SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12599-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

COCKSHOTT PECK LEWIS Respondent

Before:

Mrs C Evans (in the chair)
Ms C Rigby
Mr A Lyon

Date of Hearing: 08 November 2024

Appearances

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

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The Allegations made against Cockshott Peck Lewis ("the Firm") made by the Solicitors Regulation Authority ("SRA"), were that:

1.1 Between 26 June 2017 and around 15 February 2023, the Firm failed to have 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").

In so far as the conduct took place before 25 November 2019, breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles") and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

In so far as the conduct took place on or after 25 November 2019, breached any or all of Principles 2, of the SRA Principles 2019 Principles ("the 2019 Principles") and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms.

1.2 Between 26 June 2017 and 12 January 2022, the Respondent failed to conduct Client and Matter Risk Assessments ("CMRAs") in relation to four client files as required by Regulations 28(12) and 28(13) of the MLRs 2017.

In so far as the conduct took place before 25 November 2019 breached any or all of Principles 6, 7 and 8 of the 2011 Principles and failed to achieve Outcome 7.5 of the 2011 Code.

In so far as the conduct took place on or after 25 November 2019, breached any or all of Principles 2, of the 2019 Principles and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms.

1.3. Between 26 June 2017 and 31 October 2021, the Respondent failed to take adequate measures to ensure that all of its relevant employees received AML training as required by Regulation 24 of the MLRs 2017.

In so far as the conduct took place before 25 November 2019 breached any or all of Principles 6, 7 and 8 of the 2011 Principles and failed to achieve Outcome 7.5 of the 2011 Code.

In so far as the conduct took place on or after 25 November 2019 breached any or all of Principles 2, of the 2019 Principles and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms.

2. The Firm admitted the allegations.

Documents

3. The Tribunal had before it the following documents:-

- Rule 12 Statement and Exhibit LJF1 dated 3 May 2024

- Statement of Facts and Agreed Outcome dated 6 November 2024

Background

4. The Firm had, since 25 September 2012, been a recognised body. On 14 December 2021, the Firm confirmed to the SRA that it had five solicitor fee earners including three directors. It provided the following services: residential conveyancing, commercial conveyancing, tax advice, trust services, probate work and estate agency services.

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

5. The parties invited the Tribunal to deal with the Allegations against the Firm in accordance with the Statement of Agreed Facts and 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

6. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with the Firm's rights to a fair trial and to respect for their private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

7. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Firm's admissions were properly made.

8. The Tribunal considered the Guidance Note on Sanction (10th edition – June 2022). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed. The Tribunal determined that the proposed financial penalty in the sum of £24,892.82, was proportionate and properly reflected the seriousness of the Firm's failings. Accordingly, the Tribunal approved the application to deal with the matter by way of an Agreed Outcome.

Costs

9. The parties had agreed costs in the sum of £5,107.18. The Tribunal determined that the agreed amount was reasonable. Accordingly, the Tribunal ordered the Firm to pay costs in the agreed sum.

Statement of Full Order

10. The Tribunal ORDERED that the Respondent COCKSHOTT PECK LEWIS, Recognised Body, do pay a fine of £24,892.82, such penalty to be forfeit to His Majesty the King, and it further Ordered that they do pay the costs of and incidental to this application and enquiry fixed in the sum of £5,107.18.

Dated this 5th day of December 2024
On behalf of the Tribunal

C. Evans

Mrs C Evans
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
5 DECEMBER 2024

IN THE MATTER OF THE SOLICITORS ACT 1974
IN THE SOLICITORS DISCIPLINARY TRIBUNAL
B E T W E E N

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

- and –

COCKSHOTT PECK LEWIS

Respondent

STATEMENT OF FACTS AND AGREED OUTCOME

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 3 May 2024, the SRA brought proceedings before the Tribunal making allegations of professional misconduct against the Respondent. The matter has been listed for a substantive hearing before the Tribunal on 14 and 15 November 2024.

2. The Respondent is prepared to make admissions to the Allegations in the Rule 12 Statement, as set out in this document. The SRA is satisfied that the admissions and outcome satisfy the public interest having regard to the gravity of the matters alleged

Allegations

3. The allegations by the SRA against the Respondent within the Rule 12 statement were that:

   1.1 Between 26 June 2017 and around 15 February 2023, the Respondent failed to have 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").

   In so far as the conduct took place before 25 November 2019, breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles") and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

In so far as the conduct took place on or after 25 November 2019, breached any or all of Principles 2, of the SRA Principles 2019 Principles ("the 2019 Principles") and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms

1.2 Between 26 June 2017 and 12 January 2022, the Respondent failed to conduct Client and Matter Risk Assessments ("CMRAs") in relation to four client files as required by Regulations 28(12) and 28(13) of the MLRs 2017.

In so far as the conduct took place before 25 November 2019 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles") and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

In so far as the conduct took place on or after 25 November 2019, breached any or all of Principles 2, of the SRA Principles 2019 Principles ("the 2019 Principles") and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms.

1.3 Between 26 June 2017 and 31 October 2021, the Respondent failed to take adequate measures to ensure that all of its relevant employees received AML training as required by Regulation 24 of the MLRs 2017.

In so far as the conduct took place before 25 November 2019 breached any or all of Principles 6, 7 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles") and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

In so far as the conduct took place on or after 25 November 2019 breached any or all of Principles 2, of the SRA Principles 2019 Principles ("the 2019 Principles") and failed to achieve any or all of paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms

Admissions

4. The Respondent has admitted all of the allegations, in full.

Agreed Facts

Professional details

5. The Firm is and has been since 25 September 2012, a recognised body.

6. On 14 December 2021, the Respondent confirmed to the SRA that it had five solicitor fee earners including three directors. It provided the following services: residential

conveyancing, commercial conveyancing, tax advice, trust services, probate work and estate agency services.

Background

7. On 15 November 2021. The SRA's Anti-money Laundering ("AML") team undertook an AML inspection of the Respondent. An AML Questionnaire was sent to the Respondent on the same date. On 14 December 2021, the Respondent provided a response to the questionnaire. It also provided, amongst other things the following documents:

   7.1. The Respondent's FWRA

   7.2. The Respondent's AML PCPs

   7.3. The Respondent's AML Training Records

8. The SRA identified a number of AML failings which were summarised in a letter to the Respondent dated 17 August 2022. These included:

   8.1. Client and Matter Risk Assessments ("CMRAs") were not conducted and documented on four files reviewed by the SRA;

   8.2. There was no Firm Wide Risk Assessment ("FWRA") in place until October 2022;

   8.3. The FWRA provided by the Respondent which the Respondent told the SRA was put in place on 21 October 2020 did not comply with Regulation 18 of the MLRs 2017;

   8.4. There was no AML training provided to staff between November 2015 and November 2021;

   8.5. There were deficiencies in the Respondent's Policies, Controls and Procedures ("PCPs").

Allegation 1.1: Failure to have an FWRA in place

9. The MLRs 2017 came into force on 26 June 2017. Under Regulation 18, the Respondent was required, amongst other things:

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

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

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

10. The SRA published a warning notice on 7 May 2019 (updated on 25 November 2019). 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.

11. On 29 October 2019, the SRA published guidance on competing FWRAs.

12. In their response to the AML Questionnaire, the Respondent provided the following replies to questions [in bold]:

    12.1. *Question: When was your regulation 18 MLR 2017 firm wide risk assessment first drafted?* ***Answer: 21/01/2020***
    12.2. *Question: When was your regulation 18 MLR 2017 firm wide risk assessment last updated?* ***Answer: 01/10/2021***

13. On 27 April 2023, the Respondent wrote to the SRA confirming that:

On 1st October 2021 the firm's risk assessment was reviewed so too was the money laundering and terrorist financing policy as a result of which the documents were updated

14. On 14 December 2021, the Respondent provided the SRA with what it considered to be its FWRA This undated document was the Law Society risk assessment matrix document and had not been tailored to the Respondent's firm. The SRA instructed the Respondent to update it and set out in the letter of 17 August 2022 the matters which it did not sufficiently cover These were:

    14.1. It did not set out who the Respondent's clients were: *Since you have used the Law Society template, you must ensure that the information contained in your FWRA is accurate ad has been adequately tailored to reflect your firm's client population;*
    14.2. It did not describe the specific services offered by the firm;
    14.3. It did not provide a description of the types of transactions dealt with by the firm;
    14.4. There was no assessment of jurisdictional risk;
    14.5. It did not describe the delivery channels through which the Respondent provided its services.

15. The Respondent admits Allegation 1.1. It is agreed that the Respondent did not have a written FWRA in place between 26 June 2017 and 21 October 2020 and that the FWRA from 21 October to 15 February 2023 did not comply with the MLRs 2017.

Allegation 2: Failure to conduct Client and Matter Risk Assessments

16. Regulation 18(1) of the MLRs required the Respondent to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which its business is subject.

17. Regulation 28(12) states that the ways in which a relevant person complies with the requirement to undertake customer due diligence measures, and the extent of the measures taken, must reflect:

    17.1. The risk assessment carried out by the relevant person under regulation 18(1)

    17.2. Its assessment of the level of risk arising in particular e and it may differ from case to case

18. Regulation 28 (13) of the MLRs 2017 states that in assessing the level of risk the relevant person must take into account a number of factors including, amongst other things:

    18.1. The purpose of an account, transaction or business relationship;

    18.2. The level of assets to be deposited or the size of the transactions undertaken by the customer;

    18.3. The regularity and duration of the business relationship

19. The LSAG Anti-Money Laundering Guidance sets out, in section 2.5 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.

20. The SRA reviewed six of the Respondent's client files. It found that four of those files did not contain client matter risk assessments.

21. On 17 March 2022, the Respondent wrote to the SRA. In that email, the Respondent confirmed:

    Client inception/risk assessment forms were introduced on 12 January this year. Before that the risk assessments were routinely carried out by the fee earners but were not documented in any particular form

22. The Respondent admits Allegation 2. It is agreed that the Respondent did not have in place client and matter risk assessments as required by the MLRs.

Allegation 1.3

23. Regulation 24(1)(a) of the MLRs 2017 required the respondent to:

Take appropriate measures to ensure that its relevant employees are- (a) (i) made aware of the law relating to money laundering and terrorist financing... (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...

24. As stated above, the Respondent had five fee earners. Each of these fee earners was a relevant employee as defined in Regulation 24(2) of the MLRs 2017. As fee earners involved in the provision of legal services to the Firm's clients, they were relevant to the Firm's compliance with the MLRs 2017 or otherwise capable of contribution to the identification of mitigation of the risk of money laundering or the prevention or detection of money laundering in the Firm's business.

25. The Respondent's reply to the SRA's AML Questionnaire attached the firm's AML training records. That record confirmed that training had been undertaken in November 2007, September 2010, October 2011 and November 2015. Training in 2018 had been aborted and the next training was in November 2021. There was therefore no AML training between November 2015 and November 2021.

26. The Respondent admits Allegation 3.3. It is agreed that the Respondent did not have AML training in place between November 2015 and November 2021.

Mitigation

27. The following points are advanced by way of mitigation on behalf of the Respondent. 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.

28. The Respondent puts forward in mitigation the following factors:-

    28.1. First, the breaches have been readily admitted

    28.2. Secondly, the Respondent asserts that their breaches would not have created any risk of their unwittingly being involved in money laundering. The firm at the time of the breaches consisted of four solicitors, secretaries and a cashier. There were no

paralegals. One of the solicitors dealt only with probate, powers of attorney and wills. The other three dealt amongst other matters, with residential, and to a small degree commercial property transactions. The solicitors all have been admitted for many years and are all fully aware of the steps that need to be taken in identifying clients. source of funds and beneficial interests.

28.3. Because the Respondent is accredited with the Conveyancing Quality Scheme all solicitors involved with property work have compulsory training and this usually involves courses on risks. Although there were deficiencies in having in place the correct written policies the solicitors involved all acted in accordance with the policies that were applicable.

28.4. With regard to allegation 1.3, other than solicitors there were no other fee earners who would have had control of the file.

Proposed Sanction

29. In agreeing the sanction, account has been taken of the SRA's guidance on its approach to financial penalties[1] and the SDT's Guidance Note on Sanctions (10th Edition)[2]. The Respondent has admitted the allegations set out above, and, given the seriousness of the admitted conduct, a reprimand is not a sufficient sanction.

30. Subject to the approval of the Tribunal, the parties agree that the seriousness of the matters admitted by the Respondent necessitate that the Respondent should be fined the sum of **£24,892.82.**

Culpability and Harm

31. In respect of the level of culpability:

31.1. responsibility for compliance with the money laundering regulations belonged solely to the respondent It was the Respondent's responsibility to ensure compliance.

31.2. The misconduct appears to have result of an incorrect understanding of the relevant requirements, rather than through intentional non-compliance.

31.3. However, this was not a case where the lack of compliance was caused by the failure of a third party whose services were utilised to ensure compliance.

32. In respect of the level of harm:

32.1. As far as the SRA is aware, no money laundering actually occurred.

[1] SRA | Approach to financial penalties | Solicitors Regulation Authority
[2] Guidance Note on Sanctions - 10th Edition - Solicitors Disciplinary Tribunal

32.2. There was however an increased risk that money laundering could take place in the absence of such compliance. Compliance with the MLRs is specifically required to prevent such risk materialising.

32.3. There was a total absence of both a FWRA for a period of almost 6 years, as well as a failure to conduct CMRAs in relation to multiple files, over almost 5 years. There was a prolonged period where staff did not receive AML training as required. These factors prolonged that increased risk.

32.4. There is an inherent harm to the reputation of the profession when solicitors breach their regulatory rules. This is particularly in the case of anti-money laundering rules which are in place (among other things) to prevent criminal activity and the laundering of the proceeds of crime. Money laundering is a matter that fully engages the public interest both on a national and an international level.

Costs

33. Subject to the approval of this agreed outcome, it is agreed that the Respondent will pay **£5,107.18** towards the SRA's costs of the Application and Enquiry, including VAT.

34. The parties consider and submit in that in light of the admissions set out above and taking due account of the mitigation put forward by the Respondent, the proposed outcome represents a proportionate resolution of the matter.

Signed:

Name:

Position (on behalf of the SRA):

Dated:

Signed

Name:

Position (on behalf of Cockshott Peck Lewis):

Dated: 6th November 2024