

IN THE MATTER OF THE SOLICITORS ACT 1974

SRA

Applicant

and

Mr Amir Nazir Butt

Respondent

**RESPONDENT'S AMENDED ANSWER TO THE APPLICANT'S STATEMENT
PURSUANT TO RULE 12 OF THE SOLICITORS (DISCIPLINARY
PROCEEDINGS) RULES 2019**

Introduction

This is the Respondent's Answer to the Allegations contained in the Rule 12 Statement of Hannah Lane. This Answer is divided into 4 sections;

1. A Summary of the Respondent's case;
2. The Response to the Allegations
3. The steps already taken by the Respondent and the firm since the investigation / the ongoing steps being taken to continue to improve; and
4. The potential consequences of the sanction for the Respondent and the firm.

Summary of the Answer

1. The Respondent admits the three separate Allegations set out in the Rule 12 Statement, subject only to the matters set out below.
2. The Respondent has, ~~throughout the investigation~~, fully co-operated with the SRA's investigating officers throughout the ~~investigation~~is process.
3. This has been an extremely challenging time for the Respondent, and he has learnt a lot from the SRA investigation and this referral to the SDT. It has had a profound impact upon him and his practice. The Respondent has reflected upon the matters contained

within the SRA's investigation Report and the Rule 12 Statement and this is set out in more detail in his initial response to the SRA dated 28 February 2024 (which is adopted in this Answer).

4. The consequences of this investigation for the Respondent and his firm are enormous. The outcome of these proceedings might mean the Respondent can no longer continue his practice which is a constant worry for him and his family. This is particularly so if the sanction of a Suspension is sought and is approved by the Tribunal as this would make it almost impossible for the Respondent (a sole trader) to keep his practice open.
5. It ~~was shopped at the investigation stage and during these proceedings~~ ~~hoped~~ that an Agreed Outcome and an appropriate and fair sanction ~~can~~ould be agreed with the SRA and proposed for approval by the SDT to reduce the time and cost that are incurred by the parties. An early resolution would ~~also~~have meant the Respondent ~~can~~ould move forward with his business without the ongoing pressure of this investigation and these proceedings. The prospects of an Agreed Outcome seem now to be remote, which is why this Answer has been amended.

Allegation 1

6. The Respondent admits that at the time of the SRA investigation there was no written FWRA in place and that was a breach of the MLRs 2017. In addition, the AML policy was out of date and therefore paragraphs 10 and 11 of the Rule 12 Statement are admitted.
7. The Respondent also agrees that the firm's FWRA was produced as a result of the SRA's investigation and has been in place since October 2022. It is also admitted that whilst the Respondent had an AML policy in place, it needed to be updated (and was in October 2022).
8. The deficiencies in the Respondent's documentation are set out in paragraphs 20-23 of the Rule 12 statement and are admitted. The deficiencies were resolved by December 2022.
9. In terms of AML training, the Respondent was unable to prove that such training had taken place, but as set out below (and as recognized at paragraph 28 of the Rule 12 statement) this has now been resolved.
10. It is admitted as alleged in paragraph 30 of the Rule 12 Statement that the Respondent did not have an internal audit system.
11. As such the Respondent admits the breaches of the Code as set out in paragraphs 35-40 of the Rule 12 Statement.

Allegation 2

12. The Respondent admits the allegation and the breaches of Principles set out in paragraphs 41-51 of the Rule 12 statement save that it is not admitted that his conduct amounted to a lack of integrity in a context where such a lack of integrity is suggested to be equivalent to dishonesty

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13. The Respondent admits the extract from the case of *Wingate v SRA* recited in the Rule 12 Statement but does not admit that his conduct is equivalent to an act of dishonesty and submits that is not the conclusion reached in that case.

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14. . The reason that the Respondent seeks to make this distinction is to preserve his ability to submit that his conduct does not warrant a Suspension as being an appropriate sanction as is suggested by the Applicant in their Enforcement Strategy Guidance. In that Guidance the Applicant implies that a finding of a Lack of Integrity is a factor which supports a Suspension of a solicitor from practice (which sanction is only within the remit of the SDT)).

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14-15. Insofar as the allegation of lack of integrity does not demand a Sanction at the level of a Suspension (but would lead to a financial penalty), the Respondent accepts that his conduct falls into the definition contained in the *Wingate* case. -

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Allegation 3

13-16. The Respondent admits that there were small sums of client funds that were retained in client account which should have been returned to clients sooner. Paragraphs 52-57 set out the factual history to those balances which is accepted as being accurate. This was admitted by the Respondent as recorded at paragraph 59 of the Rule 12 Statement.

14-17. The breaches of the Code as alleged in paragraphs 61-71 are admitted.

The SRA investigation

15-18. The Rule 12 statement accurately sets out the points that the Respondent made in mitigation, all of which are adopted in this Answer.

Points in mitigation

16-19. The Respondent repeats that he has been fully engaged with process and as a result has taken on board the comments made at every stage of the investigation. As set out below, the Respondent is committed to ensure that the firm invests in additional controls to ensure that the firm continues to comply with the Code in the future.

17-20. The Respondent would like to remind the Panel that the issues identified were only identified on a very small selection of the files opened by the firm (less than 0.2%) and therefore in the context of the practice as a whole the Report paints a rather negative picture which does not fully reflect the work undertaken or the way the firm operated.

18-21. Whilst the FWRA documentation was not complete at the time of the SRA investigation, work had been started to create such a document and the Respondent submits that the firm already operated in accordance with the required standards although this was not properly documented. The Respondent apologises for the error made in making the Declaration when he should not have done but it is the Respondent's case that 'on the ground' the team were working to the requisite standards when they applied the protocols in practice. As above the Respondent does not consider that this conduct could be considered of the type that might result in Suspension as an appropriate sanction.

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19-22. In hindsight the Respondent recognizes that he ought to have made time available to complete the documentation in a timely manner and in accordance with the Code. The time he has spent in assisting the SRA with their investigation and on these proceedings far outweighs the time that was needed to complete the necessary documentation. This is a lesson that the Respondent has learnt and will has influenced his approach to every aspect of his business and will continue to do so his decisions in the future.

20-23. In terms of training, the SRA investigator refers to the fact the Respondent was unable to provide any specific records of the training undertaken. It is not the case that the Respondent did not have records. The firm did have the records and provided relevant certificates. What it did not have was the details of each of the courses. This is on the basis that the Law Society/CQS do not allow for the contents to be downloaded. Once the course has been completed, its contents disappear and so the Respondent could not provide the required evidence. The Risk and Compliance courses are all part of the CQS training which the firm has been undertaking since 2013.

In terms of the client balances, the firm have now dealt with the historic residual balances and have a system in place dealing with the 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.

The steps taken by methe Respondent and the firm since the investigation

21-24. The Respondent, acting in his own capacity and also the sole practitioner in charge of a firm has taken on board the points and deficiencies contained within the Report and the consequences of the investigation (and repeated in the Rule 12 statement). He has reflected on the impact that these proceedings have had not only on his own career but also the firm as a whole. The financial impact of the sanction (if a fine is appropriate) and the costs claimed in issue, might mean that the Respondent is unable to continue in practice.

22-25. The firm has undertaken specific courses relating to AML. These have been specific AML courses provided by the Law Society and also courses under the CQS which has extensively covered AML. The firm has reduced details of their principles, control and procedures to writing, which were being operated in practice both prior to and at the time of the SRA visit. Copies have been set to the SRA.

23-26. The firm has further undertaken CQS courses on risk and compliance and these dealt with AML and the Respondent continues to invest in improving all aspects of his business in this areaL.

24-27. The Respondent has set out above a candid acceptance of the historic deficiencies in his documentation and processes. He has also set out the impact this has had on his business and the steps being taken to continue to operate within the Code so that there isn't a repeat of these issues going forward.

25-28. Throughout the SRA investigation the Respondent has accepted that he has made mistakes, however when considering sanction, the Respondent would like the Tribunal to take into account the fact that there is no evidence of harm being caused to clients and there was no financial benefit to the Respondent.

26-29. Further there is no evidence of any of the aggravating factors that are taken into account in the Guidance Note on Sanctions 2022. In contrast the Respondent points to his overall conduct during the course of the SRA investigation and these proceedings as mitigating factors when considering an appropriate sanction.

Conclusion

27-30. The Respondent admits all the Allegations. He has reflected upon his practice as a result of the SRA investigation and these proceedings.

28-31. The Respondent remains very concerned that the potential sanction and the costs of the SDT proceedings will create an unbearable burden upon his practice which means he will not be able to continue to trade. It will also mean others will lose their jobs and income.

The Respondent believes that the matters in this Answer are true.

Signed by Browne Jacobson LLP for and on behalf of the Respondent.



Jason Nash

3 December 30 September 2024