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Fiduciary Duties Under English Law –

A Summary of Recent Judgments of the UK Supreme Court

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The past 12 months saw a flurry of important decisions from the UK Supreme Court on the subject of fiduciary duties, which English law imposes on parties who act on behalf of others in circumstances of trust and confidence. In this article, we consider three such cases, *Hopcraft v Close Brothers,*[1] *Rukhadze v Recovery Partners*[2] and *Stevens v Hotel Portfolio II UK Ltd,*[3] as well as their impact on the law in this area. As will be seen, these decisions have clarified certain aspects of how fiduciary duties arise, what they require and what the consequences are when they are breached.

This is useful to be aware of for any client whose activities might involve acting or making decisions on behalf of someone else, whether in a business or personal context. Fiduciary obligations can often arise in these situations.

Introduction

Before considering these three cases, we briefly summarise what fiduciary duties are.

Under English law, fiduciary duties arise where someone "has undertaken to act for or on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence".[4] Certain types of relationship (solicitor-client, director-company and agent-principal) are recognised as being fiduciary in nature, although fiduciary duties can also arise on an *ad hoc* basis (as discussed below). Someone who owes fiduciary duties is generally referred to as a fiduciary (F). The person to whom the duties are owed is often referred to as a principal (P) or beneficiary.

Central to fiduciary duties is the notion of loyalty. P is entitled to the single-minded loyalty of F, such as to create the expectation that F will put P's interests above their own. This gives rise to two key pillars of fiduciary duties: (i) that F will not put themselves in a position where their duty to P conflicts with their own personal interests; and (ii) that F will not make a profit from their position as a fiduciary without the fully informed consent of P.[5]

English courts enforce fiduciary obligations strictly. The consequences of breach are accordingly very serious. If F's breach of fiduciary duty causes loss to P, then F will be liable to compensate P for that loss. If F makes profits from its breach, then it must account to P for those profits (i.e. remit them to P in their entirety). Courts have described this approach as "prophylactic" by design.

The harshness of these remedies exists to avoid fiduciaries being tempted (e.g. by the prospect of their own gain) from diverging from the single-minded loyalty they owe to their principal.[6] As will be shown, this remains a key theme in how the law is upheld.

Hopcraft v Close Brothers Ltd

Turning to the first of the three above-mentioned judgments, *Hopcraft* concerned a group of consolidated appeals surrounding car finance arrangements, where a car dealer had recommended finance packages to customers and received a commission from the finance provider for doing so. The commissions were, for the most part, not disclosed to the customers. The claimants alleged that to the extent the car dealers had made recommendations as to which finance package to choose, the dealers owed them fiduciary duties, and that by receiving undisclosed commissions from the finance providers, the dealers had breached those fiduciary duties. This case therefore required the court to consider (among other things) whether a fiduciary relationship had arisen based on these facts.

Here, the court considered that it was the assumption of responsibility by one person to act exclusively on behalf of another that was fundamental to a fiduciary relationship. When looking at an *ad hoc* situation, (i.e. one arising on its own facts, rather than being of a category recognised as fiduciary in nature), it was necessary for the court to consider the relationship objectively, and look for the hallmarks of trust and confidence on the part of the principal that the fiduciary would act with single-minded loyalty to the principal, to the exclusion of the fiduciary's own interests. This trust and confidence would be a consequence, and thus an indicator, of the existence of fiduciary duties and the above-mentioned undertaking.

1 *Hopcraft v Close Brothers Ltd* [2025] UKSC 33, [2025] 3 WLR 423.

2 *Rukhadze v Recovery Partners GP Ltd* [2025] UKSC 10, [2025] 2 WLR 529.

3 *Stevens v Hotel Portfolio II UK Ltd (In Liquidation)* [2025] UKSC 28, [2025] 3 WLR 293.

4 *Bristol & West Building Society v Mothew* [1998] Ch 1, 18.

5 Steven Elliott KC and John McGhee KC (eds), *Snell's Equity* (35th edn.), para 7-010.

6 *Snell's Equity* (35th edn.), para 7-022.

Conversely, if the nature of two parties' dealings was such that there was no expectation of trust and confidence between them, such that one would act with single-minded loyalty to the interests of the other, then fiduciary duties would be less likely to exist. Providing the lead judgment, Lord Briggs referred to the example of a waiter recommending a choice of wine to a diner at a restaurant. No one would consider the waiter, in making their recommendation, to be doing so on the basis of single-minded loyalty to the customer.[7] This, by analogy, applied to the car dealers: there could not said to be any expectation, when looking at the situation objectively, that the car dealer was acting with single-minded loyalty to the customer's interests.[8]

Likewise, the court emphasised the need to be careful about distorting an otherwise commercial or arm's length relationship through the imposition of fiduciary duties.[9] Outside fiduciary relationships established by law (such as a company director or solicitor), it may well be inappropriate to expect a commercial party to subordinate its own interests to those of another commercial party.[10] These are important limitations on the applicability of fiduciary duties. At the same time, it is not difficult to imagine commercial situations where such hallmarks might exist to give rise to fiduciary obligations; for example, where the relationship or co-venture is very close, but also not documented formally, or even at all. Here, much will turn on the particular facts and circumstances of the case.

Recovery Partners GP Ltd v Rukhadze

In this long-running litigation, one set of advisers to the family of a deceased billionaire brought claims against the other, on the basis that the defendant advisers (Ds) had essentially diverted for themselves the opportunity to provide services to the family, in circumstances where they owed fiduciary duties to the claimant advisers (Cs). Ds were found to have breached their fiduciary duties to Cs. They were ordered to account to Cs for all the profits they had made from providing the services (with a 25% reduction applied by the judge at first instance for their work and skill in providing those services). Because Ds had made the profits from their position as fiduciaries to Cs, the profits had to be handed over.

On appeal to the Supreme Court, Ds argued that this aspect of the law needed to be changed. They submitted that rather than the law simply requiring all profits made by a fiduciary to be restored to the principal, a court should instead ask what would have happened "but for" the breach of fiduciary duty.

If the profits would have been made anyway (for example, because the principal would have consented to the fiduciary making those profits for themselves, had they been asked), then that should bear on what the fiduciary was ultimately required to pay over to the principal.

Via a majority decision, the court rejected Ds' argument. The majority found that the obligation on a fiduciary to account for the profits made from their position was a stand-alone duty.[11] That duty arose immediately upon receipt of any such profits. As soon as this happened, the law considered the fiduciary to hold those profits on trust for the principal.[12]

The court decided that a "but-for" causation analysis was fundamentally inappropriate in this context. It was not open to a fiduciary to justify the retention of profits by arguing that the principal would have consented to the fiduciary doing so in any event. This would undermine the prophylactic purpose of the law, which courts had repeatedly affirmed.[13] While there needed to be some causal connection between the fiduciary's position and the profit (profits the fiduciary had made in a context that was entirely separate from their role and status as a fiduciary would not be covered), this was only causation in a "protean" sense.[14] It did not extend to a "but-for" test requiring a court to consider what might have happened in a counterfactual scenario where there had been no breach of duty.[15]

This decision confirms that fiduciaries who are ordered to account for profits will find it very difficult to resist doing so for reasons tied to causation. However, the court noted that in such a case, a court may still make an equitable allowance or adjustment to an order to account for profits to reflect the work and skill exercised by the fiduciary in earning them (as occurred in this case at first instance). This provides something of a safety valve against outcomes that are particularly onerous against the fiduciary.[16] However, the court emphasised that the circumstances in which such allowances will be appropriate are exceptional.

7 *Hopcraft* [80], [110].

8 *Hopcraft* [281].

9 *Hopcraft* [102].

10 *Hopcraft* [110].

11 *Rukhadze* [20].

12 *Rukhadze* [22]-[23].

13 *Rukhadze* [16]-[18].

14 Lord Briggs, again providing the lead judgment, gave the illustration of a director of a car-making company who made profits gambling on horses out of working hours. The director's fiduciary duties would not require him to account to the company for those profits, being entirely unconnected to his role as a fiduciary. *Rukhadze* [25], [34]-[42].

15 *Rukhadze* [34]-[40].

16 *Rukhadze* [57]-[58].

Stevens v Hotel Portfolio II (In Liquidation)

The UK Supreme Court's judgment in this case underscores the seriousness with which fiduciary obligations will be enforced, not just against fiduciaries themselves, but also those who assist them.

R was a director of a company (H) and in this capacity owed fiduciary duties to H. He oversaw the sale of a portfolio of hotels to a different company that he secretly controlled through the defendant in the claim, S. Some of the hotels were eventually sold again for substantial profits, which R realised in his personal capacity and subsequently dissipated (also with S's assistance). Because the scheme had been carried out furtively, it only came to light when H was later placed into liquidation. H's liquidator, due to difficulty bringing claims against R, decided to pursue S as a dishonest assistant to R's breaches of fiduciary duty. R had paid S a relatively modest amount for his participation in the scheme. However, H's claims against S were for the full value of the profits that R had made and dissipated.

The case turned on the extent to which S could be held liable for R's breaches of fiduciary duty. H had suffered no net loss since the profits from the sale of the hotels were never known to H and, as accepted at trial, could never have been earned by H acting by itself. This was therefore another case considering the remedies available for a breach of fiduciary duty, save that here the focus was on S's liability as an assistant to the fiduciary.

Drawing on its judgment in *Rukhadze*, the court held that from the moment R had realised the profits from the sale of the hotels, the beneficial interest in those profits belonged to H. Those profits were therefore held on trust for H.[17] This was because the profits had been derived from R's position as a fiduciary. By then dissipating the profits, R had breached his fiduciary duty to account to H for those profits. It was R's failure to do this that had caused loss to the company. H was entitled to equitable compensation for this loss. It was legally irrelevant that the loss arose from H being deprived of profits that R had secretly generated in the first place, and that H would not have been able to generate the profits itself.

The next issue was whether S could be liable for this loss. Here, the court had to consider the principle, established in *Novoship (UK) Ltd v Mikhaylyuk*, that an assistant to a breach of fiduciary duty would not generally be required to account for profits that they did not make themselves.[18] However, the court decided that this principle could not come to S's aid here, because H was seeking compensation for loss it had suffered, not an account for the profits themselves (which R had, of course, gone on to dissipate).[19]

Finally, the court considered whether it was possible for S to set off the gains H had made from the whole affair, i.e. the profits originally generated from the sale, against the subsequent loss of those profits through the dissipation.

The court decided such a set off would not generally be available, save in an exceptional case where the judge decided that disallowing such a set off would be inequitable.[20] That was not deemed to be appropriate here. Allowing a set off would undermine the imposition of a constructive trust over profits made by a fiduciary and risked enabling wrongdoers to escape liability.[21]

In keeping with the tenor of *Rukhadze*, this decision reinforces the strictness with which fiduciary duties can be enforced, albeit here by reference to a dishonest assistant to the breach, rather than the offending fiduciary themselves. The specific facts of this case demonstrate how extensive this liability can potentially be for such an assistant.

Conclusions

This trilogy of judgments highlights both significant risks and clear responsibilities for those the law identifies as fiduciaries.

The dramatic consequences of fiduciary duties, once established, provide arguably the most enduring takeaway. The core message is clear: under English law, fiduciary duties remain strictly upheld, with potentially far-reaching consequences once breached. This underscores the importance of commercial actors cultivating an understanding about how fiduciary duties might apply to them, and what the accompanying risks are when they are breached. The need for greater education in this regard is emphasised by Lord Briggs in the lead judgment in *Rukhadze* ([53]).

From a practical perspective, the guidance in *Hopcraft* will be useful for parties in understanding whether their relationship attracts fiduciary obligations. Parties should ask themselves whether one person is dealing on behalf of another in circumstances of trust and confidence, and, if so, whether this might be seen, objectively, as indicative of the loyalty that is emblematic of fiduciary obligations. This is particularly valuable where the relationship in question is informal or undocumented, as can sometimes occur in joint ventures or collaborations. For fiduciaries, it is sensible to err on the side of caution when prospective profits are concerned and document fully informed consent from a principal before seeking to benefit from a specific opportunity. If information is gained through one's position as a fiduciary, then profits made from that information are liable to be accounted for, even if the fiduciary resigns their position before capitalising on that information. The starting point will remain that all profits made from a position as a fiduciary will be treated as being held on trust for the principal. Those assisting fiduciaries in any dealings with these profits should be aware of their increased susceptibility to compensate the principal if those profits are lost, as *Hotel Portfolio* makes clear.

17 *Hotel Portfolio* [23]-[25].

18 *See, Novoship (UK) Ltd v Mikhaylyuk* [2014] EWCA Civ 908, [2015] QB 499.

19 *Hotel Portfolio* [36]-[39].

20 *Hotel Portfolio* [82].

21 *Hotel Portfolio* [91]-[94].

These cases also demonstrate that fiduciary duties remain a complex area of law, and one capable of generating drastic outcomes. It is important to note that in both *Rukhadze* and *Hotel Portfolio* there were strong dissenting judgments by members of the judicial panels. The conceptual issues in play will no doubt continue to generate fervent academic debate. To some, the law may remain unsatisfactory in how it deals with these issues. One can therefore expect more cases concerning fiduciary duties to come before the appeal courts in the coming months and years.[22] As commercial dealings become ever more expansive and complex, it is important for clients to enlist legal advice to ensure they are best equipped to navigate this area of law.

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22 As is already the case, see e.g. *Mitchell v Al Jaber* [2025] UKSC 43, [2025] 3 WLR 849 handed down on 24 November 2025.