

Type of Order:	DISCIPLINARY CONSENT ORDER
Date of Order:	10 August 2021
Committee name:	REGULATION AND CONDUCT COMMITTEE ('the Committee')
Details of IP:	Andrew Clay of ATC Business Recovery Services Limited an IPA member and Licensed Insolvency Practitioner (IP).
Summary of allegations:	This Order is made in relation to a Complaint comprised of two allegations identified during an Inspection Visit on 22-23 September 2020.
Allegation 1	Mr Clay in his role as officeholder across numerous cases breached the Fundamental Principle of Professional Competence and Due Care of the Insolvency Code of Ethics when he failed to submit annual progress reports in a timely manner or at all.
Allegation 2	<p>Mr Clay in his role as liquidator of a company breached Statement of Insolvency Practice 2 when he;</p> <ol style="list-style-type: none"> 1. failed to carry out an initial assessment as required under Paragraph 10 of SIP 2, 2. failed to keep time records and/or other records to demonstrate investigations carried out and conclusions reached as required by Paragraph 18 of SIP 2, and 3. failed to prepare and submit a director's conduct report. <p>Accordingly, Mr Clay was found liable to disciplinary action under the IPA's Articles of Association.</p>
Summary of sanctions:	<p><u>Allegation 1</u></p> <p>The Common Sanctions Guidance provided for a severe reprimand and a fine of £5,000 as a starting point where there had been a serious failure to comply with the Fundamental Principle of Professional Competence and Due Care of the Insolvency Code of Ethics</p> <p>The Committee agreed that an aggravating factor was the number of cases affected, in total 12 reports had not been filed and 18 were filed late. In mitigation the Committee noted that Mr Clay has no previous disciplinary sanctions.</p> <p>The Committee imposed a disciplinary order that Mr Clay be severely reprimanded and fined £5,000</p> <p><u>Allegation 2</u></p> <p>The Common Sanctions Guidance provided for a reprimand and a fine of £1,500 as a starting point where there had been a less serious failure to comply with the principles of a SIP.</p>

The Committee considered that Mr Clay's lack of acceptance of the charge and his failure to identify how he would address the failings as aggravating factors. In mitigation the Committee noted that this was an isolated incident and as above Mr Clay has a clean regulatory history.

The Committee imposed a disciplinary order that Mr Clay be reprimanded and fined £1,500.