

Year 4

Index of Reasons for Decisions regarding hearings held during the year 1st November 2016 to 31st October 2017 and handled by Accountants National Complaint Services Limited

Key

ALC = Admissions and Licensing Committee

AC = Appeal Committee

DC = Disciplinary Committee

RC = Review Committee

<u>Name of Defendant</u>	<u>Date of order</u>	<u>Body</u>	<u>Type of hearing</u>	<u>Complaint/Issue</u>	<u>Outcome</u>
A	Not yet listed	ICAEW	DC	<p>Complaint 1 – From July 2012 to November 2015, A failed to return client money to a client despite his request for his monies to be repaid.</p> <p>Complaint 2 – Between March 2012 and July 2012 A failed to hold client money in excess of £10,000 in a separate designated client money account.</p> <p>Complaint 3 – A settled the balance of invoices issued to two limited company clients with £88,030 of client money belonging to the individual directors of one of these companies, without their consent for their funds to be used in this way.</p>	
A2	5 th July 2017	ACCA	ALC	Application for readmission, issuing of a practising certificate and audit qualification.	Applications refused in total.
B	7 th and 8 th February 2017	ICAEW	DC	Between May 2012 and July 2013 breached the ICAEW Code of Ethics on Confidentiality in that B sent financial records, information, documents and details of an email to others,	Of 7 charges, one admitted, one proved and 5 not proved. Severe reprimand. £4000 costs.

				when B knew this information was confidential or was reckless as to whether the information was confidential.	
D	18 th -20 th April 2017	ICAEW	DC AC	<p>Complaint 1 – Failed to disclose to a co-owner of a limited company, payment arrangements he had made with a client.</p> <p>Complaint 2 – Between July 2009 and June 2014 allowed the sum of £8000 due to a limited company to be paid into his personal bank account and thereafter improperly retained by him.</p> <p>Complaint 3 – Issued an audit report for a client in February 2013 in the name of a limited company, when he knew that this firm was not a registered auditor.</p> <p>Complaint 4 – Issued an audit report for a client in April 2013 in the name of a firm of accountants, when he knew that this firm was not a registered auditor.</p> <p>Complaint 5 – Permitted abbreviated accounts to be filed when a client was not entitled to file because an audit report had been attached and did so on two separate occasions.</p>	DC concluded. Now subject to appeal. DC found all complaints proved. Severe reprimand. £50,000 fine. Costs of £16,720.
G2	2 nd December 2015, 4 th December 2015, 2 nd -3 rd March 2016, 5 th -8 th September	ACCA	DC AC	Complaint 1 – Instructed solicitors (A) to make payments to nominee companies, when the payments were to an individual as a nominee bank account did not exist and thereby acted	Complaint 1 not proved. Complaints 2/3 proved. Excluded. Costs £25,000.

	2016, 1 st and 3 rd February 2017			dishonestly.	Costs reduced to £5,000 on appeal. Findings and order upheld.
				Complaint 2 – Made inaccurate representations to third parties based on information provided to him by another, which was dishonest.	
				Complaint 3 – In a letter addressed to solicitors (B) stated that a payment of £2.25m had been made to an individual into the bank account of a limited company, when in fact no bank account existed for that company, which was an act of dishonesty.	
H	24 th October 2016 and 6 th February 2017	ICAS	DC	Complaint 1 – On or around 11 th September 2009 prepared and delivered to a client a financial reference addressed to mortgage lenders which incorrectly stated that the client had earned income of £60,000 per annum when he knew or ought to have known that the financial reference contained a materially misleading statement or a statement that omitted information which caused the statement to be misleading in breach of sections of the ICAS Code of Ethics.	Complaints proved (as amended) on basis that conduct was unsatisfactory and not misconduct. Reprimanded. Fine £5000. Costs of £14,800.
	16 th June 2017		AC	Complaint 2 – On or around 14 th October 2009 prepared and delivered to a client three backdated payslips, to be used to support a mortgage application by the client, when he knew or ought to have known that	Appeal dismissed with minor amendments to complaint wording. Costs of £3,975 on appeal.

the information in the client's gross salary payments contained in payslips was materially misleading and omitted information which caused the payslips to be misleading in breach of sections of the ICAS Code of Ethics.

L	31 st October 2016 Not yet re-listed	ACCA	DC	<p>Complaint 1 – (a) Provided a personal guarantee for deposit contracts identified in schedules, but failed to satisfy as at 18th August 2015; (b) Provided a guarantee for deposit contracts identified in schedules on behalf of a firm of chartered certified accountants, but failed to satisfy as at 18th August 2015.</p> <p>L's conduct in respect of (a) and (b) was dishonest.</p> <p>Complaint 2 – (a) Failed to account for client monies received in relation to contracts identified in schedules; (b) Failed to maintain accurate records and controls so as to show clearly client monies received, held and paid on account relating to contracts as per the schedules.</p> <p>Complaint 3 – Failed to cooperate fully with the investigation of a complaint in that L failed to respond to 12 items of ACCA correspondence.</p>	Case adjourned sine die.
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L2	12 th , 13 th , 18 th and 19 th September 2017	ICAEW DC	Complaint 1 – Acted as nominee for A Ltd who received a commission payment in respect of an introduction between S and O. The commission was not disclosed to S, nor was consent obtained, contrary to 240.7(b) of the Code of Ethics: or	<u>Findings</u> Proved.
			Complaint 2 – Failed to deal fairly with S, contrary to section 110 of the Code of Ethics in that he arranged for A Ltd to receive a commission for the introduction of S, but failed to disclose to S that he had a relationship with A as his family controlled it and A was on his company’s PII.	Fell away.
			Complaints 3-10 – Similar complaints in relation to other clients.	Proved.
			Complaint 11 – Allowed the submission of dormant accounts to Companies House in relation to L Ltd for the years 2005-2012 inclusive when L Ltd not entitled to submit, because the company was trading.	Proved.
			Complaint 12 – Allowed the submission of dormant accounts to Companies House in relation to L2 Ltd for the year to September 2014 when not entitled to submit because the company was trading.	Proved.
			Complaint 13 – Held himself out as a director of L in correspondence, when he was not a director.	Proved.

				Complaint 14 – Following a change in a trading entity, failed to notify H of the complaints procedure and the basis of charging fees as required by Disciplinary Byelaw 11 and Section 240 of the Code of Ethics.	Not proved.
				Complaint 15 – Failed properly to prepare the partnership tax return of ADC for the years 2007-2011 inclusive.	Not proved.
				Complaint 16 – Exercised a lien over the books and records of ADC when he was not entitled to do so in breach of the Code of Ethics.	Not proved. <u>Order</u> Excluded. Fined £8000. Costs £47,000. (Note: ANCS Ltd maintained a watching brief throughout this case. L2 had solicitors/counsel acting on his behalf).
M	2 nd September 2016/ 2 nd December 2016	ACCA	DC	Complaint 1 – Failed to comply with an assessor’s decision dated April 2013 with regard to the signing of an audit report for client A for year ended July 2012 without having the same reviewed by an approved training company. Complaint 2 – Failed to ensure his nominee with whom he had entered into a continuity arrangement, had an equivalent qualification, namely a firm’s auditing certificate.	Complaints admitted. Severe reprimand. £10,000 fine, £7,039 costs.

M2	15 th -17 th November 2016	ICAEW	DC	<p>Between March and May 2011 M2 on multiple occasions copied and/or disclosed confidential information belonging to her then employer, by forwarding work emails to her personal email address and/or to third parties, without authority.</p>	<p>Complaint dismissed. Defendant sought costs against ICAEW. DC refused to make a costs order.</p>
M3	Not yet listed	ACCA	DC	<p>Complaint 1 – Made inaccurate representations in statements of affairs addressed to the creditors of three companies in liquidation as to the existence of other professional relationships with the directors. Such conduct alleged to be misconduct.</p> <p>Complaint 2 – Charged and/or drew unauthorised fees in relation to statements of affairs in respect of two companies in liquidation. Such conduct alleged to be dishonest or in breach of the Fundamental Principle of Professional Competence.</p> <p>Complaint 3 – Drew unauthorised remuneration as liquidator of a limited company, failed to refund within a reasonable time, the unauthorised remuneration drawn and failed to inform creditors that such remuneration had been drawn.</p> <p>Such conduct alleged to be dishonest or contrary to the Fundamental Principle of Professional Competence and Due Care.</p>	

				<p>Complaint 4 – Failed to investigate or document an investigation in respect of whether there was a claim against the director of a limited company regarding the balance of an outstanding director’s loan account in the sum of £247,000.</p> <p>Such conduct alleged to be misconduct.</p>
S4	12 th and 13 th December 2017	ICAEW	DC	<p>Failed to act in a professional manner in breach of Section 150.1 of the Code of Ethics as a result of using offensive language towards B and W on the evening of 27th June 2015 outside a public house in X.</p>
W	30 th and 31 st January and 1 st February 2018	ICAEW	DC	<p>Complaint 1 – On or around January 2010 and December 2011 prepared CT600s for C Ltd and F Ltd and was dishonest in that he did not include the participator loan in accordance with Section 455 of the Corporation Tax Act 2010, Section 419 of the Income and Corporation Taxes Act 1988 and the Financial Reporting Standard for Smaller Entities 2008 and knew he was required to include the participator’s loan.</p> <p>Complaint 2 – In or around January 2010 and December 2011 prepared sets of accounts for C Ltd and F Ltd and was dishonest in that (a) he did not include the participator’s</p>

loan as required and (b) he knew that he had to include such loan.

Complaint 3 – On or about October 2006 and January 2012 prepared self-assessment tax returns for B and was dishonest in that (a) he declared self-employed income from a school as employed income knowing that it was from self-employment and (b) did not declare it as self-employed income to improperly reduce the NI liability of B.

In the alternative, he was reckless in the preparation of the self-assessment tax return.

Complaint 4 – On or around January 2010 and April 2011 prepared CT600s and was dishonest in that (a) in or around January 2010 when preparing the accounts and tax returns for C he (i) failed to declare the full income from C's invoices knowing what the income on those invoices was and/or (ii) included additional costs of £2,000 which he knew to be wrong; (b) in or around November 2010 when preparing the accounts and CT600 for FWF Ltd he (i) included £3,000-worth of unreceipted travel expense to ensure comparability with the previous year's figures and (ii) did so knowing that this amount was wrong and (c) in or around December 2004 when preparing the accounts and tax returns for

Ms H (i) included 10,000 miles of business mileage to reduce the profit of the company and (ii) did so knowing the figure was wrong.

Complaint 5 – In or around December 2010 failed to comply with paragraphs 110.1 and 110.2 of the Code of Ethics when preparing the accounts for BDC Ltd and MAA in that he (a) included admin expenses in the accounts of BDCL which should have been recorded in the accounts of MAA and (b) improperly increased the amount of business miles claimed.

Complaint 6 – In or around December 2010 failed to comply with the Code of Ethics when preparing the CT600 for BDCL and the self-assessment tax return for MA to reflect incorrect information in the accounts.

Complaint 7 – In or around December 2011 failed to comply with the Code of Ethics when preparing the accounts for BDCL and MAA in that he (a) included admin expenses in the accounts of BDCL which should have been recorded in the accounts of MAA and (b) improperly increased the amount of business miles claimed.

Complaint 8 – In or around December 2011 failed to comply with the Code of Ethics when preparing the CT600 for BDCL and self-

assessment tax return of MA to reflect the incorrect information prepared in the accounts as set out above.

Complaint 9 – Failed to comply with the Code of Ethics when preparing the accounts of OBC Ltd in that he (a) included a general use of home charge of £1,000 under the heading 'Rent' for the year to February 2011 and (b) included a general use of home charge of £1,200 under the heading 'Rent' for the following year.

Complaint 10 – In or around June 2011 failed to comply with the Code of Ethics when preparing the CT600 for OBC Ltd to reflect the incorrect information prepared in the accounts as described above.