Solicitors Regulation Authority

Hattens Solicitors Limited (Hattens Solicitors)
90 Orsett Road, Grays , RM17 5ER
Licenced body
8000292

Agreement Date: 20 October 2023

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 20 October 2023

Published date: 23 October 2023

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Hattens Solicitors Limited, now a licensed body but at the time of the misconduct a recognised body partnership trading as Hattens Solicitors [SRA ID 50868], authorised and regulated by the Solicitors Regulation Authority, agrees to the following outcome to the investigation:

a. Hattens Solicitors Limited will pay a financial penalty in the sum of £12,700, pursuant to Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedure Rules
b. to the publication of this agreement, pursuant to Rule 9.2 of the SRA Regulatory and Disciplinary Procedure Rules
c. Hatten Solicitors Limited will pay the costs of the investigation of £600, pursuant to Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Procedure Rules.

Reasons/basis

2. Summary of Facts

2.1 We carried out an investigation in to Hattens Solicitors Limited (the firm, formerly known as Hattens Solicitors), following a proactive virtual AML inspection.

2.2 The investigation identified areas of concern in relation to the firm's compliance with the Money Laundering, Terrorist Financing (Information on the Payer) Regulations 2017 (MLRs 2017), the SRA Principles 2011, the SRA Code of Conduct 2011, the SRA Principles 2019 and the SRA Code of Conduct for Firms 2019.

2.3 If you are in scope of the MLRs 2017, your firm must have a documented firm-wide AML risk assessment (FWRA) in place, pursuant to Regulation 18 of the MLRs 2017. 2.4 On 14 May 2020, in response to our risk assessment declaration exercise, the firm advised us that it was in scope of the MLRs 2017 and stated it had a compliant FWRA in place.

2.5 Upon further investigation into this matter, we discovered that the firm did not have a FWRA in place until it was first drafted on 22 November 2021.

2.6 Therefore, the declaration submitted (on 14 May 2020) to state a compliant FWRA was in place was inaccurate.

2.7 Further, the firm's first FWRA, drafted on 22 November 2021, was inadequate, as it did not adequately explore all of the key elements as set out in Regulation 18(2)(b) of the MLRs 2017, and contained incorrect references to the MLRs 2005 (non-existent legislation, as the UK's money laundering regulations were issued in the years 2003, 2007 and 2017).

2.8 As part of our virtual inspection, we reviewed a sample of client files. The client files review identified a lack of client / matter risk assessments on file and, in one case, a lack of understanding of the ownership and control of a company.

3. Why the conduct breaches the SRA rules and money laundering regulations

3.1 When making the declaration on 14 May 2020, the firm failed to have sufficient regard to all the linked guidance (on our website and the Legal Sector Affinity Group (LSAG) guidance) and failed to have sufficient regard for our warning notice (first issued 7 May 2019) on the same point, as the firm did not have a compliant risk assessment and clearly had not followed the published guidance or heeded the warning notice.

3.2 In accordance with Regulation 18 of the MLRs 2017 the firm failed to have in place a compliant firm-wide risk assessment until May 2023. The firm did not put in place its first FWRA until 22 November 2021 but, even then, this was not compliant. This has been a requirement since 26 June 2017 (when the MLRs 2017 came into force).

3.3 In accordance with Regulations 28(12) and 28(13) of the MLRs 2017, the firm failed to conduct client and matter risk assessments on several files, and on the matters of AN0146-0001 and GM0002-0001 those risk assessments were not performed adequately - because it was either not completed in full, or where it had identified a risk(s), they were either not fully explained or managed. The firm could not demonstrate to us what customer due diligence (CDD) measures it planned to undertake at the time, because it did not identify and assess such risks.

3.4 Further, in accordance with the same legislation and in subsequent communications with us, the firm failed to identify or adequately risk rate its clients or matters in a further eight out of ten sampled files.

3.5 In accordance with Regulation 28(11)(a) of the MLRs 2017, on file TE0054-0001, the firm failed to adequately scrutinise the source of funds, when it was necessary to do so. The firm could not identify or evidence such checks had been carried out.

3.6 In accordance with Regulation 28(3)(a) of the MLRs 2017, the firm failed to conduct adequate CDD on file WH0126-0042, because it had not complied with the requirements to identify and verify the board of directors (of the company client).

4. Admissions

4.1 The firm admits, and the SRA accepts, that by failing to comply with money laundering legislation up to March 2023, the firm has: From 26 June 2017 to 25 November 2019 (when the SRA Handbook 2011 was in force)

a. failed to behave in a way that maintains the trust the public places in the firm and in the provision of legal services, in breach of Principle 6 of the SRA Principles 2011.
b. failed to carry out the business effectively and in accordance with proper governance and sound financial and risk management principles, in breach of Principle 8 of the SRA Principles 2011.
c. failed to achieve 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. failed to achieve Outcome 7.3 of the SRA Code of Conduct 2011, which states that you identify, monitor and manage risks to compliance with all the Principles, rules and outcomes and other requirements of the Handbook, where applicable.
e. failed to achieve 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.

From 25 November 2019 (when the SRA Standards and Regulations came into force):

f. failed to act in a way that upholds public trust and confidence in the solicitors profession and in legal services provided by authorised persons, in breach of Principle 2 of the SRA Principles 2019.
g. failed to comply with all of the SRA's regulatory arrangements, as well as with other regulatory and legislative requirements, in breach of Rule 2.1 of the SRA Code of Conduct for Firms 2019.
h. failed to keep up to date with and follow the law and regulation governing the way you work, in breach of Rule 3.1 of the Code of Conduct for Firms.

5 Why the agreed outcome is appropriate.

5.1 The conduct showed a disregard for statutory and regulatory obligations and had the potential to cause harm by facilitating dubious transactions that could have led to money laundering (and/or terrorist financing).

This could have been avoided had the firm established an adequate practice-wide (firm-wide) risk assessment prior to March 2023, especially when considering that around two thirds of its work was 'in-scope' of the MLRs 2017, including around 40% conveyancing (Regulation 12(1)(a) – conveyancing; a high-risk area of work, as highlighted by the Government's National Risk Assessment and our Sectoral Risk Assessment) and:

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 has been no evidence of harm to consumers or third parties and there is now a lower risk of repetition, since the firm brought itself into compliance in March 2023.
c. the firm did not financially benefit from the misconduct.
d. the firm recognises that it failed in its basic duties regarding statutory money laundering regulations and regulatory compliance, as identified during our inspection and subsequent investigation.

5.2 Rule 4.1 of the SRA Regulatory and Disciplinary Procedure Rules states that a financial penalty may be appropriate to maintain professional standards and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. There is nothing within this Agreement which conflicts with what is stated in Rule 4.1 and on that basis a financial penalty is appropriate.

5.3 In deciding the level of the financial penalty reference is made to The SRA's Approach to Financial Penalties (first issued in August 2013 and

updated in May 2023).

Following the three-step fining process, we have determined the following: Step 1(a): Determining the basic penalty: Assessing the seriousness of the misconduct.

a. Nature of conduct: More Serious = nature score of three. The nature of the misconduct was more serious because the conduct was reckless. There was a failure on the part of the firm to comply with statutory obligations, as imposed by statutory money laundering regulations, and a failure to comply with the SRA's rules that were in force at the time.
b. Impact of harm or risk of harm: Medium = impact score of four. While there is no evidence that any clients were directly affected by the firm's failure to have the proper AML controls in place, the risk assessments (FWRA and client/matter) are necessary to safeguard against the firm being used to facilitate money laundering. Therefore, having the potential to cause a moderate impact or loss.
c. Put together, this gives seriousness score of seven (three plus four). Step 1(b): Arriving at a broad penalty bracket for the matter. A seriousness score of seven (7) indicates penalty bracket Band "C" and this confirms the penalty to be a percentage of the firm's annual turnover of between 1.6% to 3.2% of the firm's annual turnover.

Step 1(c): Arriving at a specific figure for the basic penalty.

The turnover relied upon, as declared by the firm to us, is £1,058,865.

We consider, for the purposes of expediting resolution of this matter now, the penalty scale "C" is appropriate. We have reached this score primarily to reflect the appetite of the firm and the SRA to seek a resolution of this matter now, along with the seriousness of the misconduct which related to this client and transaction. There are no aggravating factors to suggest any penalty above band "C1" should be applied, indicating a percentage of turnover of 1.6%.

As such, we calculate the basic financial penalty to be £16,940.

Step 2: Adjusting the penalty to account for mitigating factors.

There is an opportunity to adjust the basic penalty for mitigating factors. We have taken the following factors into account.

a. The firm has a largely unblemished regulatory and disciplinary history.
b. The firm has cooperated with all of our investigations.
c. There is an absence of any pattern of misconduct.
d. The firm has implemented changes to its AML regime, and is now compliant, upon our advice.

5.4 Consequently, our initial view is that this matter may now be expedited towards a resolution of a financial penalty of £12,700, representing a discount of 25% taking in the above mitigating factors.

5.5 Such a resolution will be dependent on the firm's response, of course, and be subject also to payment of the costs of £600.

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, as there are no circumstances that outweigh the public interest in publication and it is in the interests of transparency in the regulatory and disciplinary process to do so.

7 Acting in a way which is inconsistent with this agreement

7.1 The firm agrees that they will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. That may result in a further disciplinary sanction. Acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 1, 2 and 5 of the SRA Principles contained within the SRA Standards and Regulations 2019 (such SRA Principles having been in force since 25 November 2019).

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. The date of this Agreement is 20 October 2023.

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