

# SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12683-2024

**BETWEEN:**

SCOTT-MONCRIEFF AND ASSOCIATES LIMITED Appellant

and

SOLICITORS REGULATION AUTHORITY LTD Respondent

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Before:

Mrs F Kyriacou (in the chair)

Mrs L Murphy

Mr D Kearney

Date of Hearing: 08 December 2025

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**Appearances**

Alisdair Williamson KC, Counsel, Three Raymond Buildings, Gray's Inn, London, WC1R 5BH instructed by Russell-Cooke LLP for the Appellant.

Edward Morgan KC, Counsel, The Outer Temple, 222 Strand, London, WC2R 1BA instructed by the Respondent.

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**JUDGMENT ON APPEAL PURSUANT TO  
PARAGRAPH 14C OF SCHEDULE 2 TO THE  
ADMINISTRATION OF JUSTICE ACT 1985**

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## Adjudicator's Decision

1. On 12 August 2024 an SRA Adjudicator (the Adjudicator) considered the following allegations against Scott-Moncrieff and Associates Limited (the Firm), a licensed body:-
2. Allegation 1 (a) - Between 26 June 2017 and October 2021, the Firm failed to have in place a documented assessment of the risks of money laundering and terrorist financing to which its business was subject (a firm-wide risk assessment (FWRA)) pursuant to Regulation 18(1) and 18(4) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017).
3. Allegation 1 (b) - From October 2021 to October 2022, the Firm failed to have in place a FWRA that identified and assessed the risks of money laundering to which it was subject taking into account all risk factors pursuant to Regulation 18(2) of the MLRs 2017;
4. Allegation 1 (c) - From 26 June 2017 onwards, the Firm failed to establish and maintain policies, controls and procedures (PCPs) to mitigate and effectively manage the risks of money laundering and terrorist financing, identified in any risk assessment pursuant to Regulation 19(1)(a) of the MLRs 2017, and regularly review and update them pursuant to Regulation 19(1)(b) of the MLRs 2017.

In doing so, to the extent the conduct took place between 11 October 2011 and 24 November 2019, the Firm:

- i) breached Principles 6 and 8 of the SRA Principles 2011 (2011 Principles)
- ii) failed to achieve Outcomes 7.2 and 7.5 of the SRA Code of Conduct 2011 (2011 Code of Conduct)

and to the extent the conduct took place from 25 November 2019, the Firm breached:

- iii) Principle 2 of the SRA Principles 2019 (2019 Principles)
  - iv) Paragraphs 2.1(a) and 3.1 of the SRA Code of Conduct for Firms 2019 (Code of Conduct for Firms).
5. Allegation 2 - Between 17 October 2020 and 22 October 2021, the Firm allowed payments into and out of its client account, any or all of which were other than in respect of the delivery of regulated services, resulting in its client account being used to provide banking facilities. In doing so the Firm breached:
    - (i) Rule 3.3 of the SRA Accounts Rules 2019
    - (ii) Principle 2 of the 2019 Principles
  6. Allegation 3 - Between 17 October 2020 and 22 October 2021, in the matter of Kamaz, the Firm failed to:

- (a) Identify and verify the identity of a third party purporting to act on behalf of its client as required by Regulation 28(10) of the MLRs 2017;
- (b) Conduct ongoing monitoring of the transaction (to include source of funds checks), as required by Regulation 28(11) of the MLRs 2017;
- (c) Apply enhanced customer due diligence (EDD) when applicable, as required by Regulation 33(1) of the MLRs 2017.

In doing so the Firm breached:

- (i) Principle 2 of the 2019 Principles; and
- (ii) Paragraphs 2.1(a) and 3.1 of the Code of Conduct for Firms.

7. The Adjudicator found Allegations 1 and 2 proven and Allegation 3 not proven. The Adjudicator directed:-
  - the Firm to pay a financial penalty of £68,000 and to publish the financial penalty
  - the Firm to pay £1,350 in relation to the SRA's costs of investigating the matter.
8. On 2 and 9 December 2024 the Firm submitted representations requesting a review of the Adjudicator's findings pursuant to Rule 3.2 of the SRA Application, Notice, Review and Appeal Rules.
9. On 3 April 2025 an SRA Adjudication Panel dismissed the Firm's application for review and upheld the first instance decision by the Adjudicator in its entirety.

### **The Appeal to the Tribunal**

10. The Appellant subsequently filed an appeal to the Solicitors Disciplinary Tribunal (the Tribunal) pursuant to paragraph 14C of Schedule 2 to the Administration of Justice Act 1985 (AJA 1985) for a review of the Adjudicator's findings on a breach and the imposition of a financial penalty and costs.
11. The Appellant clarified in Grounds of Appeal dated 8 September 2025 that the finding in respect of Allegation 1 was accepted, however the findings in relation to Allegation 2 were not accepted. Furthermore, the level of financial penalty imposed by the Adjudicator was not accepted.
12. The Respondent opposed the appeal on the basis that it was without merit. The Respondent stated that the Grounds of Appeal were advanced by reference to two matters, namely: (1) the proportionality of the financial penalty which had been imposed; and (2) the finding that the conduct identified evidenced a breach of Rule 3.3 of the SRA Account Rules 2019. The Respondent's position was that there was no legal error in the formulation of the adjudication decision either in connection with the determination of the financial penalty or the finding of a breach of Rule 3.3 of the SRA Accounts Rules 2019.

## Background

13. On 28 June 2022, the SRA's Anti-Money Laundering (AML) Proactive Team carried out an inspection at the Firm. This identified that the Firm's FWRA, PCPs, matter risk assessments and ongoing monitoring and customer due diligence (CDD) were not likely to be compliant with the MLRs 2017.
14. On 23 August 2022, the SRA's AML regulatory manager ('the regulatory manager') recommended that the Firm should immediately address his concerns and provided the Firm with guidance to support it in doing so. He notified the Firm that following the SRA's inspection, because of the serious nature of any failure to comply with the MLRs 2017, he had referred the matter to the SRA's AML investigation team for formal investigation.
15. In July 2023, the SRA began a forensic investigation at the Firm. This identified that a consultant at the Firm acted for a client located in the Russian Federation in relation to its purchase of an asset for \$22,500,000 from a company located in Canada. The Firm agreed to provide escrow services and general advice to the client. It did not act in the sale and purchase agreement for the asset and there was no need for it to receive or make payments relating to that underlying transaction.
16. However, between 17 March and 10 August 2021, the Firm received three sums into its client bank account totalling \$23,287,470.07 from its client. Between 15 April and 28 May 2021, the Firm made three payments totalling \$22,499,990.13 to the company supplying the asset to its client. On the client's instructions the Firm paid \$525,000 to the client's agent located in Germany and \$262,438.46 to another company located in Estonia.
17. On 3 October 2023, the SRA began an investigation into the Firm. The investigation officer notified the Firm that its AML documentation was not compliant with the MLRs 2017 and did not incorporate the guidance provided by the SRA's AML regulatory manager on 23 August 2022. As of 30 September 2022, the Firm's FWRA was largely compliant with the MLRs 2017. The Firm's PCPs were not fully compliant at that stage.
18. The allegations levied against the Firm at the conclusion of the SRA investigation are set out above.
19. The Firm was ultimately fined for failing to ensure it had relevant documentation in place to prevent activities relating to money laundering and terrorist financing as required by the MLRs 2017. Also, for allowing payments into and out of its client account in one client matter which were other than in respect of the delivery of legal services, resulting in its client account being used to provide banking facilities.

## Legal Framework

20. This appeal to the Tribunal is pursuant to Paragraph 14C of Schedule 2 to the AJA 1985. The procedure for the hearing of the appeal is governed by the Solicitors Disciplinary Tribunal (Appeals and Amendment) Rules 2011 which came into force on 1 October 2011.

21. The Tribunal’s *Guidance Note on Appeals*, 6<sup>th</sup> Edition (February 2025), Section C confirms that the Tribunal proceeds by way of a review of the appeal and not by re-hearing the case. The Tribunal does not embark on an exercise of finding the relevant facts afresh. In *Solicitors Regulation Authority v Solicitors Disciplinary Tribunal (Arslan (Interested Party) and The Law Society (Intervening Party))* [2016] EWHC 2862 (Admin) Leggatt J stated (at paragraph 40) that:

*“More guidance on the proper approach to a review is given in the judgment of Clarke LJ in Assicurazioni Generali SRA v Arab Insurance Group [2003] 1 WLR 577. The passage at paras 14-17 of the judgment was approved by the House of Lords in Datec Electronics Holdings Ltd v UPS Ltd [2007] 1 WLR 1325 at para 46 (Lord Mance). In that passage the point is made that the approach to any particular case will depend upon the nature of the issues under review. Where a challenge is made to conclusions of primary fact, the weight to be attached to the findings of the original decision-maker will depend upon the extent to which that decision maker had an advantage over the reviewing body; the greater that advantage, the more reluctant the reviewing body should be to interfere. Another important factor is the extent to which the original decision involved an evaluation of the facts on which there is room for reasonable disagreement. In such a case the reviewing body ought not generally to interfere unless it is satisfied that the conclusion reached lay outside the bounds within which reasonable disagreement is possible.”*

22. On an appeal under this paragraph, the Tribunal has power to make an order which, *inter alia*,:-
- affirms the decision of the Society;
  - revokes the decision of the Society;
  - varies the amount of the penalty;
  - makes such provision as the Tribunal thinks fit as to payment of costs.
23. The burden of proving that the Adjudicator’s decision was wrong or that the decision was unjust because of a serious procedural or other irregularity in the proceedings lay with the Appellant. The standard to which the Appellant was required to prove that the decision was unjust was the civil standard, namely that on a balance of probabilities it was more likely than not that the Adjudicator’s decision was unjust.

### **The Appellant’s Case**

24. The Appellants Grounds of Appeal can be viewed [\[here\]](#)
25. The Appellant’s first ground of appeal was that the Adjudicator was wrong to rigidly to apply the financial penalty guidance in respect of Alternative Business Structure (ABS) firms as set out in the SRA’s Approach to Financial Penalties Guidance (the guidance).

26. Mr Williamson KC emphasised that the SRA's financial penalty regime contained a distinction between traditional firms and ABS firms. Broadly, in relation to traditional firms, the guidance states that SRA can levy fines up to £25,000 before having to refer the matter to the Tribunal, although a matter could be referred at a lower level if it were sufficiently serious or raised a point of principle. ABS structures, by contrast, cannot be referred to the Tribunal directly and, the SRA is capable of levying fines including large fines up to £250 million. The historical reason for this was explained by Mr Williamson KC on the basis that when ABS were contemplated as a means by which other entities could participate in the legal services sector it was envisaged that huge corporations might join. As a way of providing effective deterrence to what might be international conglomerates, significant fining powers were bestowed on the regulator. At the heart of the Appellant's case was that the guidance on setting fines should be capable of being departed from in exceptional circumstances, in order to avoid disproportionate financial harm to an ABS.
27. Mr Williamson KC submitted that, in accordance with the guidance, financial penalties are normally capped at 5% of domestic turnover. The guidance, confirmed that approach will apply to the vast majority of cases, but that it cannot fetter the discretion of decision-makers and that, in exceptional circumstances, it can be departed from and, for example, a fine higher than 5% of annual domestic turnover or a sum set by reference to a different metric could be used, although in such rare cases, the decision-maker would be required to give full reasons. Although the reference is to higher fines, it must, in justice, encompass lower ones as well and Mr Williamson KC submitted that it was implicit that a different metric resulting in a lower fine must also be contemplated.
28. The reasons originally advanced for exceptionality and for the use of a different metric in this case were twofold, namely due to the unusual structure of the Firm as an ABS and also due to the proportion of work carried out by the firm that fell within scope of the MLRs 2017.
29. On the first point, Mr Williamson KC on behalf of the Firm emphasised that the Firm was atypical for an ABS which the Adjudicator failed to have sufficient regard for when determining the financial penalty. The difference in profit-sharing operated by the Firm—whereby 70% of the profit goes to the individual consultant and 30% is retained by the Firm—was said to be a plainly relevant consideration. It was relevant because the 5% cap existed precisely because the penalty regime recognised that disproportionate harm could be caused to a firm by fines levied at too great a level.
30. Furthermore, Mr Williamson KC submitted that the SRA's fining system should not operate in a vacuum. It should have regard to what the SDT would do and the factors the Tribunal would take into account were the matter to be referred. The [SDT Guidance note on Sanction](#) detailed a number of factors to be considered including the means available to the Firm, the total financial detriment suffered, including any costs order and any adverse financial impact of the decision itself. The Tribunal would also be required to have regard to the case of:- [SRA v Clyde & Co; Edward Henry Mills-Webb \[12481-2023\]](#) when assessing the level of fine, as well as the size and financial resources of the Firm and the effect of a fine on its business. This assessment would include consideration of the revenue generated by the Firm, profitability per partner or registered individual and market share.

31. Although the Adjudicator set out the Firm's structure, including the low profit margin of 30% and the fact that the penalty would not fall on the consultants who take 70%, the Adjudicator concluded, without analysis, that these were not exceptional circumstances.
32. Mr Williamson KC submitted that the correct approach was first to determine whether the firm's structure constituted an exceptional set-up or exceptional circumstance. In addressing that question, proper regard should be had to the potential harm to the Firm of imposing a fine strictly in accordance with the guidance. The submission was not that no fine should be imposed, but that a different metric should be applied.
33. Mr Williamson KC submitted that the Adjudicator gave no consideration to the use of a different metric, relying instead on a bare assertion that public confidence would not be upheld if that financial penalty were not applied. There was no assessment of the impact on the Firm and whether its structure was itself exceptional, which was said to be overly rigid adherence to the guidance and a failure to take account of relevant factors.
34. It was also submitted that an irrelevant factor had been taken into account by the Adjudicator who had observed that, although the Firm contended the financial penalty was disproportionate, it constituted only a small fraction of the funds improperly processed through its account. Mr Williamson KC submitted that this consideration was misplaced at that stage. The extent of funds passing through the account was relevant to the assessment of harm, not to the question of exceptionality or regarding the appropriate metric. Accordingly, exceptionality was not properly addressed and the Adjudicator's analysis relied on an improper consideration, namely the amount of money passing through the account.
35. This submission was associated with the Appellant's second ground of appeal which was that the Adjudicator had taken irrelevant considerations into account when calculating the financial penalty. In calculating the financial penalty, the Adjudicator referred to public confidence which was said to be irrational.
36. The Adjudicator stated that, although the Firm submitted the penalty was disproportionate, it represented only a small fraction of the amount of money allowed to be improperly processed through the client account. However, Mr Williamson KC submitted that the reference to public confidence in the guidance supported the use of a percentage of gross turnover as the metric for penalty calculation, which is logically and factually distinct from the volume of funds processed through the client account and was, in any event, not relevant to Allegation 1.
37. The only respect in which the amount processed could be relevant was said to be an indicator of the level of harm. Mr Williamson KC submitted that the guidance did not suggest that a penalty should be assessed as a percentage of funds passing through a client account. In the present case, there was said to be no actual harm, and the assessment of harm was relevant only to the impact score and the corresponding penalty bracket. To adopt the Adjudicator's approach would expose small-turnover firms to extraordinary and disproportionate penalties calculated and aggravated by reference to sums passing through the client account.

38. The third ground of appeal advanced by the Appellant was that the Adjudicator was wrong to not allow a reduction in score (as part of the criteria when determining the appropriate sanction) to reflect the low amount of in-scope work and the lack of actual harm.
39. It was said to be relevant that the Appellant carried out only a very small proportion of in-scope work, and there was no evidence of actual money laundering. Mr Williamson KC conceded that while precedent may have limited weight, certain prior SRA decisions illustrated important aspects of their approach.
40. It was submitted that in a recent SRA case, [\*Moseley Chapman & Skemp\*](#), an ABS firm exhibited failings similar to Allegations 1(a) and 1(b) in the present case. In that case, the SRA recognised mitigation in that the Firm had implemented a compliant FWRA and cooperated with the investigation. The misconduct score was assessed as “*more serious*” (3) and the harm as low (2). The fine imposed fell at the upper end of Band B, reflecting the Firm’s knowledge of regulatory requirements, the fact that a significant portion of its business was AML-relevant, and its seven-year period of non-compliance. The penalty was reduced by 20% to reflect mitigation. The SRA noted in that case that, although no actual harm had occurred, the Firm was left vulnerable to the risk of money laundering, particularly given that conveyancing comprised around half of its work.
41. Similarly, in [\*Gordons Partnership\*](#), an ABS firm with failings in AML risk assessments and PCPs received a Band C penalty, with a starting point of £111,120. Mitigation was recognised where the Firm had undertaken remedial and longer-term actions and demonstrated a cooperative attitude.
42. In both cases, the large volume of in-scope work appeared to be a factor placing the Firms at greater risk. In Mr Williamson KC’s submission there appeared in the Appellant’s case to be no mirror consideration that the low level of in-scope work logically attracted less risk.
43. In both cases, the lack of actual harm was a relevant factor that appeared to have reduced the score. It was submitted that there appeared to have been no such consideration in the Appellant’s case.
44. The fourth ground of appeal advanced on behalf of the Appellant was that the Adjudicator erred in failing to reduce the penalty from the level originally determined, notwithstanding that Allegation 3 was not found proved. The Adjudicator in this case imposed the same penalty for breaches of Allegations 1 and 2 as the AML Investigation Officer had determined was appropriate for breaches of Allegations 1, 2 and 3.
45. The Adjudicator considered such an approach to be justified on the basis that the allegations found proved (Allegations 1 and 2) were, of themselves, sufficiently serious to warrant the penalty imposed. In addition, the Adjudicator placed weight on the firm’s lack of insight and absence of remorse. In that regard, the Adjudicator stated:

*“The firm has also shown no insight or remorse for its conduct. It has continued to assert that it did not breach Rule 3.3 and that its non-compliant AML systems were effective in managing the risk of money laundering.”*

46. It was submitted by Mr Williamson KC that while a lack of insight and remorse were recognised by the Appellant as features relevant when assessing outcomes or sanctions in other contexts, these factors are not referred to in the guidance. The Adjudicator's approach was to penalise the Appellant for contesting the matter. Further, Appellant's submission there was an element of double counting to the extent that lack of insight and remorse were treated as absence of mitigation, a submission that was developed further under the next ground of appeal.
47. The fifth ground of appeal advanced on behalf of the Appellant was that the Adjudicator was wrong to fail to find any mitigating circumstances so as to reduce the amount of the penalty. The Appellant maintained that the Adjudicator simply agreed with the AML Investigation Officer that there was no mitigation. This was said to be an incorrect approach. One of the factors to be considered at Step 2 of the adjudication sanction process (as set out in the guidance) is whether the Firm has taken post-breach remedial steps. It was submitted that the Appellant employed a consultant and made considerable progress in addressing the breaches. In respect of Allegation 1, the FWRA was in place before the matter went to the Adjudicator. In respect of Allegation 2 steps had been taken to address the concerns, albeit they were not then completely effective, but have since been regularised and the Firm is now compliant. It is not the case that no remedial steps were taken and it was submitted that it was wrong in principle that the Adjudicator failed to recognise the value of remedial steps when considering mitigation.
48. In taking grounds of appeal 3 and 4 together, Mr Williamson KC emphasised that of the three allegations identified by the AML Investigation Officer, one was not found proved by the Adjudicator and another had been completely remedied by the time the matter came before them. Irrespective though the same financial penalty was imposed without reduction.
49. The Appellant's final ground of appeal related to the alleged breach of Rule 3.3 of the SRA Accounts Rules 2019. It was submitted that the work carried out by the Appellant in respect of the Letter of Intent and the connected payment of \$500,000 were plainly properly linked. The lawyer undertaking the work, Mr Insley, carried out regulated services by providing advice on the Letter of Intent, and the receipt and payment out of monies under the Letter of Intent was properly connected. Even if it was held that the subsequent payments in and out of the Firm's account were not properly connected, the Adjudicator failed to appreciate that this was a transaction that started properly and that work was undertaken.

### **The Respondent's Case**

50. The Respondent's response to the Appellant's application and grounds of appeal can be viewed [[here](#)].
51. In addition to the written response submitted by Mr Morgan KC, for the Respondent, at the substantive hearing Mr Morgan KC made the following oral submissions. Mr Morgan KC began by providing some background information. He submitted that the money laundering regulations (including the MLRs 2017), like the Solicitors' Accounts Rules, represent a focused regulatory response to a known commercial risk. Solicitors' accounts are to be operated and utilised for matters incidental to the legal

services provided, as reflected in the drafting of Rule 3 of the SRA Accounts Rules 2019 itself.

52. Money laundering regulations are intended to ensure that solicitors' practices are not exposed to vulnerability, manipulation, or misuse by those who might otherwise seek to evade other regulatory regimes, whether in relation to potentially criminal behaviour or the avoidance of regulatory sanctions. These are the commercial realities to which the complementary regulatory regimes are directed, and they are of particular importance in the circumstances under consideration.
53. Turning to the business model, the only point advanced before the Adjudicator was that this was not a conventional model. Mr Morgan KC explained that Individual practitioners have chosen to move away from conventional practice structures, which may involve salaried employment or participation in a partnership-style model, and instead enter into more commercially advantageous arrangements with firms such as Scott Moncrieff.
54. As such, Mr Morgan KC submitted, while this model may once have been novel that it is now gaining traction. There were said to be several dimensions to the lawyer's participation in this model. First, the lawyer enters into some form of service level agreement with the practice with which they associate. Mr Morgan KC emphasised that this document had not been disclosed, so the basis upon which those arrangements are regulated, and how inter-party liability may be apportioned or recovered, was not known. Secondly to the outside world the lawyer is operating, for all practical purposes, on behalf of the business undertaking, in this case the Firm. Letters of engagement demonstrate that the legal services are provided by the Firm, and invoices issued to clients indicate that the Firm has delivered the service. The commercial reality, which is neither sinister nor improper, is that this is subject to an internal reconciliation between the Firm and the individual lawyer.
55. This explanation of the business model is relevant because the arrangement is entirely voluntary. One consequence is that practitioners with disparate specialisms may align themselves within the same business structure. The quid pro quo is that, to the outside world, the individual lawyer is seen as part of a corporate legal services provider, and to the regulator, the lawyer benefits from the regulatory umbrella provided by the Firm. While the lawyer is regulated in their own right, the primary burden of regulatory responsibility is discharged by the business undertaking itself. The disparate nature of the expertise within the practice was submitted as relevant as the Firm operated from offices in London, Nottingham and Leicester, and as far as is known, Mr Insley was the only practitioner engaged in aviation-related work. This required closer engagement with the quality of the regulatory risk management present within the practice.
56. Mr Morgan KC referenced invoices raised by Mr Insley against the Firm. The business model involved Mr Insley properly utilising a private service company to bill the Firm by way of an invoicing arrangement. This resulted in an apportionment of fees between two commercial entities: the legal practice on the one hand and Mr Insley's company on the other.
57. The significance of this arrangement was that, if the individual fee earner did not earn, there was pay. If the individual did not cultivate their own leads and deliver services on

behalf of the undertaking, there was no income derived from the arrangement. This spoke directly to the quality of the risk to which the individual practitioner, and therefore the undertaking, is exposed. Mr Morgan KC submitted that the Tribunal was undoubtedly familiar with historical difficulties involving sole practitioners and licensed conveyancers who, despite acting with probity, proved to be attractive targets for those seeking to manipulate the regulatory framework. What emerged, therefore, was said to be an unusual business model carrying a particular character of risk, and consequently requiring a greater level of accountability and vigilance from those operating it. Mr Morgan KC submitted that these matters were factually agreed by the parties.

58. In considering the grounds of appeal, Mr Morgan KC first addressed the breach of Rule 3.3 of the SRA Accounts Rules 2019 and submitted that it now appeared to be conceded by the Appellant that there should have been some accommodation of the fact that a legitimate payment was made to Bombardier by way of a deposit linked to a letter of intent. However, that concession necessarily accepts that the other payments were not properly made this was a transaction exceeding \$22 million, involving a Russian transport company, a German intermediary, and a Canadian vendor. On any view, it was an international transaction. One of the matters that exercised both the SRA investigators and the Adjudicator was the nature of that transaction.
59. A key issue was the fact that sums were received into the practice account and the client account and allocated without any form of questioning. The ledger provided the clearest illustration of this. It showed that payments made from funds received from the client were allocated to Bombardier, which was the first payment referred to as being legitimately connected to the letter of intent. However, it also shows that payments were made to the German intermediary and another company involved in the transaction.
60. The relevant email correspondence further illustrated the nature of these payments. There was no chain of emails questioning the purpose for which the payments were being made. Instead, there were simple requests for the migration of funds and their allocation in the manner directed. There was no reason stated as to why the client in Russia could not have made those payments directly to the relevant corporate entities, particularly as those entities were not participants in the transaction to which the letter of intent related.
61. Mr Morgan KC submitted that whilst clarification has now been provided as to the basis of the appeal, the reality remains that the inquiry is focused on the risk of manipulation and the risk of abuse of the solicitor's account. It has been suggested that the legitimacy of one of the payments should discount the seriousness of the conduct, but that conclusion is far from certain. What is required is a more nuanced analysis: whether the account was manipulated, in what manner, for what purpose, whether there was an exposure to misappropriation of funds, and whether there was a potential for the diversion of funds wholly unconnected to the legal services being provided. That is the quality of risk to which the Money Laundering Regulations and the Solicitors' Accounts Rules are directed.
62. Turning to the principal ground of appeal and the proposition that the outcome was unfair. It was said to be unfair on two bases. Firstly, it was argued that if this had been a conventional practice, the potential for the imposition of a financial penalty would have been much more restricted, absent a referral to the Tribunal. While that observation

may provoke interest, it does not justify intervention on appeal. Mr Morgan KC submitted that the question is whether the Adjudicator properly discharged her task by reference to the framework she was required to apply when formulating her decision.

63. That framework did not require a comparison between this business model and other business models that might have been adopted elsewhere. What it required was an exercise of judgment as to the subject matter of the conduct, its character, and its seriousness. Mr Morgan KC submitted that this was not a case where a formula or algebraic table can be applied such that, if financial loss is X, the fine must be Y. That approach was said to be inconsistent with proportionality in a regulatory context.
64. Proportionality requires a qualitative assessment of the seriousness of the misconduct, its duration, and its potential impact, together with consideration of public confidence in the profession. These breaches, viewed without the benefit of hindsight, continued over a period of years. Mr Morgan KC referenced an important letter sent to the Firm by an SRA AML Regulatory Manager dated 23 August 2022 in which concerns were identified about the quality of compliance within the practice. That document clearly detailed matters that the practice needed to address in discharging its obligations under the Money Laundering Regulations. No criticism can be made of its content or quality. Despite that letter, documents submitted in September 2022 were later recognised as deficient, and that deficiency persisted until evidence was provided in May 2024 indicating that matters had finally been remediated. The Adjudicator was entitled to regard the situation as one of difficulty and deficiency that subsisted for a significant period, and which had been allowed to continue as a result of deficiencies, ignorance, and non-compliance on the part of key personnel within the practice.
65. Mr Morgan KC also referenced communication by Mr Watt on behalf of the Firm providing comments on the non-compliance and the reasons for it, as well as a lengthy document from Miss Moncrieff setting out her concerns about the disproportionality of the SRA's response. Stepping back from that detail, three factors were submitted as relevant. Firstly, while there was correspondence and engagement with the SRA, this did not amount to an immediate or ready acceptance that there had been consistent failings; that concession came relatively late. The witness statement of Amy Bell<sup>1</sup> sets out the concessions made regarding deficiencies in the documentation and compliance regimes. Similarly, Mr Watt accepted, in comments made as of May 2024, the deficiencies then present and acknowledged his ignorance, as compliance officer, of the mandatory nature of the firm-wide risk assessment. Taken together, ignorance and deficiency notwithstanding guidance, combined with transactions in which sums were transferred to third parties without query or clarification, amount to a troubling combination from a regulatory compliance perspective.
66. The Appellant referred to the level of work that was being undertaken. Firm documentation set out that the pertinent percentage was 6.9%. In the interests of balance, it should be noted that Mr Watt later suggested that this figure was a disproportionate or inaccurate calculation. When considering the issue, the Tribunal was invited by Mr Morgan KC to review the underlying documentary evidence as corroboration regarding his submissions concerning how disparate the work of the practice was.

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<sup>1</sup> A consultant instructed by the Firm.

67. Turning to the adjudication itself, it was submitted on behalf of the Appellant that certain matters were omitted from the determination which one would ordinarily expect to see, and that some aspects were counterintuitive. For example, notwithstanding the fact that not all allegations were upheld, the level of fine adopted remained unchanged.
68. Mr Morgan KC submitted that the determination must be read as a whole as it was not a question of picking over individual elements or cherry-picking perceived faults. The proper question is whether the Adjudicator properly directed herself to the task in hand. This involved asking whether she demonstrated awareness of the relevant guidance and of the necessary regulatory framework. If the answer to those questions is yes, then the fact that another decision-maker might have reached a different conclusion or imposed a different sanction is not determinative of the appeal. Similarly, the fact that greater weight might have been placed on certain factors, or that other matters might have been disregarded as trivial or contextual, is irrelevant. What must be shown is legal error.
69. When the determination is examined as a whole, Mr Morgan KC submitted that it revealed a detailed and closely reasoned analysis of the entirety of the conduct. The Adjudicator was required to have regard to the relevant guidance, including guidance on the imposition of financial penalties and the enforcement strategy. Mr Morgan KC submitted that it was clear from a proper reading of the decision that she did so.
70. In terms of methodology, the Adjudicator firstly identified the need to consider the regulatory framework and then addressed whether the conduct in question had taken place, reminding herself that the burden of proof lay on the SRA. The Adjudicator expressly reminded herself of the need for proportionality in any financial penalty.
71. When engaging with the question of risk, the Adjudicator found that the practice had been undertaking probate work from 2016 and conveyancing work from 2019, and that the first draft of the firm-wide risk assessment was dated October 2021. The Adjudicator properly noted the concessions made by Amy Bell regarding the firm-wide risk assessment and observed that there was no de minimis threshold. As a result, the Adjudicator determined that the practice had been undertaking in-scope work from June 2017.
72. In relation to Allegation 1B, the Adjudicator properly identified that the practice was now largely compliant, referring in particular to Miss Bell's checklist. However, the Adjudicator was obliged to go on to consider the adequacy of the arrangements, and the Adjudicator agreed with the SRA AML Regulatory Manager's assessment communicated in August 2022.
73. A further relevant factor was that, in the interests of fairness, balance, transparency, and proportionality, the Adjudicator had regard to the information available to support practices in maintaining professional standards. This included consideration of warning notices and guidance issued to the profession.
74. With regard to Allegation 1C, the Adjudicator concluded that even at the stage of her decision the documents put forward by the practice as being adequate did not cover mandatory matters.
75. In relation to Allegation 2 Mr Morgan KC emphasised that Mr Insley was not advising on the sale or purchase of an aircraft. Any advice that was given was recorded as having

been communicated in three short emails. The Adjudicator then engaged, almost line by line, with the submissions made on behalf of the practice. One point raised by the practice was that there had been no complaint from the clients, to which the Adjudicator properly responded that this was hardly surprising.

76. In relation to the misuse of the account and the risk thereby generated, the Adjudicator properly directed her attention to whether there was a legitimate connection between the payments passing through the account and the legal services being provided.
77. Mr Morgan KC submitted that the Adjudicator properly contextualised her findings by considering what the practice should have known. The Adjudicator addressed whether guidance was available to ensure that standards were properly met and whether there were clear communications from the regulator. References were made to warning notices issued in 2014, 2019, and 2023.
78. The suggestion that the Adjudicator applied a rigid, formulaic, or mechanistic approach to these issues is not sustainable. By way of example, she expressly engaged with the fact that the conduct of others does not render the practice's actions legitimate or compliant. The Adjudicator also classified the risks she identified as "*obvious*" within the findings. It was open to the Adjudicator, and she was entitled, though not required, to form the view that there was a lack of insight into the deficiencies identified.
79. Mr Morgan KC submitted that the Adjudicator's findings reflected close engagement with the factual history and character of the non-compliance, the length of time for which it subsisted, and the potential explanations advanced. In relation to proportionality, the Adjudicator stated clearly that a public sanction was required to protect the public interest. None of the issues requiring consideration were detached from the overarching need to maintain the public interest, which underpins the regulatory regime and the maintenance of public confidence in the profession. In addressing that factor, the Adjudicator identified the long-standing and serious nature of the misconduct and noted that significant steps towards compliance were taken only after the SRA became involved. The Adjudicator also recorded the failure to heed warnings and advice that had been provided to the Firm.
80. It is clear from the findings that the Adjudicator engaged with the financial penalty guidance. However, the guidance is not intended to fetter the exercise of discretion. Rather, it provides points of reference to inform the Adjudicator's subjective judgment and the proper exercise of that discretion. The Adjudicator assessed seriousness at level 3 and evaluated the risk of harm as medium. What plainly exercised the Adjudicator's mind was that the outcome could have been materially different, encapsulated by reference to the risk of the account being used for money laundering due to the volume of money passing through it.
81. While it was accepted that the quantification of funds may be relevant for some purposes and not others, it was submitted that the volume and scale of non-compliance, and the sums involved, necessarily informed the Adjudicator's assessment of proportionality, risk, and vulnerability. This was particularly so where transactions were processed without question.
82. The principal limb of the appeal argument concerned alleged exceptional circumstances.

The Adjudicator dealt with this issue. The determination must be read as a whole and when properly contextualised, the Adjudicator accepted that the practice had chosen its business model, but concluded that this did not detract from the seriousness of the misconduct. While professionals may structure their activities for financial advantage, such choices cannot determine what constitutes a proportionate regulatory response to maintain public confidence.

83. In this case, the practice argued that only 6% of its turnover related to regulated activity and that only 30% of income from that activity was received by the practice, leading to a suggested penalty of £4,000. While understandable, that approach would undermine the deterrent effect of financial penalties and invite regulated persons to structure their affairs to minimise regulatory exposure.
84. By contrast, the regulator must impose proportionate sanctions that uphold standards and communicate deterrence. The purpose is not restorative justice but ensuring that others are not exposed to similar vulnerabilities. For those reasons, it was submitted that the Adjudicator properly informed herself, engaged with the granular detail of the case, and correctly exercised her discretion. The fact that another adjudicator might have reached a different conclusion does not amount to error. Absent a demonstrated error of methodology or reasoning, the grounds of appeal were said to be without merit and should therefore be dismissed.

### **The Decision of the Tribunal**

85. The Tribunal carefully reviewed the Adjudicator's decision and the parties' submissions, both oral and written. The absence of any reference to a particular submission or document should not be taken as an indication that the Tribunal did not read, hear or consider it.
86. The Tribunal found that the Adjudicator did not misapply the guidance. The Adjudicator properly considered the Firm's circumstances, structure, and regulatory arrangements including when assessing the question of exceptionality, an argument that was ultimately rejected. The Adjudicator exercised her discretion within the range of reasonable options available to her.
87. The Tribunal rejected the contention that the Adjudicator had taken into account irrelevant considerations. While the Adjudicator's reference to the amount of money that the Firm had allowed to be improperly processed through its client account may have been inartfully expressed, the Appellant's attempt to isolate and focus on that aspect of the reasoning did not sustain an argument that the Adjudicator had misdirected herself. When the reasoning and explanation underpinning the financial penalty were considered in their totality, the Tribunal was satisfied that the Adjudicator had approached the matter correctly. Further, the Adjudicator's conclusion that the impact of the harm, or risk of harm, was medium was one that was open to her to reach.
88. The Tribunal rejected the assertion that the Adjudicator failed to have proper regard to the amount of in-scope work, which was said to be very small, or to the absence of evidence of actual money laundering. The Tribunal considered that the Adjudicator comprehensively took into account the full extent of the relevant

considerations which were reflected in the decision.

89. The Adjudicator noted that in the Firm allowing its client account to be used as a banking facility with the associated risk of facilitating money laundering, terrorist financing or other improper purpose, the amount of money involved was significant. The Adjudicator made an allowance for the fact that this was confined to one client matter which therefore limited the impact of that breach. This informed the Adjudicator's determination that the impact of the harm, or risk of harm, was medium. The Tribunal considered that this conclusion was open to the Adjudicator in the circumstances.
90. The Tribunal rejected the assertion that the Adjudicator was wrong to fail to reduce the penalty from the figure arrived at, even though Allegation 3 was not proved. The Adjudicator determined the financial penalty by reference to the breaches contained in the allegations that were found proved. The Adjudicator noted that, given the seriousness and duration of the breaches—which had continued for a substantial period despite the SRA's guidance and warning notices—the level of financial penalty imposed was appropriate. The Adjudicator stated (regarding the amount of the financial penalty arrived at) *"I do so even though I only found two of the three allegations proven... This is because I considered the allegations I have found proven sufficiently serious to justify such a penalty."*
91. The Tribunal therefore noted that the Adjudicator was mindful of Allegation 3 having been found not proved and that this fact played a part in her determination and calculation of the financial penalty, which was within her discretion. The Tribunal found that the Adjudicator's decision was not inherently flawed. The decision flowed from a proper application of the relevant guidance to the facts and from the Adjudicator's assessment of the seriousness of the conduct, as previously addressed.
92. The Tribunal rejected the assertion that the Adjudicator was wrong to fail to find mitigation. The Adjudicator had regard to the Firm's response to the regulatory concerns and to its failure to establish compliance over a significant period of time. Those matters properly informed the Adjudicator's assessment of the presenting risks.
93. The final ground of appeal concerned an alleged breach of Rule 3.3 of the SRA Accounts Rules 2019. The Tribunal accepted the analysis of Mr Morgan KC in relation to this ground. It had been advanced on behalf of the Appellant that the legitimacy of one of the payments should discount the seriousness of the conduct; however, that conclusion was far from certain. The Adjudicator properly identified a breach of the SRA Accounts Rules 2019, having considered the nature and context of the material transactions. The determination reflected that the Adjudicator was mindful of the purpose of the regulations and made findings that were appropriate in light of the facts. The Adjudicator exercised her discretion within the range of reasonable options available to her and the Tribunal therefore rejected this ground of appeal.
94. The Tribunal considered each ground of appeal comprehensively in conducting its review and assessing whether the decision under appeal fell within the range of reasonable responses open to the original decision-maker. The Tribunal was

mindful that it should only interfere if satisfied that the original decision lay outside the bounds of reasonable disagreement. The fact that a differently constituted panel may have reached a different adjudication was not sufficient.

95. The burden of proving that the Adjudicator's decision was wrong or that the decision was unjust because of a serious procedural or other irregularity in the proceedings lay with the Appellant. The Tribunal found that it had not been discharged. The Tribunal found that the Adjudicator had applied the correct legal framework and that the findings of fact and evaluative conclusions were within the bounds of reasonable disagreement.
96. The Tribunal determined that the appeal would be dismissed in its entirety.

### **Costs**

97. Given the appeal was dismissed, the Tribunal was required to consider the award of costs pursuant to Article 6(2), Article 29 of the Solicitors (Disciplinary Proceedings) (Appeals and Determinations) Order 2011 and Schedule 2 paragraph 14C(4)(f) of the Administration of Justice Act 1985. On an appeal under this paragraph, the Tribunal has power to make such order as it thinks fit in relation to the payment of costs.
98. Mr Morgan KC referred the Tribunal to the Respondent's Schedule of Costs and confirmed that the Respondent sought an order for costs in the sum of £12,211.00. Mr Williamson KC acknowledged that, in light of the Tribunal's findings, an order for costs would follow. The Tribunal retained a discretion as to the amount of costs to be ordered.
99. Having considered the submissions of the parties with care, the Tribunal determined that the costs sought were reasonable and proportionate, reflecting the breadth of the grounds of appeal, the volume of documentation, the preparation required for the hearing, and the length of the hearing. The application for costs was not opposed, and no basis was advanced to depart from the general principle that costs follow the event. Nor was there any reason to justify a reduction in the quantum indicated on behalf of the Respondent. Accordingly, the Tribunal ordered that the Appellant pay the Respondent's costs of and incidental to the application, fixed in the sum of £12,211.00.

### **Statement of Full Order**

100. The Tribunal ORDERED that the appeal under Paragraph 14C of Schedule 2 to the Administration of Justice Act 1985 of **SCOTT-MONCRIEFF AND ASSOCIATES LIMITED** be DISMISSED and it further Ordered that the Appellant do pay the costs of and incidental to the response to this application fixed in the sum of £12,211.00.

DATED AND FILED WITH THE LAW SOCIETY

This 17<sup>th</sup> day of February 2026

On behalf of the Tribunal

*F. Kyriacou*

F. Kyriacou  
Chair