SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12642-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

AMIR NAZIR BUTT Respondent

Before:
Ms T Cullen (Chair)
Mrs A Sprawson
Dr A Richards

Date of Hearing: 14 &16 January 2025

Appearances

Hanne Stevens, barrister in the employ of Capsticks, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

Patrick Lawrence KC, barrister of 4 New Square Chambers Lincoln's Inn, London WC2A 3RJ for the Respondent.

JUDGMENT

Allegations

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

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

    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").

    PROVED

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.

    PROVED

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.

PROVED

Executive Summary

3. The SRA investigation identified deficiencies in the Respondent's compliance with the Solicitors Code of Conduct, in relation to Anti-Money Laundering (AML) regulations, record-keeping, and handling of client residual balances. Further it was alleged that he had made a false declaration to the SRA regarding his compliance and by doing so he had shown a lack of integrity.

Admissions

4. The Respondent admitted the allegations in full and presented full mitigation including stating that he was a solicitor with an otherwise excellent 20-year record. He had fully cooperated with the investigation, admitting all allegations and implementing remedial measures, including training. No client harm or financial impropriety occurred.

5. The Respondent argued against restrictions on his practice, citing the lack of ongoing risk to the public and the potential for business closure. The Respondent pointed to the minimal scale of the errors within his overall practice. He expressed remorse and highlighted his efforts to rectify the issues, suggesting a financial penalty as sufficient sanction.

Sanction

6. The Tribunal found that the most appropriate sanction would be a fine set at the mid to upper end of the range in Level 4 of the Indicative Fine Bands, *(conduct assessed as very serious*) and the Tribunal imposed a fine of £35,000 upon the Respondent combined with conditions as set out in the order below. The Tribunal's sanction can be found [here].

Documents

7. The Tribunal considered all the documents in the case which were contained in the electronic bundle.

Preliminary Matters

8. The Applicant applied to refer to clients of the Firm by cipher to protect legal professional privilege. The application was unopposed.

9. The Respondent applied to adduce additional material in evidence which, amongst other things, included two witness statements for the Respondent (dated 20 December and 23 December) which had been served after the deadline for the direction to serve witness evidence (20 November 2024). The Applicant adopted a neutral position on the application.

The Tribunal's Decisions

10. Both applications were granted.

Factual Background

11. The Respondent was admitted to the Roll of Solicitors on 2 September 2002. Since 1 November 2011 he had been in practice as a sole practitioner trading as ANB Law. The Respondent holds a current practising certificate free from conditions The Respondent is the sole principal and owner of ANB Law ("the Firm").

12. 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.

13. At all relevant times, the Respondent held the following positions:

- Compliance Officer for Finance and Administration ("COFA");
- Compliance Officer for Legal Practice ("COLP");
- Money Laundering Reporting Officer ("MLRO"); and
- Money Laundering Compliance Officer (MLCO").

Findings of Fact and Law

14. The Applicant was required to prove the allegations beyond 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 Respondent's right 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.

Integrity

The matters set at paragraphs 97 to 107 of Wingate v SRA [2018] EWCA Civ 366,

Rule 12 Statement – click here
Statement of Agreed Facts – click here

The Tribunal's Findings

15. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made. In conclusion, the Tribunal found the following proved on the balance of probabilities:

Allegation 1 [proved in full]

To the extent the conduct took place before 25 November 2019, the Respondent:

- Breached Principles 6 and 8 of the SRA Principles 2011 Principles ("the 2011 Principles");
- Failure to achieve Outcome 7.5 of the SRA Code of Conduct 2011 ("the 2011 Code").

To the extent the conduct took place from 25 November 2019, the Respondent:

- Breached Principle 2 of the SRA Principles 2019 Principles ("the 2019 Principles");
- Breached paragraph 7.1 of the SRA Code of Conduct for Solicitors, RELs, and RFLs ("the 2019 Code").

Allegation 2 [proved in full]

Breached Principles 2 and 5 of the 2019 Principles and Paragraph 7.4 of the 2019 Code.

Allegation 3 [proved in full]

To the extent the conduct took place prior to 25 November 2019, the Respondent breached:

- Principle 6 of the 2011 Principles;
- Rules 14.3 and 7.1 of the SRA Accounts Rules 2011.

To the extent the conduct took place from 25 November 2019, the Respondent breached:

- Principle 2 of the 2019 Principles;
- Rules 2.5 and 6.1 of the SRA accounts Rules 2019

Previous Disciplinary Matters

16. None

Mitigation

17. Mr Lawrence acknowledged on the Respondent's behalf the identified deficiencies in his practice and the remedial action he had taken. The Respondent had been cooperative throughout the SRA investigation. The Respondent fully admitted all allegations and acknowledged errors in documentation and processes.

18. The Respondent had had an excellent disciplinary record over nearly 20 years, with no previous appearances before the Tribunal and that his insurance claims record was also excellent.

19. He emphasised that the Respondent had been "fully engaged with the process" and had taken on board the comments made at every stage of the investigation. The issues identified were present in only a very small selection of the files opened by the firm (less than 0.2%) putting into context the scale of the issue against the practice as a whole and that the Respondent had been operating in accordance with the required standards even though not properly documented. The Respondent states that the firm now had a system in place dealing with the current residual balances and he had dealt with historic balances.

20. The Respondent regretted not completing the necessary documentation on time and in hindsight the Respondent recognised that he ought to have made time available to complete the documentation in a timely manner and in accordance with the Code. He had now undertaken specific training relating to AML and Risk/Compliance, with written procedures now provided to the SRA, showing an effort in improving all aspects of his business in this area.

21. There was no evidence of harm to clients and no financial benefit to the Respondent. Mr Lawrence asserted that none of the "aggravating factors" outlined in the Guidance Note on Sanctions 2022 were present in his case.

22. Whilst residual balances were not handled promptly, there was no allegation of sums being transferred inappropriately to office account and there has been no deficit on client account.

23. He expressed remorse, noting that the time he had spent assisting the SRA far outweighed the time that was needed to complete the necessary documentation.

Note: the issue of restrictions was raised by the Tribunal (as per Manak v Solicitors Regulation Authority).

24. Mr Lawrence argued that a Restriction Order was unnecessary as there was no basis to impose restrictions to protect the public. There was no evidence of money laundering or similar illegitimate activity, and the SRA accepted that the Respondent was now in compliance with the Regulations.

25. Any harm from delays in returning residual client balances was limited, and it had not involved dishonest behaviour, and was remediated. This was far removed from the type of harm with which the Tribunal frequently encountered in cases where a solicitor had

been guilty of misconduct in relation to client accounts which involved using the client's money as their own.

26. The Tribunal could be assured that the Respondent had learned from his mistakes, noting that this type of breach of the Accounts Rules could not be hidden and that a visit from an SRA investigator would reveal it within minutes. The SRA did not perceive an ongoing risk to the public. The Respondent was now well aware that it is important that he should continue to deal with client accounts with meticulous care. He highlighted the lack of further action by the SRA since the initial investigation as indicative that it did not perceive an ongoing risk to the public.

27. The Respondent imposition of restrictions would likely lead to the closure of his practice, causing harm to him and his clients, due to being a sole practitioner with no other legal professional in the practice.

28. The Respondent expressed deep concern that a financial penalty, combined with an order for the costs could force the closure of his practice. He claimed that this could "create an unbearable burden" preventing him from continuing to trade. Closure would lead to job losses for his staff.

29. As to a final disposal it was submitted that there was no need to interfere with the Respondent's right to practice and that in the circumstances a fine would be a sufficient sanction.

Applicant's application to be heard on sanction

30. This was refused by the Tribunal. The case raised no novel issues and/or points of law. The issue of the most appropriate sanction was well within the Tribunal's capabilities as an expert and experienced Tribunal.

Sanction

31. The Tribunal considered the Guidance Note on Sanction (10th Edition June 2022) ("the Sanctions Guidance") and the proper approach to sanctions as set out in Fuglers and others v SRA [2014] EWHC 179. In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.

32. Stage One: seriousness of the misconduct (culpability and harm).

32.1 The Respondent's approach to the AML Regulations had been non-compliant with the Regulations and lacking in integrity in making a declaration to his regulator. His motivation, if it could be so characterised, had been perhaps a careless approach to this important area of his practice.

32.2 He was directly responsible for his actions. He was an experienced solicitor and in a position of higher authority than most, being the President of his regional branch of the Law Society. He would have been expected to have set an example to others in the profession and also the public; he fell-down in this respect. He ought reasonably to have known that his conduct was a material breach of his obligations to protect the public and the reputation of the legal profession.

32.3 The indications had all been there for him to address in the unqualified accountants' reports commencing in 2015 and it was not acceptable for these balances to have remained outstanding for so long. The fact that balances remained to be dealt with revealed a lack of insight into the importance of ensuring that balances held on client accounts were there for proper reason, and importantly, that funds due to clients, however small, are returned to those clients promptly. It was said on the Respondent's behalf that no harm had been caused by these breaches, yet this submission was rejected: clients kept from having their properly due funds is inherently harmful. In addition, the public trust solicitors to play an active role in preventing money laundering and public trust is diminished by a solicitor who fails to comply with the regulations and is further diminished by a solicitor who wrongly retains balances on a client account for long periods of time and by one who acts without integrity by misleading his regulator.

32.4 The Tribunal found that the Respondent's misconduct was such that he had fallen short of the standards of integrity and probity expected of a solicitor. In the circumstances the level of seriousness of the misconduct was high although the harm fell within the medium range.

32.5 Anti-money laundering regulations are important for all firms because solicitors are at the forefront of and vulnerable to attack by money launderers seeking to take advantage of any gap in the protective wall that such regulations provide.

33. Stage Two: the purpose of sanctions

33.1 The Tribunal had regard to the observation of Sir Thomas Bingham MR (as he then was) in Bolton v Law Society [1994] 1 WLR 512 that the fundamental purpose of sanctions against solicitors was:

> *"to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth".*

34. Stage Three: the most appropriate sanction

34.1 As to sanction, the Tribunal adopted a *'bottom up'* approach. The Tribunal considered the Respondent's good character and everything which had been said attesting to his personal and professional qualities. The Tribunal considered that these had not been minor breaches of a minor nature and that this was not a case where no order nor a reprimand were appropriate sanctions, and nor could it be given the finding on lack of integrity.

34.2 Nevertheless, weighing all things in the balance the Tribunal were persuaded that neither the protection of the public nor the protection of the reputation of the legal profession justified Suspension or Strike Off. However, having listened to the submissions on the imposition of restrictions upon the Respondent's practice the Tribunal considered that there needed to be further safeguards in place to ensure the Respondent focussed on the matters which had brought him before the Tribunal and to guide him towards continuing to rectify the admitted deficiencies. The Tribunal found that the most appropriate sanction would be a fine set at the mid to upper end of the range in Level 4 of the Indicative Fine Bands, *(conduct assessed as very serious*) and

the Tribunal imposed a fine of £35,000 upon the Respondent combined with conditions as set out in the order below. The conditions were not to be viewed as restrictions *per se* but conditions to enable positive change to take place.

Costs

35. Ms Stevens submitted that as a matter of principle the Applicant was entitled to its proper costs. The quantum was £28,800.90 as set out in its itemised statement of costs dated 8 January 2025.

36. The Applicant had pursued its case in a reasonable and proportionate way and the Respondent had admitted all the allegations. The Applicant had not been bound to enter into an Agreed Outcome and the Tribunal had been the appropriate venue for this matter as there had been a serious disregard of his regulatory obligations by the Respondent and an admitted want of integrity.

37. Mr Lawrence argued that there should be a reduction of the costs sought by the Applicant as this was a matter which could have been disposed of by way of an Agreed Outcome and the Applicant had unreasonably not entered into a dialogue which would have allowed such an outcome. The Applicant had taken an unrealistic view of the final sanction which would have been applied.

38. Also, the matter had not taken the full 3 days catered for in the listing of it before the Tribunal.

39. Mr Lawrence directed the Tribunal's attention to the financial statement provided by the Respondent, and whilst he was not impecunious he was not a person of unlimited means, having a family to take care of and high monthly outgoings.

Tribunal's Decision on Costs

40. The Tribunal noted that under Rule 43 (1) of The Solicitors (Disciplinary Proceedings) Rules 2019 it has the power to make such order as to costs as it thinks fit, including the payment by any party of costs or a contribution towards costs of such amount (if any) as the Tribunal may consider reasonable. Such costs are those arising from or ancillary to proceedings before the Tribunal.

41. It noted that neither party had applied for the Tribunal to make a direction for the costs to be subject to detailed assessment by a taxing Master of the Senior Courts, therefore it remained open to the Tribunal to make a summary assessment of the costs.

42. By Rule 43(4), the Tribunal must first decide *whether* to make an order for costs and when deciding whether to make an order, against which party, and for what amount, the Tribunal must consider all relevant matters such as:

- The parties' conduct;
- Were directions/deadlines complied with?
- Was the time spent proportionate and reasonable?

- Are the rates and disbursements proportionate and reasonable?

- The paying party's means.

43. The Tribunal found the case had been properly brought by the Applicant and that both parties had complied with the directions and deadlines set. Each had approached the case with professionalism and rigour. The public would expect the Applicant to have prepared its case with requisite thoroughness and, in this regard, it had properly discharged its duty to the public and the Tribunal.

44. The Tribunal also noted the following factors:

- The Substantive Hearing had not taken three full days, as estimated at the outset by the Applicant rather the case had been concluded in 2 days;

- This had not been a case of legal complexity, and the matters had been relatively straightforward and not contested;

- The Respondent had made admissions and agreed the factual matrix of the case;

- The rates at which the Applicant claimed its costs appeared proportionate and reasonable.

45. As usual in dealing with costs applications the Tribunal adopted a 'broad brush' approach to the costs and looked at matters in the round.

46. The Tribunal found that the costs claimed by the Applicant were on the whole reasonable and proportionate and that in principle the Applicant's costs should be paid by the Respondent. However, the Tribunal considered that there was room for modest reduction, particularly given the relatively straightforward nature of the case, the admissions made by the Respondent and the fact that the case was concluded earlier than expected.

47. The Tribunal, in considering the Respondent's liability for the costs of the Applicant, had regard to the following principles, drawn from *R v Northallerton Magistrates Court, ex parte Dove (1999) 163 JP 894*:

- It is not the purpose of an order for costs to serve as an additional punishment for the respondent, but to compensate the applicant for the costs incurred by it in bringing the proceedings and

- Any order imposed must never exceed the costs actually and reasonably incurred by the Applicant.

48. The Tribunal was mindful that it should not make an order for costs where it is unlikely ever to be satisfied on any reasonable assessment of the respondent's current or future circumstances as per Barnes v SRA Ltd [2022] EWHC 677 (Admin).

49. The Tribunal considered that the Respondent was not impecunious in the Barnes' sense, in fact he had resources to draw upon. There were no persuasive factors to divert the Tribunal from the normal course involving costs.

50. The Tribunal ordered that the Respondent should pay the Applicant's costs in the sum of £28,000.00.

Statement of Full Order

51. The Tribunal ORDERED that the Respondent, AMIR NAZIR BUTT solicitor, do pay a fine of £35,000.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £28,000.00.

52. The Respondent shall be subject to conditions imposed by the Tribunal as follows:

- The Respondent must, for a period of three years:
- Submit to the Solicitors Regulation Authority Ltd (SRA) half yearly accounts commencing on 12 June 2025
- Submit on a yearly basis his Firm-Wide Risk Assessment (FWRA), Anti-Money Laundering Policy (AML) and training records (re AML) for him and his staff to the SRA commencing on 13 February 2025
- Attain Lexel Accreditation by 31 December 2025.

Dated this 5th day of February 2025
On behalf of the Tribunal

T. Cullen

Ms T. Cullen
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
5 FEBRUARY 2025