

Albert Partington

Solicitor

128282

Agreement Date: 18 April 2024

Decision - Agreement

Outcome: Regulatory settlement agreement

Outcome date: 18 April 2024

Published date: 19 April 2024

Firm details

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

Name: Ogden Lyles & Fox

Address(es): 32 Wellington Road, Eccles, Manchester, M30 0SP

Firm ID: 58477

Outcome details

This outcome was reached by agreement.

Reasons/basis

1. Agreed outcome

- Albert David Partington (Mr Partington), a Solicitor and director of Ogden Lyles & Fox (the Firm), agrees to the following outcome to the investigation of his conduct by the Solicitors Regulation Authority (SRA):
 - he is fined £11,013.67.
 - to the publication of this agreement.
 - he will pay the costs of the investigation of £1,350.

2. Summary of Facts

- Between 2013 and 2021, Mr Partington allowed the Firm's client bank account to be used for payments and transfers on his and his family's conveyancing matters which were unrelated to an underlying legal transaction. This occurred on at least six client matters.
- On two occasions, Mr Partington's family member loaned sums of money to the firm's client to help them to purchase properties. The funds for the loans



were already held in the client bank account in respect of Mr Partington's family's matter. The loans were secured by charges registered in the name of Mr Partington's family member against the properties of each client. There were no documents located on the matter file to demonstrate that Mr Partington had considered potential own interest conflict in allowing his family member to loan money to clients. There was no evidence that he advised the clients to obtain independent legal advice before they accepted the loans.

- Between December 2018 and February 2019, Mr Partington also acted on the sale of a property from a mother to her son. The sale was at an undervalue. Mr Partington failed to undertake adequate client due diligence even though the transaction had unusual features and contained 'Red Flag' indicators as highlighted in the SRA Warning Notice on Money Laundering and Terrorist Financing.
- Mr Partington failed to ensure that the identity documents received from a third party were checked and verified and that they complied with the firm's internal anti-money laundering procedures. He also failed to take instructions directly from the seller, or from any person who was properly authorised to give instructions on her behalf.

3. Admissions

- Mr Partington makes the following admissions which the SRA accepts:
 - That between 2013 and 2021, he allowed the Firm's client account to be used as a banking facility on his and his family's matters. In doing so, for conduct up to 25 November 2019, he breached Principle 6 of the SRA Principles 2011 and Rules 14.3 and 14.5 of the Solicitors Accounts Rules 2011. For conduct after 25 November 2019, he breached Principle 2 of the SRA Principles 2019 and Rule 3.3 of the SRA Accounts Rules 2019.
 - In 2018, he allowed a family member to make financial loans to two clients, when he knew or ought to have known that this created a conflict or significant risk of conflict between his own interests and those of his clients. In doing so, he breached Principle 6 of the SRA Principles 2011 and failed to achieve Outcome 3.4 of the SRA Code of Conduct 2011.
 - Between December 2018 and February 2019, he failed to conduct adequate client due diligence on the transfer of a property as required by Regulation 28(2) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017). In doing so, he breached Principles 6 and 7 of the SRA Principles 2011 and failed to achieve Outcome 7.5 of the SRA Code of Conduct 2011.
 - Between December 2018 and February 2019, he acted for both the buyer and seller on a transfer of a property and failed to take instructions directly from the seller, or from someone who was properly authorised to give instructions on their behalf. In doing so, he breached Principles 4 and 6 of

the SRA Principles 2011 and failed to achieve Outcome 1.2 of the SRA Code of Conduct 2011.

4. *Why a fine is an appropriate outcome*

- The SRA's Enforcement Strategy sets out its approach to the use of its enforcement powers where there has been a failure to meet its standards or requirements.
- The SRA considers that a fine is the appropriate outcome because:

Banking Facility and AML Compliance

- Mr Partington failed to comply with his anti-money laundering obligations and those under the SRA Accounts Rules by allowing the Firm's client account to be used as a banking facility and by failing to undertake appropriate client due diligence on a property transaction. He should have been aware of those obligations because he was a manager of the Firm and held the roles of Money Laundering Reporting Officer and Compliance Officer for Finance and Administration at the Firm. His conduct spanned several years, across several transactions, and therefore represents a clear pattern of behaviour.
- Acting in two situations where an own interest conflict existed demonstrates another concerning pattern of behaviour. Mr Partington should have been aware of the possibility that he could be acting in a situation which gave rise to a significant risk of an own interest conflict.
- Mr Partington and/or his family member had a financial interest in the loans, charging 10 to 12 per cent per annum. A financial penalty is therefore necessary to negate any financial benefit which Mr Partington and/or his family member obtained from his misconduct, and which is likely to damage the reputation of the profession.
- The public would also rightly expect solicitors to take instructions directly from a client, or alternatively someone who was authorised to give instructions on their behalf. Mr Partington failed to do so on a property transaction on which he agreed to act for both the buyer and seller, and on terms where he did not have direct communication with his seller client. The transaction bore the hallmarks of fraud as it involved the transfer from a mother to her son at an undervalue, allegedly without her knowledge or consent.
- A fine is therefore appropriate to remove any financial or other benefit arising from the conduct, maintain professional standards, and uphold public confidence in the solicitors' profession and in legal services provided by authorised persons. A financial penalty therefore meets the requirements of rule 4.1 of the Regulatory and Disciplinary Procedure Rules.

5. Amount of the fine

- 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).
- Having regard to the Guidance, the SRA and Mr Partington agree that the nature of the misconduct falls into the 'more serious' category. This is because Mr Partington failed to comply with his statutory obligations imposed by the Money Laundering Regulations 2017 and his regulatory obligations under our rules. Whilst there is no evidence that his actions were intentional or as a result of recklessness or gross incompetence, or that it continued after he became aware that it was improper, there was a clear pattern of behaviour. That is in respect of him allowing the Firm's client account to be used as a banking facility, and him acting in an own conflict of interest. He demonstrated a considerable lack of awareness of his statutory and regulatory requirements. The Guidance gives this type of misconduct a score of three.
- The SRA considers that the impact of the misconduct was high. This is because Mr Partington's failure to take instructions directly from his client in a property transaction, or from someone who was properly authorised to give instructions on their behalf, caused or contributed to significant harm or impact. Mr Partington should have been aware that conducting adequate client due diligence and ongoing risk assessments are about limiting opportunities for criminals to use criminal property and protecting firms from money laundering. In addition, compliance with the regulatory requirements regarding own conflicts of interest, and in ensuring proper client instructions are obtained and confirmed, are central to the protection of client interests. The Guidance gives this level of impact a score of six.
- The nature and impact scores add up to nine. This places the penalty in Band D1. This is at the start of the bracket. This reflects the fact that Mr Partington's conduct spanned several years and transactions. He was also in a position of seniority at the Firm and was responsible for ensuring that he and the Firm complied with their regulatory and statutory obligations. However, there is no evidence that his failure to meet his obligations was intentional. The Guidance determines a basic penalty of £11,013.67.

6. Publication

- The SRA considers it appropriate that this agreement is published in the interests of transparency in the regulatory and disciplinary process. Mr Partington agrees to the publication of this agreement.

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

- Mr Partington agrees that he will not deny the admissions made in this agreement or act in any way which is inconsistent with it.

- If Mr Partington denies the admissions or acts in a way which is inconsistent with this agreement, the conduct which is subject to this agreement may be considered further by the SRA. That may result in a disciplinary outcome or a referral to the Solicitors Disciplinary Tribunal on the original facts and allegations.
- Denying the admissions made or acting in a way which is inconsistent with this agreement may also constitute a separate breach of principles 2 and 5 of the Principles and paragraph 7.3 of the Code of Conduct for Solicitors, RELs and RFLs.

8. Costs

- Mr Partington agrees to pay the costs of the SRA's investigation in the sum of £1,350. Such costs are due within 28 days of a statement of costs due being issued by the SRA.

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