

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12166-2021

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY

Applicant

and

BRETT HOLT SOLICITORS

Respondent

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Before:

Ms A. E. Banks (in the chair)

Mr W. Ellerton

Mrs S. Gordon

Date of Hearing: 16 February 2021

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## **Appearances**

There were no appearances as the matter was dealt with on the papers.

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## **JUDGMENT ON AN AGREED OUTCOME**

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## **Allegations**

The allegations against the Respondent, Brett Holt Solicitors (“the Firm”) were that it (using the numbering in the Rule 12 Statement):

- 1 Between 26 June 2017 and 9 December 2018, failed to have in place a documented assessment of the risks of money laundering to which its business was subject, as was required pursuant to Regulation 18 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“MLRs 2017”) and by reason of such failure
  - 1.1 breached one or more of Principles 6, 7 and 8 of the SRA Principles 2011 (“the Principles”);
  - 1.2 failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 (“the Code”).
- 2 Between June 2017 and June 2018, failed to take appropriate measures to ensure that employees were trained in how to recognise and deal with transactions which may be related to money laundering or terrorist financing pursuant to Regulation 24(1)(a) of the MLRs 2017 and by reason of such failure
  - 2.1 breached one or more of Principles 6, 7 and 8 of the Principles;
  - 2.2 failed to achieve one or more of Outcomes 7.5 and 7.6 of the Code.
- 3 Between November 2017 and January 2018, failed to cause to be conducted any or adequate due diligence on
  - 3.1 the clients involved in Transaction A set out at Appendix 2 to this Statement;
  - 3.2 the parties making payments into the Firm’s Client Account in respect of Transaction A

pursuant to Regulations 27 and/or 28 of the MLRs 2017, and by reason of such failure

  - 3.3 breached one or more of Principles 6, 7 and 8 of the Principles;
  - 3.4 failed to achieve one or more of Outcomes 7.2, 7.3 and 7.5 of the Code.

## **Documents**

4. The Tribunal had before it the following documents:-
  - Rule 12 Statement and Exhibit DWRP1 dated 9 February 2021
  - Statement of Agreed Facts and Proposed Outcome dated 5 February 2021

## **Background**

5. The Firm was a recognised body and a partnership now known as QualitySolicitors Brett Holt. The Firm had not been the subject of previous adverse disciplinary findings.

An investigation into the Firm was commenced in June 2018. On 21 January 2020, the SRA wrote to the Firm seeking an explanation as regards a number of breaches of the Code. The allegations and admissions related to the Firm's work in relation to Client A.

### **Application for the matter to be resolved by way of Agreed Outcome**

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Proposed Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

### **Findings of Fact and Law**

7. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for its rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms.
8. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.
9. The parties referred to the Guidance Note on Sanction 6<sup>th</sup> Edition (December 2018). The Tribunal considered the current Guidance Note on Sanction (8<sup>th</sup> Edition, December 2020). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal did not find that the reference to the incorrect Guidance Note on Sanction negated the submissions made by the parties. The Tribunal found that the admitted misconduct was too serious for no order to be made. The Tribunal did not consider that the misconduct was so serious that an order revoking the recognition of the Firm was appropriate. The Tribunal assessed the misconduct as falling within Indicative Fine Band Level 3, having taken into account the seriousness of the misconduct, the limited financial gain made by the Firm, the size of the Firm and that there was no reported loss to clients. The Tribunal determined that a fine in the sum of £10,000 was appropriate and proportionate in all the circumstances. Accordingly, the Tribunal approved the sanction proposed in the Agreed Outcome.

### **Costs**

10. The parties agreed costs in the sum of £10,350. The Tribunal found that the agreed sum was appropriate and proportionate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed amount.

### **Statement of Full Order**

11. The Tribunal Ordered that the Respondent, BRETT HOLT SOLICITORS of 138a Central Road, Worcester Park, Surrey, KT 8HW, a firm, do pay a fine of £10,000.00, such penalty to be forfeit to Her Majesty the Queen, and it further Ordered that it do pay the costs of and incidental to this application and enquiry fixed in the sum of £10,350.00.

Dated this 29<sup>th</sup> day of March 2021  
On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'A E Banks'.

A E Banks  
Chair

**JUDGMENT FILED WITH THE LAW SOCIETY**  
**29 MAR 2021**

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL  
IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)  
AND IN THE MATTER OF:**

**SOLICITORS REGULATION AUTHORITY**

Applicant

and

**BRETT HOLT SOLICITORS**

Respondent

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**STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME**

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**Introduction**

1. By a statement made on behalf of the Solicitors Regulation Authority (the "SRA") pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 dated 09.02.21 ("the Rule 12 Statement"), the SRA brings proceedings before the Tribunal making allegations of misconduct against the Respondent. Definitions and abbreviations used herein are those set out in the Rule 12 Statement.
2. In this Statement of Agreed Facts, Admissions and Outcome ("the Agreed Outcome"), references to  
  
"the SRA" are to the Applicant  
  
"the Firm" are to the Respondent.

**Admissions**

3. The allegations admitted by the Respondent are that it:
  - 3.1. Between 26 June 2017 and 9 December 2018, failed to have in place a documented assessment of the risks of money laundering to which its business was subject, as was required pursuant to Regulation 18 of the Money Laundering,

Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017) and by reason of such failure

3.1.1. breached one or more of Principles 6, 7 and 8 of the SRA Principles 2011;

3.1.2. failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011;

3.2. Between June 2017 and June 2018, failed to take appropriate measures to ensure that employees were trained in how to recognise and deal with transactions which may be related to money laundering or terrorist financing pursuant to Regulation 24(1)(a) of the MLRs 2017 and by reason of such failure

3.2.1. breached one or more of Principles 6, 7 and 8 of the SRA Principles 2011;

3.2.2. failed to achieve one or more of Outcomes 7.5 and 7.6 of the SRA Code of Conduct 2011;

3.3. Between November 2017 and January 2018, failed to cause to be conducted any or adequate due diligence on

3.3.1. the clients involved in Transaction A set out at Schedule 1 to this Statement;

3.3.2. the parties making payments into the Firm's Client Account in respect of the Transaction A

pursuant to Regulations 27 and/or 28 of the MLRs 2017, and by reason of such failure

3.3.3. breached one or more of Principles 6, 7 and 8 of the SRA Principles 2011;

3.3.4. failed to achieve one or more of Outcomes 7.2, 7.3 and 7.5 of the SRA Code of Conduct 2011.

#### **Agreed Facts**

4. The Firm is a recognised body and a partnership. It is now known as QualitySolicitors Brett Holt.
5. The Firm has not been the subject of previous adverse disciplinary findings.
6. The SRA's investigation into the Firm was commenced in June 2018.

7. On 21 January 2020, the SRA wrote to the Firm seeking an explanation for a number of alleged breaches of the SRA Code of Conduct and the Firm responded on 6 February 2020.
8. The allegations and admissions relate to work undertaken in relation to the "Client A" Scheme as described in the Rule 15 Statement.

#### Risk assessment

9. The Firm accepts that it was required to, but between June 2017 and December 2018 did not, have in place a risk assessment in relation to the risk of money laundering to which its business was subject. The Firm further accepts that by reason of such failure, it breached Principles 6 and 8 of the SRA Principles 2011 and Outcome 7.5 of the SRA Code of Conduct 2011.

#### Staff training

10. The Firm accepts that it was required to, but between June 2017 and June 2018 did not, take appropriate measures to ensure that relevant employees were aware of the law relating to money laundering and terrorist financing, and had undertaken up-to-date training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing. The Firm further accepts that by reason of such failure, it breached Principles 6 and 8 of the SRA Principles 2011 and Outcomes 7.5 and 7.6 of the SRA Code of Conduct 2011.

#### Conveyancing transaction

11. The Firm accepts that in a property transaction handled between November 2017 and January 2018, it was required to, but failed to, undertake identity checks and retain copies of address verification documents in relation to clients or parties making payments into Client Account, and that by reason of such failure it breached Principles 6, 7 and 8 of the SRA Principles 2011 and Outcomes 7.2, 7.3 and 7.5 of the SRA Code of Conduct 2011.

#### **MITIGATION**

12. The following points are advanced by way of mitigation on behalf of the Firm. Their inclusion in the Agreed Outcome does not amount to adoption of such points by the SRA but the SRA accepts that account can properly be taken of the following points in assessing whether the proposed outcomes represent a proportionate resolution of the matter.
13. The Firm has not been the subject of any previous disciplinary findings, having been established in the 1960's, with the current partners in place since 1995. Neither had its Managing Partners at the time of the breaches or now.
14. The Firm fully cooperated with the SRA's investigation in June 2018.

15. The Firm admitted the breaches in full at the first available opportunity, in response to the SRA's letter of 21 January 2020. The Firm expressed its regret for the failings identified, but provided reassurances that those failings had now been rectified.
16. Breaches 3.1 and 3.2 had been remedied by the Firm before the SRA's letter dated 21 January 2020:
  - (i) The Firm's practice-wide Risk Assessment was put in place on 10 December 2018;
  - (ii) All relevant staff had undertaken up to date training by October 2018.
17. Breaches 3.1 and 3.2 arose out of failing to update the Firm's existing training and policies as a result of the coming into force of the MLRs 2017. The Firm had complied with the previous version of the Money Laundering Regulations.
18. In relation to Breach 3.1, the SRA's assessment of 400 firms' anti-money laundering risk assessment in Spring 2019 found 21% were not compliant with Regulation 18 of the MLRs 2017, including 10% that were not able to provide the correct document at all. It is therefore clear that this is an area where a significant proportion of the industry has struggled to achieve compliance.
19. Breach 3.3 arose out of a failure to adequate checks, rather than a failure to undertake any checks at all. The Firm's financial gain on the transaction was very modest, at £850.

## AGREED OUTCOME

20. In agreeing these sanctions, account has been taken of the Solicitors Disciplinary Tribunal Guidance Note on Sanctions 6th Edition December 2018 ("the Guidance Note").
21. The Firm has admitted the allegations as set out above and, given the seriousness of the admitted conduct, a reprimand is not a sufficient sanction.
22. The SRA accepts that, in the circumstances of this case, a fine is a sufficient sanction to mark the seriousness of the misconduct and to protect the public and reputation of the profession.
23. The level of fine has been determined after consideration of, in particular, paragraph 27 of the Guidance Note.
24. In light of all the circumstances of this case, including the mitigating factors, the Firm's conduct falls within Indicative Fine Band 3 as the misconduct can be rightly categorised as "*Conduct assessed as more serious*". The range for a Band 3 fine is £7,501 to £15,000.
25. Consequently, it is agreed that the Firm should be fined £10,000.

**Explanation as to why such an order would be in accordance with the Tribunal's sanction guidance**

26. The sanction outlined above is considered to be in accordance with the Tribunal's sanctioning guidance.
27. The level of culpability in respect of the allegations above is moderately high due to:
- 27.1. The admitted allegations relating to risk assessment and training continued over a prolonged period;
- 27.2. Breach 3.1 in the Rule 12 statement related to the conduct of a transaction involving significant sums of money.
- 27.3. It was incumbent upon the Firm, as a practice handling substantial sums of client money in the course of property transactions, to be alert to its obligations in respect of preventing money laundering.
28. The Parties consider that in light of the admissions set out above and taking due account of the mitigation put forward by the Firm, the proposed outcome represents a proportionate resolution of the matter which is in the public interest.
29. The Firm agrees to meet the SRA's costs in the sum of £ 10,350 inclusive of VAT.

Partner, Capsticks Solicitors LLP  
On behalf of the Solicitors Regulation Authority

Date: ☐ February 2021

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Name AUSTON WOOLFORD  
Position PARTNER  
On behalf of Brett Holt Solicitors

Date: 4th February 2021