

ENGLAND AND WALES / JUDGMENT

PBF Investments Limited v Ewan & Co LLP

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Neutral Citation Number: [2026] EWHC 1008 (Ch) IN THE HIGH COURT OF JUSTICE CHANCERY DIVISION BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES Case No:

PT-2023-000672 Royal Courts of Justice, Rolls Building Fetter Lane, London, EC4A 1NL Date:

30/04/2026 Before : HIS HONOUR JUDGE JARMAN KC Sitting as a judge of the High Court

Between : PBF INVESTMENTS LIMITED

- and - EWAN & CO LLP -and- RICHARDS & CO (A FIRM)

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- ----- Claimant Defendant/Part 20 Claimant Part 20 Defendant Mr Alexander Hill-Smith (instructed by Harcourt Stirling Solicitors LLP) for the Claimant No other party appeared or was represented. Hearing dates: 28 and 30 April 2026

- ----- Approved Judgment This judgment was handed down at 11am on 30 April 2026 and circulation to the parties or their representatives by e-mail and by release to the National Archives. HIS HONOUR JUDGE JARMAN KC HIS HONOUR JUDGE JARMAN KC Approved Judgment HHJ JARMAN KC: PBF Investments Ltd v Ewan & Co LLP & Anor 1. 2. The Claimant sues its former solicitors in respect of advice which it received when making a loan of over £2 million in 2017 to a company called Prestige Property Developer UK Limited (PPD). It did so, it says, on the assurance of the Defendant that it would have a first charge over two public houses in London, the Blarney Stone and the Jester. It also took a personal guarantee from a director Andrew Cook. It then transpired, however, that solicitors Moon Beever LLP had a charge dated 28 November 2013 over the Blarney Stone, and a unilateral notice dated 14 July 2014 in respect of a charge dated 21 March 2014 on the Jester. The former charge was the subject of a deed of priority dated 26 February 2014 in favour of Moon Beever LLP. The Claimant has recovered some £1,491,587 and claims in contract and in negligence against the Defendant for the balance of some £578,413, plus interest. 3. The particulars of breach and negligence are: "...failing (whether adequately or at all):

- a. to investigate and consider the Blarney Stone's charges register;
- b. to obtain and/or consider the Deed of Priority and its effect;
- c. to advise on the nature and effect of the Deed of Priority;

- d. to advise that Moon Beaver retained (or might have) priority over a significant portion of the Claimant's lending.
- e. to advise that the Claimant did not and/or could not obtain a first legal charge of the Blarney Stone or that there was a risk of the same;
- f. to advise that the enforceability of the Guarantee would, or might, thereby vitiated." 4. 5. 6. The Defendant have filed a defence raising many points in denying liability. They have not made any disclosure or filed any witness evidence and did not attend the hearing. In those circumstances Mr Hill-Smith, for the Claimant, proceeded to present its case and called one of its directors, Erdal Frayman, and its chief executive officer, Niyazi Albay, to give evidence. They both said, and I accept, that the Claimant made several loans to various borrowers over the years. It was policy to lend only when security was provided by way of a first charge. The Claimant instructed the Defendant to act for it in some of these transactions, and had made a previous loan to PPD. These loans were fully repaid, and that gave the Claimant confidence to instruct the Defendant on the present loan. That loan was the subject of a facility letter on behalf of the Claimant to PPD dated 22 January 2018. It was on the Claimant's standard form. It expressly provided that the loan would be secured by a first charge on the two public houses. The same day HIS HONOUR JUDGE JARMAN KC Approved Judgment PBF Investments Ltd v Ewan & Co LLP & Anor Madhu Bhajanehatti of the Defendant emailed Mr Albay referring to paying off some existing loans and adding "you will have a clear first charge on the property." Both public houses were named in the subject of the email. 7. The next day Mr Albay raised concerns with that there had been resignations from PPD in an email which said this: "Please please make sure that the company is actively trading and people that sign are authorised to sign. 8 people resigned in very short term so please triple check everything and confirm if you are happy so we can get the funds ready." 8. In a reply later the same day, Mr Bhajanehatti confirmed that one of the directors had resigned, but said that Mr Cook had much more security, referring to properties and planning permission which would be worth over £4.5 million. He then referred to the proposed personal guarantee as follows: "You are fully covered, PG will be signed in front of an independent solicitor, so all covered..just for your comfort." 9. On the 24 January 2018, the Defendant sent an email to Mr Albay and copied in Charles Ewan, a principle in the firm. It said this: "Dear Sir I can confirm that all the necessary searches and enquiries have been executed and we are satisfied. Please find attached:
 - 1. Signed Loan Document
 - 2. Official Copy (Register) for all properties
 - 3. Signed PG
 - 4. Signed Legal Charge

5. Letter for change of Directorship and Signatory. Please confirm you will send funds.” 10. The enclosed official copies of the registered title to the two public houses were dated 21 August 2017, so some five months out of date. That in respect of the Blarney Stone expressly included the 28 November 2013 charge in the charges register. It also referred to a deed dated 26 February 2014 dealing with the priority of that charge. The charges register of the Jester expressly included the unilateral notice dated 17 July 2014 in respect of the charge dated 21 March 2014. The enclosed loan document was the facility letter dated 22 January 2018 which expressly stated that the loan would be secured by a first charge on the two public houses. HIS HONOUR JUDGE JARMAN KC Approved Judgment PBF Investments Ltd v Ewan & Co LLP & Anor
11. Mr Frayman and Mr Albay said in evidence that they glanced quickly at the enclosed documents but that they are not lawyers and did not understand that the charges registers showed other charges. They relied on the Defendant’s assurance that all necessary searches and enquiries had been executed. I accept their evidence. 12. It is bewildering why the Defendant did not draw the entries in the charges registers to the Claimant when the Defendant knew that the facility letter provided that the loan would be secured by a first charge and that is what they told the Claimant it would have, or why they were able to declare themselves satisfied after making all necessary searches and enquiries. In my judgment they clearly did not do so.
13. Mr Hills-Smith submits that this is a case where the claimant retained the Defendant to give advice about the loan. This was not limited to legal advice, but extended to commercial matters, as when the Defendant assured Mr Albay that Mr Cook had more security than the director who had resigned. He referred me to the decision of the Supreme Court in *Manchester Building Society v Grant Thornton UK LLP* [2021] UKSC 20, [2021] 3 WLR 81. 14. The Court in that case dealt with the difference between a client who seeks advice and one who seeks information. That was an accountancy case, but the Court referred to the judgment of Lord Sumption in *Hughes-Holland v BPE Solicitors* [2017] UKSC 21; [2018] AC 599, which did involve legal advice, as follows
19. In our view, for the purposes of accurate analysis, rather than starting with the distinction between “advice” and “information” cases and trying to shoe-horn a particular case into one or other of these categories, the focus should be on identifying the purpose to be served by the duty of care assumed by the defendant: see section (ii) above. Ascribing a case to one or other of these categories seems to us to be a conclusion to be drawn as a result of examination of that prior question.
20. This also corresponds with Lord Sumption’s explanation at paras 40 and 41 of what is involved in an “advice” case and an “information” case, respectively. In an “advice” case, the adviser’s duty “is to consider all relevant matters and not only specific factors” (and what counts as a relevant matter for the adviser is determined by the purpose for which he has agreed to give advice: see para 44). Where the adviser is responsible for guiding the whole decision-making process, the adviser’s responsibility extends to the decision. In that

circumstance, as Lord Sumption explains (para 40), “[if] the adviser has negligently assessed risk A, the result is that the overall riskiness of the transaction has been understated. If the client would not have entered into the transaction on a careful assessment of its overall merits, the fact that the loss may have resulted from risks B, C or D should not matter”.

21. By contrast, in an “information” case (Hughes-Holland, para 41), the adviser contributes a limited part of the material to be relied on, “but the process of identifying the other relevant considerations and the overall assessment of the commercial merits of the transaction HIS HONOUR JUDGE JARMAN KC Approved Judgment PBF Investments Ltd v Ewan & Co LLP & Anor are exclusively matters for the client” (emphasis added), and in such a case “the defendant’s legal responsibility does not extend to the decision itself”; the result then is that the defendant is “liable only for the financial consequences of [the information] being wrong and not for the financial consequences of the claimant entering into the transaction so far as these are greater” 15. 16. 17. 18. In my judgment the Defendant in the present case did assume a duty to consider all relevant matters regarding the loan. This can be seen from their response to Mr Albay plea to triple check everything. The purpose of instructing them was to ensure that the Claimant was adequately protected with a first charge. Mr Albay and Mr Frayman each said that had they known of that the loan would not be secured by way of a first charge they would not have made the loan. I accept that evidence. A number of points were relied on in the defence. It was said that the loan was a fraud and that Mr Albay personally profited from it. He denied this in his oral evidence and I accept that. It is also said that the Claimant failed to mitigate its loss by failing to sue Mr Cook under his personal guarantee. The Claimant engaged solicitors to pursue that possibility and they entered into a chain of correspondence about it. Mr Cook wrote lengthy responses in which he took a number of points, principally that he signed the guarantee on the basis that the Claimant had a first charge over the two properties. In my judgment it is clear from that correspondence that any claim against Mr Cook would have been fought and would have been risky and expensive. The Claimant did not fail to mitigate. The Defence also asserted that the Claimant only made the loan to ensure that the two public houses were sold, which is what eventually happened. Mr Albay denied that, and said that PPD made no payments in respect of the loan and he talked to that company and tried to help, but nothing was forthcoming. I accept that evidence. In my judgment there is nothing in the defence. The Claimant has made out each particular of breach of contract and negligence and is entitled to judgment in the sum claimed. I will deal with consequential matters, including interest, on the hand down of this judgment. I am grateful to Mr Hill-Smith for his assistance.

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Prepared on 22 October 2026 · Esheria