



## DISCIPLINARY ORDERS AND REGULATORY DECISIONS

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# DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

**1 Mr Laurence Cowan [FCA]** of 4 Chase Side, ENFIELD, EN2 6NF.

**A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 9 July 2013**

**Type of Member** Member

## **Terms of complaint**

The complaint is that Mr Laurence Cowan FCA is liable to disciplinary action under Disciplinary Bye-Law 4.1(a):

‘...in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy’

Because:

1. Between 26 November 2009 and 16 November 2010 Mr L Cowan FCA signed five audit reports on behalf of its firm Laurie Cowan, when he was not a registered auditor and this misconduct was found proved by a disciplinary committee of the Association of Chartered Certified Accountants on 9 June 2011.
2. Mr L Cowan FCA allowed his firm Laurie Cowan to state on its stationery that it was registered by ICAEW to carry out company audit work when Mr Cowan knew this to be false, and this misconduct was found proved by a disciplinary committee of the Association of Chartered Certified Accountants on 9 June 2011.
3. Mr L Cowan FCA failed to provide information to the ACCA such that it could complete its monitoring programme and this conduct was found proved by a disciplinary committee of the Association of Chartered Certified Accountants on 9 June 2011.
4. Between 14 March 2011 and 19 April 2012 Mr L Cowan FCA issued the following 13 audit reports in the name of Laurie Cowan, Chartered Accountants, statutory auditor, when his firm was not audit registered, contrary to section 1212 and section 1213 of the Companies Act 2006.

	<b>Company</b>	<b>Year ended</b>	<b>Audit report date/Companies House barcode date</b>
1	A	30 June 2010	30 March 2011
2	B	30 June 1010	30 March 2011
3	C	31 December 2010	14 March 2011
4	D	31 December 2010	14 March 2011
5	E	31 December 2010	29 June 2011
6	F	31 December 2010	31 August 2011
7	G	31 December 2010	17 September 2011
8	H	28 February 2011	18 November 2011
9	I	28 February 2011	24 November 2011
10	J	31 March 2011	9 November 2011
11	A	30 June 2011	22 March 2012
12	B	30 June 2011	22 March 2012
13	K	31 December 2011	19 April 2012

**Hearing date**

09 July 2013

**Previous hearing date(s)**

None

**Pre-hearing review or final hearing** Final Hearing

**Complaint found proved** Yes

**All heads of complaint proven** Yes

**Sentencing order**

- a) Exclusion
- b) Costs of £2500

**Procedural matters and findings**

**Parties present** Investigation Committee (IC)

**Represented** Mr Helme of counsel representing the IC

<b>Hearing in public or private</b>	The hearing was in public
<b>Decision on service</b>	In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied as to service
<b>Documents considered by the tribunal</b>	The tribunal considered the documents contained in the IC's bundle together with documents provided by the defendant
<b>Findings on preliminary matters</b>	<p>The tribunal took into account an email from the defendant dated 5 July 2013 in which he stated that he would not be attending or be represented. The tribunal decided to proceed in the defendant's absence.</p> <p>The IC applied to the tribunal for two changes to the complaint. Mr Cowan had been notified of these in a letter dated 7 June 2013 but had not provided any response. The tribunal noted that it only had power to agree to an amendment which was not material to the complaint and accepted that the proposed amendments were in the nature of clarification. These were first, that in head three of the complaint, the word "conduct" be substituted for "misconduct" as in fact the ACCA charge had only related to the former and second, in head four of the complaint, that "and section 1213" be inserted between "1212" and "of", a technical change to reflect an accurate summary of the law. The amendments were agreed.</p>

## **Issues of fact and law**

### **Background**

1. At an ACCA Appeal Committee hearing convened on 19 January 2011 Mr Cowan was excluded from ACCA membership. Three allegations were found proved at an earlier ACCA Disciplinary Committee and subsequently at the Appeal Committee, namely:
  - 'Pursuant to bye-law 8(a)(i) Mr Cowan is guilty of misconduct by reason of signing audit reports in the name of Laurie Cowan, a firm of which he is a sole practitioner, on five occasions between 26 November 2009 and 16 November 2010, while not authorised to do so, contrary to Global Practising Regulation 3(1)(a) 2003.'
  - 'Pursuant to bye-law 8(a)(i) Mr Cowan is guilty of misconduct by reason of Laurie Cowan claiming, on their official stationery, to be registered by the Institute of Chartered Accountants of England and Wales to carry out company audit work when Mr Cowan knew this to be false, contrary to the Fundamental Principle of Integrity'
  - 'Pursuant to bye-law 8(a)(iii) Mr Cowan has breached Global Practising Regulation 14(2) by failing to provide information necessary for the Association to complete its monitoring programme efficiently'

## **First Head of complaint**

2. Mr Cowan had applied to ICAEW to be granted audit registration in April 2010. As Mr Cowan had not been a responsible individual (from an ICAEW perspective) within the last two years he was asked for standard details of the audit work he had done during that period. On 21 June 2010 Mr Cowan contacted ICAEW by telephone and explained he had dual membership with ICAEW and the Association of Chartered Certified Accountants (ACCA) and was currently registered with ACCA for audit. However, he now wished to move his audit registration to ICAEW.
3. The next contact from Mr Cowan was his letter dated 30 September 2010 enclosing a copy of a letter dated 23 June 2010 to ACCA in which he expressed his intention to resign from ACCA if his application to ICAEW for audit registration was successful. ACCA assert they never received this letter. The ACCA records however show that Mr Cowan ceased to be audit registered with ACCA on 18 June 2008.
4. Mr Cowan had signed five audit reports since 18 June 2008. Mr Cowan told the ICAEW he had never received notification from the ACCA that the firm's audit registration had ceased. He assumed matters with the ACCA had been resolved as he had not heard from them for some time.
5. On 13 January 2011 ICAEW notified Mr Cowan that his application for audit registration had been deferred pending investigations by the ACCA.
6. ICAEW's enquiries have established that Mr Cowan was in receipt of correspondence from the ACCA regarding his practising certificate during 2008 (and consequently his firm's audit registration).

## **Second Head of complaint**

7. During the course of the ACCA's enquiries Mr Cowan had written to them on 20 October 2010 on paper containing the footnote 'Registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work'. The ACCA disciplinary committee concluded that 'we find as a fact that the Member sent the letter of 20 October 2010 and had placed upon it the description of he (sic) being registered as a Member of the Institute knowing that this was not true' (see paragraph 25).
8. In his representations of 1 August 2012 Mr Cowan comments:

"When I made an application for audit registration with ICAEW I was asked to provide a sample of my headed paper if the application was successful. I created a template in my computer and ONCE inadvertently sent a response to ACCA using this template. It was my error. It has not happened again. No further letters using that template have been used. I do not know how many more times I need to explain this."
9. ACCA Committees rejected this explanation and the tribunal in turn did not find this explanation credible which in any event, did not explain why in Mr Cowan's letter dated 30 September 2010 to ICAEW, there was the footnote 'Registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work'.

## **Third head of complaint**

10. On 7 February 2006 the ACCA undertook a routine monitoring visit of Mr Cowan's firm. A report was prepared subsequent to this visit which requested Mr Cowan to provide the following information.

- A copy of his firm's professional indemnity insurance policy and original schedule together with a copy of his amended professional indemnity schedule reflecting the required increase in cover he had to put in place.
- A copy of his continuity agreement.

Mr Cowan provided certain details relating to professional indemnity insurance but never provided a copy of his continuity agreement. The ACCA concluded at the Disciplinary Committee hearing that the failure to provide all the information requested meant that they had been unable to complete their monitoring programme efficiently.

11. In reaching its decision, the ACCA Disciplinary Committee took into account the delays on the part of the Association. Its conclusions at paragraph 26 were as follows:

“...this allegation rests on one matter, namely the failure to put in place a continuity agreement. This was a failure on the part of the Member, so far as we can see, but we have to bear in mind that the way in which the Association have acted on this allegation certainly before late 2010 was something, which we can only describe as, lethargic. On its own we believe this allegation may never have seen the light of day but we do find the member has not produced the relevant continuity agreement and is therefore in breach of Global Practising Regulation 14(2). The Association have failed to prove to our satisfaction that there was any misconduct nor has the Association proved conclusively to our satisfaction that there was any misconduct in the delay in providing the professional indemnity cover. We therefore find Allegation 3(a) not proved but Allegation 3(b) proved, although limited in nature.”

#### **Fourth head of complaint**

12. A review of Companies House information by ICAEW identified that Mr Cowan, between 14 March 2011 and 19 April 2012, issued audit reports on 13 companies.
13. During this period Mr Cowan was not audit registered by either ACCA or ICAEW (as a consequence of his application for authorisation being on hold pending the outcome of the ACCA's enquiries) or any other recognised supervisory body for the purposes of sections 1212 and 1213 of the Companies Act 2006.

#### **Conclusions and reasons for decision**

14. The tribunal found all heads of the complaint proven.
15. Pursuant to Disciplinary Bye-law 7.2, the adverse findings of the ACCA are conclusive evidence of the commission by Mr Cowan of such an act or default as is mentioned in Disciplinary Bye-law 4.1(a). In any event, the tribunal were satisfied that the facts set out above, in relation to the first three heads of complaint, were sufficient to show conduct which would be likely to bring discredit to the defendant, the Institute or the profession.
16. The tribunal was satisfied that the ACCA decision in relation to the third head of complaint, did amount to an adverse finding for the purposes of Disciplinary Bye-law 7.2, despite the fact that the ACCA had in the event rejected an allegation that the failure had been misconduct. This had been a breach of ACCA requirements, albeit not actual misconduct, and therefore was an adverse finding that therefore amounted to conclusive evidence of conduct likely to bring discredit to himself, the Institute or the profession.

17. In relation to the fourth head of complaint Mr Cowan had acted as a statutory auditor in breach of sections 1212 and 1213 of the Companies Act 2006. This was a clear breach of the law and was, in and of itself, sufficient to bring discredit in breach of Disciplinary By-law 4(1)(a).

### **Matters relevant to sentencing**

18. The aggravating features were the period of time over which the breaches had occurred and the defendant's uncooperative stance with regard to ICAEW investigation. In terms of mitigation, the tribunal took into account that he had no previous disciplinary record and the pressures he was under on account of the ill health of a family member.
19. Mr Cowan had written to the tribunal to say that he is now retired and has limited means. He had not provided any evidence however as to his financial circumstances.
20. The tribunal were of the view that the matters upon which ACCA had found the defendant guilty, would in and of themselves lead to a breach of ICAEW Disciplinary Bye-laws. The ACCA breaches were serious and indicated that the defendant's standards had fallen well below that of a chartered accountant. In addition, the tribunal took into account that the provision of audit reports when not a registered auditor was a particularly serious matter which, in the event, Mr Cowan had failed to address in any of his submissions.
21. Given the gravity of the breaches, no lesser sanction than exclusion was warranted.
22. Although not strictly part of the Order, the tribunal recommended that no application for readmission to membership be entertained by ICAEW before two years from the date of this Order.

### **Sentencing Order**

23. The tribunal took into account its *Guidance on Sentencing* and decided to impose the following:
- (a) Exclusion from membership
  - (b) Costs of £2,500 (a reduced amount to that requested by ICAEW)

### **Decision on publicity**

24. Publicity with names.

**Chairman** Mr Richard Lea FCA

**Accountant Member** Mr Martin Ward FCA

**Non Accountant Member** Mr Graham Humby

**Legal Assessor** Ms Melanie Carter

**006983**



**2 Mrs Catherine Anne-Marie Baynes ACA** of 242 Locks Road, Locks Heath, SOUTHAMPTON, SO31 6LB.

**A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 17 September 2013.**

**Type of Member** Member

**Terms of complaint**

The complaint is that Mrs Catherine Anne-Marie Baynes ACA is liable to disciplinary action under Disciplinary Bye-law 4(1)(c):

‘...committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them’

because:

1. Between 31 January 2009 and 16 October 2012 Mrs C Baynes ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2007 to 31 October 2008 in breach of Principal Bye-law 56.c.
2. Between 31 January 2010 and 16 October 2012 Mrs C Baynes ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2008 to 31 October 2009 in breach of Principal Bye-law 56.c.
3. Between 31 January 2011 and 16 October 2012 Mrs C Baynes ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2009 to 31 October 2010 in breach of Principal Bye-law 56.c.
4. Between 31 January 2012 and 16 October 2012 Mrs C Baynes ACA failed to certify compliance with Continuing Professional Development requirements for the period 1 November 2010 to 31 October 2011 in breach of Principal Bye-law 56.c.

**Hearing date** 17 September 2013

**Previous hearing date(s)** None

**Pre-hearing review or final hearing** Final Hearing

**Complaint found proved** Yes

**All heads of complaint proven** Yes

**Sentencing order** Reprimand; fine of £1,700.

**Procedural matters and findings**

**Parties present** The Investigation Committee (IC) through its representative. Mrs C Baynes was not present.

**Represented** Ben Jowett of ICAEW represented the IC. Mrs Baynes was not represented.

<b>Hearing in public or private</b>	The hearing was in public.
<b>Decision on service</b>	In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service.
<b>Documents considered by the tribunal</b>	The tribunal considered the documents contained in the Investigation Committee's (IC's) bundle.

### **The Investigation Committee's (IC's) case**

1. Principal Bye-law 56 (headed "Continuing Professional Development" (or CPD)) requires a member to "certify annually...compliance with these provisions...". Regulation 5 of Continuing Professional Development Regulations states that "members shall complete a certificate relating to compliance with Principal Bye-law 56 in the format set out in the Schedule to [the] regulations".
2. The defendant has failed to submit CPD declarations for the period 2008 – 2012 and/or certify compliance with Principal Bye-law 56. This constitutes both a breach of Regulation 5 and Principal Bye-law 56.

### **Issues of fact and law**

3. The issues to be proved are whether the defendant has (a) certified compliance with Principal Bye-law 56 in the format set out in the Schedule to the Professional Development Regulations and (b) certified annual compliance in accordance with Principal Bye-law 56. The tribunal found the complaint proved.

### **Conclusions and reasons for decision**

4. The defendant has, for a period of four years, failed to certify compliance with her obligations to obtain CPD. This is a material breach of her regulatory and professional obligations. Because CPD is an important part of maintaining the high professional standards ICAEW expects of its members, the failure to certify such compliance is serious professional misconduct.

### **Matters relevant to sentencing**

5. The tribunal saw no reason to depart from the *Guidance on Sentencing* and ensured that no lesser penalty than the one made was appropriate. The mitigating factor is: (i) the defendant's clean disciplinary record. Aggravating factors are: (i) the failure to co-operate with ICAEW, (ii) the repeated occurrences of the regulatory breaches; (iii) continuing non-compliance, since the defendant has taken no steps to cure her breaches of the Bye-law and the Regulations.

### **Sentencing Order**

- (i) Reprimand
- (ii) Fine of £1,700
- (iii) Costs of £1,800

**Decision on publicity**

Publication with name.

**Chairman**

Mr Ian Walker FCA

**Accountant Member**

Mr David Kaye FCA

**Non Accountant Member**

Mrs Elizabeth Rees

**Legal Assessor**

Mr Dominic Spenser Underhill

**007535**

**3 Mr Meirion Thomas FCA** of 19/20 Baxter Gate, LOUGHBOROUGH, LE11 1TG.

**A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 17 September 2013**

**Type of Member** Member

**Terms of complaint**

The complaint is that Mr Meirion Thomas is liable to disciplinary action under Disciplinary Bye-law 4(1)(c):

‘...committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them’

because:

Between 26 September 1991 and 30 April 2012 Mr M Thomas FCA has engaged in public practice through firm A without Professional Indemnity Insurance contrary to Regulation 10 of the Professional Indemnity Insurance Regulations (in force with effect from 1 August 1991) and 3.1 of the Professional Indemnity Insurance Regulations (in force with effect from 1 November 1998).

<b>Hearing date</b>	17 September 2013
<b>Previous hearing date(s)</b>	None
<b>Pre-hearing review or final hearing</b>	Final Hearing
<b>Complaint found proved</b>	Yes
<b>All heads of complaint proven</b>	Yes
<b>Sentencing order</b>	Severely reprimand; fine of £4,000.
<b>Procedural matters and findings</b>	
<b>Parties present</b>	The Investigation Committee (IC). Mr Thomas was not present.
<b>Represented</b>	Ben Jowett of ICAEW represented the IC. Mr Thomas was not represented.
<b>Hearing in public or private</b>	The hearing was in public.
<b>Decision on service</b>	In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service.
<b>Documents considered by the tribunal</b>	The tribunal considered the documents contained in the Investigation Committee’s (IC’s) bundle.

## The Investigation Committee's (IC's) case

1. The Professional Indemnity Insurance Regulations ("PII Regulations") which were in place during the relevant time (they are Regulation 10 for the period 1 August 1991 – 31 October 1998 and Regulation 3.1 for the period 1 November 1998 to the present day) provide that a member engaged in public practice must arrange qualifying insurance which meets the limits set out in the Regulations. The defendant engaged in public practice through an unregulated company (of which he was a director) without at any time arranging such insurance.

## Issues of fact and law

2. The tribunal found the complaint proved on the defendant's own admission.

## Conclusions and reasons for decision

3. The defendant engaged in public practice through a company which was unregulated. He was a director of that company and, as such, a serious professional obligation fell on him to ensure that qualifying insurance was arranged for the entity through which he practised. He failed to discharge that obligation. A member's failure to obtain qualifying professional indemnity insurance is serious professional misconduct not only because it is a breach of the PII Regulations but because it places clients at risk.

## Matters relevant to sentencing

4. The tribunal saw no reason to depart from the *Guidance on Sentencing* and ensured that no lesser penalty than the one made was appropriate. Mitigating factors are: (i) the defendant's previously clean disciplinary record; (ii) stopping conclusively what would otherwise have been continuing professional misconduct by dissolving firm A. Aggravating factors are: (i) the professional misconduct was continuing and continuing over a long period of time; (ii) the defendant failed to obtain retrospective PII cover for the years in which no cover was obtained.

## Sentencing Order

- (i) Severe reprimand
- (ii) Fine of £4,000
- (iii) Costs of £1,600

## Decision on publicity

Publication with name.

### Chairman

Mr Ian Walker FCA

### Accountant Member

Mr David Kaye FCA

### Non Accountant Member

Mrs Jane Rees

### Legal Assessor

Mr Dominic Spenser Underhill

006582

**4 Mr Alan Wolff** of 7 Kenerne Drive, BARNET, HERTFORDSHIRE, EN5 2NW.

**A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 17 September 2013**

**Type of Member** Former Member

**Terms of complaint**

The complaint is that Mr Alan Wolff is liable to disciplinary action under Disciplinary Bye-law 4(1)(c):

‘...committed a breach of the bye-laws or of any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them’

because:

Between 1 January 2010 and 23 October 2012 Mr A Wolff FCA engaged in public practice without holding a practising certificate, contrary to Principal Bye-law 51(a).

**Hearing date** 17 September 2013

**Previous hearing date(s)** None

**Pre-hearing review or final hearing** Final Hearing

**Complaint found proved** Yes

**All heads of complaint proven** Yes

**Sentencing order** Reprimand

**Procedural matters and findings**

**Parties present** The Investigation Committee (IC). Mr Wolff was not present.

**Represented** Ben Jowett of ICAEW represented the IC. Mr Wolff was not represented.

**Hearing in public or private** The hearing was in public.

**Decision on service** In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied to service.

**Documents considered by the tribunal** The tribunal considered the documents contained in the Investigation Committee’s (IC’s) bundle.

## **The Investigation Committee's (IC's) case**

1. Principal Bye-law 51(a) obliges a member in public practice to hold a practising certificate. The defendant engaged in public practice but without a practising certificate and so breached Principal Bye-law 51(a). The defendant left membership of ICAEW (with ICAEW's consent) in August 2013.
2. The defendant explained in correspondence with ICAEW that he did not obtain a practising certificate because he did not hold himself out to be chartered accountant while he did so, even though he was a member of ICAEW. He did not obtain a practising certificate because, he considered, he was not actually practising as a chartered accountant (even though he was one). At all material times, the defendant obtained qualifying professional indemnity insurance while he was in public practice.

## **Issues of fact and law**

3. The issue to be determined is whether the fact (which was not in issue) that the defendant did not hold himself out to the public as a chartered accountant while in public practice removed the obligation on him to obtain a practising certificate pursuant to Principal Bye-law 51(a).

## **Conclusions and reasons for decision**

4. As a member of ICAEW, and as a member engaged in public practice, the defendant ought to have obtained a practising certificate. The fact that he did not hold himself out as a chartered accountant to the public is not relevant. The relevant factors are that he was a member of ICAEW and engaged in public practice while he was a member. Thus, there was a breach of Principal Bye-law 51(a) and this constituted serious professional misconduct. This interpretation is supported by the fact that the qualifying professional indemnity insurance which the defendant very correctly arranged was, on the face of the certificate of insurance, PII for a chartered accountant.
5. A failure by a member to obtain a practising certificate, and to breach this Principal Bye-law, is rightly a serious matter and often deserves a severe penalty. In this case, where the facts are unusual, the tribunal was satisfied that the defendant did not breach the Principal Bye-law deliberately or recklessly, and took the important step of protecting his clients with PII cover. His failure to obtain a practising certificate was based on a flawed but honestly held belief that he did not require one. For these reasons, and persuasive mitigation, the penalty is significantly less severe than it would otherwise have been.

## **Matters relevant to sentencing**

6. The tribunal saw no reason to depart from the *Guidance on Sentencing* and ensured that no lesser penalty than the one made was appropriate. Mitigating factors are: (i) the defendant's previously clean disciplinary record: (ii) the defendant's prompt response when this matter was drawn to his attention. There were no aggravating factors.

## **Sentencing Order**

- (i) Reprimand
- (ii) Costs of £1,000

## **Decision on publicity**

Publication with name.

### **Chairman**

Mr Ian Walker FCA

### **Accountant Member**

Mr David Kaye FCA

### **Non Accountant Member**

Mrs Jane Rees

### **Legal Assessor**

Mr Dominic Spenser Underhill

**009319**



## 5 No publicity of name

**A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 18 September 2013**

**Type of Member** Member

### **Terms of complaint**

The complaint is that the defendant is liable to disciplinary action under Disciplinary Bye-law 4.1a:

‘...in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on itself, the Institute or the profession of accountancy.’

because:

On 22 May 2000 the defendant in his capacity as director failed to prevent the issue of the following accounts in that they were misleading:

1. Restated accounts of Company B and Company A for the periods ended 31 March 1997 and 1998.
2. Accounts of Company B and Company A for the year ended 31 March 1999.

**Hearing date** 18 September 2013

**Pre-hearing review or final hearing** Final Hearing

**Complaint found proved** Yes

**All heads of complaint proven** Yes

### **Procedural matters and findings**

**Parties present** The Investigation Committee (IC)  
The defendant

**Represented** Mr James Ramsden - Counsel  
Representing the IC

Mr Kenneth Hamer - Counsel and Mr Chris Cope,  
Solicitor representing the defendant

**Hearing in public or private** The hearing was in public

An application had been made on 24 January 2013 for the hearing to be in private. This was rejected on the basis that no special reason had at that stage been put forward, displacing the normal practice of hearings being held in public. However, at the hearing and on application, the tribunal made a direction to anonymise, in the record of decision, the defendant and the identities of a number of third party entities

and individuals involved in the matters that were the subject of the complaint.

**Decision on service**

In accordance with regulations 3-5 of the Disciplinary Regulations, the tribunal was satisfied as to service

**Documents considered by the tribunal**

The tribunal considered the documents contained in the IC's bundle together with documents provided by the defendant.

**Issues of fact**

1. The defendant held appointments as director of Company A and Company B. Company C for whom the defendant worked as Finance Director, had been the fiduciary managers of a Trust, which owned Companies A and B. The defendant was director of Companies A and B when their accounts for the periods to 31 March 1997, 1998 and 1999 were approved on a restated basis. This followed advice from Mr X, partner of the audit firm, Company D.
2. Mr Z was engaged by legal advisors of a settlor of the Trust to assist in litigation arising from a general review of the Trust arrangements. Mr Z was to provide an expert opinion on the quality of the stewardship of Company C in its administration of the Trust. Mr Z had made a complaint to ICAEW in relation to Mr X and his daughter, Miss Y (also a partner of Company D) and then subsequently, in relation to the defendant's conduct.
3. Both Mr X and Miss Y had admitted culpability to the IC. They accepted this early on in the disciplinary process such that they had been offered consent orders. Mr X therefore received a severe reprimand and was fined £10,000. Miss Y was reprimanded and fined £5,000.
4. Mr X advised the Trust that accounts for Companies A and B should be restated following receipt of a tax barrister's opinion in or around July 1999. The opinion concerned the tax position of the prime beneficiary of the Trust. The key aspect of that advice was that the beneficiary could be liable to UK income tax on income arising on the UK investments held by the Trust after 25 November 1996, when the beneficiary became ordinarily resident in the UK. It is believed, the opinion made recommendations as to how tax could be avoided which led to the actions subsequently taken in the restating of the accounts.
5. The minutes of the Board of Company B dated Tuesday, 18 October 1999, show that Mr X advised that the tax opinion was presented to Company B's shareholder, the Trust. It was noted that the Trust requested that Company B should confirm that it held all UK assets at April 1996 and all subsequent income in a nominee capacity only. The directors of Company B who were present agreed that the decision to hold the assets on behalf of a Charitable Trust be ratified and that appropriate adjustments be made to the accounts. The decision by the directors of Company B to restate the accounts were also noted in a Company C file note dated 29 October 1999.
6. On 22 November 1999, the trustees of the Trust resolved to transfer all the UK assets in the Trust to the Charitable Trust. Company D provided Company C with copies of the journal entries for restating the accounts for the years ended 31 March 1997 and 1998 for Company A and Company B. Company D explained that adjustments were being made in respect of assets transferred to the Charitable Trust at 1 April 1996 (when the transfers were, in actual fact, in or around November 1999).

7. Thus investments worth £1,342,952 were transferred to the Trust and then to the Charitable Trust, and income totalling £341,032 was transferred to the Charitable Trust on those investments for the 3 years ended 31 March 1999. The original accounts for Companies A and B that were signed on 20 May 1999 for the period to 31 March 1997 and the year ended 1998 were withdrawn and amended for the transfer of the assets and related income and the restated accounts were signed on 22 May 2000.
8. In a letter dated 21 March 2000, Miss Y informed Company C 'Please note that these accounts have been amended in respect of UK registered investments which are actually held by the Charitable Trust. These assets were transferred direct from Company A on 1 April 1996 and represent a donation from that company to the Charitable Trust'. She enclosed with this letter, the restated accounts.
9. The defendant was not present at the meetings when the adjustments and the accounts were approved. In addition, he was not involved on a day to day basis with the Trust, or Companies A and B such that he had not seen the tax barrister's opinion.
10. Mr Z had reported the matter to the City of London police, another police force and HMRC. The police did not pursue these matters. Company C engaged with HMRC fully in order to establish whether what had happened had led to unpaid tax and the tribunal was informed that HMRC was taking no action.

### **Conclusions and reasons for decision**

11. The tribunal found the complaint proven on the defendant's own admission.
12. The tribunal accepted that the letter of 21 March 2000 from Miss Y, which the defendant had seen, had been misleading. It was however an odd explanation for an accountant to have given, and the tribunal concluded that this called for enquiry on the part of the defendant. Had he looked into this, the misleading nature of the statements may have become apparent. The defendant has accepted that had he done this, he would not have signed the restated accounts. He further accepts, in retrospect, that he ought not to have done so, without enquiry.
13. The defendant, albeit acting only in his capacity as a director, was nevertheless a chartered accountant and given therefore his professional status and training, this put him in a better position than others to discern that something was awry. Also given that these were off-shore arrangements, greater care was perhaps needed to ensure that what was on the face of it, tax avoidance, was not in reality tax evasion. These matters should have rung loud alarm bells. It was not alleged that the defendant had acted in bad faith, rather that this was inadvertence on his part.
14. The tribunal was of the view that he had acted in such a way as to be likely to bring discredit on himself, the Institute or the profession of accountancy. As such, he was, in breach of Disciplinary Bye-law 4(1)(a).

### **Matters relevant to sentencing**

15. The defendant did not have a prior disciplinary record.

16. At the hearing, the defendant's counsel put forward the following in mitigation:

- He had not just blindly signed the accounts. He had seen the reason given for the restatement, the letter of 29 March 2000 saying that the assets had been transferred in April 1996. He had also seen the hand written adjusted sets of accounts and had been verbally informed by the person in control of these matters, that the Trust had agreed the restatement. In carrying out his duties as director of Companies A and B he would place much reliance on the representations of senior management and the control framework of Company C. So, when making his enquiries he felt entitled to rely on the responses to enquiries he would make of senior management in the execution of his duties.
- The defendant showed insight into what had gone wrong although he believed he had not done anything inappropriate as things stood at the time. The regulatory climate had considerably changed since the late 1990's and those involved in corporate governance had become significantly more cautious. However, given the context at the time, he felt he was entitled to have relied upon the professionals involved in this matter. He was fully aware that if this had happened today, he would have been much more alert to the potential difficulties.
- He was not actively involved in the management and affairs of Company A, Company B and the Trust. He was not party to the decisions relating to the transfer of assets and was not aware of them. This is confirmed by his absence in the minutes of the board meeting on 18 October 1999.
- The restated accounts were prepared by a firm of chartered accountants (Company D) which had given unqualified audit reports. This would have given the defendant comfort that the disclosures were sufficient and the restatement appropriate, particularly in the context that the only people who would have received the original statements and be relying on them were aware of the restatement. He had no reason to doubt the probity of Mr X, Miss Y and Company D, when he signed the accounts.
- The accounts were private and there was no requirement for them to be filed publically
- This had been a one off incident in an otherwise distinguished and unblemished career (in this regard the tribunal took into account character reference letters produced for the hearing).
- The defendant had self-reported the matter to his employer and the relevant regulatory authority.

17. The tribunal was very concerned that members of the profession should recognise the need to make due enquiry in circumstances such as this, where approving accounts was in effect condoning the back dating of a financial transaction. It noted that this matter had been aggravated by the sums of money involved. There had been a lack of enquiry. The tribunal would have expected the defendant to have wanted to check in person what had given rise to such a material restatement, particularly as he would have thought, further to the information (which was subsequently found to be misleading) given to him by Miss Y, that his company had made a material mistake.

18. The tribunal accepted however that there was significant mitigation, as set out above. Most importantly the tribunal gave major weight to the fact that the defendant had been actively misled by the chartered accountants who had carried out the audit of the two firms.

19. The tribunal took into account its *Guidance on Sentencing*.

## **Sentencing Order**

20. The tribunal decided, in all the circumstances and taking into account the mitigation, it was not appropriate to impose any sanction – the finding of breach was sufficient. It was of the view however that the defendant should pay costs, noting that he had been contesting the proceedings until recently and the case was proven. The IC had been entirely proper in pursuing this matter which highlighted an important point of professional standards. Thus, the tribunal decided that the defendant should pay costs of £11,732.

## **Decision on publicity**

21. The tribunal heard from the defendant as to the potential prejudice were the record of decision not to be anonymised. He explained that given the nature of the financial community in his place of residence, publicity to this decision would be inevitable, particularly given the financial reputation of the area. He also told the tribunal that there would be a threat to his continued employment as managing director of, Company C. He doubted that he would be able to find an alternative employment within the local community. It was submitted that any publicity in relation to the defendant would prejudice Company C given its position in its place of business.

22. The tribunal decided therefore that whilst there should be publicity of this decision it should be on an anonymised basis.

**Non Accountant Chairman**

Mr Paul Brooks

**Accountant Member**

Mr Mike Ranson FCA

**Accountant Member**

Mr Martin Ward FCA

**Legal Assessor**

Ms Melanie Carter

**006539**

## APPEAL COMMITTEE PANEL ORDERS

**6 Mr Jon Fisher ACA (also known as Mr Simon Yuen Choi Poon, otherwise known as Mr Run Chai Pan) of 10 Chavasse Road, Sutton Coldfield, WEST MIDLANDS, B72 1NZ.**

**A panel of the Appeal Committee (AC) made the decision recorded below having heard an appeal on 3 October 2013**

**Type of Member:** ACA Member

**Date of Disciplinary Tribunal Hearing:** 21 November 2012 and 6, 7 February 2013

### **Terms of complaint found proven before the Disciplinary Committee Tribunal (DCT):**

The complaint is that Mr Run Chai Pan is liable to disciplinary action under Disciplinary Bye-law 4(1)(a):

‘...in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy’

because the member has

1. Between 9 May 2006 and 19 October 2007 Mr S Y C Poon ACA (now known as Mr Run Chai Pan) made threats against HM Revenue & Customs’ officers as:
  - a On 25 July 2006 threatened Mr A in that he told Mr A that he had better leave the meeting before Mr Poon punched him.
  - b During a telephone call on 9 May 2006 behaved aggressively towards Mr B in that he:
    - i told Mr B that had Mr B entered Mr Poon’s premises Mr Poon would have killed him.
    - ii told B that Mr Poon’s client would have been within his rights to kill Mr B
    - iii warned Mr B against entering the premises of any of Mr Poon’s clients as he might be killed.
  - c During a telephone conversation on 19 October 2007 he informed Ms C that:
    - i at a meeting to be held on 29 October 2007 he intended ‘hammering’ Mr D, an officer of HM Revenue & Customs
    - ii at a meeting to be held on 29 October 2007 he would give Ms C ‘a good punching’.

2. Between 7 November 2005 and 19 December 2007 Mr S Y C Poon ACA (now known as Mr Run Chai Pan) acted inappropriately towards HM Revenue & Customs' officers as:
  - a Between 7 November 2005 and 1 February 2007 during the course of an investigation into the tax affairs of one of his clients Mr Poon behaved unprofessionally towards Ms E in that on a number of occasions he shouted at her and accused her of unprofessional behaviour.
  - b On 14 November 2005 during a meeting with Mr F he made unprofessional comments in that he told Mr F that he regarded Inland Revenue enquiries as 'war'.
  - c During a telephone conversation on 10 August 2007 he informed Mr G that officers who visited Chinese takeaways after 9 pm were asking to be killed or stabbed to death.
  - d During a telephone conversation on 3 September 2007 he told Mr H that he would like to punch him on the nose.
  - e During a telephone conversation on 29 October 2007 he behaved unprofessionally towards Mr I in that he ranted at him.
  - f During a meeting on 19 December 2007 he failed to cooperate with enquiries being undertaken by Mr J.

**Decision of the DCT:**

The DCT imposed the following sanctions:

Severe reprimand, fine of £7,500 and costs of £38,637.

**Grounds of appeal:**

1. Neither the IC's witnesses nor the appellant had given evidence on oath before the DCT: the committee should not have believed the IC witnesses as they had been lying.
2. The appellant had been unwell during the hearing.
3. The complaint was so old as to be out of time.
4. The sentence had been too harsh.
5. The costs order had been far too high.

**Decision of Appeal Panel:**

1. The appeal against the finding that the complaints against the appellant had been proved was dismissed.
2. The appeal against the decision that the appellant should be severely reprimanded and should pay the disciplinary costs was dismissed.

3. The appeal against the fine of £7,500 was allowed to the extent that the fine was reduced to £5,000.
4. The appellant was ordered to pay the IC's costs of the appeal in the sum of £4,000.

**Procedural matters and findings:**

1. The appellant appeared on his own behalf, and Mr Andrew Sharland appeared for the Investigation Committee (IC)
2. The hearing was in public.

**Reasons for decision:**

3. The ground of appeal that the witnesses before the DCT had not given evidence on oath was misconceived. The appropriate rules provide in terms that evidence shall not be given on oath.
4. The ground of appeal that the witnesses below had lied and that the appeal panel should reject their evidence was also misconceived. The panel had carefully read the documents in the case, including the transcript of the evidence below and concluded that the DCT was fully justified in accepting the evidence of the witnesses from HMRC, whose evidence was, in every instance, corroborated by a contemporaneous record of the incident involving the appellant, and in rejecting that of the appellant whose evidence, written and oral, was significantly inconsistent. The appeal panel agreed with the DCT in rejecting as fanciful the appellant's suggestion that the witnesses from HMRC had engaged in a conspiracy to defame the appellant either because of his success rate in challenging tax assessments or because they were racially prejudiced against a Chinese.
5. The ground of appeal based on illness did not survive an examination of the relevant passages of the transcript. The appellant made no serious complaint of incapacity at the time.
6. The ground of appeal based on the length of time between the complaint and the hearing was felt to afford no ground for rejecting the findings relating to the complaint: there is no time limitation on disciplinary complaints. None the less, the appeal panel did consider that this length of time afforded the appellant some basis of mitigation of penalty.
7. In the circumstances the appeal against the finding that the complaints had been proved was hopelessly misconceived and was rejected.
8. The suggestion that a severe reprimand had been unjustified was rejected. The DCT had considered whether the appellant should be excluded and he may well be considered fortunate to have escaped with a severe reprimand.
9. An examination of the bill of costs below showed that, though the amount was large, the bill represented a genuine, indeed conservative, account of the cost of prosecuting the



appellant and conducting a three day hearing with witnesses from many parts of the UK. In the circumstances the appeal against the costs order below was rejected.

- 10 In considering the sentencing guidelines the appeal panel considered that the fine imposed by the DCT was on the high side and that a fine of £5,000 should be substituted.
- 11 A costs order in respect of the appeal was inevitable. Although the IC claimed over £8,000, the appeal panel considered that a contribution of £4,000 from the appellant would suffice in the circumstances.

<b>Chairman</b>	Mr Richard Mawrey QC	
<b>Accountant Member</b>	Mr Nigel Atkinson FCA	
<b>Accountant Member</b>	Mr Christopher Harrison FCA	
<b>Accountant Member</b>	Mr Richard Moore FCA	
<b>Non Accountant Member</b>	Mr Peter Brown CArb.FCI Arb	<b>006599</b>

## INVESTIGATION COMMITTEE CONSENT ORDERS

### 7 Kingston Smith LLP

Consent order made on 26 September 2013

With the agreement of Kingston Smith LLP of Devonshire House, 60 Goswell Road, London, EC1M 7AD, the Investigation Committee made an order that the firm be reprimanded, fined £5,000 and pay costs of £3,000 with respect to a complaint that:

On 4 November 2010 Kingston Smith LLP issued an audit report in respect of the financial statements of X for the year ended 31 March 2010 when the audit had not been conducted in accordance with the following International Standards on Auditing (UK & Ireland) (ISAs):

- a. ISA 500, *Audit Evidence*, in that the firm failed to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base its audit opinion in relation to the existence and completeness of overseas cash balances held by the charity at the Arab Bank in Lebanon at the year-end.
- b. ISA 260, *Communication of audit matters with those charged with governance*, in that the firm failed to adequately communicate with those charged with governance of the entity the lack of external confirmation of the charity's bank balances held at the Arab Bank in Lebanon and that it had relied on management representations as to the accuracy and existence of these balances.

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006141

### 8 Mr Graeham Stuart Sampson FCA

Consent order made on 27 September 2013

With the agreement of Mr Graeham Stuart Sampson of 59 Heyes Lane, Alderley Edge, Cheshire, SK9 7LA, the Investigation Committee made an order that he be reprimanded and pay costs of £1,405 with respect to a complaint that:

Between 30 September 2009 and 13 May 2011, Mr G S Sampson FCA failed to act with due skill, care and diligence in managing the elements of X business for which he was responsible in his controlled function, in breach of FSA Statement of Principle 6.

And was subject to an adverse finding in respect of this conduct by the Financial Services Authority as set out in the FSA Final Notice dated 19 October 2012.

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010761

## **9 RSM Tenon Audit Limited**

Consent order made on 30 September 2013

With the agreement of RSM Tenon Audit Limited of The Poynt, 45 Wollaton Street, Nottingham, NG1 5FW, the Investigation Committee made an order that the firm be reprimanded, fined £1,000 and pay costs of £759 with respect to a complaint that:

Between 30 January 2012 and 31 May 2012 the following audit reports were issued in the name RSM Tenon Audit Limited (the firm) that were not signed by an individual who had been designated as a responsible individual in the firm, in breach of regulation 4.04 of the Audit Regulations and Guidance 2008:

- a) A Limited – year ended 31 August 2011, audit report signed/dated 14 May 2012;
- b) B Limited – year ended 31 August 2011, audit report signed/dated 14 May 2012;
- c) C Company Limited Pension and Assurance Scheme (Defined Benefit Scheme) – year ended 31 October 2011, audit report signed/dated 31 May 2012; and
- d) D Limited Retirements Scheme (Defined Benefit Scheme) – year ended 30 June 2011, audit report signed/dated 30 January 2012.

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**011404**

## **10 Mr Keith Lawrence Cromwell ACA**

Consent order made on 4 October 2013

With the agreement of Mr Keith Lawrence Cromwell of 11 Bramshall Drive, Dorridge, Solihull, B93 8TG, the Investigation Committee made an order that he be reprimanded, fined £1,000 and pay costs of £905 with respect to a complain that:

Between 1 January 2008 and 2 September 2012 Mr K Cromwell ACA engaged in public practice without holding a practising certificate, contrary to Principal Bye-law 51a.

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**010096**

## **11 Mr Allen John Minford FCA**

Consent order made on 4 October 2013

With the agreement of Mr Allen John Minford of Moyola House, 31 Hawthorn Grove, York, YO31 7UA, the Investigation Committee made an order that he be reprimanded, fined £2,000 and pay costs of £1,142 with respect to a complaint that:

1. Between 14 July 2008 and 10 December 2012 Mr A J Minford FCA failed to comply with written assurances he had given on behalf of his firm, X (now Y Ltd), following a QAD visit in April 2008 that he would request a bank letter confirming the status of the firm's client bank accounts as required by Clients' Money Regulation 9.
2. Between 14 July 2008 and 5 December 2012 Mr A J Minford FCA failed to comply with written assurances he had given on behalf of his firm, X (now Y Ltd), following a QAD visit in April 2008 that he would carry out and document an annual compliance review as required by Clients' Money Regulation 27.

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**013964**

## **12 Harben Barker Limited**

Consent order made on 4 October 2013

With the agreement of Harben Barker Limited of 112 High Street, Coleshill, Birmingham, West Midlands, B46 3BL, the Investigation Committee made an order that the firm be severely reprimanded, fined £5,000 and pay costs of £1,367 with respect to a complaint that:

Contrary to Fundamental Principle 1 of the Guide to Professional Ethics, Harben Barker Ltd improperly issued an invoice dated 23 March 2006 which misstated the true nature of the payment in that it claimed it was for commission in respect of capital loss planning for a client of the firm when it was actually in respect of an incentive payment from a third party to secure future client referrals.

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**008187**

## **13 Mr Paul Anthony Danciger FCA**

Consent order made on 15 October 2013

With the agreement of Mr Paul Anthony Danciger of 51 Preston Road, Wembley Park, Wembley, HA9 8JZ, the Investigation Committee made an order that he be reprimanded, fined £1,500 and pay costs of £718 with respect to a complaint that:

- 1 Between 6 September 1998 and 23 July 2013 Mr P Danciger FCA engaged in public practice without holding a practising certificate, contrary to Principal Bye-law 51a.
- 2 Between 6 September 1998 and 23 July 2013 Mr P Danciger FCA engaged in public practice without professional indemnity insurance as required by Regulation 3.1 of the Professional Indemnity Insurance Regulations.

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**015280**

#### 14 Mr Harry Ernest Jeffery FCA

Consent order made on 16 October 2013

With the agreement of Mr Harry Ernest Jeffery of 28 Station Road, Bardney, Lincoln, Lincolnshire, LN3 5UD, the Investigation Committee made an order that he be reprimanded, fined £1,725 and pay costs of £1,580 with respect to a complaint that:

Between 26 April 2006 and 21 February 2013 Mr H Jeffery FCA failed to comply with written assurances he had given on behalf of his firm, X to ICAEW that:

- a. he would write shortly to all his clients setting out (i) the basis of his fees and (ii) their right to make a complaint to the Institute (as part of the firm's complaints procedures).
- b. that he would obtain appropriate evidence (which would be on file) to verify his client's identity in accordance with the requirements of the Money Laundering Regulations then in force.

011732

#### 15 Mr James Barrow Lewis FCA

Consent order made on 16 October 2013

With the agreement of Mr James Barrow Lewis of Rumwell Hall, Rumwell, Taunton, Somerset, TA4 1EL, the Investigation Committee made an order that he be reprimanded, fined £1,300 and pay costs of £675 with respect to a complaint that:

Mr J B Lewis FCA, contrary to Financial Reporting Standard for Smaller Entities (effective January 2007 - for accounting periods commencing on or after 1 January 2007 and effective April 2008 – for accounting periods commencing on or after 6 April 2008), failed to disclose the related party transactions and transactions with directors in (i) the abbreviated accounts to 31 January 2008 (ii) the abbreviated accounts to 31 January 2009 and (iii) the full accounts to 31 January 2010 as follows:

Year end	Loan to (debtor)/from (creditor) X	Loan to (debtor)/from (creditor) Y
31 January 2008	£37 creditor	£9,451 creditor
31 January 2009	N/A	£3,684 creditor
31 January 2010	£9,538 debtor	£6,670 creditor

Together with the maximum amounts outstanding during the years in addition to failing to disclose sales made to Z, a connected entity as follows:

Year end	Sales made to Z
31 January 2009	£3,827
31 January 2010	£2,011

006778

## 16 Dean Statham LLP

Consent order made on 16 October 2013

With the agreement of Dean Statham LLP of 29 King Street, Newcastle, Staffordshire, ST5 1ER, the Investigation Committee made an order that the firm be severely reprimanded, fined £2,500 and pay costs of £2,755 with respect to a complaint that:

Dean Statham LLP failed to obtain adequate information during the preparation of the following receipts and payments accounts for the X, as insufficient steps were taken to confirm the level of cash held in a building society account:

- a. Year ended 31 March 2002, Accountant's certificate dated 9 October 2002
- b. Year ended 31 March 2003, Accountant's certificate dated 27 October 2003
- c. Year ended 31 March 2004, Accountant's certificate dated 12 November 2004
- d. Year ended 31 March 2005, Accountant's certificate dated 15 December 2005
- e. Year ended 31 March 2006, Accountant's certificate dated 9 February 2007
- f. Year ended 31 March 2007, Accountant's certificate dated 28 January 2008
- g. Year ended 31 March 2008, Accountant's certificate dated 19 February 2009
- h. Year ended 31 March 2009, Accountant's certificate dated 22 March 2010
- i. Year ended 31 March 2010, Accountant's certificate dated 18 May 2010

011946

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## 17 Hope Agar Limited

Consent order made on 21 October 2013

With the agreement of Hope Agar Limited of 24a Marsh Street, Rothwell, Leeds, LS26 0BB, the Investigation Committee made an order that the firm be reprimanded, fined £2,500 and pay costs of £3,000 with respect to a complaint that:

Hope Agar Limited incorrectly prepared the accounts of X Limited, for the period (year-end) 31 December 1998 through to 31 December 2007 because those accounts in each case:

1. Failed to disclose an overdrawn director's loan account for Mr Y contrary to Section 232 of the Companies Act 1985 (then in force).
2. Amalgamated an overdrawn directors' loan account for Mr Y and a directors' loan account for Mr Z which resulted in no assessment on and recovery from the company of tax due under S:419 of the Income and Corporation Taxes Act 1988 (then in force).
3. Amalgamated an overdrawn directors' loan account for Mr Y and a directors' loan account for Mr Z for the years ended 31 December 2005 and 31 December 2006 contrary to section 2.11 of the Financial Reporting Standard for Small Entities (2005).
4. Amalgamated an overdrawn directors' loan account for Mr Y and a directors' loan account for Mr Z for the year ended 31 December 2007 contrary to section 2.11 of the Financial Reporting Standard for Small Entities (2007).

005912

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## **18 Jaffer & Co**

Consent order made on 22 October 2013

With the agreement of Jaffer & Co of 32 Woodstock Grove, Shepherds Bush, London, W12 8LE, the Investigation Committee made an order that the firm be severely reprimanded, fined £5,000 and pay costs of £3,680 with respect to a complaint that:

Between 20 February 2006 and 27 May 2011 Jaffer & Co

1. Misled Companies House to accept 83 sets of accounts filed by the firm when it would not have done if it had understood that the accounts had not been signed by a director but by a member of the firm's staff (who had not made clear they were signing the accounts on behalf of a director).
2. Caused or permitted members of its staff to sign 83 sets of accounts and file them with Companies House when it should have known that in accordance with Section 414 of the Companies Act 2006 (and in relation to accounts signed prior to 6 April 2008, Section 238 of the Companies Act 1985) a director of the company concerned should have signed those accounts.

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**005955**

## **19 Mr Stephen Maurice Robinson ACA**

Consent order made on 23 October 2013

With the agreement of Mr Stephen Maurice Robinson of 4 Nile Close, Nelson Court Business Centre, Riversway, Preston, PR2 2XU, the Investigation Committee made an order that he be severely reprimanded, fined £2,000 and pay costs of £1,342 with respect to a complaint that:

Between 1 July 2010 and 7 November 2012 Mr S M Robinson ACA engaged in public practice without holding a practising certificate, contrary to Principal Bye-law 51a.

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**008152**

## 20 Crompton & Co Financial Solutions Ltd

Consent order made on 23 October 2013

With the agreement of Crompton & Co Financial Solutions Ltd of 42 Queens Road, Coventry, CV1 3DX, the Investigation Committee made an order that the firm be severely reprimanded, fined £2,700 and pay costs of £672 with respect to a complaint that:

- 1 On 12 April 2011 Crompton & Co Financial Solutions Ltd wrongly permitted Mr X to sign an Accountants' Report to the Solicitors Regulation Authority for Y LLP for the period ended 30 September 2010 when, under section 37.1 of the Solicitors Accounts Rules 1998 he was ineligible to do so.
- 2 On 22 December 2011 Crompton & Co Financial Solutions Ltd wrongly permitted Mr X to sign an Accountants' Report to the Solicitors Regulation Authority for Y LLP for the period ended 30 September 2011, when, under section 34.1 of the Solicitors Accounts Rules 2011 he was ineligible to do so.

013588

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## 21 Mr Paul Richard Macey FCA

Consent order made on 25 October 2013

With the agreement of Mr Paul Richard Macey of 30 Wellington Square, Bowerhill, Melksham, SN12 6QX, the Investigation Committee made an order that he be reprimanded, fined £2,650 and pay costs of £2,067 with respect to a complaint that:

- 1 Mr P Macey FCA issued a Chartered Accountant's Report in respect of the service charge statement of Y to the Trustees of X Trust, for the following periods, which stated that the Service Charge Demand was a true reflection of 'Total expenditure':
  - A Year ended 31 December 2009, undated
  - B Year ended 31 December 2010, undated
  - C Period ended 31 March 2012, undatedwhen
  - i) he was ineligible to do so under section 1 (15) of the lease as he was neither an auditor or firm of chartered or certified accountants; and
  - ii) he was not independent as he was an employee of the landlord.
- 2 Mr P Macey FCA issued the following invoices to the X Trust for auditing the following Service Charge Demands when he knew, or ought to have known, that the amounts were not due to him:
  - A £400 for the year ended 31 December 2009
  - B £406 for the year ended 31 December 2010
  - C £450 for the period ended 31 March 2012

013284

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## **22 Mr David Charles Smith FCA**

Consent order made on 25 October 2013

With the agreement of Mr David Charles Smith of 7 Grosvenor Gardens, Victoria, London, SW1W 0AF, the Investigation Committee made an order that he be reprimanded, fined £3,000 and pay costs of £2,165 with respect to a complaint that:

- 1 Mr D Smith FCA issued unqualified audit reports, in the name of his firm X & Co, on the following financial statements:
  - i. A Limited, year ended 31 December 2010, audit report dated 9 April 2011
  - ii. B, year ended 31 December 2010, audit report dated 9 April 2011

in breach of Audit regulation 3.10, in that the audits had not been conducted in accordance with International Standard on Auditing (UK and Ireland) 700 'The auditor's report on financial statements' as the audit reports were dated before the auditor had considered all necessary available evidence.

- 2 Mr D Smith FCA failed to comply with conditions imposed by the Audit Registration Committee on his firm, X & Co, set out in a letter dated 20 January 2011, in respect of the following audit work carried out by his firm:
  - i. C Ltd, year ended 31 December 2011, audit report dated 8 March 2012
  - ii. D, year ended 31 December 2011, audit report dated 27 March 2012
  - iii. E, year ended 30 June 2011, audit report dated 11 November 2011

in that he failed to obtain and submit to ICAEW the results of external hot file reviews of the above audits within one month of their completion.

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**008387**

## **23 Mrs Sarah Fiona Scott Fox FCA**

Consent order made on 25 October 2013

With the agreement of Mrs Sarah Fiona Scott Fox of Edgeworth House, Edgeworth, Stroud, GL6 7JQ, the Investigation Committee made an order that she be reprimanded, fined £1,725 and pay costs of £605 with respect to a complaint that:

Between 20 June 2006 and 28 February 2013 Mrs Sarah Fox FCA failed to comply with a written assurance she had given on behalf of her firm, X, following a QAD visit that she would issue engagement letters to all clients over a period of time.

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**015481**

## **24 Mr Philip John Gostling ACA**

Consent order made on 29 October 2013

With the agreement of Mr Philip John Gostling of Carleton Business Park, Carleton New Road, Skipton, North Yorkshire, BD23 2DE, the Investigation Committee made an order that he be severely reprimanded, fined £6,000 and pay costs of £3,750 with respect to a complaint that:

1. Mr P J Gostling in filing accounts for X Limited for the year ended 30 April 2010 with Companies House on 10 November 2010 failed to ensure he had any or alternatively sufficient authority of the directors to do so.
2. Mr P J Gostling ACA prepared accounts as filed at Companies House for X Limited for the year ended 30 April 2010 which contained material errors, in particular:
  - Included a property, Y, valued at £301,056 which the company did not own.
  - Included a bank loan of c£300,000 associated with the above property which was not a liability of the company.
  - Failed to include rental payments of £14,000 made to the A for the property the company rented from them.
3. Mr P J Gostling ACA in or around February 2009 failed to adequately explain the consequences of incorporating the existing partnership W to X; in particular:
  - The implications for Mr B, a partner in W and potential shareholder and director in X Limited.
  - The treatment of assets used, but not owned, by the partnership.
  - Any details as to the likely savings/additional costs in financial terms.
  - The VAT consequences of incorporation.

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**006684**

## **25 Mr Bruce Carless FCA**

Consent order made on 25 October 2013

With the agreement of Mr Bruce Carless of Westfields, Leamington Road, Long Itchington, Southam, CV47 9PL, the Investigation Committee made an order that he be severely reprimanded, fined £2,700 and pay costs of £672 with respect to a complaint that:

- 1 On 12 April 2011 Mr B Carless FCA signed an Accountants' Report to the Solicitors Regulation Authority for X LLP for the period ended 30 September 2010 when, under section 37.1 of the Solicitors Accounts Rules 1998 he was ineligible to do so.
- 2 On 22 December 2011 Mr B Carless FCA signed an Accountants' Report to the Solicitors Regulation Authority for X LLP for the period ended 30 September 2011, when, under section 34.1 of the Solicitors Accounts Rules 2011 he was ineligible to do so.

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**013774**

## REGULATORY DECISIONS

### AUDIT REGISTRATION COMMITTEE

#### ORDER – 11 SEPTEMBER 2013

##### **26 Publicity statement**

Pearson & Co, Chartered Accountants, 113 Smug Oak Business Centre, Lye Lane, Bricket Wood, St Albans, Hertfordshire AL2 3UG has agreed to pay a regulatory penalty of £6,000, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulation 6.06 in that external cold file reviews were not carried out and submitted to the committee within the required timescale.

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**016910**

#### ORDER – 24 SEPTEMBER 2013

##### **27 Publicity statement**

The registration as company auditor of Andrew Miller & Co, The Mews, Stratton Cleeve, Cheltenham Road, Cirencester, GL7 2JD was withdrawn on 24 September 2013 under regulation 7.03c of the Audit Regulations and Guidance 2008 for failure to submit an annual return.

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**016819**

#### ORDER – 16 OCTOBER 2013

##### **28 Publicity statement**

Thomas Cooke, 1 Kilmarsh Road, London, W6 0PL, has agreed to pay a regulatory penalty of £4,500, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of Audit Regulations 2.02 and 6.06 for failing to ensure that the firm had sufficient PII cover for two years and inaccurate completion of the firm's annual returns in respect of the amount of PII cover in place.

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All enquiries to the Professional Conduct Department, T +44 (0)1908 546 293