

Year 5

Index of Reasons for Decisions regarding hearings held during the year 1st November 2017 to 31st October 2018 and handled by Accountants National Complaint Services Limited

Key

ALC = Admissions and Licensing Committee

AC = Appeal Committee

DC = Disciplinary Committee

RC = Review Committee

FC = Fitness 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 | 16 th October 2018 (for 3 days) | 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> | <p>Complaints proved. Reprimand. £5,000 fine. £14,930 costs. Publicity of name.</p> |
| A2 | 20 th -22 nd March 2018 inclusive | ACCA | DC | <p>Complaint 1 – Between September 2015 and February 2016 failed to inform the board of Company A that he had not made pension contributions for staff for September to December 2015 inclusive.</p> | <p>Proved as misconduct.</p> |
| | Not yet listed | ACCA | AC | <p>Complaint 2 – Failed to notify the board and the external auditor of Company</p> | <p>Proved as misconduct.</p> |

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| | | | | A during January and February 2016 that there were outstanding creditors exceeding £34,000 with £20,000 over 90 days. | |
| | | | | Complaint 3 – Made representations to the external business advisers of Company A in August and in September 2015 contrary to the advice of the Management and Finance Board on 12 th August 2015. | Proved as misconduct. |
| | | | | Complaint 4 – Acquired a loan in December 2015 from a tenant and informed the trustees that the loan was for a different purpose, when seeking to have it repaid in January 2016. | Proved as dishonesty. |
| | | | | Complaint 5 – Submitted two false emails to ACCA in October 2016 indicating that he had been in correspondence with the chairman of Company A, when in fact he had not. | Proved as dishonesty. Excluded from membership. Costs of £19,000. Appeal to be lodged. |
| B | 9 th October 2017 | ICAEW | DC | Complaint 1 – Between May 2011 and March 2012 failed to deal efficiently with the personal tax inquiry of Client A contrary to section 130.4 of the Code of Ethics. | Both complaints found proved by DC. |
| | 29 th May 2018 | ICAEW | AC | Complaint 2 – Between May 2011 and September 2015 failed to deal fairly with Client A in that he told A that if he paid B's fees in full, he would ultimately recover the majority of his fees from HMRC under the Financial Redress Scheme, but failed to advise A that if he was unable to recover the whole | Order was that B be reprimanded, fined £2650 and pay costs of £17,588.50. Appeal outcome. Both orders and sanction set aside. ICAEW ordered to pay defence costs of appeal in sum of £24,740. |

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| | | | | amount, then A would be liable for the entire amount. | |
| B2 | 23 rd January 2018 | ICAEW | DC | <p>Identical complaint against the two directors of the firm.</p> <p>Transferred the following sums from the firm's client bank account to the firm's office bank account when he knew or was reckless as to whether this was contrary to the Client Money Regulations:</p> <ul style="list-style-type: none"> a) £5000 in September 2014 b) £5000 in November 2014 c) £5000 also in November 2014 d) £3000 in February 2015 e) £7041.40 in March 2015 | <p>Proved. Both directors severely reprimanded, fined £2,000 and ordered to pay costs of £2,835.</p> <p>There was a similar complaint against the firm which was upheld. The firm was severely reprimanded, fined £3,000 and ordered to pay costs of £3,896.</p> <p>Publicity of name in respect of all three defendants.</p> |
| B3 | 10 th April 2018 | ICAEW | DC | <p>Complaint 1 – Prepared and signed a letter dated 10th March 2011 regarding a client, which contained errors: (a) stated salary at £5,700; (b) dividend payments were based on financial statements, which had not been prepared; (c) dividends were calculated without taking into account corporation tax; (d) dividend figures did not take account of mortgage arrears; (e) dividends did not take account negative reserves of £14,465 as at 31st December 2009 and (f) dividends did not take into account negative reserves of £10,893 as at 31st December 2010.</p> | <p>Complaints 1 and 2 upheld. Complaint 3 not proved. Reprimand. Fine £3,000. Costs £10,000.</p> |
| | 17 th July 2018 | ICAEW | DC | | |

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| | | | | <p>Complaint 2 – Prepared and signed an accountant’s certificate on 9th January 2012 which was inaccurate:</p> <p>(a) referred to a profit of £14,465, when in fact it was a loss for the same amount;</p> <p>(b) failed to take account of corporation tax of £2,142;</p> <p>(c) misstated a dividend of £8,000 as £20,500.</p> <p>Complaint 3 – Prepared the tax return for a client and then removed income earned from a limited company, when he knew from the company’s payroll that the client had received £3,414 from that company.</p> | |
| B4 | 4 th September 2018 | ACCA | DC | <p>Complaint 1 – As from 23rd November 2017 has been disqualified from holding the position of director of a company or acting as an insolvency practitioner for nine years.</p> <p>Complaint 2 – In relation to O Ltd:-</p> <ol style="list-style-type: none"> i. From October 2016 to May 2017, during which period B was engaged as auditor for O, he also held shares in O. ii. B signed an independent auditor’s report for the year ended 30th June 2016 when he also held shares in O, resulting in a breach of the ACCA’s Code of Ethics. | <p>ANCS Ltd advised with regard to this case. However, we were not instructed to represent B before the Disciplinary Committee. Written representations were submitted.</p> <p>Excluded. £12,000 costs.</p> |
| D | 18 th -20 th April 2017 | ICAEW | DC | <p>Complaint 1 – Failed to disclose to a co-owner of a</p> | <p>DC found all complaints</p> |

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| | 22 nd May 2018 | ICAEW AC | <p>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> | <p>proved. Severe reprimand. £50,000 fine. Costs of £16,720.</p> <p>Appeal outcome. Appeal on count 1 dismissed. Fine reduced to £25,000. No costs on appeal. Fine and costs of £41,720 to be paid within 12 months.</p> |
| F | 19 th December 2017 | ICAEW DC | <p>Complaint 1 – Between March 2010 and March 2012 acted dishonestly intending to make a gain for himself or another, by making false representations, which he knew were untrue or misleading in that he used the debt card and bank account of W for his own personal use and/or expenditure and as a consequence was convicted of three counts of fraud.</p> | <p>Excluded. Costs £3,600.</p> <p>(ANCS gave advice only).</p> |

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| | | | | Complaint 2 – Between March 2007 and March 2012 stole cash belonging to S and was convicted of one count of theft. | |
| F2 | Not yet listed | ACCA | ALC | Application for readmission following exclusion. | |
| J | Not yet listed | ICAEW | FC | Application for readmission following exclusion. | |
| L | 31 st October 2016 Not yet re-listed | ACCA | DC | Complaint 1 – (a) Provided a personal guarantee for deposit contracts identified in schedules, but failed to satisfy as at 18 th 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 18 th August 2015. L’s conduct in respect of (a) and (b) was dishonest. 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. Complaint 3 – Failed to cooperate fully with the investigation of a complaint in that L failed to respond to 12 items of ACCA correspondence. | Case adjourned sine die. |
| L2 | Not yet listed | ICAEW | FC | Application for readmission, following bankruptcy. | |

M Not yet listed ACCA DC

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.

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.

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.

Such conduct alleged to be dishonest or contrary to the Fundamental Principle of Professional Competence and Due Care.

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

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| | | | | £247,000. | |
| | | | | Such conduct alleged to be misconduct. | |
| | 29 th May 2018 | ACCA | Health Committee | | Case adjourned for six months to enable the defendant to obtain medical treatment. |
| | 31 st August 2018 | ACCA | Health Committee | | |
| P | Not yet listed | ACCA | ALC | Application for readmission following exclusion. | |
| R | Not yet listed | ICAEW | DC | <p>Complaint 1 – On 19th December 2011, in his capacity as finance director, approved the financial statements of W for the year ended 31st July 2011 when he had failed to obtain sufficient evidence to be satisfied that the accounts gave a true and fair view in respect of investments and intangible assets of £2.12m.</p> <p>Complaint 2 – Between 20th October 2011 and 19th November 2012, in his capacity as finance director of W, failed to ensure that payments amounting to £102,726 to N and £112,400 to S were a proper use of company money and thereby were in the best interests of the company, contrary to his general duties as a director under the Companies Act 2006.</p> | |
| R2 | 14 th September 2018 | ACCA | DC | As from 24 th November 2017, R2 has been disqualified from holding a position of director of a company or acting as an | Reprimand. Costs £5000. |

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| | | | | insolvency practitioner for a period of three years and thereby guilty of misconduct under Byelaw 8(a)(i). | |
| S | 12 th and 13 th December 2017 | ICAEW | DC | 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 27 th June 2015 outside a public house in X. | Complaint upheld. Reprimand. £1,500 fine. £8,000 costs. Publicity. |
| S2 | 28 th November 2017 | ICAEW | DC | Complaint 1 – On 12 th November 2013, prepared a letter to a client and dated the letter 25 th July 2013 which he knew was dishonest. | Complaint found not proved. |
| | | | | Complaint 2 – On 12 th November 2013, failed to act in accordance with the Fundamental Principles, specifically Integrity, in that he prepared a letter to a client and dated the letter 25 th July 2013, when he should have known that to do so was incorrect. | Complaint admitted and found proved. Reprimanded. Fined £1000. Costs of £5000. Given time to pay. Publicity of name. |
| V | Not yet listed | ACCA | ALC | Application for readmission following exclusion. | |
| W | 24 th September 2018 (for 5 consecutive days) | ICAEW | DC | 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 | Application to strike out dismissed. Appeal. |
| | Not yet listed. | ICAEW | AC | | |

Financial Reporting Standard for Smaller Entities 2008 and knew he was required to include the participator's loan.

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 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.