

**IN THE MATTER OF:**

**THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL**

**-and-**

**SUSHOVAN HUSSAIN**

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**INTERIM ORDER**

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WHEREAS:

(1) Mr Hussain was convicted on 30 April 2018 by a Trial Jury in the United States District Court for the Northern District of California on 16 counts ("**the Counts**") of fraud (a copy of the Verdict Form being annexed hereto as Annex 1);

(2) A Disciplinary Tribunal has been appointed to hear a Formal Complaint served by the Executive Counsel on Mr Hussain by letter dated 24 May 2018 ("**the Main Disciplinary Tribunal**");

(3) By an application dated 2<sup>nd</sup> October 2018 ("**the Application**") the Executive Counsel applied for an Interim Order of Suspension of Mr Hussain under paragraph 15 of the FRC Accountancy Scheme of 8 December 2014 ("**the Scheme**") (a copy of the application being annexed hereto as Annex 2);

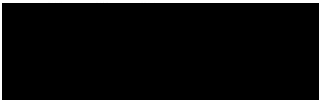
(4) Each of the Counts of which Mr Hussain has been convicted are convictions of dishonesty which would constitute criminal offences if prosecuted in the United Kingdom as set out in paragraph 11 of the Application, and Mr Hussain has accepted and admitted by his solicitors' letter to the Executive Counsel dated 24 August 2018 (a copy being annexed hereto as Annex 3) that subject to his appeal against his convictions being successful in its entirety the Main Disciplinary Tribunal would automatically find that he has committed Misconduct under paragraph 16(1)(ii) of the Scheme;

(5) Mr Hussain has consented by his solicitors' letter dated 8 October 2018 (a copy being annexed hereto as Annex 4) to the Tribunal making an Order in the terms set out below;

AND UPON the Chairman of the Tribunal prior to making this Order having consulted the other Tribunal members in accordance with Regulation 42 of the FRC Accountancy Regulations of 8 December 2014, and it being considered appropriate that an Interim Order of Suspension be made,

IT IS ORDERED THAT

1. Mr Hussain be suspended from membership of the ICAEW until the coming into effect of an order of the Main Disciplinary Tribunal against Mr Hussain under either paragraph 9(7)(ii) or paragraph 9(8) of the Scheme.



**The Rt. Hon Lord Dyson  
Chairman**

**Date:** 2 - 11 - 18

## ANNEX 1

**FILED**

APR 30 2018

██████████  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSHOVAN TAREQUE HUSSAIN,

Defendant.

Case No. 16-cr-00462-CRB-1

**VERDICT FORM**

We, the jury in the above-entitled case, unanimously find the defendant, Sushovan Tareque

Hussain:

1.   GUILTY   (GUILTY/NOT GUILTY) of the charge of  
Conspiracy to Commit Wire Fraud, as set forth in Count One of the Indictment.

2.   GUILTY   (GUILTY/NOT GUILTY) of the charge of  
Wire Fraud, as set forth in Count Two of the Indictment, as to an email from J.S. in the Northern  
District of California to S.C. on or about 1/26/2011 regarding "FW: autn\_boa."

3.   GUILTY   (GUILTY/NOT GUILTY) of the charge of Wire  
Fraud, as set forth in Count Three of the Indictment, as to a press release titled "Autonomy  
Corporation plc Announces Results for the Year Ended December 31, 2010," distributed from  
Cambridge, England, to the Northern District of California on or about February 1, 2011.

4.   GUILTY   (GUILTY/NOT GUILTY) of the charge of Wire  
Fraud, as set forth in Count Four of the Indictment, as to a video conference involving participants  
in Palo Alto, California, and the United Kingdom on or about February 3, 2011.

5.   GUILTY   (GUILTY/NOT GUILTY) of the charge of Wire  
Fraud, as set forth in Count Five of the Indictment, as to a video conference involving participants

United States District Court  
Northern District of California

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United States District Court  
Northern District of California

1 in Palo Alto, California, and the United Kingdom on or about March 4, 2011.

2 6. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
3 Fraud, as set forth in Count Six of the Indictment, as to an email from M.H. to S.E. in the Northern  
4 District of California dated April 4, 2011 regarding "Prisa VAR."

5 7. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
6 Fraud, as set forth in Count Seven of the Indictment, as to a press release titled "Autonomy  
7 Corporation plc Trading Update for the Quarter Ended March 31, 2011," distributed from the  
8 United Kingdom to the Northern District of California on or about April 21, 2011.

9 8. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
10 Fraud, as set forth in Count Eight of the Indictment, as to a press release titled "Autonomy  
11 Corporation plc Announces Interim Results for the Six Months Ended June 30, 2011," distributed  
12 from the United Kingdom to the Northern District of California on or about July 27, 2011.

13 9. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
14 Fraud, as set forth in Count Nine of the Indictment, as to a conference call to United States toll  
15 free number (866) 409-2889 by multiple numbers in the Northern District of California and United  
16 Kingdom on or about August 1, 2011.

17 10. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
18 Fraud, as set forth in Count Ten of the Indictment, as to a conference call to United States toll free  
19 number (866) 409-2889 by multiple numbers in the Northern District of California and United  
20 Kingdom on or about August 2, 2011.

21 11. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
22 Fraud, as set forth in Count Eleven of the Indictment, as to a conference call to United States toll  
23 free number (866) 409-2889 by multiple numbers in the Northern District of California and United  
24 Kingdom on or about August 3, 2011.

25 12. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire  
26 Fraud, as set forth in Count Twelve of the Indictment, as to a conference call to United States toll  
27 free number (866) 409-2889 by multiple numbers in the Northern District of California and United  
28 Kingdom on or about August 4, 2011.

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United States District Court  
Northern District of California

13. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire Fraud, as set forth in Count Thirteen of the Indictment, as to an email from A.H. in the United Kingdom to F.M. and others in the Northern District of California regarding "Project Daniel IRoom" attaching "Data Room Updates 509381013.4DOC" on or about August 4, 2011.

14. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire Fraud, as set forth in Count Fourteen of the Indictment, as to an email from A.K. to M.S. and others in the Northern District of California regarding "RE: Tesla: Updated Legal DD Questions" on or about August 4, 2011.

15. GUILTY (GUILTY/NOT GUILTY) of the charge of Wire Fraud, as set forth in Count Fifteen of the Indictment, as to an emailed letter from Capita Registrars in the United Kingdom to M.S. and A.J. in the Northern District of California, requesting payments of £5,445,493,678.35 and £24,065,825.50.

16. GUILTY (GUILTY/NOT GUILTY) of the charge of Securities Fraud, as set forth in Count Sixteen of the Indictment.

DATED: 4/30/18   
FOREPERSON/

## ANNEX 2

**IN THE MATTER OF:**

**THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL**

**-and-**

**SUSHOVAN HUSSAIN**

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**APPLICATION FOR AN INTERIM ORDER**

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1. This is the Executive Counsel's Application for an Interim Order pursuant to paragraph 15(1) of the Accountancy Scheme of 8 December 2014 ("**the Scheme**") with respect to Mr Sushovan Hussain. Mr Hussain was at all material times the Chief Financial Officer and a director of Autonomy Corporation plc ("**Autonomy**") and a member of the Institute of Chartered Accountants in England and Wales ("**the ICAEW**"). Mr Hussain remains a member of the ICAEW and, accordingly, a Member under the Scheme.
2. This Application adopts the definitions used in the Scheme, and references to paragraphs are to paragraphs in the Scheme, unless otherwise stated.

**Interim Orders**

3. Under 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)).
4. 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) 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.

5. 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.

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

6. The Conduct Committee served a Formal Complaint on Mr Hussain 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.
7. The full details of the allegations against Mr Hussain are set out in the Formal Complaint. In summary, it is alleged that Mr Hussain committed Misconduct in the following respects:
  - 7.1. Mr Hussain lacked integrity or was incompetent when preparing Autonomy's Annual Reports and Accounts for the financial years ended 31 December 2009 and 2010, because of the accounting treatment relating to, and the inadequacy of the disclosure of, Autonomy's purchases and sales of 'pure hardware', *i.e.* third-party computer hardware without any pre-installed Autonomy software.
  - 7.2. Mr Hussain lacked integrity in relation to Autonomy's accounting for transactions with value-added resellers.
  - 7.3. Mr Hussain recklessly made false or misleading statements in a meeting with the Financial Reporting Review Panel on 13 January 2010, and in a letter from Autonomy to the Panel dated 3 March 2011.
  - 7.4. Mr Hussain was convicted by a Grand Jury in California on 30 April 2018 on 16 counts of fraud alleged against him ("**the Conviction Allegation**").

## **The Conviction Allegation**

8. On 10 November 2016 a United States Grand Jury indicted Mr Hussain on the offences of wire fraud and conspiracy to commit wire fraud. On 4 May 2017 the Grand Jury issued a superseding indictment which indicted Mr Hussain on additional offences of securities fraud and aiding and abetting in the same (“**the Indictment**”).
9. On 30 April 2018 a Grand Jury in the United States District Court for the Northern District of California convicted Mr Hussain on all 16 counts of the Indictment, being:
  - 9.1. 14 offences of wire fraud (“**the Wire Fraud Offences**”);
  - 9.2. 1 offence of conspiracy to commit wire fraud (“**the Conspiracy to Commit Wire Fraud Offence**”), and
  - 9.3. 1 offence of securities fraud and aiding and abetting the same (“**the Securities Fraud Offence**”, together “**the Offences**”).
10. The relevant statutory provisions for the Offences 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 1348 of 18 USC provides for the offence of securities fraud:

**“Securities and commodities fraud**

Whoever knowingly executes, or attempts to execute, a scheme or artifice –

(1) to defraud any person in connection with... a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) ...; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of ... any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l)...;

shall be fined under this title, or imprisoned not more than 25 years, or both.”

10.4. 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 Offences would have constituted criminal offences had Mr Hussain been prosecuted in the United Kingdom.

11.1. The Wire Fraud Offences would have constituted the criminal offence of fraud contrary to s.1(1) Fraud Act 2006;

11.2. The Conspiracy to Commit Wire Fraud Offence would have constituted the criminal offence of conspiracy to defraud at common law or statutory conspiracy contrary to s.1(1) Criminal Law Act 1977, and

11.3. The Securities Fraud Offence would have constituted 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), 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 the Conviction Allegation, the Executive Counsel relies on the convictions as conclusive evidence of Misconduct by Mr Hussain. In open correspondence sent by his solicitors Simmons & Simmons LLP to the Executive Counsel dated 24 August 2018, Mr Hussain accepted that subject to his appeal in the US Courts any Disciplinary Tribunal would automatically find that he has committed Misconduct, on the basis of his convictions, under paragraph 16(1)(ii).
14. By letter dated 19 September 2018 Simmons & Simmons LLP informed the Executive Counsel that the deadline under the applicable Federal Rules of Criminal Procedure for Mr Hussain to file a notice of appeal against the convictions is 21 November 2018, that Mr Hussain intends to file a notice of appeal by then, and that the appellate process is expected to take approximately 18 months from filing of the notice of appeal.
15. By letter dated 24 August 2018 (referred to at paragraph 13 above), Simmons & Simmons LLP requested the Executive Counsel to consent to a stay of the hearing of the Formal Complaint “*pending the conclusion of all criminal proceedings against Mr Hussain, including any appeal and the completion of any custodial sentence*”. That request was reiterated by letter dated 19 September 2018 (referred to at paragraph 14 above). Provided an Interim Order is made suspending Mr Hussain from membership of the ICAEW, the Executive Counsel is minded not to oppose an application by Mr Hussain to the Disciplinary Tribunal hearing the Formal Complaint for a stay of the Formal Complaint pending the conclusion of Mr Hussain’s prospective appeal of the convictions referred to at paragraph 9 above (but not in respect of the completion of any custodial sentence).

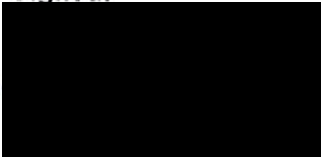
#### **Application for an Interim Order**

16. The Executive Counsel therefore applies for an Interim Order that Mr Hussain be suspended from membership of the ICAEW until (1) the coming into effect of an order

of the Disciplinary Tribunal against Mr Hussain under paragraph 9(8), or (2) the dismissal of the Formal Complaint against Mr Hussain under paragraph 9(7)(ii).

17. This Interim Order would be appropriate in light of Mr Hussain's convictions by a US Grand Jury on 16 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.

**Signed:**



**ELIZABETH BARRETT  
EXECUTIVE COUNSEL**

**Date:** 2: 10: 2018

## ANNEX 3

Our ref [REDACTED]

24 August 2018

Financial Reporting Council  
8th Floor  
125 London Wall  
London EC2Y 5AS

FAO [REDACTED]

Dear Sir

**FRC Investigation in relation to Autonomy Corporation Plc ('Autonomy'):  
Our client, Sushovan Hussain**

The purpose of this letter is to request that the FRC consent to a stay of the proceedings against Mr Hussain pending the conclusion of all criminal proceedings against Mr Hussain, including any appeal and the completion of any custodial sentence.

The basis for our application for a stay, which has been prefigured in previous correspondence with the FRC and with the Tribunal, is set out below.

As you know, on 30 April, the jury in Mr Hussain's criminal trial in the United States District Court for the Northern District of California came to a guilty verdict on sixteen counts of wire and securities fraud. Mr Hussain's sentencing hearing was initially listed for 24 August but has recently been put back to 7 November. Mr Hussain's current intention is to appeal his conviction. The outcome of any appeal is unlikely to be known for approximately 18 months.

Mr Hussain accepts that rule 16(1)(ii) of the Accountancy Scheme applies to these convictions and that, subject to his appeal in the US Courts, any FRC Tribunal would automatically find that that Mr Hussain has committed Misconduct on the basis of the convictions. Whilst this basis might not be identical to the basis of the Formal Complaint, there is a very large degree of overlap and we question whether there is any public interest in pursuing further complaints against Mr Hussain over and above the convictions if those convictions are ultimately upheld.

The further basis for our request is simple: pending any successful appeal, Mr Hussain is in no position to take any active part in the Tribunal proceedings or to fairly defend himself in them and it is therefore unfair for them to continue against him until he is in a position to do so.

As you know, following his conviction, Mr Hussain was granted bail, his passport was taken by the US authorities, he is under court order not to leave the Northern District of California, and his movements are now monitored by means of an electronic tagging device attached to his ankle.

Mr Hussain will be sentenced on 7 November and is likely to be sentenced to a period of imprisonment, along with fines and other financial penalties. We will not know the specific facility where Mr Hussain will be incarcerated until a designation has been made by the United States

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Bureau of Prisons. However, we do know that under applicable regulations, because Mr. Hussain is not a US citizen, he will be ineligible for incarceration at a federal prison "camp" and instead will probably be housed in a low security prison. While in prison it will be impossible for Mr Hussain to properly defend himself against the allegations made:

1. Mr Hussain will only be able to meet with his UK lawyers at the US prison, for a few hours on Fridays, Saturdays or Sundays, which visits will count against the total number of visits he is allowed per month (including family).
2. His ability to organise telephone calls with his lawyers will be severely constrained. He will not be able to receive telephone calls. Access to a telephone to make telephone calls will be restricted to certain times of day and the availability of a telephone (inmates have access to a limited number of phones on a first come, first serve basis.). Also, given the time difference between the United States and the UK and the restricted access to a telephone, calls may be impractical in any event (evening hours in the US, when calls are usually permitted, will fall between 11pm and 5am in the U.K.) Persons to whom Mr. Hussain wishes to make calls must receive prior approval from the prison, and are limited to 30 in total. Calls may be made to one individual at a time; no conference calls or calls to speaker phones are permitted.
3. Even if calls can be arranged, Mr Hussain will only be allowed a limited amount of time on the telephone. In the facility to which he may be sent, time for calls is generally limited to 15 minutes per call and a total 300 minutes per month.
4. He will not be allowed a computer.
5. He will not be allowed a mobile telephone.
6. He will have no access to the internet.
7. He will have limited ability to send or receive emails. An email terminal will be available on a first come first serve basis, and any email sent or received is limited to 13,000 characters (about two pages). Emails may not include attachments nor internet links. Email is not confidential and is monitored by prison staff.
8. Confidential legal communication would have to be through the postal system, which for international mail takes many days.
9. He will not be allowed to store a significant volume of paperwork in his cell – certainly the papers in this case could not be retained in his cell.

If at the time of his sentencing Mr. Hussain is granted bail pending appeal, such that any incarceration is delayed until his appeal is decided, this situation would change. However, even if he is granted bail pending appeal, if his present bail conditions remain in place he will still be required to remain in the Northern District of California, which will interfere with his ability to meet with his UK counsel and attend the hearing. Also, he will be consumed with work on his criminal appeal in the US and would not have the requisite time to devote to also defending these FRC proceedings.

The difficult position in this regard is strongly exacerbated by the fact that Mr Hussain is also a defendant to a civil claim for \$5 billion brought by HP in the High Court, which is fixed for a long trial in 2019. Moreover, the D&O insurance that was funding Mr Hussain's involvement in all three sets of proceedings has been entirely exhausted. Mr Hussain is now liable for substantial costs over and above the insurance coverage and is unlikely in practice to be able to fund representation in all



three sets of proceedings. His financial position may alter further depending on the result of the hearing on 7 November 2018.


A stay would cause no prejudice to the FRC, nor the other parties to the case. Furthermore, given Mr Hussain's current circumstances, a stay would not undermine the FRC's role in safeguarding the public interest.

Taking these factors into account, Mr Hussain will be in no position to instruct his lawyers nor play a role in preparing his case in these proceedings and in those circumstances the only fair approach is to stay the matter at this stage.

Please do not hesitate to contact [REDACTED] at this office if you would like to us to provide additional detail in relation to the request in this letter.

We look forward to hearing from you.

Yours faithfully

  
Simmons & Simmons LLP

## ANNEX 4

# Simmons & Simmons

Simmons & Simmons LLP CityPoint One Ropemaker Street London EC2Y 9SS United Kingdom  
T +44 20 7628 2020 F +44 20 7628 2070 DX Box No 12

Our ref [REDACTED]  
Your ref [REDACTED]

08 October 2018

Financial Reporting Council  
8<sup>th</sup> Floor  
125 London Wall  
London  
EC2Y 5AS

Attention [REDACTED]

Dear Sir

**FRC investigation in relation to Autonomy Corporation Plc ("Autonomy"):**  
**Our client: Sushovan Hussain**

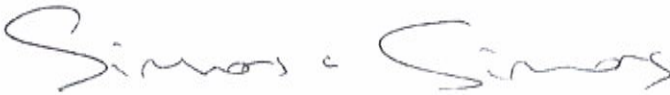
Thank you for your letter of 3 October.

Your proposal that Mr Hussain consent to an Interim Suspension Order is accepted. Mr Hussain further agrees that in the event that his appeal in the US proceedings is unsuccessful (and provided that he remains convicted of a crime of dishonesty), he will consent to an order excluding him from membership of the ICAEW. Mr Hussain's agreement is on the basis that the FRC will not oppose an order for a stay of the Formal Complaint issued on 17 May 2018 provided, of course, that an Interim Order is imposed by the Conduct Committee. Although we appreciate there is no provision in the Scheme or Regulations for costs in an application for an Interim Suspension Order, we should be grateful for your confirmation that any application for costs by the FRC will be deferred until the final resolution of the Formal Complaint.

In order to expedite matters, we invite the FRC to provide us with a draft Interim Suspension Order.

We look forward to hearing from you.

Yours faithfully



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