



Disciplinary Orders and Regulatory Decisions

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CONSENT ORDER

Deloitte LLP

Deloitte LLP (“Deloitte”) is liable to disciplinary action pursuant to Disciplinary Bye-Law 5.1.b in relation to the following Complaint:

1. On or before 2 November 2012, in connection with the proposed appointment of Mr Neville Barry Kahn FCA, Mr Christopher James Farrington FCA and Mr Nicholas Guy Edwards FCA as the Joint Administrators of Comet Group Limited (“Comet”), Deloitte failed to comply with the Code of Ethics (“the Code”) and, in particular, its responsibility under paragraph 1.8 for ensuring that its employees comply with the Code and/or paragraph 210 to ensure accepting an appointment does not create any threats to compliance with the fundamental principles, because:
 - (a) Deloitte’s client take-on procedure (TOP) failed to bring to the attention of the independent review partners all of the information relevant to their consideration of whether the acceptance of the Comet formal appointment would raise actual or potential threats to the compliance of the Administrators with the fundamental principles under paragraphs 400.8, 400.22 and 400.23 of the Code; and/or
 - (b) Deloitte failed to ensure that its engagement acceptance policy was adhered to in the appointment of the independent review partners to consider the acceptance of the appointment of Mr Kahn, Mr Farrington and Mr Edwards as the Joint Administrators of Comet.

Deloitte is therefore severely reprimanded and must pay a fine of £925,000 and the ICAEW’s costs of £890,000.

Mr Neville Barry Kahn FCA

Mr Neville Barry Kahn FCA is liable to disciplinary action pursuant to Disciplinary Bye-Law 4.1.b in relation to the following five Complaints on the basis that, contrary to the Code of Ethics (Part D) and, in particular, to his duty to comply with the fundamental principles of objectivity and/or professional competence and due care:

1. Mr Kahn accepted on 2 November 2012, and thereafter continued with, an appointment to act as one of the Joint Administrators of Comet Group Limited (“Comet”) in circumstances where he had not taken reasonable steps to identify and/or evaluate whether threats to his compliance with the fundamental principle of objectivity existed or might reasonably have been expected to arise during the course of the insolvency appointment, and/or whether safeguards were available to eliminate or reduce those threats to an acceptable level.
2. During his appointment as Joint Administrator of Comet, Mr Kahn agreed to the removal of the Asset Backed Lending facility agreement between Comet and A from the list of connected party transactions which was attached to the Proposals to Creditors published on 17 December 2012, when he had not taken reasonable and appropriate steps to investigate whether the transaction with A should be included in the list.
3. During Mr Kahn’s appointment as one of the Joint Administrators of Comet from 2 November 2012 to 2 October 2013 and/or during his appointment as one of the Joint Liquidators of Comet from 3 October 2013, Mr Kahn did not take reasonable and appropriate steps to investigate the circumstances of the acquisition of Comet by Hailey Acquisitions Limited and, in particular, but not limited to:
 - (a) the validity of the repayment by Comet to B of the unsecured £115m Revolving Credit Facility; and/or
 - (b) the validity of the Debenture dated 3 February 2012 granted in favour of C.
4. During his appointment as Joint Administrator of Comet, Mr Kahn did not take reasonable steps to investigate and/or consider carefully the information that was available to him before reaching conclusions on one or both of the following:
 - (a) whether C or D were acting as shadow directors of Comet in the period from 3 February 2012 to the date of the appointment of the Joint Administrators and, if so, whether all or any of them were engaged in unfit conduct, so as to be reported by the Joint Administrators to the Secretary of State under the Company Directors Disqualification Act 1986; and/or
 - (b) whether one or more of E were engaged in unfit conduct by agreeing to enter into the Revolving Credit Facility and Debenture in favour of C, and to enter into the Asset Backed Lending facility and Debenture with A on their terms or at all, so as to be reported by the Joint Administrators to the Secretary of State under the Company Directors Disqualification Act 1986.
5. In the period leading up to, and during, his appointment as one of the Joint Administrators of Comet on 2 November 2012, Mr Kahn did not create sufficient written contemporaneous records:
 - (a) demonstrating the steps that he took, and the conclusions that he reached, in identifying, evaluating and/or responding to actual or potential threats to compliance with the fundamental principles which might arise, or did arise, during the course of his professional work; and/or
 - (b) explaining the steps that he took, and the conclusions he reached, during the administration so as to enable a reasonable and informed third party to reach a view on the appropriateness of his actions referred to in Complaints 1 to 4.

Mr Kahn is therefore severely reprimanded and must pay a fine of £50,000.

Mr Christopher James Farrington ACA

Mr Christopher James Farrington FCA is liable to disciplinary action pursuant to Disciplinary Bye-Law 4.1.b in relation to the following five Complaints on the basis that, contrary to the Code of Ethics (Part D) and, in particular, to his duty to comply with the fundamental principles of objectivity and/or professional competence and due care:

1. Mr Farrington accepted on 2 November 2012, and thereafter continued with, an appointment to act as one of the Joint Administrators of Comet Group Limited (“Comet”) in circumstances where he had not taken reasonable steps to identify and/or evaluate whether threats to his compliance with the fundamental principle of objectivity existed or might reasonably have been expected to arise during the course of the insolvency appointment, and/or whether safeguards were available to eliminate or reduce those threats to an acceptable level.
2. During his appointment as Joint Administrator of Comet, Mr Farrington agreed to the removal of the Asset Backed Lending facility agreement between Comet and A from the list of connected party transactions which was attached to the Proposals to Creditors published on 17 December 2012, when he had not taken reasonable and appropriate steps to investigate whether the transaction with A should be included in the list.
3. During Mr Farrington’s appointment as one of the Joint Administrators of Comet from 2 November 2012 to 2 October 2013, and/or during his appointment as one of the Joint Liquidators of Comet from 3 October 2013 to 7 October 2017, Mr Farrington did not take reasonable and appropriate steps to investigate the circumstances of the acquisition of Comet by Hailey Acquisitions Limited and, in particular, but not limited to:
 - (a) the validity of the repayment by Comet to B of the unsecured £115m Revolving Credit Facility; and/or
 - (b) the validity of the Debenture dated 3 February 2012 granted in favour of C.
4. During his appointment as Joint Administrator of Comet, Mr Farrington did not take reasonable steps to investigate and/or consider carefully the information that was available to him before reaching conclusions on one or both of the following:
 - (a) whether C or D were acting as shadow directors of Comet in the period from 3 February 2012 to the date of the appointment of the Joint Administrators and, if so, whether all or any of them were engaged in unfit conduct, so as to be reported by the Joint Administrators to the Secretary of State under the Company Directors Disqualification Act 1986; and/or
 - (b) whether one or more of E were engaged in unfit conduct by agreeing to enter into the Revolving Credit Facility and Debenture in favour of C, and to enter into the Asset Backed Lending facility and Debenture with A on their terms or at all, so as to be reported by the Joint Administrators to the Secretary of State under the Company Directors Disqualification Act 1986.
5. In the period leading up to, and during, his appointment as one of the Joint Administrators of Comet on 2 November 2012, Mr Farrington did not create sufficient written contemporaneous records:
 - (a) demonstrating the steps that he took, and the conclusions that he reached, in identifying, evaluating and/or responding to actual or potential threats to compliance with the fundamental principles which might arise, or did arise, during the course of his professional work; and/or
 - (b) explaining the steps that he took, and the conclusions he reached, during the administration so as to enable a reasonable and informed third party to reach a view on the appropriateness of his actions referred to in Complaints 1 to 4.

Mr Farrington is therefore reprimanded and must pay a fine of £25,000.

The relevant Disciplinary Bye-Laws are as follows:

4.1 *A member or provisional member shall be liable to disciplinary action under these bye-laws in any of the following cases, whether or not he was a member or provisional member at the time of the occurrence giving rise to that liability*

b) if he has performed his professional work or the duties of his employment, or conducted his practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on himself, the Institute or the profession of accountancy.

5.1 *A member-firm or contracted firm (both hereinafter referred to as 'respondent firm) shall be liable to disciplinary action under these bye-laws in any of the following cases*

b) if it has performed its professional work, or conducted its practice, inefficiently or incompetently to such an extent, or on such a number of occasions, as to bring discredit on itself, ICAEW or the profession of accountancy.

Rosalind Wright CB QC Settlement Agreement Chair
on behalf of the Disciplinary Committee

Any enquires should be addressed to

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