



Institute
and Faculty
of Actuaries

**Disciplinary Tribunal Panel Hearing
Online Hearing**

8 June 2022

Institute and Faculty of Actuaries

Respondent:	Robert James Hammond FIA Present and not represented.
Category:	Fellow since December 2008
Region:	Sheffield, UK
IFoA Case Presenter:	Jenny Higgins
Panel Members:	Peter Wrench (Chair/Lay member) Simon Head FIA (Actuary member) Stephanie Bown (Lay member)
Legal Adviser:	Elaine Motion
Judicial Committees Secretary:	Julia Wanless

Charge:

Robert Hammond FIA, being at the material time a member of the Institute and Faculty of Actuaries, the charge against you is that:

- 1 On 2 March 2021 you sent an email to Person A in which you stated "I can confirm that I am now fully up to date with HMRC in relation to my tax payments up to and including the 31 January 2021 payment."
- 2 You knew that the statement in the email at paragraph 1 was untrue.
- 3 Your actions at paragraph 1 were dishonest by reason of paragraph 2.
- 4 On 10 May 2021 you stated to Person B that you did not have any debts or loans other than the debt to HMRC and credit card debts.
- 5 You knew that the statement at paragraph 4 was untrue.
- 6 Your actions at paragraph 4 were dishonest by reason of paragraph 5.
- 7 On 11 May 2021 you sent an email to Person B in which you referred to an attached screenshot from the HMRC portal which you stated set out your current tax position.
- 8 You knew that the attached screenshot did not show the true amount of tax outstanding.
- 9 Your actions at paragraph 7 were dishonest by reason of paragraph 8.
- 10 On 18 August 2021 in response to a request from Person B to email to him a HMRC statement, you sent an email to Person B in which you referred to attached tax overviews for the tax years 2019, 2020 and 2021.
- 11 You knew that the attached tax overviews did not show the true amount of tax outstanding.

- 12 Your actions at paragraph 10 were dishonest by reason of paragraph 11.
- 13 Your actions, in all or any of the above, were in breach of the Integrity principle of the Actuaries' Code (version 3.0) in that you failed to act honestly and/or with integrity.
- 14 your actions, in all or any of the above, constituted misconduct in terms of Rule 4.2 of the Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries (Effective 1 June 2021).

Plea:

1. The Respondent attended the hearing. At the start of the hearing, he admitted the charge in its entirety and the Panel therefore found that the charge was proved.

Panel's Determination:

2. The Panel found paragraphs 1-14 of the charge admitted and proved. The Panel determined that the most appropriate and proportionate sanction was:
 - Suspension of membership of the IFoA for a period of two years.
3. The Panel also ordered the Respondent to pay to the IFoA costs of £2631.

Background:

4. The Respondent is a former Partner of an actuarial firm (the Firm). All Partners of the Firm were responsible for paying all tax due on their drawings and profit payments. In February 2021 the Partners of the Firm were requested to confirm that they were fully up to date with their tax payments.
5. On four occasions between March 2021 and August 2021, the Respondent provided inaccurate information to the Firm's Finance Director and Compliance Officer regarding his outstanding tax position and personal financial circumstances.

6. On 12 February 2021 the Finance Director of the Firm emailed the Partners at the Firm to ask them to confirm that they were fully up to date with their tax payments up to and including 31 January 2021.
7. On 2 March 2021 the Respondent emailed the Finance Director stating "*I can confirm that I am now fully up to date with HMRC in relation to my tax payments up to and including the 31 January 2021 payment.*" However, during a telephone call with the Finance Director on 12 March 2021 the Respondent advised that he still owed some tax.
8. During a call on 10 May 2021, the Compliance Officer asked the Respondent whether he had any debts other than the debt to HMRC. The Respondent advised the Compliance Officer that he had some credit card debts [PRIVATE], but that he did not have any other debts such as loans.
9. The Respondent emailed the Compliance Officer on 11 May 2021 about his current tax position. He included what purported to be a screenshot from the HMRC portal showing his tax outstanding as of 7 May 2021 [PRIVATE].
10. On 18 August 2021 the Respondent emailed the Compliance Officer and attached what were said to be tax overviews for the tax years 2019, 2020 and 2021. [PRIVATE]
In his covering email the Respondent stated that the total outstanding amount across all three tax years would be paid off "*when my additional borrowing goes through. I will send you the statements again when this has been paid off.*"
11. On 30 August 2021 the Respondent emailed the Finance Director advising: "*[The Firm's accountants] will confirm that my payments to date are [PRIVATE] lower than I told [the Compliance Officer]. I was expecting to make these payments before 31 July 2021, but held the money back as my mortgage provider was telling me that I may need it to clear some personal loans I have, before I am able to take out the additional borrowing that I need to clear the remaining tax due.*"
12. The Firm's accountants subsequently provided the Firm with the correct and higher tax position for the Respondent [PRIVATE].
13. During a meeting with the Compliance Officer and the Finance Director on 7 September 2021, the Respondent said that he had falsified the tax summary he had provided on 11

May 2021. He also advised that, contrary to his earlier statement, he had quite a few unsecured loans. He said that he had started the year with two loans from the bank and that during the year he took out three new loans.

14. The Respondent self-referred this matter to the IFoA on 21 September 2021. The Compliance Officer also reported the matter to the IFoA on the same date.

Decision and Reasons to Have Parts of the Hearing and Determination in Private:

15. The Panel considered a request from the Respondent for any figures relating to his financial circumstances to be kept private. The Panel noted that the charge did not include any figures and that it might well be that no figures were mentioned in evidence or submissions at the hearing. Nevertheless, it might well be that figures needed to be included in the panel's written determination to provide a full understanding of the scale of the alleged misconduct. The Panel therefore treated the Respondent's request as an application to have any parts of the hearing that related to the Respondent's health and personal circumstances heard in private, since this would have the effect of excluding any such matters from the public determination. The Panel accepted the advice of the Legal Adviser. The Panel then granted the application, determining that the proper protection of the Respondent's privacy outweighed the public interest in having the entire hearing conducted in the public domain.

Facts and Misconduct:

16. The Respondent admitted the charge in its entirety and the Panel therefore did not need to make any formal findings of fact. However, it will be helpful to set out its reasoning in accepting that the admitted facts involved both dishonesty and breaches of the Actuaries' Code, and therefore constituted Misconduct.
17. The Respondent accepted that on each of the four occasions highlighted in the charge he had deliberately misrepresented the true situation. He was aware that the responses he gave were factually incorrect. He twice provided falsified documentation to support his misrepresentations. In these circumstances, the Panel had no doubt in concluding that, by the standards of ordinary, decent people, he had been dishonest.

18. The Actuaries' Code (version 3.0) states, at paragraph 1, that "*Members must act honestly and with integrity.*" The Actuaries' Code Guidance states, in relation to the principle of integrity, at paragraph 3.1 that "*Members are expected to demonstrate high standards of behaviour*" and at paragraph 3.3 that "*Acting with integrity in a professional setting will generally mean being straightforward and honest in your professional and business relationships and dealing fairly with those around you.*" The four admitted instances of dishonesty in his dealings with his professional colleagues inevitably entailed breaches of the Code's requirements for both honesty and integrity.
19. The Respondent has accepted that his actions amounted to Misconduct. Misconduct is defined for the purposes of the Disciplinary and Capacity for Membership Schemes as "*any conduct by a Member, whether committed in the United Kingdom or elsewhere, in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Bye-laws of the Institute and Faculty of Actuaries and/or to any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or, for so long as there is a relevant Memorandum of Understanding in force, by the FRC (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances.*"
20. The Panel was satisfied that the Respondent's repeated dishonesty to his Firm was serious and constituted Misconduct as defined. It was satisfied that other members of the profession and the wider public would consider that the Respondent's actions fell well short of what was expected of him in the circumstances.

Sanction:

13. In considering the matter of sanction, the Panel had regard to the submissions of the IFoA's Case Presenter and evidence from the Respondent. The Panel considered the advice of the Legal Adviser. The Panel also had careful regard to the Indicative Sanctions Guidance (November 2021). The exercise of its powers in the imposition of any sanction is a matter solely for the Panel to determine and it is not bound by the Guidance.

14. The Panel was aware that the purpose of sanction is not to be punitive although it may have that effect. Rather, the purpose of sanction is to protect the public, maintain the reputation of the profession and declare and uphold proper standards of conduct and competence. The Panel is mindful that it should impose a sanction, or combination of sanctions, necessary to achieve those objectives and in so doing it must balance the public interest with the Respondent's own interests.
15. The Case Presenter did not make any sanction bid on behalf of the IFoA, while noting that the Guidance says that dishonesty will usually lead to expulsion, but that there is a small residual category of cases where the particular circumstances are such that the well informed member of the public would not regard dishonesty as a bar to continued membership of the profession. She said the Respondent's actions were not impulsive but had been a pattern of behaviour over a period of time. However, she went on to say that the dishonesty had not been for personal gain and there had been no significant detriment to others. The Respondent had made full and early admissions and had been open and co-operative with the IFoA's investigation. The Case Presenter submitted that the Respondent had shown insight and had addressed the issues underlying his misconduct.
16. The Respondent said that he was truly remorseful. He said that his actions had not been related to his professional duties and he had not been dishonest with HMRC. He was now up to date with his tax and his other debts were under control. He had resigned from the Firm and had not worked as an actuary since September 2021, which had reduced his earnings significantly. The Respondent said that his dishonesty had been stupid but not malicious - there was a series of individual, panicked actions rather than any concerted plan.
17. In considering the seriousness of the misconduct, the Panel did not accept that this was simply a series of impulsive one-off actions. In its determination, there must have been at least some planning and conscious effort in the deliberate falsification of documents. The Panel noted that the Respondent was a senior and experienced professional who was a partner in his firm. The Panel accepted that there had been no direct financial loss to the firm or to clients. However, the Respondent had been in breach of his contractual terms and of the trust placed in him. The Panel considered that the repeated dishonesty with professional colleagues raised serious issues for the reputation of the profession and for public confidence in it.

18. In considering sanction, the Panel took into account as aggravating factors the admitted dishonesty over a period of some six months, including the falsification of documents.
19. The Panel also took into account in mitigation that the Respondent had self-referred and had co-operated fully with the IFoA's investigation.
20. The Panel was satisfied that the Respondent was remorseful and had insight into the seriousness and impact of his misconduct. It noted that he had taken steps to put his financial affairs in order and it accepted that the experience of these proceedings will have had a serious and salutary effect on him. The Panel was satisfied that there is unlikely to be any real risk of repetition in the future. The purpose of a sanction in this case is therefore to mark, for the profession and the wider public, the seriousness of the past misconduct, rather than to provide protection for the future. The Panel went on to consider the available sanctions in ascending order of seriousness.
21. The Panel considered whether this was a case that warranted no sanction but was satisfied that this would be wholly inappropriate, given the seriousness of the misconduct.
22. The Panel considered whether to impose a Reprimand and concluded, similarly, that this would be insufficient.
23. The Panel considered whether to impose a Fine and determined that this would be inappropriate to the particular circumstances of the case, as well as failing to match the seriousness of the misconduct.
24. The Panel was also satisfied that the imposition of a period of education, training or supervised practice was inappropriate in a case of dishonesty, where no issue had been raised about the Respondent's professional competence.
25. The Panel next considered whether to impose a period of suspension or the withdrawal of a Practising Certificate but considered that the real issue in this case was whether the Respondent should be allowed to practise as an actuary at all, rather than whether he should be able to fulfil a particular role within the profession. It therefore went on to consider suspension from membership of the IFoA and determined that this was the most appropriate sanction in this case. It was satisfied that suspension for the maximum

period of two years could provide a sufficiently clear message to the profession and the wider public that the Respondent's misconduct was unacceptable. The Panel noted the Respondent's insight and remorse, and his full admissions and co-operation with the IFoA's investigation. The Panel further noted that the Respondent had not sought to work as an actuary in the nine months following his self-referral to the IFoA. It was satisfied that a properly informed member of the public would not consider suspension from membership from this point to be an unduly lenient sanction.

26. The Panel went on to consider whether it should instead expel the Respondent from Membership of the IFoA. It was satisfied that this would be a disproportionately severe sanction in all the circumstances of the case. This was not dishonesty at the worse end of the spectrum of possible cases. The Respondent has shown himself to be an able and respected actuary in the past and remains committed to the profession. The Panel was satisfied both that he should be given the opportunity to return to work as an actuary after an appropriate period of suspension, and that giving him that opportunity was fully consistent with its responsibilities to declare proper standards and protect the reputation of the profession.

Costs:

27. The IFoA made an application for costs of £2,631 incurred in preparation for the hearing and attendance at the hearing by the IFoA's Case Presenter. The Panel noted that costs included incurred by the Panel and Legal Adviser. The Panel considered the costs sought to be at a reasonable level, and that the work done justified the amount of cost incurred. It had considered evidence of the Respondent's financial circumstances and accepted that it would not be straightforward for him to meet the costs sought. However, it concluded, in all the circumstances of the case, that it would not be right for the costs to be borne instead by the wider membership of the IFoA. The Panel therefore ordered the Respondent to pay the IFoA costs of £2,631.

Right to appeal:

28. The Respondent has 28 days from the date that this written determination is deemed to have been served upon him in which to appeal the Panel's decision.

Publication:

29. Having taken account of the Disciplinary Board's Publication Guidance Policy (November 2021), the Panel determined that this determination will be published and remain on the IFoA's website for a period of five years from the date of publication. A brief summary will also be published in the next available edition of *The Actuary Magazine*.

That concludes this determination.