SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12639-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

SIMPSON THACHER & BARTLETT LLP. Respondent

Before:

Mr E Nally (in the chair)
Mr D Green
Mr B Walsh

Date of Hearing: 12 March 2025

Appearances

James Counsell KC, instructed by the Solicitors Regulation Authority, for the Applicant.

Patricia Robertson KC, instructed by Kingsley Napley, for the Respondent

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JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The Allegations against Simpson Thacher Bartlett ("the Firm") are that being the 'Relevant Person' with ultimate responsibility for compliance with the prevailing anti-money laundering regulations and:

   1.1 in breach of Regulation 18 of the Money Laundering, Terrorist Financing and Transfer Funds Regulations 2017 (MLRs 2017) failed to have in place a firm wide risk assessment ("FMWR") at all between June 2017 and 2 March 2020, thereby breaching Principles 6 and 8 of the SRA 2011 Principles and failing to achieve Outcome 7.5 of the SRA Code of Conduct 2011 and, from 25 November 2019, Principle 2 of the 2019 Principles and paragraphs 2.1(a) and 3.1 of the SRA Code for Firms;

   1.2 in breach of Regulation 19 of the MLR's 2017 failed to have in place fully compliant policies, controls or procedures ("PCPs"), between 26 June 2017 and 1 January 2023 thereby breaching Principles 6 and 8 of the 2011 Principles and failing to achieve Outcome 7.5 of the SRA Code of Conduct 2011 and, from 25 November 2019, Principle 2 of the 2019 Principles and paragraphs 2.1(a);

   1.3 Between 26 June 2017 and 1 October 2022, the Respondent failed to have in place compliant client and/or matter risk assessments in relation to four files as required by Regulation 28(12) and 28(13) of the MLRs 2017, thereby breaching Principles 6 and 8 of the 2011 Principles and failing to achieve Outcome 7.5 of the SRA Code of Conduct 2011 and, from 25 November 2019, Principle 2 of the 2019 Principles and paragraphs 2.1(a).

Documents

2. The Tribunal considered all the documents in the case which were contained in the case electronic bundle which included the following:

   - The Amended Rule 12 Statement - which can be found [here]

   - The Amended Answer to the Rule12 Statement - which can be found [here]

   - The Statement of Agreed Facts and Outcome - which can be found [here]

Background

3. The Firm provides legal services to institutional clients in the private equity sector.

4. In April 2021, the SRA's Anti Money Laundering ("AML") Proactive Supervision Team chose the Firm to undergo a desk-based review of its AML controls in order to assess its compliance.

5. After a lengthy investigation, on 8 March 2022, the SRA wrote to the Firm with the outcome of that review ("the Outcome letter"), identifying a number of concerns that appeared to amount to breaches of the MLRs 2017.

6. The Firm was subsequently referred to AML Investigations Team and ultimately, three allegations were levelled against the Respondent as set out in the Rule 12 Document.

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

7. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome linked 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

8. 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 Act1998, to act in a manner which was compatible with the Respondent'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.

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

Sanctions

10. The Tribunal considered the Guidance Note on Sanction (11th Edition February 2025) and the proper approach to sanctions as set out in *Fuglers and others v SRA* [2014] EWHC 179. The Tribunal's overriding objective when considering sanction, was the need to maintain public confidence in the integrity of the profession.

11. In determining sanction, the Tribunal's role was to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances. In determining the seriousness of the misconduct, the Tribunal was to consider the Respondent's culpability and harm identified together with the aggravating and mitigating factors that existed.

12. In assessing culpability, the Tribunal took account of the fact that the Respondent had direct responsibility for the circumstances giving rise to the misconduct. The Respondent had a duty to comply with the MLRs 2017. The misconduct was not spontaneous given that the admitted breaches involved a significant delay in achieving full compliance with the MLRs 2017.

13. The Tribunal accepted that there had been no evidence that any actual harm had been caused by any of the Respondent's admitted failures and that the risk of harm caused by the breaches was low given that the Respondent's practice and client base presented a low risk of money laundering. However, the Respondent's failure to comply with the MLRs 2017 over a lengthy period of time risked causing harm to the reputation of the legal profession.

14. The aggravating features of the Respondent's misconduct were the length of time for which the breaches had continued and the fact that a firm with its size and level of

resources ought reasonably to have known that the misconduct was in material breach of its obligations to protect the public and the reputation of the legal profession.

15. The Tribunal had due regard to mitigating factors which included the fact that the Respondent had cooperated fully with the investigation and admitted the misconduct at an early stage, such that the need for a contested hearing had been avoided. In addition, the Tribunal also noted that the Respondent had actively taken steps to remedy the breaches admitted. Finally, the Respondent had an unblemished regulatory record.

16. The Tribunal determined that a fine was the appropriate sanction and in assessing the level of the fine the Tribunal took account of the seriousness of the misconduct. In addition, it considered the size of the Firm, the financial resources and the revenue generated by the Firm. The Tribunal concluded that the misconduct fell into the category of 'more serious' (level 3 of the fine bands) and taking these factors into account a fine of £300,000 was proportionate in the circumstances.

Costs

17. The Applicant and the Respondent agreed costs in the sum of £62,000.00.

18. The Tribunal determined that the agreed costs were reasonable and proportionate. Accordingly, the Tribunal ordered the Respondent to pay costs fixed in the sum of £62,000.00.

Statement of Full Order

19. The Tribunal ORDERED that the Respondent, SIMPSON THACHER & BARTLETT LLP do pay a fine of £300,000.00, 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 £62,000.00.

Dated this 18th day of March 2025
On behalf of the Tribunal

E. Nally

E. Nally
Chair