



Disciplinary Orders and Regulatory Decisions

DATE PUBLISHED: 7 NOVEMBER 2017

Disciplinary orders

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DISCIPLINARY COMMITTEE TRIBUNAL ORDERS

1 **Mr John Belford [FCA]** of
18 Low Road Close, COCKERMOUTH, CUMBRIA, CA13 0GU.

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 10 May 2017

Type of Member Member

Terms of complaint

Between 27 November 2012 and 10 September 2013 Mr Belford submitted false information to the HMRC Appeal Tribunal.

Mr Belford is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a.
Disciplinary Bye-law 4.1a states:

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

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.'

Hearing date

10 May 2017

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 Exclusion

Procedural matters and findings

Parties present	Mr John Belford was present.
Represented	Mr Belford was not represented. The Investigation Committee (IC) was represented by Ms Theresa Thorp.
Hearing in public or private	The hearing was in public. An application was made on 10 January 2017 for the hearing to be in private. The application was rejected at the order of the chairman of the tribunal on 25 January 2017.
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 IC's bundle together with evidence of Mr Belford's means.

The Investigation Committee's (IC's) case

1. Disciplinary Bye-law (DBL) 7.1 states: *"The fact that a member...has, before a court of competent jurisdiction, pleaded guilty to or been found guilty of an indictable offence...shall for the purposes of these bye-laws be conclusive evidence of the commission by him of such an act or default mentioned in bye-law 4.1a..."*
2. DBL 7.2 states that *"The fact that a member (b) has had a disqualification order made against him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Directors Disqualification Act 1986 shall, for the purposes of these bye-laws, be conclusive evidence of the commission by him of such an act or default s is mentioned in bye-law 4.1a..."*
3. On 4 September 2015, the defendant pleaded guilty in the Crown Court in Carlisle to the indictable offence of submitting false documents to HMRC. He was sentenced to a 12 week suspended custodial sentence, fined £10,000 and was made subject to a curfew for three months. He was disqualified from being a company director for a period of five years.
4. For these reasons, the defendant has breached DBL 4.1a.

Issues of fact and law

5. There were no issues of fact or law to determine because the defendant admitted the complaint.
6. The tribunal found the complaint proved on the defendant's own admission.

Conclusions and reasons for decision

7. The defendant has clearly breached DBL 4.1a because he pleaded guilty to an indictable offence in England (which has an element of dishonesty) and he has been disqualified from acting as a company director.

Matters relevant to sentencing

8. The tribunal considered the *Guidance on Sanctions* and saw no reason to depart from that. It was satisfied that no lesser sanction than the one imposed was appropriate.
9. Mitigating factors were: (i) the defendant's early guilty plea in court and his admission of the complaint. He also had the courtesy to the tribunal and to ICAEW to appear in person at the hearing of the complaint; (ii) there is no risk of the disciplinary offence being re-committed as the defendant wishes to leave ICAEW; (iii) the defendant's contrition; (iv) there has been no loss to the taxpayer or HMRC.
10. An aggravating factor is a previous disciplinary record. On 9 March 2015, the defendant agreed to be reprimanded and fined £2,650 (as well as pay costs) for conducting himself without courtesy and/or consideration towards others, contrary to paragraph 150.1 of the Code of Ethics. He made an inappropriate communication to the Receivers Office, Blackpool.

Sentencing Order

Exclusion.

Contribution towards costs of £2,000.

Costs are payable in 10 equal instalments of £200 due on the first day of each month. The first instalment is payable on 1 July 2017.

Decision on publicity

Publication with name.

Chairman

Mr Ron Whitfield

Accountant Member

Mr Nigel Meredith FCA

Non Accountant Member

Mr Graham Humby

Legal Assessor

Mr Dominic Spenser Underhill

024051

2. Mr Graham Mark Hunt FCA of
Twin Oaks, 36 Moreland Drive, Gerrards Cross, Buckinghamshire, SL9 8BD.

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 8 August 2017

Type of Member Member

Terms of complaint

1. Mr G M Hunt FCA failed to provide by 10 September 2016 the information, explanations and documents requested in a letter dated 24 August 2016 issued under Disciplinary Bye-law 13.

Mr Graham Mark Hunt is therefore liable to disciplinary action under Disciplinary Bye-law (DBL) 4.1.c.

4.1 'A member, 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, provisional member, foundation qualification holder or foundation qualification 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.'

Hearing date

08 August 2017

Previous hearing date(s)

N/A

Pre-hearing review or final hearing Final Hearing

Complaint found proved Yes

All heads of complaint proven Yes

- a) Severe reprimand
- b) £5000 fine
- c) £3337 costs
- d) Provision of the outstanding information for the DBL 13 letter within 28 days of deemed service of this Order

Procedural matters and findings

Parties present

Investigation Committee

Represented

Laura Jennings of ICAEW represented the IC

Hearing in public or private

The hearing was in public

Decision on service

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

Documents considered by the tribunal

The tribunal considered the documents contained in the Investigation Committee's (IC's) bundle.

Findings on preliminary matters

As Mr Hunt did not attend, the IC made an application that the tribunal proceed in his absence. The tribunal was satisfied that he had been served with notice of the hearing on 14 June 2017 and sent to his registered address, which was the one which he had most recently given the ICAEW. The tribunal was aware of the discretion to be exercised in these circumstances, that it should only proceed in the defendant's absence in rare and exceptional cases. It noted in this regard that whilst Mr Hunt had earlier been fully aware of the IC investigation into the underlying matters, there had been no response from Mr Hunt since 8 August 2016. ICAEW had sought to contact Mr Hunt on numerous occasions. Delaying these proceedings risked frustrating ICAEW's role of maintaining the standards in the profession and in particular created a risk in relation to the protection of the public. In these circumstances and as service had been properly effected to his last known address, the tribunal decided to proceed in Mr Hunt's absence.

Issues of fact and law

1. The defendant is under investigation for providing accountancy services without a practicing certificate and / or Professional Indemnity Insurance (PII). While investigating the matter, Professional Standards corresponded with the defendant. The defendant was asked to provide specific information, explanation and documentation but failed to do so. Accordingly, the defendant was sent a notice on 24 August 2016 requiring him to provide that information pursuant to DBL13. The defendant failed to respond to that notice.
2. The defendant completed his member profile stating that he is a principal in a firm providing accountancy services to the public. However, ICAEW records show that the defendant's practising certificate ceased on 12 July 2006 when his membership ceased for non-payment of his ICAEW annual subscription.
3. The defendant was readmitted to membership on 19 May 2009, but he did not apply for a practising certificate. Therefore, he does not currently hold a practising certificate. ICAEW are considering whether the defendant holds PII and whether he was a director of an accountancy practice entering into liquidation.
4. The website of 'A' Ltd indicated that the defendant was a principal in a firm providing accountancy services. The defendant verbally confirmed that he provided accountancy services. The website referred to 'A' Ltd. However, this company entered liquidation on 12 March 2015 and changed its name on 8 May 2015 to The 'B' Ltd.
5. The defendant is also the sole director of 'A' Ltd (formerly 'C' Ltd), incorporated on 2 March 2015. The latest Annual Return of this company states that this company provides accounting and auditing activities (SIC 69201). The liquidators report filed for 'B' Ltd confirms that the goodwill was sold to 'C' Ltd for £3,000.
6. 'B' Ltd has only filed abbreviated accounts with Companies House and 'A' Ltd has not yet filed any accounts. Therefore, ICAEW is unable to evidence the turnover of these entities and whether it has all been derived from accountancy services. ICAEW currently only have verbal confirmation from the defendant that he is engaging in public practice without a practising certificate.
7. Until ICAEW evidence that the defendant is engaging in public practice it cannot be determined whether he was required to hold PII or was a director of an accountancy practice entering into liquidation.

ICAEW Investigation

8. The following is a chronology of the communications with the defendant:

Date	Method	From	Details
21 April 2016 10.05	E-mail	Complaints case worker	Querying Mr Hunt's member profile.
21 April 2016 10.06	E-mail	Mr Hunt	An automatic response stating that Mr Hunt was out of the office until 2 May 2016.
30 April 2016 12.03	E-mail	Mr Hunt	Mr Hunt's understanding was that he had held a practising certificate since 1 April 1997. Mr Hunt said he would call the complaints case worker to discuss on 3 May 2016 to discuss.
3 May 2016 09.57	E-mail	Complaints case worker	Confirming that Mr Hunt's practising certificate ceased on 12 July 2006. Asking Mr Hunt some further questions.
5 May 2016	Phone call	Mr Hunt	Confirming that he was providing accountancy services. The complaints case worker suggested Mr Hunt apply for a practising certificate immediately.
20 May 2016 10.06	E-mail	Complaints case worker	Chasing Mr Hunt for a response to her e-mail of 3 May 2016.
20 May 2016 11.16	E-mail	Mr Hunt	Mr Hunt said a response would be given over the weekend (21/22 May 2016).
7 June 2016 15.15	E-mail	Complaints case worker	Chasing Mr Hunt for a response.
8 June 2016 10.10	E-mail	Mr Hunt	Mr Hunt said a response would be given on 10 June 2016.
23 June 2016 10.47	E-mail	Complaints case worker	Advising Mr Hunt that the case would be transferred for investigation.
7 July 2016	Letter	Case manager	Initial investigation letter, requesting information required.
22 July 2016	Letter	Case manager	Chasing Mr Hunt for a response to the letter dated 7 July 2016.

8 August 2016	Letter	Case manager	Chasing Mr Hunt for his responses and explaining the requirements of DBL13.
8 August 2016 12.41	E-mail	Case manager	Sending copies of letters dated 7 July 2016, 22 July 2016 and 8 August 2016.
8 August 2016 13.34	E-mail	Mr Hunt	Confirming a response had been prepared and would be posted that day.
24 August 2016	Letter	Head of Investigation	Formal request under DBL13.
24 August 2016	E-mail	Head of Investigation	Sending copy of letter dated 24 August 2016.
12 September 2016	Phone calls	Case manager	Trying to contact Mr Hunt.
14 October 2016	E-mail	Mr Hunt	Out of office automatic reply. Mr Hunt would be out of the office until 18 October 2016.

Conclusions and reasons for decision

9. The tribunal found the matter proven.
10. The defendant was served with the request on the 24 August 2016 pursuant to DBL 13. No response has been received. Accordingly, the defendant is in breach of Disciplinary Byelaw 4(1)(c).

Matters relevant to sentencing

11. The tribunal took into account its *Guidance on Sanctions*.
12. Mr Hunt had no prior disciplinary record. As Mr Hunt had not been in contact with the IC since 8 August, there was no information as to any further mitigation.
13. The tribunal noted that the underlying matter under investigation was very serious. The matters included potential allegations with regard to providing accountancy services without a practising certificate and PII and also being a member or principal of a firm or body corporate engaged in public practice which enters into an insolvency procedure and being a sole director with a director's loan account that was significantly overdrawn. As such the protection of the public called for investigation in relation to the defendant's actions. The panel considered it an aggravating feature that the defendant owned a significant sum to HMRC when he went into liquidation. The failure to respond to the DBL 13 letter was further aggravated by his prior promises to respond which he did not follow through on and the length of time his non-cooperation had continued. This showed a lack of insight into the seriousness of the allegations and the importance of the ICAEW's role in maintaining standards and the protection of the public. Mr Hunt cannot opt-out of regulatory oversight and his conduct in this regard falls below the standard expected of chartered accountants.

Sentencing Order

14. The tribunal decided to impose the following sanction:

- a) Severe reprimand
- b) £5000 fine
- c) £3337 costs
- d) Provision of the outstanding information further to the DBL letter within 28 days of deemed service of this Order.

Decision on publicity

15. Publicity with names.

Chairman

Mrs Mary Kelly

Accountant Member

Mr Jon Newell FCA

Non Accountant Member

Ms Martha Maher

Legal Assessor

Ms Melanie Carter

035834

3 Mr Gareth Short of
11 Badgers Brook, Leighton Buzzard, Bedfordshire, LU7 3HB.

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 13 September 2017

Type of Member Former Affiliate Member

Terms of complaint

In a letter addressed to Messrs 'A' and 'B' at 'C' Limited, dated 8 February 2013, Mr Gareth Short stated, "we have secured the sum of £1.3 million which is over the threshold that enables us to close the investment round", when he knew this was incorrect.

Mr Gareth Short is therefore liable to disciplinary action under Disciplinary Bye-law 4.1a.

Disciplinary Bye-law 4.1a states the following:

A member, provisional member, foundation qualification holder or foundation qualification student (all hereinafter referred to as 'respondent') shall be liable to disciplinary action under these byelaws in any of the following cases, whether or not he was a member, 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.

Hearing date

13 September 2017

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 No Order

Procedural matters and findings

Parties present	Gareth Short was not present.
Represented	Mr Short was not represented. The Investigation Committee (IC) was represented by Mr Ian Graham.
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.
Preliminary Issue	Mr Short is no longer a member of the ICAEW. He was an affiliate member but is no longer so. DBL 6A.4 permits the ICAEW to take disciplinary action against former members where the conduct complained of occurred while the member was a member and the facts occurred after 7 October 1999. Both criteria are met in this case. The facts occurred in February 2013 while Mr Short was an affiliate member of ICAEW.

The IC's case

1. The ICAEW's Fundamental Principle of Integrity requires professional accountants to be straightforward and honest in all professional business relationships. The defendant has breached that Principle for the following reasons.
2. From November 2011 until May 2013, the defendant was a partner in the Private Client Tax Services team of an office of 'D'. That firm had a client which was a film production company called 'C' Limited.
3. 'C' Limited needed to raise financing for one of its films and it wanted to participate in the Enterprise Investment Scheme.
4. On 8 February 2013, the defendant issued a letter to 'C' Limited, on his firm's letterhead, which he signed. It stated:

"With regard to the above feature film, which is to be produced by yourselves and written and directed by [a person], I am pleased to confirm that we have secured the sum of £1.3 million (one million three hundred thousand pounds) which is over the threshold that enables us to close this investment round."

5. In fact, no such funding had been secured. The statement was incorrect.

6. The defendant knew the statement to be incorrect when he made it. This is because he had not personally secured any financing for 'C' Limited. Moreover, he knew such funding had not been secured because he had not obtained any legally binding commitment from investors to invest.
7. Moreover, on 5 February 2013, three days before the letter was sent, there was a conference call between the defendant and representatives of 'C' Limited. In that call, the defendant told 'C' Limited *"Right, I promised an update. Good news on the financing – we are up to £1.3m of commitment now."*
8. Later in the call, 'C' Limited ask the defendant *"...are you, is 'D', are you prepared to go on the record...to say that the money is in effect there..?"* To which the defendant replied: *"Yes, of course I am, yes."*
9. Later still in the call, the defendant said *"Do you want to have a think about what you need in writing from me? Drop me an email and then I'll get that to you by Thursday at the latest."*
10. 'C' Limited provided a draft letter based on what it had been told by the defendant on the call, and that letter, with some editing by the defendant, became the letter of 8 February 2013 which is the subject of this complaint.
11. On 11 April 2013, the defendant was dismissed from his firm.
12. For these reasons, the defendant is liable to disciplinary action because he has breached Disciplinary Bye-law 4.1a.

Defence

13. The defendant has not filed a formal defence but he has engaged with the IC in correspondence during the investigation of the complaint. He admits that he did not raise any funds but explains that he did contact some Independent Financial Advisors (IFA) whose clients may be interested in investing. He was, he explains, acting as an intermediary between the IFAs and 'C' Limited. He accepts that *"no funds that I'm aware of were raised, hence the complaints..."*
14. The defendant also explains that he was pressurised into sending the letter of 8 February by 'C' Limited. He was carrying out his client's instructions. He states that his judgment was impaired at the time and that he was suffering from active stress disorder.

Issues of fact and law

15. The relevant standard of proof is the balance of probabilities.
16. There is no issue that the letter of 8 February 2013 was sent, and said what it is alleged to have said. There is no issue that the defendant knew that no funds were raised. There is no issue that the letter was incorrect, as alleged.

17. The issue to be determined is whether the defendant was (i) pressurised into sending the letter of 8 February by 'C' Limited while acting on 'C' Limited's instructions; and (ii) suffering from stress, to such an extent that he did not breach DBL 4.1a.
18. The tribunal found the complaint proved.

Conclusions and reasons for decision

19. There is no dispute that the defendant wrote a letter to a client stating that £1.3 million in funding had been secured when it had not been, and he knew it had not been. The origin of this letter seems to have begun three days earlier when the defendant told the same client on a telephone call that there was a commitment of £1.3m and the client asked whether the defendant could put that into writing.
20. It is possible, since the client needed this information, that the defendant was under some pressure to produce a letter confirming information by a certain deadline. That is to be expected in the normal run of professional life.
21. But that is not the same as being under pressure to say there was a commitment of funding, or that there was £1.3 million secured, when there was not. There is no evidence that the client put such pressure on the defendant to say either of those things. Moreover, the client had specifically asked the defendant whether his firm was willing to put what the defendant had said into writing, and was told that it was.
22. For a member to state something in correspondence which he knows to be false is not acceptable under any circumstances. Such conduct undermines the trust in the profession which the public relies upon. In this case, the evidence is that on 5 February 2013, the defendant allowed his client to believe something was true when it was not and, when asked to put that into writing, agreed to do so, and actually did so. It is immaterial that the client provided the first draft of the letter which the defendant signed. First, the client relied on what the defendant had told him when he produced the draft and second, it was always within the defendant's power to amend the draft or refuse to sign it.
23. For these reasons, the tribunal is satisfied that the defendant breached the Fundamental Principal of integrity when he wrote the letter of 8 February 2013, and has breached DBL 4.1a.

Matters relevant to sentencing

24. The tribunal considered the *Guidance on Sanctions* and also took into account that the defendant is no longer a member of ICAEW.
25. A mitigating factor is the defendant's clean disciplinary record.
26. An aggravating factor was the defendant knew that his statement would be relied upon by third parties, including other investors in 'C' Limited.
27. The tribunal is not empowered to exclude the defendant from membership because he is no longer a member of ICAEW. Had the defendant been a member at the time of the hearing of this complaint, the tribunal would have excluded him from membership. To impose any lesser penalty now would be pointless and would not do justice to the case.

Sentencing Order

No sentence because the Defendant is no longer a member of ICAEW.

Contribution towards costs of £8,800,

Decision on publicity

Publication with name.

Non Accountant Chairman

Mr Ron Whitfield

Accountant Member

Mr Philip Coleman FCA

Non Accountant Member

Mr Graham Humby

Legal Assessor

Mr Dominic Spenser Underhill

014552

- 4. Mr Geoffrey Richard Long [FCA] of**
65a High Street, STEVENAGE, HERTFORDSHIRE, SG1 3AQ.

A tribunal of the Disciplinary Committee made the decision recorded below having heard a formal complaint on 12, 13, 18 and 19 September 2017

Type of Member Member

Terms of Complaint 028756

1A - Mr Geoffrey Long FCA acted as a nominee for A.T.S. Accountancy and Taxation Services Ltd who received a commission payment in respect of an introduction between Dr 'A' and 'YZ' LLP. This commission was not disclosed to Dr 'A' nor was advanced consent to retain the commission obtained contrary to section 240.7b of the Code of Ethics.

Or in the alternative:

1B - Mr Geoffrey Long FCA failed to deal fairly with Dr 'A' contrary to Section 110 of the Code of Ethics in that he arranged for A.T.S. Accountancy & Taxation Services Ltd to receive a commission payment for the introduction of the client but he failed to disclose to Dr 'A' that he had a relationship with A.T.S. Accountancy & Taxation Services Ltd as his family controlled it and A.T.S. Accountancy & Taxation Services Ltd was on his company's PII.

2 - Geoffrey Long FCA allowed the submission of dormant accounts to Companies House in relation to Long & Company Ltd (Company Number 05247773) for the years ended 31 October 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012 when Long & Company Ltd were not entitled to submit them because the company was trading.

3 - Mr Geoffrey Long FCA allowed the submission of dormant accounts to Companies House in relation to Long & Co (Dentax) Limited (Company Number 08703810) for the year ended 30 September 2014 when he was not entitled to submit them because the company was trading.

4 - Mr Geoffrey Long FCA held himself out as a director of Long & Company Ltd in Long & Company Ltd correspondence when he was not a director.

5 - Following a change in trading entity from Long & Company Ltd to Long & Co (Dentax) Ltd Mr Geoffrey Long FCA failed to notify Dr 'A' of the complaints procedure and the basis of charging fees as required by Disciplinary Bye-law 11 and section 240 of the Code of Ethics.

Terms of Complaint 028757

1A - Mr Geoffrey Long FCA acted as a nominee for A.T.S. Accountancy & Taxation Services Ltd who received a commission payment in respect of an introduction between Dr 'B' and/or Dr 'C' and 'YZ' LLP. This commission was not disclosed to Dr 'B' and/or Dr 'C' nor was advanced consent to retain the commission obtained contrary to section 240.7b of the Code of Ethics.

Or in the alternative:

1B - Mr Geoffrey Long FCA failed to deal fairly with Dr 'B' and/or Dr 'C' contrary to Section 110 of the Code of Ethics in that he arranged for A.T.S. Accountancy & Taxation Services Ltd to receive a commission payment for the introduction of the client but he failed to disclose to Dr 'B' and/or Dr 'C' that he had a relationship with A.T.S. Accountancy & Taxation Services Ltd as his family controlled it and A.T.S. Accountancy & Taxation Services Ltd was on his company's PII.

2 - Mr Geoffrey Long FCA failed to properly prepare the partnership tax return of 'AB' Dental Practice for the years ended 5 April 2007, 2008, 2009, 2010 and 2011.

3 - Mr Geoffrey Long FCA exercised a lien over the books and records of Dr 'B', Dr 'C' and 'AB' Dental Practice when he was not entitled to do so in breach of section 240.4f of the Code of Ethics.

Terms of Complaint 029427

1A - Mr Geoffrey Long FCA acted as a nominee for A.T.S. Accountancy and Taxation Services Ltd who received a commission payment in respect of an introduction between Dr 'D' and "VW" and Dr 'D' and 'YZ' LLP. This commission was not disclosed to Dr 'D' nor was advanced consent to retain the commission obtained contrary to section 240.7b of the Code of Ethics.

Or in the alternative:

1B - Mr Geoffrey Long failed to deal fairly with Dr 'D' contrary to Section 110 of the Code of Ethics in that he arranged for A.T.S. Accountancy & Taxation Services Ltd to receive a commission payment for the introduction of the client but he failed to disclose to Dr 'D' that he had a relationship with A.T.S. Accountancy and Taxation Services Ltd as his family controlled it and A.T.S. Accountancy & Taxation Services Ltd was on his company's PII.

Terms of Complaint 029824

1A - Mr Geoffrey Long FCA acted as a nominee for A.T.S Accountancy & Taxation Services Ltd who received a commission payment in respect of an introduction between Mr & Mrs 'E' and 'YZ' LLP. The commission was not disclosed to Mr & Mrs E nor was consent obtained, contrary to 240.7b of the Code of Ethics.

Or in the alternative:

1B - Mr Geoffrey Long failed to deal fairly with Mr & Mrs E contrary to section 110 of the Code of Ethics in that he arranged for ATS Accountancy & Taxation Services Ltd to receive a commission for the introduction of Mr & Mrs E but he failed to disclose to Mr & Mrs E that he had a relationship with ATS Accountancy & Taxation Services Ltd as his family controlled it and ATS Accountancy & Taxation Services Ltd was on his company's PII.

Terms of Complaint 028520

1A - Mr Geoffrey Long FCA acted as a nominee for A.T.S. Accountancy & Taxation Services Ltd who received a commission payment in respect of an introduction between Mr 'F' and 'YZ' LLP. This commission was not disclosed to Mr 'F' nor was advanced consent to retain the commission obtained contrary to section 240.7b of the Code of Ethics

Or in the alternative:

1B - Mr Geoffrey Long FCA failed to deal fairly with Mr 'F' contrary to Section 110 of the Code of Ethics in that he arranged for A.T.S Accountancy & Taxation Services Ltd to receive commission payment for the introduction of the client but he failed to disclose to Mr 'F' that he has a relationship with A.T.S Accountancy and Taxation Services Ltd as his family controlled it and A.T.S Accountancy & Taxation Services Ltd was on his company's PII.

And if proven the member may be liable to disciplinary action under Disciplinary Bye-law 4.1a in respect of Heads 1A, 1B, 2, 3 and 4 of Complaint 028756, Heads 1A and 1B of Complaint 028757, Heads 1A and 1B of Complaint 029427, Heads 1A and 1B of Complaint 029824 and Heads 1A and 1B of Complaint 028520; and under Disciplinary Bye-law 4.1b in respect of Heads 2 and 3 of Complaint 028757; and under Disciplinary Bye-law 4.1c in respect of Head 5 of Complaint 028756.

Hearing dates	12, 13, 18 and 19 September 2017
Previous hearing dates	N/A
Pre-hearing review or final hearing	Final Hearing
Heads of complaint found proved	Complaint 028756: Heads 1A, 2, 3, 4 and 5 Complaint 028757: Head 1A Complaint 029427: Head 1A Complaint 029824: Head 1A Complaint 028520: Head 1A
Heads of complaint found not proved	Complaint 028757: Heads 2 and 3
Sentencing order	Exclusion from membership of the ICAEW Fine of £8,000 Costs to the ICAEW of £47,000

Procedural matters and findings

Parties and representation

The Investigation Committee was represented by Mr Mark Vinall of Counsel

The defendant was present and was represented by Mr George Spalton of Counsel instructed by DAC Beachcroft Solicitors

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 to 5 of the Disciplinary Committee Regulations

Documents considered by the tribunal

The tribunal considered the documents contained in the Investigation Committee's bundles A, B and C together with the defendant's Regulation 13 answers and the witness statements and documents served on his behalf

Preliminary matters

1. With the agreement of the parties the tribunal determined that, pursuant to Regulation 31 of the Disciplinary Committee Regulations ('DCR'), it would hear the complaints against the defendant together.
2. The day prior to the start of the hearing Mr Vinall, Counsel for the Investigation Committee ('IC'), circulated written opening submissions. Mr Spalton submitted on behalf of the defendant that the tribunal should refuse to allow the IC to rely on the argument set out in paragraph 44 of Mr Vinall's submissions. This related to the Head 3 of Complaint 028757. The argument relied on the dates that invoices were sent and the status of the defendant's incorporated companies at those dates. Mr Spalton submitted that this argument had not been referred to in the case summary served by the IC and therefore it should not be allowed to rely on it would be wrong for the IC to introduce it at this stage.
3. The Tribunal determined that it would be fair to allow the IC to advance this argument. It did not rely on any new evidence. In the context of a case listed for five days, spread over an eight day period, the tribunal considered that the defendant would not be prejudiced by having to deal with this argument, particularly as the tribunal would afford him every reasonable opportunity to address the issue by introducing new evidence should he wish to.

The Investigation Committee's case

4. The defendant has been a member of the ICAEW since 1987. He specialises in providing accountancy services to dentists. The matters alleged against the defendant fell into three categories.

Failure to disclose commission (Heads 1A and 1B in each Complaint)

5. The defendant introduced a number of dentist clients to an independent financial advisor, 'YZ' LLP, for advice about tax avoidance schemes. Each of the complainants in the five complaints was introduced to 'YZ' LLP by the defendant and each invested in these schemes. The sums involved were considerable. The nature of the schemes was to take advantage of sideways loss relief by investing in the creative industries.
6. Unbeknown to the complainants at the time, the IFA paid an introducer fee to the defendant when one of his dentist clients signed up to a scheme and further payments thereafter. Those commissions were paid by the IFA, at the defendant's request, to a company called A.T.S. Accountancy and Taxation Services Limited ('ATS'). The shareholders of ATS were the defendant's dependent children including his daughter who was a minor at the time, elderly mother, and father-in-law, and its sole director was the defendant's mother. Further the defendant had entered into a written agreement with ATS to act as its 'nominee' in relation to 'introductions for Tax Planning'. Examination of the accounts of ATS demonstrated that very sizeable amounts of commission had been received by ATS.
7. The matters relied on by the IC in respect of each of the five complainants were as follows.

Complaint 028756. In June 2009 the defendant showed Dr 'A' and his wife a presentation on a tax scheme called 'Icebreaker'. He explained that he would have to introduce Dr 'A' to an IFA to sort out the paperwork. On 15 June 2009 the defendant introduced Dr 'A' to Mr 'X' of 'YZ' LLP. In November 2009 Dr 'A' invested in the scheme.

The investment proved unsuccessful for Dr 'A' because, in 2012, the First Tier Tax Tribunal upheld a challenge by HMRC to the scheme. On 28 November 2012 Dr 'A' discovered, as a result of an email he received from Mr 'X', that the defendant had received a commission from 'YZ' LLP for the introduction. It transpired that the commission had been paid to ATS.

Complaint 028757. During the time the defendant acted as their accountant, Dr 'B' and Dr 'C' invested in a number of tax schemes. These were arranged through 'YZ' LLP. On 19 July 2012 Dr 'B' found out that 'YZ' LLP had made a payment to ATS as a result the defendant's introductions.

Complaint 029427. In October 2007 Dr 'D' engaged the defendant's practice to deal with taxation and financial affairs. In January 2008 the defendant introduced Dr 'D' to 'VW', and IFA, and a tax scheme called Liberty Syndicates. Dr 'D' invested in the scheme. In July 2009 the defendant introduced Dr 'D' to the Icebreaker scheme and to 'YZ' LLP. Dr 'D' also invested in this scheme.

The HMRC opened enquiries into Dr 'D's' tax affairs as a result of his participation in these two schemes. He was subsequently adjudged liable to pay additional tax. On 9 July 2013 he complained to the defendant that he had been mis-sold these investments.

On 3 September 2013 Long & Company Ltd responded to Dr 'D's complaint by letter. It confirmed that an introducer fee had been paid by 'YZ' LLP to ATS and stated that the defendant 'is a nominee of ATS and put you in touch with the IFAs in this capacity.' Dr 'D' had not previously been made aware that a commission payment would be made in respect of these introductions.

Complaint 029824. In May 2009 the defendant contacted his clients Mr and Mrs 'E' and said he wanted to discuss their tax affairs. They met at Mr and Mrs 'E's dental practice on 29 May 2009. The defendant introduced them to the Icebreaker scheme. He put them in touch with Mr 'X' of 'YZ' LLP. In November 2009 Mr and Mrs 'E' invested a substantial sum in the scheme.

Following the HMRC's successful challenge in the First Tier Tax Tribunal, Mr and Mrs 'E' became liable for additional income tax. On 3 August 2015 Mr and Mrs 'E' complained to the defendant about a number of aspects of the scheme he introduced them to.

Complaint 028520. Mr 'F', a dentist, became a client of the defendant's practice in around 2005. In 2009 the defendant introduced Mr 'F' to a number of IFAs including 'YZ' LLP. As a result of that introduction Mr 'F' invested in the Icebreaker scheme. Following HMRC's successful challenge to the scheme Mr 'F' claimed to have sustained a significant financial loss.

On 29 June 2015 Mr 'F' wrote to the ICAEW enquiring, amongst other things, whether the defendant had received any commercial benefit or financial gain from recommending the scheme. Solicitors acting for the defendant responded to that enquiry in a letter dated 17 August 2015 saying:

'As was typical at the time, regulated IFAs such as ['YZ' LLP], often paid an 'introducer fee' to those who provided them with prospective contacts. At no time did Geoff Long or Long & Co Limited receive such a fee. We understand that an introducer payment was paid by ['YZ' LLP] to a company called A.T.S. Accountancy & Taxation Services Limited, of which Mr Long was a nominee (but not an officer or a shareholder).'

8. The IC's case was that the defendant, by failing either to disclose these commissions to his clients or seek their consent to him receiving them, breached section 240.7b of the Code of Ethics (Head 1A in each complaint). In the alternative it was alleged that in failing to disclose to the clients his relationship with ATS he breached the principle of integrity in section 110 of the Code of Ethics (Head 1B in each complaint). The IC invited the tribunal to consider Head 1A in each complaint first and, only if that were not proved, consider the alternative in Head 1B.

9. A client is normally entitled to assume, unless told otherwise, that an accountant who makes an introduction does so without risk of the choice of adviser being influenced by the prospect of financial benefit to the accountant. The IC contended that the commission arrangements entered into by the defendant created an undisclosed conflict of interest between the interests of his client's and those of his family company given that commission would only be paid if the client entered into the tax scheme, and accordingly amounted to behaviour discreditable to an accountant.

Matters relating to the defendant's use of his companies (Heads 2, 3, 4 and 5 in Complaint 028756)

10. The IC's case was that the defendant provided accountancy services through two corporate vehicles.
11. Long & Company Ltd ('LCL'), which traded as Long & Co, was incorporated in 2004. The defendant was company secretary of LCL until 27 April 2010 and its sole shareholder. He was never registered at Companies House as a director. The sole registered director was his son.
12. On 1 October 2013 an application was made to strike LCL off the register. LCL was dissolved on 21 January 2014.
13. Subsequent to the dissolution of LCL accountancy services were provided to the defendant's clients by Long & Co (Dentax) Ltd ('Dentax'). Dentax was incorporated on 24 September 2014, with the defendant as its sole director and shareholder. This company also traded as Long & Co.
14. Companies House records show that LCL filed accounts for each of the years 31 October 2005 to 31 October 2012 inclusive stating that the company had been dormant throughout the relevant accounting period. The balance sheet for each year showed £2 cash and no other assets or liabilities.
15. However, the returns filed with the ICAEW by the defendant in respect of LCL for the years 2007 to 2013 showed annual turnover of between £720,000 and £840,000. Further the correspondence shows that LCL had been appointed as Dr 'A's accountant. Engagement letters to other clients were issued by LCL. Therefore the IC alleged that the defendant filed dormant accounts for LCL when he was not entitled to because the company was trading during the relevant period (Head 2).
16. Dentax was incorporated on 24 September 2013. It filed dormant accounts for the year ended 30 September 2014. However the contemporaneous documents show that, subsequent to the dissolution of LCL, the new company Dentax was acting as Dr 'A's accountant. Further, the annual return sent to ICAEW by the defendant for Dentax for the year to 31 January 2014 showed turnover of nearly £900,000. Again the IC alleged that this company was trading and therefore the defendant had not been entitled to file dormant accounts at Companies House (Head 3).
17. Under the Companies Acts a dormant company is one which during any period has no significant accounting transactions. The IC's case was that during the relevant periods LCL and Dentax plainly had significant accounting transactions which ought to have been recorded in their accounts.

18. In correspondence with Dr 'A' the defendant was referred to as 'Director' on company notepaper although he had never been appointed as a director of LCL. Accordingly the IC alleged he wrongly held himself out to be a director of the company (Head 4).
19. Dr 'A' did not receive a new engagement letter when LCL was dissolved and Dentax started acting for him. Further he said that he did not realise the new company had become his accountant. The IC alleged this amounted to a breach of the defendant's obligations to inform Dr 'A' in writing of the new company's complaints procedure (Head 5). The additional allegation in this head of complaint, namely that Dr 'A' was not informed of the basis of charging by the new company, was not pursued by the IC.

Matters relating to the defendant's dealings with Dr 'B' and Dr 'C' (Heads 2 and 3 in Complaint 028757)

20. The defendant's practice, LCL, provided accountancy services to Dr 'B' and Dr 'C' who traded in partnership as 'AB' Dental Practice.
21. LCL prepared the accounts of 'AB' Dental Practice for the years ended 30 November 2006 to 30 November 2010 inclusive. It also prepared the partnership tax returns for each of the five years from 5 April 2007 to 5 April 2011. In 2010 HMRC opened an enquiry which resulted in an investigation into the partnership's tax returns for each of the above years.
22. The investigation carried on for a number of years. It was handled on Dr 'B' and Dr 'C's behalf by the defendant and his practice. It ultimately resulted in Dr 'B' and Dr 'C' paying additional tax and penalties to HMRC in respect of previously untaxed income.
23. The defendant attributed these problems to the doctors' 'unusual' bookkeeping system. Dr 'B' and Dr 'C' disputed that there was anything unusual or deficient about their system. The IC's case, however, was that if the defendant was right then he should have done something about it. The IC alleged that he carried on preparing the partnership's tax returns for a number of years without addressing the problems he said he was encountering. This, it was alleged, amounted to a failure to properly prepare the returns (Head 2).
24. Dr 'B' and Dr 'C' remained clients of LCL during the HMRC enquiry. This was on the advice of their insurers who were covering the cost of the enquiry. However the insurers refused to pay all the invoices submitted by LCL for work done on the investigation on the grounds that much of the work carried out was corrective and not investigative.
25. Drs 'B' and 'C' eventually decided to appoint a new firm of accountants, 'CD' Consultants Ltd. On 27 November 2014 the new accountants wrote to LCL asking for professional clearance and handover information. On 3 December 2014 the defendant wrote to Dr 'B' and Dr 'C' saying that payment of three invoices totalling over £28,000 in fees was outstanding; that no payment of these fees had been forthcoming from the insurer; and that the fees needed to be settled before their files could be transferred to the new accountant. This was followed by a letter from LCL to 'CD' Consultants Ltd on 7 January 2014 giving professional clearance but saying it was unable to forward any documentation as there were substantial fees outstanding.

26. It was not until October 2015, some 11 months after the original request, that papers were provided to the new accountants. The delay resulted in additional work for 'CD' Consultants Ltd and additional cost being incurred.
27. The IC's case was that the defendant was not entitled to exercise a lien over Dr 'B' and Dr 'C's records (Head 3). This was because the outstanding fees related not to the documents being withheld but to separate work done on the HMRC enquiry. Further IC submitted that the first two invoices must have related to work done by LCL which had by that time been dissolved. Accordingly the new company, Dentax, should not have been claiming a lien in respect of fees for work it had not done.

The defendant's case

Introducer fees

28. The defendant admitted Head 1A of each of the five Complaints. His explanation for not having these commissions paid to his own business was that he wanted to keep introducer fees separate from his work as an accountant. Therefore he agreed with his mother that these payments could be made to ATS.
29. The defendant accepts he did not mention these payments to his clients at the time. He further accepted that with the benefit of hindsight this was a mistake and he had been wrong to conclude that the payment of fees to ATS rather than to himself meant he did not have to disclose them. However he said he had no intention to mislead and he believed at the time he was not obliged to disclose the payments as they were not received by him but by ATS. He also said he believed, perhaps naively, that because 'YZ' LLP was a regulated financial adviser it would disclose these commission payments to the clients.

Matters relating to companies

30. The defendant denied Heads 2, 3, 4 and 5 of Complaint 028756.
31. In relation to Heads 2 and 3 the defendant's case was that the two companies in question were nominee companies which in effect act as his agents. They did not have bank accounts and all transactions went through the defendant's sole trader account. Thus he received income from the companies' clients into that bank account and also discharged all outgoings, for example wages, PAYE and rent, from that account. He submitted accounts as a sole trader and paid income tax on the profits earned by the business.
32. Therefore the defendant's case was that the companies were not involved in any 'significant' transactions and accordingly they were entitled to submit dormant accounts.
33. In relation to Head 4 the defendant's case was that he had always been the principal of his businesses and effectively the director of the companies. Although he was registered as company secretary of LCL he always acted and took decisions as though he was its director. Therefore it was not misleading to describe himself as such on company correspondence.
34. The defendant admitted Head 5 of Complaint 028756, namely that he failed to notify Dr 'A' of Dentax's complaints procedure when Dr 'A' became a Dentax client.

Matters relating to Drs 'B' and 'C'

35. The defendant denied Heads 2 and 3 of Complaint 028757.
36. The defendant denied he was negligent in respect of the production of Dr 'B' and Dr 'C's accounts (Head 2). His position was that the bookkeeping system used by Dr 'B' and C's practice was deficient and that he had warned them of its limitations on a number of occasions. The problem they had with HMRC was caused by them confusing monies received in respect of their two dental practices, 'AB' and 'N1'. Further, documents produced by them in response to queries from the Revenue had, he said, not previously been provided to LCL.
37. The defendant denied that he had exercised a lien over Dr 'B' and Dr 'C's papers when he had not been entitled to (Head 3). His case was that he had a single retainer with them and work relating to the HMRC investigation was done under the scope of that retainer. Therefore the outstanding invoices related to work done generally for the partnership. Further he said that the papers in question were his practice's working papers and therefore it was entitled to retain them.

Conclusions and reasons for decision

Matters proved by admission

38. The tribunal found Head 1A of each complaint proved by admission. As Head 1B in each case was an alternative there was no need to consider those heads. The tribunal also found Head 5 of Complaint 028756 proved by admission.

Heads 2 and 3 of Complaint 028756

39. It was not disputed that the defendant sanctioned the filing of dormant accounts for LCL and Dentax at Companies House for the years in question. The issue for the Tribunal was whether the IC had proved that these companies were not entitled to submit dormant accounts because they were trading.
40. The picture presented by these companies to the outside world was that they were trading entities. They sent out engagement letters to clients. They employed staff. They defended themselves against complaints, even to the extent of relying on company status to dispute liability. The fact that all the money these companies earned or paid out passed through the defendant's bank account did not alter the fact that the companies existed and engaged in trading relationships. Therefore the Tribunal was satisfied that at the material times both LCL and Dentax were engaged in trading activities and were not entitled to claim the status of dormant companies.
41. It was clear that the defendant was endeavouring to carry on business as a sole trader whilst at the same time taking advantage of the protection that a limited liability company offers. He himself described the use of his corporate vehicles, LCL and Dentax, as a shield to protect against potential personal liabilities. There was no doubt in the Tribunal's view that, in those circumstances, the improper filing of dormant accounts was discreditable conduct. The public would be rightly concerned to find that a chartered accountant, particularly one who undertook to advise others on matters relating to business structure and incorporation, conducted his affairs in this way. The Tribunal was in no doubt that the allegations in these heads were proved and that these brought discredit on the defendant and his profession rendering him liable to disciplinary action.

42. The Tribunal therefore found Heads 2 and 3 of Complaint 028756 proved.

Head 4 of Complaint 028756

43. There was no dispute that the defendant had sent a number of letters on LCL's behalf in which he was described as 'Director'. It was common ground that the defendant was not a *de jure* director of LCL, having never formally been appointed as such. It was however clear that he was the controlling force in the company and therefore would have been classed as a *de facto* director at the relevant time.
44. Mr Spalton relied on Section 250 of the Companies Act 2006 which states that 'director' includes any person occupying the position of director. He submitted that as the defendant was effectively occupying that position he was entitled to refer to himself as such. Indeed, he argued, it would have been more misleading for him not to describe himself as a director given that he was effectively performing this function.
45. Mr Vinall referred the tribunal to *In re Lo-Line Ltd* [1988] 1 Ch 477 at 489 where Sir Nicholas Browne-Wilkinson V-C said that in the Companies Acts the word 'director' is capable of including a *de facto* director. However, whether it does so or not depends on the context in which it is being used.
46. The Tribunal was satisfied that the normal expectation of anyone receiving these letters would be that the defendant had been appointed as director and was registered as such at Companies House. In other words a recipient of these letters would be given the impression that the defendant was a *de jure* director of the company, when in fact he was not.
47. The Tribunal considered it of significance that the defendant's son, who was the only *de jure* director of LCL, was not mentioned on the letterhead. The tribunal was satisfied that by describing himself in this way on LCL's correspondence the defendant ought, at very least, to have realised he was creating a misleading impression. Given his position as a chartered accountant and, in particular, someone who undertook to advise others about company structure, there was no doubt in the Tribunal's mind that this constituted behaviour which brought discredit to the defendant and his profession.
48. Therefore the tribunal found this head of complaint proved.

Head 2 of Complaint 028757

49. The Tribunal heard evidence from Mr 'G', an accountant who has worked for the defendant for a large number of years. Mr 'G' undertook the day to day work on the accounts for Dr 'B' and Dr 'C's dental practice, but did so under the supervision of the defendant. The tribunal was satisfied that the defendant would in these circumstances be regarded as responsible for the preparation of the partnership's tax returns. The issues that the tribunal had to consider, therefore, were whether those tax returns had been improperly prepared and, if so, whether that amounted to discreditable behaviour by the defendant.

50. There were issues between the doctors, on the one hand, and the defendant and Mr 'G' on the other about the quality of LCL's work in relation to the partnership accounts. In the absence of any expert evidence, these were not issues that the tribunal could properly resolve. Indeed, the tribunal accepted in general terms Mr Spalton's submission that this hearing was not the appropriate forum to explore disputes about the relationship between the two parties and the standard of the work undertaken.
51. The IC's case in relation to this allegation was that the defendant, having formed the view that the partnership's bookkeeping system was inadequate, should have given the doctors a warning to that effect.
52. The evidence on this was equivocal. Whilst the thrust of Dr 'B' and Dr 'C's evidence was that no such advice had been given, they accepted that there had been discussions of some nature with their accountants about their record keeping practices. The defendant and his assistant Mr 'G' both said that they had advised the partners to improve their system but were unable to point to any documentary evidence confirming this.
53. Further the tribunal was not provided with any particularly clear picture of how these alleged inadequacies had affected the partnership tax returns.
54. The IC placed reliance on the evidence from both the defendant and Mr 'G' that in some instances they had been obliged to use estimated figures. The one concrete example of that was the entry for trade creditors for the 2010/11 return which was an estimate based on monthly averages. An error of this nature, if indeed it could properly be categorised as an error, was hardly so material as to justify a disciplinary finding against the defendant.
55. Taking a wider view, the tribunal noted that there was unchallenged evidence that the result of the HMRC enquiry was to render the partners liable to pay tax on additional income equivalent to ½% of turnover for the six years in question. The extent to which this liability had resulted from any failing to advise the partners about their bookkeeping system was unclear. Nor was it clear why any such failing should be considered so material as to justify a finding that the defendant had brought discredit on himself, the Institute or the profession.
56. Accordingly the tribunal found this head of complaint not proved.

Head 3 of Complaint 028757

57. The tribunal considered the relevant correspondence, which was somewhat limited in scope. There was a letter from the new accountants, 'CD' Consultants Ltd, dated 27 November 2014 requesting professional clearance and asking for a number of documents. This did not of itself appear to be an unusual request.
58. Dentax's response was contained in letters dated 3 December 2014, 7 December 2014 and an email dated 11 December 2014. It is clear from those responses that Dentax considered that it was owed fees and did not wish to supply documents to the new accountants until it had been paid. There were then negotiations concerning the fees which continued until October 2015, when LCL sent the documents in question to 'CD' Consultants Ltd.

59. The issue of when and to what extent in law an accountant is entitled to exercise a lien is, as the parties agreed, a complex one. The Tribunal was not satisfied that the IC had proved the defendant was exercising a lien or one that he was not entitled to exercise. Neither the facts of this case nor the materials the IC relied on as evidencing the state of the law were sufficiently clear to enable it to reach such a conclusion.
60. Further the Tribunal was not satisfied that, even if a lien had been established, the defendant had acted in breach of section 240.4f of the Code of Ethics. It appeared that he had taken steps, reasonably promptly, to resolve the dispute, at least to the extent that his company responded to a request from the defendant's insurer to elaborate in more detail what it claimed it was owed, and offered adjustments to the invoices.
61. Moreover the defendant's conduct could hardly be characterised as 'inefficient or incompetent' and the Tribunal was not persuaded that it should properly be regarded, in the circumstances, as having brought discredit on himself, the Institute or the profession.
62. Therefore the tribunal found this head of complaint not proved.

Matters relevant to sentencing

63. There were no previous disciplinary matters recorded against the defendant.
64. The Tribunal took into account the following matters. The defendant admitted the most serious complaints relating to undisclosed commission payments and had co-operated with the investigation. He had shown regret for his actions and had apologised to the Institute. He had taken steps to ensure there would be no repetition of the behaviour that had led to the complaints. He had supplied two positive character references. He had family responsibilities and staff to consider. He did not furnish the tribunal with any evidence as to his means.
65. The matters that had been proved against the defendant were very serious. The interlocking theme running through them was that the defendant disregarded the rules when he did not consider it was to his advantage to follow them. The tribunal was unfortunately left with the impression that the defendant's motivation was to maximise his personal gain whilst minimising or avoiding his personal liabilities. In doing so he had blatantly disregarded his duties to his clients and the obligations of his professional status.
66. The tribunal had regard to ICAEW's *Guidance on Sanctions*. Section 12 of the Guidance suggests the starting point for an offence which amounts to a very serious or blatant conflict of interest is exclusion from the Institute plus a significant financial penalty. The tribunal considered that the complaints relating to undisclosed commission payments alone would justify such an order. In addition the tribunal considered that the complaints relating to dormant accounts and holding himself out as a director would in themselves justify a sanction at the upper end of the scale.

67. The IC applied for costs in the sum of £59,307.50. The tribunal considered it should reduce this figure to reflect the fact that Heads 2 and 3 of Complaint 028757 had not been proved, and that two of the Heads were admitted.

Sentencing order

68. Therefore in the tribunal's view the appropriate and proportionate sanction was to exclude the defendant from membership of ICAEW and in addition impose a fine of £8,000.

69. Making an appropriate allowance to reflect the matters not proved or which were admitted, the tribunal ordered the defendant to pay costs of £47,000.

Decision on publicity.

70. 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 Mike Ranson FCA

Non Accountant Member

Mr Nigel Dodds

Legal Assessor

Mr Andrew Granville Stafford

029427/028757/029824/028756/028520

AUDIT REGISTRATION COMMITTEE

ORDER – 23 AUGUST 2017

5 Publicity Statement

Derrick Newman Limited, 29 Bath Road, Old Town, Swindon, Wiltshire, SN1 4AS, has agreed to pay a regulatory penalty of £1,003, 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 6.06 for failing to notify ICAEW of a new director's appointment within 10 business days, failing to ensure that the new director held audit affiliate status and for incorrectly completing its 2017 annual return.

022153

ORDER – 20 SEPTEMBER 2017

6 Publicity Statement

MG Audit Services Ltd, Audit House, 260 Field End Road, Eastcote, Ruislip, Middlesex, HA4 9LT, 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 regulations 3.20 and 6.06 for failing to carry out cold file reviews as part of its annual audit compliance reviews and for incorrect statements made on the firm's 2012-2016 annual returns.

040139

ORDER – 20 SEPTEMBER 2017

7 Publicity Statement

Grant Thornton UK LLP, Grant Thornton House, Melton Street, Euston Square, London, NW1 2EP has agreed to pay a regulatory penalty of £8,000, which was decided by the Audit Registration Committee. This was in view of the firm's admitted breach of rule 2.01 of the Crown Dependencies' Audit Rules and Guidance, in that the firm signed an audit opinion for a market-traded company incorporated in the Isle of Man when the firm was not, at the time, registered as a Recognised Auditor with the Isle of Man Financial Services Authority.

039833

INVESTMENT BUSINESS COMMITTEE

ORDER – 29 JUNE 2017

8 Publicity Statement

'In view of the firm's admitted breach of DPB Regulation 2.07h, A2E Industries Limited of 1 Marsden Street, 2nd Floor, Manchester, M2 1HW, has agreed to pay a regulatory charge (determined by the Investment Business Committee) of £2,495 for not disclosing the appointment of a director on 15 July 2013 on any of its subsequent annual returns to ICAEW.'

035319

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