

Enforcement Decision Notice

28 September 2021

The CLC provided **Mr James Keogh** with a Warning Notice dated 21 May 2021 (the **Warning Notice**) setting out its intention and reasons for imposing sanctions.

It has carefully considered the response to the Warning Notice received on 29 June 2021 and 12 July 2021.

The CLC has decided to impose the sanctions below for the reasons set out in the Warning Notice and Annex 1 below.

The below table is a summary provided for your assistance.

Respondent Name: James Keogh

#	Breach of the CLC Code of Conduct and Handbook	Sanction imposed by CLC
1.	Numerous breaches to the CLC Code of Conduct and Handbook, as follows: <ul style="list-style-type: none">• Code of Conduct• Disclosure of Profits and Advantages• Conflicts of Interest• Complaints• Estimates and Terms of Engagement• Anti-Money Laundering and Combatting Terrorist Financing• Accounts• Management and Supervision	A financial penalty of £25,000 which represents a collective penalty for numerous breaches to the CLC's codes and the associated aggravating factors outlined in the Warning Notice and within this Enforcement Decision Notice.
Total Sanctions Imposed:		1. Financial Penalty: £25,000 2. Disqualification from holding any post or role in any CLC Licensed Body.

Under paragraph 15.1 of the ABS Framework an individual who is dissatisfied with any CLC enforcement determination may appeal against the determination. Should you wish to appeal against this determination, you must submit a Notice of Appeal to the CLC within 28 days of being notified of this determination.

A Notice of Appeal should comply with Rule 20 of the Adjudication Panel Procedure Rules and should include:

- the name and address of the appellant;*
- the name and address of the appellant's representative (if any);*
- an address where documents for the appellant may be sent or delivered;*
- the statutory provision to which the proceedings relate;*
- details of the decision or act, or failure to decide or act, to which the proceedings relate;*
- the result the appellant is seeking; and*

(g) the grounds on which the appellant relies.

Appeals to CLC enforcement determinations are considered by the Adjudication Panel who may decide on sanctions which are more or less severe than those proposed in this Enforcement Decision Notice and award costs to follow the event.

Under Rule 16 of the Adjudication Panel Procedure Rules a person who wishes the Adjudication Panel to decide whether the substantive decision should be stayed or suspended must make a written application to the Adjudication Panel which must include the grounds on which the person making the application relies.

ANNEX 1

After carefully considering the Respondent's responses to the Warning Notice, the CLC's reasons for deciding to impose the above sanctions are outlined below:

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>1. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) was dishonest; and/or</p> <p>b) breached both or alternatively either of principles 1 and 5 of the Code of Conduct; and/or</p> <p>c) failed to achieve outcome 5.1 of the Code of Conduct; and/or</p> <p>d) is evidence that you are not a fit and proper person to hold a position as a manager of an ABS Licensed by the CLC.</p>	<p>a. Following requests by CLC inspectors for a copy of the advice provided to clients on file 55664.005, including in relation to the risks of entering the Stamp Duty Mitigation Scheme you stated in an email dated 26 February 2020 that this was, "Not applicable as this client was provided with advice by a separate advisor. No advice was given to this client by Stratega Law."</p> <p>b. Stratega and/or one or more of its trading styles including "Stratega Advisory Services" (SAS) has provided taxation advice to clients on file 55664.005.</p>	<p>The Respondent has rejected the allegation that his conduct breached the Code of Conduct and that he is not a fit and proper person to hold a post or role within an Alternative Business Structure (ABS) regulated by the CLC.</p> <p>The Respondent disputes that there is any evidence on matter 55664.005 that he provided tax advice and rather, asserts that 1) the "file only contains documents relating to the process of refunding client money" and 2) "the only service carried out on behalf of the clients was to assist them in communications with HMRC".</p> <p>A widely accepted definition within legal services of "tax adviser" is: "means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services."</p> <p>The Respondent repeats and relies on his letter to the clients dated 14 June 2016 that, "We will seek appropriate third party advice as necessary on your behalf", to assert that the advice provided was not provided by the Respondent (and/or Stratega Law Limited (Stratega) and/or one or more of its trading styles including SAS). Notwithstanding, no copies of the third party advice relied on by the Respondent to formulate the correspondence to the clients dated 14 June 2016 (email), 23 March 2017, and/or 19 October 2017 and/or 26 October 2018 was provided. The CLC is of the view that this documentation has not been provided either because it does not exist or because, as the Respondent states, "in line with normal practice (after 7 years [sic]), the conveyancing file has been purged from the client database". However, given the dates of the activity on the file, such destruction of a client file is contrary to the CLC Transaction Files Code requirements to retain such files for six years.</p> <p>CLC remains of the view that the circumstantial evidence and the inability of the Respondent to be able to evidence his assertion that a "separate advisor" provided tax advice, support the conclusion that the Respondent and/or Stratega and/or one or more of its trading styles including SAS, provided the tax advice.</p>

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		<p>The CLC does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <p>It is noted that the Respondent asserts, "<i>During the inspection visit, the RM repeatedly made reference to a "Stamp Duty Mitigation Scheme involving an annuity".</i>" This is untrue. Although the phrase "Stamp Duty Mitigation Schemes" was referred to, specific references to "an annuity" in the context of Stamp Duty Mitigation Schemes is not something the "RM" (RSM) was familiar with or used when discussing such matters at the time of the inspection.</p> <hr/> <p>Separately, it is noted that the Respondent's response raises additional concerns about apparent breaches of the CLC's Codes by the Respondent and/or Stratega.</p> <p>Although these additional breaches are noted below, they have had no bearing on the sanction imposed in this Decision Notice. The CLC does however reserve the right to bring further allegations against the Respondent (and/or Stratega (the ABS) and/or other directors/managers of Stratega) in the future in relation to these breaches and considers that the conduct associated with these breaches is demonstrative of the Respondent's character, lack of awareness and/or disregard for the CLC's Code of Conduct and Handbook and further evidence of his unfitness to hold a role or post in any CLC regulated Licensed or Recognised Body.</p> <p>The first of these is in relation to the breach to Rule 9 of the Transaction Files Code as mentioned above.</p> <p>The second of these relates to breaches to the Code of Conduct. The Respondent notes in his response to the Warning Notice that in his letter to the clients dated 26 October 2018 he "<i>confirmed that the sum of £8,970 was still being held on trust by Slaw and was repayable to the Clients on demand.</i>" The CLC notes that the Respondent did indeed state in his letter to the clients of 26 October 2018 that "<i>the sum of £8,970 is being held by Stratega Law in escrow and is repayable on demand</i>".</p> <p>However, these statements are dishonest as the matter listings dated 30 September 2018 and 31 October 2018 confirm that no client ledger existed, nor were any funds held on client account, in respect of matter 55664.005 or under the clients' names. It is also not the case that the funds were held in another client account, based on the Respondent's response to allegation 2, where he states, "<i>we had no other account [than</i></p>

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		<p>the client account] (<i>save for our business (office) account</i>), and those funds were held safely and held to the clients instructions as protected monies on trust, and without any loss to the client. Those funds would not have been held in this manner if they were transferred to any unregulated account.”</p> <p>Ultimately, following a request from the clients, Stratega refunded the clients the success fee of £8,970 on 12 November 2019. At that time, as evidenced in the bank statements held by the CLC, the funds associated with this refund were transferred from office account to client account prior to making the refund payment to the clients from client account. The office ledger then shows a deficit of £8,970. The evidence combined confirms that the success fee had not, contrary to the Respondent’s assertions to the clients and the CLC in his response to the Warning Notice, been held on client account on trust during the intervening period.</p>
<p>2. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) breached all or alternatively any of principles 1 of the Code of Conduct; and/or</p> <p>b) failed to adhere to specific requirement 1(n) of the Code of Conduct; and/or</p> <p>c) failed to adhere to paragraph 9.1.3 of the Accounts Code (in force until 30 September 2020); and/or</p> <p>d) is evidence that you are not a fit and proper person to hold a position as a</p>	<p>a. You used the Stratega client account and/or office account for the provision of tax advice.</p> <p>b. Tax advice is not regulated by the CLC.</p>	<p>The Respondent in his response has rejected the allegation that his conduct breached the Code of Conduct and the Accounts Code and that he is not a fit and proper person to hold a post or role within an ABS regulated by the CLC.</p> <p>Simultaneously, the Respondent stated that he, “<i>recognise(s) that, technically, as soon as the nature of the monies held on the client account above changed, technically those monies became part of an unregulated matter and therefore should have been held in an unregulated bank account.</i>”</p> <p>It is admitted by the Respondent that the funds associated with matter 55664.005 “<i>became part of an unregulated matter</i>” and “<i>should have been held in an unregulated bank account</i>”, however he disputes that tax advice was provided in matter 55664.005. As outlined above at Allegation 1, the CLC considers the advice provided to the clients in matter 55664.005 to have included tax advice.</p> <p>Based on the evidence and the Respondent’s response, the CLC does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <hr/> <p>Separately, it is noted that the Respondent’s response raises additional concerns about apparent breaches of the CLC’s Codes by the Respondent and/or Stratega.</p>

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<p>d) [REDACTED]</p>	<p>[REDACTED]</p>	
<p>4. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) was dishonest; and/or</p> <p>b) breached both or alternatively either of principles 1 and 5 of the Code of Conduct; and/or</p> <p>c) failed to achieve outcome 5.1 of the Code of Conduct; and/or</p> <p>d) is evidence that you are not a fit and proper person to hold a position as a manager of an ABS Licensed by the CLC.</p>	<p>a. Following a request from the CLC by email dated 18 February 2020 for "a list of all files where you act on both sides and written evidence that clients have agreed to this" you:</p> <p>b. By email on 26 February 2020, advised the CLC of only two matters where Stratega acted on both sides of the same transaction.</p> <p>c. You knew or ought to have known at the time of sending the email on 26 February 2020, that Stratega was acting on both sides of the transaction on more than two matters.</p>	<p>The Respondent's response is that, "This information is not available via a Proclaim report. In order to comply with the CLC's request in a timely manner in February 2020, the only way I could respond at that time was to ask colleagues to provide such information. I was advised that there were 2 current cases and, in the absence of any alternative information, and in particular in respect of the CLC's broad and generalised request, this formed my response to the CLC in good faith".</p> <p>The CLC does not accept the Respondent's response for the reasons that:</p> <ol style="list-style-type: none"> 1) His response is lacking in detail in that he states that he was advised by colleagues but does not state who those colleagues were. 2) If the request could not be responded to, the Respondent should have asked for more time to properly collate this information. Instead, the Respondent chose to provide information to the CLC which was incomplete. 3) The request was quite specific and not "broad and generalised" as is asserted by the Respondent. <p>The CLC does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>5. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) was dishonest; and/or</p>	<p>a. In response to an email from the CLC to the practice dated 17 May 2019 requesting the practice, "confirm if you [the practice] have any clients who have currently provided instruction to pay a reduced SDLT rate, and who they are":</p>	<p>The Respondent in his response refutes the allegation and considers the CLC to be mistaken as to the circumstances surrounding this allegation.</p> <p>With reference to what the Respondent asserts in relation to a misunderstanding about file numbers, the file numbers for the four matters referred to as bullet points under paragraph b. of the Nature of Allegation, had been taken directly from the correspondence included in the files provided to the CLC by the Respondent during the inspection on 26 February 2020 (matters: [REDACTED]). If there has been a misunderstanding based on file numbers, the</p>

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<p>b) breached both or alternatively either of principles 1 and 5 of the Code of Conduct and/or</p> <p>c) failed to achieve outcome 5.1 of the Code of Conduct; and/or</p> <p>d) is evidence that you are not a fit and proper person to hold a position as a manager of an ABS Licensed by the CLC.</p>	<p>(i) You sent an email on 5 August 2019 advising the CLC that Stratega would not accept client referrals from Cornerstone Tax Advisors after 1 April 2019.</p> <p>(ii) You advised that there were currently two legacy Cornerstone referred clients instructed prior to 1 April, which were still live, and yet to complete:</p> <p style="padding-left: 40px;">i. 67251.002</p> <p style="padding-left: 40px;">ii. 67437.002</p> <p>b. On 26 February 2020 you sent an email to the CLC confirming that SAS <i>continue</i> to undertake work in relation to four ongoing matters which relate to stamp duty mitigation. The four matters advised were:</p> <ul style="list-style-type: none"> • 55497.002 – [REDACTED] • 55290.002 - [REDACTED] • 55497.002 - [REDACTED] • 55425.001 - [REDACTED] <p>c. Stratega and/or one or more of its trading styles including "Stratega Advisory Services" pursued these matters (which were ongoing at the time) without disclosing them to the</p>	<p>misunderstanding has come about as a result of the file numbers on the correspondence in the files provided to the CLC by the Respondent on 26 February 2020.</p> <p>Additionally, the Respondent's response attempts to suggest that details relating only to Cornerstone referred work was requested in the CLC's email dated 17 May 2019, however that was not the case. The CLC's request in its email dated 17 May 2019 was not limited to seeking details of legacy Cornerstone files, but rather, directed the Respondent to, "<i>Please also confirm if you have any clients who have currently provided instruction to pay a reduced SDLT rate, and who they are</i>". In his response of 5 August 2019, the Respondent advised that there were two legacy Cornerstone referred clients which were still live and yet to complete but did not provide the CLC with details of any other clients who had provided instruction to pay a reduced SDLT rate, as requested.</p> <p>The Respondent's assertion that, "<i>They were not referrals from Cornerstone for regulated services so it was not necessary to disclose to the CLC</i>" is therefore not only incorrect based on the CLC's request of 17 May 2019, but demonstrative of the Respondent's dishonesty, and misconduct in not being open and honest in his dealings with the CLC.</p> <p>The Respondent's dishonesty in this regard causes the CLC to deduce that the Respondent was deliberately obscuring the CLC's investigation, not only to downplay the number of live SDLT files (which are considered professionally and ethically dubious), but also so that the apparent conflicts of interest risks would not be identified, which are highly aggravating features of this allegation.</p> <p>The Respondent's conduct to date leads the CLC to conclude that the circumstantial evidence (such as there being a similarity with other files which were Cornerstone referrals) suggests that the four matters (matters: [REDACTED]) were Cornerstone referrals or in some way connected. The Respondent's statement that the "<i>files have been purged from the Slaw cause management system in accordance with standard practice i.e. over 7 years old</i>", provides the CLC with further cause for concern of further attempts to deliberately obscure the CLC's investigations, so that the apparent conflict of interest risks, would not be identified. Given the dates of the activity on the files, such destruction of a client files is also contrary to the CLC Transaction Files Code requirements to retain such files for six years.</p> <p>There is ample evidence of the Respondent's involvement with Stratega and Cornerstone. In an email dated 17 December 2018 timed at 23:25, the Respondent advised the CLC that he had "<i>the status of an authorised representative of Cornerstone</i>".</p>

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	<p>CLC in your email of 5 August 2019.</p>	<p>However, the Respondent, in his email dated 29 June 2019, asserts that he has consistently advised the CLC that his “<i>relationship with Cornerstone Tax Ltd was on an arm’s length business relationship</i>”. These two statements are contradictory.</p> <p>Additionally, the Respondent has not responded to the evidence which shows him being described by employees of Stratega (and/or one of the practice’s former names and/or trading styles) as Stratega’s “<i>recommended tax consultant from Cornerstone</i>” with the email address, jkeogh@ctatax.uk.com. There is also evidence that two former employees of Stratega used both Stratega and Cornerstone email addresses. When previously queried about the Cornerstone email addresses being used by staff of Stratega, during a meeting with the CLC on 27 February 2019, neither the Respondent nor Mr James Marshall of Stratega were able to provide a satisfactory answer as to why these email addresses existed.</p> <p>The CLC considers that the Respondent (and Mr Marshall) failed to respond on this point because to do so truthfully would have required one or both of them to admit they had been dishonest with the CLC about the Respondent and/or Stratega’s relationship with Cornerstone. To do so would also confirm the relationship created a conflict of interest between the Respondent’s role as an agent/recommended tax consultant of Cornerstone and his role as director of Stratega.</p> <p>Subsequently, during a meeting with the Respondent and Mr Marshall on 10 July 2019, the CLC were advised that the use of Cornerstone email addresses was an IT issue, after the email addresses were established to assist in consulting Cornerstone who were specialists in estate planning. The CLC is not persuaded on the balance of probabilities that this was the truth and that the Respondent (and Stratega) acted independently and without conflict in compliance with Principle 1 of the Code, particularly in light of the Respondent’s abovementioned comments that he was an authorised representative of Cornerstone and because Stratega’s staff referred to him in emails to clients as Stratega’s “<i>recommended tax consultant from Cornerstone</i>”.</p> <p>Accordingly, the CLC does not consider that the allegation should be withdrawn or amended. In addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <p>The Respondent has indicated he is unclear on what is meant by the CLC’s allegation, “<i>your involvement with Stratega and Cornerstone Tax creates a conflict of interest when referring clients which you admitted, happened</i>”. For the avoidance of doubt what is meant by this is that referrals from Cornerstone to Stratega happened (which is</p>

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		<p>admitted) and that the Respondent's involvement with both Stratega and Cornerstone creates a conflict of interest (as outlined above).</p> <hr/> <p>Separately, it is noted that the Respondent's response raises additional concerns about apparent breaches of the CLC's Codes by the Respondent and/or Stratega. As mentioned about, these breaches relate to the failure to retain files in accordance with the Transaction Files Code.</p> <p>Although these additional breaches are noted, they have had no bearing on the sanction imposed in this Decision Notice. The CLC does however reserve the right to bring further allegations against the Respondent (and/or Stratega (the ABS) and/or other directors/managers of Stratega) in the future in relation to these breaches and considers that the conduct associated with these breaches is demonstrative of the Respondent's character, lack of awareness and/or disregard for the CLC's Code of Conduct and Handbook and further evidence of his unfitness to hold a role or post in any CLC regulated Licensed or Recognised Body.</p>
<p>6. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) lacked integrity; and/or</p> <p>b) breached both or alternatively either of principles 1 and 5 of the Code of Conduct; and/or</p> <p>c) failed to achieve outcome 5.1 of the Code of Conduct; and/or</p> <p>d) failed to adhere to specific requirement 9 of the</p>	<p>a. On 26 February 2020 you sent an email to the CLC confirming that SAS continue to undertake work in relation to four ongoing matters related to stamp duty mitigation. The four matters advised were:</p> <ul style="list-style-type: none"> • 55497.002 – [REDACTED] • 55290.002 - [REDACTED] • 55497.002 – [REDACTED] • 55425.001 – [REDACTED] <p>b. At the request of the CLC you provided CLC inspectors with a copy of documents from these matter files.</p>	<p>The Respondent's response is to "<i>refute the allegation of dishonesty in this matter</i>" and considers the CLC to have "<i>simply got the facts wrong</i>". The Respondent goes on to say that, "<i>The 4 ongoing matters did not relate to regulated services provided after a referral from Cornerstone</i>".</p> <p>Ultimately, whether or not the four ongoing matters related to regulated services, and whether or not they arose from a referral from Cornerstone, is irrelevant to this allegation. There is no mention of Cornerstone or the Respondent's relationship with Cornerstone, in this allegation. The allegation focuses on a failure to co-operate with integrity to a reasonable request from CLC by the Respondent by 1) failing to provide copies of any or all of the advice he provided to the clients (that is, copies of the full files) to the CLC and 2) that such files were not available within Stratega's case management system (CMS) upon searching the file numbers included on the correspondence within the files provided to the CLC by the Respondent on 26 February 2020. The allegation does not allege dishonesty.</p> <p>Accordingly, it is noted that the Respondent has chosen not to respond directly to the allegation. However, some of the Respondent's responses to other allegations are</p>

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<p>Transaction Files Code; and/or</p> <p>e) is evidence that you are not a fit and proper person to hold a position as a manager of an ABS Licensed by the CLC.</p>	<p>c. The documents provided did not include copies of any or all of the advice you provided to the clients.</p> <p>d. The CLC searched Stratega's case management system to review the files, however all search results returned the result, "Stop...case does not exist!".</p>	<p>relevant. In the interests of fairness, these responses have been taken into consideration.</p> <p>In his response to allegation 5, the Respondent asserts a misunderstanding about file numbers. If there had been a misunderstanding based on file numbers which resulted in the CLC's inability to locate the files in Stratega's CMS, the Respondent in his response, could have advised the CLC of the correct file numbers. The Respondent did not do so.</p> <p>Further, we note the Respondent's response to allegation 5 where he states, "<i>The matters referred to in this allegation involving a non-regulated service and all documents, including Letters of Engagement, were held in a manual file</i>". The CLC understands "<i>manual file</i>" to be a paper or physical file, rather than an electronic file contained in a CMS.</p> <p>In the response dated 8 April 2021 to required action 52 of the Monitoring Inspection Report dated 25 February 2021, it was stated, "<i>All archived Stratega Law files are stored on a durable medium</i>". In Stratega's further response dated 29 June 2021, they clarify their earlier response of 8 April 2021 and confirm that, "<i>the durable medium is a hard drive on a computer that stores the documents, by for example, as you will have seen in the accessed files on our CMS 'proclaim'</i>".</p> <p>The responses confirm that contrary to how files are generally retained by Stratega, files which relate to stamp duty mitigation schemes are not stored within the CMS. Stratega have not clarified why they adopt this different approach given there is no prohibition on practices using the same CMS for regulated and unregulated work. Inconsistently with this approach, it is noted that Stratega did not seek to separate client funds in the same way when they used the office account and regulated client account for stamp duty mitigation scheme work.</p> <p>Accordingly, if stamp duty mitigation scheme files are retained in "manual files", the CLC considers that they are maintained in this way in order to obscure the CLC's attempts at investigating, via the CMS, these matters which had not been previously advised to the CLC (in response to the CLC's email of 17 May 2019) for the reason they are professionally and ethically dubious (per allegation 5).</p> <p>By way of example, in the [REDACTED] and [REDACTED] matters, the paper file provided to the CLC only contained copies of the Letter of Engagement, an unsigned letter of authority for Stratega Law Limited (not SAS or any other trading style) to liaise with</p>

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		<p>HMRC, a template letter to “Specialist Investigations” (presumably drafted by the Respondent and provided to the client to finalise and send), and (in relation to the [REDACTED] matter only) an email in relation to signing the Letter of Engagement.</p> <p>There is no context on the file in relation to the existence of the template letter to “Specialist Investigations”. Ordinarily, the CLC would expect that there should be some explanation of what this letter is and instructions associated with it. However, nothing of the sort was evidenced on the file provided by the Respondent to the CLC on 26 February 2020.</p> <p>On the [REDACTED] and [REDACTED] matters however, the files contain letters of advice from the Respondent dated 29 October 2018 and 8 November 2018 respectively, which enclose a “<i>template letter which can be used if you wish to take this option</i>”. This is the same template letter addressed to “Specialist Investigations” contained on the [REDACTED] and [REDACTED] files, however the letter of advice enclosing it, as evidenced on the [REDACTED] and [REDACTED] matters, was not provided with those ([REDACTED] and [REDACTED]) files.</p> <p>The CLC considers therefore that the documents provided to the CLC were selectively extracted from the files and provided by the Respondent to the CLC on 26 February 2020 and did not include copies of any or all of the advice the Respondent provided to the clients. The CLC’s comments in relation to the Respondent’s conduct being deliberate to obscuring the CLC’s investigation so that the potential conflicts of interest risks would not be identified (as outlined under allegation 5 above) are also relevant to this allegation.</p> <p>Accordingly, the CLC does not consider that the allegation should be withdrawn or amended. In addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>7. Whilst a Director of Stratega, you acted in such a way as to breach the Council for Licensed Conveyancers' Code of Conduct, and in doing so, your conduct:</p> <p>a) was dishonest; and/or</p>	<p>a. By email of 1 February 2021 you advised the CLC that Stratega had agreed with Millers, its PII provider, to pay by instalments.</p> <p>b. You attached a letter of 31 July 2020 from Millers, to Stratega, in support of your claim.</p>	<p>The Respondent has provided a lengthy response to this allegation including to set out a chronology of communications with Miller. His response is that the CLC’s allegation is factually incorrect and that the CLC have chosen to ignore the Respondent’s email of 11 February 2021. However, the CLC considers that the Respondent’s response omits reference to some of the facts.</p> <p>The Respondent contends that there had been an agreement to pay by instalments which was different to the plan for payments to be made in instalments in the manner outlined in the letter of 31 July 2020.</p>

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<p>b) breached both or alternatively either of principles 1 and 5 of the Code of Conduct; and/or</p> <p>c) failed to achieve outcome 5.1 of the Code of Conduct; and/or</p> <p>d) is evidence that you are not a fit and proper person to hold a position as a manager of an ABS Licensed by the CLC.</p>	<p>c. You knew that Stratega and Millers had not agreed for payment to be made in instalments in the manner outlined in the letter of 31 July 2020, and you knew that the letter of 31 July 2020 was sent to Stratega by Millers in error.</p>	<p>The Respondent states,</p> <p><i>“iii) After being advised that Premium Credit had withdrawn the finance facility, I entered into an open and transparent dialogue with Millers regarding the payment of the premium. I agreed a payment plan with [REDACTED]. Firstly, to pay £32,606.22 being the refund of monies already paid to Premium Credit and then to agree a plan to pay the balance.”</i></p> <p>The CLC does not accept that an agreement to pay £32,606.22 was struck between Miller and the Respondent on behalf of Stratega Law, following Premium Credit's decision to withdraw the finance facility. In an email dated 2 November 2020, [REDACTED], asked the Respondent, <i>“Did you pay the £40k refund from Premium Credit over to us?”</i> The Respondent asked Miller for bank details and rather than pay £40,000, paid the sum of £32,606.22 to Miller on 4 November 2020. Although it may have been the case that Miller were mistaken as to the amount to be refunded from Premium Credit and paid over to Miller, the Respondent did not clarify this and there is no evidence that an “agreement” was struck at this time. It is also disputed by Miller that any such agreement was entered into (email from [REDACTED] dated 18 February 2021 timed at 14:59, referred to further below).</p> <p>The Respondent's response to the Warning Notice omits full details of the response provide by Miller dated 12 November 2020 timed at 15:09 in response to the Respondent's email dated 12 November 2020 timed at 14:14.</p> <p>The exchange on 12 November 2020 was as follows:</p> <p>Email from the Respondent to [REDACTED] of Miller:</p> <p><i>“Hi [REDACTED]</i></p> <p><i>Ref the balance of the PI premium. If, after the payment of £32,606.22, we were able to pay say another £30,000, this would leave a balance more or less equal to the amount of credit which Premium Credit had financed in previous years. As they were prepared to accept this risk then, can you ascertain whether this would now be acceptable?</i></p> <p><i>Best regards</i></p> <p><i>Jim”</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>Email from ██████████ of Miller to the Respondent: <i>"Dear Jim,</i></p> <p><i>Thank you for your email. Please find attached a correct statement of balance as it stands at the moment.</i></p> <p><i>If you could please pay an addition £30k as soon as possible, that will help significantly. With regards to Premium Credit, I will ask this question and let you know. We also have a relationship with Wesleyan, it would be worthwhile applying for a loan through them as well. You can do this via their own portal - https://miller.firstfinanceit.com.</i></p> <p><i>Kind regards"</i></p> <p>As at 12 November 2020, Miller confirmed that although an additional £30,000 payment would "help", they were simultaneously encouraging Stratega obtain alternative finance in order that their premium would be paid in full. Again, there is no evidence that an "agreement" was struck at this time.</p> <p>The Respondent's response to the Warning Notice further states:</p> <p><i>"v. Thereafter, a continuous dialogue was maintained between myself and ██████████. It not true that I failed to respond to ██████████."</i> The CLC's evidence indicates that this statement is not true and that ██████████ sent the Respondent four emails (dated 19 November 2020, 4 December 2020, 23 December 2020 and 8 January 2021) without receiving any response from the Respondent. In fact, ██████████ confirmed in an email dated 18 February 2021 to the CLC, <i>"That attached email of the 12th November [referred to above] was the last correspondence I received from him until 1st Feb"</i>.</p> <p>The Respondent asserts a telephone conversation with ██████████ occurred on 23 December 2020 after which a payment of £10,000 was made the same day. In an email to the CLC dated 29 January 2021, ██████████ advised the CLC that, <i>"Premium Credit refunded the instalments they took and the client paid most of that over to us in at the start of November. We did receive further two payments from the client in December, without warning [emphasis added], but after following up asking for a plan as to how to clear the balance I still have not had a response. We gave the client some grace given the original problem but too much time has now passed and the lack of a response is quite frankly rude."</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>It is the CLC's view that had the Respondent spoken to ██████████ on 23 December 2020 as asserted, an agreement would have been made at that time between Miller and the Respondent on behalf of Stratega to send a further £10,000. However, ██████████ email to the CLC dated 29 January 2021 which states the December payments were received "without warning", indicates that no such agreement, nor conversation, ever occurred. The email dated 29 January 2021 from ██████████ also indicates the Respondent's assertions that he maintained a continuous dialogue with ██████████, are untrue.</p> <p>The Respondent further states:</p> <p><i>"vi. A timetable for payment was agreed and implemented. At no time was I informed that this was not satisfactory and the timetable and agreement was clearly accepted."</i></p> <p>The CLC does not accept that a timetable for payment was agreed and implemented. If such a timetable had been agreed and implemented, Miller would have had no reason to contact the CLC raising their concerns relating to Stratega. Further, in an email to the CLC dated 18 February 2021 timed at 14:08, ██████████ confirmed that no agreement had been struck in the terms asserted by the Respondent in his email to the CLC dated 11 February 2021, which forms the basis of this allegation against the Respondent. ██████████ stated:</p> <p><i>"Unfortunately we did not have an agreement as per the below (the Respondent's email to the CLC of 11 February 2021). I attach an email where the client offered to make a second payment but that was in no way of me accepting an instalment plan and I think that's clear in my email. You will see in that email that I was still trying to get the client to arrange finance with another provider."</i></p> <p>Lastly, the Respondent states, "</p> <p><i>"vii. In my email dated 11 February 2021, I referred to the agreement to pay the balance of the premium in instalments. This did not refer to the instalment plan(s) originally agreed with Miller/Premium Credit as those instalment plans had been cancelled by that date. The term "in instalments" referred to the timetable agreed with ██████████ which was implemented. I used the term "in instalments" in its literal sense i.e. the Oxford Dictionary definition which defines such payments as: "One of a number of instalments that are made over a period of time until something is paid for".</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>It is noted that the Respondent has not provided details of the “timetable” agreed with ██████████ which was implemented. For the reasons outlined above, the CLC considers that this is because that no such timetable was ever agreed with ██████████ and that if such a timetable existed, this would be in writing. Rather, the Respondent on behalf of Stratega only paid Miller the balance owing to Miller in two instalments following a demand by the CLC to do so on 29 January 2021.</p> <p>On the basis of the CLC’s reasons above, the CLC does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <hr/> <p>Again separately, it is noted that the Respondent’s response raises the prospect of further allegations against the Respondent for breaches to the CLC’s Code of Conduct. The Respondent stated, “<i>Thereafter, a continuous dialogue was maintained between myself and ██████████ It not true that I failed to respond to ██████████</i> in circumstances where ██████████ emails to the CLC dated 29 January 2021 and 18 February 2021 indicate the Respondent’s statement to be untrue.</p> <p>Although the additional breach is noted, it has had no bearing on the sanction imposed in this Decision Notice. The CLC does however reserve the right to bring further allegations against the Respondent in the future in relation to this breach and considers that the Respondent’s dishonesty is demonstrative of the his character, lack of awareness and/or disregard for the CLC’s Code of Conduct and Handbook and further evidence of his unfitness to hold a role or post in any CLC regulated Licensed or Recognised Body.</p>
<p>8. Your conduct in relation to Allegation 8 caused or substantially contributed to Stratega:</p> <p>a) breaching both or alternatively any of principles 1 and/or 2 and/or 3 of the Code of Conduct; and/or</p> <p>b) failing to achieve outcome 3.1 of the Code of Conduct; and/or</p>	<p>Stratega acted on both sides of the same transaction, and an unauthorised person was on one side of the same transaction.</p>	<p>The Respondent’s response is, “<i>I was of the knowledge and belief that Jeremy Kotze supervised his team to an extent that whilst work was conducted on files by an unauthorised person, Jeremy had overall control of such files and authorised the key events. Due to no client complaints, losses or legal practice breaches, I in good faith and acting reasonably, relying on outcome focused protocol, had no reason to doubt my belief that this supervision was carrying on, was incorrect</i>”.</p> <p>The Respondent’s response indicates that he accepts the CLC’s position that the arrangements for acting on both sides were non-compliant with the Conflicts of Interest Code, however that he had no knowledge to believe those arrangements were inappropriate or “<i>incorrect</i>”.</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>c) failing to adhere to specific requirement 6 of the Conflicts of Interest Code; and/or</p> <p>d) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>		<p>However, the Respondent's response is inconsistent with the responses received from Stratega to the Warning Notice dated 21 May 2021 directed at the ABS which was to assert that all matters, where Stratega acted for the buyer and the seller in the same transaction, had been supervised and in the control of an Authorised Person.</p> <p>Rule 6 does not permit un-Authorised Persons, supervised by Authorised Persons, to act in circumstances where the entity represents parties with different interests in a transaction. Any interpretation of rule 6 to suggest that this is permitted is done erroneously.</p> <p>If in the alternative the Respondent pleads that the matters which formed the subject of this allegation were supervised by Authorised Persons, the CLC found evidence that work was not adequately supervised during the inspection and are not persuaded that there is an appropriate level of supervision at the practice. This gives the CLC cause for concern, particularly with regard to unauthorised persons acting where the practice acts on both sides of transactions.</p> <p>In either scenario, as the Managing Director and a manager of Stratega, which is a small firm comprised of three directors, the Respondent takes an active role in the management of the practice. Therefore, the CLC does not consider the Respondent to be so far removed from day to day operations to render him not responsible for ensuring compliance with the CLC's codes.</p> <p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>9. Your conduct in relation to Allegation 9 caused or substantially contributed to Stratega:</p> <p>a) breaching all or alternatively any of principles 2 and/or 3 of the Code of Conduct; and/or</p>	<p>Stratega did not advise its clients of the issues and risks associated with it acting on both sides of the same transactions.</p>	<p>The Respondent's response is to refute that the breaches occurred, aside from in relation to file 62408.002, and to state that acting on both sides letters were sent on certain dates.</p> <p>The CLC accepts that the acting on both sides letters advising of the issues and risks were sent during the course of the transactions, however such letters were sent long after the instructions to act on both sides were accepted by Stratega, in contravention of rule 7 of the Conflicts of Interest Code. Accordingly, the Respondent has not provided the CLC with a response which satisfies the CLC that the breaches never occurred.</p>

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<p>b) failing to achieve outcomes 2.1 and/or 3.1 of the Code of Conduct; and/or</p> <p>c) failing to adhere to specific requirement 7 of the Conflicts of Interest Code; and/or</p> <p>d) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>		<p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>10. Your conduct in relation to Allegation 10 caused or substantially contributed to Stratega:</p> <p>a) breaching all or alternatively any of principles 2 and/or 3 of the Code of Conduct; and/or</p> <p>b) failing to achieve outcomes 2.1 and/or 3.1 of the Code of Conduct; and/or</p> <p>c) failing to adhere to specific requirement 8 of the Conflicts of Interest Code; and/or</p> <p>d) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>	<p>Stratega did not obtain written consent that it could operate on both sides of the same transactions.</p>	<p>The Respondent's response is to refute that the breaches occurred and to state that acting on both sides letters were signed on certain dates.</p> <p>The CLC accepts that Stratega obtained written consent that it could operate on both sides of the same transactions, however such written consent was obtained long after the instructions to act on both sides were accepted by Stratega, in contravention of rule 8 of the Conflicts of Interest Code. Accordingly, the Respondent has not provided the CLC with a response which satisfies the CLC that the breaches never occurred.</p> <p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>11. Your conduct in relation to Allegation 11 caused or substantially contributed to Stratega:</p>	<p>Stratega acted on both sides of the same transaction and an unauthorised person acted on both sides of the transaction.</p>	<p>The Respondent's response is, "<i>I was of the knowledge and belief that Jeremy Kotze supervised his team to an extent that whilst work was conducted on files by an unauthorised person, Jeremy had overall control of such files and authorised the key events. Due to no client complaints, losses or legal practice breaches, I in good faith</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>a) breaching all or alternatively any of principles 1 and/ or 2 and/or 3 of the Code of Conduct; and/or</p> <p>b) failing to achieve outcome 1.1 of the Code of Conduct; and/or</p> <p>c) failing to achieve outcome 3.1 of the Code of Conduct; and/or</p> <p>d) failing to adhere to specific requirement 6 and/or 9 of the Conflicts of Interest Code; and/or</p> <p>e) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>		<p><i>and acting reasonably, relying on outcome focused protocol, had no reason to doubt my belief that this supervision was carrying on, was incorrect</i>".</p> <p>The Respondent's response indicates that he accepts the CLC's position that the arrangements for acting on both sides were non-compliant with the Conflicts of Interest Code, however that he had no knowledge to believe those arrangements were inappropriate or "<i>incorrect</i>".</p> <p>As the Managing Director and a manager of Stratega, which is a small firm comprised of three only directors, the Respondent takes an active role in the management of the practice. Therefore, CLC does not consider the Respondent to be so far removed from day to day operations to render him not responsible for ensuring compliance with the CLC's codes.</p> <p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>12. Your conduct in relation to Allegation 12 caused or substantially contributed to Stratega:</p> <p>a) breaching principle 2 of the Code of Conduct; and/or</p> <p>b) failing to achieve outcomes 2.1 and/or 2.2 and/or 2.3 of the Code of Conduct; and/or</p> <p>c) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>	<p>Stratega failed to meet the deadline for submitting Land Tax Returns.</p>	<p>The Respondent's response is, "<i>This is refuted. It is not a disciplinary matter just because we (under instruction from and in conjunction with our client as their agent) fail to submit a LTR in time. That is a matter for our client and us. In any event your allegation states ("fail to make the deadline for making payments in relation to Stamp Duty Land Tax). The values of these properties meant that whilst a LTR was required to be submitted, the SDLT was zero, so no "payments" were applicable "in relation to Stamp Duty Land Tax".</i></p> <p>Since providing the Warning Notice, the CLC and the Respondent have agreed to amend the allegation as follows:</p> <p><i>Stratega failed to meet the deadline for <u>submitting Land Tax Returns</u> [REDACTED].</i></p> <p>Accordingly, the Respondent has admitted that Stratega failed to meet the deadline for submitting Land Tax Returns, which resulted in numerous penalties being levied by HMRC.</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>13. In providing the Completion Statements which included the estimates of 9 June 2020 and/or 1 July 2020 and/or 6 July 2020 Stratega:</p> <p>a) were dishonest (in that you deliberately under-estimated your fee for conveyancing work); and or</p> <p>b) breached principles 1 (in that your conduct lacked integrity) and/or 3 of the Code of Conduct; and/or</p> <p>c) failed to comply with specific requirement 8.5 of the Estimates and Terms of Engagement Code.</p> <p>In the alternative, in sending the bill of 2 September 2020 and/or 9 September 2020 and/or 10 September 2020 Stratega:</p> <p>a) were dishonest (in that Stratega did not complete the conveyancing work which was billed); and/or</p> <p>b) breached principles 1 (in that your conduct lacked integrity)</p>	<p>Stratega deliberately under-estimated its fee for conveyancing work or in the alternative, failed to provide clients with revised cost estimates or in the alternative, billed clients for conveyancing work which it did not complete.</p>	<p>The Respondent's response is, "<i>On all of these matters, we have invoiced our costs in accordance with our retainer and terms of engagement with the client. Those invoices have been accepted by the clients (in the absence of any complaint otherwise), and paid.</i></p> <p><i>"The "estimate" of costs and disbursements are just that. It is not a "quote". It is described as such with consent and authority from the CLC and clearly states on this that it based on the information we received at the time, which was merely a "flat" or "office" purchase from the same seller, who was not the original developer. The additional work that forms the invoice is contained in our terms of engagement and invoiced accordingly. There is no dishonesty. There is no deliberate undercharging [sic]."</i></p> <p>The Respondent has not provided the CLC with evidence of having 1) agreed the final bills with clients on any/or all files under the prefixes 68162, 68163 and 68164 (although this is not a requirement) 2) provided clients with revised cost estimates in the vicinity of the final bills or 3) performed all of the work billed for, as part of its response.</p> <p>Firstly, there is no requirement under the Estimate and Terms of Engagement Code for clients to accept bills of costs. The requirements are rather, to provide an estimate of proposed fees, disbursements and other expenses, which if expected to be exceeded, is promptly advised to the client with an explanation and revised estimate. Additionally, the absence of a client complaint does not confirm that clients were not overcharged, nor that they agreed to the final bills.</p> <p>We note that Stratega's Terms of Engagement include a table of additional work that is not envisaged under the estimates or the Completion Statements provided on 9 June 2020, 1 July 2020 and 6 July 2020 (the Completion Statements). It is also important to note that in the matters under prefix 68162, there are a number of emails sent to the client that refer back to the estimate and costs generally. This shows that Stratega were well aware of the costs estimate and their obligation to provide revised estimates during the transaction, which there is no evidence they did.</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>and/or 2 and/or 3 of the Code of Conduct; and/or</p> <p>c) failed to achieve outcome 2.1 and/or 2.2 and/or 2.3 and/or 3.2 of the Code of Conduct; and/or</p> <p>d) breached paragraph 12.1.4 of the Accounts Code (in force until 30 September 2020); and/or</p> <p>e) failed to comply with specific requirement 8.5 and/or 8.6.3 and/or 9 of the Estimates and Terms of Engagement Code.</p>		<p>Stratega's Terms of Engagement also state that if the matter becomes substantially more time consuming or complex then they reserve the right to invoice for the work performed and send a fresh estimate for the balance of the transaction. We note Stratega have not provided evidence in its response that updated estimates in the vicinity of the final sums billed to clients were provided to the clients.</p> <p>Additionally, the bill of costs dated 2 September 2020 on matter 68162.005 has been totalled incorrectly as has the bill of costs dated 9 September on matter 68163.006. The breakdown outlined in bills of costs on matters 68163.006 and 68164.003, both totalling £15,588 (including VAT), are made up of time costs, not disbursements. The bills of costs on matters 68163.006 and 68164.003 are exact replicas notwithstanding that there were three property transactions associated with the matter 68163.006 and only two property transactions associated with matter 68164.003. One or both bills of costs are inaccurate on this basis.</p> <p>Additionally, given that Stratega charged on the basis of time spent, per the Terms of Engagement, it is highly doubtful that all work streams listed in the bills of cost would have taken exactly the same amount of time.</p> <p>The Respondent further responds that, "<i>The conveyancing work was completed which was billed... This is a matter of fact which is proved and therefore the allegation is refuted entirely</i>".</p> <p>This aspect of the Respondent's response is factually incorrect (if not dishonest and/or misleading), in that there is evidence that the bills under prefixes 68162, 68163 and 68164:</p> <ul style="list-style-type: none"> • inconsistently duplicate fees on some matters but not on others (i.e. for AML search fees) • charge fees for work which was never performed (i.e. for simultaneous exchange and completion setup fees) • refer to disbursements which were never incurred as fees charged on a time basis where no time was recorded (i.e. telegraphic transfers) • charged fees on a time basis 1) in circumstances where no time was recorded, for 2) work which is not recoverable due to their being inherent to conveyancing transactions and accordingly, expected to be included in the Standard Conveyancing Fee quoted (i.e. dealing with 3rd party lawyers). <p>Notwithstanding all of these points, the full amounts outlined in the bills of costs were charged to the clients on each matter.</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction								
		<p>On each matter under prefixes 68162, 68163 and 68164, the CLC have concluded that Stratega should be limited to relying on the estimates provided in the Completion Statements. In circumstances where the matters did not reach the point of exchange, the CLC does not consider the bills of costs in these matters amount to “<i>a reasonable charge...made in respect of work carried out, together with any expenses incurred on your behalf and VAT</i>”, as stated within Stratega’s Terms of Engagement.</p> <p>In any event conveyancing is charged on a fixed fee basis and if a transaction is not straightforward then additional costs should be discussed with the client at the time the matter becomes not straightforward. Any extra work in addition to the basic fee should be reflected in a revised quote and importantly. Stratega are also bound by the Informed Choice Rules.</p> <p>In fixed fee conveyancing transactions the CLC considers that it is typical and reasonable for a conveyancing practice to charge abortive fees in the vicinity of the following table:</p> <table border="1" data-bbox="1104 786 2072 978"> <tbody> <tr> <td data-bbox="1104 786 1776 826">Searches ordered and initial setup completed</td> <td data-bbox="1776 786 2072 826">40% of legal fee</td> </tr> <tr> <td data-bbox="1104 826 1776 898">Local or environmental search results reviewed and initial enquiries raised</td> <td data-bbox="1776 826 2072 898">50% of legal fee</td> </tr> <tr> <td data-bbox="1104 898 1776 938">Title reviewed and exchange achieved</td> <td data-bbox="1776 898 2072 938">75% of legal fee</td> </tr> <tr> <td data-bbox="1104 938 1776 978">Purchase completed</td> <td data-bbox="1776 938 2072 978">100% of legal fee</td> </tr> </tbody> </table> <p>Based on the stage the matters under prefixes 68162, 68163, 68164 had reached when Stratega ceased to act, the CLC considers that Stratega should have charged no more than 60% of the Standard Conveyancing Fee quoted in the estimates provided in the Completion Statements. For the avoidance of doubt, the CLC considers that Stratega should be limited to the charges set out in the Completion Statements such that the additional fees (of which some are actually disbursements) charged in the bills of costs, are not recoverable.</p> <p>The CLC considers that the client in matters under prefix 68162 should have been charged a maximum fee of £8,000 plus VAT (representing 60% of the Standard Conveyancing Fee of £16,000 (inclusive of VAT and disbursements) as quoted in the Completion Statement). In circumstances where the client was charged £84,470 plus VAT, this amounts to an overcharge of £76,470 (VAT exclusive).</p>	Searches ordered and initial setup completed	40% of legal fee	Local or environmental search results reviewed and initial enquiries raised	50% of legal fee	Title reviewed and exchange achieved	75% of legal fee	Purchase completed	100% of legal fee
Searches ordered and initial setup completed	40% of legal fee									
Local or environmental search results reviewed and initial enquiries raised	50% of legal fee									
Title reviewed and exchange achieved	75% of legal fee									
Purchase completed	100% of legal fee									

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>The CLC considers that the client in matters under prefix 68163 should have been charged a maximum fee of £1,984.30 plus VAT (representing 60% of the Standard Conveyancing Fee of £3,968.60 (inclusive of VAT and disbursements) as quoted in the Completion Statement). In circumstances where the client was charged £12,990 plus VAT, this amounts to an overcharge of £11,005.70 (VAT exclusive).</p> <p>The CLC considers that the client in matters under prefix 68164 should have been charged a maximum fee of £1,534.30 plus VAT (representing 60% of the Standard Conveyancing Fee of £3,068.60 (inclusive of VAT and disbursements) as quoted in the Completion Statement). In circumstances where the client was charged £12,990 plus VAT, this amounts to an overcharge of £11,455.70 (VAT exclusive).</p> <p>The CLC does not accept that the bills on matters under prefixes 68162, 68163 and 68164 were appropriate based on the actual work performed under the Terms of Engagement and Completion Statements and the Respondent has not provided evidence which confirms to the CLC that Code of Conduct and/or Estimates and Terms of Engagement Code has not been breached.</p> <p>Further, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <hr/> <p>Separately, again it is noted that the Respondent's response raises the prospect of further allegations against the Respondent for breaches to the CLC's Code of Conduct. The Respondent stated, "<i>The conveyancing work was completed which was billed...This is a matter of fact which is proved and therefore the allegation is refuted entirely</i>". This is not true as various charges for work as itemised in the final bills were never performed.</p> <p>Although the additional breach is noted, it has had no bearing on the sanction imposed in this Decision Notice. The CLC does however reserve the right to bring further allegations against the Respondent in the future in relation to this breach and considers that the Respondent's dishonesty is demonstrative of the his character, lack of awareness and/or disregard for the CLC's Code of Conduct and Handbook, lack of</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>14. Your conduct in relation to Allegation 14 caused or substantially contributed to Stratega:</p> <p>a) breaching principles 1 and/or 2 and/or 3 of the Code of Conduct, and/or</p> <p>b) failing to achieve outcome 3.1 of the Code of Conduct, and/or</p> <p>c) failing to adhere to specific requirement 6 and/or 9 of the Conflicts of Interest Code.</p>	<p>The Money Laundering Reporting Officer of Stratega, Jeremy Kotze, worked on the opposite side of the same transaction as James Marshall.</p>	<p>insight and further evidence of his unfitness to hold a role or post in any CLC regulated Licensed or Recognised Body.</p> <p>The Respondent's response is that, "You cannot allege that I have breached the rules due to a RISK that a conflict arises. We do not consider that Jeremy Kotze (as MLRO) acting on the other side constituted a conflict of interest. There is a risk on every file that there may be a conflict of interest. It is our duty to identify such a conflict, and act accordingly IN THE EVENT THAT THE CONFLICT ARISES. If a conflict arose as a result of Jeremy Kotze being the MLRO then AT THAT MOMENT he must act, in such circumstances that being relinquishing instructions on the matter to avoid the conflict arising."</p> <p>The allegation made by the CLC is that the conduct amounted to a breach of the Codes. The extent to which any risks materialised is a matter which may aggravate or mitigate the breach.</p> <p>Rule 6 of the Conflicts of Interest Code states, "Where the entity represents parties with different interests in any transaction each party is at all times represented by different Authorised Persons conducting themselves in the matter as though they were members of different entities.</p> <p>The CLC considers that it is not possible for a Money Laundering Reporting Officer to act on one side of a transaction where the practice acts on both sides, whilst also conducting themselves as though they were a member of a different entity.</p> <p>The CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>15. Your conduct in relation to Allegation 15 caused or substantially contributed to Stratega:</p> <p>a) breaching all or alternatively any of principles 1 and/or 2 of the Code of Conduct; and/or</p>	<p>Stratega did not obtain any or adequate documentation verifying the client's source of funds and or source of wealth.</p>	<p>The Respondent's responses are generally to refute the allegations on the basis that the evidence has already been provided to the CLC.</p> <p>It is assumed that the evidence already provided to the CLC, as referred to by the Respondent, is the documentation provided by Stratega in response to the actions required by the Inspection Report dated 25 February 2021 (the Inspection Report). This documentation had already been reviewed by the CLC at the time of finalising the Inspection Report (and the Warning Notice directed to the Respondent).</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>b) failing to achieve outcomes 1 and/or 2 and/or 3 and/or 4 and/or 5 and/or failing to adhere to specific requirements 6 and/or 7 and/or 10(b) and/or 11 of the Anti-Money Laundering and Combatting Terrorist Financing Code (in force until April 2018); and/or</p> <p>c) failing to achieve outcomes 1 and/or 2 and/or 3 and/or 4 and/or 5 and/or failing to adhere to specific requirements 6 and/or 7 and/or 10(b) and/or 11(c) and/or 12 of the Anti-Money Laundering and Combatting Terrorist Financing Code currently in force; and/or</p> <p>d) failing to adhere to specific requirement 9 of the Management and Supervision Arrangements Code.</p>		<p>It is the CLC's view that Stratega's verification of clients'/beneficial owners' source of funds and/or source of wealth was inadequate on the subject files and it was on this basis, that the CLC raised this allegation in the Warning Notice. No further evidence to satisfy the CLC that adequate checks were undertaken has been provided by the Respondent or Stratega. The CLC considers this is because no such evidence exists.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>16. Your conduct in relation to Allegation 16 you caused or substantially contributed to Stratega:</p> <p>a) breaching all or alternatively any of principle 5 of the Code of Conduct; and/or</p> <p>b) failing to adhere to specific requirements 6 and/or 7 and/or 9(a) and or 9(d) of the Anti-Money Laundering and</p>	<p>You have failed to ensure that Stratega satisfactorily complied with actions required by the Inspection Report dated 25 February 2021.</p>	<p>The Respondent's response is, "<i>We consider the Inspection Report responded to. You have since taken a view that this is not the case, and we have fully complied with your further comments. This is a normal course of relations with a regulator as a result of a report that took 12 months to send. To formally allege that we have failed is unjust, unfair and unreasonable. This is therefore refuted, and we shall continue to liaise with you as we have been doing so in a friendly progressive non aggressive manner befitting of our profession</i>".</p> <p>The CLC considers that various actions required by the Inspection Report were not satisfactorily complied with as outlined by the CLC's emails dated 21 May 2021 timed at 09:25 and 31 August 2021 timed at 14:24. The Respondent has failed to provide evidence in his response that Stratega had satisfactorily complied with the actions</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>Combatting Terrorist Financing Code;</p> <p>c) failing to achieve outcomes 7 and 8 of the Management and Supervision Arrangements Code.</p>		<p>required by the Inspection Report (as at the date of the Warning Notice). The CLC considers this is because no such evidence can exist.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p> <p>Although irrelevant to the substance of this allegation, it is necessary for the CLC to comment on the Respondent's reference to "a report that took 12 months to send". This is understood by the CLC to be the Inspection Report. In that regard, and in order to continue and complete the monitoring inspection of Stratega (and in turn finalise the Inspection Report), the CLC requested remote access to Stratega's case management system (CMS) on 2 March 2020. After much obstruction from Stratega's directors, access was finally granted by the practice on 5 October 2020, such obstruction having caused no less than a seven month delay in the CLC's investigation and finalisation of the Inspection Report.</p>
<p>17. Your conduct in relation to Allegation 17 caused or substantially contributed to Stratega breaching outcome 12 of the Disclosure and Profits Advantage Code.</p>	<p>You allowed Stratega to fail to have a written referral agreement in place to set out the referral arrangement Stratega had with Hill and Standard Developments.</p>	<p>The Respondent's response is, "<i>James Marshall advised you at the meeting in Cheam a year ago and in our reply to the Inspection report that Hill & Standard Developments are not a referrer of work – they are a client!</i>"</p> <p>It is not disputed that Hill & Standard Developments are a (developer/seller) client of Stratega, as evidenced by the reviews undertaken at the monitoring inspection. However, in addition to being a client of Stratega, there is evidence that Hill and Standard Developments are also, and/or have been, a referrer of (purchaser) clients for clients purchasing properties in Hill and Standard Developments own developments. Notwithstanding, there is no evidence that Stratega have a written referral agreement in place to set out the referral arrangement with Hill and Standard Developments.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>18. [REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
	<ul style="list-style-type: none"> A Money Laundering Reporting Officer who took responsibility to receive suspicion reports and make reports to the NCA. 	<p>Additionally, some actions still remain unresolved. Having reviewed Stratega's responses dated 29 June 2021 to the CLC's email dated 21 May 2021 timed at 09:25, required actions 29, 30 and 33 are yet to be fully resolved.</p> <p>Additionally, there are some comments made by the Respondent in his response which must be responded to.</p> <p>Firstly the Respondent asserts that Stratega's policies have been sufficient and that there have been no clients of the practice who have been convicted of any AML offences related to any failings in the practice's AML Policy or training. The CLC considers Stratega's AML policies to have been insufficient as outlined in the Inspection Report and the CLC's emails of 21 May 2021 timed at 09:25 and 31 August 2021 timed at 14:24. Additionally, the absence of known convictions for money laundering offences is not evidence that either the AML policies were sufficient or that Stratega's management arrangements, systems and controls were appropriate.</p> <p>The Respondent also asserts that there has been yearly staff AML training. As outlined in the Inspection Report, the CLC found no evidence that this was the case and that at the time of the inspection in February 2020, Stratega's training records indicated that the last in-house training was provided to a limited selection of staff in February 2018. It is acknowledged that staff were provided limited AML email updates, but staff themselves confirmed they had not been provided any formal training, to the extent that staff were unsure who the MLRO was. The AML failings on the files reviews are further demonstrative of the failure to provide adequate AML training to staff at the practice.</p> <p>It is also asserted by the Respondent that the reporting policy was in the practice's office manual which was not provided with the Respondent's response. The CLC can only assume that office manual is that the "Stratega's Core Policies" document dated 2013 which was provided to the CLC ahead of the inspection but which does not include the procedures for internal suspicious activity reporting. Rather, Stratega's Core Policies' reporting procedures relate to reporting in the context of whistleblowing and complaints of workplace bullying/harassment. The CLC accepts however that Stratega's AML Policy (in force at the time of the inspection) did include details for reporting suspicious activity, however it was somewhat unclear and non-compliant in that it provided for staff submitting suspicious activity reports (rather than the MLRO).</p> <p>In relation to the Respondent's assertions that Stratega did have a system for management and retention of SARs received, the CLC repeats and relies on the findings outlined in the Inspection Report. This failure is demonstrated by the fact that Stratega</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>has not been able to respond adequately to required action 33 by providing the CLC with a copy of the suspicious activity report which was mentioned by the then MLRO, Mr Kotze, as having been submitted by Mr Marshall prior to the inspection. Additionally, the original SAR record provided to the CLC by Stratega in response to the Inspection Report, was blank (no SARs were recorded).</p> <p>Lastly, the Respondent in his response (dated 29 June 2021) asserts that the MLRO for Stratega is Mr Kotze. Given, the CLC were advised previously on 8 April 2021 that Mr Marshall has taken over as MLRO, the CLC considers this error by the Respondent to be further evidence of a collective failure to put appropriate management arrangements, systems and controls in place to comply with money laundering regulations. Additionally, and as mentioned above, although the CLC accept that Stratega's AML Policy (in force at the time of the inspection) did include details for reporting suspicious activity, it is non-compliant in that it provides for staff submitting suspicious activity requests and is not sufficiently clear on the internal and external reporting processes.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>20. Your conduct in relation to Allegation 20 caused or substantially contributed to Stratega breaching specific requirement 6 and/or 9e of the Anti-Money Laundering and Combating Terrorist Financing Code.</p>	<p>You allowed Stratega to not obtain, and/or certify, and/or verify the identification of donors and/or beneficial owners.</p>	<p>The Respondent's response is to refute the allegation on the basis that evidence has already been provided to the CLC and/or the CLC have had the opportunity to review the information on the various files. The allegation is also refuted on the basis that some clients were "<i>a recommendation from a long standing client of JCM [Mr Marshall] whom was a friend of said client</i>" or "<i>personally know to JCM [James Marshall]</i>".</p> <p>The Respondent has not included copies of the evidence previously provided to the CLC in support of his response. Notwithstanding, the CLC has received this evidence with the documentation provided with the email from James Marshall dated 29 June 2021 timed at 17:04 in response to the CLC's email dated 21 May 2021 timed at 09:25, which has been considered with the Respondent's responses in the interests of fairness.</p> <p>The CLC had already viewed the evidence provided by James Marshall on 29 June 2021. Stratega's verification of donor's and/or beneficial owners' was inadequate on these files and it was on this basis, that the CLC raised this allegation in the Warning Notice. No further evidence to satisfy the CLC that adequate checks were undertaken</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>has been provided by the Respondent or Stratega. The CLC considers this is because no such evidence exists.</p> <p>Furthermore, it is not acceptable to dispense with the requirement to conduct due diligence on donors or beneficial owners on the basis that such individuals are recommended by longstanding clients or are personally know. It is both a legal and regulatory requirement that such details are verified.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>21. Your conduct in relation to Allegation 21 caused or substantially contributed to Stratega breaching specific requirement 11c of the Anti-Money Laundering and Combating Terrorist Financing Code.</p>	<p>You allowed Stratega to not verify or adequately verify source of funds, and/or wealth.</p>	<p>The Respondent's response is, "<i>Our engagement processes, AML results and client declarations did not lead to any suspicion on our part to doubt that the equity provided by these clients were not the proceeds of crime. That is the test. That test was not met</i>".</p> <p>It is noted that the Respondent has chosen not to respond directly further by providing evidence of the verification undertaken, however the CLC has received this evidence with the documentation provided with the email from James Marshall dated 29 June 2021 timed at 17:04 in response to the CLC's email dated 21 May 2021 timed at 09:25, which has been considered with the Respondent's responses in the interests of fairness.</p> <p>The CLC had already viewed the evidence provided by James Marshall on 29 June 2021. Stratega's verification of source of funds and/or wealth was inadequate on these files and it was on this basis, that the CLC raised this allegation in the Warning Notice. No further evidence to satisfy the CLC that adequate checks were undertaken has been provided by the Respondent or Stratega. The CLC considers this is because no such evidence exists.</p> <p>Further, the CLC considers the Respondent to be mistaken as to the test and/or requirements for verifying clients' source of wealth, which further demonstrates the previously reported AML training failures. It is obvious that without verifying a client's source of funds (and if necessary, wealth), it is impossible to identify any suspicion.</p> <p>In that regard, the AML & CTF Code, at paragraph 11c, requires that, "<i>you be satisfied that the client's economic position, wealth and lifestyle correspond with the proposed</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p><i>transaction</i>". The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) require conveyancing practices to take a risk based approach. Regulation 28(11)(a) requires specifically that, "<i>the relevant person must conduct ongoing monitoring of a business relationship, including (a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, the customer's business and risk profile</i>".</p> <p>Additionally, the Legal Sector Affinity Group Guidance (which the CLC endorses and which forms part of Stratega's AML Guidance for Staff) at section 6.17.2 states:</p> <p><i>"Source of Funds refers to the funds that are being used to fund the specific transaction in hand – i.e., the origin of the funds used for the transactions or activities that occur within the business relationship or occasional transaction. The question you are seeking to answer should not simply be, "where did the money for the transaction come from," but also "how and from where did the client get the money for this transaction or business relationship. It is not enough to know the money came from a UK bank account"</i>.</p> <p>The LSAG Guidance goes on to say that:</p> <p><i>"The types of data and documents that you use for verification of Source of Funds will vary depending on the circumstances and the information that the customer provides to you. The SoF pertains directly to the funds that are being used to fund the specific transaction in hand i.e., the origin of the funds used for the transactions or activities that occur within the client's business relationship with you. Checking this means ascertaining where those funds came from, how they were accumulated by the client and ensuring on a risk-based approach that they are not the proceeds of crime. SoF is not simply be limited to knowing from which financial institution the funds in question may have been transferred, except where the financial institution is providing financing for the transaction e.g., via mortgage. It should also not be limited to checking that the client's name matches the name on the account.</i></p> <p><i>...the information obtained should be substantive and establish a provenance or reason for having been acquired e.g., salary, gift etc. Acquiring bank statements, Wills, full payslips, audited financial accounts showing funds disbursed to the client, sales/purchase agreements, receipts of other transactions or similar documentation may all be useful in establishing source of funds. Establishing income from share capital,</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p><i>business activities, a bequest of gift etc. can also help you. In circumstances where a client declares that they have been given funds for a transaction from a third party you may wish to record information relating to that original transaction too. You may verify this by requesting bank statements and other relevant documentation relating to this transfer. SoF can often be difficult to determine without some understanding of the source of wealth of the individual. This can particularly be the case where the funds for a transaction have become mixed with other funds in an account. Here, to understand the SoF, you may need to have an awareness of the SoW of the individual, although your level of confidence in the source of wealth in such a case, should be considered on a risk-based approach."</i></p> <p>In the matters which are the subject of this allegation, there are numerous failures in adhering to the above outlined sections of the AML & CTF Code, the MLRs and LSAG Guidance as outlined in the Inspection Report. As stated previously, no further evidence to satisfy the CLC that adequate checks were undertaken has been provided by the Respondent or Stratega and the CLC considers this is because no such evidence exists.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>22. Your conduct in relation to Allegation 22 caused or substantially contributed to Stratega breaching specific requirement 11a of the Anti-Money Laundering and Combating Terrorist Financing Code.</p>	<p>You allowed Stratega to receive client money into its client account prior to obtaining, and/or certifying, and/or verifying the identity of clients.</p>	<p>The Respondent's response is, "<i>Whilst we undertook significant conveyancing work on these files, ID, client contact and source of wealth remained a consideration throughout as we had not received valid documents. Ultimately, as a result of multiple suspicions regarding these clients, including that the promised documents and confirmations were never forthcoming, we ended our retainer before exchange of contracts and completion, the reasoning's [sic] contained in a detailed email of which you already have.</i>"</p> <p>It is noted that the respondent's response does not directly respond to the allegation that Stratega received client money into its client account prior to obtaining, and/or certifying, and/or verifying the identity of clients. The Respondent also does not provide any evidence to confirm the CLC are mistaken in their findings as evidenced on the client files.</p> <p>It is the CLC's view that allowing clients to pay funds (with the exception of expected disbursements) into the client account prior to having undertaken all the required verification (including of their identify and source of funds and/or wealth), demonstrates</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		<p>a fundamental flaw in Stratega's risk controls related to anti-money laundering, which exposes the practice to a real risk of money laundering and its directors to criminal prosecution under the Proceeds of Crime Act 2002 (and disciplinary action from the CLC).</p> <p>The Respondent further states, that <i>"We did the right thing. How it can be alleged that we did not is ludicrous"</i>. The CLC considers that this response again demonstrates that the Respondent is mistaken as to the requirements of the AML & CTF Code and the MLRs and that there has been a fundamental failure in Stratega's AML training programme, as reported in the Inspection Report. The response also shows a lack of insight into the wider misconduct associated with these matters which are those referred to allegation 13 above.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>23. Your conduct in relation to Allegation 23 caused or substantially contributed to Stratega:</p> <p>a) breaching all or alternatively any of principles 1 and/ or 2 of the Code of Conduct; and/or</p> <p>b) failing to achieve outcome 2 and/or 3 and/or 4 of the Anti-Money Laundering and Combating Terrorist Financing Code; and/or</p> <p>c) failing to adhere to specific requirement 6 and/or 7 and/or 9c of the Anti-Money</p>	<p>You allowed Stratega to complete a purchase transaction for clients who were gifted funds from a Chinese bank account without satisfying itself that the gifted funds were permissible under Chinese Regulations.</p>	<p>The Respondent's response is, <i>"This was not my file, under my supervision, it was under that of the HOFA and MLRO. In any event we have explained that we are reasonably entitled to assume that, receiving the monies from a UK bank account, which this was (not China), did not require further investigation if that individual was successful at transferring monies from china to that UK bank account, it is reasonable to assume that this was undertaken with the requisite authority, otherwise such transfers would not be permitted. We have now implemented the risk assessment process which will ask further questions of source of wealth (whether the test of suspicion is met or not, and whether significant investigations into overseas funds (whenever they arise) amounts to racial profiling. On that matter we require further guidance from CLC."</i></p> <p>The CLC's email to Stratega dated 21 May 2021 timed at 09:25, confirmed that, <i>"The LSAG Guidance 2021 (as contained in your AML Guidance for Staff folder) at page 100 states, "For the avoidance of doubt, any assumption that funds are not the proceeds of crime because they have come from a UK-based bank which would have applied its own CDD, is incorrect and may be viewed as a breach of requirements by your AML supervisor."</i></p> <p><i>Just because funds originate from the UK does not mean they are exempt from further investigation and/or explanation. All evidence should be reviewed and the source of all</i></p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
<p>Laundering and Combating Terrorist Financing Code.</p>		<p><i>funds, evidenced, no matter where the origin, and further information requested when necessary and on a risk basis."</i></p> <p>The Respondent's response (of 29 June 2021) has failed to accept the CLC's (and other regulators') position in relation to accepting funds originating from China. It is the CLC's view that at best, the response fails to recognise the existence of, risks and methods associated with Chinese underground banking, at worst, it seeks to enable/continue to transact in contravention of the CLC's direction.</p> <p>Overall, the Respondent's response again demonstrates a serious and fundamental failure in Stratega's AML training programme, as reported in the Inspection Report which has resulted in a concerning lack of understanding of the various requirements in relation to AML, in particular in this instance in relation to funds originating from China.</p> <p>Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>
<p>24. Your conduct in relation to Allegation 24 caused or substantially contributed to Stratega breaching specific requirement 7 of the Anti-Money Laundering & Combating Terrorist Financing Code & Guidance.</p>	<p>You allowed Stratega's Practice Wide Risk Assessment not to properly assess the risk of Money Laundering.</p>	<p>The Respondent's response is, "<i>The current assessment is low, however at the time the mentioned transactions were undertaken the AML risk should have been medium. That being said, our AML processes were compliant in verifying ID including the provision of information as to source of funds. Such information once collated together did not raise any suspicions that the funds used were the proceeds of crime, and neither, since, have we been contacted by the police or any other agency with regard to any convictions levied to these clients that in fact, the funds were the proceeds of crime</i>".</p> <p>The Respondent's response admits that the AML risk assessment did not properly assess the risk of Money Laundering in that it incorrectly rated the level of risk as low, when it should have been medium.</p> <p>It is noted that the Respondent considers "<i>our AML processes were compliant in verifying ID including the provision of information as to source of funds</i>". For the reasons outlined above and in the Inspection Report, the CLC does not agree. Even if such processes (and AML policy documents) were compliant, this would have no bearing on the adequacy of the practice wide risk assessment for the reason that the two are unrelated.</p>

Allegation	Nature of Allegation	CLC's Reasons for Sanction
		Accordingly, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.
<p>25. Your conduct in relation to Allegation 25 caused or substantially contributed to Stratega:</p> <p>a) breaching principles 2 and/or 5 of the Code of Conduct; and/or</p> <p>b) breaching principles 2(i) and/or 5(c) of the Code of Conduct; and/or</p> <p>c) breaching paragraph 9.1.4 and/or 12.8.1 and/or 12.8.2 of the Accounts Code (in force until 30 September 2020) and/or paragraph 1.3 of the Accounts Code currently in force.</p>	<p>You allowed Stratega to have insufficient accounting systems, and/or procedures in place.</p>	<p>The Respondent's response is to defer to that of his colleague, Mr Kotze. In Mr Kotze's response it is acknowledged that the accounting processes were not reduced to writing however asserted that allegation 18(i), (ii) and (iv) are incorrect (respectively, bullet points 1 and 2 and sub-bullet point 3 of allegation 25 directed to the Respondent).</p> <p>The first bullet point of this allegation, which the Respondent asserts is incorrect, relates to the process for reconciling the office and client account being under the complete control of an un-Authorised Person. Bullet point 2, which the Respondent also asserts is incorrect, relates to the CLC's findings that the reconciliation records were not reviewed by an Authorised Person.</p> <p>The response states, "Yes, ██████ does the work, but once finalised the reconciled accounts are ALWAYS emailed to me to check. It has always happened like that. In fact the CLC should know this as I email them a copies? I have access to what ██████ is doing in Proclaim and if there is".</p> <p>Although the CLC have not been provided with evidence that the reconciliations are reviewed/signed off by Mr Kotze, the CLC accepts that he advised the CLC during the inspection that he reviews the reconciliations. Notwithstanding, prior to the inspection in February 2020, it was the Respondent, not Mr Kotze, who always emailed the CLC with the reconciliations. Mr Kotze began emailing the monthly reconciliations to the CLC following the inspection after the CLC had raised concerns with what was found to be a lack of the HOFA's oversight in the financial management of the practice.</p> <p>These concerns arose during the interview with Mr Kotze during the inspection, when queried on points relating to the financial management of Stratega, Mr Kotze said to inspectors, "Could you ask Jim (Keogh) that. He controls all payments and expenses". Following these comments, CLC inspectors confirmed the expectation that Mr Kotze, as HOFA, should ultimately supervise and manage payments and expenses, not Mr Keogh, however it was evident that Mr Kotze had limited knowledge of aspects of the financial management.</p>

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		<p>Lastly, in relation to sub-bullet point 3 (that alleges the practice's internal accountant (██████████) has complete and unsupervised access to the internet banking to set up, process and approve all transactions for the client and office account) although the Respondent asserts this is incorrect, the CLC found otherwise at the inspection. Additionally, Mr Kotze states in contradiction that, "<i>We have a communal diary where all completions are recorded. That provides me with the information to check the files and payments being authorized by fee earners in advance of the completion day. I deal with specific issues which fee earners may encounter where decisions need to be made. Payments were then set up and sent by ██████████. That has now changed and I authorize all bank transfers of client monies</i> [emphasis added]."</p> <p>It would appear from Mr Kotze's response that since the inspection the process <i>has</i> changed, whereby Mr Kotze now authorises all bank transfers of client monies (which the CLC is pleased to learn). Previously, the concern was that ██████████ could, at any point, have made unauthorised payments from the client account. Accordingly, it is the CLC's view that Accounts Code was in breach at the time of the inspection, however that has since been rectified.</p> <p>In relation to sub-bullet point 4, Mr Kotze's response does not refute this allegation and the CLC have not been provided evidence that the breach (failing to respond adequately to required action 40) never occurred.</p> <p>Lastly, as noted in the response of Mr Kotze, on which the Respondent relies, Mr Kotze is "<i>disappointed with the last inspection that they failed to ask me anything about the accounting practise of the company yet have made these allegations</i>". The CLC approaches each inspection on a practice by practice basis, depending on what are perceived as risk areas or areas requiring investigation. Practices should not assume that subsequent inspections should run in the same format or make the same enquiries as prior inspections. The CLC's Finance Manager met at length with ██████████ during the inspection, and came to understand the financial processes of Stratega from discussions and oversight of ██████████ work.</p> <p>Despite the CLC's findings of breaches to the Code of Conduct and/or Handbook, the CLC are not currently aware of any losses to client money arising from these breaches. The CLC are of the view that without losses to client monies, such breaches would attract lower level sanctions if assessed in isolation, which has been taken into consideration in the penalty levied against the Respondent.</p>

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		<p>Notwithstanding, the CLC considers that by the Respondent's commission or omission as a director and manager of Stratega he caused or substantially contributed to its breach of the CLC's Code of Conduct and/or Handbook and does not consider that the allegation should be withdrawn or amended. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings and the sanction proposed by the Warning Notice dated 21 May 2021.</p>