

**In the matter of**

**The Executive Counsel to the Financial Reporting Council**

**And**

**Mr Stephen Chamberlain**

**Statement of the reasons for the Interim Order dated 3 April 2019**

**Interim Orders**

1. Under the Accountancy Scheme of 8 December 2014 (“the Scheme”), the Conduct Committee may decide to institute an investigation into a Member (paragraphs 6(3) and 6(8)). That investigation may lead to the delivery of a Formal Complaint against the Member, and the appointment of a Disciplinary Tribunal to hear and rule upon the matters alleged in the Formal Complaint (paragraph 9(7) of the Scheme).
  
2. Paragraph 15 and Appendix 2 to the Scheme set out the powers of a Disciplinary Tribunal to make an Interim Order in relation to a Member. In particular, paragraph 15(1) of the Scheme provides that, at any stage between:
  - (i) the making of a decision to investigate a Member, and
  
  - (ii) the making of a decision by a Disciplinary Tribunal in relation to the Formal Complaint,

where the Executive Counsel is of the opinion that a Disciplinary Tribunal should consider making an Interim Order in relation to a Member, she shall present an application to the Conduct Committee, for service on the Member and on the Convener.

3. Following its appointment by the Convener, the Disciplinary Tribunal may make such Interim Order against the Member as set out in Part 1 of Appendix 2 to the



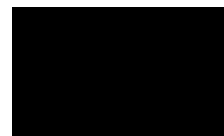
Scheme, for such period or until the occurrence of such event as it defines (paragraph 15(5) of the Scheme).

#### **The FRC's investigation into Mr Chamberlain**

4. The Conduct Committee served a Formal Complaint on Mr Chamberlain by letter dated 24 May 2018. A Disciplinary Tribunal has been appointed to hear the Formal Complaint in accordance with the provisions of the Scheme.
5. The full details of the allegations against Mr Chamberlain are set out in the Formal Complaint. They include allegations of failure to act in accordance with Fundamental Principle (a) 'Integrity' and Fundamental Principle (c) 'Professional Competence and Due Care'.
6. Mr Chamberlain denies the allegations made against him.

#### **The Indictment**

7. On 29 November 2018 a United States Grand Jury indicted Mr Chamberlain on fourteen counts, being:
  - 7.1. one count of conspiracy to commit wire fraud ("**the Conspiracy Count**"),  
and
  - 7.2. thirteen counts of wire fraud and aiding and abetting in the same ("**the Wire Fraud Counts**", together "**the Counts**").
8. On 21 March 2019, a superseding indictment adding two further counts, including a further count of fraud, was returned by a Grand Jury.
9. There is significant overlap between the facts and matters relating to the Counts and those set out in the Formal Complaint against Mr Chamberlain.
10. The relevant statutory provisions for the Counts are as follows.



- 10.1. Section 1343 of Title 18 of the United States Code (“18 USC”) provides for the offence of wire fraud:

**“Fraud by wire, radio, or television**

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both...”

- 10.2. Section 1349 of 18 USC provides for the offence of conspiracy to commit wire fraud:

**“Attempt and conspiracy**

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.”

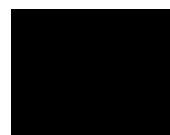
- 10.3. Section 2 of 18 USC provides:

**“Principals**

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.”

**Conclusive finding of Misconduct**

11. The Counts would constitute criminal offences if prosecuted and proven in the United Kingdom.
- 11.1. The Conspiracy Count would constitute the criminal offence of conspiracy to defraud at common law or statutory conspiracy contrary to s.1(1) Criminal Law Act 1977, and
- 11.2. The Wire Fraud Counts would constitute the criminal offence of fraud contrary to s.1(1) Fraud Act 2006 or attempted fraud contrary to s.1(1) Criminal Attempts Act 1981, and aiding and abetting the same.



12. Under paragraph 16(1)(ii) of the Scheme, the fact that a Member has, before a Court outside the United Kingdom, been convicted of an offence which would have constituted a criminal offence had the matter been prosecuted in the United Kingdom, shall, for the purposes of the Scheme, be conclusive evidence of Misconduct by the Member.
13. In an application for a stay of the disciplinary proceedings against him dated 12 March 2019 (“the Stay Application”), Mr Chamberlain accepted that, if he is convicted of the Counts, a Disciplinary Tribunal would automatically find that he has committed Misconduct.
14. In the Stay Application, Mr Chamberlain also states that he would agree to an Interim Order suspending him from membership of the ICAEW “*pending determination of the US criminal proceedings*”.
15. Mr Chamberlain is right to accept that interim suspension is appropriate in circumstances where he seeks to delay the resolution of the Formal Complaint against him on the grounds that he is defending criminal proceedings in which, if he is convicted, he must expect that as a result he will be excluded from the ICAEW (see paras 54 and 55 of the Accountancy Scheme Sanctions Guidance and Bolton v The Law Society [1994] 1 WLR 512 at 517-519).
16. The Tribunal holds that this Interim Order would be appropriate in light of Mr Chamberlain’s imminent trial by a jury on 14 counts of fraud, in order to maintain public confidence in the accountancy profession, to uphold proper standards of conduct, and to meet the public interest.

.....  
**The Rt. Hon. Lord Dyson**  
**Chairman**

**Date: 3 April 2019**