

Our ref: CDT/1177464-2016
Your ref:



**Solicitors
Regulation
Authority**

The Cube
199 Wharfside Street
Birmingham B1 1RN

DX: 720293 BIRMINGHAM 47
UK 0370 606 2555
Int + 44 (0)121 329 6800
F + 44 (0)121 616 1999
www.sra.org.uk

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To be opened by addressee only
Mr Nicholas Wilson

SENT BY EMAIL ONLY:- nw@nicholaswilson.com

22 April 2017

Dear Mr Wilson

YOUR REPORT REGARDING WEIGHTMANS LLP AND RESTONS SOLICITORS LTD

We write further to your report and documentation that you provided in respect of this particular matter.

We can confirm that we undertook three rounds of information requests with each subject firm (Weightmans and Restons) and made relevant enquiries in relation to the issues which you set out in your original report.

At the outset, we held a number of regulatory concerns from our review of the papers which you submitted. We have now concluded our review of the responses of both firms and the documentation that they submitted in support.

We have, as previously discussed, liaised with the FCA in respect of this matter and understand the position they have taken with the Banks and the funds set aside for redress. We understand that there will be no separate action taken against any named Bank.

On the basis of current evidence, we will not be taking any further action.

Your report

The issues you identified within your report concerned debt collection matters in which both named firms acted on behalf of their clients, namely John Lewis, HSBC and HFC.

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.

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.

The following are salient points made by both firms in their responses which provide further context in respect of the matters which form your complaint:-

- The added collection charge was pursuant to the terms and conditions (a contractual charge) that the Banks had in place with their customer.
- The Banks (firms clients) ceased applying the collection charge in late 2009 which was prior the OFT ruling in 2010.
- All collection charges (following the OFT ruling in 2010) were reversed off by the firms and sent back to the bank's customers.
- Since 2010 no further collection charges have been added by the Banks.
- 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.
- 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.
- The Banks paid the firms on a monthly interval basis and there were no changes to these arrangements once the collection 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).

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.

I have marked this particular matter as a "risk to lie on file". In essence, this means that if there are any further relevant events that we are made aware of then we reserve the right to re-open this matter and consider it in conjunction with any new information.

By its very nature, this would in all likelihood lead to a more serious outcome in terms of any regulatory decision.

The relevant matter files will now be closed.

Yours sincerely,

Richard Armstrong
Regulatory Supervisor
Solicitors Regulation Authority
☎ Tel: 0121 329 6621
✉ richard.armstrong@sra.org.uk

**** Please quote our above reference whenever contacting us ****
If corresponding by e-mail please quote our reference in the subject heading

If, at any time during the investigation, you have concerns about our service, please let me know. We have an internal complaints procedure to deal with these issues, and we will do everything we can to resolve your complaints and respond positively to your comments.

Please let us know if you require this information in an alternative format or would like us to consider any other reasonable adjustments you may need. Our Reasonable Adjustments policy can be found at: www.sra.org.uk/sra/reasonable-adjustment-policy.page.