



Disciplinary Orders and Regulatory Decisions

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DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

1 Mr Alfred Roy Lote FCA of
Worcestershire, United Kingdom

A Tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 27 February 2018

Type of Member Member

Terms of Complaint

1. Between 2 January 2008 and 19 June 2015, the Defendant failed to comply with regulation 10 of the Client Money Regulations in that he allowed his firm to receive clients' money totalling £211,547.72 into the firm's office account and which were not immediately paid into a Client Bank Account
2. Between 1 July 2013 and 27 May 2014, the Defendant failed to comply with regulation 9b of the Clients' Money Regulations as he did not notify the bank in writing of the terms of the account and did not obtain the bank's acknowledgement in writing.
3. Between 1 July 2013 and 27 May 2014, the Defendant failed to comply with regulation 31 of the Clients' Money Regulations as he failed to have in place arrangements with another qualified firm or person to enable the proper distribution or processing of Clients' Money held by the firm in the event of his death or incapacity.
4. Between 1 July 2013 and 27 May 2014 the Defendant failed to comply with regulation 24 of the Clients' Money Regulations as he failed to maintain adequate records of the transactions in his firm's Client Bank Account.
5. Between 1 July 2013 and 27 May 2014, the Defendant failed to comply with regulation 25 of the Clients' Money Regulations in that the firm failed to reconcile, at least once every five weeks, the balance of the Client Bank Account with the total corresponding credit balances held for clients.
6. Between 15 November 2013 and 27 May 2014 the Defendant failed to comply with regulation 20i of the Clients' Money Regulations as he withdrew £28,167.64 from his firm's Client Bank Account without written authority from the client.
7. On 24 March 2014, the Defendant issued an Accountant's Report on the financial statements for 'A' Ltd for the year ended 28 February 2014 and failed to correct the following errors identified by QAD's review of the financial statements for the year ended 28 February 2013 carried out at their Desk Top review on 23 July 2013:
 - a) Dividends paid have been incorrectly shown as an expense in arriving at profit before tax in the profit and loss account.
 - b) The profit and loss account does not show the profit for the financial year.
 - c) Note reference numbers on the balance sheet and profit and loss account do not correspond with the notes.

d) The accounts do not disclose an analysis by director or details of movements for an overdrawn directors loan account shown in debtors

8. Following a QAD Desk Top Review on 23 July 2013, the Defendant stated the following on behalf of his firm:

‘I propose to include a paragraph from 1/11/2013 in the standard letter I send with my clients accounts stating their rights of complaint and on the invoices I send I will state the basis of calculating my fees’.

However, when an external compliance review was carried out on 29 April 2014, it was found that he had not complied with those assurances.

If proven, the member may be liable to disciplinary action under:

- a) Disciplinary Bye-law 4.1c in respect of heads 1 to 6
- b) Disciplinary Bye-law 4.1b in respect of head 7
- c) Disciplinary Bye-law 4.1a in respect of head 8

Hearing dates 27 February 2017

Previous hearing dates N/A

Pre-hearing review or final hearing Final hearing

Heads of complaint found proved All by admission

Heads of complaint found not proved N/A

Sentencing order Severe reprimand
Fine of £250
Costs of £2,750

Procedural matters and findings

Parties and representation The Investigation Committee (‘IC’) was represented by Mrs Silpa Tozar

The defendant was not present and was not represented

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 bundle, the defendant’s Regulation 13 Answers and correspondence sent by the defendant to the Tribunal

Proceeding in absence

1. Notice of the hearing was sent by post to Mr Alfred Roy Lote ('the defendant') on 9 January 2018. The notice was sent to his registered address. The Tribunal was satisfied that service had been effected in accordance with the Rules.
2. In his Regulation 13 Answers dated 1 February 2018 the defendant said he would not be attending the hearing. Prior to the hearing he sent a letter of mitigation to the Tribunal and on the morning of the hearing he sent an email confirming he admitted the complaint. The Tribunal was satisfied that the defendant had made a conscious decision not to attend the hearing and that therefore no useful purpose would be served in an adjournment. It therefore concluded that in the interests of justice it was appropriate to proceed in the absence of the defendant.

The Investigation Committee's case

3. The defendant has been a member of ICAEW since 9 April 1975. He is a sole practitioner. The allegations arise as a result of practice assurance monitoring of the defendant's firm by the ICAEW's Quality Assurance Department ('QAD').
4. QAD carried out a desk-top review of the firm on 23 July 2013. At that time the defendant was not using a client bank account. QAD found that on a number of occasions he had banked tax refunds received on behalf of his clients into his office account which was in breach of the ICAEW's Clients' Money Regulations ('CMR'). It also found that not all his clients had been informed in writing of the basis on which he was charging fees and his firm's complaints procedure.
5. The matter was referred to the Practice Assurance Committee ('PAC'). The PAC required the defendant to have an external compliance review. This was carried out on 29 April 2014. The defendant had by the date of this review opened a client bank account. However the reviewer found that the defendant was still in breach of regulations regarding clients' money. In May 2014 the defendant closed down his firm's client bank account and he confirmed to ICAEW that he no longer intended to hold clients' money.
6. The outcome of the external review was considered by the PAC. It required the defendant to undergo a monitoring visit from QAD. This took place on 26 March 2015. Further breaches of the CMR were identified. The IC's case was as follows.

Head of complaint 1: paying client money into an office account.

7. A review of bank statements showed that 195 tax refunds totalling £211,547.72 had been paid into the defendant's office account between June 2008 and June 2015. This was in breach of Regulation 10 of the CMR which requires clients' money to be paid immediately into a client bank account.
8. During the relevant period the Defendant's office account was regularly overdrawn and close to its overdraft limit of £3,000. The IC's case was that on a number of occasions the defendant delayed in paying the refund over to clients and had he not done so this account would have breached its overdraft facility.

9. In an email to ICAEW dated 16 June 2017 the defendant said he accepted that he had received the refunds in question on behalf of his clients but he believed that the regulations only covered situations where an accountant had clients' money to invest for them. He added that when he realised what he was doing was wrong he tried using a client bank account but the paperwork was too much and he closed it down.
10. Subsequent to the QAD review in 2013 there was only one occasion when a tax refund was paid into the defendant's office bank account. The defendant said that this was a refund paid to a client who had died. Although he had requested the refund be paid to the client's widow HMRC had by mistake paid it in to his firm's account.

Head of complaint 2: trust status bank letter

11. The defendant operated a client bank account between 1 July 2013 and 27 May 2014.
12. When a client account is opened Regulation 9b of the CMR requires a member to obtain a trust status letter from the bank. This provides assurance that the bank will not have any call upon the funds in the account. QAD informed the defendant following the July 2013 review that he would need to obtain such a letter. However the external reviewer found in April 2014 that the defendant had not obtained such a letter.

Head of complaint 3: appointment of an alternate

13. Regulation 31 of the CMR prohibits a sole practitioner from holding clients' money unless he has arrangements in place with another qualified person or firm in the event of his death or incapacity. During correspondence following the QAD review in July 2013 the defendant was informed he would need to appoint an alternate to comply with this requirement.
14. The defendant however failed to appoint an alternate. Therefore for the period until he closed the firm's client bank account in May 2014 and ceased to hold client money the defendant was in breach of this obligation.

Head of complaint 4: adequate records of client account transactions

15. Regulation 24 of the CMR requires a member holding clients' money to keep records showing, amongst other things, details of all moneys paid in or out of the client bank account and all transactions on the clients ledger account enabling the balance held for each account to be reconciled with the money held at the bank.
16. The defendant was requested, between 23 March 2016 and 15 June 2016, to provide information to support the transactions processed through the client bank account but was unable to do so. The IC's case was therefore that he had breached Regulation 24 of the CMR.

Head of complaint 5: reconciliation of client account

17. Regulation 25 of the CMR requires a member who holds client money to reconcile the balance in the client bank account with the credit balances held for clients at least once every five weeks.
18. At the external review on 29 April 2014 the reviewer found that a reconciliation had taken place four days previously. However regular five-weekly reconciliations had not taken place. In a subsequent email, dated 22 October 2014, the defendant said he had reconciled the account in his own mind but admitted he had not carried out regular written reconciliations.

Head of complaint 6: unauthorised withdrawals from client account

19. The IC's case was that between 15 November 2013 and 27 May 2014 the defendant withdrew £28,167.64 from his firm's client bank account without written authority from the relevant clients.
20. Under Regulation 20i of the CMR a firm may only withdraw money from a client bank account if it has written authority from the client to do so or the withdrawal is in accordance with a term of a written contract.
21. Following the monitoring report in July 2013, the defendant received client funds into the firm's client bank account on ten occasions. Nine of these were tax refunds and one was a receipt in respect of a PII claim.
22. A review of bank records showed that during the period in question no payments were made directly to clients from the client bank account save for cash repayments. A total of £28,167.64 was transferred from the client account to the office account. The IC's case was that the defendant did not have written authority from the clients to make these withdrawals and therefore they were in breach of Regulation 20i.

Head of complaint 7: failure to correct errors in financial statement

23. At the desk top review in July 2013 QAD identified a number of errors in financial statements prepared by the defendant for Company A Ltd for year ended 28 February 2013. Those were:
 - Dividends incorrectly shown in the profit and loss account as an expense and therefore affecting the pre-tax profit of the company;
 - No profit for the year shown in the profit and loss account;
 - Reference numbers on the financial statements not according with the notes;
 - Accounts not disclosing details for an overdrawn directors loan account.
24. Following this the defendant agreed to use a template in future when preparing accounts for limited companies and take care not to make similar mistakes in the future. However the 2014 accounts for Company A included the same four errors.

25. In his email to ICAEW dated 16 June 2017 the defendant said he accepted this allegation and apologised for it. In a further undated letter to the Tribunal sent shortly before the hearing the defendant repeated this apology and said he accepted that mistakes were made.

Head of complaint 8: failure to comply with assurances given to QAD

26. Although it is not mandatory to issue letters of engagement to non-audit clients, it is mandatory to notify all clients in writing of the basis on which fees will be charged (Section 240b of the Code of Ethics) and of the firm's complaints procedures (Disciplinary Bye-law 11). In the July 2013 review QAD found that the defendant had not given this mandatory information to all his clients. Having had this brought to his attention, the defendant wrote to QAD on 17 September 2013 saying:

'I propose to include a paragraph from 1/11/2013 in the standard letter I send with my clients account stating their rights of complaint and on the invoices I send I will state the basis of calculating my fees.'

27. In a further email dated 16 October 2013 the defendant stated:

'This procedure will be completed probably by midsummer 2014 but the vast majority of existing clients will be notified by March 2014.'

28. The IC's case was that at the time of the external review in April 2014 the defendant had failed to comply with the assurances given in his email of 17 September 2013.

29. In his undated letter to the Tribunal the defendant said that this was an oversight and he apologised for it. He said that this had now been done correctly 'for a long time.' QAD have confirmed that the defendant is now complying with these obligations.

Liability to disciplinary action

30. Disciplinary Bye-law ('DBL') 4.1 states that a member is liable to disciplinary action:

a. if in the course of carrying out professional work or otherwise he has committed any act or default likely to bring discredit on himself, ICAEW or the profession of accountancy;

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

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.

31. The IC's case was that the defendant is liable to disciplinary action:

Under DBL 4.1.c in respect of heads of complaint 1 to 6;

Under DBL 4.1.b in respect of head of complaint 7;

Under DBL 4.1.a in respect of head of complaint 8.

The defendant's case

32. In his Regulation 13 Answers the defendant admitted heads of complaint 1 to 6 and denied heads of complaint 7 and 8. However in an email sent to the Tribunal on the morning of the hearing the defendant confirmed that he accepted heads of complaint 7 and 8 and should not have denied them in his Regulation 13 Answers.
33. In a letter to ICAEW dated 5 February 2015 the defendant wrote 'I know that I have not done things by the rulebook and I expect (sic) any punishment that you wish to inflict on me but I have always put my clients first and tried to give them a good service.' In his email of 16 June 2017 the defendant apologised for his failings and said he hoped that he would not be judged to harshly and that he would be allowed to remain a chartered accountant.
34. In his undated letter to the Tribunal the defendant said he had been practising as a chartered accountant since 1982 and had had very few complaints against him. He again apologised and said he had always tried to help his clients.

Conclusions and reasons for decision

Decision on complaint

35. The tribunal was satisfied that the defendant had made a full admission to the complaint. Accordingly it found all heads of complaint proved by admission.

Matters relevant to sentencing

36. There were no previous disciplinary matters recorded against the defendant. The Tribunal took into account the fact that he had made admissions and had apologised for his errors. It took into account the information he provided about his financial and personal circumstances.
37. The defendant had made a large number of basic errors. The Tribunal accepted however that these were borne out of inefficiency and incompetence rather than deliberate wrongdoing. The Tribunal accepted the defendant genuinely considered he was helping his clients.
38. The Tribunal had regard to ICAEW's *Guidance on Sanctions*. Section 11 deals with clients' money offences. Although his failures to comply with the CMR, particularly in relation to holding clients' money, persisted for a long period of time the sums involved individually were modest. There was no allegation that there was any actual loss to clients. The starting point for such offences is a severe reprimand and a financial penalty. The Tribunal took into account that the accounting errors in head of charge 7 were of a different nature but did not consider that this required a departure from that starting point.
39. Taking into account the defendant's means and the nature of the errors the Tribunal considered the appropriate fine was £250.
40. The IC applied for costs in the sum of £12,949. The defendant did not dispute that he should pay costs but pointed out that to pay the full amount would cause him significant financial difficulty. He asked for time to pay. The Tribunal felt that it would be appropriate to order him to pay costs of £2,750. The Tribunal agreed that the fine and costs should be paid in instalments over 12 months.

Sentencing order

41. Therefore in the Tribunal's view the appropriate and proportionate sanction was to severely reprimand the defendant and in addition impose a fine of £250.
42. The Tribunal ordered the defendant to pay costs to ICAEW of £2,750.
43. The fine and the costs are to be paid in instalments of £250 per month with the first instalment on 1 April 2018.

Decision on publicity

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

Non Accountant Chairman
Accountant Member
Non Accountant Member
Legal Assessor

Mr Richard Farrant
Mr Ian Walker FCA
Mr Ron Whitfield
Mr Andrew Granville Stafford

019914

2 Mr James Arthur Guest FCA of Manchester, United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 27 February 2018

Type of Member Member

Terms of Complaint

1. The Defendant incorrectly completed the 2015 annual return for his firm, J A Guest Ltd, by:
 - a) stating that the firm had completed no reports under SRA Accounts Rules 2011, when the firm had completed at least one report, and
 - b) failing to disclose Mrs 'A's shareholding in the firm

when he should have known this information to be incorrect.

2. The Defendant, on behalf of his firm, J A Guest Ltd, failed to respond to the QAD Audit Closing Record of a meeting dated 23 September 2015 by 14 October 2015 or to subsequent written or oral reminders dated 26 November 2015, 15 December 2015 and 7 January 2016.

The Defendant is therefore liable to disciplinary action under Disciplinary Bye-law 4.1b in respect of both heads of complaint.

Hearing dates 27 February 2017

Previous hearing dates N/A

Pre-hearing review or final hearing Final hearing

Head of complaint found proved 2

Head of complaint found not proved 1

Sentencing order Severe reprimand
Fine £5,750
Costs £3,000

Procedural matters and findings

Parties and representation The Investigation Committee ('IC') was represented by Mrs Silpa Tozar
Mr James Arthur Guest ('the defendant') attended the hearing by video link 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 IC's bundle and an email dated 27 February 2018 from an ICAEW Annual Returns Supervisor

Preliminary matters

1. At the outset of the hearing the defendant indicated that he wished to call his son and another member of his staff to give evidence to the Tribunal. Mrs Tozar drew the Tribunal's attention to Regulation 17 of the Disciplinary Committee Regulations ('DCR') which requires any party who wishes to rely on witness evidence to serve a written statement of the witness' evidence 21 days prior to the hearing. Mrs Tozar objected to the defendant being allowed to call witnesses on the basis that no written statements had been served and that the IC would therefore be taken by surprise by the evidence of these witnesses. The defendant conceded he had overlooked the provisions in the Regulations.
2. The Tribunal refused to allow the defendant to call these witnesses. Not only had the requirements of the Regulations not been complied with but there was no good excuse for the non-compliance. Though the Tribunal accepted it had the power to waive the time limit imposed by Regulation 17 it did not consider that in this case there was any good reason for it to do so. The Tribunal did not consider that the evidence of these witnesses would make such a difference to the outcome of the case that a departure from the procedure laid down in the DCR was justified.

The Investigation Committee's case

3. The defendant was admitted as a member of ICAEW in 1966. He is sole practitioner in the accountancy firm of Guest & Co which is the trading name of J A Guest Ltd.
4. The defendant submitted an annual return for Guest & Co ('the firm') on 21 July 2015. In it he stated that the firm had done no Solicitors Regulation Authority Accounts Rules ('SRAAR') reports in the last year.
5. In September 2015 QAD ('Quality Assurance Department') of ICAEW carried out a routine monitoring visit of the defendant's firm. It noted that the firm had one SRAAR engagement which the defendant had failed to record on the firm's 2015 annual return, although it had been correctly recorded on the 2014 return.
6. The firm's audit registration has subsequently been withdrawn by the Audit Registration Committee.
7. The 2015 annual return also required the defendant to provide details of the firm's shareholders and their voting rights. The details he provided omitted to identify the defendant's wife as a shareholder.
8. Following the QAD review the defendant was provided with a copy of the Audit Closing Record and asked to respond to it by 14 October 2015. No response was received so this was chased by email on 26 November 2015. The defendant was advised that a response must be received by 3 December 2015.
9. Still no response was received so the defendant was chased up again by a telephone call on 15 December 2015 and further email on 7 January 2016 which warned him that a report would be made to the Audit Registration Committee without his responses.
10. The defendant wrote to ICAEW on 14 July 2016 stating that he had responded to the QAD Audit Closing Report by email on two occasions. The IC's case was that these emails were not received by QAD. The defendant was asked to produce copies of the emails but was unable to do so. In a letter to ICAEW dated 10 August 2016 the defendant's firm stated that a search had been made for the emails but they could not be located and it may be that they had been deleted.

11. The IC's case was that the defendant is liable to disciplinary action under Disciplinary By-law ('DBL') 4.1.b for failing to correctly complete the 2015 annual return (head of complaint 1) and for failing to respond to the QAD Audit Closing Record (head of complaint 2). DBL 4.1.b states that a member is liable to disciplinary action:

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

The defendant's case

12. The defendant denied the complaint.
13. In correspondence to ICAEW the defendant stated his firm had considerable difficulties completing the annual return and this was probably the reason why his wife's shareholding was omitted. He said he was not aware that the SRAAR engagement was regarded as an audit. The defendant disputed the allegation that he had not responded to the Audit Closing Record and produced a copy of his response.
14. At the hearing the defendant admitted to the Tribunal that errors were made on the annual return. However he said these were not done deliberately and were in the nature of clerical errors. He said that he and his son had completed the return and he accepted responsibility for its accuracy. He said his wife's shareholding had been disclosed on the previous annual return. Though he accepted it was omitted from the 2015 return he pointed out that he had the controlling interest and this had been correctly recorded. He said he was not aware that a SRAAR report would be regarded as an audit and although he agreed it had been wrongly omitted he reiterated that the error was not deliberate.
15. The defendant further told the Tribunal that his firm had responded to the Audit Closing Record. He recalled that there had been a telephone discussion with someone at ICAEW in relation to the response not being received. During that call he had offered to send a paper version but had been told to submit the response by email. He said that it had been sent again by email within a short time of this call. He accepted that he had not followed up to ensure that the response had been received but said he did not have time to follow up all of his correspondence. He was unable to produce any documentary evidence to show that the response had been sent within the time frame set out in the complaint. He told the Tribunal that the firm had problems with its email provider who went out of business last year and as a result they had lost the relevant emails.

Conclusions and reasons for decision

Issues of fact and law

16. In respect of head of complaint 1 the defendant accepted as a fact that the SRAAR report and his wife's shareholding had been omitted from the annual return. The Tribunal had to determine whether either or both of these amounted to a breach of DBL 4.1.b.
17. In respect of head of complaint 2 the Tribunal had to determine whether the defendant had failed to respond to the Audit Closing Record and, if so, whether that failure amounted to a breach of DBL 4.1.b.

Decision on complaint

18. The Tribunal accepted that the errors in the 2015 annual return were due to oversight rather than a deliberate attempt to mislead. It was of significance that this appears to have been an isolated incident. The evidence before the Tribunal suggests that the previous year's return had been correctly completed. In those circumstances the Tribunal could not see any basis for finding these errors brought discredit on the defendant, the Institute or the profession. Accordingly it found that the omissions in question did not render the defendant liable to disciplinary action under DBL 4.1.b and therefore it found head of complaint 1 not proved.
19. In relation to head of complaint 2 the Tribunal rejected the defendant's evidence that his firm's response to the Audit Closing Record had been sent in on time. There was no evidence to support this contention. Indeed the contemporaneous documents clearly refuted it. The Tribunal had sight of an email from QAD dated 26 November 2016 chasing the firm for a response to the report. There was a further email from QAD dated 7 January 2016 saying that no response had been received. Further the defendant accepted that there had been a telephone call during which the response had been requested. The Tribunal considered these provided good evidence that the defendant had not in fact responded to the Audit Closing Record.
20. Having had the benefit of hearing from the defendant in person the Tribunal was satisfied that he did not place a high priority on dealing with matters of this nature. In the absence of any documentary evidence to the contrary, the Tribunal was satisfied that the defendant had not responded to the QAD Audit Closing Record by 14 October 2015 and nor to the three reminders dated 26 November 2015, 15 December 2015 and 7 January 2016. The Tribunal went on to consider whether these failings rendered the defendant liable to disciplinary action under DBL 4.1.b.
21. Of significance was the fact that the defendant had been given four opportunities to send in his response to the QAD report but had failed to do so. This was therefore not an isolated failing. Further any failure to co-operate with the Institute when it is exercising its practice assurance functions is to be regarded as a serious matter. The Tribunal was satisfied that these failings brought discredit at very least on the defendant and accordingly rendered him liable to disciplinary action under DBL 4.1.b. Therefore the Tribunal found head of complaint 2 proved.

Matters relevant to sentencing

22. There was one previous disciplinary finding against the defendant but it was for a different type of matter and was of some antiquity. The Tribunal placed no weight on it in deciding sanction.
23. The Tribunal had regard to ICAEW's Guidance on Sanctions. Section 10 of the Guidance says the starting point for sanction for failing to co-operate following a practice assurance visit is a severe reprimand and a fine of £5,750. The Tribunal did not see any reason to depart from this starting point.
24. The IC applied for costs in the sum of £5,536.50. The Tribunal considered that this figure should be reduced to £3,000 to reflect the fact that the first head of complaint was not found proved.

Sentencing order

25. The Tribunal determined that the appropriate and proportionate sanction was to severely reprimand the defendant and in addition impose a fine of £5,750.

26. The Tribunal ordered the defendant to pay costs of £3,000.

Decision on publicity

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

Chairman

Mr Richard Farrant

Accountant Member

Mr Ian Walker FCA

Non Accountant Member

Mr Ron Whitfield

Legal Assessor

Mr Andrew Granville Stafford

033881

3. **Mr Badar Ayaz [ACA] of**
Selby, North Yorkshire, United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 6 March 2018

Type of Member Member

Complaint

1. Between 30 November 2013 and 21 March 2015 Mr Badar Ayaz ACA dishonestly claimed expenses, set out at Appendix A, from his former employer, 'A' LLP.

If proven, the member may be liable to disciplinary action under Disciplinary Bye-law 4.1a.

AND/OR:

2. Between 30 November 2013 and 21 March 2015 Mr Badar Ayaz ACA claimed expenses, set out at Appendix A, from his former employer 'A' LLP, when he knew he was not entitled to do so or was reckless as to whether he was entitled to do so.

If proven, the member may be liable to disciplinary action under Disciplinary Bye-law 4.1a.

AND/OR:

3. Between 30 November 2013 and 21 March 2015 Mr Badar Ayaz ACA claimed expenses, set out at Appendix A, from his former employer 'A' LLP, when he should have known that he was not entitled to do so.

If proven, the member may be liable to disciplinary action under Disciplinary Bye-law 4.1b.

Hearing dates	6 March 2018
Previous hearing dates	N/A
Pre-hearing review or final hearing	Final hearing
Heads of complaint found proved	Head of complaint 1
Heads of complaint found not proved	N/A
Sentencing order	Exclusion Costs £7,461.50
Procedural matters and findings	
Parties and representation	The Investigation Committee ('IC') was represented by Ms Jessica Sutherland-Mack The defendant was not present and was not represented
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 bundle and the defendant's Regulation 13 answers

Preliminary matters

- a) Notice of the hearing was sent by post to Mr Badar Ayaz ('the defendant') on 17 January 2018. 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').
 - b) In his Regulation 13 Answers dated 21 February 2018 the defendant admitted the complaint and said he would not be attending the hearing. He had provided written mitigation and a statement of his financial means.
3. The Tribunal was satisfied that no useful purpose would be served in adjourning the hearing and that in the interests of justice it should proceed in the defendant's absence.

The Investigation Committee's case

4. The defendant has been a member of ICAEW since 2007 and is currently a director of 'B' Ltd. The IC alleged that for a period of over a year, whilst he was working as an accountant for 'A' LLP, the defendant made a number of dishonest claims for expenses.

5. The claims were for hotels, meals and travel expenses. They are set out in Appendix A to the complaint and are as follows.

<u>Date</u>	<u>Amount</u>	<u>Narrative</u>
2 March 2014	£154.00	Receipt for a Sunday night stay in a hotel in Newcastle, room service and parking. This expense charged to client 'AB'. 'A' LLP staff interviewed were not aware of any meeting for 'AB' on Monday 3 March and therefore the IC's case was there no need for the defendant to stay in a hotel in Newcastle on the Sunday night.
22 March 2014	£140.00	Claim made for two train trips each costing £140 from Leeds to London on Saturday 22 March and returning on Monday 24 March. One claim was billed to 'AB' and the other to client 'CD'. Therefore the defendant claimed twice for the same journey.
22 June 2014	£102.80	Receipt for dinner for four people in Birmingham on a Sunday billed to client 'AB'. 'A' LLP staff interviewed said there was no reason for the defendant to go to Birmingham for this client and there was no team meal for 'AB' on this date.
22 June 2014	£5.00	Receipt for parking in Birmingham. As with the above claim, there was no work reason for the defendant to be in Birmingham on this date.
3 July 2014	£89.00	Invoice was for a hotel in Leeds. However Leeds was the defendant's home office and there would be no reason for him to need hotel accommodation.
21 July 2014	£4.20	Train ticket from Brighouse to Todmorden. No work reason for the defendant to make this journey.
30 September 2014	£249.00	Invoice for return train travel from Leeds to London, billed to a client. No work reason for the defendant to be in London for that client on this date.

29 October 2014	£149.00	Invoice from the Hilton Hotel, Leeds. When asked about this expense the defendant claimed it was for a stay at the Hilton Hotel in Newcastle. He said he had lost his invoice from the hotel so he had asked the Hilton in Leeds to provide a duplicate. He subsequently produced an invoice from the Hilton Newcastle purporting to be in respect of this stay. However the Hilton Newcastle confirmed that the defendant had not stayed there on the night in question. Further there was no record of the defendant being in Newcastle for work on the dates in question. The Leeds Hilton also confirmed that the invoice the defendant had initially produced was genuine and was in respect of a stay at that hotel.
16 November 2014	£125.83	The defendant claimed for dinner for four people at a restaurant in London on a Sunday. When asked about this the defendant said it was for three employees of client 'EF'. He provided an email chain purporting to confirm this. There were however inconsistencies in the email chain as the dates switched between 2011 and 2014. Further 'EF' confirmed that no one from its office was at this meal and that two out of the three attendees that were supposed to be there were not in fact in the UK at the time.
20 November 2014	£292.00	Claim for return train travel from Leeds to London travelling out on Thursday 20 November 2014. There was no work reason for the defendant to be in London on this date. There was evidence that the defendant was in the Leeds office on the morning of 20 November.
21 March 2015		The defendant submitted a receipt for train travel for two train tickets from Newcastle to Leeds totalling £144.50. One was for a Thursday, which IC accepted might be a legitimate work journey. However the other was for a journey costing £80 on a Saturday. The IC's case was that there was no legitimate business reason for the defendant to be in Newcastle on this Saturday.

6. The total of the above claims is £1,390.83.

7. The defendant was questioned by his employer about his expense claims in disciplinary meetings on 2 February 2015, 16 February 2015, 19 February 2015 (at which he was suspended) and 5 March 2015. On 17 March 2015 the defendant resigned from his employment with 'A' LLP. The defendant subsequently repaid 'A' LLP in full.
8. The internal investigation at 'A' LLP encompassed other claims in addition to the ones referred to above. These were included in Appendix A but the IC offered no evidence on these at the outset of the hearing on the basis the evidence did not conclusively show these were false claims. The Tribunal was satisfied in light of the evidence it had read that this was a proper approach and the case proceeded only on the basis of those claims set out above.
9. The IC puts its case on the basis that all of above claims were made dishonestly (head of complaint 1) or were made recklessly (head of complaint 2) and that on either basis the defendant had brought discredit on himself, the Institute and the profession rendering him liable to disciplinary action under Disciplinary Bye-law 4.1.a. Alternatively the IC alleged that in making these claims the defendant had acted inefficiently or incompetently in a way that brought discredit on himself, the Institute and the profession, rendering him liable to disciplinary action under Disciplinary Bye-law 4.1.b.

The defendant's case

10. The defendant admitted all the complaints against him in his Regulation 13 answers and said that he did not dispute the IC's case as set out in the summary provided to the Tribunal.
11. The defendant said in his mitigation that he understood the seriousness of the allegations and apologised for his actions. He had struggled to deal with the aftermath of his father's death and this had led to him making errors of judgment. He said that prior to the incidents in question his performance had been exemplary. He wished to be given an opportunity to continue in the profession.
12. In a letter to ICAEW dated 4 May 2017 the defendant expressed deep remorse for his behaviour. He acknowledged that his behaviour had not been fitting for a member of the Institute and said that he had now repaid the expenses.

Conclusions and reasons for decision

Decision on complaint

13. Having considered the evidence the Tribunal was satisfied that all the claims in question, namely those set out in paragraph 5 above, were made falsely. The defendant was clearly aware he was not entitled to make them and therefore he was acting dishonestly. The Tribunal was therefore satisfied that the defendant's admission to head of complaint 1 in his Regulation 13 answers was full and unequivocal. The Tribunal accordingly found head of complaint 1 proved by admission.

14. As heads of complaint 2 and 3 were alternatives there was no need for the Tribunal to record a finding on those.

Matters relevant to sentencing

15. There were no previous disciplinary matters recorded against the defendant.
16. The Tribunal took into account the written mitigation submitted by the defendant and gave him credit for his admission to the complaint. Although he had not initially made admissions to his employer he had since repaid the money and therefore no loss had in fact resulted.
17. This was, however, not an opportunistic or isolated event. It was planned and deliberate dishonesty carried out over a significant period of time. The defendant had defrauded his employer and breached the trust that had been placed in him.
18. The Tribunal had regard to ICAEW's *Guidance on Sanctions*. The starting point for sanction for a very serious breach of an ethical duty is exclusion. The Tribunal noted that factors which can be considered as aggravating include breach of trust, fraud, and a deliberate act committed for personal gain.
19. The Tribunal considered there was no reason to depart from this starting point. Dishonesty of this nature is incompatible with membership of a professional organisation.
20. The Tribunal considered whether to additionally impose a financial penalty but considered in the circumstances it would be unduly punitive to do so.
21. The IC applied for costs in the sum of £7,461.50. This figure took into account the length of the hearing and the amount of time reasonably required to investigate the case. The Tribunal was satisfied that it was appropriate that the defendant should pay this amount in full.
22. The Tribunal took into account the information provided by the defendant about his financial circumstances. In light of that information it was appropriate to allow the defendant time to pay the costs and accordingly made an order for payment in instalments.

Sentencing order

23. Therefore in the Tribunal's view the appropriate and proportionate sanction was to exclude the defendant from membership of the ICAEW.
24. The Tribunal ordered the defendant to pay costs of £7,461.50 with the first instalment of £641.50 payable by 1 May 2018 and eleven further monthly instalments of £620.00 payable by the first of each month.

Decision on publicity

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

Non Accountant Chairman
Accountant Member
Non Accountant Member

Mr Richard Farrant
Mr Jon Newell FCA
Miss Jane Rees

Legal Assessor

Mr Andrew Granville Stafford

028349

4. Mr Marcus William Black ACA of
Birstwith, Harrogate, United Kingdom

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 28 March 2018

Type of Member Member

Terms of complaint

Between 29 August 2016 and 16 June 2017 Mr Marcus Black ACA failed to submit his CPD records for the year ended 31 October 2015 in breach of Principal Bye-law 56c. Mr Marcus Black is therefore liable to disciplinary action under Disciplinary Bye-law 4.1c which provides “if he has committed a breach of the bye-laws or any regulations or has failed to comply with any order, direction or requirement made, given or imposed under them.”

Hearing date

28 March 2018

Previous hearing date(s)

N/A

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes, on admission

All heads of complaint proven Yes

Sentencing order No order

Parties present Mr Black was present.

Represented Mr Black was not represented. The Investigation Committee (“IC”) was represented by Miss Jessica Sutherland-Mack.

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 as to service.

Documents considered by the tribunal

The tribunal considered the documents contained in the IC's bundle together with medical evidence supplied by Mr Black and a letter dated 23 March 2018 from the ICAEW to Mr Black.

The IC's case

1. Principle bye-law 56c provides, in summary, that a member must certify annually to ICAEW compliance with provisions regarding Continuing Professional Development (CPD) and provide evidence of compliance as may be required.
2. The ICAEW's CPD Regulations, regulation 2, provides that evidence requested under principle bye-law 56c must be provided promptly.
3. For the year ended 31 October 2015, the Defendant certified compliance with his CPD obligations. He was first asked to provide evidence of that on 29 July 2016. He failed to do so until this complaint was made. He communicated once with the ICAEW, on 12 April 2017, but he did not provide the evidence requested. On 12 April 2017, the Defendant explained that he intended to provide his CPD record but it was not a priority for him at that time because of his circumstances.
4. It is accepted that by the time of the hearing of the complaint, the Defendant had provided evidence requested. By a letter dated 23 March 2018, the ICAEW had confirmed to the Defendant that the Defendant's evidence supported his declaration. No further recommendations were made by the CPD department of ICAEW save to remind the Defendant that he must continue to take CPD each year and make a declaration by 31 January each year.
5. The Defendant admitted the complaint. He explained that he also tried to make contact by email with ICAEW in August 2017, but the person with whom he was in contact had left ICAEW and his email was returned.

Issues of fact and law

6. Because the Defendant admitted the complaint there were no issues of law or fact to determine.

Conclusions and reasons for decision

7. The Defendant failed to provide evidence supporting his CPD promptly. He has admitted as much. However, he had carried out his CPD for the relevant year, he did have evidence for it, and eventually he provided it to the satisfaction of the ICAEW. He is in breach of CBD regulation 2 and DBL 4.1c

Matters relevant to sentencing

8. The tribunal considered the *Guidance on Sanctions* and saw no reason to depart from that.
9. There is significant and persuasive mitigation in this case. There are no aggravating factors. The Defendant has been a member of ICAEW for 23 years and has a clean disciplinary record. The Defendant explained that he is not in public practice and does not directly use his accountancy qualification; rather, he is the joint managing director of his own business called 'A' Ltd, which is based in the north east of England and employs 120 staff. He is a married father of four and is heavily involved with charity work in the north east and internationally (having been heavily involved in sponsoring part of the recent Lions Tour). Last year, he was also involved in moving house. Perhaps most significantly, the Defendant was diagnosed in March 2017 with a serious and debilitating medical condition (evidence was provided).
10. The Defendant did not seek to excuse his breach of the regulations and candidly admitted the complaint, but he also frankly explained why it has taken so long to comply with ICAEW's requests. This case is purely one of delay, not refusal to comply with ICAEW's demands, or of failure to acquire CPD or have evidence to support it. The delay is explained.
11. For all these reasons, the tribunal considers it would be disproportionate and unfair to impose any sanction on the Defendant. It is fair, however, to ask him to contribute to the ICAEW's costs of bringing the complaint.

Sentencing Order

No sanction.

Costs in the sum of £1,500.

Decision on publicity

Publication with name.

Chairman
Accountant Member
Non Accountant Member

Mr Peter Williamson
Mr Jon Newell FCA
Ms Martha Maher

Legal Assessor

Mr Dominic Spenser Underhill

037615

**5. Mr Bhartkumar Ranchhodbhai Patel [FCA] of
X, United Kingdom**

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 28 March 2018

Type of Member Member

Terms of complaint

On 18 November 2015, Mr Bhartkumar Ranchhodbhai Patel, FCA caused grievous bodily harm with intent to commit grievous bodily harm to X, by hitting her on the head with a bottle and stabbing her. Mr Bhartkumar Ranchhodbhai Patel is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a which provides "If in the course of carrying out work or otherwise he has committed any act or default likely to bring discredit on himself, the Institute or the profession of accountancy."

Hearing date

28 March 2018

Previous hearing date(s)

None

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes, on admission

All heads of complaint proven Yes

Sentencing order Exclusion

Parties present Mr Patel was not present.

Represented Mr Patel was not represented. The Investigation Committee (IC) was represented by Miss Jessica Sutherland-Mack.

Hearing in public or private

The hearing was in public.

An application was made on 21 January 2018 for the hearing to be in private and was declined by the tribunal chairman on 25 January 2018.

Decision on service

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

Documents considered by the tribunal

The tribunal considered the documents contained in the IC's bundle together with (i) "addendum response" from Mr Patel dated 23 March 2018; (ii) additional response from him dated 27 March 2018; (iii) proof of service of documents on Mr Patel dated 16 and 17 January 2018; (iv) email exchange between Mr Patel's sister and ICAEW between January 2018 and March 2018; (v) a series of character references for Mr Patel and (vi) evidence of Mr Patel's means.

The IC's case

1. On 18 November 2015, the Defendant struck X over the head with a bottle and then stabbed her with a knife, narrowly missing her heart. He was charged with and, on 21 January 2016, convicted of, grievous bodily harm contrary to section 18 of the Offences against the Persons Act 1861. He was convicted in the Crown Court at X. This was an indictable offence. The Defendant entered a guilty plea. He was sentenced to a term of imprisonment of six years and six months, with half the term to be served in custody and the remainder on licence.
2. Disciplinary Bye-law (DBL) 7.1 provides that the conviction of this indictable offence in a court of competent jurisdiction is conclusive evidence of the commission of an act likely to bring discredit on the defendant, the ICAEW or the profession of accountancy, in accordance with DBL 4.1a.
3. For these reasons the Defendant is liable under DBL 4.1a.

Issues of fact and law

4. No issues of fact or law required to be determined because the Defendant admitted the complaint.
5. The tribunal found the complaint proved.

Conclusions and reasons for decision

6. The serious crime which the Defendant has admitted committing, and the professional misconduct which follows from that to which he has also admitted, means that the Defendant has committed a serious criminal act which is likely to bring discredit on himself and the ICAEW.

Matters relevant to sentencing

7. The tribunal considered the *Guidance on Sanctions* and saw no reason to depart from that. It was also satisfied that no lesser penalty than the one imposed was appropriate. Mitigating factors are (i) the Defendant's early guilty plea and admission of the disciplinary charge; (ii) his remorse and insight into his wrongdoing; (iii) his attempts to rehabilitate himself while in prison. An aggravating factor is the very grave nature of this offence. The tribunal has considered the Defendant's means when considering any financial penalty (which is not usual in cases of exclusion) and also the question of costs. No financial penalty is appropriate and the contribution to costs has been reduced considerably.

Sentencing Order

Exclusion

Costs in the sum of £500

The sum of £500 is due and owing immediately. However the Defendant is granted time to pay this amount up to and including 31 December 2019.

Decision on publicity

Publication with name, but the Defendant's address must not be published and the name of the X and her address must not be disclosed.

Chairman

Mr Peter Williamson

Accountant Member

Mr Jon Newell FCA

Non Accountant Member

Ms Martha Maher

Legal Assessor

Mr Dominic Spenser Underhill

032744

6. Mr Alan Charles Read BSC ACA of

Ashford Read, Basepoint Enterprise Centre, Andersons Road, Southampton, SO14 5FE

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 28 March 2018

Type of Member Member

Terms of complaint

The Defendant failed to provide by 20 September 2017 the information, explanations and documents requested in a letter dated 5 September 2017 issued under Disciplinary Bye-law 13.

Hearing date

28 March 2018

Previous hearing date(s)

None

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

Sentencing order (i) Severe reprimand; (ii) fine of £4,000

Procedural matters and findings

Parties present Mr Read was not present.

Represented Mr Read was not represented. The Investigation Committee ("IC") was represented by Miss Jessica Sutherland-Mack.

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 as to service.

Documents considered by the tribunal

The tribunal considered the documents contained in the IC's bundle.

Findings on preliminary matters

An query arose about an inaccuracy in the letter dated 5 September 2017 under which notice pursuant to DBL 13 was given and the IC relied. It stated, amongst other things, that a response was required by 19 June 2017. This was obviously incorrect, as the date had passed over two months previously. The reason for the error was that the text had been cut and pasted from a previous notice to Mr Read dated 1 June 2017 but had not been edited sufficiently.

The tribunal took advice from the legal assessor about the error. His advice was that the error was not material for several reasons, and therefore the notice was not so fundamentally flawed as to be invalid. The reasons were: (i) to a reasonable person, the error was plainly a clerical error; (ii) there was no possibility of Mr Read being materially misled by the error as it was impossible to reply to a deadline which had passed before the letter had been written; (iii) the letter of 5 September 2017 later in the narrative specified the correct date by which to respond, namely 20 September 2017; (iv) in any event, DBL 13 does not require that a date by which a response to a notice is required must be specified and (v) it was open to Mr Read to take any issue he wished about the error but he had declined to do so. For all these reasons, it is both reasonable and fair to find that the DBL 13 notice upon which the IC rely is a valid notice for the purpose of the Bye-laws and can be relied upon.

The IC's case

1. The Defendant is a sole practitioner in public practice and he provides accountancy and tax services. Two of his clients (a married couple) complained about the service they were receiving. In summary, their complaint was that the Defendant had failed properly to manage their tax and VAT affairs and that he had misled them into believing that their accounting affairs were in order when they were not. When the clients wished to replace the Defendant with new accountants, it is alleged that the Defendant failed to correspond to effect an orderly handover of the clients' affairs.

2. This complaint was received by ICAEW in February 2017. In fact, the last the clients had heard from the Defendant was in August 2016. All attempts by the clients and their new accountants to contact the Defendant had failed. The Defendant still retains the books and records of the clients.
3. In 2017, ICAEW wrote to the Defendant on 13 March, 30 March, 26 April and 1 June. No response at all was received to any of these communications. This provoked the notice under DBL 13 which is the subject of the complaint. It was dated 5 September 2017. No response to that notice was received either. In fact, the clients, their new accountants and the ICAEW have respectively not heard from the Defendant since August 2016.
4. The Defendant's failure to respond to the DBL 13 notice dated 5 September 2017 is a breach of DBL 4.1c.

Issues of fact and law

5. The issues of fact to be determined are: (i) was a notice under DBL 13 served on the Defendant and if so (ii) whether a response had been received within the requisite period of 14 days or at all.
6. The tribunal found the complaint proved.

Conclusions and reasons for decision

7. The tribunal finds that a notice under DBL 13 dated 5 September 2017 was served on the Defendant. No response has been received either within the requisite period or at all.
8. The Defendant has failed repeatedly to respond, first to a serious complaint from clients and secondly from repeated attempts by ICAEW to engage with him about those complaints. This is unacceptable. One of the core principles of any regulated profession is for their members to be accountable for their conduct to others, including in the case of ICAEW, clients and the ICAEW's regulatory offices. For a member of ICAEW to fail to do this is serious professional misconduct.

Matters relevant to sentencing

9. The tribunal considered the *Guidance on Sanctions* and saw no reason to depart from that. The tribunal was satisfied that no lesser sanction than the one imposed was appropriate.
10. A mitigating factor in this matter is the Defendant's clean disciplinary record. Aggravating factors are the serious reason for the inquiries being made by the ICAEW (namely, to investigate a serious complaint), the repeated ignoring of the client's attempts to make contact and also ICAEW's attempts.
11. Another relevant factor when considering the appropriate order is the fact that the information sought by the ICAEW has still not been provided.

Sentencing Order

1. Severe reprimand;
2. Fine of £4,000;
3. Costs of £2,860;
4. The Defendant is **ordered** to provide the information requested in the ICAEW's letter dated 5 September 2017, by 5.00pm on Wednesday 18 April 2018.

Decision on publicity

Publication with name.

Chairman

Mr Peter Williamson

Accountant Member

Mr Jon Newell FCA

Non Accountant Member

Ms Martha Maher

Legal Assessor

Mr Dominic Spenser Underhill

039937

APPEAL COMMITTEE PANEL ORDERS

7. **Mr Grant James Farrell [ACA] of**
Windsor, Berkshire, United Kingdom

A panel of the Appeal Committee made the decision recorded below having heard an appeal on 24 April 2018

Type of Member Member

Date of Disciplinary Committee Hearing 19 December 2017

Date of Appeal Panel Hearing 24 April 2018

Terms of complaint found proven before the Disciplinary Committee

1. Between 31 March 2010 and 31 March 2012, Mr Grant Farrell ACA dishonestly and intending thereby to make a gain for himself or another, made false representations which were and which he knew were or might be untrue or misleading, in that he used the debit card and bank account of 'A' for his own personal use and / or expenditure. As a consequence of this behaviour he was convicted of three counts of fraud contrary to section 1 Fraud Act 2006.
2. Between 31 March 2007 and 31 March 2012, Mr Grant Farrell ACA stole cash belonging to 'B'. As a consequence of this behaviour he was convicted of one count of theft contrary to section 1(1) Theft Act 1968.

Mr Grant James Farrell is therefore liable to disciplinary action under Disciplinary Bye-law 4.1.a.

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

Disciplinary Bye-law 7.1 (pre October 2016) states:

- 7.1 'The fact that a member, member firm or provisional member has, before a court of competent jurisdiction, pleaded guilty to or been found guilty of an indictable offence (or has, before such a court outside England and Wales, pleaded guilty to or found guilty of an offence corresponding to one which is indictable in England and Wales) 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.'

Sentencing Order

The Disciplinary Committee decided the Defendant should:

be excluded;

pay costs of £3,600.

The Disciplinary Committee ordered that he pay 12 monthly instalments of £300, the first payment to be made by 31 January 2018.

Appeal against finding?	No
Appeal against Sentencing order?	No
Appeal against Costs	Yes
Decision of Appeal Panel	Appeal dismissed.

Procedural matters and findings

- 1 Mr Farrell represented himself. Ms Silpa Tozer represented the Investigation Committee.
- 2 The hearing was in public.
- 3 There were no preliminary applications.

Grounds of appeal

- 4 The process was drawn out and included time investigating matters which were nothing to do with the original case and were not pursued as no wrong-doing was identified.
- 5 The process was inefficient. A correct process would have been for the Institute to have informed Mr Farrell that the criminal prosecution would lead to his exclusion and ask him to put a defence together if he wished to challenge that conclusion.

Decision

- 6 The appeal was dismissed.
- 7 The order that costs of £3,600 should be payable in monthly instalments was varied, so that the first payment should now be made on or before 31 May 2018 at the rate of £300 per month.
- 8 There was no order as to costs in relation to the appeal.

Reasons for decision

- 9 There was no challenge made to the Disciplinary Committee's sentencing order.

- 10 The Investigation Committee had sought a substantial amount of costs before the Disciplinary Committee. The figure claimed was in the region of £7,787.75 on the basis of an illustrative Schedule prepared for the purposes of the appeal.
- 11 It is common ground that the investigation had included enquiries in relation to issues which were not then pursued, although it was agreed that the costs associated with that work had not been included as part of the Investigation Committee's application for costs. Mr Farrell, however, contended that the delays in the process may have caused additional time to be spent on the substantive complaint which was pursued before the Disciplinary Committee.
- 12 The Disciplinary Committee's reasons did not disclose the basis upon which it determined that £3,600 was a reasonable amount to expect Mr Farrell to pay by way of a contribution towards the costs.
- 13 The Appeal Committee, therefore, undertook its own assessment as to the costs which it considered would amount to a reasonable and proportionate amount. On the specific facts of this case, the Appeal Committee's determination was that the costs of the investigation should not have exceeded £1,380, the costs of the preparation of the case before the Disciplinary Committee should not have exceeded £300 and the costs of the hearing before the Disciplinary Committee should not have exceeded £1,957. The reasonable and proportionate amount of costs which it considered would be reasonable to expect Mr Farrell to pay was therefore £3,637. In the circumstances, the Appeal Committee did not consider that the Disciplinary Committee's assessment was wrong or represented an unreasonable amount. There was no issue taken as to Mr Farrell's ability to pay this sum.
- 14 Whilst it accepted Mr Farrell's realistic acknowledgment that exclusion was always a likely outcome given his criminal convictions, the Appeal Committee was satisfied that the process which he outlined was not one which it was open to the Investigation Committee to pursue. The Bye-Laws prescribe the process which must be adopted in all cases so as to ensure fairness. They were appropriately followed in Mr Farrell's case.
- 15 His appeal was therefore dismissed.
- 16 On the particular facts of this case, as there had been difficulties for the Investigation Committee in quantifying the costs which it had incurred and given that Mr Farrell was also entitled to understand the reasons as to how the level of the costs order had been determined, the Appeal Committee considered that the appropriate order was no order as to costs in respect of the appeal.

Chairman
Accountant Member
Accountant Member
Non Accountant Member
Non Accountant Member

Mr Angus Withington
Mr David Kaye
Mr Richard Lea
Mr Shahzad Aziz
Mr Geoff Baines

031179

**8. Mr Nigel Peter Courtney Newman [ACA] of
Exeter, United Kingdom**

A panel of the Appeal Committee made the decision recorded below having heard an appeal on 24 April 2018

Type of Member	Member
Date of Disciplinary Tribunal Hearing	22 November 2018
Date of Appeal Panel Hearing	24 April 2018

Terms of complaint found proven before the Disciplinary Tribunal

1. Between 5 April 2013 and 6 April 2014, Mr Nigel Newman ACA submitted false self-assessment returns to HMRC for a number of individuals purporting to be from 'A' claiming repayments of tax of £28,343.09.
2. Between 26 July 2013 and 31 March 2015 Mr Nigel Newman ACA submitted false VAT returns to HMRC for the following companies:
 - a. 'A' Ltd – repayment claim of £22,580
 - b. 'B' Ltd – repayment claim of £21,004
 - c. 'C' Ltd – repayment claim of £11,269

If proven, the member may be liable to disciplinary action under Disciplinary Bye-law 4.1(a).

4.1a states "...If 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."

Sentencing Order

Exclusion

Costs in the sum of £ 4,274

Decision on publicity: Publication with name.

Appeal against finding?	No
Appeal against Sentencing order?	No
Appeal against Costs	Yes
Decision of Appeal Panel	Appeal allowed in part.

Reasons for decision

Procedural matters and findings

- 17 Mr Newman was not represented. He did not attend but had provided written grounds of appeal. The Investigation Committee was represented by Miss Sutherland-Mack. She did not attend but had provided a written response to the grounds of appeal.
- 18 The hearing was in public.
- 19 There were no preliminary applications.

Grounds of appeal

- 20 The costs have been unnecessarily incurred because the Institute did not accept Mr Newman's resignation, the investigatory process was lengthy, there was repetition of work and the outcome was always going to be an exclusion.
- 21 Little account was taken of Mr Newman's present financial circumstances. He has no assets and is deeply indebted. He was not able to pay costs of £4,274.

Decision and Reasons for Decision

- 22 Mr Newman accepted by his Grounds of Appeal that the Institute had incurred costs in conducting the investigation and the proceedings. He accepted the principle that it was under a duty to investigate fully any complaint made against him. He, however, considered that the fair and reasonable amount of costs bearing in mind all of the circumstances would be the sum of £2,000.
- 23 By its response, the Investigation Committee did not accept the criticisms of the process made by Mr Newman. However, it accepted that, whilst the quantum of costs ordered against Mr Newman was both proportionate and reasonable, it accepted that Mr Newman did not have the resources to pay the full costs as ordered. It therefore did not oppose the request that the Appeal Committee reduce the costs order to £2,000.
- 24 The Appeal Committee considered that the concession made by the Investigation Committee was reasonable and appropriate on the evidence it had received. It was therefore satisfied that it was appropriate to allow the appeal and vary the costs order so that Mr Newman should be liable to pay a revised sum of £2,000 by way of costs. Payment should be made by 1 June 2018. In the circumstances, it was unnecessary for the Appeal Committee to consider the other grounds of appeal.
- 25 There were no other applications to be determined.

Chairman
Accountant Member
Accountant Member
Non Accountant Member
Non Accountant Member

Mr Angus Withington
Mr David Kaye
Mr Richard Lea
Mr Shahzad Aziz
Mr Geoff Baines

032839

CESSATION OF MEMBERSHIP

9. The following individual has ceased to be a member because of failure to pay outstanding fines and costs:

Mr Alan Valembois of Ipswich
Mr Octavius George of Nigeria

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

INVESTIGATION COMMITTEE CONSENT ORDERS

10. Deloitte LLP

Consent order made on 17 April 2018

With the agreement of Deloitte LLP of 2 New Street Square, London, EC4A 3BZ, the Investigation Committee made an order that the firm be severely reprimanded, fined £9,750 and pay costs of £5,017 with respect to a complaint that:

On 23 January 2011, Deloitte LLP issued an unqualified audit report on the financial statements of X Limited for the period ended 31 October 2010 when the audit had not been 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 to be able to draw reasonable conclusions on which to base the audit opinion in respect of:

- a) Cost of sales, and/or,
- b) Prepayments, and/or,
- c) Trade creditors, and/or,
- d) Tax receivable

032509

11. Mr David Michael Whittle FCA

Consent order made on 17 April 2018

With the agreement of Mr David Michael Whittle of Suffolk, United Kingdom, the Investigation Committee made an order that he be severely reprimanded, fined £3,000 pay costs of £2,768 and to return fees of £3,480 with respect to a complaint that:

1. Between 21 December 2013 and 25 August 2014 Mr D Whittle FCA failed to provide the executor of the estate of Mr X deceased with a fixed asset schedule.
2. Between 7 October 2014 and 24 October 2016 Mr D Whittle FCA failed to provide the executor of the estate of Mr 'X' deceased with accounts for 'Y' for the period ended 11 October 2012 and the period ended 8 December 2013.

033554

12. Mrs Rosalyn Margaret Dorothy Allen ACA

Consent order made on 17 April 2018

With the agreement of Mrs Rosalyn Margaret Dorothy Allen of London, United Kingdom, the Investigation Committee made an order that she be severely reprimanded, fined 5,000 and pay costs of £1,392 with respect to a complaint that:

1. Between 1 January 1998 and 15 August 2017 Mrs Rosalyn Allen ACA, engaged in public practice without holding a practising certificate contrary to Principal Bye-law 51a.
2. Between 1 January 1998 and 31 October 1998 Mrs Rosalyn Allen ACA engaged in public practice without professional indemnity insurance as required by Regulation 10 of the Professional Indemnity Insurance Regulations.
3. Between 1 November 1998 and 31 July 2017 Mrs Rosalyn Allen ACA engaged in public practice without professional indemnity insurance as required by Regulation 3.1 of the Professional Indemnity Insurance Regulations.

040229

13. Mr Richard Martin Peet FCA

Consent order made on 1 May 2018

With the agreement of Mr Richard Martin Peet of Farnham, Surrey, United Kingdom, the Investigation Committee made an order that he be reprimanded, fined £500 and pay costs of £1,368 with respect to a complaint that:

Between 16 January 2017 and 6 July 2017, Mr Richard Peet FCA engaged in public practice, through X Ltd, without professional indemnity insurance as required by Regulation 3.1 of the Professional Indemnity Insurance Regulations.

041346

14. Mr Leslie Hilton FCA

Consent order made on 1 May 2018

With the agreement of Mr Leslie Hilton of GUERNSEY, the Investigation Committee made an order that he be severely reprimanded and pay costs of £2,205 with respect to a complaint that:

Mr Leslie Hilton, FCA, when acting in his capacity as director of X Ltd, failed to ensure that X Ltd complied with the following regulations of the Criminal Justice (Proceeds of Crime) Financial Services Businesses (Bailiwick of Guernsey) Regulations 2007 and, Rules in the Handbook for Financial Services Business on Countering Financial Crime and Terrorist Financing:

- (a) Regulation 3(2) in that regular risk assessments and regular reviews of relationship risk assessments failed to be carried out as set out in Appendix 1.
- (b) Regulation 4 in that reasonable measures failed to always be taken to identify and verify customers, beneficial owners and underlying principals, persons purporting to act on behalf of the customer or obtain information on the purpose and intended nature of each business relationship as set out in Appendix 2.
- (c) Regulation 5 in that enhanced customer due diligence failed to always be carried out on customers assessed as high risk as set out in Appendix 3
- (d) Regulation 11 in that ongoing and effective monitoring of existing business relationships failed to be carried out as set out in Appendix 4.
- (e) Regulation 12(f) in that appropriate and effective procedures and controls to ensure compliance with the requirements to make disclosures under Part 1 of the Disclosure (Bailiwick of Guernsey) Law 2007 and the Terrorism and Crime (Bailiwick) Law 2002 as set out in Appendix 5.

031360

15. Miss Lindsey Jane Cooper FCA

Consent order made on 1 May 2018

With the agreement of Miss Lindsey Jane Cooper of Manchester, United Kingdom the Investigation Committee made an order that she be severely reprimanded, fined £20,000 and pay costs of £3,067 with respect to a complaint that:

Between 31 October 2011 and 22 May 2012 Miss Lindsey Cooper FCA asked for and received confidential information when she knew or was reckless as to whether the information was confidential.

010531

16. Military House Limited

Consent order made on 1 May 2018

With the agreement of Military House Limited of Military House, 24 Castle Street, CHESTER, CH1 2DS, the Investigation Committee made an order that the firm be reprimanded, fined £3,250 and pay costs of £1,755 with respect to complaints that:

1. Military House Limited incorrectly prepared its own financial statements in respect of the following periods:

- Year ended 30 April 2009
- Year ended 30 April 2010
- Year ended 30 April 2011
- Year ended 30 April 2012
- Year ended 30 April 2014
- Year ended 30 April 2016

as the accounts state that they are prepared in accordance with the Financial Reporting Standard for Smaller Entities when this was not the case.

2. Military House Limited incorrectly prepared its own financial statements in respect of the year ended 30 April 2013 as:

- a. the accounts incorrectly disclose a provision for impairment of £277,074 as revalued goodwill, and/or
- b. the accounts state that they are prepared in accordance with the Financial Reporting Standard for Smaller Entities when this was not the case.

3. Military House Limited incorrectly prepared its own financial statements in respect of the year ended 30 April 2015 as:

- a. the accounts incorrectly disclose a reversal of an impairment provision of £277,074 as revalued goodwill, and/or,
- b. the accounts state that they are prepared in accordance with the Financial Reporting Standard for Smaller Entities when this was not the case.

038091

AUDIT REGISTRATION COMMITTEE

ORDER – 21 FEBRUARY 2018

17 Publicity Statement

Attwood & Co, Unit 3, Crescent Industrial Park, Peartree Lane, Dudley, West Midlands, DY2 0QQ, 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 admitted breach of Audit Regulation 3.03, for failing to obtain an external hot file review of an audit where recurring fees from the client were between 10% and 15% of the firm's total practice income.

042170

ORDER – 4 APRIL 2018

18 Publicity Statement

Ripe LLP, 9a Burroughs Gardens, London, NW4 4AU, has agreed to pay regulatory penalties of £2,038 and £3,450, which were decided by the Audit Registration Committee. This was in view of the firm's admitted breach of audit regulations 2.11, 2.03a, 6.06 and 3.20 in that the firm:

- failed to notify ICAEW of a corporate member's appointment in 2009;
- failed to ensure that the new corporate member held dual affiliate status between 2009 and 2017;
- failed to disclose details of the corporate member on its annual returns between 2009 and 2017; and
- wrongly disclosed that it had carried out cold file reviews on its 2015 and 2016 annual returns when no reviews had been carried out.

041321

PROBATE COMMITTEE

ORDER – 24 APRIL 2018

19 Publicity Statement

Reid York Ltd of 96 Castle Lane West, Bournemouth, Dorset, BH9 3JU, has agreed to pay a regulatory penalty of £500, which was decided by the Probate Committee because of the firm's ineligibility to undertake work as an authorised probate firm under Probate Regulation 2.2a.

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