Solicitors Regulation Authority

Edell Jones & Lessers
1st Floor, 54/56 Barking Road, East Ham, London , E6 3BP
Recognised body
049144

Agreement Date: 2 September 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 2 September 2024

Published date: 17 September 2024

Firm details

No detail provided:

Outcome details

This outcome was reached by agreement.

Decision details

1. Agreed outcome

1.1 Edell Jones & Lessers, (the Firm), a recognised body, authorised and regulated by the Solicitors Regulation Authority (SRA) agrees to the following outcome to the investigation:

a. Edell Jones & Lessers will pay a financial penalty in the sum of £3,711, under Rule 3.1(b) of the SRA Regulatory and Disciplinary Procedures Rules,
b. to the publication of this agreement, under Rule 9.2 of the SRA Regulatory and Disciplinary Procedures rules; and
c. Edell Jones & Lessers will pay the costs of the investigation of £600, under Rule 10.1 and Schedule 1 of the SRA Regulatory and Disciplinary Rules.

2. Summary of Facts

2.1 We carried out an investigation into the firm following a desk-based review by our AML Proactive Supervision team.

2.2 Our desk-based review 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.

Firm-wide risk assessment

2.3 The firm, between 26 June 2017 and 30 January 2020 (a period of over two and a half years), failed to have in place a documented assessment of the risks of money laundering and terrorist financing to which its business was subject (a firm-wide risk assessment (FWRA)) pursuant to Regulation 18(1) and 18(4) of the MLRs 2017.

2.4 The firm between 31 January 2020 and 30 March 2024 (a period of over four years), failed to have in place an appropriate FWRA that identified and assessed the risks of money laundering to which it was subject, taking into account all risk factors, pursuant to Regulation 18(2) of the MLRs 2017.

2.5 On 16 April 2024, a FWRA was provided to us by email. This document is dated 30 March 2024. We consider this document to meet the requirements of Regulation 18 of the MLRs 2017.

Policies, controls and procedures

2.6 The firm between 26 June 2017 and 30 January 2020 (a period of over two and a half years), failed to establish policies, controls, and procedures (PCPs) to mitigate and effectively manage the risk of money laundering and terrorist financing, identified in any risk assessment pursuant to Regulation 19(1)(a) of the MLRs 2017, and regularly review and update them pursuant to Regulation 19(1)(b) of the MLRs 2017.

2.7 The firm between 31 January 2020 and 16 April 2024 (a period of over four years), failed to maintain fully compliant PCPs to mitigate and effectively manage the risks of money laundering and terrorist financing, identified in any risk assessment (FWRA), pursuant to Regulation 19(1)(a) of the MLRs 2017, and regularly review and update them pursuant to Regulation 19(1)(b) of the MLRs 2017.

2.8 On 16 April 2024, AML PCPs were provided to us by email. The document is dated 16 April 2024. We consider this document to meet the requirements of Regulation 19 of the MLRs 2017.

Client and matter risk assessments

2.9 The firm between 26 June 2017 and February 2024, failed to conduct client and matter risk assessments (CMRA) as required by Regulations 28(12) and 28(13) of the MLRs 2017.

2.10 On 2 April 2024, a zip folder consisting of fifteen CMRAs the firm had carried out on its files was provided to us by email. The CMRAs are recorded on files between February 2024 and April 2024 and the firm confirmed all open files had been risk assessed and CMRA forms placed on each file, along with adequate identification and verification documents.

2.11 Despite the firm's current compliance, the firm failed to identify and assess risk, by failing to perform adequate client and matter risk assessments, until at least February 2024 and this is a breach of Regulation 28(12)(a)(ii) and Regulation 28(13) of the MLRs 2017.

2.12 We are now satisfied that the firm's CMRAs meet the requirements of Regulation 28 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:

From 26 June 2017 to 25 November 2019 (when the SRA Handbook 2011 was in force), the firm breached:

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 provisions 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 7.5 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 April 2024, the firm breached:

d. 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.

e. 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.

f. 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 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 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 has been no evidence of harm to consumers or third parties and there is a low risk of repetition.
c. The firm has assisted the SRA throughout the investigation and has shown remorse for its actions.
d. The firm did not financially benefit from the misconduct.

4.4 Rule 4.1 of the 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 Rule 4.1 of the Regulatory and Disciplinary Rules and on that basis, a financial penalty is appropriate.

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, we and the firm agree that the nature of the misconduct was more serious (score of three). This is because the firm failed to ensure it had a fully compliant FWRA and PCPs in place on 26 June 2017 in breach of Regulation 18 and 19 of the MLRs 2017. Moreover, it failed to carry out any client and matter risk assessments until February 2024, in breach of Regulation 28 of the MLRs 2017. The

firm failed to ensure that it was fully compliant with its statutory obligations until 2024, a period of over six years since the MLRs 2017 came into effect.

5.3 The impact of the harm or risk of harm is assessed as being medium (score of four). This is because the nature of conveyancing is considered high-risk, owing to the risk of abuse of the system by criminals. Our records indicate the firm carries out a high percentage of work in scope of the money laundering regulations, with the majority coming from commercial conveyancing (42%), residential conveyancing (33%) and probate (14%). This puts it at a higher risk of being used to launder money. There is no evidence of there being any direct loss to clients or actual harm caused as result of the firm's failure to ensure it had proper documentation in place.

5.4 The 'nature' of the conduct and the 'impact of harm or risk of harm' added together give a score of seven. This places the penalty in Band 'C', as directed by the Guidance.

5.5 We and the firm agree the financial penalty to be in Band C3, which determines a basic penalty of 2.4% of annual domestic turnover (firms).

5.6 The latest declared annual domestic turnover, to be used in the calculation of the financial penalty, is £171,802.

5.7 The basic penalty is therefore £4,123 (£171,802 x 2.4/100).

5.8 We have also considered mitigating factors and consider that the basic penalty should be discounted by 10%. This is to take account of the following factors as indicated by the Guidance:

a. Remedy harm – the firm took steps to rectify the non-compliant documents and is now fully compliant with the MLRs 2017.
b. Risk assessments – the firm is now carrying out CMRA on its files and this includes identification and verification checks.
c. Cooperating with the investigation – the firm has cooperated with the SRA's AML Proactive and AML Investigation teams.

5.9 The adjusted penalty is therefore £3,711.

5.10 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 and the financial penalty is £3,711.

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 interest of transparency in the regulatory and disciplinary process.

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

7.1 The firm agrees that it will not act in any way which is inconsistent with this agreement, such as by denying responsibility for the conduct referred to above. This may result in a further disciplinary sanction.

7.2 Acting in a way which is inconsistent with this agreement may also constitute a separate breach of Principles 1, 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.

The date of this Agreement is 2 September 2024.

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