SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974 Case No. 12686-2024

BETWEEN:

SOLICITORS REGULATION AUTHORITY LTD. Applicant

and

MARK ANDREW SHEPHERD Respondent

Before:

Ms T. Cullen (Chair)
Mr J. Johnston
Mr A. Lyon

Date of Hearing: 12 May 2025

Appearances

Matthew Edwards, barrister in the employ of Capsticks, 1 St George's Road, Wimbledon, London SW19 4DR for the Applicant.

Scott Allen, barrister of 4 New Square Chambers, Lincoln's Inn, London, WC2A 3RJ, instructed by Clyde & Co for the Respondent, who was present.

JUDGMENT ON AGREED OUTCOME

Allegations

1. The allegations against the Respondent, made by the SRA were that, while in practice as a Partner at DWF Law LLP ("the Firm"):

1.1 Between October 2019 and November 2020, he failed to check the conditions of the relevant contract had been met and that monies were properly due to the Client before authorising payments from the Firm's client account and in doing so:

1.1.1 insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019, acted in breach of any or all of:

a) Principle 6 of the SRA Principles 2011;

b) Principle 10 of the SRA Principles 2011; and

c) Accounts Rule 20.1(a) of the SRA Accounts Rules 2011.

1.1.2 insofar as such conduct took place on or after 25 November 2019, acted in breach of any or all of:

d) Principle 2 of the SRA Principles;

e) Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFL; f) Rule 5.1(a) of the SRA Accounts Rules 2019; and g) Rule 5.2 of the SRA Accounts Rules.

Admissions

2. The Respondent admits allegations 1.1. 1.1.1 and 1.1.2 and the associated breaches of the Principles and Code of Conduct referred to.

Documents

3. The Tribunal had, amongst other things, the following documents before it:-

- The Form of Application dated 13 September 2025.
- Rule 12 Statement dated 13 September 2025 and exhibits.
- Agreed Outcome submitted 8 May 2025

Background

4. The Respondent is a solicitor, who was admitted to the Roll on 16 September 2002. At the time of the alleged misconduct, he had a practising certificate free from conditions and was working as a solicitor and partner in the London real estate team at the Firm. He continues to hold this role.

Application for leave

5. The parties lodged the application less than 28 days from the date of the Substantive Hearing and therefore required the leave of the Tribunal to submit the Agreed Outcome proposal.

6. The Applicant and Respondent apologised for the late submission, which was regrettable and no discourtesy to the Tribunal had been intended. The parties stated that they had been aware of their responsibilities and obligations under the Tribunal's rules however due to matters which were subject to 'without prejudice' negotiations unfortunately there was no further information which they could provide the Tribunal.

The Tribunal's decision on leave

7. Notwithstanding the parties' reference to 'without prejudice' it would have expected a more fulsome explanation of the delay without such being held behind this blanket term. The Tribunal noted that the application was submitted on 8 May 2025 only two working days before the hearing. The application had been made very late and on the face of it there appeared to be no reason why it could not have been made earlier.

8. The Tribunal has consistently stated that the reason for the time limit is that there is time to convene a different division of the Tribunal (to that which is listed to hear the Substantive Hearing) to consider the Agreed Outcome. If the division listed to hear the substantive case considers the Agreed Outcome, and declines to approve it, there is a likelihood that the Substantive Hearing date will be lost as the Tribunal members who were listed to sit will have to recuse themselves. The late submission of such Applications therefore interferes with the Tribunal's ability to make proper arrangements for listing matters and is disruptive for Tribunal members, who work in other roles and professions, but are necessarily required to ensure their availability over a number of days.

9. That said, given the circumstances relating to the Respondent and the proposal set out in the Agreed Outcome, the Tribunal decided it was right to grant the parties leave.

Application for the matter to be resolved by way of Agreed Outcome

10. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

11. 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 the Respondent's 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.

12. The Tribunal reviewed all the material before it and was satisfied on the balance of probabilities that the Respondent's admissions were properly made.

13. The Tribunal considered the Guidance Note on Sanction (11th edition). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.

14. As a partner of the Firm the Respondent had ultimate responsibility for final sign off on the payment authorisations and given the very large sums of money involved the Respondent should have exercised greater care and scrutiny before authorising their release. However, it was to his credit that he had self-reported the matter and made appropriate admissions.

15. In all the circumstances the Tribunal accepted that the proposed sanction (as set out in its order) was a reasonable and proportionate sanction to mark the seriousness of the misconduct, protect the public and maintain the reputation of the profession.

Costs

16. The parties agreed that the Respondent should pay costs in the sum of £19,000. The Tribunal considered the Applicant's costs schedule and determined that the agreed amount was reasonable and appropriate. Accordingly, the Tribunal ordered that the Respondent pay costs in the agreed sum.

Statement of Full Order

17. The Tribunal ORDERED that the Respondent, MARK ANDREW SHEPHERD solicitor, do pay a FINE of £14,168.00, such penalty to be forfeit to His Majesty the King, and it further Ordered that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £19,000.00.

Dated this 23rd day of May 2025
On behalf of the Tribunal

T. Cullen

T. Cullen
Chair

Case No: 12686-2024

IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)
BETWEEN:

SOLICITORS REGULATION AUTHORITY LIMITED

Applicant

and

MARK ANDREW SHEPHERD

Respondent

STATEMENT OF AGREED FACTS AND PROPOSED OUTCOME

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1. By its application dated 13 September 2024, and the statement made pursuant to Rule 12(2) of the Solicitors (Disciplinary Proceedings) Rules 2019 which accompanied that application, the Solicitors Regulation Authority Limited ("the SRA") brought proceedings before the Solicitors Disciplinary Tribunal making allegations of misconduct against Mr Mark Andrew Shepherd ("the Respondent").

2. The Respondent admits all of the allegations and the facts set out in this statement and the parties have agreed a proposed sanction. Subject to the approval of the Tribunal, the Respondent agrees to pay a fine in the sum of £14,168.00. He further agrees to pay costs agreed in the sum of £19,000.00.

3. Definitions and abbreviations used herein are those set out in the Rule 12 Statement. The numbering of the allegations as outlined in the Rule 12 Statement has also been retained in this document for ease of reference.

The Allegations

4. The allegations against the Respondent, made by the SRA within that statement were that, while in practice as a Partner at DWF Law LLP ("the Firm"):

   1.1 Between October 2019 and November 2020, he failed to check the conditions of the relevant contract had been met and that monies were properly due to the Client before authorising payments from the Firm's client account and in doing so:

   1.1.1 insofar as such conduct took place on or after 6 October 2011 but before 25 November 2019, acted in breach of any or all of:

a) Principle 6 of the SRA Principles 2011;
b) Principle 10 of the SRA Principles 2011; and
c) Accounts Rule 20.1(a) of the SRA Accounts Rules 2011.

1.1.2 insofar as such conduct took place on or after 25 November 2019, acted in breach of any or all of:

d) Principle 2 of the SRA Principles;
e) Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs and RFL;
f) Rule 5.1(a) of the SRA Accounts Rules 2019; and
g) Rule 5.2 of the SRA Accounts Rules.

Admissions

5. The Respondent admits allegations 1.1, 1.1.1 and 1.1.2 and the associated breaches of the Principles and Code of Conduct referred to, as set out in this document.

Professional Details

6. The Respondent is a solicitor, who was admitted to the Roll on 16 September 2002. At the time of the alleged misconduct he had a practising certificate free from conditions, and was working as a solicitor and partner in the London real estate team at the Firm. He continues to hold this role.

Agreed Facts

7. The following facts and matters, which are relied upon by the SRA in support of the allegations set out within paragraph 4 of this statement, are agreed between the SRA and the Respondent:

7.1. On 1 March 2021, the SRA received a self-report from the Firm notifying them that the Firm had incorrectly released buyers' instalment and deposit monies from its client account to "SPV1" in breach of contractual conditions for the off-plan sale of a number of residential new-build properties, referred to as Development C.

7.2. The Firm had previously acted for "Company A" in their development and plot sales. "Plot sale" is a term commonly used to describe the sale of newly-built residential properties by a housing developer. The most common scenario is where the developer lays out a residential estate, builds houses or apartments on it in accordance with plans prepared by the developer, and then sells the land and completed buildings on it or leases the relevant apartments to a series of buyers (this is what was intended to

happen with Development C). The Firm was instructed on 12 August 2019 to act for "SPV1", a special purposes vehicle connected to Company A in connection with the sale of residential units on Development C. It was agreed that the Firm would provide legal services to SPV1 in relation to Development C, involving the construction and sale of a number of residential units, together with associated real estate advice.

7.3. The Firm drafted standard contracts (note below that there were three similar versions used as the development progressed) to be used for the sale by SPV1 of the long leasehold interest in the individual units within the Development to buyers. The contract included the following numbered provisions:

7.3.1. Clause 5.1 set out that a buyer would pay the Firm a deposit (the "Deposit Payment") initially held by the Firm as stakeholder until a policy of deposit warranty insurance was in place, the existence of which needed to be evidenced in writing and provided to a buyer's solicitor, after which point the Deposit Instalment Payments ("DIPs") would be held as agent for SPV1 and could, at its request, be released. The Firm accepts they held the deposit funds as stakeholder until provision of the deposit warranty insurance. However, in further versions of the contract, Clause 5.1 was amended to reflect that the Deposit Payment was to be immediately held as agent on the stipulated basis that deposit warranty insurance was already in place (such a statement was agreed between the parties in the contract despite this not being the case, factually).

7.3.2. Clause 5.3 confirmed the "*Construction Instalment Payments (CIPs)*" were held as stakeholder by the Firm: "*pending release by the Sellers solicitor in the manner and in terms set out in this clause*". Clause 5.6 stated that: "*the instalment should be released to the seller on the Instalment Release Date…*" In the Definitions, the Construction "*Instalment Release Date*" was recorded as "*the date upon which the supervisor… confirms that completion of foundations, structural frame, floor slabs and stair core has taken place in respect of the Development (by way of the supervisor or other surveyor)* ***has issued Supervisor's Certificates in respect of these works***" (emphasis added). The Supervisor's Certificate should have been completed by a surveyor and would confirm that completion of the foundations, structural frame, floor slabs and stair core of the units had occurred in respect of the Development.

7.4. In summary, the Firm were responsible for holding monies from buyers' solicitors in respect of deposits and instalments toward the purchase prices of the residential units within Development C and the contract required, before the release of these monies to the seller, that:

7.4.1. The release of DIPs to its seller client was contingent on the provision of Deposit Warranty Insurance by the seller; and

7.4.2. The release of the CIPs to its seller client was contingent on the provision of Supervisor's Certificates.

7.5. The SRA's Forensic Investigation Officer ("FIO") noted during their investigation that there were three different types of contract, and the provisions of how the deposit money would be held differed slightly. The effect of the provisions in each contract, in respect of the release by the Firm of deposit payments being contingent on a Deposit Warranty Insurance being in place and instalments payments being contingent on the provision of Supervisor's Certificates, were broadly the same save in relation to the later versions of the contract where the funds were held as agent.

7.6. The Firm received monies from the buyers' solicitors in respect of deposits and instalments towards the purchase prices of the units in Development C and:

7.6.1. The sum of £746,880.00 was released in respect of DIPs in relation to 45 units between 24 October 2019 and 30 November 2020 despite Deposit Warranty Insurance not, in fact, being in place despite the contract provisions at clause 5.1 and 5.2 above; and

7.6.2. The sum of £1,852,853.56 was released in respect of CIPs in relation to 44 units between 17 December 2019 and 30 November 2022, however no Supervisor's Certificates were ever provided and, in December 2020, it became apparent that no or little work had been carried out on the site.

7.7. The sum of £2,645,713.56 was therefore paid erroneously to the seller. As outlined in the Firm's internal investigation report, the Firm pursued its own client via a Letter of Claim for repayment of these sums, and was informed its client had gone into administration. The Firm has confirmed it has made good the payments to the various buyers and has paid an excess under their professional indemnity policy of £1,550,000.00 with the insurers paying the remaining sum of £1,095,713.56 plus the interest.

7.8. A list of the various individual buyers was compiled, which includes what appear to be a number of individuals making significant payments of money to purchase a residential property and who will have likely experienced significant concern and difficulty upon being informed that their monies were paid over to purchase new residential properties where, in some cases, the construction of that property had not even started. An example of the impact on the buyers can be seen in a report dated 3

March 2021 made by one of the buyers, Person FC. At this point, Person FC had personally made payments totalling £48,609.00 by November 2019 (notably £34,980.00 of that amount was not covered by warranty insurance and therefore not recoverable).

7.9. Person FC also represented a number of investors in the development, noting the impact on them - *"much angst, concern and worry has been caused and some people stand to lose significant sums in other projects."* Person FC wrote to the Firm on 2 February 2021 upon discovering that no progress had been made on the development and the payments had therefore been released in breach of contract. Notably, in the Firm's response dated 23 February 2021 they confirmed they had mistakenly released the funds without the contract conditions being fulfilled, going on to state, *"It is accepted that paying the deposits and construction instalments to ACCSL* [SPV1] *when they should have been held as a stakeholder by* [the Firm] *is therefore a breach of the SAR* [the Solicitors Accounts Rules] *and needs remedying"*. Person FC made a complaint to the SRA on 3 March 2021.

7.10. Mr [redacted] a senior paralegal in the Plot Sales Team at the Firm, had day to day conduct of the plot sales of Development C. He was based in the Manchester office and had worked in the Plot Sales Team for approximately 6 years. Mr [redacted] requested the incorrect payments of the buyer's deposit and instalment monies held under the contract.

7.11. The payments were authorised by the Respondent. The Respondent was based in London and did not supervise the activities of the Plot Sales Team but was the partner responsible for the client relationship with Company A (and was described as the "client partner" at the Firm). The Respondent failed, following Mr [redacted] payment requests, to personally check the terms of the underlying contracts to verify or ascertain that the conditions of the contracts had been met and that the DIPs and CIP monies were properly due to SPV1 before authorising the payments from the Firm's client account.

7.12. A number of the contracts provided required that Deposit Warranty Insurance was in place before the DIP's were converted from being held by the Firm as *stakeholder* to being held by the Firm as *agent*, the latter status enabling the Firm to release buyer's deposit payments to its seller client.

7.13. On 24 October 2019, Mr Johnson (Managing Director of Company A) emailed the Respondent, stating that the deposit warranty insurance for the development was in place. He provided the documents from the insurance company and asked the Firm to release the deposits. The attachments from the insurance company comprised of a direct debit mandate, an invoice for the sum of £108,158.23, a schedule with a quote

for the same sum and a generic policy document. Whilst the covering email from the insurance broker purported to have issued the deposit warranty insurance, a separate policy of insurance was not attached. On 15 February 2021, the insurance broker emailed Mr [redacted] (the Respondent was not copied in) with a list of outstanding points before the insurance policy could be issued, demonstrating that no deposit warranty insurance could have been in place in October 2019.

7.14. On 24 October 2019, the Respondent acknowledged the email of the same day from Mr Johnson and copied in Mr [redacted] stating: *will let you know the balance of all the deposits and when the funds are being transferred*". Mr [redacted] confirmed the balance totalled £238,947.42 and that he was *"requesting the transfer as we speak"*. Mr Johnson responded confirming "*Bacs is fine* [redacted]'. The first payment of £238,947.42 was made later that day.

7.15. As set out above, the issuing of the Supervisor's Certification was a necessary prerequisite before these construction instalment monies were released under the Contract for Sale that was in place in respect of Development C.

7.16. Between 17 December 2019 and 30 November 2020, £1,852,853.56 was paid from the Firm's client account to SPV1 in respect of the construction instalment monies held by the Firm. These payments were requested by Mr [redacted] to be authorised by the Respondent and were authorised by the Respondent despite no Supervisor's Certificate having been issued.

7.17. Gaddes Noble (solicitors for the buyer of one plot) raised enquiries with Mr [redacted] about the Supervisor's Certificate on 2 July 2020. Mr [redacted] forwarded this email to Mr Johnson who said he could provide the relevant information. It does not appear that this information was ever provided nor that Mr [redacted] followed this up with Mr Johnson.

7.18. Ridley and Hall Solicitors (solicitors for the buyers of three plots) also requested a copy of the Supervisor's Certificate in their enquiries dated 28 July 2020 to which Mr [redacted] responded on 30 July 2020 saying; "*please see attached enquiries with our responses in red*". In the responses Mr [redacted] had written "*attached*", referring to the Supervisor's Certificate however this was not in fact attached. Mr [redacted] went on to later confirm in his email dated 6 November 2020 that the Supervisor's Certificate will follow *"nearer to practical completion"* and *"should not hold up exchange"*. The Respondent was not copied into these emails communications.

7.19. Following these exchanges, Mr [redacted] continued to make payment requests in respect of the sales and the Respondent continued to approve these and asserts that he had no knowledge of the above communication from the buyers' solicitors.

7.20. It later transpired, following an email from Ayana Properties (the agent) dated 8 December 2020, that there had been no progress in building Development C. Images of the site (attached to the email) showed that the development works had not begun, and the site was still bare land so it was not possible for the Supervisor's Certificates to have been issued.

7.21. Following this communication in December 2020, the Respondent asserts that Mr [redacted] raised the matter, for the first time, with him and the Respondent immediately raised the matter with the correct internal escalation procedures.

7.22. As outlined above, by the time the errors had been identified, the Firm had released fifteen payments to SPV1 between 24 October 2019 and 30 November 2020 resulting in a total cash shortage of £2,599,733.56.

7.23. The Firm and its indemnity insurance company have repaid the monies into the client account.

7.24. An internal investigation was conducted, resulting in an investigation report dated 28 February 2021. The investigation report recommended formal disciplinary investigation, although disciplinary action was neither recommended nor taken against the Respondent . Recommendations were made in the report regarding systemic processes and training. The Firm accepted that there was no formal or documented process which required either client partners to supervise matters referred to the plot sale team, or for the plot sale team to escalate queries to client partners or other partners. The Firm appears to have accepted the Development C matter should have been handled by Manchester based partners who could have directly supervised Mr [redacted] work as opposed to the Respondent who was based in London as part of the commercial real estate team and not associated with plot sale work. The SRA understands that the Firm no longer conducts plot sales work.

Breaches of the Rules, Code of Conduct and Principles

7.25. It is alleged and admitted by the Respondent that the Respondent's conduct as set out above breached the relevant Principles and Rules as follows.

Principle 6 of the SRA Principles 2011 – You must behave in a way that maintains the trust the public places in you and in the provision of legal services

Principle 2 of the SRA Principles – You act in a way that upholds public trust and confidence in the solicitors' profession and in legal services provided by authorised persons

7.26. On 25 November 2019, the SRA issued Guidance entitled "Public Trust and Confidence". This Guidance states that clients assume that solicitors "*will protect their interests, money and assets*" and that the SRA will act where it sees "*conduct in a legal professional or firm which would question the trustworthiness and integrity of the profession, or delivery of regulated legal services*". In *Bolton v Law Society* [1994] WLR 512 it was said that solicitors must be *"trusted to the ends of the earth"*. A solicitor and client partner should be trusted to protect money held in their client account and comply with the terms of a contract before making payments out of the client account.

7.27. Members of the public would expect a solicitor and partner to protect money held as stakeholder by checking that key relevant contractual conditions had been met to trigger the release of the funds and ensuring that the money being released was properly due to the client before authorising its release from the client account. The SRA considers that, as a partner responsible for the client in the Respondent's position, he had ultimate responsibility for final sign off on the payment authorisations. The Respondent admits he should have taken further steps to properly ensure that the very large sums (£2,599,733.56 over a period of 13 months) being requested for payment were in fact properly due – for example, there is no evidence he reviewed the key relevant contractual documentation for Development C prior to authorising the release of the funds, and there is no evidence he made reasonable enquiries with a suitably qualified individual that those core contract terms had been complied with, instead relying on the request for payment being made by the relevant member of the Plot Sales Team. The monies involved belonged to over 40 buyers (many who appear to be individuals making what is assumed as significant payments to them personally for a residential home or investment).

7.28. The Respondent asserts that he relied on his understanding that the Plot Sales Team was properly supervised, properly managed and a self-contained full-service team, but he took no steps to verify that – when approached by an unqualified fee-earner to make very substantial payments – the supervision structure in the Plot Sales Team had approved of that unqualified fee-earner doing so. The Respondent admits he had very little understanding of how the Plot Sales Team was run and very limited interaction with the Plot Sales Team (based in the Manchester office of the Firm, while he was in the London office) but, despite this, the Respondent agreed to approve substantial payments without raising basic enquiries about whether the Firm was permitted to do so.

7.29. The Respondent admits that the public would expect an experienced solicitor and partner of the Firm, when being in a position of responsibility for very significant sums of client monies, to ensure that he took reasonable steps to safeguard those monies by conducting checks and enquiries as outlined above before approving the payment of those monies. The Respondent's conduct was therefore capable of damaging and undermining public trust and confidence in the profession and the ability of the profession to serve the public, in breach of Principle 6 of the SRA Principles 2011 and/or Principle 2 of the SRA Principles.

Principle 10 of the SRA Principles 2011 - You must protect client money and assets

7.30. The failure to adequately check the contract provisions prior to release of funds resulted in the improper payment of buyers' monies and caused a shortfall on the client account. The money was therefore not protected in accordance with the relevant contract. As outlined above, the Respondent admits he should have made enquiries to ensure the conditions precedent were fulfilled prior to authorising the payments.

Rule 20.1(a) of the SRA Accounts Rules 2011 - Client money may only be withdrawn from a client account when it is: (a) properly required for a payment to or on behalf of the client (or other person on whose behalf the money is being held)
Rule 5.1(a) of the SRA Accounts Rules - You only withdraw client money from a client account: (a) for the purpose for which it is being held.

7.31. The Respondent admits breaches of Rule 20.1(a) of the SRA Accounts Rules 2011 and Rule 5.1(a) of the SRA Accounts Rules 2019 in authorising the withdrawal of the deposit and instalment payments from the client account when they were not properly due under the relevant contract.

7.32. The Respondent admits that he failed to ensure the required contractual provisions were fulfilled prior to release of funds which resulted in the buyers' money being withdrawn from the client account improperly. The Respondent admits that he should have undertaken further measures to verify that the conditions of the contract had been met and the monies were properly due before authorising the release of the funds.

7.33. The process of having Partner approval of a payment being made out by another member of staff is an important safeguard in place to protect monies held by the Firm on behalf of a client or third party. The Respondent admits that he should not have relied on the information given by Mr [redacted] (who in turn had been given the information by the client instead of checking it himself), without checking its veracity. The Respondent further failed to take steps to ensure that a partner or another senior qualified individual in the Plot Sales Team had checked whether the contract

provisions had been met. As outlined above, this is particularly important in circumstances where the Respondent did not supervise Mr [redacted] work (or that of others in the Plot Sales Team), and where he accepted he had no direct knowledge of the work being undertaken by the Manchester-based Plot Sales Team, when he was a real estate partner in a different office (the London office).

Paragraph 4.2 of the SRA Code of Conduct for Solicitors, RELs, RFLs and RSLs - You safeguard money and assets entrusted to you by clients and others

7.34. The buyers' money was entrusted with the Firm and held by the Firm, under the contract, as stakeholder until the conditions in the contract had been satisfied. The conditions precedent to release of funds in the contract effectively acted as the safeguard for the money. The conditions in the contract had not been satisfied and, as such, the release of the monies was in breach of the contract. By failing to monitor compliance with these conditions and go on to authorise the release of funds, the Respondent admits he failed to safeguard the buyers' money appropriately.

Rule 5.2 of the SRA Accounts Rules - You appropriately authorise and supervise all withdrawals made from a client account

7.35. The relevant withdrawals of client money were inappropriately authorised due to the failure by the Respondent to verify the conditions precedent were satisfied. In these circumstances, the Respondent admits he breached Rule 5.2 in that the withdrawals were not appropriately authorised.

Non-Agreed Mitigation

8. The following mitigation, which is not endorsed or agreed by the SRA, is put forward by Mr Shepherd:

8.1. Prior to the instructions in respect of this matter, the Respondent had previously been introduced to the Plot Sales Team, by senior managers within the Firm, upon initial instructions from this client (on earlier transactions). The introduction was on the basis of the Respondent not having experience in this type of transaction (residential plot sales) and such work was not the focus of his practice. He relied on testimony and information provided regarding the nature of the Plot Sales Team including other partner recommendation and firm produced materials providing that the team was a self-contained team, appropriately experienced and competent to handle all aspects of plot sales work. A senior member of the team confirmed to Mr Shepherd that there were robust measures in place in respect of the operation of the Plot Sale Team as part of the initial engagement. The Respondent , however, accepts that he should

have taken further steps to explore how the team was supervised on a day to day basis and should have satisfied himself that this supervision was adequate.

8.2. The Respondent was not aware that Mr [redacted] did not have any legal qualifications and, mistakenly, assumed that recruitment to and employment within the Plot Sales Team of an international law firm would include appropriate verification of qualification and experience and relied on information provided asserting that Mr [redacted], and other team members, were appropriately qualified and experienced. The Respondent accepts that he placed too much reliance on the autonomy and operation of the Plot Sales Team and should, in line with the findings of the internal investigation, not have accepted the work from the client without an appropriate allocated supervisory structure in place and he was, ultimately, responsible for accepting the work from the client.

8.3. The Respondent acted, at all times, in good faith in respect of the matter relying on information provided by the client and by the Plot Sales Team. His interaction with the team was on a mistaken belief that they were self-contained and would request any guidance required.

8.4. Any perceived confirmation by the Respondent that the deposit warranty insurance was validly in place was mistakenly given on the basis of the information provided via the client and forwarded to Mr [redacted]. However, the basis of the information provided was also relied on, by solicitors acting for buyers who were significantly more experienced in these matters than the Respondent. The verification of the deposit warranty insurance not being in place only took place some time after the erroneous release of the construction payment instalments was identified.

8.5. The Respondent relied, in good faith, on Mr [redacted] factual assertion that the construction payment instalments were due to be released without any query or request being made by Mr [redacted] as to the verification of this. The Respondent's lack of day to day supervision of the Plot Sales Team meant he was not given access or sight of any contracts or communication with the counterparty to each sale. He, therefore, did not have the opportunity to verify or check the terms of the release and this appeared to be the standard practice of the Plot Sales Team. However, the Respondent accepts that it was his responsibility to ensure there was appropriate supervision and to have satisfied himself fully that the release of the monies was appropriate under the terms of the contract.

8.6. In respect of the email dated 15 February 2021, and referred to at paragraph 7.13 above, the Respondent asserts that he was not aware of this email.

8.7. In respect of the payment referred to at paragraph 7.17, the Respondent asserts that Mr [redacted] in day-to-day conduct of the matters, made no request of the Respondent to either check a specific issue in the contracts nor to provide any guidance on whether the construction instalment monies were due to be released and the Respondent failed to check/advise and, wrongly, accepted the payment request as confirmation the construction instalment monies were due to be released under the terms of the contract. The Respondent asserts that he was unaware there were no Certificates issued but failed to check the relevant terms of the contract to ascertain the basis of the trigger for release.

8.8. In respect of the email exchange on 2 July 2020, the Respondent asserts that he was not copied into this correspondence, and that he was not made aware of any correspondence in respect of this enquiry, or that the Supervisor's Certificate was outstanding. Further, the Respondent asserts that he was not, at this time, made aware that the payments previously released had therefore been made erroneously. There is no evidence that communication was made to the Respondent in respect of this.

8.9. In respect of the email correspondence of 6 November 2020, and referred to at paragraph 7.18 above, the Respondent asserts that he was not aware of any such communication and was not, in any way, consulted in respect of the responses made by Mr [redacted]

Proposed Sanction

9. Subject to the Tribunal's approval, it is agreed that the Respondent should receive a fine in the sum of £14,168.00. This sanction is considered to be in accordance with the Tribunal's Guidance Note on Sanctions (11th edition) (the Tribunal's Guidance), which adopts the approach set out in *Fuglers & Ors v Solicitors Regulation Authority [2014] EWHC 179 (*as per Popplewell J) and as set out in the Tribunal's Guidance at paragraphs 8 and 27 and, on the part of the SRA, has regard to the SRA's own guidance.

10. The misconduct which gives rise to the allegations falls into the category of 'more serious' (Level 3 of the Indicative Fine Bands (for Individuals)) and, as such, it would not be appropriate for the Tribunal to make no order, or apply a reprimand. Yet neither the protection of the public nor the reputation of the profession justifies a Suspension/Restriction Order or Strike Off. A fine is therefore appropriate in the circumstances.

Why such an order would be in accordance with the Tribunal's Sanctioning Guidance (11th Edition):

11. In respect of the level of culpability of the Respondent, it is noted that:

11.1. The Respondent was an experienced solicitor with 17 years PQE at the time of the misconduct.

The Respondent was in a position of authority, as the Client Partner for Company A, and he therefore had direct control of and overall responsibility for various arrangements including the safeguarding and release of monies held as stakeholder in the client account. The Respondent knew that the Firm were holding deposit monies on behalf of buyers. These monies were only due to be released when certain contractual provisions had been met. The Respondent failed to take adequate steps to personally verify the nature of these contractual conditions and that these had been satisfied before authorising monies to be released from the Firm's client account. The Respondent acted in breach of a position of trust. When interviewed, the Respondent described the checks and balances as "more of an administrative process rather than a judgment process".

11.2. The Respondent's misconduct occurred over a protracted period of 13 months between October 2019 to November 2020, within which he repeatedly authorised the release of funds from the Firm's client account, each time requested by Mr [redacted] to a total sum of £2,645,713.56.

11.3. As above the Respondent's conduct resulted in a total of £2,645,713.56 being improperly paid out of the Firm's client account. This had a direct impact on 40 buyers, reportedly causing some of them "*much angst, concern and worry*" and, as a consequence, risked undermining public confidence within the profession.

Mitigating Factors

12. The mitigating factors are that:

12.1. Upon the Respondent being made aware of the release of monies, the Respondent immediately made the appropriate internal referrals and cooperated fully with all internal investigations and remediation action.

12.2. The Respondent has cooperated fully from an early stage of the Applicant's investigation, making open admissions and demonstrating insight as well as apologising for his conduct.

12.3. The Respondent made no actual or intended gain from the conduct, and expressed an apology for any distress caused to buyers.

12.4. The harm to the buyers outlined above has been fully mitigated as financial losses incurred have been remedied - the Firm ensured that all improperly paid monies were repaid to buyers by itself and via its indemnity insurance company without challenge.

Aggravating Factors

13. The aggravating factor is that the conduct was repeated on several occasions over a period of time of 13 months.

Indicative Fine Bands

14. For the reasons explained above, in the overall assessment of seriousness of the conduct the Parties consider the conduct to be "*more serious*" and within Fine Band Level 3 of the indicative fine bands within the Tribunal's Sanction Guidance. Subject to the Tribunal's approval, the Parties have agreed to a fine of **£14,168.00.** The Parties believe this sum is proportionate to the seriousness and potential harm of the conduct, but duly reflects the admissions and mitigation advanced by the Respondent as well as his engagement with the Applicant's investigation.

15. The parties therefore consider that in light of the admissions set out above and taking due account of the guidance, the proposed outcome represents a proportionate resolution of the matter, which is in the public interest.

Costs

16. Subject to the approval of this Agreed Outcome Proposal, the SRA is agreeable to the following Order as to costs being made: £19,000.00 inc VAT. The SRA is satisfied that this is a reasonable and proportionate contribution by the Respondent in the circumstances of this case, which adequately reflects the seriousness of the conduct.

Signed:
For and on behalf of the Respondent
Date: 8 May 2025

Signed:
For and on behalf of the SRA
Date: