

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12538-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD.

Applicant

and

DENNIS KO

First Respondent

ANDREW STUART COATES

Second Respondent

Before:

Mr M N Millin (in the chair)

Mr C J Cowx

Mrs L McMahon-Hathway

Date of Hearing: 18 - 20 November 2024

Appearances

James Counsell KC of Outer Temple Chambers instructed by Capsticks LLP for the Applicant.

Helen Evans KC of 4 New Square Chambers instructed by DAC Beachcroft LLP for the First Respondent.

Ben Hubble KC of 4 New Square Chambers instructed by Clyde &Co for the Second Respondent.

JUDGMENT

Allegations

1. The allegation made against Mr Coates by the Solicitors Regulation Authority Limited (“SRA”) was that while acting as a solicitor, and as a Manager and Compliance Officer for Legal Practice (“COLP”) at Kennedys Law LLP (“the Firm”), and in respect of the purchase and subsequent sale of units in the Grosvenor Hotel Bristol, he:
 - 1.1 From around 1 August 2017 to 28 February 2018:
 - 1.1.1 Failed adequately to investigate concerns relating to the Firm’s involvement in the purchase of, and sale of units in, the Grosvenor Hotel Bristol;
 - 1.1.2 Allowed the Firm to continue to act in the purchase of, and sale of units, in the Grosvenor Hotel Bristol;

And in doing so he breached Principle 8 of the SRA Principles 2011 and failed to achieve outcome 7.3 of the SRA Code of Conduct 2011.
2. Mr Ko, the First Respondent in the proceedings, was dealt with by way of an Agreed Outcome on 18 November 2024. The Agreed Outcome is appended to this Judgment for completeness.

Executive Summary

3. Mr Coates denied the allegation he faced. The Tribunal found the allegation not proved. The Tribunal determined that given the information known to Mr Coates at the time, the investigative steps he took were reasonable and adequate. The Tribunal’s reasoning can be accessed here:
 - [The Tribunal’s Findings](#)

Documents

4. The Tribunal reviewed all the documents submitted by the parties, which included (but was not limited to):
 - Rule 12 Statement and Exhibit HWP1 dated 10 January 2024
 - The Second Respondent’s Answer and Exhibits dated 16 February 2024
 - The Applicant’s Reply to the Respondents’ Answers dated 15 March 2024

Factual Background

5. Mr Coates was admitted to the Roll in 1987. He became a manager of Kennedys Management Holdings LLP (Formerly Kennedys Ltd) on 1 May 2010. He became a manager of Kennedys Brussels LLP on 19 February 2015. Mr Coates remains a manager at the Firm. From December 2012, Mr Coates became the COLP, Money Laundering Reporting Officer and Money Laundering Compliance Officer at the Firm.

Witnesses

6. The following witnesses provided written statements and gave oral evidence:
- Mr Palmer
 - Mr Dean
 - Mr Coates
7. The written and oral evidence of the witnesses is quoted or summarised in the Findings of Fact and Law below. The evidence referred to will be that which was relevant to the findings of the Tribunal, and to facts or issues in dispute between the parties. For the avoidance of doubt, the Tribunal read all of the documents in the case and made notes of the oral evidence. The absence of any reference to particular evidence should not be taken as an indication that the Tribunal did not read, hear or consider that evidence.

Findings of Fact and Law

8. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Mr Coates' rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
9. **Allegation 1 - From around 1 August 2017 to 28 February 2018 Mr Coates (1.1.1) Failed adequately to investigate concerns relating to the Firm's involvement in the purchase of, and sale of units in, the Grosvenor Hotel Bristol; (1.1.2) Allowed the Firm to continue to act in the purchase of, and sale of units, in the Grosvenor Hotel Bristol; And in doing so he breached Principle 8 of the SRA Principles 2011 and failed to achieve outcome 7.3 of the SRA Code of Conduct 2011.**

The Applicant's Case

- 9.1 The factual background on which the Applicant relied is contained in paragraphs 6 – 69 of the Agreed Outcome in relation to Mr Ko, which is appended to this Judgment.
- 9.2 On 1 August 2017, Mr Ko met with Mr Coates and Mr Palmer (a partner and the Firm's former Head of Commercial Property) to discuss the issues with the Grosvenor Development.
- 9.3 In his witness statement dated 27 April 2023, Mr Palmer set out his recollection of the meeting on 1 August 2017. He recalled making a note of the meeting and a subsequent email setting out the red flags which were considered at the meeting. At the meeting, the discussion centred around whether there were features that could be considered red flags having in mind the SRA Warning Notice of 23 June 2017. Mr Palmer could not recall them all but they included:
- No planning permission having been obtained for the development. Mr Ko confirmed that the architect of the scheme and the client had confirmed that it would be obtained once works were completed;

- The deposits being held as agents rather than stakeholder. This was not viewed as unusual in a development of this type and Mr Ko had confirmed that the buyers had independent legal advisers;
- The development was to be carried out under a building licence from the site owner and completion of the site acquisition was not due to take place, he thought, until September 2017. This was also not perceived as unusual; and
- Mr Dean had made a site inspection due to concerns about progress. He been unable to gain access to the site. He had met a passer-by who was unaware of any works going on. Mr Palmer could not recall if this had been raised with the client before or after the meeting.

9.4 Mr Palmer states that Mr Ko assured the meeting that he had acted previously (possibly twice) for Mr Varma on property transactions without any concerns or issues arising. Mr Ko also assured the meeting that the correct client due diligence had been carried out on the client with satisfactory results. There was no discussion of the client's banking arrangements and Mr Ko did not point out that certain deposits received from buyers had been paid to parties other than GDPL.

9.5 Mr Palmer's statement confirmed that, following the discussion and given the assurances received at the meeting, the decision was taken to continue acting for GDPL.

9.6 Following Mr Palmer's statement, the Firm provided a handwritten note. Mr Palmer provided a supplemental witness statement dated 20 December 2023 in which he confirmed that this handwritten note was in his handwriting and related to the meeting on 1 August 2017. However, it was not the note of the meeting he referred to in his earlier statement.

9.7 Mr Palmer confirmed that the first part of the note recorded concerns raised from a discussion with either Mr Dean or Ms Gafur prior to 1 August 2017. These were:

- High deposits paid to developer as agent.
- Payment dates do not reflect progress on site.
- First Completions due in September – Is development on target.
- No guarantees available to investors. No protection scheme for deposits.
- One group of Chinese investors has paid approx. GBP 1.2 in deposits and will pay 75%-80% of full purchase price prior to completion.
- No Planning Permission for change of use – unusual to carry on with [word crossed out] development before all consents available.
- First site visit by Kennedys no apparent work being carried out. This is conversion not new build.

- Pressure to release deposits to client so he can pay contractors.
- Kennedy's fees will be paid at least in part from Investor's deposits following change of contractors.

9.8 The second part of the handwritten note was a brief synopsis of what was decided at the meeting on 1 August 2017 and listed the following:

- No evidence of fraud. At present project may not be well managed but no evidence that client misappropriating deposit monies.
- Each investor independently represented by solicitors – albeit local solicitors some of whom may have been recommended by selling agents.
- Client had demonstrated previously he had access to funds from various sources around the world. and client had instructed DK on other projects.
- Deposits should continue to be paid to client and whilst continuing to be vigilant we should continue to act and seek payment of fees.
- DK should make site visit asap. To check that work was proceeding on site.

9.9 Mr Palmer noted that one decision made at the meeting was that deposits paid by purchasers of units in the development should continue to be paid to the client. He did not recall any mention being made that that certain deposit monies had previously been paid to third parties. His recollection was that Mr Ko did not state that he had any concerns and responded to the concerns at the meeting by confirming that he had acted for the client previously, his previous dealings with the client had been satisfactory and had not given rise to any concerns. Paragraph 3 of the note would have been recorded by Mr Palmer from information given by Mr Ko at the meeting. This stated: "*Client had demonstrated previously he had access to funds from various sources around the world and client had instructed DK on other projects.*"

9.10 In representations dated 31 October 2022, it was stated, amongst other things:

- At the meeting, Mr Dean's concerns that there were potentially some red flags present in the Grosvenor Hotel transaction were discussed but these concerns were allayed by Mr Ko and Mr Palmer;
- Mr Ko said he had worked with Mr Varma before with no issues;
- Mr Palmer's view was that the purchasers were all represented by their own lawyers so were being properly advised about their own position;
- The meeting discussed whether there might be a credit risk to the Firm in continuing to act for a developer who seemed to be struggling to finance the development;

- It was agreed that a further check should be made at the site and that the client should be required to explain the reasons for the delay;
- It was also agreed that Mr Ko would keep the situation under review;
- Mr Varma was repeatedly pressed to allow access to visit the site but provided a variety of reasons why that was not possible;
- Mr Coates was told that no work on site was possible because of other necessary work being carried out by the local authority, pending which there was no insurance cover for the site;
- He was not made aware by Mr Ko that the matter had been opened in the name of Mr Varma and then GPDL. He was not made aware that there may have been a breach of the client opening procedures;
- He was not made aware that Mr Varma was said to have beneficial ownership of GPDL but was set up as the client because GPDL had no bank account nor that substantial payments had been requested by Mr Ko and paid to Mr Varma, Casa Investments or KD Law. Had he been aware of these issues, he would have investigated further;
- Mr Ko was the head of the Firm's real estate team. He did not suggest that he believed the scheme was fraudulent;
- Mr Coates did not review the file in August 2017 or investigate due diligence or what payments had been made to which parties because there was no suggestion that he needed to do so;
- When he subsequently reviewed the CDD for GPDL, he concluded it was adequate; and
- After the meeting, Mr Coates' team asked Mr Dean if the site visit had taken place. On 24 August 2017, Mr Dean confirmed: *"The surveyor has been round the site and produced their report for the insurers apparently. We are expecting insurance to be in place early next week"*

9.11 Following the meeting on 1 August 2017, the Firm continued to act in the Grosvenor Hotel Development, with further exchanges of contracts for the sale of units taking place from 1 August 2017 to 24 November 2017. The first Respondent continued to deal with the matter until he left the Firm.

On 23 August 2017, Mr Dean emailed Mr Palmer saying:

"I have been chasing [Mr Varma] to get access to the site. Apparently the surveyor finished on Friday and it is with the insurers to issue the policy. We can then go in to view the site. [We]do however have a couple of matters that are ready to exchange. [The First Respondent] has authority to sign on behalf

of the company for exchanges. Are you happy to sign on behalf of the company”?

- 9.12 Mr Palmer agreed to do so on the basis that the surveyor had completed the inspection.
- 9.13 Mr Ko left the Firm on 22 September 2017, taking all of Mr Varma’s ongoing files apart from the Grosvenor Hotel matter with him to his new firm.
- 9.14 Following Mr Ko’s departure, Mr Dean proceeded with the exchanges but continued to receive queries and concerns from the buyers’ solicitors, which he passed to Mr Varma. The intended completion date for the purchase of the Grosvenor Hotel was postponed until December 2017 and then extended beyond that.
- 9.15 On 9 February 2018, the Firm wrote to Mr Varma and Mr England setting out their concerns that the development had stalled and that GDPL would not be able to complete on the project. The letter set out a number of issues including:
- There was no planning permission for the conversion of the building into student accommodation;
 - GDPL did not currently own the freehold or a substantial leasehold interest in the building. The contract for the purchase of the building expired on 31 December 2018 and the completion date was extended to 19 January 2018. That date had passed;
 - Mr Varma had advised that bridging finance was being obtained to fund the purchase of the property but this was not in place;
 - Works were apparently started in May/June 2017 but the firm had not been able to verify this. Since July 2017, when the Firm sought but were unable to obtain access to the property, no works had taken place and the building had not been insured due to structural issues;
 - The non-refundable reservation fee of £5,000 was proving to be a contentious matter. The investors had not been able to obtain advice at the point of payment and were subject to high pressure sales techniques;
 - On exchange, GPDL received 50% of the purchase price for the units. To date GPDL had received in excess of £6,500,000 and exchanged on 36 units. There was no evidence of any works having taken place and no works could have taken place since July 2017;
 - The Lease plans were not Land Registry compliant and GPDL had taken no action to deal with this since April 2017 when this was brought to their attention; and
 - A large number of buyers were not resident in the UK.
- 9.16 On 28 February 2018, Mr Dean informed Mr Varma and Mr England that the Firm could no longer act for them, and the matter was subsequently passed to Candey’s

Solicitors. The purchase of the Grosvenor Hotel did not complete and the development was never completed.

- 9.17 GPDL was wound up in November 2018. Solicitors acting for the joint liquidators issued proceedings against, amongst others, Mr Varma and Mr England. In the course of these proceedings Mr Justice Falk found that *“There has been an undoubted substantial fraud in relation to [GPDL].”* Judgment was given against Mr Varma and his solely owned company in the sums of £5,543,973.00 and £3,845,406.00 respectively (including compound interest) reflecting significant sums misappropriated from investors. Mr Varma was found guilty of contempt of court to the criminal standard (including by breaching asset disclosure orders made in support of freezing orders, and of having made false statements both in witness statements and in affidavits) on 13 July 2020 and sentenced in his absence to 21 months in prison on 4 March 2021. So far as the SRA was aware, Mr Varma remained at large having failed to surrender himself. Mr Varma was banned from acting as a Director of Companies for 13 years. Mr England was banned from acting as Director for 12 years.
- 9.18 In addition to the proceedings issued against Mr Varma and others, the joint liquidators also made a negligence claim against the Firm. This claim was settled and a *“substantial”* sum paid by the Firm.
- 9.19 The matter was reported to the SRA on 30 August 2018 by MSB Law Ltd.
- 9.20 Mr Counsell KC submitted that Mr Coates was the Firm’s COLP throughout the time it acted for GDPL and Mr Varma. The role of a COLP was set out in rule 8.5(c) of the SRA Authorisation Rules 2011 which state that the COLP must take all reasonable steps to:
- *“ensure compliance with the terms and conditions of the Firm’s authorisation which include compliance with the SRA’s regulatory arrangements; and*
 - *ensure compliance with the Firm’s statutory obligations.”*
- 9.21 Outcome 7.3 of the SRA Code 2011 required solicitors to identify, monitor and manage any risks to compliance with the requirements of the SRA Handbook including the SRA Principles 2011. Principle 8 of the SRA Principles 2011 required solicitors to carry out their role in the business effectively and in accordance with proper governance and sound risk management principles.
- 9.22 Mr Coates was aware of the issues raised by Mr Dean in his conversation with the Firm’s Compliance team on 28 July 2017 as these were passed on to him. At the meeting on 1 August 2017, Mr Coates was made aware of the following:
- The deposits paid by purchasers of the units were high and were being held by the Firm as agents for the seller;
 - The payment dates did not reflect progress on site;
 - No planning permission had been obtained for the development;

- There was no protection scheme for the deposits;
 - Mr Dean had visited the site due to concerns about progress and had been unable to gain access;
 - There was no apparent work being carried out; and
 - There was pressure to release deposits.
- 9.23 Mr Coates was told by Mr Ko that (i) there was no evidence of fraud; (ii) each investor/unit purchaser was separately represented by solicitors; and (iii) Mr Varma had demonstrated previously that he had access to funds from various sources around the world and had instructed Mr Ko on other projects.
- 9.24 Mr Coates was, it was submitted, aware of serious concerns around the Grosvenor Hotel development and should have conducted further enquiries in order fully to assess the risks involved. In the representations dated 31 October 2022, it had been admitted that Mr Coates did not conduct any further enquiries following the meeting. In particular, he did not review the Firm's files relating to the Grosvenor Hotel Development. Had he done so, it was submitted, he would have become aware of some or all of the various warning signs in relation to the project.
- 9.25 Mr Coates failed to identify or fully consider the risks presented by the Grosvenor Hotel Development. Even if he was not made aware of the issues, and even if he was not provided with full information by Mr Ko, the issues raised by Mr Dean, in particular the concern that a number of the key points in the SRA's Warning Notice appeared to apply, and the issues raised at the meeting on 1 August 2017 were sufficiently serious to warrant further investigation. This at the very least should have included a detailed review of the files. Mr Coates failed to do this. He therefore failed to achieve Outcome 7.3 of the SRA Code and breached Principle 8 of the SRA Principles 2011.
- 9.26 Mr Coates should not have permitted the Firm to continue to be involved in the Grosvenor Hotel development without conducting further investigations. By allowing the Firm to continue acting in the matter from 1 August 2017 until the Firm ceased acting in 28 February 2018, he failed to achieve Outcome 7.3 of the SRA Code and breached Principle 8 of the SRA Principles 2011.

The Second Respondent's Case

- 9.27 Mr Coates denied the allegation in its entirety.
- 9.28 Mr Hubble KC submitted that in order to substantiate its case, the Applicant was required to prove (i) that Mr Coates was aware of the serious concerns regarding the Development prior to, or at the 1 August 2017 Meeting; and (ii) that in light of his knowledge of those concerns, his failure to further investigate the Development and allowing the Firm to continue to act for the client amounted to breaches of Principle 8 and/or Outcome 7.3 of the Code. The Applicant, it was submitted, had failed to do so.
- 9.29 It was noted that all of the witnesses who gave oral evidence emphasised on a number of occasions that their recollections had faded. Further, Mr Dean and Mr Palmer who

both gave evidence on behalf of the Applicant, gave oral evidence that was both inconsistent with the contemporaneous documents and each other. This was unsurprising given the passage of time.

- 9.30 The Tribunal, it was submitted, could not be satisfied as to the actual content of the 1 August 2017 Meeting (and so the knowledge that Mr Coates had). This was not a satisfactory or sufficient evidential backdrop for making serious findings of misconduct against a solicitor.
- 9.31 The contemporaneous record, supplemented as appropriate by witness evidence consistent with it, demonstrated that:
- 9.32 Mr Coates was not briefed by Mr Dean directly about his concerns with the Development. He was briefed by Mrs Fender at some level on the morning of 1 August 2017. Neither Mrs Fender nor Mr Coates had any real recollection of that discussion, but it was highly likely to have been an ad hoc discussion in which Mr Coates received a ‘headline’ summary in preparation for the 1 August 2017 Meeting.
- 9.33 There were a series of emails between Mr Palmer, Mr Ko and Mr Coates on the morning of 1 August 2017. Those emails did not contain further information about the development or any concerns. In none of these, did either Mr Palmer or Mr Ko provide further information in advance of the meeting which was to take place at 14:00 that day.
- 9.34 The second half of Mr Palmer’s Meeting Note is the only contemporaneous document which outlines the content of the discussion. Albeit in summary form, it was likely to be the most accurate guide to the contents of the discussion. In his oral evidence, Mr Palmer accepted that the note reflected the “*key conclusions*” of that discussion. Mr Hubble KC submitted that the note supported Mr Coates’ recollection of events.
- 9.35 The Applicant’s case, it was submitted, developed during the course of oral evidence such that a key point was that Mr Coates did not meet or speak with Mr Dean. However, Mr Palmer had met with Mr Dean prior to the 1 August 2017 meeting. It was Mr Palmer’s evidence that it was likely that points 1 – 9 on the meeting note were discussed, but not in a formulaic way. He could not recall which of the points were discussed and which were not.
- 9.36 The meeting was a formal one which had been called to focus on key aspects of the development. It resulted in a collective decision as well as follow-up action based on assurances as regards the development given by Mr Ko. Mr Hubble KC submitted that it was clear, (and it was the Applicant’s case) that Mr Ko did not provide full information. It was also the Applicant’s case that Mr Ko provided assurances to Mr Coates in the meeting, particularly in relation to previous projects.
- 9.37 In his oral evidence, Mr Palmer expressed himself to be “*disappointed*” that Mr Ko had not raised particular matters – about GPDL’s banking arrangements and payments made out of the client account to Mr Varma and third parties. Similarly, Mr Coates was clear that he had not been shown photographs or videos of the development by Mr Ko (which might then have aroused suspicions as to the progress of the development at that stage) or been told about payments to Mr Varma personally or to third parties.

- 9.38 The Applicant, it was submitted, had failed to prove that Mr Coates conduct had fallen below the standard applicable to a COLP in these circumstances:
- 9.39 It was reasonable for him to hold the 1 August 2017 Meeting and, in particular, to listen to the information, explanations and assurances provided by his fellow partners, to exercise judgement based on what he heard and to arrive at the conclusion he did.
- 9.40 It was also reasonable, in light of the Meeting’s key action point that Mr Ko should visit the Development, for Mr Coates to rely on Mrs Fender’s further emails to Mr Dean on 4 and 24 August 2017 in which she followed up on whether a site visit had taken place.
- 9.41 Mr Coates was entitled to rely on Mr Dean’s reassuring confirmation to Mrs Fender on 24 August 2017 that all seemed in order at the development and the resumption of works was imminent. In oral evidence, both Mr Palmer and Mr Dean confirmed that, at that point, they considered the development to be “on track.” Ms Fender’s evidence amounted to a confirmation that a site visit had taken place. Mr Hubble KC submitted that Mr Coates, as the COLP, was satisfied that everything back on track.
- 9.42 Given Mr Dean’s email and the lack of any further communication from the matter team (Mr Ko, Mr Palmer, Mr Dean or Ms Gafur) until late November 2017, Mr Coates was entitled to have concluded that any concerns had been allayed.
- 9.43 Mr Hubble KC submitted that the above was an end to the Applicant’s case as pleaded and pursued before the Tribunal. Without prejudice to that, when Mr Coates received additional communications from the matter team in late November 2017, he engaged with Mr Palmer and Mr Dean appropriately to understand them. This ultimately led to the Firm setting conditions for its continued representation in this matter and, when that did not happen, termination of the Firm’s retainer on 28 February 2018.
- 9.44 Accordingly, the Tribunal should not make a finding of misconduct against Mr Coates. The approach that he took was reasonable in the context of the knowledge he had at the time; he exercised his judgment based on information he was given by his fellow partners. Mrs Fender then chased the real estate team on 4 and 24 August 2017, and Mr Coates was entitled to rely on the confirmation provided back. This did not amount to misconduct. Nor was it a breach of Principle 8 nor a failure to achieve Outcome 7.3 of the Code.

The Tribunal’s Findings

- 9.45 The Tribunal considered the written and oral evidence with care. The Tribunal determined that in considering the allegation, it was required to determine what information Mr Coates had (i.e. the extent of his knowledge), and whether, knowing what he knew, Mr Coates was required to do more than he did in order to satisfy his obligations as the COLP.

Mr Coates knowledge prior to the 1 August 2017 meeting

- 9.46 Mr Coates was not involved in the day-to-day running of the Grosvenor Development matter. Mr Ko was the lead solicitor with Mr Dean undertaking much of the work. The first involvement Mr Coates had with the matter was when Mr Dean’s concerns were

reported to Mrs Fender. Mrs Fender who worked in the Risk and Compliance Team at the Firm.

- 9.47 In her witness statement, Mrs Fender explained that she had an initial conversation with Mr Dean on 28 July 2017, in which Mr Dean provided a brief summary of the situation as, having read the SRA Warning Notice, he had concerns about the Grosvenor Development. Mrs Fender stated that the conversation with Mr Dean “*did not contain much detail.*”
- 9.48 Mrs Fender did not recall the particular discussion with Mr Coates but believed that she had a conversation with Mr Coates to advise him that she had spoken to Mr Dean and to arrange for a meeting to discuss matters. Mrs Fender stated that at the meeting she gained the impression that there was no need for immediate concern and that the situation would be monitored.
- 9.49 The Tribunal found that the evidence of Mrs Fender was similar to that of Mr Coates as regards the discussion they had prior to the meeting. Mr Coates explained that there was no detailed summary provided to him by Mrs Fender and that he had received the “headlines” from her. The Tribunal determined that there was no evidence to show that Mrs Fender had provided the full details of the conversation she had with Mr Dean to Mr Palmer. Indeed, it was her evidence that the conversation with Mr Dean “*did not contain much detail.*” Accordingly, the Tribunal found that following the conversation with Mrs Fender, Mr Coates was aware that there were concerns in relation to the Grosvenor development but was not fully aware of what those concerns were.
- 9.50 The email that Mr Coates received from Mr Ko on the morning of the 1 August 2017 meeting did not contain any details as regards the Grosvenor development.

The 1 August 2017 meeting

- 9.51 Mr Dean did not attend the 1 August 2017 meeting in person, nor did he attend by phone. It was plain from the oral evidence of Mr Palmer, that the first 9 points of his handwritten note were made by Mr Palmer as a result of his conversation with Mr Dean. It was also plain that those notes, whilst being a reference point in the 1 August 2017 meeting, were not gone through in numerical order or dealt with individually; in his oral evidence Mr Palmer stated that at the meeting they did not go through points 1 – 9 of the note. Mr Palmer’s evidence had been that whilst the note was not a complete list of what had been discussed, it was a summary of the conclusions reached.
- 9.52 Both Mr Palmer and Mr Coates recalled that Mr Ko had explained the Grosvenor Development and had confirmed that he had worked with the client recently, giving the impression that other matters had been successfully concluded. It was Mr Coates evidence that this provided him with reassurance as to the bona fides of the client, the concern being whether the Development was fraudulent. Mr Coates explained that this was the primary concern, given the SRA Warning Notice of which he was aware. Mr Coates explained that he also took comfort from the knowledge that each of the purchasers was receiving independent legal advice.
- 9.53 It was the Applicant’s case that at the meeting on 1 August 2017, Mr Coates was made aware of the following:

- The deposits paid by purchasers of the units were high and were being held by the Firm as agents for the seller;
- The payment dates did not reflect progress on site;
- No planning permission had been obtained for the development;
- There was no protection scheme for the deposits;
- Mr Dean had visited the site due to concerns about progress and had been unable to gain access;
- There was no apparent work being carried out; and
- There was pressure to release deposits.

- 9.54 The Tribunal found that whilst Mr Coates was made aware that the deposits being paid were high, there was no evidence that he was aware of any of the other matters alleged to have been in his knowledge. Further, with regard to the video's sent to the Firm and forwarded to clients, there was no evidence that Mr Coates was aware they existed. Mr Coates was not aware (and there was no evidence to the contrary) that Mr Dean, having visited the site, was concerned that works were not being undertaken. Nor was he aware that Mr Dean had taken photographs of the site when he visited. It was plain, the Tribunal determined, that contrary to the Applicant's case, Mr Coates was not made aware of the concerns reported by Mr Dean to Mrs Fender and to Mr Palmer in relation to the Grosvenor Development.
- 9.55 The Tribunal did not accept that Mr Coates was aware of "*serious concerns*" as a result of the 1 August 2017 meeting. Indeed, he had been assured by Mr Ko that things were on track. Mr Coates, as was detailed by the last 5 points in Mr Palmer's note, had concluded that there was no evidence of fraud, and that whilst the project might not have been well managed, there was no evidence that the client was misappropriating deposit monies. He had advised that Mr Ko conduct a site visit to ensure to check on the progress of the project. Given that it was not clear to Mr Coates that there were serious concerns, the Tribunal found that the actions taken by Mr Coates were reasonable and were in compliance with his obligations as the Firm's COLP.
- 9.56 It was the Applicant's alternative case that if Mr Coates was not aware of the matters detailed above, he was aware that there were "*serious concerns*" with the Development, and that he should have reviewed the file and spoken to Mr Dean. As to that, the Tribunal found that given what he had been told, Mr Coates had acted reasonably in not reviewing the file i.e. it was not unreasonable, in the circumstances, for Mr Coates not to review the file at that stage. Further, Mr Ko was a partner in the Firm, and the partner with conduct of the case. Mr Coates had no reason to believe that the information he was given by Mr Ko in the meeting was not a full and accurate picture. The Applicant accepted that Mr Ko had provided assurances to Mr Coates in the 1 August 2017 meeting. Mr Coates was, the Tribunal found, entitled to rely on the information given to him by Mr Ko without making further enquiries in the circumstances. Accordingly, the Tribunal did not find that Mr Coates had acted in breach of his obligations in not reviewing the file and not speaking to Mr Dean.

- 9.57 Following the 1 August 2017 meeting, Mrs Fender chased Mr Dean on 4 and 24 August 2017 to establish whether the site visit, as had been agreed at the meeting, had taken place. On 23 August 2017, Mr Dean had emailed Mr Ko and Mr Palmer (amongst others) explaining that a surveyor had visited the site and that it was with the insurers to issue a policy. Thereafter, they would be able to access the site.

Mr Dean responded to Mrs Fender's email on 24 August 2017 stating:

“The surveyor has been round the site and produced their report for the insurers apparently. We are expecting the insurance to be in place early next week. We have exchanged on a few more matters and the funds have been released but are not actively pushing them. I have discussed with [Mr Palmer] and [Mr Ko] before doing this and they are of the view that steps are being taken in relation to the works. Most of the funds are being used to order the materials needed for the works apparently so that once the insurance is signed of (sic) the works can get under way pretty quickly.”

- 9.58 The Tribunal determined that this email led Mr Coates, once made aware of its content, to believe that work was underway and the major issue arising out of the 1 August 2017 meeting (namely whether the work was being conducted) was resolved. Accordingly, the Tribunal found that at that point, Mr Coates had no reason to be concerned such that he was required to take any further action than that which he had already taken.
- 9.59 The facts as detailed by the Applicant from 24 August 2017 onwards were agreed by the parties. The Tribunal noted that the Applicant made no complaint nor did it level any criticism of Mr Coates' conduct from 24 August 2017 to the termination of the retainer in February 2018. Accordingly, the Tribunal determined that Mr Coates conduct from 24 August 2017 onwards was reasonable and in accordance with his obligations as the Firm's COLP.
- 9.60 Given its findings, the Tribunal found the allegation not proved and thus dismissed the allegation.

Costs

10. The parties confirmed that there were no applications for costs. Accordingly, the Tribunal made No Order as to costs.

Statement of Full Order

11. The Tribunal ORDERED that the allegations against ANDREW STUART COATES, solicitor, be DISMISSED. The Tribunal further ORDERED that there be no Order as to costs.

Dated this 8th day of January 2025
On behalf of the Tribunal

M.N. Millin

JUDGMENT FILED WITH THE LAW SOCIETY
8 JANUARY 2025

Mr M.N. Millin
Chair