



Disciplinary Orders and Regulatory Decisions

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DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

1. **Mr Andrew M Smith FCA** of
Spalding, United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 2 October 2019

Type of Member Member

Terms of complaint

1. Mr A M Smith FCA prepared the following accounts for 'A' Limited when he knew they were incorrect as they were prepared using estimates and in doing so he failed to comply with paragraph 110.2 of the Code of Ethics:
 - a. management accounts for the nine month period ended 31 May 2014;
 - b. statutory accounts for the period ended 31 August 2014;
 - c. statutory accounts for the period ended 31 August 2015.
2. Mr A M Smith FCA prepared CT600s for 'A' Limited for the periods ended 31 August 2014 and 31 August 2015 when he knew the profits declared had not been compiled in accordance with Generally Accepted Accounting Practice as required by s46 of the Corporation Tax Act 2009 and in doing so he failed to comply with paragraph 110.2 of the Code of Ethics.
3. Mr A M Smith FCA prepared statutory accounts for 'B' Limited for the period ended 31 March 2016 when he knew that the accounts were incorrect as they were prepared using estimates and in doing so he failed to comply with paragraph 110.2 of the Code of Ethics.
4. Mr A M Smith FCA prepared CT600s for 'B' Limited for the period ended 31 March 2016 when he knew the profits declared had not been compiled in accordance with Generally Accepted Accounting Practice as required by s46 of the Corporation Tax Act 2009 and in doing so he failed to comply with paragraph 110.2 of the Code of Ethics.

Mr Andrew Mowbray Smith is therefore liable to disciplinary action under Disciplinary Bye-law 4.1.a in that '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.'

Hearing dates	2 nd October 2019
Previous hearing dates	N/A
Pre-hearing review or final hearing	Final hearing
Heads of complaint found proved	All
Heads of complaint found not proved	None
Sentencing order	Severe reprimand Fine £7,500 QAD practice assurance visit Training as identified by QAD Costs £9,000

Procedural matters and findings

Parties and representation

The Investigation Committee was represented by Mrs Emily Healy-Howell
The Respondent was not present and was not represented

Hearing in public or private

The hearing was in public

Decision on service

The Tribunal was satisfied that service was in accordance with regulations 3 and 5 of the Disciplinary Committee Regulations

Documents considered by the Tribunal

The Tribunal considered the documents contained in the Investigation Committee's bundle

Preliminary matters: Proceeding in absence

1. Notice of the hearing was sent by post to Mr Andrew Smith ('the Respondent') on 14 August 2019. The notice was sent to his registered address. The Tribunal was satisfied that service had been effected in accordance with Regulations 3 and 5 of the Disciplinary Committee Regulations ('DCR').
2. The Respondent replied to the notice saying 'I will not be attending the hearing, and am happy for it to go ahead in my absence.' He sent in written submissions in relation to the complaint by letter on 10 September 2019 and made admissions in his Regulation 13 Answers.
3. The Tribunal was satisfied that no useful purpose would be served in adjourning the hearing and that there was a clear public interest in proceeding in the Respondent's absence.

The Investigation Committee's case

4. The Respondent has been a member of the ICAEW since 1994. He is in practice as an accountant as a Director of as 'C' Limited ('the firm'). His co-director is also an ICAEW member.

Background

5. Prior to 2017 the Respondent acted as accountant for 'A' Limited and 'B' Limited. Both are car transporter companies owned and operated by Mr 'D'.
6. In 2017 the two companies engaged a new accountant. On 10 January 2017 the new accountant, Mr 'E', requested handover information from the firm. Although the Respondent gave clearance for handover he failed to supply the requested information, which included copies of the full accounts for the companies.
7. Further the Respondent informed Mr 'E' that the statutory accounts and tax returns for 'B' Limited were based on estimates. This was a matter of concern for Mr 'E' as there was no provision to file estimated returns Companies House and there was no supporting information. The matter was reported to the ICAEW.
8. The IC's case was that the accounts prepared by the Respondent for 'A' Limited for the periods ended 31 May 2014, 31 August 2014 and 31 August 2015 and for 'B' Limited for the

period ended 31 March 2016 were all based on estimates. As a result the IC alleged that the accounts were inaccurate and misleading.

9. The evidence relied on by the IC in support of these allegations were:

- In a letter to Mr 'E' dated 2 May 2017 the Respondent stated that the 'figures submitted to Companies House and the tax office' for the year ended 31 March 2016 for 'B' Limited 'should be treated as estimated' due to 'lack of records'.
- Mr Smith emailed Mr 'E' on 11 May 2017 stating that 'We have never seen any books' for 'B' Limited and that 'all figures submitted to companies house and tax office our [sic] our best estimates'.
- On 16 May 2017 the Respondent told Mr 'E' on the telephone that the 'B' Limited figures were 'finger in the air' estimates and there were no schedules to support the figures used. He said the 'A' Limited accounts had been produced on a similar basis. He told Mr 'E' that there were no signed copies of the accounts for either company.
- In a letter to ICAEW on 8 March 2018 the Respondent stated as follows:
 - He had only 'verbal permission' from Mr 'D' to submit financial statements for 'B' Limited. The accounts were required because Mr 'D' wanted 'to start new HP/leases'.
 - That 'HMRC had estimated figures as the books had still not arrived' and that 'We did not tell HMRC they were estimated.'
 - The reasons for filing the estimated accounts at Companies House were 'as a hire/lease company would have wanted figures on Companies House', and 'to save on fines'.
- In a further letter dated 10 April 2018 the Respondent told ICAEW:
 - He did not notify the finance organisations that the financial statements for 'A' Limited and 'B' Limited were estimates.
 - The figures were 'pure estimates' as he 'had no company records to work from'. He had hoped that he would be able to replace the estimates with actual figures soon afterwards and thus HMRC were not told that they were estimates.
 - He was unable to state with certainty whether or not he submitted the estimated accounts to finance companies as he no longer had any emails from that period, but stated that he 'probably did'.

10. The Companies Act 2006 s396(2) states that a company's accounts must comply with the following requirements:

'(a) in the case of the balance sheet, give a true and fair view of the state of affairs of the company as at the end of the financial year' and

'(b) in the case of the profit and loss account give a true and fair view of the profit or loss of the company for the financial year.'

11. Section 46 of the Corporation Tax Act 2009 requires that the 'profits of a trade must be computed in accordance with generally accepted accounting practise [GAAP]'. Generally accepted accounting practice in the UK includes the body of accounting standards and other guidance published by the UK's Financial Reporting Council.

12. The Financial Reporting Standard for Smaller Entities (FRSSE 2008) prescribes the basis, for those entities within its scope that have chosen to adopt it, for preparing and presenting their financial statements.
13. Where a company prepares its financial statements in accordance with FRSSE, then those statements will reflect the requirements of the Companies Act 2006. Companies' legislation requires adequate accounting records to be maintained in order that the director can ensure that accounts can be prepared which comply with the Companies Act 2006. The accounts must give a 'true and fair view' of both the balance sheet and of the profit and loss for the period. FRSSE states at paragraph 2.9 'Accounting policies and estimation techniques should be consistent with the requirements of the FRSSE and of companies' legislation.'
14. The IC's case submitted that preparing financial statements based on pure estimates is inconsistent with the requirements of companies' legislation, with FRSSE and GAAP.
15. Mr Smith did not raise fee notes for completing the accounts with the exception of those for 'A' Limited for the period ended 31 August 2014, for which the invoice remains unpaid. Accordingly the IC accepted there was no indication he personally benefited from preparing the accounts.
16. However the IC alleged that Mr Smith prepared accounts and reports based on estimated information so that his clients could obtain assets on finance and/or avoid late filing penalties. The IC alleged that this amounted to providing false or misleading information in breach of paragraph 110.2 of the Code of Ethics which states:

'A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- Contains a materially false or misleading statement;
- Contains statements or information furnished recklessly; or
- Omits or obscures information required to be included where such omission or obscurity would be misleading.

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.'

17. The individual complaints faced by the Respondent were as follows.

Complaint one

18. This relates to the management accounts for 'A' Limited for period ended 31 May 2014; and the statutory accounts for that company for the periods ended 31 August 2014 and 31 August 2015.
19. The Respondent prepared management accounts for 'A' Limited for the ten-month period ended 31 May 2014 and signed the accountants report on 20 October 2014. They were sent to Mr 'D' the same day with a handwritten note saying 'Set of accounts for you to pass to finance company.' Mr 'D's business required finance to obtain car transporter and IC's case was that these accounts were prepared to give assurance to the finance company about the financial health of 'A' Limited.
20. The statutory accounts for 'A' Limited for the years 2014 and 2015 were submitted to Companies House on, respectively, 7 November 2014 and 23 April 2016.

21. The IC's case was that as these accounts were prepared from estimates they were therefore incorrect. Mr Smith knew that the accounts would be available on public record and that the information contained in the accounts may be relied upon by the finance companies approached by Mr 'D' on behalf of his company. He stated in his letter to the ICAEW dated 8 March 2018 that he filed the 2014 statutory accounts because 'a hire/lease company would have wanted the figures on Companies House'. He further stated that the 2015 accounts 'would have been filed to save on fines.'
22. The IC accordingly alleged the Respondent had breached his obligations under paragraph 110.2 of the Code of Ethics.

Complaint two

23. This complaint relates to the company tax return forms CT600 for 'A' Limited for the periods ending 31 August 2014 and 31 August 2015.
24. The corporation tax computation for 'A' Limited for the period ended 31 August 2014 shows £5,208 profit 'per financial statements' which concurs with the profit figure shown on the estimated accounts for the same period, but not the accounts that were filed with Companies House. Furthermore, HMRC was not informed that the figures were estimated.
25. The IC alleged that the Respondent prepared these accounts and he did so knowing that the profits declared had not complied with generally accepted accounting practice as required by legislation. Therefore the Corporation Tax liability was incorrect. The accounts should have been prepared using the accounting records which the director was required to maintain.
26. Although the IC accepted that the Respondent's firm had not submitted the CT600 for the period ended 31 August 2015 to HMRC, it was also based on estimates. IC submitted that accordingly the Respondent was associated with this return in breach of paragraph 110.2 of the Code of Ethics.

Complaint three

27. This complaint relates to the statutory accounts for 'B' Limited for the period ended 31 March 2016.
28. IC's case was that Mr Smith prepared accounts based on estimated information so that his clients could obtain assets on finance. He admitted in his letter to the ICAEW dated 8 March 2018 that in filing the accounts which had been prepared using estimates at Companies House he did so 'to satisfy the hire purchase/lease company'.
29. For the same reasons as set out in relation to complaint two, the IC alleged the Respondent had breached his obligations under paragraph 110.2 of the Code of Ethics.

Complaint four

30. This complaint relates to the CT600 for 'B' Limited for the period ended 31 March 2016. The corporation tax computation shows £742 profit 'per financial statements' which agrees with the profit figure shown on the estimated accounts for the same period. HMRC was not told that the figures were estimated.
31. Section 46 of the Corporation Tax Act 2009 requires a CT600 to be prepared in compliance with GAAP. The IC alleged that the Respondent prepared these accounts and he did so knowing that the profits declared had not complied with GAAP. Accordingly the Respondent had breached paragraph 110.2 of the Code of Ethics.

Liability to disciplinary action

32. The IC submitted that the above matters rendered the Respondent liable to disciplinary action under Disciplinary Bye-law ('DBL') 4.1.a on the basis he had committed an act or default likely to bring discredit on himself, the Institute or the profession of accountancy.

The Respondent's case

33. The Respondent was sent a copy of the IC's report and the complaints on 11 March 2019 before the case was referred to this Committee. Mr Smith replied on 19 March 2019 stating that he was 'happy' with the points raised. He said that he had tried to act in the best interests of his client.
34. Following service of the notice of hearing, the Respondent wrote to the ICAEW on 10 September 2019. He explained that he had been Mr 'D's accountant since his first day of trading and had helped him grow his business. He said that Mr 'D' asked him to do some management accounts for a finance company and he agreed in order to assist him. He also ended up preparing figures for Company House and HMRC to avoid fines as they did not have enough records from Mr 'D' by the relevant deadline to do final accurate accounts.
35. In his Regulation 13 Answers, signed by him on 23 August 2019, the Respondent accepted he was liable to disciplinary action under DBL 4.1.a. Unfortunately due to the way the form was worded it was not clear if the Respondent was making this admission only in relation to complaint one or all the complaints. In response to an enquiry about this the Respondent sent an email to ICAEW on 1 October 2017 saying 'I assumed by admitting 4.1.a that I was happy for the panel to proceed on the basis that I admit the complaint'.

Decision on complaint

36. The Tribunal bore in mind that the burden of proof was on the IC and the standard of proof was proof on the balance of probabilities. The Tribunal bore in mind the admissions made by the Respondent and the fact that he had not advanced any positive case challenging the IC's submissions. Nonetheless the Tribunal considered each complaint separately and considered whether based both on the evidence before it and the Respondent's admissions it was satisfied that the complaint had been proved.

Complaint one

37. The Respondent clearly accepted in correspondence with Mr 'E' and the ICAEW that he had prepared the accounts for 'A' Limited for the three periods in question and that he had done so using estimated figures.
38. The issue for the Tribunal therefore was whether the Respondent knew the figures were incorrect and, if so, whether this amounted to a breach of the requirements of paragraph 110.2 of the Code of Ethics.
39. The Respondent admitted that his figures were estimates and he had been provided with no books or paperwork. Tellingly he described the process he had engaged in as being similar to putting a finger up in the air. The Tribunal was satisfied that the Respondent had no grounds or basis for believing the estimates were a true or fair reflection of the financial state of the company. Given that they were pure guesswork the Tribunal was satisfied, on balance of probabilities, that the figures were incorrect and therefore misleading. Moreover, the Respondent must have known they were misleading.
40. In those circumstances the Tribunal was satisfied that the Respondent had breached paragraph 110.2 of the Code of Ethics.

41. The Tribunal therefore found complaint one proved.

Complaint two

42. The Tribunal was satisfied, based on his own admissions, that the Respondent prepared the corporation tax returns (CT600s) for 'A' Limited for the periods ended 31 August 2014 and 31 August 2015.

43. The Tribunal considered whether the profits declared on these returns were not compiled in accordance with GAAP and, furthermore, whether the Respondent knew that they were not.

44. The Tribunal was satisfied that the returns had been submitted without the Respondent having any reasonable grounds for believing the truth or accuracy of the figures they contained. In those circumstances it was satisfied that the profit figures did not accord with GAAP and that the Respondent had breached paragraph 110.2 of the Code of Ethics

45. The Tribunal therefore found complaint two proved

Complaint three

46. The Respondent accepted in correspondence with Mr 'E' and the ICAEW that he had prepared the accounts for 'B' Limited for the period ended 31 March 2016. He also accepted that he had done so using estimated figures.

47. The issues for the Tribunal therefore were whether the Respondent knew the figures were incorrect and, if so, whether this amounted to a breach of the requirements of paragraph 110.2 of the Code of Ethics.

48. The same issues arise for consideration as in respect of complaint one. For the same reasons the Tribunal was satisfied that the Respondent knew the figures he was providing were little more than guesses and were therefore incorrect. It was satisfied that the Respondent had provided false or misleading information to Companies House and accordingly had breached paragraph 110.2 of the Code of Ethics.

49. The Tribunal therefore found complaint three proved.

Complaint four

50. The Tribunal was satisfied, based on his own admissions, that the Respondent prepared the corporation tax return (CT600) for 'B' Limited for the year ended 31 March 2016. Again on his own admission the Tribunal was satisfied that the figures on the return prepared by the Respondent were estimated.

51. For the same reasons as set out in relation to complaint two, the Tribunal found that the profits declared on these returns were not compiled in accordance with GAAP and, accordingly, he had failed to comply with paragraph 110.2 of the Code of Ethics.

52. The Tribunal therefore found complaint four proved

Liability to disciplinary action

53. Having found all complaints proved, the Tribunal went on to consider whether the Respondent was liable to disciplinary action under DBL 4.1.a.

54. When a Chartered Accountant puts his/her name to a document knowing that Companies House, HMRC and third parties will rely on the statements in that document he/she bears a heavy responsibility. In this case there was no doubt that the Respondent had produced

important financial documents which he knew were going to be relied upon by finance companies and the tax authorities. The fact that he had knowingly provided false or misleading statements in those documents was a matter of great concern.

55. The Tribunal took into account the fact that the Respondent accepted in his Regulation 13 Answers that he had breached DBL 4.1.a.
56. The Tribunal was satisfied that the Respondent's repeated breaches of the integrity principle in paragraph 110.2 of the Code of Ethics was behaviour which would be regarded as discreditable by the public and the profession. It therefore found the Respondent liable to disciplinary action under DBL 4.1.a.

Matters relevant to sentencing

57. There were no previous disciplinary matters recorded against the Respondent.
58. In mitigation the Tribunal accepted that he had co-operated with the Institute's investigation. He had also made admissions to the complaints and had not sought to dispute any of the allegations.
59. The Tribunal was however concerned about the Respondent's lack of insight into his behaviour. His contention that he had done these things for the benefit of his client missed the point that as an accountant he has a duty to the public and to uphold the reputation of the profession.
60. Although there was no evidence of either direct personal gain or harm to any third party, the potential for harm was obvious.
61. The Tribunal had regard to ICAEW's *Guidance on Sanctions* ('GDS').
62. The starting point for sanction where a Member provides false or misleading information depends on the degree of seriousness of the misconduct. Where the behaviour is classed as 'very serious' the starting point for sanction is exclusion and a Category C financial penalty (£10,000). Where the misconduct is 'serious' rather than 'very serious' the starting point is a severe reprimand, a Category D financial penalty (£5,000) and an order for remedial training. The Tribunal was not persuaded that exclusion was the only possible sanction in this case. It considered that a combination of sanctions was appropriate to mark the seriousness of the Respondent's departure from acceptable standards.
63. The Tribunal severely reprimanded the Respondent and in addition fined him £7,500. In doing so it considered that a Category C fine was appropriate but made a reduction to reflect the admissions made by the Respondent.
64. In addition the Tribunal considered that there was a need for monitoring and training to ensure the Respondent will in the future comply with his professional obligations. It ordered that the Respondent must, at his own expense, arrange a Quality Assurance Department practice assurance visit of his practice and implement any recommendations made by QAD as to remedial training. The Tribunal directed that the Respondent must make all necessary arrangements for the visit by 30 November 2019. Any training requirements identified at the visit must be implemented by 31 March 2020, unless the timings make that impractical in which case training must be undertaken by the date given by QAD. In any event, the Respondent must keep the ICAEW updated as to the progress of his compliance with these orders.
65. The IC applied for costs in the sum of £9,564. Tribunal considered in principle the Respondent should pay the costs incurred by the Institute but there should be some reduction to reflect the fact the hearing had not taken a full day. It awarded costs to the ICAEW in the sum of £9,000.

Sentencing order

66. Therefore in the Tribunal's view the appropriate and proportionate sanction was a severe reprimand and a fine of £7,500.
67. The Tribunal ordered that the Respondent must, at his own expense, by 30 November 2019, arrange for the Quality Assurance Department to conduct a practice assurance visit of his practice. Any training requirements identified by the visit must to be completed by 31 March 2020 or such other date as may be advised by QAD.
68. The Tribunal ordered the Respondent to pay costs of £9,000.

Decision on publicity

69. The Tribunal directed that a record of this decision shall be published and the Respondent shall be named in that record.

Non Accountant Chairman

Mr Ron Whitfield

Accountant Member

Mr Jon Newell FCA

Non Accountant Member

Mr Graham Humby

Legal Advisor to the Tribunal

Mr Andrew Granville Stafford

040814

**2. Mr Nemchand Proag ACA of
London, United Kingdom**

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 30 October 2019

Type of Member	Member
Terms of complaint	Between 7 September 2015 and 3 May 2018 Mr Nemchand Proag ACA breached section 110.1 of the Code of Ethics, namely the Fundamental Principle of Integrity, by retaining £300 that had been mistakenly paid into his business bank account. Mr Nemchand Proag is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a
Hearing date	30 October 2019
Previous hearing date(s)	N/A
Pre-hearing review or final hearing	Final Hearing
Complaint found proved	Yes
Sentencing order	Severe reprimand, no financial penalty, and an order to pay the costs of the ICAEW in the global sum of £8,000 (in respect also of the Complaint 031003) by 12 monthly instalments, the first payment to be made on 1 st December 2019
Parties present	Mr Nemchand Proag (the Respondent)
Represented	Ms Emily Healy-Howell represented the Investigation Committee Mr Edward Henry QC represented the Respondent
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 (together further documentation supplied by the Respondent.)

The Investigation Committee's (IC's) case

1. Mr Proag is the sole director and shareholder of 'A' Ltd, an accountancy practice. A complaint from Mrs 'B' was received by ICAEW in October 2015. Mrs 'B's son is a director of 'C' Ltd, a former client of 'A' Ltd. Mrs 'B' is the book-keeper for her son's company.
2. Mr Proag is a dual ACCA and ICAEW member and this matter was considered by ACCA initially and by ICAEW thereafter.
3. Mrs 'B' stated that on 7 September 2015 she went into a bank in Clacton and asked the assistant to transfer £300 from her bank account to the bank account of 'C' Ltd. Mrs 'B' had previously made a payment to 'A' Ltd for an invoice sent to her son's company. Mrs 'B' states that the assistant accidentally transferred £300 to 'A' Ltd rather than 'C' Ltd. At the time of the complaint, Mrs 'B' stated that Mr Proag had refused to repay the monies to her as it was a bank error.
4. On 14 October 2016 the bank agreed that the error was their mistake and refunded the money to Mrs 'B'.
5. On 30 March 2017 ACCA considered the complaint that Mr Proag was guilty of misconduct by reason of his refusal to repay the £300 back to Mrs 'B'. ACCA's tribunal did not find that this was done dishonestly, but did find that it was contrary to the Fundamental Principle of Integrity. Mr Proag was severely reprimanded and ordered to pay costs of £4,500.
6. As the bank had refunded Mrs 'B', Mr Proag made a donation of £300 to CABA on 4 May 2018.

Details of complaint

7. ICAEW's Code of Ethics effective 1 January 2011 requires a professional accountant to comply with the fundamental principal of integrity. Paragraph 110.1 of ICAEW's Code of Ethics states:

"The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness."
8. The Investigation Committee relies upon Disciplinary Bye-law 7.2, effective 6 October 2016, which states that:

"The fact that a respondent or respondent firm:

 - a. has been the subject of an adverse finding (not set aside on appeal or otherwise) in respect of his conduct, being a finding in proceedings before a body which is for the time being listed in paragraph 6 or before a regulatory body performing its functions under the Financial Services and Markets Act 2000, the Insolvency Act 1986, the Companies Act 2006, the Irish Companies Act 2014, the Local Audit & Accountability Act 2014 and the Legal Services Act 2007; shall, for the purposes of these bye-laws, be conclusive evidence of the commission by him of such an act or default as is mentioned in bye-law 4.1(a) or 5.1(a), as the case may be."

Disciplinary Bye-law 7.6 sets of the relevant bodies and confirms that ACCA are a relevant body:

“The bodies referred to in paragraph 2(a) and 5(l) are
c. The Association of Chartered Certified Accountants;”

9. The following chronology sets out Mrs ‘B’s attempts to recover the £300 transferred in error:

Date	Description	Source
7 September 2015	Mrs ‘B’ realised that the payment had been incorrectly paid to ‘A’ Ltd and requested that the bank recall the payment.	Mrs ‘B’s letter dated 9 October 2015
W/c 28 September 2015	The bank advised Mrs ‘B’ it would be quicker to contact Mr Proag directly and request the return of funds.	Mrs ‘B’s letter dated 9 October 2015
W/c 28 September 2015	Mrs ‘B’ called Mr Proag, explained the error, and asked him to return funds. Mrs ‘B’ states that Mr Proag agreed to pay the money back by cheque. Mr Proag agrees that a telephone call took place but denies that he gave any undertaking to repay the funds.	Mrs ‘B’s letter dated 9 October 2015 Letter from ‘D’ dated 4 May 2018.
5 October 2015	Mrs ‘B’ states that she went to Mr Proag’s office to collect the cheque. Mr Proag did not answer the door despite his car being there. Mrs ‘B’ also states that she called Mr Proag and there was no answer.	Mrs ‘B’s letter dated 9 October 2015
6 October 2015	Mrs ‘B’ states that she called Mr Proag and there was no answer.	Mrs ‘B’ letter dated 9 October 2015
8 October 2015	Mrs ‘B’ states that she called Mr Proag and there was no answer.	Mrs ‘B’s letter dated 9 October 2015
8 October 2015	Mrs ‘B’ states that Mr Proag’s assistant called her to say Mr Proag had contacted his bank and they advised he did not need to return the money as it was the bank’s error. Mr Proag disputes this and states that he did not discuss the matter with his assistant or the bank.	Mrs ‘B’s letter dated 9 October 2015 Letter from ‘D’ dated 4 May 2018.
9 October 2015	Mrs ‘B’ wrote to Mr Proag and set out her complaint. She advised him she would report the matter to the FRC. Mr Proag disputes that he ever received this letter.	Letter from Mrs ‘B’ to Mr Proag dated 9 October 2015 – sent recorded delivery Letter from ‘D’ dated 4 May 2018.
9 October 2015	Mrs ‘B’ sent a letter of complaint to her bank).	ACCA Reasons for Decision. Hearings on 15 September 2016 and 30 March 2017

9 October 2015	Mrs 'B' sets out her complaint in a letter to FRC.	Mrs 'B's letter dated 9 October 2015
14 October 2015	The bank wrote to Mrs 'B' accepting the error was their fault and agreed to repay the £300.	ACCA Reasons for Decision. Hearings on 15 September 2016 and 30 March 2017

10. Mr Proag accepts that the £300 was paid into his office bank account on 7 September 2015.
11. 'A' Ltd was engaged to prepare the financial statements for 'C' Ltd for the years ended 30 June 2013 and 30 June 2014. The 2013 accounts were completed in January 2014 and the company was invoiced £480. Mrs 'B' paid this invoice for the company. The 2014 accounts were prepared in March 2015 and the company was invoiced £480. This invoice remains unpaid.
12. Mr Proag states that when he received the £300 in September 2015 he assumed it was payment towards the outstanding invoice and offset the amount against the invoice. He disputes that when he spoke to Mrs 'B' following the receipt that he agreed to refund the monies.
13. Mr Proag states that when he spoke to Mrs 'B' she was a bit annoyed that he had offset the monies against the invoice but he considered that following the phone call the matter was settled. ACCA concluded their disciplinary action on 30 March 2017.
14. The ACCA panel stated that it had not found Mr Proag's account to be credible, as his explanations were inconsistent. In deciding on sanction, the panel noted that Mr Proag continued to retain the £300.

The Respondent's case

15. Mr Proag has maintained his explanations that he thought the payment was towards the outstanding invoice issued to 'C' Ltd and that Mrs 'B' had agreed to the money being offset against that invoice in their phone call in October 2015. Mr Proag said he did not say he would return the money and confirmed there are no notes of the telephone conversations with Mrs 'B'.
16. Mr Proag said he had not discussed the matter with his bank or his assistant. Mr Proag said he had two staff in October 2015, an apprentice and a trainee accountant. He said he recalled asking them whether they had spoken to Mrs 'B' on or around 8 October 2015, but no one could recall doing so.
17. Mr Proag has also said he did not receive Mrs 'B's letter of complaint dated 9 October 2015 until he was provided with a copy as part of ACCA's process in August 2016. Mr Proag provided screen shots of the recorded delivery tracking record showing that the letter had been delivered to the address or a neighbour and another one showing the letter had been collected from the post office at 08:49 on 20 October 2015. However, he said he had not collected the letter and the record was inaccurate as the post office was not open at 08:49. He produced a witness statement dated 22 November 2016 from a staff member at the post office confirming their opening hours in October 2015.
18. During ICAEW's investigation Mr Proag was asked to explain why he had not returned the £300 following ACCA's investigation and disciplinary hearing. He said they had not asked him to and Mrs 'B' had already been reimbursed by her bank. He said he was willing to

make a donation to charity. He also said he was prepared to return the money to the bank and apologise to Mrs 'B'. On 4 May 2018 Mr Proag made a £300 donation to the charity CABA. No confirmation has been provided that he has repaid the funds to the bank or apologised to Mrs 'B'.

19. ICAEW wrote to Mr Proag on 8 April 2019 to provide him with a copy of the draft report and to invite any representations he wished to make prior to the matter going to the Investigation Committee. No response was received.

Issues of fact and law

20. The Respondent admitted the complaint, but provided extensive mitigation.

Conclusions and reasons for decision

21. Accordingly, having regard to the admission, the Tribunal was satisfied that the complaint had been proved. The Tribunal considered that the Respondent had acted in a foolish manner, had refused to accept the obvious over a significant period of time, and had wrongly failed to return the £300 credited to the practice account.

Matters relevant to sentencing

22. There was no prior history of disciplinary action. The Tribunal considered [private] over a period of time following his acquisition of the practice, which was located some considerable distance from his home address. Numerous personal references were supplied as to the Respondent's good character. The Tribunal had regard to the extensive mitigation presented to it, including the previous disciplinary proceedings in respect of the same subject matter and financial information.
23. We remind ourselves that the key principles are protection of the public, maintaining the reputation of the profession, upholding proper standards of conduct within the profession, and the correction and deterrence of misconduct. The Tribunal considered the Guidance on Sanctions, Paragraph 9 c, Failure to comply with the Fundamental Principle of Integrity. It was agreed that the complaint fell within the Less Serious category. The aggravating features were the retention of third party monies, and poor conduct over a lengthy period of time. The mitigating factors were the co-operation in the investigation, the previous proceedings taken by ACCA, and payment of restitution to a third party (CABA). The admission was also taken into account.

Sentencing Order

24. The Tribunal directed that this Complaint be joined together with Complaint 031003 (and we refer to our Record of Decision in that Complaint.) The unanimous decision of the Tribunal was that a fair and proportionate sanction was a severe reprimand (being one severe reprimand for both complaints) with no separate penalty. The Respondent is to pay the costs of the ICAEW in the global sum of £8,000 in respect of both complaints, our being

satisfied that those costs are fair and reasonable. The costs are to be paid monthly within twelve months, first payment to be made on 1st December 2019.

Decision on publicity

25. Publication with name.

Chairman

Mr Richard Jones QC

Accountant Member

Mr Martin Ward FCA

Non Accountant Member

Mr Nigel Dodds

030726

3. Mr Nemchand Proag ACA of
London, United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 30 October 2019

Type of Member Member

Terms of complaint

1. Between 3 September 2015 and 14 December 2015 Mr Nemchand Proag ACA breached section 110.1 of the Code of Ethics, namely the Fundamental Principle of Integrity, by retaining £7,200 which had been mistakenly paid into his business bank account.

Mr Nemchand Proag is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a

Hearing date	30 October 2019
Previous hearing date(s)	N/A
Pre-hearing review or final hearing	Final Hearing
Complaint found proved	Yes
Sentencing order	Severe reprimand, no financial penalty, and an order to pay the costs of the ICAEW in the global sum of £8,000 (in respect also of the Complaint 030726) by 12 monthly instalments, the first payment to be made on 1 st December 2019
Parties present	Mr Nemchand Proag (the Respondent)
Represented	Ms Emily Healy-Howell represented the Investigation Committee Mr Edward Henry QC represented the Respondent
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 (together further documentation supplied by the Respondent.

The Investigation Committee's (IC's) case

1. Background. Mr Proag is the sole director and shareholder of 'A' Ltd, an accountancy practice. A complaint from Mr 'E' was received by ICAEW in November 2015. Mr 'E' is a director of 'F' Ltd, a former client of 'A' Ltd.

2. Mr 'E' stated that 'F' Ltd had engaged the services of 'A' Ltd until 2013 and that when he ceased using the services of 'A' Ltd, there were no monies owing to 'A' Ltd. On 3 September 2015, Mr 'E' accidentally transferred £7,200, via an online BACS payment, to Mr Proag's business bank account and Mr Proag failed to return the money despite being made aware of the error.
3. Mr Proag is a dual ACCA and ICAEW member and this matter was considered by ACCA initially and ICAEW has considered the matter thereafter. The complaint was referred to ACCA in November 2015 and on 15 December 2015 Mr Proag repaid the money to Mr 'E'. ACCA has provided some documentation to ICAEW and it is included within the bundle.
4. ACCA concluded their investigation on 29 February 2016. ACCA sends matters to an Independent Assessor, at the conclusion of an investigation, who will then apply 'the realistic prospect' test on the papers alone, in order to decide whether the matter should go to a substantive hearing. However, ACCA is able to dispose of a matter at the Investigation stage, prior to it going to the Independent Assessor, via a 'rest on file' decision if it is deemed appropriate. In order to make a 'rest on file' decision the Investigation Officer must first determine that there is a 'prima facie' case. Within this consideration ACCA found that Mr Proag had breached the Fundamental Principle of Integrity, but given that the funds had been repaid and further to a number of other factors, ACCA decided to dispose of the matter via a 'rest on file' decision. A 'rest on file' decision is not an adverse finding as specifically defined in ICAEW's disciplinary bye-laws. Therefore this information is set out only as background to the complaint, to explain why this matter is charged as it is and the decision is not relied upon by ICAEW's Investigation Committee. The decision made by ACCA was reached without the evidence being tested and it is not a 'finding' further to a substantive hearing.
5. Mr 'E' provided his representations and explanations to ACCA as part of their process as set out below. ICAEW then confirmed its own investigation of the matter in October 2017 and Mr 'E' acknowledged the letter but added no further comments.

Detail of complaint

6. ICAEW's Code of Ethics effective 1 January 2011 requires a professional accountant to comply with the fundamental principal of integrity. Code of Ethics 110.1 provides:

"The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness."
7. It is the Investigation Committee's case that Mr Proag breached this fundamental principle of integrity by retaining money he knew had been paid in error. Mr Proag only repaid the monies after the police intervened. The Investigation Committee say that this is not straightforward and honest behaviour.
8. As stated above, Mr 'E' is the director and shareholder of 'F' Ltd, a former client of 'A' Ltd. Mr 'E' ceased using the services of 'A' Ltd in 2013. Mr 'E' has confirmed that all monies owed had been settled at the time of termination and no further services were performed by 'A' Ltd.
9. On 3 September 2015 Mr 'E' made an online BACS payment of £7,200 from 'F' Ltd's bank account in error to 'A' Ltd. He explained that the payment was made by the online BACS system and the error was caused by an error in their set up of the online payment system.

10. Mr 'E' explained his own attempts to recover the money, which have been set out in the chronology below:

Date	Description
On or around 13 October 2015	Mr 'E' contacted his bank to see what they could do.
On or around 13 October 2015	Mr 'E' called 'A' Ltd to speak to Mr Proag but was told he was not there. Mr 'E' states that he could hear Mr Proag's voice in the background. He requested that Mr Proag call him back.
On or around 14 October 2015	Mr 'E' visited the office of 'A' Ltd to speak to Mr Proag but he was not there. He requested that Mr Proag call him.
15 October 2015	<p>Mr 'E' wrote to Mr Proag to request he return the funds paid to his company in error and provided the company's bank details to enable the refund.</p> <p>The letter was sent by Royal Mail special delivery and required a signature on receipt.</p> <p>Mr 'E' provided a copy of the envelope that he considers that this shows that the letter was opened and refused by staff at 'A' Ltd.</p>
16 October 2015	Mr 'E' called his company's bank to see what action they had or could take. They confirmed they had written to Mr Proag to request the refund but had received no response.
27 October 2015	Mr 'E' wrote to Mr Proag to request he return the funds paid to his company in error and provided the company's bank details to enable the refund.
3 November 2015	Mr 'E' called Mr Proag's mobile number and states that he spoke to Mr Proag who said he didn't want to get involved and Mr 'E' would need to call his bank.
3 November 2015	<p>Mr 'E' wrote to Mr Proag to request he return the funds paid to his company in error and provided the company's bank details to enable the refund.</p> <p>He also said he would report the matter to the accountancy bodies of which Mr Proag was a member if not resolved.</p>
10 November 2015	Mr 'E' spoke to the bank who advised that they could not recover the funds without 'A' Ltd's authority and they had receive no response to their attempt to contact the company.

11. In addition to the above, on 11 November 2015, Mr 'E's bank confirmed they had written to 'A' Ltd to request authority to withdraw the funds but had received no response either and that they could not take any further action to recover the funds.
12. It appears that Mr 'E' then reported the matter to the police as on 15 December 2015 Mr Proag handed a cheque for £7,200 payable to 'F' Ltd to 'Clacton Police to hand over to Mr 'E'. The cheque was cashed on 18 December 2015.
13. ACCA wrote to Mr Proag on 1 February 2016 to make him aware of Mr 'E's complaint. Mr 'E' called ACCA to confirm the money had been returned in December 2015 and Mr Proag confirmed this in his email response to ACCA.

Respondent's case

14. Mr Proag made representations, via his representatives, to ICAEW on 4 May 2018. Mr Proag explained it was a time of unprecedented stress in his personal and professional life. He said his practice had been compromised by high staff turnover and these staffing problems affected his performance. He said he recognised that he had not handled this matter well and offered an apology to ICAEW. Mr Proag said he would tender his apologies to Mr 'E' in writing and offer an ex gratia payment to reflect the inconvenience caused, should ICAEW wish to facilitate contact. It was explained to Mr Proag that ICAEW could not advise on what action he should take. ICAEW did request that, if Mr Proag decided to offer an apology, or an ex-gratia payment, to Mr 'E' that he provide copies of the relevant correspondence. To date, no copies of any correspondence with Mr 'E' have been provided.
15. ICAEW queried the extent of the police involvement and it was explained that Clacton Police's involvement was limited to communicating with Mr Proag and handing over the cheque as Mr Proag was not on speaking terms with Mr 'E'.
16. Mr Proag said he sincerely regrets this incident and in particular the delay in refunding the money. Mr Proag said he had made a £100 donation to the charity CABA on 12 September 2018 as an ex-gratia payment in this matter.
17. On 8 April 2019 a copy of the draft report was provided to the Respondent, and he was invited to make any representations he wished to make. No further response has been received.

Issues of fact and law

18. The Respondent admitted the complaint, but provided extensive mitigation.

Conclusions and reasons for decision

19. Accordingly, having regard to the admission, the Tribunal was satisfied that the complaint had been proved. The Tribunal considered that the Respondent had acted in a foolish manner, had refused to accept the obvious over a period of months, and had wrongly failed to return the £7,200 credited to the practice account.

Matters relevant to sentencing

20. There was no prior history of disciplinary action. The Tribunal considered [private] following his acquisition of the practice, which was located some considerable distance from his home address. Numerous personal references were supplied as to the Respondent's good character. The Tribunal had regard to the extensive mitigation presented to it, including the

previous disciplinary proceedings in respect of the same subject matter and financial information.

21. We remind ourselves that the key principles are protection of the public, maintaining the reputation of the profession, upholding proper standards of conduct within the profession, and the correction and deterrence of misconduct. The Tribunal considered the Guidance on Sanctions, Paragraph 9 c, Failure to comply with the Fundamental Principle of Integrity. It was agreed that the complaint fell within the Less Serious category. The aggravating features were the retention of third party monies, and poor conduct over a period of some months. The mitigating factors were the co-operation in the investigation, and the eventual repayment of monies to Mr 'E'. The admission was also taken into account.

Sentencing Order

22. The Tribunal directed that this Complaint be joined together with Complaint 030726 (and we refer to our Record of Decision in that Complaint.) The unanimous decision of the Tribunal was that a fair and proportionate sanction was a severe reprimand (being one severe reprimand for both complaints) with no separate penalty. The Respondent is to pay the costs of the ICAEW in the global sum of £8,000 in respect of both complaints, our being satisfied that those costs are fair and reasonable. The costs are to be paid monthly within twelve months, first payment to be made on 1st December 2019.

Decision on publicity

23. Publication with name.

Chairman

Mr Richard Jones QC

Accountant Member

Mr Martin Ward FCA

Non Accountant Member

Mr Nigel Dodds

031003

**4. Mr Peter John Sperling of
UNITED KINGDOM**

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 18 September 2019

Type of Member Member

Terms of complaint

1. Mr Peter Sperling ACA failed to provide by 3 October 2018, the information, explanations and documents requested in a letter dated 17 September 2018, issued under Disciplinary Bye-Law 13

Hearing date 18 September 2019

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

Sentencing order Order that M Sperling provide by 2 October 2019, the information, explanations and documents requested in paragraphs B – K in a letter dated 17 September 2018
Severe reprimand
£5000 fine
Order to pay costs of £3,212.17

Parties present Mr Sperling (the Respondent) was not present and was not represented.
The Investigation Committee was represented by Ms Sonia Stean

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 bundle

Findings on preliminary matters

On 14th September 2019, the Respondent wrote to Ms Sarah George, Committee Administrator, saying, "I am writing to inform you that I will not be able to attend the tribunal as I am .. [private]."

On 17th September Ms George wrote to the Respondent asking whether he was requesting an adjournment on [private] and if so, was he in a position to provide any evidence in readiness for the hearing, the next day.

The Respondent replied later the same day, saying “I wasn’t requesting an adjournment just advising that I would not be able to attend as I am not sure of the time scale of when I might be able to attend a tribunal.”

The tribunal considered that this exchange of correspondence did not constitute an application for an adjournment by the Respondent. In the absence of medical evidence, it was unclear when the Respondent would be well enough to attend a tribunal and, having regard to the decisions in R v Jones [2002] UKHL 5, Tait v RCVS PC 67 of 2002 and GMC v Adeogba and GMC v Visvardis [2016] EWCA Civ 162, the tribunal considered that no injustice would be caused to the Respondent by hearing the case in his absence. The tribunal therefore proceeded to hear the case in the absence of the Respondent.

The Investigation Committee’s case

The underlying complaint against the Respondent was first received by ICAEW in a letter dated 13 October 2017 from ‘A’, a firm of Chartered Accountants.

‘A’ made a complaint to ICAEW that the Respondent signed the audit reports of five clubs/societies registered with the Financial Conduct Authority (‘FCA’) under the Co-operative and Community Benefit Societies Act 2014 in the name of the firm, along with the Auditor’s Certificate on the associated Mutual Societies Annual Return AR41, when he was not authorised to do so. The firm provided a copy of one such club, B Limited, whose audit report was dated 20 April 2017 and whose AR41 auditor’s certificate was dated 28 June 2017.

The Respondent does hold the ICAEW Audit Qualification (with effect from 1 January 1990) but does not, and did not at the time of signing, hold Responsible Individual (‘RI’) status enabling him to sign audit reports.

‘A’ stated that the Respondent approached them in December 2016 requesting that their firm be appointed as auditor of 50 clubs and societies for whom the Respondent prepared the accounts. The reason that had been given by the Respondent was that he wished to work with a more local firm to him.

‘A’ identified an issue when they commenced the audit of B Limited for the year ended 31 December 2016, at the beginning of September 2017. The firm checked the previous year’s accounts on the FCA register and found that the December 2016 accounts which they were starting to audit had already been filed and seemed to contain errors and omissions.

The audit report was dated 20 April 2017 and the firm stated that this date predates their letter of engagement with the club, being 16 June 2017. The audit report had not been filed by the firm but purported to be signed in their name.

The firm stated that they brought this to the Respondent’s attention on 21 September 2017 by email along with the other four audit reports identified as being signed without the knowledge of the firm, which resulted in the Respondent’s admission on 26 September 2017 that he had signed and filed the five audit reports.

ICAEW wrote to the Respondent on 14 November 2017, asking for information and explanations, giving him a deadline for response of 28 November 2017. No response was forthcoming from the Respondent and accordingly, on 8 December, 2017, ICAEW sent a follow-up letter and email repeating the request. No response was forthcoming and a further follow-up letter was sent to the Respondent on 19 January 2018, warning him that if no reply was received by 5 February 2018 a formal notice would be served on him requiring him to respond.

On 21 February 2018 an out-of-office response was received from the Respondent and a follow-up email was sent to him by ICAEW. On the same day, 21 February, 2018, the Respondent emailed ICAEW referring to [private] and apologising for not replying. ICAEW replied that it would put its investigation on hold for three months

On 19 June 2018 ICAEW sent a follow up letter requesting an update from the Respondent, providing a deadline of 3 July 2018.

ICAEW was provided with a letter dated 19 June 2018, sent by the Respondent to another firm of accountants confirming there is no reason why they cannot accept appointment and providing client information; this indicated to ICAEW that Mr Sperling was currently working.

On 13 June 2018 and 9 August ICAEW sent further letters and emails to the Respondent seeking the information originally requested. The second letter informed him that if no reply is received by 24 August 2018, ICAEW would serve notice on him requiring him formally to respond. The Respondent was also advised that ICAEW was aware that he had corresponded with another firm of accountants during his period of non-response. No response was received from the Respondent.

On 17 September, 2018, ICAEW's Head of Investigation wrote to the Respondent noting that no response has been received to date and that ICAEW was aware that he was working and explained the powers of Disciplinary Bye-law 13, detailing the information which the Respondent was now formally required to provide. A response was requested by 3 October 2018.

No response has been received from the Respondent to any of the requests for information, documentation and explanations.

Conclusions and reasons for decision

In the absence of any defence from the Respondent and having regard to the failure by the Respondent to respond to the requests set out in paragraphs B – K of the letter from ICAEW to him dated 17 September 2018, the tribunal found the case proved.

Matters relevant to sentencing

The case presenter referred the tribunal to two previous ICAEW disciplinary findings against the Respondent. In the earlier one, dated 13 May 2003, the Respondent had been severely reprimanded, fined £5000 and ordered to pay costs in relation to three matters, namely,

- (i) that he signed an audit report when not a registered auditor;
- (ii) that he engaged in public practice when not in possession of a practising certificate;
and
- (iii) that he failed return completed certificate of compliance in breach of Regulation 2.5 of the Professional Indemnity Insurance Regulations and failed to comply with Regulation 3.1 of the said Regulations.

In the second set of disciplinary proceedings, on 11 August 2010, the Respondent was severely reprimanded, fined £5000 and ordered to pay costs in relation to two matters, namely,

- (i) that he held himself out as acting for a named firm when this could not have been the case, the firm having changed its name some time earlier; and
- (ii) that he completed the auditor's certificate on an annual return prepared for the FSA stating that the auditor was a named firm when he knew or should have known this statement was incorrect.

No matters were put forward by the respondent in mitigation of penalty and no information was available as to his means.

The tribunal regarded this matter as particularly serious as the underlying allegation was essentially one of forgery and the Respondent's failure to respond had considerably delayed and hampered the investigation. The tribunal noted that no medical evidence had been provided by the Respondent, although other evidence, namely the letter provided to ICAEW dated 19th June, 2018, referred to above, indicated that the Respondent appeared to have been working during the period in which he had been asked to provide a response by ICAEW.

Sentencing Order

The tribunal ordered the Respondent to provide the information, explanations and documents requested in paragraphs B- K set out in the letter dated 17 September 2018

The tribunal severely reprimanded the Respondent and ordered him to pay a fine at the level of Category D, of £5000.

The tribunal ordered the Respondent to pay ICAEW's costs in the sum requested of £3212.17

Decision on publicity

The decision is to be publicised in the usual manner.

Chairman

Mrs Rosalind Wright CB QC

Accountant Member

Mr Jon Newell

Non Accountant Member

Miss Jane Rees

046232

APPEAL COMMITTEE ORDERS

5. Mr Fidelis Fernandez ACA of London, United Kingdom

A panel of the Appeal Committee made the decision recorded below having heard an appeal on 19 November 2019

Type of Member	Member
Date of Disciplinary Tribunal Hearing	18 September 2019
Date of Appeal Panel Hearing	19 November 2019

Terms of complaint found proven before the Disciplinary Tribunal

1. Mr F Fernandez ACA failed to provide by 2 October 2018 the information, explanations and documents requested in a letter dated 17 September 2018 issued under Disciplinary Bye-law 13.

Mr Fidelis Fernandez is therefore liable to disciplinary action under Disciplinary Bye-law 4.1c

4.1 'A member, provisional member, foundation qualification holder, provisional foundation qualification holder or CFAB student (all referred to in these bye-laws as 'respondents') shall be liable to disciplinary action under these bye-laws in any of the following cases, whether or not he was a member, provisional member, foundation qualification holder, provisional foundation qualification holder or CFAB student at the time of the occurrence giving rise to that liability:

- c if he has 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.'

Sentencing Order of DCT

- Complaint found proved
- Severely reprimanded
- Fined £5,000
- Pay costs of £2,977.17
- Provide the information, explanations and documents requested in a letter dated 17 September 2018 by 2nd October 2019

Appeal against finding?	Yes
Appeal against Sentencing order?	Yes
Appeal against Costs	Yes
Decision of Appeal Panel	Appeal dismissed. Mr Fernandez is to pay the costs of the appeal, summarily assessed in the sum of £2,437.

Procedural matters and findings

- 1 Mr Fernandez did not attend and was not represented. The Investigation Committee was represented by Ms Sonia Stean.
- 2 The hearing was in public.
- 3 There were no preliminary applications.

Grounds of appeal

- 4 Mr Fernandez's Grounds of Appeal were set out in his email dated 18 September 2019. In summary, his grounds of appeal were that he had done nothing wrong, he had replied to any and all legitimate questions that were put, subsequent questions were a total harassment and violation of his human rights, the underlying complaint had been rejected as invalid by 'A' and the sentencing order was wrong.

Decision

- 5 The Appeal Committee determined that it should proceed in Mr Fernandez's absence. The Appeal was dismissed. Mr Fernandez to pay the costs of the appeal, summarily assessed in the sum of £2,437.

Reasons for decision

- 6 The Appeal Committee was satisfied that Mr Fernandez had received proper notice as to the date of the appeal hearing. He had, however, made it clear in correspondence that he did not wish to speak to or hear from the Institute until the second half of next year and that, if an appeal hearing was to be convened before that date, he would neither respond nor attend. Although he stated in later correspondence that he would not be able to attend any appeal hearing as he considered [private] to be more important, he confirmed that he was not prepared to approach [private]. In all of the circumstances, the Appeal Committee considered that it was appropriate for it to proceed to consider Mr Fernandez's appeal in his absence as it was satisfied that he had voluntarily chosen to waive his right to attend the hearing.
- 7 The Appeal Committee determined that the letter dated 17 September 2018 was a reasonable request for information made on behalf of the Investigation Committee and that accordingly, pursuant to Disciplinary Bye-Law 13.2, Mr Fernandez, as a member of the Institute, was under a duty to comply with the request. The Appeal Committee was satisfied, having considered all of the correspondence that Mr Fernandez had not provided the information and documentation requested and that therefore the Disciplinary Committee had been entitled to find the charge against him proved. The merits or otherwise of the underlying complaint are not relevant to consideration of a breach of Disciplinary Bye-Law 13 and a member's rights are not infringed by a reasonable request to provide information and documentation in accordance with this Bye-Law. Mr Fernandez's appeal against the decision by the Disciplinary Committee that the complaint had been proved was therefore dismissed.
- 8 In considering sanction, the Appeal Committee had regard to and applied the Institute's *Guidance on Sanctions*. The Disciplinary Committee had determined that Mr Fernandez should be subject to a severe reprimand and a fine of £5,000. This was entirely in accordance with the starting point for the applicable category of the Guidance, namely where there was a failure to comply with a DBL 13 request and where there had been no response at all. The Appeal Committee was satisfied that the Disciplinary Committee was entitled to regard Mr Fernandez's correspondence as falling within that category as he had not provided any effective or meaningful response to the original request. The Appeal Committee also found

that the Disciplinary Committee had fairly reflected appropriate matters relevant to sentencing in its record of decision. The appeal against the sanction imposed by the Disciplinary Committee was therefore not well-founded.

- 9 Whilst there was no specific challenge to the costs order referred to in the grounds of appeal, the Appeal Committee considered that, for the reasons it gave, the Disciplinary Committee had been entitled to order that Mr Fernandez should pay the costs of the hearing before it and that the amount sought had been reasonable and in accordance with the Costs Schedule which had been prepared.
- 10 The Appeal Committee also accepted that, pursuant to Disciplinary Bye-Law 24.1.c, the Disciplinary Committee had been entitled to require that Mr Fernandez provide the information, explanations and documents requested in the letter dated 17 September 2018 by 2 October 2019 and that, in light of his continuing failure to provide an adequate response, this was an appropriate remedial order for it to make.
- 11 Overall, the Appeal Committee considered that there was no error in the Disciplinary Committee's reasoning and approach and that the appeal against its decision must therefore be dismissed.
- 12 An application was made for Mr Fernandez to pay the costs of the appeal. The amount sought, supported by an itemised Schedule, was £2,437. The Appeal Committee determined that, as his appeal had been unsuccessful, it was appropriate for Mr Fernandez to be expected to contribute to the costs which had been incurred as a consequence. It was further satisfied that the amount sought was reasonable and proportionate and it determined that, as Mr Fernandez had not advanced any argument or given any indication that he had an inability to pay such an amount, he should be ordered to pay the costs of the appeal, summarily assessed in the sum of £2,437.

Non Accountant Chairman
Accountant Member
Accountant Member
Non Accountant Member
Non Accountant Member

Mr Angus Withington
Mrs Sandra Mundy ACA
Mr Ian Walker FCA
Ms Ruth Todd
Mrs Maureen Brennan

045805

Mr Fidelis Fernandez of
United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 18 September 2019

Type of Member	Member
Terms of complaint	Mr F Fernandez ACA failed to provide by 2 October 2018 the information, explanations and documents requested in a letter dated 17 September 2018 issued under Disciplinary Bye-law 13.
Hearing date	18 September 2019
Pre-hearing review or final hearing	Final Hearing
Complaint found proved	Yes
All heads of complaint proven	Yes
Sentencing orders	The Respondent was ordered to provide the information and documentation set out in paragraphs A – G of the letter sent to him on 17 September 2018, by 2 nd October 2019 Severe reprimand Fine £5000 Order to pay ICAEW's costs of £2977.17
Procedural matters and findings	The tribunal was satisfied that service of the papers had been effected in accordance with regulations 3-5 of the Disciplinary Committee Regulations. The tribunal was satisfied that it could determine the allegation in the absence of Mr F Fernandez (the Respondent)
Parties present	The Respondent was not present and not represented The Investigation Committee was represented by Ms Sonia Stean
Hearing in public or private	The hearing was in public
Documents considered by the tribunal	The tribunal considered the documents contained in the Investigation Committee's (IC's) bundle

Preliminary issues

On 16 July 2019, at 14.26 the Committee Administrator, emailed the Respondent attaching all the documents to be considered at the tribunal hearing, together with the date, time and place of hearing.

On the same day, at 15.15, the Respondent replied stating, "I have already informed the Institute that I am [private] and that I will not be attending to any communication on this matter until [private]. I shall decide when the time is right. Not you. You can wait or do what you like".

On 18 July 2019, the Respondent emailed the Committee Administrator, "I can confirm receipt of two envelopes from the ICAEW on 16 July. I have not opened it (sic) and I will not be doing so until [private]. Consider yourselves informed".

On the same day, the Committee Administrator emailed the Respondent, "If you wish to apply for the hearing to be postponed on the grounds [private] you should write to the ... PCD... providing [private] in support of your application".

The Respondent replied on the same day, [private]. The ICAEW can accept what I say on face value or it can do as it pleases. I'm [private] and I'm past "Kow Towing" to headmaster's rules..." No medical evidence was provided.

The tribunal considered that this exchange of correspondence did not constitute an application for an adjournment by the Respondent and that, having regard to the decisions in R v Jones [2002] UKHL 5, Tait v RCVS PC 67 of 2002 and GMC v Adeogba and GMC v Visvardis [2016] EWCA Civ 162, no injustice would be caused to the Respondent by hearing the case in his absence. The tribunal proceeded to hear the case in the absence of the Respondent.

The Investigation Committee's case

It was alleged that the Respondent made an appeal to the 'A' without the Complainant's authorisation, knowledge or consent. This matter required investigation.

In addition, it was alleged that the Respondent had previously prepared tax returns for the Complainant and received payment in this regard. Therefore it was necessary to investigate whether the Respondent had held himself out in public practice without an ICAEW Practising Certificate.

A letter was sent to the Respondent by ICAEW, dated 17th September 2018 under Disciplinary Bye-Law 13 requesting that the Respondent furnish documents and information relating to these complaints. The Respondent has failed to furnish such documents and information.

The following is a chronology of communication between the Respondent and ICAEW's Professional Conduct Department (PCD):

On 25 May 2018, PCD wrote to the Respondent explaining the complaints being investigated and requesting information/documentation particularised in paragraphs A – G of the letter.

On 15 June, 2018, PCD sent a follow-up letter requesting a response by 29 June 2018.

On 18 June 2018, the Respondent wrote to the PCD denying the Complainant's complaint, stating, "I WILL NOT RESPOND TO ANY FURTHER COMMUNICATION ON THIS MATTER. I have done nothing wrong. Its now up to [the Complainant] to prove his case in a civil court first. I will thank the ICA "To-Stay-Out" until then".

On 25 June 2018 the PCD wrote to the Respondent asking for a response by 9 July 2018 to the letter dated 25 May 2018 and warning the Respondent that in the absence of a response, ICAEW would be asked to serve notice on him formally to respond.

On 27 June, 2018, the Respondent sent an email to PCD saying his position had not changed since his letter of 18 June 2018 and said, "Go Ahead – carry out your (school mam) threat. I shall (if necessary) meet the ICA in court".

On 28 June, 2018, he sent a further email to the PCD stating he would be “travelling outside UK for a period of about 10 weeks to return in mid-September 2018. No correspondence will entertained from “Now” to the end of this period”.

On 9 July 2018, the Head of Investigation, PCD, issued a formal request to the Respondent under Disciplinary Bye-law 13 for the outstanding information. He wrote that an extension may be granted to allow the Respondent extra time on production of proof of absence from the UK.

On 17 September 2018, the Head of Investigation re-issued the formal request under Disciplinary Bye-law 13 requiring the information to be provided by 2 October 2018.

On 8 October 2018, the PCD Case Manager sent an email advising the Respondent that no response had been received to the notice under DBL13 and a report would be made to the Investigation Committee.

On 8 October 2018 the Respondent emailed PCD reiterating that he would not be responding to any other communication as he had done nothing wrong and would “meet the ICA in court”.

A copy of the report to the Investigation Committee was sent to the Respondent and the Respondent replied by way of letter dated 19 December 2018 addressed to the Committee Secretary which failed to provide the information required and made a number of allegations about the Complainant.

On 3 January 2019, the Senior Case Manager replied to that letter and addressed the points raised therein.

On 7 April, 2019, the Respondent wrote to the Investigation Committee Secretary denying that he had done anything wrong and refused to provide any further information.

It is submitted on behalf of the Investigation Committee that the underlying conduct is serious and that the investigation is at a standstill because the Respondent has failed to provide information, explanations and documents requested in a letter dated 17 September 2018. This is contrary to Disciplinary Bye-law 13 and consequently Disciplinary Bye-law 4.1c.

Decision and reasons

The Respondent had effectively denied the allegations in his email of 7 April 2019, in which he says, “I thoroughly dispute and reject your position that I have failed to answer your questions. I maintain that all the necessary questions were answered in my first letter [that dated 18 June 2018] to the ICAEW. The tribunal gave careful consideration to the correspondence set out above but concluded that the Respondent had failed to provide the information and the documentation required and set out in the Investigation Committee’s letter of 17th September, 2017 and accordingly found the Investigation Committee’s case proved.

Matters relevant to sentencing

There were no previous disciplinary findings against the Respondent.

The Respondent had put forward no mitigating factors or any information about his means, other than he “command[s] at least £600 per hour - For assignments I choose to undertake”.

The tribunal regarded as an aggravating factor the Respondent's belligerent attitude towards ICAEW and his failure to acknowledge its authority as his professional regulatory body.

Sentencing Orders

The tribunal ordered the Respondent to provide the information, explanations and documents requested in a letter dated 17 September 2018 by 2nd October 2019.

The tribunal severely reprimanded the Respondent and ordered him to pay a fine at the level of Category D, of £5000.

The tribunal ordered the Respondent to pay ICAEW's costs in the sum requested of £2977.17.

Decision on publicity

The decision is to be publicised in the usual manner.

Chairman

Mrs Rosalind Wright CB QC

Accountant Member

Mr Jon Newell

Non Accountant Member

Miss Jane Rees

045805

INVESTIGATION COMMITTEE CONSENT ORDERS

6. Mr Andrew Richard Bloy

Consent order made on 21 November 2019

With the agreement of Mr Andrew Richard Bloy of Norwich, United Kingdom, the Investigation Committee made an order that he be severely reprimanded, fined £7,000 and pay costs of £4,174 with respect to complaints that:

1. Mr Bloy failed to properly prepare the Corporation Tax return of "A" Ltd for the year to 31 January 2014 in that:
 - a. Fixed asset disposal proceeds totalling £288,038 were not included; and / or
 - b. Fixed asset additions during the year were understated by £12,748.

Resulting in an underpayment of Corporation Tax.

And / or

2. Mr Bloy failed to properly prepare the accounts of "A" Ltd for the year to 31 January 2014 in that they did not disclose a reconciliation of the current tax charge for the period to the charge that would arise if the profits reported in the financial statements were charged at a standard rate of tax, as required by Financial Reporting Standard 19.
3. Mr Bloy failed to submit to HMRC the following Corporation Tax returns of "B" Ltd, although the client had signed the returns on 5 August 2013:
 - a. 19 January 2012 to 9 March 2012; and
 - b. 10 March 2012 to 31 January 2013.
4. Between 10 July 2014 and 30 October 2014 Mr Bloy failed to respond to an HMRC enquiry letter into Mr "C's" 2012/13 Self-Assessment Tax return.
5. Mr Bloy failed to properly prepare the Self-Assessment Tax returns of Mr "D" for the following tax years:
 - 2010/11;
 - 2011/12;
 - 2012/13; and
 - 2013/14.

In that he:

- a) Failed to claim Married Couple's Allowance; and / or
- b) Failed to include the benefit in kind declared on form P11D, although the form had been prepared by Mr Bloy each year.

028195

7. Priory Practice Limited (now known as Haines Watts Wirral Limited)

Consent order made on 21 November 2019

With the agreement of Haines Watts Wirral Limited of Wirral, United Kingdom, the Investigation Committee made an order that the firm be severely reprimanded, fined £6,700 and pay costs of £4,955 with respect to the complaints that:

1. On 25 April 2016, Priory Practice Limited (now known as Haines Watts Wirral Limited) issued an audit report in the name of The Priory Partnership on the financial statements of “A” Limited for the year ended 31 July 2015 which stated that the audit had been conducted in accordance with International Standards on Auditing (UK and Ireland), when the audit was not properly conducted in accordance with:
 - a) International Standard on Auditing (UK and Ireland) 510 ‘Initial audit engagements – opening balances’; and/or
 - b) International Standard on Auditing (UK and Ireland) 500 ‘Audit Evidence’, in that the firm failed to obtain sufficient appropriate audit evidence on which to base the audit opinion in respect of:
 - (i) Stock; and/or
 - (ii) Tangible fixed assets; and/or
 - (iii) Trade and other creditors; and/or
 - c) International Standard on Auditing (UK and Ireland) 501 ‘Audit Evidence – specific considerations for selected items’ in that the firm failed to carry out adequate audit procedures in relation to stock.
2. Priory Practice Limited (now known as Haines Watts Wirral Limited) issued the following audit reports in the name of The Priory Partnership which was incorrect as this was not the entity holding the audit engagement, in breach of audit regulation 3.16:
 - a) “A” Limited, year ended 31 July 2015, dated 25 April 2016; and/or
 - b) “B” Limited, year ended 31 March 2017, dated 22 December 2017; and/or
 - c) “C” Limited, year ended 31 December 2016, dated 10 August 2017.

039419

8. Zaidi & Co

Consent order made on 21 November 2019

With the agreement of Zaidi & Co of London, United Kingdom, the Investigation Committee made an order that the firm be severely reprimanded, fined £30,500; and pay costs of £5,330 with respect to the complaints that:

1. On 24 March 2014 Zaidi & Co issued an unqualified audit report on the financial statements of "A" Ltd for the year ended 30 June 2013 when the audit was not conducted in accordance with International Standard on Auditing (UK and Ireland) 500 'Audit Evidence' in that the firm failed to obtain sufficient appropriate audit evidence in respect of:
 - a) Stock; and/or,
 - b) Other debtors; and/or,
 - c) Trade creditors; and/or,
 - d) Accrued income; and/or
 - e) Amounts owed to group undertakings.
2. On 24 March 2014 Zaidi & Co issued an unqualified audit report on the financial statements of "B" Ltd for the year ended 30 June 2013 when the audit was not conducted in accordance with International Standard on Auditing (UK and Ireland) 500 'Audit Evidence' in that the firm failed to obtain sufficient appropriate audit evidence in respect of:
 - a) Trade creditors; and/or
 - b) Accruals; and/or
 - c) Amounts owed to group undertakings.
3. On 24 March 2014 Zaidi & Co issued an unqualified audit report on the financial statements of "C" Ltd for the year ended 30 June 2013 when the audit was not conducted in accordance with International Standard on Auditing (UK & Ireland) 500 'Audit evidence' in that the firm failed to obtain sufficient appropriate audit evidence in respect of:
 - a) Stock; and/or
 - b) Trade debtors; and/or
 - c) Accrued income; and/or
 - d) Amounts owed by group undertakings.
4. Zaidi & Co failed to keep copies of the audit working papers for a period of six years for "D" Ltd in respect of the year ended 30 June 2013, in breach of audit regulation 3.11.
5. Zaidi & Co failed to keep copies of the audit working papers for a period of six years for the following entities in respect of the year ended 30 June 2011:
 - a) "D" Ltd; and/or
 - b) "A" Ltd; and/or
 - c) "B" Ltd; and/or
 - d) "C" Ltd

in breach of audit regulation 3.11.

6. Zaidi & Co failed to keep copies of the audit working papers for a period of six years for the following entities in respect of the year ended 30 June 2012:
 - a) "D" Ltd; and/or
 - b) "A" Ltd; and/or
 - c) "B"; and/or
 - d) "C" Ltd

in breach of audit regulation 3.11.

035300

INVESTIGATION COMMITTEE FIXED PENALTY ORDERS

9. Mr Colin Roy Munday FCA

Penalty order made on 21 November 2019

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 Colin Roy Munday FCA, the Investigation Committee ordered that Mr Colin Roy Munday FCA, of Hertfordshire, United Kingdom be reprimanded with respect to a complaint that:

On 7 August 2019 Mr Colin Roy Munday FCA drove a motor vehicle after consuming alcohol in excess of the prescribed limit

051646

10. Purpose Limited

Penalty order made on 11 November 2019

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 Purpose Limited, the Investigation Committee ordered that Purpose Limited, of St Helier, Jersey, United Kingdom, be reprimanded, and a fixed penalty of £675 representing a financial penalty of £965 to which a discount of 30% has been applied with respect to a complaint that:

Purpose Ltd used the description 'Chartered Accountants' when it was not entitled to do so as a director of the company did not hold affiliate status in breach of the following:

- a. Regulation 6 of the Regulations governing the use of description Chartered Accountants and ICAEW general affiliates between 19 August 2013 and 18 June 2017; and
- b. Regulation 12 of the Regulations governing the use of description Chartered Accountants and ICAEW general affiliates between 19 June 2017 and 10 December 2018.

049122

11. Mr Paul Long ACA

Penalty order made on 14 October 2019

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 Paul Long ACA, the Investigation Committee ordered that Mr Paul Long ACA, of London, United Kingdom be reprimanded, and 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 January 2017 and 30 June 2019, Paul Long ACA engaged in public practice, without holding a practising certificate contrary to Principal Bye-law 51a.

050654

12. Mr Charles Sebastian Lamb ACA

Penalty order made on 22 October 2019

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 Charles Sabastian Lamb ACA, the Investigation Committee ordered that Mr Charles Sabastian Lamb ACA, of East Sussex, United Kingdom, be reprimanded, and 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:

Mr Charles Sebastian Lamb ACA, following a QAD visit in September 2010, confirmed on behalf of his firm that:

'We have subscribed to the "model engagement letters" service provided by 'X' and as part of this we have recently finalised our latest Terms of Business, which contains the appropriate details. The new Terms of Business will be sent to all clients by 31 January 2011.' And *'...the two matters concerned are both included in our new Terms of Business and a copy of these terms will be sent to all clients by 31 January 2011, as mentioned above.'*

but at a subsequent QAD cyclical visit conducted on 10 December 2018 it was found this matter had not been addressed.

051200

13. Mr Robert Edward Allin FCA

Penalty order made on 21 October 2019

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 Robert Edward Allin FCA, the Investigation Committee ordered that Mr Robert Edward Allin FCA, of Cambridgeshire, United Kingdom be reprimanded, and a fixed penalty of £610.40 representing a financial penalty of £872 to which a discount of 30% has been applied with respect to a complaint that:

Between 1 March 2018 and July 2018 Mr Robert Edward Allin FCA allowed his firm, Business Partners Financial & Management Service Ltd, to use the description 'Chartered Accountants' when it was not entitled to do so, in breach of regulation 12 of the Regulations Governing the Use of the Description Chartered Accountants and ICAEW General Affiliates (effective 19 June 2017), as one of the directors, Mrs X, was neither an ICAEW member nor affiliate member of ICAEW.

047925

14. Mrs Akrishek Bawab FCA

Penalty order made on 11 November 2019

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 Mrs Akrishek Bawa FCA, the Investigation Committee ordered that Mrs Akrishek Bawa FCA, of Berkshire, United Kingdom, be reprimanded, and 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 15 November 2018 and 27 June 2019 Mrs Akrishek Bawa FCA engaged in public practice, without holding a practising certificate contrary to Principal Bye-law 51a.

048648

15. Mr Mark David Price FCA

Penalty order made on 11 November 2019

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 Mark David Price FCA, the Investigation Committee ordered that Mr Mark David Price, of Maidenhead, United Kingdom be reprimanded, and 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 August 2018 and 28 August 2019, Mark David Price FCA engaged in public practice, without holding a practising certificate contrary to Principal Bye-law 51a.

050555

AUDIT REGISTRATION COMMITTEE

ORDER – 9 OCTOBER 2019

16. Publicity Statement

Jervis & Partners Limited, Northampton, United Kingdom, has agreed to pay a regulatory penalty of £1,000, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of a condition and a restriction previously imposed under audit regulation 7.01 by failing to ensure that an external hot file review was carried out before the audit report was signed.

044461

ORDER – 9 OCTOBER 2019

17. Publicity Statement

The registration as company auditor of Prime Auditing Limited, South Shields, United Kingdom, was withdrawn on 12 November 2019 under audit regulation 7.03a of the Audit Regulations and Guidance 2017 for failure to comply with the requirements of the audit regulations.

026525

ORDER – 9 OCTOBER 2019

18. Publicity Statement

DJM Accountants LLP, Borehamwood, United Kingdom, has agreed to pay a regulatory penalty of £3,400, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.11, 6.06, 2.03a and 2.03b for its failure to notify ICAEW of changes within 10 business days, its incorrect completion of its 2016 annual return, its failure to ensure that a corporate entity principal held affiliate status and its failure to ensure that the majority of the voting rights were held by individuals who hold the appropriate qualification.

049056

ORDER – 13 NOVEMBER 2019

19. Publicity Statement

Murray Harcourt Limited, Leeds, United Kingdom, has agreed to pay a regulatory penalty of £1,072, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.11, 2.03a and 2.03d, for its failure to notify ICAEW of changes in directors at the firm within 10 business days, its failure to ensure that a director held affiliate status and its failure to ensure that its Articles of Association contained the required wording.

051738

ORDER – 13 NOVEMBER 2019

20. Publicity Statement

BCD Accountants Limited, Birmingham, United Kingdom, has agreed to pay a regulatory penalty of £1,600, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulation 3.20 for its failure to carry out cold file reviews between 2014 and 2017.

051155

ORDER – 9 OCTOBER 2019

21. Publicity Statement

JSP Accountants Limited, Harrow, United Kingdom, has agreed to pay a regulatory penalty of £5,000, which was decided by the Audit Registration Committee. This was in view of the firm's breach of a condition previously imposed under audit regulation 7.01, which occurred between 2016 and 2018, by failing to ensure that one external hot file review was carried out by a training consortium and by failing to submit the results of four external hot file reviews within one month of their completion.

033205

ORDER – 13 NOVEMBER 2019

22. Publicity Statement

The Robert Woolfson Partnership, London, United Kingdom, 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 3.20 and 6.06 for its failure to carry out audit compliance reviews and cold file reviews between 2016 and 2018 and the incorrect completion of its annual returns.

051240

ORDER – 13 NOVEMBER 2019

23. Publicity Statement

Lanham & Francis, Yeovil, United Kingdom, has agreed to pay a regulatory penalty of £1,500, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 3.08 and 3.17 for its lack of consideration of the implications regarding the firm's reporting duties for audits in Ireland and its lack of awareness of requirements and lack of appropriate procedures for Irish company audits.

051241

INSOLVENCY LICENSING COMMITTEE

ORDER – 15 OCTOBER 2019

24. Publicity Statement

Mr Paul Mallatratt of Nottingham, United Kingdom to pay a regulatory penalty of £750 for providing poor advice on three Individual Voluntary Arrangements.

049016

ORDER – 15 OCTOBER 2019

25. Publicity Statement

Mr Martin Henry Linton of London, United Kingdom to pay a regulatory penalty of £1,500 for failure to comply with Statement of Insolvency Practice 2.

048856

ORDER – 15 OCTOBER 2019

26. Publicity Statement

Mr Paul Adam Weber of London, United Kingdom to pay a regulatory penalty of £750 for failure to comply with Statement of Insolvency Practice 2.

048857

INVESTMENT BUSINESS COMMITTEE

ORDER – 26 FEBRUARY 2019

27. Publicity Statement

MacIntyre Hudson LLP, Milton Keynes, United Kingdom, has agreed to pay a regulatory charge of £10,000, which was decided by the Investment Business Committee. This was in view of the firm's admitted breach of Regulations 4.15 and 2.07h for failing to comply with the disclosure and accounting requirements of the DPB (Investment Business) Handbook and ICAEW's Code of Ethics, and for the incorrect completion of the firm's annual return.

045203

ORDER – 26 FEBRUARY 2019

28. Publicity Statement

Smith & Williamson LLP, London, United Kingdom, has agreed to pay a regulatory charge of £4,325, which was decided by the Investment Business Committee. This was in view of the firm's admitted breach of Regulation 2.03b of the DPB (Investment Business) Handbook 2018 for failing to obtain DPB affiliate status for eight non-member principals.

046396

ORDER – 11 JULY 2019

29. Publicity Statement

The Designated Professional Body licence of Gostling Ltd, Skipton, United Kingdom, was withdrawn on 1 August 2019 under DPB regulation 2.18 of the Designated Professional Body (Investment Business) Handbook 2018 for failure to comply with the eligibility requirements of the DPB regulations.

048934

ORDER – 11 JULY 2019

30. Publicity Statement

The Designated Professional Body licence of White & Company (UK) Limited, Manchester, United Kingdom, was withdrawn on 15 August 2019 under regulation 2.18 of the Designated Professional Body (Investment Business) Handbook 2018 for failure to comply with the eligibility requirements of the DPB regulations.

049670

ORDER – 17 OCTOBER 2019

31. Publicity Statement

Barnes Business Services Ltd, Mirfield, United Kingdom, has agreed to pay a regulatory charge of £2,131, which was decided by the Investment Business Committee. This was in view of the firm's admitted breach of Regulation 2.03b of the DPB (Investment Business) Handbook for the appointment of a director who was not a member of a DPB or an affiliate rendering the firm ineligible for a DPB licence between 10 October 2016 and 24 June 2019.

051526

ORDER – 17 OCTOBER 2019

32. Publicity Statement

Hornbeam Accountancy Services Ltd, Norwich, United Kingdom, has agreed to pay a regulatory charge of £1,501, which was decided by the Investment Business Committee. This was in view of the firm's admitted breach of Regulation 2.03b of the DPB (Investment Business) Handbook for appointing a director who was no longer an ICAEW member and failing to obtain DPB/audit affiliate status for them, rendering the firm ineligible for a DPB licence between 13 April 2018 and 29 October 2018.

050797

ORDER – 29 OCTOBER 2019

33. Publicity Statement

The Designated Professional Body licence of B.H.J. French, Brigg, United Kingdom, was withdrawn on 29 October 2019 under clause 2.18 of the Designated Professional Body (Investment Business) Handbook 2018 for failure to pay its annual licence fee within 30 days as required under DPB clause 2.07e.

052228

ORDER – 29 OCTOBER 2019

34. Publicity Statement

The Designated Professional Body licence of Murrells, Norwich, United Kingdom, was withdrawn on 29 October 2019 under clause 2.18 of the Designated Professional Body (Investment Business) Handbook 2018 for failure to pay its annual licence fee within 30 days as required under DPB clause 2.07e.

051860

ORDER – 17 OCTOBER 2019

35. Publicity Statement

Numbers (UK) Ltd, Plymouth, United Kingdom, has agreed to pay a regulatory charge of £1,138, which was decided by the Investment Business Committee. This was in view of the firm's admitted breach of Regulations 2.07d and 2.03b of the DPB (Investment Business) Handbook for failing to notify ICAEW of the appointment of a director on 10 October 2017 and for failing to apply for DPB affiliate status for the director from 10 October 2017 to 14 May 2019.

050118

PROBATE COMMITTEE

ORDER – 31 OCTOBER 2019

36. Publicity Statement

Beacon Wills and Probate Limited of Harpenden, United Kingdom to pay a regulatory penalty of £1,000 for breach of Regulation 2.7j of the *Probate Regulations*.

ORDER – 31 OCTOBER 2019

37. Publicity Statement

Cartwrights Audit Limited of Barnet, United Kingdom to pay a regulatory penalty of £500 for breach of Regulation 2.7l of the *Probate Regulations*.

CESSATION OF MEMBERSHIP

38. The following individuals have ceased to be members because of failure to pay outstanding fines and costs:

Mr Wing Yuen Fung of Hong Kong SAR
Mr Fidelis Fernandez of London, United Kingdom

The ICAEW takes all necessary steps including legal proceedings to recover the money it is owed.

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