by Peter Camp (an author who has produced books relating to compliance with SRA regulatory requirements and rules). The Respondent claimed it had been amended just prior to sending it to the FIO on 19 October 2022. A copy of the previous version was sent to the FIO in December 2022

18. The AML Policy failed to comply adequately or at all with the MLRs 2017 in so far as it had not been adequately reviewed or updated since at least 2012. In particular,**[HVL1, p.50]**:

    18.1. It contained out of date references to the MLRs 2007;

    18.2. It did not reflect the Respondent's Firm's current practice of electronic verification of client identity and other Customer Due Diligence ("CDD") CDD but instead made reference to completion of a client identification form which was not seen on any of the Firm's files reviewed by the FIO;

    18.3. There was no reference to Enhanced due Diligence ("EDD") as required under regulation 19(3)(c);

    18.4. There was no reference to the Firm's procedures relating to verifying the identity of beneficial owners, source of funds or source of wealth as required under regulation 19(3)(c) ;

    18.5. The document did not include details of the Firm's procedure for staff to report suspicious activity to the MLRO, nor did it set out any details of the Firm's procedure for making a Suspicious Activity Report as required by regulation 19(4)(d);

    18.6. There was no reference to internal controls such as staff screening and how this should be completed as required by regulation 19(3)(b).

19. When he was interviewed by the FIO, the Respondent admitted that the AML Policy document had not been amended since 2012 **[HVL1, p.50 and 75-76].** He had, in fact, amended it on 18 October 2022 before sending the amended version to the FIO on 19 October 2022.

20. Regulation 28(12) of the MLRs 2017 required that the ways in which the CDD requirements of the MLRs 2017 are complied with must reflect:

    20.1. The FWRA carried out under regulation 18;

20.2. The assessment of the level of risk arising in any particular case.

The Respondent was therefore required, in addition to carrying out an FWRA under regulation 18, to assess the level of risk arising in relation to each customer and transaction.

21. The LSAG Anti-Money Laundering Guidance for the Legal Sector (first issued in March 2018) sets out, in section 2.5 **[HVL1, pp.475-476]** guidance in relation to assessing individual client and retainer risk. It is therefore clear that law firms must carry out client and matter risk assessments in relation to all matters undertaken by them for clients.

22. The Respondent did not produce to the FIO any individual client or matter risk assessments and did not have any templates or a process to do so at the start of the SRA's investigation. Fee earners were therefore unable to identify and record matters as high risk or record steps to be taken to mitigate risk. In addition, the FIO reviewed four of the Respondent's files. **[HVL1, pp.52-53]**.

23. When he was interviewed by the FIO, the Respondent stated that the Firm had procedures in place which require standard documents for ID and establishing source of money and wealth. When asked for the document which showed that being recorded in a client file, he referred to the Firm's client care letter. He stated that CDD information was requested from clients in the client care documentation. The FIO reviewed the Firm's standard terms and conditions but there was no reference to identifying source of funds or source of wealth. There was no documentation on the Respondent's files to show that the fee earner had considered the risk associated with the transaction **[HVL1, pp.52-53 and 79-80]**.

24. On 19 December 2022, the Respondent provided the FIO with his Firm's revised AML documents including the following **[HVL1, pp.240-273]**:

    24.1. Client Risk Assessment Procedures;

    24.2. Client/ entity client inception forms;

    24.3. E-verification form;

    24.4. Source of funds questionnaire.

25. Under regulation 24 of the MLRs 2017, the Respondent was required to take appropriate measures to ensure that his employees were:

    25.1. Made aware of the law relating to money laundering and terrorist financing;

    25.2. Regularly given training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing.

26. The Respondent was unable to produce to the SRA any records of AML training for staff and said he did not carry this out **[HVL1, p.46, para.19].** The Respondent stated that the only AML training his staff had carried out was training offered through the Law Society as part of the Conveyancing Quality Scheme ("CQS"). However, he was unable to provide

specific details of the AML content of the CQS training. The FIO's review of the details of the Law Society's CQS training course confirmed that it made no reference to AML training. The SRA has seen no evidence that the CQS course provided AML training **[HVL1, p.51]**.

27. When he was interviewed by the FIO, the Respondent confirmed that the Firm hadn't done specific AML training. However, the CQS training had covered AML relating to conveyancing. Since the SRA's investigation he had implemented a specific AML training regime **[HVL1, pp.93-94].**

28. Following the start of the SRA's investigation, the Respondent had arranged for all staff to attend an online AML course provided by the Law Society and all staff had completed this course by 22 December 2022 **[HVL1, p.51].**

29. Regulation 21(1)(c) of the MLRs 2017 required the Respondent to establish an independent audit function for his Firm:

    29.1. To examine and evaluate the adequacy and effectiveness of the AML policies, controls and procedures;

    29.2. To make recommendations as to those policies, controls and procedures;

    29.3. To monitor compliance with the AML policies, controls and procedures.

30. When the Respondent was interviewed by the FIO, the Respondent confirmed that his Firm did not have an internal audit function in place as required by the MLRs 2017 **[HVL1, p.52 and 89]**. However, he confirmed that the Firm planned to introduce an internal audit system.

Breach of Principles: Allegation 1

31. Approximately 85% of the Respondent's Firm's income is from residential conveyancing and 10% from commercial conveyancing **[HVL1, p.45, para.8]**. The UK's National Risk Assessment of Money Laundering and Terrorist Financing 2020 produced by the Financial Action Task Force **[HVL1 p412-422]** identified, in its chapter on legal services (chapter 10), identified that conveyancing services relating to both residential and commercial properties were high risk of abuse for money laundering. The SRA sectoral risk assessment dated 28 January 2021 **[HVL1 p423-434]** identified conveyancing as one of "*the services most at risk of exploitation by criminals and corrupt elites for monsy laundering purposes"* **[HVL1 p426]**. Further, the Respondent's Firm employed four unadmitted conveyancing executives and eight administration support staff. Therefore compliance with the MLRs 2017 in general, and in particular with requirements relating to: FWRAs; client and matter risk assessments; policies, controls and procedures; and training should have been of particular concern and importance to the Respondent.

32. Principle 6 of the 2011 Principles requires solicitors to behave in a way that maintains the trust the public places in them and in the provision of legal services. There is significant

public interest in the prevention of money laundering and terrorist financing. The public trusts solicitors to play an active role in that by complying with anti-money laundering laws and regulations including the MLRs 2017. Public trust is diminished by a solicitor who fails so to comply.

33. Principle 8 of the 2011 Principles requires solicitors to run their business or carry out their role in the business effectively and in accordance with proper governance and sound financial and risk management principles. Failing to comply with anti-money laundering laws and regulations exposes a solicitor's firm to the risk of involvement in money laundering and terrorist financing.

34. Outcome 7.5 of the 2011 Code requires solicitors to comply with legislation applicable to their business, including anti-money laundering and data protection legislation.

35. As set out in paragraphs [8 to 30] above, between 26 June 2017 and December 2022, the Respondent failed to comply with the MLRs 2017 in the following respects:

    35.1. Until around 18 October 2022, he failed to have a Firm Wide Risk Assessment ("FWRA") in place as required by regulation 18;

    35.2. Until around 19 December 2022, he failed to have client and matter risk assessments as required by regulation 28;

    35.3. Until around 19 December 2022, he failed to have adequate AML policies, controls and procedures as required by regulation 19;

    35.4. He failed to have any or any adequate anti-money laundering training for staff at his Firm as required by regulation 24;

    35.5. He failed to have an independent audit function as required by regulation 21(c).

36. In so failing, and to the extent the misconduct took place before 25 November 2019, the Respondent therefore breached either or both Principles 6 and 8 of the 2011 Principles and failed to comply with Outcome 7.5 of the 2011 Code.

37. Principle 2 of the 2019 Principles came into force on 25 November 2019. It requires solicitors to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

38. The 2019 Code also came into force on 25 November 2019. Paragraph 7.1 of the 2019 Code requires solicitors to keep up to date with and follow the law and regulation governing the way they work.

39. As set out in paragraphs [8 to 30] above, between 26 June 2017 and December 2022, the Respondent failed to comply with the MLRs 2017 in the following respects:

    39.1. Until around 18 October 2022, he failed to have a Firm Wide Risk Assessment ("FWRA") in place as required by regulation 18;

    39.2. Until around 19 December 2022, he failed to have client and matter risk assessments as required by regulation 28;

39.3. Until around 19 December 2022 , he failed to have adequate AML policies, controls and procedures as required by regulation 19;

39.4. He failed to have any or any adequate anti-money laundering training for staff at his firm as required by regulation 24;

39.5. He failed to have an independent audit function as required by regulation 21(c).

40. In so failing, and to the extent the conduct took place from 25 November 2019, the Respondent therefore breached Principle 2 of the 2019 Principles and paragraph 7.1 of the 2019 Code.

Allegation 2: False and Misleading Declaration to the SRA

41. In late 2019, as part of its review into compliance with the MLRs 2017, the SRA sent a document to all firms within the scope of the MLRs, including the Respondent, requiring them to declare that they had a compliant FWRA in place. The deadline for responding was 31 January 2021 **[HVL1, p.237]**.

42. On or around 31 January 2020, the Respondent submitted a response to the SRA Document **[HVL1, p.236]**. In this response, the Respondent answered "Yes" to the following question:

> *Does your firm have in place a fully compliant firm-wide risk assessment, as required by Regulation 18, taking account of information published by us and including reference to: Your customers, the countries or geographic areas in which you operate, your products and services, your transactions and your delivery channels*

43. The Respondent also ticked a box on the response to confirm the following:

> *I confirm that the information I have given is correct, to the best of my knowledge and belief and that I will notify you if anything changes in respect of the information provided in the future.*

44. In fact, the Respondent's response was inaccurate and misleading because, as at the date he submitted the response, on or around 31 January 2020, the Respondent's Firm did not have a compliant FWRA in place.

Breach of Principles: Allegation 2

45. Principle 2 of the 2019 Principles requires solicitors to act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

46. The Respondent's conduct would damage public trust and confidence in the solicitors' profession. As set out in paragraphs 42 to 44 above, on or around 31 January 2020, the Respondent made a statement to the SRA which was inaccurate and misleading. He also ticked a box on the declaration to confirm that the information he had given was correct.

He knew or should have known at that time that the statement and the declaration were inaccurate and misleading because his Firm did not have an FWRA.

47. The public expects solicitors to be scrupulous and accurate in providing information to their regulator and to ensure that they do not provide inaccurate and misleading information. The Respondent's conduct in providing false and misleading information on 31 January 2020 would undermine the trust placed by the public in the solicitors' profession and therefore breached Principle 2 of the 2019 Principles.

48. Principle 5 of the 2019 Principles requires solicitors to act with integrity. In *Wingate v SRA* [2018] EWCA Civ 366*,* the Court of Appeal stated that integrity connotes adherence to the ethical standards of one's profession. In giving the leading judgement, Lord Justice Jackson said:

> *In professional codes of conduct the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members… Integrity connotes adherence to the ethical standards of one's own profession. That involves more than mere honesty… Such a professional person is expected to be even more scrupulous about accuracy than a member of the general public in daily discourse.*

49. The Respondent's conduct lacked integrity. As set out in paragraphs 42 to 44 above, on or around 31 January 2020, he made a statement to the SRA which was inaccurate and misleading. He also ticked a box on the declaration to confirm that the information he had given was correct. He knew or ought to have known that the information he provided was inaccurate and misleading in that his firm did not have an FWRA in place at the time when he made the statement and declaration

50. The Respondent therefore failed to act with integrity in providing the statement and declaration on 31 January 2020 and breached Principle 5 of the 2019 Principles.

51. Paragraph 7.4 of the 2019 Code requires solicitors to provide full and accurate explanations, information and documents in response to any requestor requirement from the SRA. As set out in paragraphs [42 to 44] above, the Respondent provided inaccurate and misleading information to the SRA in response to their request for confirmation that his firm had a compliant FWRA in place. The Respondent therefore breached paragraph 7.4.

Allegation 3: Failure to return client money

52. The matters giving rise to this allegation are set out in section E of the FIR **[HVL1, pp.54-58].**

53. At the start of the SRA's investigation in October 2022, the Respondent provided the FIO with a list of the firm's liabilities to clients as at 30 September 2022 **[HVL1, pp.183-211]**. The FIO identified credit balances on client matters which dated back as far as 2014.

54. An investigation was carried out by the SRA in November 2014 **[HVL1, p.55]**. This had identified breaches of the Solicitors Accounts Rules relating to the retention of client funds. The investigation had identified 315 client matters on which client balances totalling £53,033.28 had been retained but where there had been no movement since 1 February 2014.

55. A second SRA Investigation was conducted between February and August 2016 and the results set out in a report dated 18 August 2016 **[HVL1, pp.120-128]**. This investigation identified residual client balances of £57,884.29. Between 9 March 2016 and 15 August 2016, £12,178.14 of those balances were cleared. As at 18 August 2016, £37,474.33 remained.

56. The FIO reviewed the Respondent's SRA Accountants Reports from 1 December 2015 to 30 November 2021 **[HVL1, pp.170-182]**. Each of these reports were qualified and identified breaches of the Solicitors Accounts Rules in that residual balances remained within the Firm's client account after matters had completed.

57. The matter list report as at 30 September 2022 **[HVL1, pp.183-211]** excluded matters opened since 1 January 2022. The residual client account balances on that list related to matters which had been opened as far back as 2014. The Firm identified 490 client and office balances which needed investigation and action. This comprised 338 client credit balances totalling £108,113.20 with individual client balances ranging from £0.10 to £27,765.82.

58. The Respondent was asked to take steps to deal with the balances as soon as possible. On 18 November 2022, the Respondent's Firm provided a progress report on the balances **[HVL1, p.212]**. A further report on 16 December 2022 **[HVL1, p.213]** confirmed that the client balances had reduced to £48,376.09.

59. When he was interviewed by the FIO on 2 December 2022 **[HVL1, p.45 and 59-98]**, the Respondent:

    59.1. When asked about the residual balances from previous years, admitted that "*We have not really complied* [with the Accounts Rules] *in the context of those matters which are still there… we have been working on them … and admittedly really the speed hasn't been what we would have liked or the auditors would have liked… From our perspective, last when we did our exercise … in 2014 or so, the balances were quite high. We brought them I believe at that one point, closer to about £27,000.00 or something really or thereabouts… at that point really they've sort of come and gone backward and forward… if we just compare it on the 2014… that has been considerable really reduction…"* **[HVL1, p.61, line 35];**

    59.2. When asked what steps had been taken when he was aware of a potential breach of the Solicitors Accounts Rules to ensure that he problem didn't keep occurring, stated: "*A lot of files are being closed off and a lot of balances are really being addressed. There certainly are some left as, as really the report indicates which haven't been dealt with, but we.. make quite a considerable effort really to tackle*

them and if we didn't really then the list would really run quite higher…" **[HVL1, p.62, line 24];**

59.3. Explained that the Firm had been affected by Covid and a shortage of staff **[HVL1, p.63, line 8]** "*There has been really progress, but you're very right, I've identified that these needed to have gone long before now"*;

59.4. Agreed to provide an action plan for progress in dealing with the outstanding client balances after consulting with his team **[HVL1, pp.67-68].**

60. In an email to the FIO dated 23 December 2022 **[HVL1, pp.229-232]**, the Respondent confirmed:

60.1. As of 19 October 2022, his Firm had not dealt with 34 of the residual balances listed on the 18 August 2016 report;

60.2. As of 22 December 2022, his Firm had dealt with 33 of the 34 matters. In respect of the remaining matter, file 2316, they had not been able to track down the file;

60.3. He accepted that the external auditors had commented in all of their reports since 2016 that there were residual balances;

60.4. Concerted efforts had been made since 2016 to deal with residual balances. However "*some matters had retentions, or delays caused by third parties such as lenders and/or HM Land Registry*

60.5. The government had tightened the position on stamp duty which created "*huge additional work"* and had then taken away buy to let mortgage interest relief in stages. The Firm had also been affected by COVID and had lost three lawyers;

60.6. He acknowledged that his Firm had "*struggled to deal with the residual balances as required under the rules and, in so doing, we have breached the rules… I am hoping that by the end of January 2023, we would have seen most of the residual balances dealt with or investigated*.

Breach of Principles: Allegation 3

61. Principle 6 of the 2011 Principles is as stated in paragraph 36 above. The public expects solicitors to comply with the Solicitors Accounts Rules and to ensure that money due to clients is promptly returned to them when there is no longer any proper reason to hold these funds. The public would also expect a solicitor promptly to remedy a breach of the Solicitors Accounts Rules and to return client balances once this had been brought to his attention.

62. As set out in paragraphs 52 to 60 above, the Respondent has had outstanding credit balances on client accounts since 2014. These are funds which should have been returned to the Respondent's clients. Although attempts were made to deal with the balances, the Respondent's Firm continued to retain client funds when there was no proper reason to do so. The total outstanding balances at various dates during the period were:

November 2014	£53,033.28
18 August 2016	£37,474.33
30 September 2022	£108,113.20
16 December 2022	£48,376.09

63. The Respondent's failure to return these funds to clients over periods of several years dating, in some cases, back to balances arising in 2014, and in circumstances where this issue had been repeatedly brought to his attention both by SRA investigations and by his Firm's auditors, is conduct of the type which damages public trust. The Respondent's conduct, to the extent it took place prior to 25 November 2011, therefore breached principle 6 of the 2011 Principles.

64. Rule 14.3 of the SRA Accounts Rules 2011 provides that client money must be returned to the client, or other person on whose behalf the money is held, promptly, as soon as there is no longer any proper reason to retain those funds. By retaining client funds as set out in paragraphs 52 to 60 and 62 above, and to the extent the conduct took place prior to 25 November 2011, the Respondent breached rule 14.3.

65. Rule 7.1 of the SRA Accounts Rules 2011 provides that any breach of the rules must be remedied immediately upon discovery. The Respondent was first made aware of breaches of rule 14.3 by an SRA investigation in November 2014 as set out in paragraph 54 above. He was made aware of continuing breaches of rule 14.3 in the second SRA investigation in August 2016 as set out in paragraph 55 above. He was made aware each year from 1 December 2015 to 30 November 2021 from his Firm's accountants reports that there were ongoing breaches of rule 14.3 as set out in paragraph 56 above. Despite that, and although some attempts were made to repay client balances, the breaches were not fully remedied and these breaches continued up to and beyond the current SRA investigation in December 2022. To the extent his conduct took place before 25 November 2019, the Respondent therefore breached rule 7.1 of the SRA Accounts Rules 2011.

66. Principle 2 of the 2019 Principles came into effect on 25 November 2019 and is as set out in paragraph 41 above.

67. For the same reasons as are set out in paragraphs 61 to 63 above, and to the extent the conduct took place from 25 November 2019, the Respondent's conduct breached principle 2 of the 2019 Principles.

68. The SRA Accounts Rules 2019 came into effect on 25 November 2019. Rule 2.5 requires solicitors to ensure that client money is returned promptly to the client, or the third party for whom the money is held, as soon as there is no longer any proper reason to hold these funds.

69. For the same reasons as are set out in paragraph 64 above, and to the extent the conduct took place from 25 November 2019, the Respondent breached rule 2.5.

70. Rule 6.1 of the SRA Accounts rules 2019 requires solicitors to correct any breaches of these rules promptly upon discovery.

71. For the same reasons as are set out in paragraph 65 above, and to the extent the conduct took place from 25 November 2019, the Respondent breached rule 6.1.

The SRA's Investigation

72. The SRA's investigation began on 19 October 2022. The Respondent was interviewed by the FIO on 2 December 2022 **[HVL1, pp.59-98]**.

73. The SRA served a Notice on the Respondent recommending referral of this matter to the Tribunal dated 10 January 2024 **[HVL1, pp.5-21]**.

74. The Respondent responded to the Notice on 28 February 2024 **[HVL1, pp.27-35]**. In these representations, the Respondent stated, amongst other things:

    74.1. He had fully cooperated throughout the investigation;

    74.2. He had engaged with the process and taken on board the comments made at every stage of the investigation;

    74.3. He did not intend to challenge the matters raised in the FIR but felt that the instances where breaches had been identified were a very small selection of the files opened by the Firm;

    74.4. The conclusions of the report were unnecessarily harsh and that the sanction suggested was harsh and disproportionate;

    74.5. He accepted that he was aware that the FWRA needed to be in writing and that his declaration of 31 January 2020 was inaccurate. It was his intention to document his Firm's working practices as these were in line with the available guidelines;

    74.6. His team were trained in the relevant standards but he could not provide the details. He did not have details of the Law Society/CQS courses as the contents could not be downloaded;

    74.7. He did not blame COVID for his failings but this had significantly impacted his work;

    74.8. In respect of the residual balances on the client account, his Firm had now dealt with the historic residual balances and had a system in place to deal with current residual balances. *"Ideally this would have happened sooner but, as noted above in relation to the FWRA, no harm has been caused and this all happened at a most difficult time. Whilst I appreciate that the firm's auditors had made comments that the historic residual balances were still present, they also stated that we had been dealing with these and the balances were being cleared. I now*

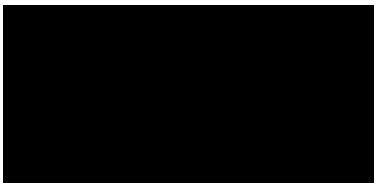
look back and see that they could and should have been resolved more quickly than they were.

74.9. His Firm had, since the SRA investigation, undertaken specific AML training courses and put their principles, controls and procedures into writing. Copies of these had been sent to the SRA;

74.10. His Firm had also approached two compliance companies to review its principles, controls and procedures.

75. On 28 March 2024 an Authorised Decision Maker of the SRA decided to refer the conduct of the Respondent to the Tribunal **[HVL1, pp.435-441]**.

I believe that the facts and matters stated in this statement are true.

Signed: 

Name: Hannah Victoria Lane

Date: 10 July 2024

BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)

BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

v

AMIR NAZIR BUTT

(SRA ID: 14411)

Respondent

APPENDIX 1: RELEVANT RULES AND REGULATIONS

SRA Principles 2011

Principle 6: You must behave in a way that maintains the trust the public places in you and in the provision of legal services.

Principle 8: You must run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles.

SRA Code of Conduct 2011

Outcome 7.5: You comply with legislation applicable to your business, including anti-money laundering and data protection legislation

SRA Accounts Rules 2011

Rule 7.1: Any breach of the rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a client account.

Rule 14.3: Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payments received after you have already accounted to the client, for example by way of a refund, must be paid to the client promptly.

SRA Principles 2019

Principle 2: You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

Principle 5: You act with integrity.

SRA Code of Conduct for Solicitors, RELs and RFLs 2019

Paragraph 7.1: You keep up to date with and follow the law and regulation governing the way you work.

Paragraph 7.4: You respond promptly to the SRA and:

(a) provide full and accurate explanations, information and documents in response to any request or requirement; and

(b) ensure that relevant information which is held by you, or by third parties carrying out functions on your behalf which are critical to the delivery of your legal services, is available for inspection by the SRA.

SRA Accounts Rules 2019

Rule 2.5: You ensure that client money is returned promptly to the client, or the third party for whom the money is held, as soon as there is no longer any proper reason to hold those funds.

Rule 6.1: You correct any breaches of these rules promptly upon discovery. Any money improperly withheld or withdrawn from a client account must be immediately paid into the account or replaced as appropriate.

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Regulation 18

> 18.—(1) A relevant person must take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which its business is subject.
>
> (2) In carrying out the risk assessment required under paragraph (1), a relevant person must take into account—
>
> (a) information made available to them by the supervisory authority under regulations 17(9) and 47, and
>
> (b) risk factors including factors relating to—
>
> (i) its customers;
>
> (ii) the countries or geographic areas in which it operates;
>
> (iii) its products or services;
>
> (iv) its transactions; and

(v) its delivery channels.

(3) In deciding what steps are appropriate under paragraph (1), the relevant person must take into account the size and nature of its business.

(4) A relevant person must keep an up-to-date record in writing of all the steps it has taken under paragraph (1), unless its supervisory authority notifies it in writing that such a record is not required.

(5) A supervisory authority may not give the notification referred to in paragraph (4) unless it considers that the risks of money laundering and terrorist financing applicable to the sector in which the relevant person operates are clear and understood.

(6) A relevant person must provide the risk assessment it has prepared under paragraph (1), the information on which that risk assessment was based and any record required to be kept under paragraph (4), to its supervisory authority on request.

Regulation 19

19.—(1) A relevant person must—

(a) establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment undertaken by the relevant person under regulation 18(1);

(b) regularly review and update the policies, controls and procedures established under subparagraph (a);

(c) maintain a record in writing of—

(i) the policies, controls and procedures established under sub-paragraph (a);

(ii) any changes to those policies, controls and procedures made as a result of the review and update required by sub-paragraph (b); and

(iii) the steps taken to communicate those policies, controls and procedures, or any changes to them, within the relevant person's business.

(2) The policies, controls and procedures adopted by a relevant person under paragraph (1) must be—

(a) proportionate with regard to the size and nature of the relevant person's business, and

(b) approved by its senior management.

(3) The policies, controls and procedures referred to in paragraph (1) must include—

(a) risk management practices;

(b) internal controls (see regulations 21 to 24);

(c) customer due diligence (see regulations 27 to 38);

(d) reliance and record keeping (see regulations 39 to 40);

(e) the monitoring and management of compliance with, and the internal communication of, such policies, controls and procedures.

(4) The policies, controls and procedures referred to in paragraph (1) must include policies, controls and procedures—

(a) which provide for the identification and scrutiny of—

i) any case where—

(aa) a transaction is complex and unusually large, or there is an unusual pattern of transactions, and

(bb) the transaction or transactions have no apparent economic or legal purpose, and

(ii) any other activity or situation which the relevant person regards as particularly likely by its nature to be related to money laundering or terrorist financing;

(b) which specify the taking of additional measures, where appropriate, to prevent the use for money laundering or terrorist financing of products and transactions which might favour anonymity;

(c) which ensure that when new technology is adopted by the relevant person, appropriate measures are taken in preparation for, and during, the adoption of such technology to assess and if necessary mitigate any money laundering or terrorist financing risks this new technology may cause;

(d) under which anyone in the relevant person's organisation who knows or suspects (or has reasonable grounds for knowing or suspecting) that a person is engaged in money laundering or terrorist financing as a result of information received in the course of the business or otherwise through carrying on that business is required to comply with—

(i) Part 3 of the Terrorism Act 2000(1); or

(ii) Part 7 of the Proceeds of Crime Act 2002(2);

(e) which, in the case of a money service business that uses agents for the purpose of its business, ensure that appropriate measures are taken by the business to assess—

(i) whether an agent used by the business would satisfy the fit and proper test provided for in regulation 58; and

(ii) the extent of the risk that the agent may be used for money laundering or terrorist financing.

(5) In determining what is appropriate or proportionate with regard to the size and nature of its business, a relevant person may take into account any guidance which has been—

(a) issued by the FCA; or

(b) issued by any other supervisory authority or appropriate body and approved by the

Treasury.

(6) A relevant person must, where relevant, communicate the policies, controls and procedures

which it establishes and maintains in accordance with this regulation to its branches and subsidiary

undertakings which are located outside the United Kingdom.

Regulation 21(c)

(1) Where appropriate with regard to the size and nature of its business, a relevant person must.

…

(c) establish an independent audit function with the responsibility—

(i) to examine and evaluate the adequacy and effectiveness of the policies, controls and procedures adopted by the relevant person to comply with the requirements of these Regulations;

(ii) to make recommendations in relation to those policies, controls and procedures; and

(iii) to monitor the relevant person's compliance with those recommendations.

Regulation 24

24.—(1) A relevant person must—

(a) take appropriate measures to ensure that its relevant employees are—

(i) made aware of the law relating to money laundering and terrorist financing, and to the requirements of data protection, which are relevant to the implementation of these Regulations; and

(ii) regularly given training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing;

(b) maintain a record in writing of the measures taken under sub-paragraph (a), and in particular, of the training given to its relevant employees.

(2) For the purposes of paragraph (1), a relevant employee is an employee whose work is—

(a) relevant to the relevant person's compliance with any requirement in these Regulations, or

(b) otherwise capable of contributing to the—

(i) identification or mitigation of the risk of money laundering and terrorist financing to which the relevant person's business is subject; or

(ii) prevention or detection of money laundering and terrorist financing in relation to the relevant person's business.

(3) In determining what measures are appropriate under paragraph (1), a relevant person—

(a) must take account of—

(i) the nature of its business;

(ii) its size;

(iii) the nature and extent of the risks of money laundering and terrorist financing to which its business is subject; and

(b) may take into account any guidance which has been—

(i) issued by the FCA; or

(ii) issued by any other supervisory authority or appropriate body and approved by the Treasury.

Regulation 28

28(2) The relevant person must—

(a) identify the customer unless the identity of that customer is known to, and has been verified by, the relevant person;

(b) verify the customer's identity unless the customer's identity has already been verified by the relevant person; and

(c) assess, and where appropriate obtain information on, the purpose and intended nature of the business relationship or occasional transaction.

(3) Where the customer is a body corporate—

(a) the relevant person must obtain and verify—

(i) the name of the body corporate;

(ii) its company number or other registration number;

(iii) the address of its registered office, and if different, its principal place of business;

(b) subject to paragraph (5), the relevant person must take reasonable measures to determine and verify—

(i) the law to which the body corporate is subject, and its constitution (whether set out in its articles of association or other governing documents);

(ii) the full names of the board of directors (or if there is no board, the members of the equivalent management body) and the senior persons responsible for the operations of the body corporate.

(4) Subject to paragraph (5), where the customer is beneficially owned by another person, the relevant person must—

(a) identify the beneficial owner;

(b) take reasonable measures to verify the identity of the beneficial owner so that the relevant person is satisfied that it knows who the beneficial owner is; and

(c) if the beneficial owner is a legal person, trust, company, foundation or similar legal arrangement take reasonable measures to understand the ownership and control structure of that legal person, trust, company, foundation or similar legal arrangement.

(5) Paragraphs (3)(b) and (4) do not apply where the customer is a company which is listed on a regulated market.

(6) If the customer is a body corporate, and paragraph (7) applies, the relevant person may treat the senior person in that body corporate responsible for managing it as its beneficial owner.

(7) This paragraph applies if (and only if) the relevant person has exhausted all possible means of identifying the beneficial owner of the body corporate and—

(a) has not succeeded in doing so, or

(b) is not satisfied that the individual identified is in fact the beneficial owner.

(8) If paragraph (7) applies, the relevant person must keep records in writing of all the actions it has taken to identify the beneficial owner of the body corporate.

(9) Relevant persons do not satisfy their requirements under paragraph (4) by relying solely on the information—

(a) contained in—

(i) the register of people with significant control kept by a company under section 790M of the Companies Act 2006 (duty to keep register)(1);

(ii) the register of people with significant control kept by a limited liability partnership under section 790M of the Companies Act 2006 as modified by regulation 31E of the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009(2); or

(iii) the register of people with significant control kept by a European Public Limited Liability Company

(within the meaning of the Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company which is to be, or is, registered in the United Kingdom) under section 790M of the Companies Act 2006 as modified by regulation 5 of the European Public Limited Liability Company (Register of People with Significant Control) Regulations 2016(3);

(b) referred to in sub-paragraph (a) and delivered to the registrar of companies (within the meaning of section 1060(3) of the Companies Act 2006 (the registrar)) under any enactment; or

(c) contained in required particulars in relation to eligible Scottish partnerships delivered to the registrar of companies under regulation 19 of the Scottish Partnerships (Register of People with Significant Control) Regulations 2017(4).

(10) Where a person (“A”) purports to act on behalf of the customer, the relevant person must—

(a) verify that A is authorised to act on the customer’s behalf;

(b) identify A; and

(c) verify A's identity on the basis of documents or information in either case obtained from a reliable source which is independent of both A and the customer.

(11) The relevant person must conduct ongoing monitoring of a business relationship, including—

a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, the customer's business and risk profile;

(b) undertaking reviews of existing records and keeping the documents or information obtained for the purpose of applying customer due diligence measures up-to-date.

(12) The ways in which a relevant person complies with the requirement to take customer due diligence measures, and the extent of the measures taken—

(a) must reflect—

(i) the risk assessment carried out by the relevant person under regulation 18(1);

(ii) its assessment of the level of risk arising in any particular case;

(b) may differ from case to case.

(13) In assessing the level of risk in a particular case, the relevant person must take account of factors including, among other things—

(a) the purpose of an account, transaction or business relationship;

(b) the level of assets to be deposited by a customer or the size of the transactions undertaken

by the customer;

(c) the regularity and duration of the business relationship.

(14) If paragraph (15) applies, a relevant person is not required to continue to apply customer due diligence measures under paragraph (2) or (10) in respect of a customer.

(15) This paragraph applies if all the following conditions are met—

(a) a relevant person has taken customer due diligence measures in relation to a customer;

(b) the relevant person makes a disclosure required by—

(i) Part 3 of the Terrorism Act 2000(5), or

(ii) Part 7 of the Proceeds of Crime Act 2002(6); and

(c) continuing to apply customer due diligence measures in relation to that customer would result in the commission of an offence by the relevant person under—

(i) section 21D of the Terrorism Act 2000 (tipping off: regulated sector)(7); or

(ii) section 333A of the Proceeds of Crime Act 2002 (tipping off: regulated sector)(8).

(16) The relevant person must be able to demonstrate to its supervisory authority that the extent of the measures it has taken to satisfy its requirements under this regulation are appropriate in view of the risks of money laundering and terrorist financing, including risks—

(a) identified by the risk assessment carried out by the relevant person under regulation 18(1);

(b) identified by its supervisory authority and in information made available to the relevant person under regulations 17(9) and 47.

(17) Paragraph (16) does not apply to the National Savings Bank or the Director of Savings.

(18) For the purposes of this regulation—

(a) except in paragraph (10), “verify” means verify on the basis of documents or information in either case obtained from a reliable source which is independent of the person whose identity is being verified;

(b) documents issued or made available by an official body are to be regarded as being independent of a person even if they are provided or made available to the relevant person by or on behalf of that person.