

Disciplinary Orders and Regulatory Decisions



DATE PUBLISHED: 4 AUGUST 2021

Disciplinary orders

Disciplinary Committee tribunal orders

1. Mr Ray Davis [ACA] 3-8

Investigation orders

Investigation Committee consent orders

2. Mr Ian Crisop FCA 9
3. Mark Clifford Raven BA FCA 9
4. Mr David Gerard Kirk ACA 10
5. Fortus Midlands Ltd. 10
6. Mr Muhammad Zahur 11

Investigation Committee fixed penalty orders

7. Mr Daniel Bailey 11
8. Mr Vivek Lalji 12
9. Mrs Rachel Porter ACA 12
10. Miss Leanne Hickman FCA 12
11. Mr Gavin Snape ACA 13
12. Blue Arrow Accounting Ltd 13

Regulatory orders

Audit Registration Committee

- | | |
|----------------------------|----|
| 13. Cowgill Holloway LLP | 14 |
| 14. Military House Limited | 14 |
| 15. Biznav Limited | 14 |
| 16. Holden Granat LLP | 15 |
| 17. Jon Essam & Co Ltd. | 15 |
| 18. MacIntyre Hudson LLP | 15 |

Other orders

Practice Assurance Committee

- | | |
|-------------------------|----|
| 19. Mr David Wright FCA | 16 |
|-------------------------|----|

Insolvency Licensing Committee

- | | |
|--------------------|----|
| 20. Mr David Excel | 16 |
|--------------------|----|

Probate Committee

- | | |
|---|----|
| 21. HGA Accountants & Financial Consultants Ltd | 16 |
|---|----|

DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

1. Mr Ray Alan Davis [ACA] of LONDON, UNITED KINGDOM

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 14 April 2021

Type of Member Member

Terms of complaint

1. On 28 February 2020, the Tax Disciplinary Board made a finding of fact that Mr Ray Davis ACA, as a tax agent, was dishonest in that:
 - a) He prepared and submitted Self-Assessment Tax Returns on behalf of his clients that included claims for Enterprise Investment Scheme and Seed Enterprise Investment Scheme relief when he knew that those reliefs were not available to be claimed by those clients.
 - b) He prepared and submitted a VAT return that deliberately understated the VAT liability for his client, 'A' LLP, by £247,500 for the period ended 31 March 2014.
 - c) He prepared and submitted a VAT return that deliberately understated the VAT liability for his client, 'B' Ltd, by £42,468.41 for the period ended 30 April 2013.
 - d) In an application to HMRC to register 'A' LLP for VAT on 24 September 2013. Mr Davis asked for the registration to be backdated to 11 March 2013 although he knew that 'A' LLP had been raising VAT invoices since at least 3 February 2013.

Mr Ray Davis ACA was expelled from membership of the Chartered Institute of Taxation (CIOT) and is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a by virtue of Disciplinary Bye-law 7.2c.

2. Mr Ray Davis ACA prepared the following Corporation Tax returns of 'C' Ltd for which the incorrect amount of profit chargeable to corporation tax was included:
 - a) 30 June 2012.
 - b) 31 March 2013.

Hearing date

14 April 2021

Previous hearing date(s)

22 February 2021

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven No

Sentencing order Exclusion and costs of £7,250

Procedural matters and findings Mr Davis did not appear and the complaint was proved in his absence.

Parties present Mr Davis did not appear.

Represented Sonia Stean for the IC

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.

Findings on preliminary matters

1. Mr Davis was not present at the hearing, but he had sent an email the day before that made it clear that he was aware of the hearing and that he wanted it to proceed in his absence. In these circumstances the Tribunal considered it appropriate to proceed without Mr Davis being present.
2. Throughout the investigation of the complaints and in the preparation for the hearing Mr Davis had made a number of statements that might be regarded as admissions. However, upon a close examination of the way in which his various statements were framed and given his absence and the inability to ask him to confirm that he accepted the complaints in the form in which they were drafted, the Tribunal concluded that it could not regard his previous statements as being an unequivocal acceptance of the complaints. In these circumstances the Investigation Committee was required to prove its case.

The Investigation Committee's (IC's) case

3. As well as being a member of the ICAEW Mr Davis was a member of the Chartered Institute of Taxation (CIOT).
4. On 28 February 2020, Mr Davis was expelled from membership of CIOT and fined £20,000 plus costs of £12,836.95 after the following charges were found proven:
 - i. Failed to be either straightforward or honest and to act honestly and in good faith in his dealings with HMRC in that he had:
 - a) Prepared and submitted self-assessment tax returns on behalf of clients that included claims for EIS and SEIS relief when he knew that those reliefs were not available to be claimed by those clients.
 - b) Acted dishonestly when preparing and submitting a VAT return that deliberately understated the VAT liability for his client by claiming input tax on a transaction he knew had been cancelled.
 - c) Acted dishonestly when preparing and submitting a VAT return that included a claim for input tax on services provided over a period during which he knew that the client was not registered for VAT.
 - d) Failed to cooperate fully with HMRC's investigation.
 - ii. Failed to be straightforward and honest in his professional and business relationships.
 - iii. Failed to uphold the standards of CIOT and ATT.
 - iv. Brought himself and his professional body into disrepute.
5. The conduct in respect of which CIOT expelled Mr Davis from membership for was also considered to be misconduct by the IC. The IC's case was formulated slightly differently from CIOT's as articulated in complaint 1, particulars a-d. but relied upon the findings that had been made by CIOT. Mr Davis had initially contested the CIOT proceedings, but after they had been adjourned part-heard and before they recommenced, he accepted all of the complaints, including the fact that he had acted dishonestly.
6. The facts of complaint 1, particulars a-d can be summarised as follows:
 - a. Between 20 February 2013 and 10 February 2017 Mr Davis submitted Tax Returns for clients in which the clients sought to claim tax relief using the EIS and SEIS schemes, to which they were not entitled. Over that period, it appears that about 150 EIS/SEIS investments were declared to HMRC. The total value of those investments was in excess of £4.5m and were paid to 13 different companies.

- b. Mr Davis reclaimed VAT on behalf of his client ('B' Ltd) in the sum of £247,500 in that company's March 2014 quarterly VAT return. The reclaim of £247,500 was made on the basis of an invoice received by 'B' Ltd from 'D' Ltd, a company of which Mr Davis was a director at the time, following the purported purchase by 'B' Ltd of a boat for £1,237,500. The transaction was in fact cancelled during that VAT period and 'B' Ltd was issued with a credit note by 'D' Ltd dated 28 March 2014. It follows that the boat transaction should not have featured as a reclaim in the VAT return during that period. 'B' Ltd reclaimed the VAT despite having received a credit note from 'D' Ltd three days before the end of the VAT quarter. 'B' Ltd then went into liquidation before the VAT reclaimed (£247,500) had been repaid. HMRC were therefore out of pocket in that sum. Mr Davis acted as the accountant for both 'B' Ltd and 'D' Ltd at the relevant time.
 - c. 'A' LLP issued VAT invoices from 3 February 2013 to companies including 'B' Ltd. The actions of Mr Davis caused 'A' LLP to understate its VAT liability by £42,468.41.
 - d. 'A' LLP was only registered for VAT from 11 March 2013 (Mr Davis had applied for 'A' LLP to be registered from that date, on 24 September 2013) even though Mr Davis knew that invoices had been raised between 3 February 2013 and 10 March 2013.
7. In respect of complaint 2 Mr Davis had prepared the Corporation Tax returns of 'C' Ltd for which the incorrect amount of profit chargeable to corporation tax was included for the periods ending 30 June 2012 and 31 March 2013, with total errors of about £30,000. Mr Davis stated, and the IC accepted, that these were not deliberate errors, but had been caused by a computer crash and a subsequent failure to properly check the documents when they had been recovered.

Issues of fact and law

8. The IC relied upon **Disciplinary Bye-law 7.2c, which states:**
- 7.2** *'The following shall be prima facie evidence of any facts found or unfit behaviour, as the case may be, for the purposes of these bye-laws:*
- c.** *a finding of fact in any proceedings before, or report by, any professional or regulatory body (whether in the United Kingdom or elsewhere provided that, if the body is outside the United Kingdom, the country in which the body is based has courts of competent jurisdiction).'*
9. As such the findings of CIOT in respect of Mr Davis (on his own admission) are not determinative of the complaints that the Tribunal was considering, but the findings of CIOT represent prima facie evidence that the Tribunal was entitled to take into account when considering if the complaints had been proved, in particular in respect of complaint 1 whether Mr Davis had acted dishonestly – a finding that had already been made by CIOT.

Conclusions and reasons for decision

10. The Tribunal found complaint 1 proved on the basis of particulars a-c. Given the findings that had been made by CIOT and the admissions that Mr Davis had made to that tribunal, the Tribunal was satisfied that he had acted dishonestly in respect of the conduct set out in particulars a-c. There was no other logical conclusion that it could reach. Having concluded that Mr Davis had acted dishonestly the Tribunal also concluded that this amounted to misconduct under DBL 4.1a.
11. In respect of particular d, the Tribunal was not satisfied that Mr Davis had acted dishonestly as the date of incorporation of 'A' LLP may have prevented it from registering for VAT any sooner. The Tribunal had asked for some further information in this regard which the IC was unable to provide. In these circumstances the Tribunal was not satisfied that complaint 1d had been proved.
12. In respect of complaint 2 Mr Davis had accepted that significant errors had been made in respect of the 'C' Ltd Corporation Tax returns. The Tribunal was satisfied that Mr Davis's actions in this regard was incompetent and fell well below the standard expected of him. In particular, the mistake had not been detected in undertaking the work on the accounts of the following year, as would usually be expected, As such it amounted to misconduct under DBL 4.1b.

Matters relevant to sentencing

13. Given the dishonesty element in complaint 1 it was far and away the most serious of the two complaints. In respect of complaint 1 the Tribunal considered the *Guidance on Sanctions* effective from 1 July 2019, in particular (at page 33) the section entitled "Failure to comply with the Fundamental Principle of Integrity" which in respect of a very serious failure gives a starting point of exclusion and a category C financial penalty.
14. Given the amounts involved, the position of trust that Mr Davis held and the negative impact that conduct of this sort would have on the public confidence in the accountancy profession, the Tribunal concluded that it had no option other than to exclude him. The Tribunal concluded that as financial penalties had already been imposed by both HMRC and CIOT in respect of the same conduct it would be inappropriate to make a further financial penalty. There was no reason why Mr Davis should not pay the costs of the proceedings

Sentencing Order

15. The Tribunal ordered the following sanctions:
 - a. Exclusion
 - b. Costs- £7,250

Decision on publicity

The Tribunal directs that a record of this decision shall be published and the defendant shall be named in that record.

Chairman

Mr Jonathan Kinnear QC

Accountant Member

Ms Lydia Ebdon

Non Accountant Member

Mr Nigel Dodds

027379

INVESTIGATION COMMITTEE CONSENT ORDERS

2. Mr Richard Crisop FCA

Consent order made on 22 June 2021

With the agreement of Mr Richard Ian Crisop of Richmond, United Kingdom the Investigation Committee made an order that he be severely reprimanded, fined £5,000 and pay costs of £4,833 with respect to complaints that:

1. Mr Crisop FCA was responsible for the filing of dormant accounts for “A” Ltd for the period ended 31 March 2017, when he was aware the company had been trading as he had filed VAT returns on the company’s behalf during the period covered by the accounts.
2. Mr Crisop FCA was responsible for the filing of dormant accounts for “B” Limited for the period ended 31 March 2015 when he knew the company started trading on 1 January 2015.
3. Mr Crisop FCA did not include transactions between January 2017 and March 2017 in “B” Limited’s accounts for the period ended 31 March 2017 even though he was aware the company was trading during this period.
4. Mr Crisop FCA under declared dividends totalling £56,500 from “B” Limited on X’s tax returns between 6 April 2014 and 5 April 2017.

045902

3. Mr Mark Clifford Raven

Consent order made on 22 June 2021

With the agreement of Mr Mark Clifford Raven of York, United Kingdom the Investigation Committee made an order that he be reprimanded and pay costs of £1,195 with respect to a complaint that:

Mr Mark Clifford Raven entered into an Individual Voluntary Arrangement on 10 June 2014 contrary to Disciplinary Bye-Law 4.1e.

054510

4. Mr David Gerard Kirk ACA

Consent order made on 23 June 2021

With the agreement of Mr David Gerard Kirk of Exeter, United Kingdom, the Investigation Committee made an order that he be reprimanded, fined £1,250 and pay costs of £2,190 with respect to a complaint that:

On 28 July 2016, Mr David Gerard Kirk ACA, in his capacity as Liquidator of “A” Ltd, failed to adequately disclose the sale of certain assets to a connected party in the report to creditors. This was contrary to Paragraph 6 of Statement of Insolvency Practice 13.

050330

5. Fortus Midlands Ltd.

Consent order made on 1 July 2021

With the agreement of Fortus Midlands Ltd of Northampton, United Kingdom the Investigation Committee made an order that the firm be reprimanded, fined £3,500 and pay costs of £3,379 with respect to a complaint that:

1. Between on or around 23 February 2016 and on or around 20 September 2019, Fortus Midlands Limited (formerly Haines Watts (SEM) Limited) prepared:
 - a. 60 sets of dormant statutory accounts, for the 19 companies set out in Appendix 1, in which the directors claimed exemption from audit, when the companies’ Articles of Association required that the correctness of the Income and Expenditure account and Balance Sheet be ascertained by a properly qualified Auditor;
 - and/or
 - b. two sets of dormant statutory accounts for “A” Limited, as set out in Appendix 2, in which the directors claimed exemption from audit when the companies’ Articles of Association required the company to adopt clause 130 of Table A of The Companies Act 1948 which required the auditors to make a report to the members on the accounts examined by them;
 - and/or
 - d. two sets of dormant accounts for the two companies, as set out in Appendix 4, in which the directors claimed exemption from audit when the companies’ Articles of Association required the companies to comply with The Companies Act 1948 and/or The Companies Act 1967 which required the balance sheet presented to the Annual General Meeting to be accompanied by a report from the Auditors;

049746

6. Mr Muhammad Zahur FCA

Consent order made on 12 July 2021

With the agreement of Mr Muhammad Zahur of Sheffield, United Kingdom, the Investigation Committee made an order that he be severely reprimanded, fined £7,200 and pay costs of £2,065 with respect to complaints that:

1. Between 13 January 2011 and 25 June 2017 Mr Muhammad Zahur FCA failed to comply with Money Laundering Regulations 2007 as he failed to document risk assessments and customer due diligence for all clients.
2. Between 26 June 2017 and 14 February 2019 Mr Muhammad Zahur FCA failed to comply with Money Laundering Regulations 2017 as he failed to document risk assessments and customer due diligence for all clients.
3. Between 13 January 2011 and 14 February 2019 Mr Muhammad Zahur FCA failed to comply with Clients' Money Regulations as he failed to obtain a bank letter acknowledging trust status of the client account.

051199

INVESTIGATION COMMITTEE FIXED PENALTY ORDERS

7. Mr Daniel Bailey

Penalty Order made on 17 May 2021

With the agreement of Mr Daniel Bailey, the Investigation Committee ordered that Mr Daniel Bailey, of Devon, United Kingdom, be reprimanded and given a fixed penalty with respect to a complaint that:

On 4 November 2018 Mr Daniel Bailey drove a motor vehicle in a public place after consuming so much alcohol that he exceeded the prescribed limit.

059801

8. Mr Vivek Lalji

Penalty Order made on 7 June 2021

With the agreement of Mr Vivek Lalji, the Investigation Committee ordered that Mr Vivek Lalji, of Watford, United Kingdom, be reprimanded and given a fixed penalty with respect to a complaint that:

On 14 February 2020, Mr Vivek Lalji entered a compulsory ticket area on Transport for London regional railway network without a valid ticket.

059177

9. Mrs Rachel Porter ACA

Penalty Order made on 28 June 2021

With the agreement of Mrs Rachel Porter ACA, the Investigation Committee ordered Mrs Rachel Porter ACA of Aylesbury, United Kingdom be reprimanded and given a fixed penalty of £700 representing a financial penalty of £1,000 to which a discount of 30% has been applied with respect to a complaint that:

Between 1 July 2019 and 1 June 2021, Mrs Rachel Porter ACA breached Principle Bye-law 51 by engaging in public practice without a practising certificate.

060500

10. Miss Leanne Hickman FCA

Penalty Order made on 29 June 2021

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of Miss Leanne Hickman FCA, the Investigation Committee ordered that Miss Leanne Hickman FCA, of Thame, United Kingdom, be reprimanded and given a fixed penalty of £700 representing a financial penalty of £1,000 to which a discount of 30% has been applied with respect to a complaint that:

Between 1 July 2019 and 1 June 2021, Miss Leanne Hickman FCA breached Principle Bye-law 51 by engaging in public practice without a practising certificate.

060499

11. Mr Gavin Snape ACA

Penalty Order made on 1 July 2021

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of Mr Gavin Snape ACA, the Investigation Committee ordered that Mr Gavin Snape ACA of Kettering, United Kingdom, be reprimanded and given a fixed penalty of £700 representing a financial penalty of £1,000 to which a discount of 30% has been applied with respect to a complaint that:

Between 7 April 2020 and 12 May 2021, Mr Gavin Snape ACA breached Principal Bye-law 51 by engaging in public practice without a practising certificate.

060374

12. Blue Arrow Accounting Ltd

Penalty Order made on 1 July 2021

Under Disciplinary Bye-law 14A the Investigation Committee has exercised its powers under delegation to consider this complaint by way of fixed penalty.

With the agreement of Blue Arrow Accounting Ltd, the Investigation Committee ordered Blue Arrow Accounting Ltd, of Mayfield, United Kingdom be reprimanded and given a fixed penalty of £779 representing a financial penalty of £1,114 to which a discount of 30% has been applied with respect to a complaint that:

Between 24 January 2020 and 8 June 2021 Blue Arrow Accounting Ltd used the description Chartered Accountants when they were not entitled to do so, in breach of regulation 12 of the Regulations governing the use of the description Chartered Accounts and ICAEW general affiliates.

060513

AUDIT REGISTRATION COMMITTEE

ORDER – 9 JUNE 2021

13. Publicity Statement

Cowgill Holloway LLP, Bolton, United Kingdom, has agreed to pay a regulatory penalty of £14,000, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of FRC Ethical Standard 2016 (and therefore audit regulation 3.01), for three principals of the firm, including the Responsible Individual, entering into a material business relationship with an audit client.

060034

ORDER – 9 JUNE 2021

14. Publicity Statement

Military House Limited, Chester, United Kingdom, has agreed to pay a regulatory penalty of £3,258, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03b, 2.11 and 2.07 for its failure to ensure that it was eligible for audit registration due to its change in ownership, for its failure to notify ICAEW of changes within 10 business days and for signing audit reports while ineligible.

060240

ORDER – 9 JUNE 2021

15. Publicity Statement

Biznav Limited, Bromley, United Kingdom, has agreed to pay a regulatory penalty of £3,096, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03b, 2.11 and 2.07 for its failure to ensure it was eligible for audit registration, its failure to notify changes to ICAEW within ten business days and for signing at least four audit reports when it was not eligible to do so.

060127

ORDER – 9 JUNE 2021

16. Publicity Statement

Holden Granat LLP, Weybridge, United Kingdom, has agreed to pay a regulatory penalty of £2,179, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03a and 2.07, for its failure to ensure that it was eligible to hold audit registration, in that two of its principals did not hold the required affiliate status, and for continuing as a registered auditor after it had ceased to meet one of the eligibility requirements.

058348

ORDER – 9 JUNE 2021

17. Publicity Statement

Jon Essam & Co Ltd, Kettering, United Kingdom, has agreed to pay a regulatory penalty of £1,602, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03b, 2.07, 2.11 and 6.06 for its failure to ensure that the voting rights were held by individuals holding an appropriate qualification or a registered auditor, for continuing as a registered auditor after it had ceased to meet one of the eligibility requirements, for its failure to notify ICAEW of changes within 10 business days and for the incorrect completion of its ICAEW annual return.

060226

ORDER – 9 JUNE 2021

18. Publicity Statement

MacIntyre Hudson LLP, Milton Keynes, United Kingdom, has agreed to pay a regulatory penalty of £1,573, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.03a, 2.07 and 2.11 and Licensed Practice Handbook paragraphs 2.04b and 2.08d, for its failure to ensure that it was eligible to hold audit registration and license practice scheme registration, in that one of its principals did not hold the required affiliate status, for continuing as a registered auditor after it had ceased to meet one of the eligibility requirements and, for its failure to notify ICAEW of changes within 10 business days.

059603

PRACTICE ASSURANCE COMMITTEE

ORDER – 20 MAY 2021

19. Publicity statement

Mr David Wright FCA has agreed to pay a practice assurance penalty of £2,000, which was decided by the Practice Assurance Committee. This was in view of his admitted breach of Practice Assurance Regulation 4 (2008 Regulations); in that Mr Wright failed to comply with written assurances to document ongoing due diligence, including risk assessments, obtain a bank trust letter and carry out an annual clients' money compliance review.

056955

INSOLVENCY LICENSING COMMITTEE

ORDER – 3 JUNE 2021

20. Publicity statement

Mr David John Exell of Bristol, United Kingdom has agreed to pay an Insolvency Licensing Committee regulatory penalty of £1,500. This was in view of his breach of Regulation 3.13 of the *Insolvency Licensing Regulations and Guidance Notes* in that he failed to undertake a compliance review in 2020.

030621

PROBATE COMMITTEE

ORDER – 29 JUNE 2021

21. Publicity statement

HGA Accountants & Financial Consultants Ltd of Ilford, United Kingdom has agreed to pay a probate penalty of £500. This was in view of the firm's admitted breach of Probate Regulation 2.7s of the *Probate Regulations* in that it had failed to monitor the diversity of the firm's principals and employees and publish the findings of the monitoring in the manner and format prescribed by ICAEW.

no case number

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