

David Goldsmith

Solicitor

145548

[**Fined Date: 8 November 2023**](#)

Decision - Fined

Outcome: Fine

Outcome date: 8 November 2023

Published date: 22 January 2024

Firm details

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

Name: D Goldsmith & Co Solicitors

Address(es): Angel House, 7 High Street, Marlborough, Wiltshire. SN8 1AA

Firm ID: 613897

Outcome details

This outcome was reached by SRA decision.

Decision details

Who does this disciplinary decision relate to?

David John Goldsmith is a solicitor and the owner and manager of D Goldsmith & Co Solicitors located at Angel House, 7 High Street, Marlborough SN8 1AA.

Short summary of decision

We have fined Mr Goldsmith £9,000 and £1,350 costs for permitting cash shortages and improper transfers from client account to occur at D Goldsmith & Co Solicitors (the firm) where he is manager and for other breaches of the SRA Accounts Rules.

Facts of the misconduct



Mr Goldsmith is a solicitor who was admitted in 1990. He is owner, manager, compliance officer for legal practice (COLP), compliance officer for finance and administration (COFA) and money laundering reporting officer of D Goldsmith & Co Solicitors (the firm). The firm is a recognised sole practice which began trading in 2009.

It was found that:

1. From around 5 April 2019, a cash shortage arose at the firm which at 28 February 2021 totalled £22,185.71. In permitting this Mr Goldsmith as sole manager of the firm at the material time breached:
 - i. Principles 6 and/or 7 of the SRA Principles 2011 (applicable prior to 25 November 2019) and/or Principle 2 of the SRA Principles 2019 (applicable from 25 November 2019)
 - ii. Rules 13.8 and 20.9 of the SRA Accounts Rules 2011 (applicable prior to 25 November 2019) and/or Rule 2.4 of the SRA Accounts Rules 2019 (applicable from 25 November 2019).
2. Mr Goldsmith as sole manager of the firm at the material time failed to obtain Accountant's Reports for the firm for the years ended 30 September 2016 to 30 September 2020 within 6 months of the end of the periods to which they related and thereby breached:
 - i. Principles 6 and/or 7 of the SRA Principles 2011 (applicable prior to 25 November 2019) and/or Principle 2 of the SRA Principles 2019 (applicable from 25 November 2019)
 - ii. Rule 32 of the SRA Accounts Rules 2011 (applicable prior to 25 November 2019) and/or Rule 12.1 of the SRA Accounts Rules 2019 (applicable from 25 November 2019).
3. Between 5 April 2019 and 3 December 2020 improper transfers from client bank account to office bank account totalling £17,111.80 occurred. Therefore Mr Goldsmith as sole manager of the firm at the material time breached:
 - i. Principles 6 and/or 7 of the SRA Principles 2011 (applicable prior to 25 November 2019) and/or Principle 2 of the SRA Principles 2019 (applicable from 25 November 2019)
 - ii. Rule 20.1 of the SRA Accounts Rules 2011 (applicable prior to 25 November 2019) and/or Rule 5.1 of the SRA Accounts Rules 2019 (applicable from 25 November 2019).
4. Between 8 April 2019 and 30 November 2020 ten over transfers from client bank account to office bank account totalling £5,073,91 occurred. Therefore, Mr Goldsmith as sole manager of the firm at the material time breached:
 - i. Principles 6 and/or 7 of the SRA Principles 2011 (applicable prior to 25 November 2019) and/or Principle 2 of the SRA Principles 2019 (applicable from 25 November 2019)
 - ii. Rule 20.1 of the SRA Accounts Rules 2011 (applicable prior to 25 November 2019) and/or rule 5.1 of the SRA Accounts Rules 2019 (applicable from 25 November 2019).

Decision on sanction

Mr Goldsmith was directed to pay a financial penalty of £9,000 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. His conduct had the potential to cause significant harm. Although there was no evidence that clients lost money, as transfers were made from client bank account when there was no, or insufficient, money on the client ledger there could have been a loss to clients if the money had not been replaced.
- b. The shortage was replaced but existed for a long period of time. There was a repeated failure to obtain an accountant's report for each accounting year over a long period. In both cases the breaches were only remedied when they were identified by a forensic investigation at the firm.
- c. He was an experienced solicitor and the manager, COLP and COFA at the firm. He had direct control and responsibility for the conduct which gave rise to the serious failure to comply with the SRA Accounts Rules and his regulatory obligations.
- d. It was in the public interest for Mr Goldsmith to comply with the SRA Accounts Rules. His failure to do so put client money at risk and diminished the trust the public placed in him and in the provision of legal services.
- e. His conduct was serious and any lesser sanction, such as a rebuke, would not be appropriate to protect the public interest. Any lesser sanction would not provide a credible deterrent to him and others. A credible deterrent plays a key role in maintaining professional standards and upholding public confidence.

In view of the above, Mr Goldsmith's conduct was placed in conduct band C which has a financial penalty bracket of between £5,000 and £25,000. His conduct was placed in the lower part of this bracket given:

- a. Aggravating factors

His behaviour continued for a long period of time and formed a pattern of behaviour.

He was aware that he should have taken steps to address the risks to client money that his failure to comply with the SRA Accounts Rules posed but he failed to do so until there was an SRA forensic investigation at the firm.

The financial penalty was discounted by 10% given the following mitigating factors.

b. Mitigating factors

He admitted the misconduct in response to the investigation.

He replaced the shortage when it was brought to his attention.

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