

**Mr Mark Pickering ACMA CGMA, of Rochdale, United Kingdom  
CIMA Disciplinary Committee – 19 January 2021**

References in this decision to Regulations are to those in the Institute's Royal Charter, Byelaws and Regulations (2020) and references to Rules are to the Institute's Disciplinary Committee Rules 2020, in both cases unless otherwise stated.

**The Charge**

The Charge against the Respondent (as amended) provided as follows:

Factual allegations

1. "You are a registered Associate Member of CIMA.
2. Prior to your admission to membership of CIMA, including in December 2006, you were a Registered Student with CIMA.
3. In December 2006, you were associated with Mr LR.
4. You have never met TP or ER (nee P).
5. The G [REDACTED] Road Charge:
  - a) Your signature appears on a Form CH1 document dated 27 December 2006 in respect of the property at G [REDACTED] Road, (the "G Charge"), purporting to have witnessed the signature of EP.
  - b) You signed the G Charge.
  - c) You were not in the presence of ER (nee P) when you signed the G Charge.
  - d) You did not witness ER (nee P) sign the G Charge.
  - e) The signature on the G Charge is not that of ER (nee P).
6. The Sxxxx Lane Charge:
  - a) Your signature appears on a Form CH1 document dated 27 December 2006 in respect of the property at S [REDACTED] Lane (the "S Charge"), purporting to have witnessed the signature of TP.
  - b) You signed the S Charge.
  - c) You were not in the presence of TP when you signed the S Charge.
  - d) You did not witness TP sign the S Charge.
  - e) The signature on the S Charge is not that of TP.

7. The Sxxxx Lane 2 Charge [*relating to another property in the same road*]:
  - a) Your signature appears on a Form CH1 document dated 27 December 2006 in respect of the property at [REDACTED] Lane, "S2 Charge"), purporting to have witnessed the signature of TP.
  - b) You signed the S2 Charge.
  - c) You were not in the presence of TP when you signed the S2 Charge.
  - d) You did not witness TP sign the S2 Charge.
  - e) The signature on the S2 Charge is not that of TP.
8. The Mxxxxxx Charge:
  - a) Your signature appears on a Form CH1 document dated 14 December 2006 in respect of the property at [REDACTED] (the "M Charge"), purporting to have witnessed the signature of ER.
  - b) You signed the M Charge.
  - c) You were not in the presence of ER when you signed the M Charge.
  - d) You did not witness ER sign the M Charge.
  - e) The signature on the M Charge is not that of ER.
9. Your actions as set out in paragraphs 3 to 8 above, either individually or collectively:
  - a) Showed a lack of integrity; and
  - b) Were dishonest

#### Misconduct

10. By reason of the facts alleged above, either individually or collectively, you are guilty of misconduct as defined in Byelaw 1 of the Institute's Royal Charter, Byelaws and Regulations (December 2005 and December 2006 versions). In particular:
  - a) you have failed to comply with the Laws of the Institute by breaching the fundamental principle of Integrity in the Code of Ethics 2006 (Sections 100.4(a) and 110); and
  - b) you have failed to comply with the Laws of the Institute by breaching the fundamental principle of Professional Behaviour in the Code of Ethics 2006 (Sections 100.4(e) and 150)."

#### **Stage 1 – Decision on Facts**

At the start of the hearing Mr Pickering admitted charges 1 to 8 and 9(a) and the Chairman announced that those facts had been found proved.

The Committee therefore proceeded to determine charge 9(b).

Most of the facts of this case were agreed between the parties. The case concerned events late in 2006. At the heart of those events was a Mr LR. It was the position of both parties that Mr R had forged four legal charges so as to raise money for himself or his companies by securing loans against the security of four properties: two owned by his wife and two by his wife's sister. These were the four legal charges referred to in paragraphs 5 to 8 of the Charge. The Committee was told that both victims ultimately lost very substantial sums of money, although no figures were given. Mr R took no part in this hearing and the Committee of course could not make findings against him but the case proceeded on this agreed basis.

At the time when the four legal charges were created Mr Pickering was a registered CIMA student and an employee of one of Mr R's companies. He was aged about 33. It was not in dispute that Mr Pickering signed each of the four documents in the capacity of a witness to the signatures of the parties to those documents, Ms R, Ms P and Mr R. The signatures purporting to be those of Ms R and Ms P were not theirs as evidenced by them and confirmed by a handwriting expert. Mr Pickering had not in fact witnessed any of those purporting to have signed the documents actually signing them and had never met Ms R or Ms P.

The written evidence included statements from the victims, from the handwriting expert and from Mr Pickering. The only other evidence to the Committee was oral evidence from Mr Pickering. There was no cross-examination, although the Committee asked questions.

Mr Pickering's oral evidence was that in December 2006 he had been employed by Mr R (through a company) for about two and a half years. He had great respect for him as a businessman and trusted him completely. He regarded him as a friend as well as an employer. He did not have a detailed recollection of the relevant events 14 years ago but he remembered having a meeting with Mr R to discuss a new business that Mr R was involved in. During that conversation Mr R asked him to sign some documents. Mr Pickering thought that all four documents were dealt with at the same time even though they have different dates. Mr Pickering said that he had never been asked to do this before. It was not part of his role as an employee. He was doing it 'because it was a friend asking me to help'. It was a friend he trusted. He knew that Mr R was borrowing money. He believed that they were Mr R's properties and it was some sort of family arrangement involving a husband, wife and wife's sister. Mr R told him so and Mr Pickering had no reason to disbelieve him. He said that Mr R was very convincing. He was an 'amazing sales person, he could convince you of anything'. Mr Pickering said he had no reason to doubt what he was told. He could not remember the precise words used but Mr Pickering said he was in no doubt that by signing he was carrying out the intentions of all the parties. He was convinced that he was witnessing legitimate signatures.

It was pointed out to him that just above his signature in each of the documents were the words 'in the presence of:'. He accepted that he must have been aware of those words but at the time he didn't realise that he had to be present when the party signed. He knew that now and bitterly regretted what he did. He said that he trusted Mr R who had never previously asked him to do something he had doubts about.

Mr C, appearing for CIMA, told the Committee that CIMA did not dispute that Mr Pickering was told by Mr R that the documents were genuine. However, he submitted that the facts were clear. Mr Pickering had signed to say that the documents had been signed in his presence when in fact he had never met the supposed signatories. Therefore, he knew that he had not witnessed

their signatures. Mr Pickering may have been duped by a conman, but he was dishonest in signing.

Mr W, appearing for Mr Pickering reminded the Committee that Mr Pickering was a student at the time and relatively junior. He had fully accepted that his actions lacked integrity, but he did not knowingly participate in a fraud. His actions fell short of dishonesty.

The panel heard and accepted advice from the Legal Assessor.

The crucial question was Mr Pickering's state of mind at the time when he signed the documents, thereby making a statement which he now accepts was not true. The Committee did not find this an easy question. Mr C's argument was attractively straightforward: Mr Pickering knew that he was not in the presence of the person who signed but stated that he was. Therefore, he was dishonest. However, the Committee was aware that people can make statements which they know to be untrue and yet not be regarded as dishonest, for example in a social context. It accepted that Mr Pickering may well have been completely under the influence of Mr R who appears to have been a plausible and persuasive person. It was credible that Mr Pickering could have genuinely believed that he was being asked by the three family members involved to do them a favour. It was credible that at the time, as a student and employee, he might not have questioned what he was being asked to do. It was credible that at the time he might have regarded his signature as a mere formality, whereas now as a fully qualified professional he understands the importance of the role of a witness to a formal legal document.

The Committee bore in mind that dishonesty was a matter of fact to be proved by CIMA on the balance of probabilities. It concluded that CIMA had not discharged its burden of proof. It was clear that Mr Pickering did not act properly. He should have questioned his instructions and thought more deeply about what he was being asked to do. However, that is the basis of the finding that his actions lacked integrity. It had not been proved on the balance of probabilities that he was also dishonest. The Committee found charge 9(b) not proved.

## **Stage 2 – Decision on Misconduct**

The facts having been found proved, the Panel considered the matter of misconduct. CIMA's Byelaws and Regulations define "misconduct" as "failure to comply with the Laws of the Institute"; or "conduct resulting in any conviction (or adverse finding by, or sanction or order of, or undertaking to, any tribunal or court or other body or authority) relevant to their membership or registration with the Institute.

The Committee had no doubt that the finding of lack of integrity amounted to misconduct under CIMA's rules. Mr Pickering admitted that his actions constituted misconduct. Therefore, under the Disciplinary Committee Rules 2020, rule 23(2) the Committee proceeded to decide on sanction.

## **Stage 3 - Mitigation and Sanction**

Having found misconduct as alleged, the Panel went on to consider the questions of mitigation and sanction. In considering what sanction if any to impose, the Panel had regard to the Indicative Sanctions Guidance and to the advice of the Legal Assessor. It also had regard to

the principle of proportionality and that the sanction imposed should be the least onerous suitable to reflect the seriousness of the misconduct.

The Panel took into account the following aggravating and mitigating factors. Aggravating factors included the very serious harm done to the victims and the consequent damage to CIMA's reputation. Although the Committee did not have figures, the victims had apparently lost the value of four properties and had incurred other expenses and suffered great distress. These losses could not have occurred without someone having falsely witnessed the legal charges. This puts the case at the upper end of the spectrum of seriousness.

Mitigating factors included:

- Mr Pickering's actions were not planned or premeditated. As a junior employee he was asked to do something by his boss and did it without questioning the propriety.
- He derived no personal benefit and had not involved any other person.
- He had no other regulatory findings against him.
- The events in question happened 14 years ago and since that time Mr Pickering appears to have had an unblemished career.
- He produced excellent references from his employers who had maintained him in a position of considerable trust despite knowing of his misconduct. One of these was from his finance director who stated that continuing CIMA membership was crucial to his employment.
- He produced personal references as to his character.
- He gave evidence about personal mitigation which the Committee does not set out here. However it accepted that there would be particular hardship for him and his family if he were to lose his CIMA registration.
- Mr Pickering had apologised and expressed remorse but the Committee considered that he had only limited insight. His reflection was more concerned with the effect on himself and his family than on the victims. He thought of himself as a victim.

The Committee was quite satisfied that a sanction was required. It went through the available sanctions in increasing order of seriousness.

The sanctions of Admonishment and Reprimand are suitable for misconduct of a minor nature. They were clearly not sufficient in this case.

Although there was substantial mitigation in this case, the sanction of Severe Reprimand on its own would not be sufficient to mark the seriousness of Mr Pickering's misconduct. Integrity is one of the key requirements for a professional person. Mr Pickering's failure to act with integrity had serious consequences for innocent parties and had to be marked by a severe penalty.

The Committee did not consider that imposing conditions on his registration would serve any useful purpose.

The Committee considered whether to suspend Mr Pickering's membership for a period or indeed to expel him completely. In many cases such a sanction would be the minimum required to mark the seriousness of the misconduct. However, it was very significant that the Committee was dealing with matters that occurred 14 years ago, when Mr Pickering was at an early stage in his professional career. Since that time, he appears to have behaved in a responsible and professional manner and is highly regarded by his employers and his friends and family. The

Committee did not consider that there was a risk of repetition. Removing his membership now might well mean the loss of his job, and his career, as well as damaging his family. In these unusual circumstances the Committee concluded that it would be possible to allow him to retain his membership by imposing a Severe Reprimand plus a substantial fine.

The purpose of adding a fine to the Severe Reprimand is to send a signal to the public and to other members that the misconduct in this case went far beyond what was acceptable for a member. Even after so many years that departure from proper standards must be marked. Mr Pickering has been allowed to retain his membership and will, the Committee hopes, be able to pursue this chosen career. However, that must not be seen as condoning his actions. The Committee therefore assessed the fine at £10,000. The Committee was aware that this was a very high figure by CIMA standards and would have a serious impact on Mr Pickering. However, the impact will be much less than the loss of his membership would be.

#### **Stage 4 – Costs**

The Committee determined that the Respondent should contribute a sum of £11,225 in costs.