

THE MOST SERIOUS FINANCIAL SCANDAL OF MODERN TIMES**28. SRA'S FAILURE TO INVESTIGATE CERTAIN FRAUDULENT SOLICITORS**

The role of the Solicitors Regulation Authority (SRA) is to regulate firms of solicitors and individual solicitors. This means setting the professional standards, which solicitors should observe, so their clients receive the service they should reasonably expect. When these standards are not met, sanctions can be imposed and this may involve hearings before the Solicitors Disciplinary Tribunal (SDT).

However, there is evidence to suggest that the SRA has preferred to act as the trade body for the profession and protect solicitors, who have acted for banks such as Lloyds, from investigation.

The SRA appears to be another regulator, which is not fit for purpose. Its failure to uphold proper standards of conduct has severely undermined the trust, which the public ought to have in the solicitors' profession and the rule of law.

SRA's Principles of Business¹

These require a solicitor to act:

- in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice
- in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons
- with independence
- with honesty
- with integrity
- in a way that encourages equality, diversity and inclusion
- in the best interests of each client

There is considerable evidence that in respect of firms of solicitors and individual solicitors, who have acted for banks, the SRA has failed either to investigate allegations of serious wrongdoing or uphold its Principles of Business.

SRA's regulatory failures

Examples of the SRA's failure adequately to investigate solicitors, who have acted for the banks extend from large firms, through mid-size firms and down to individual solicitors. The refusal to investigate appears to have been deliberate and systemic.

¹ <https://www.sra.org.uk/solicitors/standards-regulations/principles/>

Website: www.lloydsbankassetfrauds.com

Press contact: info@lloydsbankassetfrauds.com

Its failure in respect of **large firms** was exemplified by the recent detailed submission of the All Party Parliamentary Group (APPG) on fair business banking to the SRA regarding Herbert Smith Freehills LLP (HSF), which was subtitled “undermining confidence in the legal profession”². The APPG stated that “unethical conduct, where widespread or occurring over a long period of time, subverts public confidence in the legal profession and, consequently, in the legal system and the rule of law” and accused HSF of a lack of professional independence. This is a euphemism because in such cases, the bank’s lawyers have not merely gone along with, or failed to spot, serious wrongdoing (as the accountants, KPMG did with HBOs), they have been actively complicit, defended and often strengthened their client’s defences against accusations of serious misconduct and criminal fraud, using the most powerful legal devices available.

The bank’s lawyers will have been aware that what they were doing was entirely wrong and contrary to the “higher duties” they owe to uphold the legal system and the rule of law. However, they will also have known that they were unlikely to face any sanctions.

Serious wrongdoing and criminal conduct by other prominent firms of lawyers, which continue to act for Lloyds Banking Group, has similarly been ignored. One case involved a member of Lloyds’ executive board, which the Police also declined to investigate.

The SRA’s failure regarding **medium-sized firms** was demonstrated in respect of Burges Salmon, which was actively used by Lloyds Recoveries, Bristol until 2010. Two partners of the Bristol-based firm were implicated in the HBOs Reading fraud and its senior partner, together with 61 partners and staff³ were investigated for serious professional misconduct in 2008-2010. Bevan Brittan LLP was commissioned by the SRA to conduct an independent investigation but although serious wrongdoing was believed to have been identified, no-one was prosecuted. Nevertheless, there was a mass exodus from Burges Salmon in 2010 and Lloyds Bank ceased to use one of the firm’s partners as its senior litigator for recoveries. Later, in 2019, the SRA refused the request of the Police & Crime Commissioner for Thames Valley to provide him with a copy of the Bevan Brittan report, claiming that it was an internal document and therefore could not be released. The SRA has also either ignored or dismissed complaints against other medium-sized firms of solicitors.

The regulator’s failure with regard to **individual solicitors** has been demonstrated by its reluctance adequately to prosecute and hold to account solicitors, who have acted improperly for banks. In one instance, this involved a solicitor, who has dedicated his entire career to fraud but yet has been permitted by the SRA to continue to practice.

² <http://www.appgbanking.org.uk/wp-content/uploads/2020/07/APPG-HSF-SRA-9-6-20-Final-1.pdf>

³ Extract from Bevan Brittan LLP investigation into Burges Salmon, 26th January 2010.

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Press contact: info@lloydsbankassetfrauds.com