

Lee Kerr
Non-lawyer manager
813426

[Employee-related decision Date: 22 January 2024](#)

Decision - Employee-related decision

Outcome: Control of non-qualified staff (Section 43 / Section 99 order)

Outcome date: 22 January 2024

Published date: 1 February 2024

Firm details

Firm or organisation at time of matters giving rise to outcome

Name: Porter & Co Law Limited

Address(es): 40 Benhill Avenue, Sutton, SM1 4DA

Firm ID: 814248

Outcome details

This outcome was reached by SRA decision.

Decision details

Who does this decision relate to?

Lee Darien Kerr of Hereford.

Summary of decision

A finding of dishonesty was made against Mr Kerr and he was made subject to a disqualification order under section 99 of the Legal Services Act 2007.

The SRA has disqualified Mr Kerr from holding any of the following roles in law Firms regulated by the SRA:

- Head of Legal Practice
- Head of Finance and Administration
- A manager
- An employee

The facts of the case

Mr Kerr, who is not a solicitor, was employed by Porter & Co Law Limited (the firm) as manager between 24 March 2021 and 6 October 2021. The firm was at all material times a licensed body. On 1 October 2021 the SRA intervened into the firm and revoked its licence on 6 October 2021.

Between June 2021 and September 2021, when acting as manager and employee of the firm, Mr Kerr made improper payments from client account for his own personal benefit. He continued to do so even when he knew that there was an SRA investigation into the firm.

In addition, he misled the SRA by providing false information in a Firm Closure Notice Form in August 2021. He said the firm had ceased trading and held no client money. This was not true, and Mr Kerr continued to take client money for his own personal gain. He also wrongly stated that the firm had a waiver or exemption from the requirement to hold professional indemnity insurance when this was not true.

On 5 October 2021, the SRA notified Mr Kerr of its decision to intervene into the Firm. The SRA recovered some client money through intervention, however, there is still a substantial amount that is unaccounted for.

It was found that:

1. Between 22 June 2021 and 28 September 2021, Mr Kerr made a number of improper payments from the firm's client account totalling £19,744.09.
2. On 17 August 2021 he transferred £113,782.86 from the firm's client account to the firm's office account without client consent.
3. In September 2021 he transferred £572,930.94 out of the client account in relation to a probate matter that he was dealing with, most of which was transferred into Mr Kerr's personal bank account.

In doing so, Mr Kerr has breached:

- Rules 5.1 and 6.1 of the SRA Accounts Rules
- Principles 2, 4 and 5 of the SRA Principles 2019
- Paragraph 5.2 of the SRA Code of Conduct for Firms

4. In August 2021 Mr Kerr gave deliberately incorrect information to the SRA on the Firm Closure Notification Form.

In doing so, Mr Kerr has breached:

- Principles 2, 4 and 5 of the SRA Principles
- Paragraphs 3.2 and 3.3 of the SRA Code of Conduct for Firms.



Mr Kerr's conduct was serious by reference to the following factors in the SRA Enforcement Strategy: it was deliberate, it was dishonest and lacked integrity, it caused significant loss to clients and it posed a risk to the reputation of the firm and the wider profession.

Our decision on sanction - section 99 order

Mr Kerr's conduct breached relevant duties that applied to him as manager and employee of the Firm, namely, SRA Principles 2,4 and 5; Rules 5.1 and 6.1 of the SRA Accounts Rules and Paragraphs 3.2,3.3 and 5.2 of the SRA Code of Conduct for Firms.

It was found that it would be undesirable for Mr Kerr to act as a Head of Legal Practice, Head of Finance and Administration, a manager or an employee of a body licensed in accordance with section 99 of the Legal Services Act 2007.

- Mr Kerr was disqualified from holding any of these roles.

Our decision on sanction - financial penalty

Mr Kerr was directed to pay a financial penalty of £188,735.95 and ordered to pay the SRA's costs of £600.

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

1. Mr Kerr's conduct was serious. It was repeated when he was aware of a pending SRA investigation and an imminent SRA forensic investigation.
2. It caused direct harm to clients. The SRA recovered some client money on intervention into the firm but a significant amount of client money has not been accounted for.
3. He had direct responsibility for his conduct. He showed a wilful disregard for his own clients and his regulatory obligations and deliberately provided the SRA with incorrect information about the closure of the firm.
4. He benefited personally from client money which he wrongly transferred and paid out of client account.

In view of the above, Mr Kerr's conduct was placed in conduct band D, which has a penalty bracket of 65% to 97% of annual gross income. His conduct was placed at the top end of this bracket because:

1. He was dishonest. He repeatedly made improper payments and transfers of client money for his own personal benefit. He continued to do so when he knew the firm was subject to an SRA investigation.
2. He deliberately provided incorrect information to the SRA to give the impression that the firm had closed and no longer held client money.



3. He caused significant financial loss to clients and there remains missing client money which is unlikely to be recovered.

As a significant amount of client money was not recovered and remains missing the basic financial penalty was increased to remove the benefit gained by Mr Kerr from his misconduct.

Reasons/basis

SRA Principles 2019

SRA 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.

SRA Principle 4 You act with honesty.

SRA Principle 5 You act with integrity.

SRA Accounts Rules 2019

Rule 5.1 You only withdraw client money from a client account:

- a. for the purpose for which it is being held;
- b. following receipt of instructions from the client, or the third party for whom the money is being held; or
- c. on the SRA's prior written authorisation or in prescribed circumstances.

Rule 6.1 You correct any breaches of these rules promptly upon discovery. Any money improperly withheld or withdrawn from a client account must be immediately paid into the account or replaced as appropriate.

Code of Conduct for Firms

Paragraph 3.2 You cooperate with the SRA, other regulators, ombudsmen and those bodies with a role overseeing and supervising the delivery of, or investigating concerns in relation to, legal services.

Paragraph 3.3 You respond promptly to the SRA and:

- a. provide full and accurate explanations, information and documentation in response to any requests or requirements;
- b. ensure that relevant information which is held by you, or by third parties carrying out functions on your behalf which are critical to the delivery of your legal services, is available for inspection by the SRA.

Paragraph 5.2 You safeguard money and assets entrusted to you by clients and others.

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