

Type of Order:	DISCIPLINARY CONSENT ORDER
Date of Order:	29 April 2021
Committee name:	REGULATION AND CONDUCT COMMITTEE
Details of IP:	<b>Claire Dwyer of Jones Lowndes Dwyer LLP</b> an IPA member and Licensed Insolvency Practitioner (IP).
Summary of complaint:	<p>This Order is made in relation to a complaint that between 1<sup>st</sup> December 2014 and 31<sup>st</sup> December 2018, Ms Dwyer, in her role, as liquidator of various Companies breached the Fundamental Principles of Objectivity and/or Professional Competence and Due Care and/or Professional Behaviour set out at paragraph 4 of the Insolvency Code of Ethics by:</p> <ol style="list-style-type: none"> <li>failing to identify self-interest threats as set out in paragraph 10(a) of the Insolvency Code of Ethics arising from her 50% shareholding in Factoring and Invoice Discounting Limited and/or her 33% shareholding in Golden Pennies Limited, and/or</li> <li>failing to introduce sufficient safeguards, in accordance with by paragraph 19 and/or 55 of the Insolvency Code of Ethics, to reduce to an acceptable level self-interest threats as set out in paragraph 10(a) of the Insolvency Code of Ethics arising from her 50% shareholding in FIDL and/or her 33% shareholding in GPL, and/or</li> <li>breaching paragraphs 60-62 of the Insolvency Code of Ethics, by directly, or indirectly, allowing payments of referral fees totalling £17,901.67 from UKELC to be made to or received by FIDL in which she had a 50% shareholding and/or GPL in which she had a 33% shareholding, and /or</li> <li>breaching paragraphs 55 of the Insolvency Code of Ethics and/or Statement of Insolvency Practice 9 (paragraphs 6 and/or 25 in force from 1 November 2011 and paragraphs 6 and/or 27 in force from 1 December 2015)<sup>1</sup> by failing to disclose to the directors and/or creditors of various liquidating companies her interest in FIDL and/or GPL.</li> </ol> <p>Accordingly, Ms Dwyer was found liable to disciplinary action under the IPA's Articles of Association.</p>

Summary of sanctions:

The Committee agreed that Ms Dwyer had breached the Fundamental Principles of Objectivity, Professional Competence & Due Care and Professional Behaviour. With reference to the Common Sanctions Guidance (CSG) the Committee agreed that as Ms Dwyer profited from her appointments and failed to disclose this to the relevant parties, this conduct was deliberate and so very serious relevant parties.

The CSG provided for potential exclusion and a fine of £10,000 for a breach of the Fundamental Principle of Objectivity, £7,500 for Professional Competence and Due Care and £5,000 for Professional Behaviour. When considering sanction, the Committee agreed that exclusion was disproportionate and that the starting point should be at the higher level of £10,000 before consideration of the aggravating and mitigating factors.

When considering sanction, the Committee agreed that, in mitigation, there was minimal risk of recurrence and Ms Dwyer had no previous disciplinary findings. It was noted that there was no loss to any of the insolvent estates. Ms Dwyer's lack of understanding and failure to accept the charges was an aggravating factor.

The Committee imposed a disciplinary order that Ms Dwyer be severely reprimanded, fined £25,402 (£17,902 for the profit element and £7,500 for the sanction element) and pay £1,425 towards the costs.