Solicitors Regulation Authority

Freedman + Hilmi LLP
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Recognised body
568249

Agreement Date: 20 November 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 20 November 2024

Published date: 11 December 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Reasons/basis

1. Agreed outcome

1.1 Freedman + Hilmi LLP (the Firm), a recognised body, authorised and regulated by the Solicitors Regulation Authority (SRA), agreed to the following outcome to the investigation:

- it will pay a financial penalty in the sum of £24,540, under Rule 3.1 (b) of the SRA Regulatory and Disciplinary Rules (RDPRs)
- to the publication of this agreement, under Rule 9.2 of the RDPRs; and
- it will pay the costs of the investigation of £600, under Rule 10.1 and Schedule 1 of the RDPRs.

2. Summary of Facts

2.1 Our Anti-Money Laundering (AML) Proactive Supervision team carried out an AML inspection at the firm, to assess its compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (MLRs 2017).

2.2 In our letter dated 18 January 2024 the AML Officer identified an AML control failing, that being the firm failed to maintain records of its risk

assessments of clients and their matters, in all of the files reviewed.

2.3 This resulted in a referral to our AML Investigations Team.

Client matter risk assessments (CMRA)

2.4 In six files reviewed, the firm failed to maintain records of its risk assessments required by Regulations 28(12)(a)(ii) and 28(13) of the MLRs 2017. Therefore, the firm was unable to demonstrate that the extent of the measures it had taken to satisfy the requirements of Regulation 28 were appropriate, as required by Regulation 28(16) of the MLRs 2017.

3. Admissions

3.1 The firm admits, and the SRA accepts, that by failing to comply with the MLRs 2017, it has breached:

To the extent the conduct took place before 25 November 2019 (when the SRA Handbook 2011 was in force):

a. Principle 6 of the SRA Principles 2011 – which states you must behave in a way that maintains the trust the public places in you and in the provision of legal services.
b. Principle 8 of the SRA Principles 2011 – which states you must run in your business or carry out your role in the business effectively and in accordance with proper governance and sound financial risk management principles.

And the firm failed to achieve:

c. Outcome 7.2 of the SRA Code of Conduct 2011 – which states you have effective systems and controls in place to achieve and comply with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable.
d. Outcome 7.5 of the SRA Code of Conduct 2011 – which states you comply with legislation applicable to your business, including anti-money laundering and data protection legislation.

And from 25 November 2019 (when the SRA Standards and Regulations came into force) until March 2024, the firm breached:

e. Principle 2 of the SRA Principles 2019 – which states you act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons.
f. Paragraph 2.1(a) of the SRA Code of Conduct for Firms 2019 – which states you have effective governance structures, arrangements, systems and controls in place that ensure you comply with all the

SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, which apply to you.

g. Paragraph 3.1 of the SRA Code of Conduct for Firms 2019 – which states that you keep up to date with and follow the law and regulation governing the way you work.

4. Why a fine is an appropriate outcome

4.1 The conduct showed a failure to comply with its statutory and regulatory obligations to record written risk assessments. This could have been avoided had the firm established adequate AML documentation and controls.

4.2 It was incumbent on the firm to meet the requirements set out in the MLRs 2017. The firm failed to do so. The public would expect a firm of solicitors to comply with its legal and regulatory obligations, to protect against these risks as a bare minimum.

4.3 The SRA considers that a fine is the appropriate outcome because:

a. The agreed outcome is a proportionate outcome in the public interest because it creates a credible deterrent to others and the issuing of such a sanction signifies the risk to the public, and the legal sector, that arises when solicitors do not comply with anti-money laundering legislation and their professional regulatory rules.
b. There is no evidence of harm to consumers or third parties.
c. The firm recognises that it failed in its basic duties regarding its statutory and regulatory obligations to record written assessments, as identified during our inspection and subsequent investigation.
d. The firm has cooperated fully with us, admitted the breaches, shown remorse and remedied the breaches, and there is low risk or repetition.

4.4 A fine is appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

5.1 The amount of the fine has been calculated in line with the SRA's published guidance on its approach to setting an appropriate financial penalty (the Guidance).

5.2 Having regard to the Guidance, the SRA and the firm agree that the nature of the misconduct was less serious because the conduct was not intentional and arose owing to an oversight in the full understanding of the firm's obligations, in regard to recording its risk assessments. The

issue was addressed as soon as it was brought to the firm's attention. The Guidance gives this type of misconduct a score of one.

5.3 The SRA considers that the impact of the misconduct was medium because although the firm states it did carry out risk assessments, the issue was that they were not recorded as we would expect and in line with the requirements of the MLRs 2017. The most important aspect of Regulation 28 is that clients and matters are being assessed for potential risks, and the recording of such informs the level of customer due diligence required. The Guidance gives this level of impact a score of four.

5.4 The nature and impact scores add up to five, placing the conduct in penalty bracket Band 'B'. The Guidance indicates a broad penalty bracket of between 0.4% and 1.2% of the firm's annual domestic turnover is appropriate.

5.5 The SRA and the firm agree a financial penalty in Band B2. This is because the firm should have been aware of its statutory obligations under the MLRs 2017, with the aggravating factor that the majority of its work is in scope of the MLRs 2017, but there is no evidence of any harm being caused or of an unwillingness to improve. Band B2 determines a basic penalty of 0.8% of annual domestic turnover.

5.6 The firm's annual domestic turnover for 2023/24 is £4,089,894.60, this results in a basic penalty of £32,719.

5.7 The SRA considers that the basic penalty should be reduced by 25%, in terms of mitigation discount, to £24,540. This reduction reflects the following factors in the Guidance that apply to this case:

a. The firm admitted that it failed to properly record the risk assessments it carried out.
b. The firm has since implemented a new process to appropriately record its risk assessments
c. The firm has cooperated with the SRA's AML Proactive Supervision and Investigations teams.

5.8 The firm does not appear to have made any financial gain or received any other benefit as a result of its conduct. Therefore, no adjustment is necessary to remove this and the amount of the fine is £24,540.

6. Publication

6.1 Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules states that any decision under Rule 3.1 or 3.2, including a Financial Penalty, shall be published unless the particular circumstances outweigh the public interest in publication.

6.2 The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. The firm agrees to the publication of this agreement.

7. Acting in a way which is inconsistent with this agreement

7.1 The firm agrees that it will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

7.2 If the firm denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.

7.3 Acting in a way which is inconsistent with this agreement may also constitute a separate breach of principles 2 and 5 of the Principles and paragraph 3.2 of the Code of Conduct for Firms.

8. Costs

8.1 The firm agrees to pay the costs of the SRA's investigation in the sum of £600. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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