

# **Roger Holden**

## **Solicitor**

### **108755**

[\*\*Fined Date: 19 April 2024\*\*](#)

## **Decision - Fined**

Outcome: Fine

Outcome date: 19 April 2024

Published date: 20 May 2024

## **Firm details**

### **Firm or organisation at date of publication and at time of matters giving rise to outcome**

Name: Hansells

Address(es): Cambridge House 26 Tombland Norwich NR3 1RE

Firm ID: 050602

## **Outcome details**

This outcome was reached by SRA decision.

### **Decision details**

#### **Who does this disciplinary decision relate to?**

Roger Holden is a solicitor and manager of Hansells Solicitors, located at Cambridge House, 26 Tombland, Norwich, NR3 1RE, a licensed body (the firm).

### **Short summary of decision**

We have fined Mr Holden £3,223 (an amount equivalent to 32% of his gross annual income) and £1,350 costs for a. acting as the administrator of an estate in circumstances where there was a conflict of interest and b. failing (as a compliance officer for the firm) to ensure that it complied with its regulatory arrangements.

### **Reasons/basis**

### **Facts of the misconduct**

In 2001, the firm was instructed to deal with the administration of an estate. Due to a mistake in the interpretation of the rules of intestacy, the firm distributed the estate incorrectly. It paid out money to beneficiaries in the wrong amounts. The error was brought to the firm's attention in October 2001.

On 7 June 2004, Mr Holden was appointed as administrator of the estate, in circumstances where his interests as a partner at the firm conflicted with the interests of the estate.

On 14 November 2012, Mr Holden was appointed as the firm's compliance officer for legal practice (COLP) and compliance officer for finance and administration (COFA).

Mr Holden continued to hold the role of administrator of the estate, which was not correctly distributed until 29 July 2022.

It was found that:

1. from 7 June 2004 until 29 July 2022, Mr Holden acted as administrator of an estate in circumstances where there was a conflict of interest between the estate and the firm. In doing so, he breached:
  - a. Rule 15.04 of the Guide to the Professional Conduct of Solicitors 1999 (between 7 June 2004 and 30 June 2007)
  - b. Rule 3.01 of the Solicitors Code of Conduct 2007 (between 1 July 2007 and 5 October 2011)
  - c. Outcome 3.4 of the Solicitors Code of Conduct 2011 and Principle 6 of the SRA Principles 2011 (between 6 October 2011 and 24 November 2019)
  - d. Paragraph 6.1 of the SRA Code of Conduct for Solicitors, RELs and RFLs 2019 and Principle 2 of the SRA Principles 2019 (between 25 November 2019 and 29 July 2022)
2. Between 14 November 2012 and 25 March 2022, as COLP/HOLP and COFA/HOFA of the firm, Mr Holden failed to ensure the firm's compliance with the SRAs regulatory arrangements including the Accounts Rules. In doing so, he breached:
  - a. Rules 8.5(c)(i)(A) and 8.5(e)(i)(A) of the SRA Authorisation Rules 2011 (between 14 November 2012 and 24 November 2019)
  - b. Rules 9.1(a) and 9.2(a) of the SRA Code of Conduct for Firms (from 25 November 2019).

#### **Decision on sanction**

Mr Holden was directed to pay a financial penalty of £3,223 and ordered to pay costs of £1,350.

It was decided that a financial penalty was an appropriate and proportionate sanction.



This was because his conduct was serious by reference to the following factors in the SRA Enforcement Strategy:

- a. Mr Holden's conduct was serious, and any lesser sanction would not provide a credible deterrent to Mr Holden and others. A credible deterrent plays a key role in maintaining professional standards and upholding public confidence.
- b. Mr Holden's conduct failed to uphold public trust and confidence in the profession.
- c. Mr Holden had direct control and responsibility for his conduct, which persisted for a period in excess of 18 years.
- d. The breach was rectified, but it persisted for longer than was reasonable and only when prompted.

In view of the above, Mr Holden's conduct was placed in conduct band C which has a financial penalty bracket of between 16% and 49% of an individual gross income for the previous financial year. His conduct was placed towards the middle of this bracket at C4 given:

- a. Aggravating factors
  - The conduct persisted after it was known to be improper
  - Mr Holden was a compliance officer for the firm, with a responsibility for ensuring the firm's compliance with the rules
  - The findings related to client money. The client account is sacrosanct and any failure to protect client money is serious.
- b. Mitigating factors
  - Mr Holden has a clear regulatory history
  - There were no findings of dishonesty or a lack of integrity
  - Mr Holden had made some admissions as to his conduct

## **SRA Rules and Regulations breached**

### **Guide to the Professional Conduct of Solicitors 1999:**

Rule 15.04 A solicitor must not act where his or her own interests conflict with the interests of a client or potential client.

### **Solicitors Code of Conduct 2007:**

#### Rule 3.01

1. You must not act if there is a conflict of interests (except in the limited circumstances dealt with in 3.02).
2. There is a conflict of interests if:
  - a. you owe, or your firm owes, separate duties to act in the best interests of two or more clients in relation to the



- same or related matters, and those duties conflict, or there is a significant risk that those duties may conflict; or
- b. your duty to act in the best interests of any client in relation to a matter conflicts, or there is a significant risk that it may conflict, with your own interests in relation to that or a related matter.

3. For the purpose of 3.01(2), a related matter will always include any other matter which involves the same asset or liability.

**Solicitors Code of Conduct 2011:**

Outcome 3.4: You do not act if there is an own interest conflict or a significant risk of an own interest conflict. Rule 8.5(c)(i)(A): The COLP of an authorised body must take all reasonable steps to ensure compliance with the terms and conditions of the authorised body's authorisation except any obligations imposed under the SRA Accounts Rules. Rule 8.5(e)(i)(A): The COFA of an authorised body must take all reasonable steps to ensure that the body and its managers or the sole practitioner, and its employees comply with any obligations imposed upon them under the SRA Accounts Rules.

**SRA Principles 2011:**

Principle 6: You must behave in a way that maintains the trust the public places in you and in the provision of legal services.

**SRA Code of Conduct for Solicitors, RELs and RFLs 2019:**

Paragraph 6.1: You do not act if there is an own interest conflict or a significant risk of such a conflict.

**SRA Code of Conduct for Firms 2019:**

Paragraph 9.1(a): If you are a COLP you must take all reasonable steps to ensure compliance with the terms and conditions of your firm's authorisation.

Paragraph 9.2(a): If you are a COFA you must take all reasonable steps to ensure that your firm and its managers and employees comply with any obligations imposed upon them under the SRA Accounts Rules.

**SRA Principles 2019:**

Principle 2: You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.

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