

To The Legal Services Board

By email only contactus@legalservicesboard.org.uk

23 April 2017

Dear Sirs

Solicitors Regulation Authority

I find once again I have to report the Solicitors Regulation Authority to you for failing to properly investigate a report made to them of industrial scale fraud. When I last made a report to you about their failure to properly investigate Restons, solicitors, you appear simply to have asked them if they had investigated properly, they said yes, and you closed your file.

I think you will from the information given below that you will not be able to dismiss my report so easily this time. Regulation of solicitors should be more than a "tick box" exercise.

Attached to the email sending this, is the SRA report dated 22 April setting out their findings of their "investigation" into Restons and Weightmans. By way of background HSBC has admitted there was wrongdoing and in January this year "voluntarily" agreed with the FCA to pay £4m redress. I have evidence to show that the true figure should be more like £100m.

Below I will set out how the SRA findings are demonstrably wrong and untrue in virtually every instance.

You identified that "inappropriate charges" were added onto a consumer's account equal to 16.4% of the debt that was owed. You stated that this constituted an unlawful fee arrangement.

The fees have already been adjudicated unlawful contingency fees by the SRA in a finding by them in 2007:

██████ on behalf of ██████ had drawn up an agreement by which the firm were instructed to recover debts on behalf of their client. Their fees were calculated as being 16.4% (inc vat) of the outstanding debt such monies and any other disbursements to be added to the amount to be recovered from the debtor. However where the debt due could not be recovered, either in part or at all, the firm did not seek to recover their costs from their client but instead had simply waived these costs.

The Panel considered that in the circumstances the firm had acted in breach of Practice Rule 8 because, in practice, their fees were dependent on whether they were successful in recovering the monies to their client and, as a result, their own costs. Where they were not successful they did not charge. The Panel were satisfied that this amounted to a contingency fee

Having obtained both firms responses, we understand that the collection charge was a charge that was added by the Banks and not by either firm you name within your report. This is a position which we understand has been agreed by both the FCA and the OFT.

This is simply not the case. The bank and their solicitors had a contract, which I have seen, which allowed for the solicitors to add the 16.4% collection charge in respect of their costs. As confirmed in the SRA's own adjudication above. Furthermore, the following statement appears at the foot of the bank's statement of account to customers which confirms that the charges are added by the solicitors:

Keeping you informed

HSBC Bank plc is required to send you this Annual Loan Statement consistent with the legislation under the Consumer Credit Act 2006. For information your account is currently being collected by Restons Solicitors Limited. The balance quoted on this Annual Loan Statement is the contractual balance of this account. The balance quoted by Restons Solicitors Limited in their correspondences may contain additional charges and fees payable related to costs of recovery. The balance you are required to pay to settle and close this account in full is the balance quoted by Restons Solicitors Limited.

Furthermore, this is from a letter I received from the bank, informing me that I should refer to Restons as they added the charge:

From my investigation into ██████ complaint, your original letter of complaint was passed to Restons Solicitors on 15 December 2010. Restons Solicitors would be required to investigate the matter as the charge has been applied as part of their policy and not HFC Banks'.

The added collection charge was pursuant to the terms and conditions (a contractual charge) that the Banks had in place with their customer.

This is an absurd statement to make. In November 2010 the Office of Fair Trading made an order against the bank telling it to stop adding the charges until it changed the terms and conditions

Collection charge

1. When referring a customer's account or debt to an external third party for collection of the outstanding debt HFC Bank will not levy, or claim that it is entitled to levy, a fee or charge ("the Collection Charge") on such customer in order (amongst other things) to recover the costs and expenses incurred by such external third party in relation to recovering, or attempting to recover, a sum which HFC Bank claims is owed to it by such customer (save in respect of court fees and legal costs and disbursements incurred as part of legal proceedings to recover a customer's outstanding debt) until such time as HFC Bank has after the date of these requirements introduced a new term or terms in its agreements with customers or varied a term or terms contained in its agreements with customers (the new term or terms or the term or terms as varied are together referred to below as "the New Collection Charge Term(s)") pursuant to which it may levy the Collection Charge.

The Banks (firms clients) ceased applying the collection charge in late 2009 which was prior the OFT ruling in 2010.

This is not true - here is a claim issued by John Lewis Financial Services Limited in January 2010 including a collection charge.

Type of Summons CLAIM – SPEC ONLY

Claimant JOHN LEWIS FINANCIAL SERVICES P O BOX 14969 BIRMINGHAM WEST MIDLANDS B16 6GJ	Claimant's Solicitor RESTONS SOLICITORS LIMITED (1688) TRINITY CHAMBERS 800 MANDARIN COURT WARRINGTON WA1 1GG DX DX 17770 WARRINGTON Ref SA/SA/993971 01925 661600																															
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What the claim is for The Claimant claims payment of the overdue balance due from the Defendant under a contract dated on or about 09/06/2005 in the sum of 5157.12 inclusive of interest to the date of this summons at 19.8% per annum from 18/12/09 to 19/01/10 PARTICULARS a/c no:- 113024125942 <table border="1"> <thead> <tr> <th>DATE</th> <th>ITEM</th> <th>VALUE</th> </tr> </thead> <tbody> <tr> <td>18/12/2009</td> <td>Default Balance</td> <td>4372.96</td> </tr> <tr> <td>18/12/2009</td> <td>Collection Charge</td> <td>728.97</td> </tr> <tr> <td>11/01/2010</td> <td>Post Refrl Cr</td> <td>-33.23</td> </tr> <tr> <td>11/01/2010</td> <td>33.23</td> <td></td> </tr> <tr> <td>19/01/2010</td> <td>Interest</td> <td>88.42</td> </tr> <tr> <td>TOTAL:-</td> <td></td> <td>5157.12</td> </tr> </tbody> </table> <p>Together with:- interest pursuant to contract at the rate of 274.96 pence per day to the date of Judgment or sooner payment.</p>	DATE	ITEM	VALUE	18/12/2009	Default Balance	4372.96	18/12/2009	Collection Charge	728.97	11/01/2010	Post Refrl Cr	-33.23	11/01/2010	33.23		19/01/2010	Interest	88.42	TOTAL:-		5157.12	Case Details <table border="1"> <tbody> <tr> <td>Amount Claimed</td> <td>5,157.12</td> </tr> <tr> <td>Court Fee</td> <td>190.00</td> </tr> <tr> <td>Solicitor's Costs</td> <td>100.00</td> </tr> <tr> <td>TOTAL</td> <td>5,447.12</td> </tr> <tr> <td>Date of Issue</td> <td>20-JAN-2010</td> </tr> </tbody> </table>	Amount Claimed	5,157.12	Court Fee	190.00	Solicitor's Costs	100.00	TOTAL	5,447.12	Date of Issue	20-JAN-2010
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All collection charges (following the OFT ruling in 2010) were reversed off by the firms and sent back to the bank's customers.

How can this possibly true if the bank have just agreed to pay £4m redress to 6,700 customers? (as stated, my evidence shows it should be £100m+)

- The firms charges on contentious matters were for the following aspects: fixed costs for issue of a claim, enforcement and entry of judgement.
- Where there was a contested case, the Bank would pay for the firms hourly rate.

These 2 statement are nonsensical. As shown above the previous SRA ruling states that the charges are 16.4% of all sums recovered i.e. an unlawful contingency fee.

On non contentious matters the firms would charge a percentage of a debt and in respect of where the firms allocate/remit payments and make reports to the Bank.

This is simply nonsensical.

The Banks paid the firms on a monthly interval basis and there were no changes to these arrangements once the collection charge was removed.

This is not true. The bank paid the solicitors nothing. All court fees, enquiry agents, land registry fees etc were paid by the solicitors. The solicitors raised pro-forma invoices to the bank on a monthly basis in matters where they had received some funds. If the SRA are told this I would assume they would have asked for evidence from the bank of payments made. There will be none. I cannot comment on what the arrangement was when the charge was removed.

In addition, the firms have both confirmed that the credits on customers accounts were applied pro-actively by running a script against their case management system and there was therefore no need for customers to contact them to obtain the credit.

With the removal of the collection charge and the evidence provided by both firms to demonstrate the steps taken to reimburse some customers (where added), there appears to be no ongoing regulatory risk for the SRA to deal with. Further, the charge itself (as added by the Banks) would in any event fall within the regulatory remit of the FCA (in terms of its validity).

Untrue for the reasons stated above. Why is the bank repaying £4m?

However, notwithstanding the above outcome, it was sensible for us to investigate the issues identified within your original report. Accordingly, we had due regard to all of our powers when considering our approach from a proportionate and risk based perspective.

Clearly the SRA have done no investigation at all. All of the above documents are freely available on my website - nicholaswilson. com. Furthermore, I have a database of County Court judgments for 2004-8 which shows in excess of £200m of illegal charges were added to accounts in that period. The SRA is aware of this.

The only statement in the SRA finding that is true is the one stating the charges ceased following the OFT ruling.

In my opinion you cannot in this instance simply ask the SRA if they had investigated properly. I have shown that they did not. You should know that the FCA and the SFO are still actively investigating the matter. So a further cover-up from the LSB would be unwise.

I look forward to hearing from you as soon as possible

Yours faithfully
Nicholas Wilson