

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12616-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

WGS SOLICITORS First Respondent

JONATHAN RICHARD MAURICE GERBER Second Respondent

BRIDGET CATHERINE MILLER Third Respondent

Before:

Ms A Horne (in the chair)

Mr J Johnston

Mrs S Gordon

Date of Hearing: 9 December 2024

Appearances

Tom Broomfield, counsel, of QEB Hollis Whiteman, instructed by Capsticks LLP for the Applicant.

Paul Bennett, solicitor, instructed by WGS Solicitors for the First and Second Respondents.

Sian Darlington, solicitor for the Third Respondent.

**JUDGMENT ON AN AGREED OUTCOME
FOR THE THIRD RESPONDENT**

Allegations

1. The allegations made against WGS Solicitors (“the Firm”) by the Solicitors Regulation Authority Limited (“SRA”) were that:

1.1. Between 3 May 2018 and 15 August 2020, it caused or allowed money to be received to and paid from the Firm’s Client Account in circumstances other than in respect of an underlying legal transaction being undertaken by the Firm or in respect of the delivery by the Firm of normal regulated services.

And that in doing so, it breached or failed to comply with –

Insofar as the conduct took place before 25 November 2019:

1.1.1 Rule 14.5 of the SRA Accounts Rules 2011 (“the SAR 2011”);

1.1.2 Principle 6 of the SRA Principles 2011 (“the 2011 Principles”); and

1.1.3 Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

1.1.4 Rule 3.3 of the SRA Accounts Rules 2019 (“the SAR 2019”);

1.1.5 Principle 2 of the SRA Principles 2019 (“the 2019 Principles”); and/or

1.1.6 Paragraph 2.1(a) of the SRA Code of Conduct for Firms (“the Code for Firms”).

1.2. Between 26 June 2017 and 17 March 2021, being the ‘Relevant Person’ with ultimate responsibility for compliance with the prevailing anti-money laundering regulations, and as exemplified in the client matters identified in Appendix 2 to this statement, it failed adequately or at all to:

1.2.1 apply customer due diligence measures (“CDD”), contrary to Regulations 27 and 28 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the 2017 MLR’s”);

1.2.2 apply enhanced customer due diligence measures (“EDD”) and/or enhanced ongoing monitoring where indicated, contrary to Regulation 33 of the 2017 MLR’s;

1.2.3 conduct ongoing monitoring of its business relationships with such entities, contrary to Regulation 28(11) of the 2017 MLR’s;

1.2.4 conduct a risk assessment of the client and/or matter in accordance with Regulation 28(12) and 28(13) of the 2017 MLR’s;

And that in doing so, it breached or failed to comply with:–

Insofar as the conduct took place before 25 November 2019:

1.2.1.1 Principle 6 of the 2011 Principles; and

1.2.1.2 Outcome 7.5 of the SRA Code of Conduct 2011;

1.2.1.3 Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- 1.2.1.4 Principle 2 of the 2019 Principles; and/or
- 1.2.1.5 Paragraph 2.1 of the Code for Firms.

2. The allegations made by the SRA against Mr Gerber were that he:

2.1. Between 3 May 2018 and 15 August 2020, caused or allowed receipts to and payments from the Firm's Client Account in matters for Person A or entities connected to Person A, in circumstances other than in respect of an underlying legal transaction being undertaken by the Firm or in respect of the delivery by the Firm of normal regulated services.

And that in doing so, he breached or failed to comply with–

Insofar as the conduct took place before 25 November 2019:

- 2.1.1 Rule 14.5 of the SAR 2011;
- 2.1.2 Principle 2 of the 2011 Principles;
- 2.1.3 Principle 6 of the 2011 Principles; and
- 2.1.4 Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- 2.1.5 Rule 3.3 of the SAR 2019;
- 2.1.6 Principle 2 of the 2019 Principles; and
- 2.1.7 Principle 5 of the 2019 Principles.

2.2. Between 3 May 2018 and 15 August 2020, being at all relevant times a member of the Firm and the partner with primary responsibility for its relationship with Person A1, in respect of matters connected to Person A1 he materially contributed to the Firm's anti-money laundering failures alleged at paragraph 1.2 above (or any of them).

And that, in doing so, he breached or failed to comply with:–

Insofar as the conduct took place before 25 November 2019:

- 2.2.1 Principle 6 of the 2011 Principles; and
- 2.2.2 Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- 2.2.3 Principle 2 of the 2019 Principles; and
- 2.2.4 Paragraph 7.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 (“the Code for solicitors”).

3. The allegations made by the SRA against Ms Miller were that she:

- 3.1. Between 26 June 2017 and 1 November 2020, being a member of the Firm and, at all relevant times, the partner with primary responsibility for its relationship with Person B1, in respect of matters connected to Person B1 she materially contributed to the Firm's anti-money laundering failures alleged at paragraph 1.2 above (or any of them).

And that, in doing so, she breached or failed to comply with:–

Insofar as the conduct took place before 25 November 2019:

- 3.1.1 Principle 6 of the 2011 Principles; and
- 3.1.2 Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- 3.1.3 Principle 2 of the 2019 Principles; and
- 3.1.4 Paragraph 7.1 of the Code for solicitors.

4. Ms Miller admitted allegation 3.1 on the basis that she materially contributed to the Firm's failures as alleged at allegation 1.2.1, 1.2.3 and 1.2.4 in that she (a) failed to scrutinise the source of funds for the transactions involving B1, and (b) failed to properly assess the risk posed by each transaction. Ms Miller did not accept that she had materially contributed to the Firm's failure to apply EDD. The Applicant considered that it would be disproportionate to proceed to a contested hearing in light of the admissions made. The Tribunal agreed that it was disproportionate to pursue that element of the allegation. Accordingly, the Tribunal allowed that particular of the allegation to be withdrawn.

Documents

5. The Tribunal had before it the following documents:-
- Rule 12 Statement and Exhibit MR1 dated 31 May 2024
 - First Respondent's Answer dated 4 September 2024
 - Second Respondent's Answer dated 4 September 2024
 - Third Respondent's Answer dated 4 September 2024
 - Applicant's Reply to the Respondents' Answers dated 18 September 2024
 - Agreed Outcomes for the First and Third Respondents dated 9 December 2024
 - Statement of Agreed Facts and Admissions as regards the Second Respondent dated 9 December 2024

Background

6. The Firm was a legal partnership and recognised body authorised for all legal services. As at the date of the Rule 12 Statement, based on the Applicant's records, it had 11 regulated people in the organisation and had begun trading as a partnership in April 2001. The Firm practised in the following areas: Probate and Estate Administration; Employment; Property - Residential; Landlord and Tenant (Commercial and Domestic); Litigation - Other; Family/Matrimonial; Property - Commercial; Wills, Trusts and Inheritance Tax Planning.

7. Mr Gerber was admitted as a solicitor in September 1991. He held a current unconditional Practising Certificate. At the material time, he was one of three equity partners in the Firm.
8. Ms Miller was admitted as a solicitor in December 1992. She held a current unconditional Practising Certificate. At the material time, she was a salaried partner of the Firm. She was not currently in paid work.
9. Between 17 March 2021 and 6 December 2021, the Firm submitted three reports to the SRA concerning Person A1 and Person B1, who had been clients of the Firm:
 - 17 March 2021 - Report produced by Ince Gordon Dadds LLP;
 - 23 September 2021 - Report produced by Pinsent Masons LLP; and
 - 6 December 2021 - Report produced by Pinsent Masons LLP.
10. The reports identified concerns that the Firm had breached the 2017 MLR's and the SAR 2019 on matters connected with Person A1 and Person B1.
11. Following the Firm's reports, the SRA commissioned its own forensic investigation. This commenced on 13 September 2022, and ultimately resulted in the Forensic Investigation Report dated 12 December 2022 ("the FI Report"), together with supporting appendices.

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

12. The parties invited the Tribunal to deal with the Allegations against the Firm in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

13. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Ms Miller's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
14. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that Ms Miller's admissions were properly made.
15. The Tribunal considered the Guidance Note on Sanction (10th edition – June 2022). In doing so the Tribunal assessed the culpability and harm identified, together with the aggravating and mitigating factors that existed. The Tribunal found that Ms Miller, as the solicitor with conduct of the matters for B1, should have ensured that the necessary CDD information was obtained. As an experienced solicitor and partner in the Firm, Ms Miller should have been aware of the relevant Rules and Principles. The Tribunal determined that the appropriate sanction was a financial penalty that fell within its

Indicative Fine Band Level 3, as it assessed the misconduct as moderately serious. The parties had proposed a fine in the sum of £3,500.00, that sum taking account of Ms Miller's means. The Tribunal noted Ms Miller's means, and determined that it was appropriate to reduce the financial penalty to take account of her limited means. The Tribunal determined that the proposed amount was reasonable and proportionate. Accordingly, the Tribunal approved the proposed sanction.

Costs

16. The parties agreed costs in the sum of £6,500. The Tribunal determined that the agreed sum was reasonable and proportionate in all the circumstances. Accordingly, the Tribunal ordered that Ms Miller pay costs in the agreed sum.

Statement of Full Order

17. The Tribunal ORDERED that the Respondent, BRIDGET CATHERINE MILLER, c/o Gunnercooke LLP, solicitor, do pay a fine of £3,500.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £6,500.00.

Dated this 16th day of January 2025

On behalf of the Tribunal

A Horne

A Horne
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
16 JAN 2025

**BEFORE THE SOLICITORS DISCIPLINARY TRIBUNAL
IN THE MATTER OF THE SOLICITORS ACT 1974 (as amended)
AND IN THE MATTER OF:**

No: 12616-2024

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

WGS SOLICITORS

First Respondent

and

JONATHAN RICHARD MAURICE GERBER

Second Respondent

and

BRIDGET CATHERINE MILLER

Third Respondent

STATEMENT OF AGREED FACTS AND OUTCOME FOR THE THIRD RESPONDENT

1. By a statement made by Mark Rogers on behalf of the Applicant, the Solicitors Regulation Authority Limited (the "SRA"), pursuant to Rule 12 of the Solicitors (Disciplinary Proceedings) Rules 2019 and dated 31 May 2024 ("the Rule 12 statement"), the SRA brought proceedings before the Tribunal making allegations of misconduct against the Third Respondent.
2. Definitions and abbreviations used herein are those set out in the Rule 12 Statement. The numbering of the allegations as outlined in the Rule 12 statement has also been retained in this document for ease of reference.

ALLEGATIONS

3. The relevant allegation against the First Respondent is included below to place the Third Respondent's admissions in the proper context. There is an interrelated nature of the allegations, in that findings in relation to the Third Respondent as regards allegation 3.1 are dependent on the findings in relation to allegation 1.2, faced by the First Respondent.

The allegations against the First Respondent are admitted by way of the First Respondent's Answer dated 4 September 2024.

First Respondent

4. The relevant allegation (allegation 1.2) made by the SRA against the First Respondent, WGS Solicitors (SRA ID: 344440) ("the Firm"), is that:

1.2 Between 26 June 2017 and 17 March 2021, being the 'Relevant Person' with ultimate responsibility for compliance with the prevailing anti-money laundering regulations, and as exemplified in the client matters identified in Appendix 2 to this statement¹, it failed adequately or at all to:

- 1.2.1 apply customer due diligence measures ("CDD"), contrary to Regulations 27 and 28 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the 2017 MLR's");
- 1.2.2 apply enhanced customer due diligence measures ("EDD") and/or enhanced ongoing monitoring where indicated, contrary to Regulation 33 of the 2017 MLR's;
- 1.2.3 conduct ongoing monitoring of its business relationships with such entities, contrary to Regulation 28(11) of the 2017 MLR's;
- 1.2.4 conduct a risk assessment of the client and/or matter in accordance with Regulation 28(12) and 28(13) of the 2017 MLR's;

AND THAT, in doing so, it breached or failed to comply with:–

Insofar as the conduct took place before 25 November 2019:

- i. Principle 6 of the 2011 Principles; and
- ii. Outcome 7.5 of the SRA Code of Conduct 2011;
- iii. Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- iv. Principle 2 of the 2019 Principles; and/or
- v. Paragraph 2.1 of the Code for Firms.

¹ Being the Rule 12 statement

Third Respondent

5. The allegations made by the SRA against the Third Respondent, Bridget Milller (SRA ID: 157496), are that she:

3.1 Between 26 June 2017 and 1 November 2020, being a member of the Firm and, at all relevant times, the partner with primary responsibility for its relationship with Person B1, in respect of matters connected to Person B1 she materially contributed to the Firm's anti-money laundering failures alleged at paragraph 1.2 above (or any of them).

AND THAT, in doing so, she breached or failed to comply with:–

Insofar as the conduct took place before 25 November 2019:

- i. Principle 6 of the 2011 Principles; and
- ii. Principle 8 of the 2011 Principles;

Insofar as the conduct took place on or after 25 November 2019:

- iv. Principle 2 of the 2019 Principles; and
- v. Paragraph 7.1 of the code for solicitors.

ADMISSIONS

6. The Third Respondent is prepared to make admissions to allegation 3 and the associated breaches of the Principles and Codes of Conduct referred to, as set out in this document.
7. Allegation 3.1 is admitted on the basis that the Third Respondent accepts materially contributing to the First Respondent's AML failures as alleged at allegations 1.2.1, 1.2.3 and 1.2.4, in that she (a) failed to scrutinise the source of the funds of transactions involving B1, and (b) failed to properly assess the risk posed by each of the transactions
8. Allegation 3.1 is advanced on the basis that the Third Respondent materially contributed to the First Respondent's anti-money laundering failures alleged at allegation 1.2 above, or any of them. Although the First Respondent (the Firm) admits failings in respect of Enhanced Due Diligence (Allegation 1.2.2) which deals with alleged conduct of both the Second and Third Respondents, the Third Respondent does not accept that she materially contributed to the failings relating to Enhanced Due Diligence specifically. Although the SRA considers that this remains arguable against the Third Respondent, the SRA does

not pursue this aspect of the allegation against the Third Respondent on the basis that it would be disproportionate to proceed to a contested hearing in light of the admissions made, the sanction agreed and the fact that whether or not this criticism is established will have no material impact on the outcome of the case.

9. The SRA has considered the admissions being made and whether those admissions, and the outcomes proposed in this document, meet the public interest having regard to the gravity of the matters alleged. For the reasons explained in more detail below, and subject to the Tribunal's approval, the SRA is satisfied that the admissions and outcome do satisfy the public interest.
10. The Parties invite the Tribunal to approve this Agreed Outcome on this basis. The Parties consider in all the circumstances that the proposed Agreed Outcome represents a proportionate outcome to the proceedings which is in the public interest.

AGREED FACTS

Parties

First Respondent

11. The Firm or "the First Respondent" is a legal partnership and a recognised body authorised for all legal services. As at the date of the Rule 12 Statement, based on the Applicant's records it had 11 regulated people in the organisation and began trading as a partnership in April 2001. The First Respondent practises in the following areas: Probate and Estate Administration; Employment; Property – Residential; Landlord and Tenant (Commercial and Domestic); Litigation – Other; Family / Matrimonial; Property – Commercial; Wills, Trusts and Tax Planning.

Second Respondent

12. Mr Gerber, the Second Respondent, was admitted as a solicitor on 16 September 1991. He holds a current Practising Certificate, free from conditions. At material times he was one of three equity partners at the First Respondent, and is now understood to be one of two equity partners at the First Respondent.

Third Respondent

Ms Miller was admitted as a solicitor on 1 December 1992. She holds a current Practising Certificate, free from conditions. At material times she was a salaried partner at the First Respondent, but is not currently in paid work.

Background

13. Between 17 March 2021 and 6 December 2021, the Firm submitted three reports to the SRA concerning Person A1 and Person B1 who had been clients of the First Respondent:
 - 13.1. 17 March 2021 – Report produced by Ince Gordon Dadds LLP;
 - 13.2. 23 September 2021 – Report produced by Pinsent Masons LLP;
 - 13.3. 6 December 2021 – Report produced by Pinsent Masons LLP; and
14. The reports identified concerns that the First Respondent had breached the 2017 MLR's and the SAR 2019 on matters connected with Person A1 and Person B1. The conduct relevant to the allegation admitted by the Third Respondent relates to Person B1.
15. Following the First Respondent's report, the SRA commissioned its own forensic investigation. This commenced on 13 September 2022 and ultimately resulted in a detailed forensic investigation report dated 12 December 2022 ("the FI Report"), together with supporting appendices.

Summary: Person B1

16. Person B1 was a client of the First Respondent (or a predecessor firm) from 1997, predominantly in relation to property purchases and re-mortgages. Between 6 February 2015 and 27 September 2019, the First Respondent received 113 deposits into its client account in relation to Person B1's matters totalling £1,498,048.00, which were described as 'remittances' on the bank statements. The number of individual 'remittances' increased substantially from 2016 onwards: from 3 (a total of £67,000) in 2016, to 13 (£184,500) in 2017, all of which post-dated the introduction of the 2017 MLRs on 26 June 2017), to 48 (£356,100) in 2018; while in 2019 the First Respondent received 34 such deposits totalling £787,820.00 up to 27 September 2019. ██████████ Bank identified that the deposits into the client account recorded as 'remittances' between 26 February 2018 and 27 September 2019 were made in cash. Further, Person B1 had requested that the First Respondent open a "general" client account ledger rather than ledgers for each transaction for his own

convenience. This was opened on request in February 2015. The funds held on this general ledger were transferred to other matters as required.

17.

Allegation 1.2 – First Respondent’s failure to discharge its AML obligations adequately or at all

Allegation 3.1 – Third Respondent’s material contributions to such failures

The First Respondent’s AML Policies, Controls and Procedures

18. The First Respondent’s AML Policy was set out in its Office Manual. That document summarised the key requirements of the AML regulations, but for ‘detailed guidance’ fee earners were directed to a link to the Law Society Anti-Money Laundering Practice Note dated October 2013.

19. In response to the SRA’s question regarding when the First Respondent’s AML policy was first drafted, the First Respondent’s legal representatives stated “June 2017”. Despite this answer, no document has been provided to corroborate a written policy being in place in June 2017.

20. On 28 October 2022, the First Respondent provided a PDF document titled “2018” which contained a selection of policies relating to AML and other compliance matters. These documents appeared to be template documents from the Law Society that had not been tailored to the First Respondent. Mr [REDACTED] of the First Respondent explained in his interview with the SRA that he had purchased a version of the Law Society Anti-Money Laundering Toolkit published in 2018, which he used to create the First Respondent’s AML and related policies.

21. A PDF document titled “2019” was also provided to the SRA on 28 October 2022. This document contained two undated, typed notes, one summarising the policies and the other titled “*ADVICE FROM SRA AND LAW SOC and my thoughts*”.

22. On 3 January 2020, [REDACTED] wrote a memo to the First Respondent’s staff in the following terms:

“I will in the next few days be circulating a Memorandum and a ring binder with up to date anti money laundering (AML) documents. The SRA emphasise the importance of this and we are all aware of this in any event. I am going to ask each of you to deal with those with whom you work most closely to make sure that you and your immediate colleagues are familiar with all the AML documents and deal with them accordingly.”

The ring binder will contain a Memorandum and notes on our updated AML procedure with a copy of all the documents which we should use in every case and risk assessments for every file. This is not optional. The SRA require it and I have, as COLP, been asked to sign a Declaration which I must deliver to the SRA before January 20th confirming that we as a firm and all of you colleagues in particular are dealing with all of our AML obligations in accordance with the SRA regulations. I am sorry to burden you with further administrative matters. I wish it were not the case but unfortunately we have no choice but to meet these demands”

23. The Third Respondent accepts that she received “CQS Risk and Compliance Training” in April 2019. Extracts from that demonstrated that the training modules highlighted the following as money laundering ‘red flags’:
 24. Purchases of very high value properties by overseas companies and trusts;
 25. Purchases involving money from high risk countries; and
 26. Purchase transactions that do not fit with the lifestyle/wealth of the client.
27. The training also outlined that in order to prevent money laundering you must:
 - 27.1. Carry out proper customer due diligence on clients;
 - 27.2. Verify a client's identity and check the source of funds;
 - 27.3. Check the circumstances of the proposed transaction;
 - 27.4. Be aware of the warning signs for money laundering risks; and
 - 27.5. Be very careful to avoid the client account being exploited.
28. Following the events noted in the matters exemplified in the Rule 12 Statement, and notification from its then bank ██████████ of the closure of its accounts, the First Respondent introduced new AML procedures and policies in 2021, including instructing external third parties to advise on the same and provide training.

Person B1

29. Person B1 first instructed the First Respondent (or its predecessor firm) in 1997. From 2011 onwards, the Fee Earner on Person B1’s matters was the Third Respondent. The First Respondent did not act for Person B1 after November 2020.
30. Between 3 December 1999 and 6 September 2019, the First Respondent represented Person B1 in respect of 28 property purchases. The total purchase price across those

transactions was £12,324,338.09 against borrowing of £5,808,575.50. Seven of the purchases were 'cash purchases', i.e. funded without borrowings.

31. The First Respondent held the following due diligence documents relating to Person B1:

31.1. UK driving licence (expiry date 2 May 2012);

31.2. British passport (expiry date 11 September 2024);

31.3. A [REDACTED] current account statement in the name of Person B1 showing transactions between 20-27 July 2010;

31.4. A [REDACTED] savings account statement showing transactions from 2 September 2013 to 1 November 2013;

31.5. A [REDACTED] mortgage statement dated 1 November 2017; and

31.6. An undated Vida Homeloans Property Portfolio Information;

32. In 2014, Person B1 asked whether the First Respondent could open one ledger with one reference number. The First Respondent stated this was because he had multiple transactions ongoing and he found it frustrating to remember which file number related to which transaction. In response to this request, file matter reference B3448 was opened with the matter description "*General Matters*" in February 2015.

33. The ledger for the B3448 matter demonstrates the following annual "REM" (Remittance) deposits made by or on behalf of Person:

Year	Number of Deposits	Amount (£)
2015	15	102,628.00
2016	3	67,000.00
2017	13	184,500.00
2018	48	356,100.00
2019	34	787,820.00
Total	113	1,498,048.00

34. The “REM” (remittance) deposits made into the B3448 client account after 26 June 2017, the date the MLRs 2017 came into force, was £1,328,420.00. These “REM” deposits typically comprised round sum payments directly into the First Respondent’s client account.
35. The Third Respondent was not an equity partner or involved in the banking aspects of the firm. For the avoidance of doubt, it is not alleged that she had any knowledge of cash deposits into the firm’s account prior to it being brought to her attention by the firm in September 2019
36. The First Respondent, with the Third Respondent as the fee-earner and client/matter partner, completed six property purchases for Person B1 after the introduction of MLRs 2017.
37. No matter risk assessments had been undertaken or recorded in relation to Person B1’s matters after the introduction of the MLR’s 2017.
38. The FI Report exemplified three of the six property purchases completed after the introduction of the MLRs 2017, from June 2018 – August 2019. This exemplified and set out how most of the “REM” deposits were utilised, by transferring the funds internally to ledgers for specific property purchases that were either being made as significant cash purchases, i.e. purchases with no borrowing (for the first and third properties exemplified), or with over £200,000 cash contribution (for the second property exemplified).

Queries from [REDACTED]

39. On 16 September 2019, [REDACTED] of [REDACTED] Business Banking Team emailed the Second Respondent and [REDACTED] (Chief Cashier / Financial Controller) of the First Respondent to thank them for providing certain information relating to their query, and to notify them that *“If there has been a Risk Event that impacts you I will let you ASAP (sic)”*. It is understood from the First Respondent’s self-report to the SRA of 17 March 2021 that [REDACTED] had queried a cash deposit of £21,000.00 made by Person B1.
40. On 23 September 2019, [REDACTED] emailed the First Respondent again to raise various questions:

“I have been asked further questions in relation to the matter we discussed earlier in the month. May I ask for a response from you [sic] chief Anti-Money Laundering officer to the following:

- *What level of customer due diligence was applied to [Person B1]?*
- *How was the customer identified and by what documentation?*

- Was "source of funds" requested to evidence the origin of the cash funding and if so what evidence was provided and was it credible.
- What is the purpose of the transaction?
- Is the transaction related to a personal matter or a business matter.
- Are/Were any concerns held over the cash credit activity? If so was a disclosure made to the authorities.
- Please confirm if the cash activity seen between 07/05/19-13/05/19 also relates to [Person B1]?"

41. [REDACTED] of the First Respondent responded on the same day, querying whether the funds that came from Person B1 was cash as it did not show in this way on the First Respondent's bank statements.

42. On 24 September 2019, the Third Respondent emailed the Second Respondent and [REDACTED] stating:

"[Person B1] has been a client for many years (more than 10 years) - he was originally [REDACTED] client. I have an up to date copy of his UK passport (I made the copy). I have in the past seen his bank statements - he banks with [REDACTED] I have met [Person B1] on many occasions. I queried source of funds with the client, the monies are from rental income, he owns many buy to let properties (which he usually purchases with a mortgage). "[Person B1's] purchase was of another buy to let property. [REDACTED] are referring to cash - if [Person B1] paid cash to [REDACTED] I wasn't aware of this, the information we get from [REDACTED] does not refer to a cash payment."

43. On 7 October 2019, the Third Respondent emailed Person B1 stating:

"I have been informed that you have paid £21,000 in cash into our client account. Please be aware we cannot accept cash into our client account. Please could you provide details of the source of the funds along with evidence confirming this."

44. Person B1 responded to this email on 10 October 2019, claiming that the source of that amount came from "rentals" of several stated properties. This information was broadly relayed to [REDACTED] by the Second Respondent, on behalf of the First Respondent, on 22 October 2019.

45. On 12 November 2020, [REDACTED] again emailed the equity partners at the First Respondent and [REDACTED] this time outlining a number of additional queries, and highlighting that between 26 February 2018 and 27 September 2019 a total of £1,109,920 had been

deposited into the client account in cash credits under the reference B3448 [i.e. for Person B1].

46. On 26 November 2020, Person B1, following an enquiry from the Third Respondent, confirmed that payments specifically listed and queried, and made in cash to the client account between 26 February 2018 and 7 June 2019, were from his (unnamed) "business partner".
47. On 26 November 2020, the Second Respondent, on behalf of the partners of the First Respondent, responded to [REDACTED] email of 12 November 2020 to answer their queries in respect of Person B1, although not with the information of cash payments being now stated to be from his business partner rather than from rental income.
48. Following receipt of this information, the firm ceased to act for person B1.
49. On 6 January 2021, [REDACTED] wrote to the First Respondent to advise that its bank accounts would be closed on 8 March 2021.
50. On 23 September 2022, the First Respondent's legal representatives confirmed that the documents outlined at paragraph 30 above constituted all of the Know Your Client (KYC) and due diligence documents held in respect of Person B1.
51. As noted above, the First Respondent's legal representatives confirmed that no matter risk assessments had been recorded in relation to Person B1's matters after the introduction of the MLRs 2017.
52. In relation to Person B1 there was no appropriate additional CDD or source of funds checks conducted and a proper risk assessment should have been carried out, particularly given the change to smaller, round sum payments being made by Person B1. This should have prompted a change in approach. Risk assessments should have noted cash only property transactions and, in particular, that the number of smaller, round-sum deposits increased significantly in the context of cash-intensive purchases of property. There were no substantive enquiries made at all, even when a payment was returned to the third party to pay via Person B1. Where the explanation from Person B1 had been that payments were from rental properties, requests were not made for bank statements to evidence this. No checks on the position were made at all. Instead, queries were only raised after [REDACTED] Bank raised queries. In particular, with regards to Person B1, the following should have been carried out:
 - 52.1. client and matter risk assessments (CMRA) (Regulation 28(12));

- 52.2. ongoing monitoring of the business relationship (Reg 28(11)) including, where necessary, the source of funds (Regulation 28(11)).

NON-AGREED MITIGATION

53. The Third Respondent advances the following points by way of mitigation but their inclusion in this document does not amount to acceptance or endorsement of such points by the SRA. The Third Respondent states that:

- 53.1. she has a good record of compliance over a long-standing career.
- 53.2. the breach occurred not as a result of any intention or recklessness on the part of the Third Respondent but a failure to appreciate her duties and obligations under the legislation, and must be viewed in the context of the First Respondent's lack of adequate and effective governance structures, systems and controls to ensure compliance with the requirements of the MLRs and to identify warning signs. As accepted by the Firm, The Third Respondent was operating in an AML environment which was falling short of the regulations and in which the Firm accept that the MLRO was not discharging his functions adequately
- 53.3. Upon identifying the warning signs the Third Respondent acted promptly and in accordance with her statutory obligations.
- 53.4. The investigation has been lengthy, running for a period of over 3 years, and has had a significant impact on the Third Respondent's physical and mental health. She has cooperated fully with the SRA's investigation throughout.
- 53.5. The Third Respondent has shown insight and remorse and has undergone extensive training to minimise the likelihood of such breach reoccurring in the future.
- 53.6. The conduct took place at a time when the MLRs were in an early stage of implementation and the extent of the training and the Profession's own guidance in relation to source of funds had not been fully developed. The breaches should be viewed in this context and not with a 2024 mindset.

PROPOSED SANCTION INCLUDING EXPLANATION OF WHY SUCH ORDER WOULD BE IN ACCORDANCE WITH THE TRIBUNAL'S GUIDANCE NOTE ON SANCTION

54. Subject to the Tribunal's approval, it is agreed that the Third Respondent should be subject to a financial penalty of £3,500 as set out below. Neither the protection of the public nor the protection of the reputation of the legal profession justifies Suspension or Strike Off.
55. The sanction outlined above is considered to be in accordance with the Tribunal's *Guidance Note on Sanctions* (10th edition) ("the Guidance Note"), taking into account the guidance set out in *Fuglers & Ors v Solicitors Regulation Authority* [2014] EWHC 179 (as per Popplewell J) and the guidance at particularly paragraphs 8 and 17 to 29 of the Guidance Note, and the financial information provided by the Third Respondent.

56. The misconduct giving rise to the allegations is moderately serious. Given the nature of the alleged misconduct, lesser sanctions such as a Restriction Order or a Reprimand, would not be adequate or suitable.
57. This assessment takes into account that the level of the Third Respondent's culpability in respect of the allegations above is impacted by the following factors:
- 57.1. The Third Respondent, as the partner with responsibility for the First Respondent's relationship with Person B1, was responsible for ensuring the relevant CDD information was obtained;
- 57.2. The Third Respondent was an experienced solicitor and was aware, or should have been aware, of the relevant Rules and Principles.
58. As to the harm caused, the admitted failures and breaches of the Code and Principles caused the potential for harm, by failing to address the need for proper steps to limit the risks of money laundering, and such risk was foreseeable. In addition, it is considered that there was harm to the reputation of the profession as a result of such steps not being taken, with such harm being foreseeable. Although no allegations are made in these proceedings about the underlying client funds, prevention of money laundering risks, is a priority concern for the SRA. The National Crime Agency have highlighted the important role that the profession has in preventing money laundering. Compliance with the anti-money laundering regulations is required, both in respect of meeting legal and regulatory obligations and for the wider societal issue of such compliance being a key method of potentially disrupting serious crime.
59. As to the principal factors which aggravate the seriousness of the misconduct:
- 59.1. The misconduct continued over a lengthy period of time;
- 59.2. The Third Respondent knew or ought reasonably to have known that the conduct complained of was in material breach of obligations to protect the public and the reputation of the legal profession.
60. As to the principle factors which mitigate the seriousness of the misconduct:
- 60.1. The Third Respondent has fully co-operated with the SRA's investigation;

PROPOSED OUTCOME AND COSTS

61. Subject to the approval of this Agreed Outcome Proposal, and taking into account the Respondent's financial circumstances, the SRA is agreeable to the following order that the Third Respondent does pay:
- 61.1. a financial penalty in the sum of £3,500;
- 61.2. costs in the sum of £6,500, the SRA being satisfied that this is a reasonable and proportionate contribution by the Third Respondent in all the circumstances including personal and financial circumstances.

Signed: ...

Hannah Pilkington, Capsticks Solicitors LLP

On behalf of the SRA

Dated:

Signe

Bridget Catherine Miller

Third Respondent

Dated: 09 December 2024