

**Mr Michael Sadare of Plumstead, South East London, United Kingdom  
CIMA Disciplinary Committee - 7 December 2020**

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 Mr Sadare (the Respondent) provided as follows:

***“Background***

1. You became a registered Associate Member of CIMA on 13 December 2018. Between 16 September 2015 and 13 December 2018, you were a Registered Student with CIMA. Your CIMA contact ID is 1-1P24GYG.
2. During the period October 2015 to 6 December 2018 you were employed by [REDACTED] (the firm).
3. The firm commenced disciplinary proceedings against you on the basis that you breached the firm's expenses policy by:
  - a. Claiming a high volume of out of pocket expenses to the value of £40,622.47, which included £33,641.83 for taxi fares;
  - b. Claiming £2,888.75 without providing a receipt;
  - c. Submitting duplicate claims to the value of £13,803.89;
  - d. Submitting duplicate claims to the value of £5,656.85 which were out of policy;
  - e. Submitting claims to the value of £18,706.98 which related to personal and not business expenses; and
  - f. Tampering with historic taxi receipts to create taxi receipts which you claimed were genuine.<sup>1</sup>
4. You repaid the sum of £41,056.47 to the firm on 22 October 2018.

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<sup>1</sup> With regard to Charge 3, the following is intended by way of explanatory note. As set out in the stem, Charge 3 reflects the nature and extent of the disciplinary proceedings brought against Mr Sadare by the firm. Paragraph 3(a) reflects two matters of concern which formed part of those proceedings: firstly, the fact that of the total sum claimed during the investigation period (£54,247), a high proportion was claimed as 'out of pocket' expenses (£40,622.47); and secondly, that of the total expenses claimed during the investigation period (£54,247), a significant proportion was claimed in respect of taxi fares (£33,641.83). The figures set out in paragraph 3(a) are not intended to be considered cumulatively with those in paragraphs 3(b) - (e) inclusive (not least because those figures represent the totals claimed as out of pocket and taxi expenses respectively, and not the totals disallowed by the firm in respect of those categories). Rather, the figures set out in paragraphs 3(b) - (e) inclusive are intended to be considered cumulatively, and together make £41,056.47, which is the total sum repaid to the firm by Mr Sadare and reflected in charge 4. Paragraph 3(a) is intended as no more than a representation of two matters of concern with regard to the proportional splits of the total expenses claimed by Mr Sadare.

5. [Intentionally left blank]

#### *Factual charges*

6. During your employment with the firm you:
  - a. Submitted duplicate expense claims;
  - b. Submitted expense claims which related to personal and not business expenses; and
  - c. Tampered with historic taxi receipts to create taxi receipts which you claimed were genuine.
7. Your actions in relation to paragraphs 6(a), (b) and (c) of the Notice of Hearing dated 21 October 2020 either individually or collectively were dishonest.
8. Your actions in relation to paragraphs 6(a), (b) and (c) of the Notice of Hearing dated 21 October 2020 either individually or collectively showed a lack of integrity.

#### *Misconduct charges*

9. 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 (July 2015 version).
10. In particular, you have failed to comply with the Laws of the Institute<sup>2</sup> by breaching the following fundamental principles of the Code of Ethics (January 2015 version):
  - a. Integrity;<sup>3</sup> and
  - b. Professional Behaviour.<sup>4</sup>

### **Background**

The Respondent was employed by the firm as a Graduate Analyst and, later, as a Senior Associate from October 2015 until October 2018. The Respondent undertook client facing work on client engagements during that time. His duties included working at the firm's offices [in the UK] and travel overseas on behalf of the firm to countries including Switzerland, Germany and the USA but not, significantly, France.

The Respondent was subject to the firm's policy for claiming expenses for travel, subsistence and hotel accommodation while working for the firm as set out in the firm's Expenses Policies in force from time to time during his period of employment.

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<sup>2</sup> As defined in Byelaw 1 of the Institute's Royal Charter Byelaws and Regulations (July 2015 version).

<sup>3</sup> Code of Ethics (January 2015 version), sections 100.5(a) and 110.

<sup>4</sup> Code of Ethics (January 2015 version), sections 100.5(e) and 150.

The Respondent was given a firm corporate Amex card to use for such expenses while employed by the firm.

During his period of employment, between 1 March 2017 to 28 September 2018, he made claims in total for expenses of £54,247 of which £40,622 (or 75% of the total) were Out of Pocket and £13,625 was attributable to his corporate Amex account. The Respondent was investigated by the firm which found that he had made expenses claims during the above period as follows –

- Un-Receipted claims: £2,888.75
- Duplicate receipts: £13,803.89
- Out of policy claims: £5,656.85
- Claims relating to personal benefit: £18,706.98
- making a total, in all, of £41,056.47

### **Decision on Facts**

1. The Disciplinary Committee Members received and read a Bundle of Case Papers numbered 1 - 541.
2. At the start of the proceedings, the Respondent admitted charges 1, 2, 3 (a) – (f), 4 and 6 (a) – (c). In accordance with Rule 17 of the Disciplinary Committee Rules 2020 (“the Rules”) the Committee found those charges proved.
3. The Respondent denied charges 7, 8, 9 and 10 (a) – (b), that the conduct admitted was dishonest or lacking in integrity, either individually or collectively, that they amounted to misconduct or that he failed to comply with the laws of the Institute.
4. The Committee heard oral evidence from the Respondent, who also called Ms CH to give oral evidence by video link and also received documentary evidence from both parties.
5. After the Respondent had closed his case, he made a further admission that his conduct as set out in charge 6(c) was dishonest and showed a lack of integrity and amounted to misconduct.
6. The Committee heard the submissions of Ms R on behalf of the Institute and Mr F on behalf of the Respondent. It also accepted the advice of the Legal Assessor.
7. The Expenses Policy of the firm at the start of the period relevant to these matters was replaced by a revised Expenses Policy on 11 April 2018 at the latter end of the period. However, the central tenets did not change.
8. The Committee was satisfied on the balance of probabilities that the Respondent:

- (a) was aware of, and should have been familiar with, the Expenses Policies of the firm;
- (b) that the Respondent had understood the declarations that he affirmed as part of each claim made.

#### Duplicate claims

9. The Respondent's case in regard to the duplicate claims made by him were that they resulted from his poor record keeping and negligence on his part, that he did not properly check his claims before submitting them. He denied that his actions were dishonest and said that they were honest mistakes.
10. The Respondent told the Committee that at the relevant time he was under significant pressure at work from his managers and to submit his claims for expenses, which the managers used to gauge the profitability of their project.
11. The Committee was told that each claim form only required the total number of receipts, the total number of expenses and the total value of the expenses claimed. Then each claim form would be put in a separate envelope with the receipts that aggregated the total value indicated and sent off separately to the expenses department. In the Committee's view, this was a shortcoming of the system for making claims for expenses as it decreased the likelihood of detecting abuses of the system.
12. The evidence before the Committee demonstrated a pattern of behaviour. There was a sample of 13 receipts that the Respondent claimed for multiple times. The initial claim for each of them was made about 8 to 14 months after each expense was incurred. However, they were then claimed again, some once, some twice, some three times and some even more. What was significant was that the majority of the duplicate claims were made on the same day, namely 19 June 2018. A total of 24 of the duplicate claims were made on that day. Furthermore, in relation to those receipts that had only one duplicate claim made, both the initial and the duplicate claims were made on 19 June 2018. When the Respondent was asked in cross-examination how he could have missed using the same figures and same receipts multiple times that day, he replied that he was negligent and did not properly check the receipts.
13. The Committee found his explanation to be fanciful. It was satisfied that the more likely explanation was that the Respondent was aware that he was making duplicate claims and he was exploiting the shortcoming of the expense claim system.
14. The Committee was also satisfied that the Respondent's actions in making duplicate claims in these circumstances would be considered dishonest by the standards of an ordinary and decent person. The Committee determined that the Respondent's actions also demonstrated a lack of integrity.

## Personal Expenses

15. In relation to the claims for personal expenses, Ms R identified four transactions that involved Eurostar tickets to Paris and a hotel stay in Paris. The Respondent accepted that he did not have any occasion to travel to France for work. He maintained that his claiming for those expenses which related to personal trips to Paris were because of his disorganisation.
16. One of those Eurostar train journeys took place on a date that the evidence before the Committee demonstrated that the Respondent was in the London office at the firm at the time of the actual journey. Furthermore, the hotel stay in Paris was paid for on the firm's Amex card that the Respondent had been given to use for work expenses.
17. In cross examination, the respondent could not give a credible answer as to how he could have mistakenly made claims for journeys that he could not have made for work purposes, to a country where he had not carried out any work related activities.
18. The firm's investigation concluded that the Respondent submitted claims for personal expenses, unrelated to work totalling approximately £18,706. The claims were for taxis, air travel, hotel bookings, meals, rail travel and vehicle hire.
19. The Committee did not find the Respondent's explanation that all those claims being made were because of his lack of care was credible. The number of claims, coupled with the value of the claims, and the variety of expenses makes it unlikely that they were the result of mere negligence.
20. The Committee determined that on the evidence before it, it was more likely than not that the Respondent submitted the personal claims knowing they were outside the expense policy of the firm.
21. The Committee was also satisfied that the Respondent's actions in making the claims for personal expenses in contravention of his employer's expenses policy would be considered dishonest by the standards of ordinary and decent people. The Committee was also satisfied that the Respondent's actions demonstrated a significant lack of integrity on his part.

## Tampering with historic receipt and submitting them as genuine

22. In relation to the claims made by way of false invoices, which related to taxi journeys, the Committee took into account that the data that was amended in relation to those invoices were the dates and the times of the journeys. The original costs of the journeys and their exact timings were left unchanged. The Respondent accepted in cross-examination that when he made those claims, he did not have any basis for making those claims as he did not have records relating to the journeys claimed for, nor their

purpose, nor the costs of those journeys. To all intents and purposes, those claims were fictitious.

23. The Respondent accepted in cross-examination that, in relation to the false invoices, he had submitted them knowing that they were false and with the intention of deceiving the expenses department into accepting that they were genuine. He also said he accepted that by doing so he was acting dishonestly, if considered in isolation. He said that he had asked a manager what he should do in relation to taxi claims when he did not have a receipt and was told to use one that he had from previous trips. He claimed that other employees had given him similar advice.
24. The Committed found his explanation that a manager in question had told him to falsify receipts to be untrue. He could not remember the name of the manager who had advised him to do this and had not produced any evidence to substantiate his claims. The Respondent accepted that if a person he was mentoring came to him with the same question he would not give that advice and if that person has said that was what he or she was going to do, the Respondent would have been very concerned. The Respondent could not give a coherent answer as to why he did not seem concerned if that was what he was told to do by a manager.
25. The Committee took into account what the Respondent said about the expenses policy and claimed that there was low compliance with the procedure for claiming expenses. It also took into account that some of the witness statements tendered on behalf of the Respondent attested to that situation. However, none of the witnesses gave any evidence that it was the culture, nor that it was acceptable, to make expense claims that had no valid basis, such as the above. Furthermore, Ms CH told the Committee that she never had any of her expense claims rejected.

### **Dishonesty**

26. The Committee's attention was drawn to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 which overruled the use of the Ghosh test when determining dishonesty. The Committee noted the change in the test to be applied for dishonesty. The Committee took particular note of paragraph 74 of their Lordships' judgment:

"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

27. The Committee rejected the Respondent's submissions that his actions were the result of his failure to keep accurate records of his expenditure and negligence. They considered that it was more likely than not that a Graduate Analyst and then Senior Associate of his standing in the firm and his academic record, would have kept at least a minimally accurate record of his own expenses and have realised he was submitting false expenses claims containing duplicate receipts and receipts for his personal expenditure. They determined that by the standards of ordinary and decent people the Respondent's actions in relation to submitting claims using false invoices were dishonest. The Committee also found that the Respondent's actions lacked integrity and were in breach of the laws of the Institute.
28. In coming to its determination, the Committee took into account the Respondent's good character and the character references provided on his behalf that attested that he was an honest person. The Committee ascribed as much weight as it could to the Respondent's good character in the light of the evidence before it.
29. However, the Committee did not find the Respondent's evidence to be credible. The evidence that he gave was inconsistent within itself. His testimony changed during his cross-examination by Ms R. His oral testimony was also not consistent with what he had said on previous occasions. Ms R referred the Respondent to the minutes of the Investigation Interview on 25 October 2018 and the Disciplinary Meeting on 22 November 2018, which record that the Respondent had been asked and given the opportunity to raise any issues or state any matter he wished to in relation to these matters. Ms R pointed out that he had not mentioned any of the issues he raised today, of disorganisation, negligence, the culture at the firm, pressure from managers and having been advised by others to create false invoices.
30. The Committee determined that the Respondent's actions in relation to charges 6(a), 6(b) and 6(c), were dishonest collectively as well as individually. The Committee also determined that those charges also demonstrated a lack of integrity both individually and collectively.

### **Decision on Misconduct**

31. 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.
32. In relation to the matters found proved, the Committee determined that they clearly showed a failure to comply with the Laws of the Institute and breached the various parts of sections of CIMA's relevant Codes of Ethics (January 2015) in relation to the fundamental principles of integrity and professional behaviour, specifically sections

100.5(a), 100.5(e), 110 (including 110.4) and 150. The Committee considered the Respondent's actions were dishonest and clearly lacked integrity in that he had knowingly submitted claims where he knew the information contained therein was materially false or misleading. He had tendered false receipts, made claims that he should not have made and made duplicate claims, all with the intention to mislead and deceive the expenses department into believe that the claims were genuine. He should have known his actions would have an adverse impact on the reputation of the profession.

33. As such, the Committee determined that his actions as set out in the allegation did amount to misconduct.

### **Sanction**

34. Having found misconduct as alleged, the Committee went on to consider the question of sanction. Mr F addressed the Committee in mitigation and submitted that the Respondent had been an unsupported junior member of staff at the firm and expressed remorse for what he had done. The Respondent had repaid £41,056.47 to the firm when asked to do so. He submitted some 30 supportive references attesting to the Respondent's good character.
35. In considering what sanction, if any, to impose, the Committee had regard to the Indicative Sanctions Guidance ("ISG") 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.
36. The Committee took into account the following main aggravating factors:
- (a) the conduct was deliberate and occurred on multiple occasions over a long period;
  - (b) the conduct involved dishonesty, fraud and breach of trust;
  - (c) the Respondent attempted to cast suspicion upon his colleagues by saying that a manager had told him to falsify invoices to support his claim; and
  - (d) if the fraud had not been uncovered, the firm would have suffered a significant loss of money.
37. The Committee took into account the following mitigating factors:
- (a) the Respondent was of previous good character;



- (b) He was in a junior role which was his first corporate role and according to him, he had not received adequate support from managers;
  - (c) the Respondent had paid back £41,056.47 to the firm
38. The Committee also determined that the Respondent had demonstrated limited insight into his misconduct. His admission that his actions in charge 6(c) were dishonest was made only after he had no credible alternative explanation to give in cross-examination for his actions. Even then, his admission was qualified in that he said his actions under charge 6(c) were dishonest if considered in isolation. He did not seem to recognise that submitting falsified receipts for claims upon which he did not have any basis to make, even if it was at the suggestion of a manager, is dishonest.
39. The Committee considered the various sanction options available to it with reference to the ISG in ascending order of severity, having regard to the principle of proportionality.
40. In light of the above the Committee did not consider, an admonishment or reprimand were sufficient to mark the seriousness of the misconduct or mark the high public interest there was in the matter. These are matters that are at the higher end of the spectrum of seriousness in terms of their nature and the impact upon the reputation of the profession.
41. For the same reasons the Committee determined that a Severe Reprimand was not sufficient to mark the seriousness of the misconduct or the wider public interest.
42. The Committee next considered a financial penalty by way of a Fine. However the Committee considered that a financial penalty even at the maximum level would not be sufficient to mark the seriousness of the misconduct nor meet the public interest in this matter.
43. The Committee did not consider Conditional Membership to be appropriate which, it considered, is designed to address deficiencies in practice. It was not appropriate when dealing with serious levels of dishonesty, as in this case.
44. The Committee next considered a Suspension Order but it did not consider that temporary removal from the Register was sufficient to address the seriousness of the Respondent's misconduct. It considered that the public interest in this case was high given the level of sustained dishonest conduct over such a long period of time.
45. For all these reasons the Committee considered that, in all the circumstances, the only appropriate and proportionate sanction was for the Respondent's permanent removal from the Register by way of an Expulsion Order. The Committee recognised the impact this would have upon the Respondent but considered that nothing short of expulsion would address public protection and the very strong public interest in the matter.

Honesty and integrity are at the heart of CIMA's ethics and values and in this case the dishonesty and lack of integrity identified was at the higher end of the scale.

46. Upon the application by the Institute for costs of £30,273.33, and having considered the submissions of both parties, the Committee determined the Respondent should contribute a sum of £24,431 in costs.