

Obaseki & Co Ltd

27 Bentley Road, LONDON , N1 4BY

Recognised body

626371

Fined



Date: 8 March 2024

Decision - Fined

Outcome: Fine

Outcome date: 8 March 2024

Published date: 18 April 2024

Firm details

Firm or organisation at date of publication

Name: Obaseki & Co Ltd

Address(es): 27 Bentley Road, LONDON N1 4BY

Firm ID: 626371



Outcome details

This outcome was reached by SRA decision.

Decision details

Who does this disciplinary decision relate to?

Obaseki & Co Limited (the firm), is a recognised body whose offices are at 27 Bentley Road, London, N1 4BY.

Summary of Decision

The firm was fined £9,000 for:

1. failing to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs 2017) in a conveyancing matter,
2. failing to promptly return client money, and
3. causing or permitting improper transfers from the client account to office account which resulted in a client account shortage of over £4,000 (reduced to £1,897.24 in March 2022).

Facts of the misconduct

Between May and October 2021, the firm acted in a conveyancing transaction in which it failed to conduct proper client due diligence and accepted over £500,000 into its client account from unconnected third parties based outside of the jurisdiction.

In September 2021, the firm transferred over £4,000 from its client account to its office account on six different client matters. Although the firm said it had sent invoices to the clients concerned, it was found that there was no evidence that the invoices had been properly delivered. At the date the transfers were made, the firm had held this client money for a period in excess of five years, with no adequate explanation.

It was found that:

1. Between 13 May 2021 and 22 October 2021, on a conveyancing transaction, the firm failed to:
 - a. Perform adequate customer (client) due diligence,

- b. perform source of funds checks,
- c. perform ongoing risk assessment checks / ongoing monitoring,
- d. perform enhanced due diligence, and
- e. maintain proper files and documentation.

In doing so, the firm breached paragraph 2.2 of the SRA Code of Conduct for Firms 2019 and Principle 2 of the SRA Principles 2019.

2. The firm caused or permitted improper transfers from the client account which resulted in a client account cash shortage of £4,327.24 as at 30 September 2021 and a client account cash shortage of £1,897.24 from March 2022.

In doing so, the firm breached Rules 5.1 and 6.1 of the SRA Accounts Rules 2019.

3. From at least September 2016 to date, the firm has failed to promptly return client money when there was no longer any reason to hold it.

In doing so, in so far as the conduct took place prior to 25 November 2019, the firm breached Rules 14.3 and 14.4 of the SRA Accounts Rules 2011. In so far as the conduct took place after 25 November 2019, the firm breached Rule 2.5 of the SRA Accounts Rules 2019.

Decision on sanction

The firm was directed to pay a financial penalty of £9,000 and ordered to pay costs of £1,350.

This was because the firm's conduct was serious by reference to the following factors in the SRA Enforcement Strategy:

1. The findings relate to breaches of the MLRs 2017, which protect the public from the serious consequences of money laundering, and improper withdrawals of client money.
2. The firm had received over £500,000 into its client account from outside the jurisdiction and from unconnected third parties, without any explanation or evidence as to source of funds
3. Its conduct was a breach of its regulatory obligations which persisted for longer than was reasonable.

4. The firm was responsible for its own conduct which was serious and had the potential to cause harm to the public interest and to public confidence in the legal profession.

In view of the above, the firm's conduct was placed in conduct band C which has a financial penalty of 1.6% to 3.2% of annual domestic turnover. In light of these factors, the firm's conduct was placed in the mid-range of this band at C3 (2.4% of annual domestic turnover).

The following mitigating factors were considered:

1. The breaches of the MLRs 2017 were only found on one file.
2. The client account shortage has been partially replaced.
3. The firm had shown some limited insight. It had resolved to deal with residual balances quicker and had amended its internal AML guidance.

SRA Standards and Regulations breached

SRA Principles

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 Code of Conduct for Firms 2019

Paragraph 2.2 You keep and maintain records to demonstrate compliance with your obligations under the SRA's regulatory arrangements.

SRA Accounts Rules 2011

Rule 14.3 Client money must be returned to the client (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds

Rule 14.4 You must promptly inform a client (or other person on whose behalf the money is held) in writing of the amount of any client money retained at the end of a matter (or the substantial conclusion of a matter), and the reason for that retention. You must inform the client (or other person) in writing at least once every twelve months thereafter of the amount of client money still held and the reason for the retention, for as long as you continue to hold that money


SRA Accounts Rules 2019

Rule 2.5 Ensure client money is returned promptly to the client as soon as there is no longer any proper reason to hold those funds

Rule 5.1 You only withdraw client money from a client account: for the purpose for which it is being held; following receipt of instructions from the client, or the third party for whom the money is held; or 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.

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