

Background

2. Ms. Annells is a certified public accountant and has been a member of the Institute since 21 June 1994.
3. The Institute received the following complaints against Ms. Annells:-
 - (a) a complaint from Ms. Hilary Cordell dated 18 November 2011 together with a supporting Affidavit with exhibits, alleging serious breach of trust and misappropriation of trust funds managed by AzureTrustees Limited ("**AzureTrustees**"), which Ms. Annells controlled;
 - (b) a complaint from Mr. Graham Moore dated 23 December 2011 together with supporting materials, alleging forgery of documents with intent to deceive a trust client and also misappropriation of client monies; and
 - (c) a complaint from Mr. Edward Nicol dated 22 September 2013, alleging improper conduct in the provision of trustee services to a client.
4. In the course of the Institute's inquiries into the above complaints, the Institute sought representations from Mr. Alan Wilson, who had lodged a complaint with the Chartered Institute of Taxation ("**CIOT**") in the United Kingdom against Ms. Annells. Mr. Alan Wilson has provided to the Institute a copy of his complaint with certain supporting materials.
5. On or about 12 July 2013, the Taxation Disciplinary Board in the United Kingdom ("**TDB**") determined that Ms. Annells had committed six separate breaches of the fundamental principle of integrity as set out in the Professional Rules and Practice Guidelines of the CIOT (PRPG, 2011 edition), and ordered the expulsion of Ms. Annells from membership of the CIOT. The TDB's decisions in respect of the charges, sanction and costs have been provided to the DC.
6. On 9 December 2015, Ms. Annells was convicted by the District Court of Hong Kong of various offences including the provision of a false document to the court for which she was sentenced to four years' imprisonment; and also perverting the course of justice and attempted fraud, for which she received shorter concurrent sentences. Ms. Annells remains in prison.
7. On 11 July 2016, Ms. Annells was sentenced by the High Court in Hong Kong (following her guilty pleas as to 45 offences of theft, 1 offence of possession of a false instrument, and 1 offence of fraud) to 9 years' imprisonment. A portion of the High Court sentence (6 years and 6 months) was ordered to be served consecutively to her sentence of four years' imprisonment ordered by the District Court.

Documents

8. The Complainant made the Complaint to the Institute's Council on 3 April 2014 [A/1]. Ms. Annells filed partial submissions on 7 April 2014 along with a ringbinder of documents [B/816].
9. The Complainant filed his Case on 10 December 2014 [A/17].
10. After the District Court conviction, which Ms. Annells stated was under appeal, on 24 April 2016, the DC directed the Complainant to amend its Complaint and/or his Case if so advised to take account of such convictions. No amendment was sought or made; the District Court convictions are not in evidence before the DC and no account is taken of the same.
11. Ms. Annells' Case was filed in increments:
 - (a) A response to Complaint 5 by letter dated 27 June 2016 [A/56];
 - (b) A Part 1 response to Complaint 7 by letter dated 25 July 2016 [B/588];
 - (c) A Part 2 response to Complaint 7 by letter dated 29 July 2016 [B/602];
 - (d) A response to Complaint 2 by letter dated 5 August 2016 [B/763];
 - (e) A letter relating to Complaint 8 with some enclosures dated 8 August 2016 [B/775];
 - (f) A response to Complaint 3 by letter dated 10 August 2016 [A/58];
 - (g) A response to Complaint 4 by letter dated 11 August 2016 [A/60];
 - (h) A response to Complaint 1 by letter dated 16 August 2016 [A/77];
 - (i) A response to Complaint 8 by letter dated 24 August 2016 [A/94];
 - (j) A response to Complaint 6 by letter dated 30 August 2016 [A/100];
 - (k) A 12-page instalment dated 1 September 2016 which included an executive summary [A/118];
 - (l) A letter dated 2 September 2016 enclosing a statement of Tracy Ma to the police dated 24 February 2012, annotated by Ms. Annells [A/124];
 - (m) A letter dated 9 September 2016 addressing the meaning of "accountant in public practice", with attachments including guidance of the ICAEW [A/166]; and
 - (n) A letter dated 26 September 2016 addressing the meaning of "accountant in public practice" [B/799].

12. The Reasons for Sentence handed down by the High Court (Zervos J.) on 11 July 2016 have been provided to the DC [B/727]. (Although Ms. Annells by letter dated 14 December 2017 sought to exclude the Reasons from the bundles on the basis that they were added after the date given for finalizing the bundles, in fact the Reasons had already been included in the bundles but the Complainant had sought unnecessarily to add an additional copy to the bundles on 7 December 2017).
13. The Complainant filed a Reply dated 30 September 2016 [A/185]. Ms. Annells filed a Reply on 3 November 2016 [A/190].
14. Following the agreement of the parties, and in light of Ms. Annells' imprisonment, the DC directed on 24 January 2017 that the matter be decided on the papers, and directed short written submissions to summarise positions (if any), which were to raise any issues not already raised in the Cases or Replies without leave, by 1 March 2017.
15. Ms. Annells filed written submissions dated 28 February 2017 [A/243]. The Complainant filed written submissions dated 1 March 2017 [A/249].
16. On 2 June 2017, the DC directed the parties to agree a bundle of necessary documents in chronological order by 26 June 2017, and a bundle of necessary correspondence (if any) by the same date. Arguments and directions in respect of the documents bundle and correspondence bundle continued until 23 November 2017 (5 months later than originally directed), at which time there were no further requests for inclusion of any materials in the bundles before the DC.

Complaints in issue / admissions

17. It is apparent from Ms. Annells' Executive Summary [A/120-121] and her written submissions [A/243] that she denies Complaints 1, 2, 3, 5, 7, and part of Complaint 8. She accepts Complaints 4 and 6, and part of Complaint 8. It was not clear to the DC from these documents which parts of Complaint 8 are accepted and which are denied. Indeed it was not clear to the DC which specific parts of Complaint 8 were pursued or not pursued by the Complainant. Accordingly clarification was sought on 8 December 2017. JSM on behalf of the Complainant replied by letters dated 13 and 15 December 2017. Ms. Annells replied by letters dated 18 December 2017 and 2 January 2018, cross-referring to Tab 43 of the bundles, which is Ms. Annells' response to Complaint 8 dated 8 August 2016 as referred to at paragraph 11(e) above, and her main response to Complaint 8 of 24 August 2016 referred to at paragraph 11(i) above, and to her mitigation points in the High Court at Tab 53.

Preliminary issues

18. The DC will address the following issues before addressing the individual

complaints.

- (a) Whether or not the Code of Ethics for Professional Accountants (“Code”) issued by the Institute (or parts thereof) is applicable to Ms. Annells in the context of AzureTrustees and/or in the context of the Complaints.
- (b) Whether or not the Trustee Ordinance (Cap. 29) applies to AzureTrustees.
- (c) The relevance of the TDB and High Court decisions.

Applicability of the Code of Ethics

19. The Code was issued by the Council of the Institute pursuant to section 18A of the Professional Accountants Ordinance which provides that the Council may issue any statement of professional ethics required to be observed, maintained or otherwise applied by members of the Institute.

20. The Complaints allege breach of sections of the Code by Ms. Annells. It is therefore important to address whether such sections of the Code are applicable. The identified sections are sections 100.5, 110, 130, 150 (of Part A, applicable to “professional accountants”: section 100.2); section 270 (of Part B, applicable to “professional accountants in public practice”: section 100.3); section 460 (of Part D, applicable in specific areas as provided: section 100.3). By contrast, Part C of the Code (not relied on in the Complaints) applies to professional accountants in business: section 100.3.

21. The Code contains the following relevant definitions:

“Firm (a) A sole practitioner, partnership or corporation of professional accountants;
 (b) An entity that controls such parties, through ownership, management or other means; and
 (c) An entity controlled by such parties, through ownership, management or other means.”

“Professional accountant An individual who is a member of the Hong Kong Institute of Certified Public Accountants.”

“Professional accountant in business A professional accountant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a professional accountant contracted by such entities.”

“Professional accountant in public practice A professional accountant, irrespective of functional classification (e.g., audit, tax or consulting) in a firm that provides professional services. This term is also used to refer to a firm of professional accountants in public

practice.”

“Professional Services requiring accountancy or related skills performed by a professional accountant including accounting, auditing, taxation, management consulting and financial management services.”

22. Ms. Annells submits that she was not at the material times a professional accountant in public practice. She submits that trustee services are unregulated in Hong Kong. She refers to the UK's ICAEW definition of “accountant in public practice” and guidance thereon and submits that the UK definition excludes trustee services.

23. Having regard to the Code definitions set out above:

(a) It is undisputed that Ms. Annells is a “professional accountant” by virtue of her membership in the Institute.

(b) The type of trustee services offered by AzureTrustees (i.e. to hold and invest trust monies for the benefit of the beneficiaries) were professional services requiring accountancy or related skills, including accounting and financial management services, by a professional accountant.

(c) Ms. Annells was one of two directors and was the sole signatory to the bank account of AzureTrustees, a trust company, which was in turn ancillary to the tax practice of the Azure Tax group of companies (“**Azure Tax Group**”). Ms. Annells' daughter was the ultimate beneficiary of the group. It is indisputable that Ms. Annells was the controller of the group.

(d) AzureTrustees is an entity controlled by a professional accountant, namely Ms. Annells, and is therefore “a firm” within the Code.

(e) Accordingly, Ms. Annells was at the material times a professional accountant in a firm that provides professional services, and was therefore a “professional accountant in public practice”.

(f) We note the distinction from a professional accountant in business, which is targeted at accountants employed by entities not providing professional services.

24. The UK definition is not the same as that contained in the Code. However, it is to be noted that, in the UK guidance on public practice, it is stated that “If the member is a principal of a company in a group, the situation of the group needs considering. If a substantial part ... of the activities of the group is accountancy services, then members who are principals in the holding company (even if it is not providing accountancy services) or the subsidiaries providing the accountancy services are engaged in public practice. ...”

25. It seems to us appropriate to consider Ms. Annells' position at AzureTrustees in the context of the Azure Tax Group. We consider that AzureTrustees was part of the tax advisory group and that Ms. Annells was the principal, and that clients would be drawn to use the services of AzureTrustees precisely because she was the principal and a professional accountant. In the circumstances, both as a matter of strict definition, and having regard to the purpose of the Code in regulation of professional accountants in different contexts, we consider Ms. Annells to have been a professional accountant in public practice when acting on behalf of AzureTrustees. Accordingly, the Code is applicable.

Applicability of the Trustee Ordinance to AzureTrustees

26. In her responses to the Complainant's Case, Ms. Annells has submitted that the Trustee Ordinance (the "TO"), in particular section 89, does not apply.
27. Section 3 of the TO provides that the TO applies to trusts whenever created, and that the powers conferred by the TO are in addition to those contained in the trust instrument, save where a contrary intention is expressed in the trust instrument.
28. Section 89 of the TO applies to trust companies. A trust company is not defined at section 2 of the TO. However, Part 8 of the TO concerns trust companies and provides for how trust companies are constituted. Pursuant to section 77, applications are made to the Registrar of Companies for registration as a trust company. Hence references to trust companies are to companies registered as trust companies by the Registrar of Companies.
29. It is not disputed that AzureTrustees was at the material times a trust company registered with the Registrar of Companies.
30. Accordingly, the TO including section 89 prima facie applies to AzureTrustees.

Relevance of TDB and High Court decisions

31. On the authority of **GMC v Spackman** [1943] AC 627 at 637-638, it is the duty of the DC to hold due inquiry and judge the merits of the Complaints. The DC cannot rely on the judgment of guilt by another tribunal. However, the decisions of the TDB and the High Court may afford prima facie evidence in support of the Complaints, subject to the DC being obliged to consider whether such evidence is refuted by Ms. Annells in the materials provided to the DC.

The Complaints

32. The 1st Complaint is as follows: "*Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section*

34(1)(a)(vi) of the PAO by breaching the fundamental principles, in that without the authority of her clients, she withdrew and used money from trust funds entrusted to her care for other unauthorized and unrelated uses, contrary to sections 100.5(a) and/or (c) and/or (e), as specified in more detail in sections 110.1, 110.2, 130.1, 130.2, 130.4, 150.1 and 150.2 of the Code and/or was guilty of professional misconduct in breach of section 34(1)(a)(viii) of the PAO and/or dishonourable conduct in breach of section 34(1)(a)(x) of the PAO."

33. Having regard to the facts and circumstances set out in support of the 1st Complaint, we consider the following to be established.

- (a) AzureTrustees was a company controlled by, on behalf of or for the benefit of Ms. Annells. This was found by the TDB Decision (para. 13) and has not been further refuted by Ms. Annells. (We note that further factual details have been asserted by the Complainant in the context of Complaint 2 which have not been disputed by Ms. Annells in either her Executive Summary or her specific response to Complaint 2. Those details are: The Azure Tax Group comprised a Mauritian holding company called AzureTax Group Ltd and its eight Hong Kong subsidiaries, two of which are AzureTrustees and Azure Tax Limited. The shares of AzureTrustees are beneficially owned by AzureTax Group Ltd, which is in turn held by International Proximity Trustees Ltd (Mauritius) on trust for the beneficiaries of the Azure Tax Trust (a Mauritius Resident Trust). The primary beneficiary of the Azure Tax Trust is Ms. Annells' daughter; the secondary beneficiaries are her sister and then Ms. Annells' first cousins. Ms. Annells is a Director of AzureTrustees.)
- (b) Pursuant to a Deed of Settlement (the "**Deed**") dated on or about 18 July 2007, between Ms. Hilary Cordell ("**Ms. Cordell**") (on behalf of the Cordell Family Trust) and AzureTrustees, Ms. Annells was entrusted to hold funds in trust on behalf of the Cordell Family Trust. The beneficiaries under the trust were Ms. Cordell, her children and other members of her family.
- (c) As a director of AzureTrustees and the sole signatory of its HSBC bank account at the relevant time, Ms. Annells was entrusted to hold funds in trust on behalf of the trust.
- (d) The Deed contained express terms, namely:
 - (i) that the Trustees shall hold the Trust Fund on trust and subject to the powers contained in the Deed;
 - (ii) that the Trust Fund consisted of an initial injection of US\$10 from Ms. Cordell to the Trust and, "*any assets hereafter added by way of further settlement (whether by the Settlor or*

by any other person), accumulation of income, capital accretion or otherwise"; and

- (iii) that AzureTrustees' powers and discretion in relation to the payment, use or application of the capital and income of the Trust Fund was to be *'for the benefit of all or any one or more of the Beneficiaries'*.
- (e) On or about 29 July 2011, following a meeting between Ms. Cordell and Ms. Annells (and others), AzureTrustees accepted Ms. Cordell's express instructions to:
- (i) receive HK\$6 million (the sale proceeds of a property) for the benefit of the Trust;
 - (ii) immediately credit Ms. Cordell HK\$1 million (the amount was subsequently changed and HK\$800,000 was properly paid over by AzureTrustees on 10 August 2011); and
 - (iii) hold the balance of HK\$5.2 million (the "**Funds**") on trust in a 7-day fixed deposit bank account. (The DC relies on the documents at A/Tab 29/A49-50, 103-104, 121, 232)
- (f) On or about 4 August 2011, HK\$1.8 million was duly paid over to AzureTrustees, to be dealt with as per Ms. Cordell's instructions of 29 July 2011 and pursuant to the terms of the trust (the "**1st Deposit**").
- (g) On or about various dates after 8 August 2011, Ms. Annells (or someone acting on her behalf) used the 1st Deposit to make payments that were not for the benefit of all or any one of the beneficiaries of the trust. This is established from the trial balances prepared by AzureTrustees (A/Tab 29/A121), the underlying HSBC bank statement dated 24 August 2011 for the AzureTrustees account (A/Tab 29/A282-311), and the Ma witness statement as annotated by Ms. Annells and provided as part of her Case (A/126). (It is noted that Ms. Annells has asserted that the trial balances are unreliable and that the DC should rely on the bank statements. Insofar as the HSBC statement dated 24 August 2011 for AzureTrustees is concerned, it shows deposits and withdrawals between 5 August and 18 August 2011 which are entirely consistent with the trial balance at A121 of Item 29 of Bundle A).
- (h) On or about 15 August 2011, a further HK\$4.2 million was duly paid over to AzureTrustees, to be dealt with as per Ms. Cordell's instructions of 29 July 2011 and pursuant to the terms of the trust (the "**2nd Deposit**").

- (i) Ms. Annells did not comply with Ms. Cordell's instructions to place the funds in a 7-day time deposit account.
- (j) On or about various dates after 18 August 2011, Ms. Annells or someone acting on her behalf used funds from both the 1st and the 2nd Deposit to make payments that were against the express wishes of Ms. Cordell and not for the benefit or purposes of the trust. This is established from the trial balances prepared by AzureTrustees (A/Tab 29/A121), the underlying HSBC bank statement dated 24 August 2011 for the AzureTrustees account (A/Tab 29/A282-311), and the Ma witness statement (A/126).
- (k) On 14 October 2011, Ms. Cordell received information that her funds had not been placed in a 7-day time deposit account but had been misappropriated.
- (l) On 17 and 21 October 2011, Ms. Annells met with Ms. Cordell. These two meetings were tape-recorded and transcripts of the tapes were provided to the Institute by Ms. Cordell. They are at A/Tab 29/Tab 32). Ms. Annells has asserted to the DC that the tapes or transcripts may have been tampered with and that the DC should listen to the tapes and not rely on the transcripts. The tapes have not been provided by Ms. Annells to the DC. Ms. Annells has not in any way given particulars of, let alone established, any inaccuracies in the transcripts. The DC considers the burden would be on Ms. Annells to show the transcripts are not reliable evidence of what was said at the October 2011 meetings, and the DC considers there is nothing before the DC to support such an assertion. Accordingly, the DC proceeds on the basis that the transcripts accurately record the content of the meetings.
- (m) At the 17 October 2011 meeting, Ms. Cordell confronted Ms. Annells with the allegation that her monies had not been placed in a 7-day time deposit account, as instructed but were used for other matters. In response, Ms. Annells explained that the monies were held in a designated HSBC account but that she could not release the monies because Mr. Moore, with whom she was in a dispute, was a co-signatory of the account.
- (n) Later, during the meeting on 21 October 2011, Ms. Annells admitted to Ms. Cordell that the Funds had not been placed in a time deposit account as per Ms. Cordell's instructions and instead were used for other matters. Ms. Cordell pointed out this was in breach of trust, and Ms. Annells said she understood and apologised. Further, Ms. Annells provided details of some of the non-client purposes for which the Funds had been spent, including on business expenses unrelated to the Cordell family such as US legal fees on the Minetaur trust case.

34. In light of the proven facts, it is clear that Ms. Annells is responsible for the unauthorized withdrawal and use of Cordell trust monies which is both professional misconduct and dishonourable conduct in breach of section 34(1)(a) of the PAO. This conduct is also clearly a breach of the principle of integrity (section 110.1 of the Code), a failure to act diligently when providing professional services (insofar as diligence encompasses a responsibility to act in accordance with the requirements of an assignment) in breach of sections 130.1 and 130.4; and a breach of the principle of professional behavior enshrined in section 150.1 of the Code.
35. The 1st Complaint is established.
36. The 2nd Complaint is as follows: *"Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap.50) in that she failed to separate and maintain bank accounts belonging to the Azure Tax Group and its associated companies from client funds held by or on behalf of the Azure Tax Group or any of its associated companies, contrary to sections 100.5(e), 150, and/or 270, and/or 460.1, and/or 460.4, and/or 460.8 and/or 460.12 of the Code."*
37. It is not disputed that Part A of the Code applies to Ms. Annells. Pursuant to sections 100(5)(e) and 150 she was required to comply with relevant law and regulations. Accordingly, Ms. Annells / AzureTrustees were required to comply with the Trustee Ordinance (Cap. 29) section 89 which provides: **"Trust funds to be kept separate. All moneys, property and securities received or held by any trust company in a fiduciary capacity shall always be kept distinct from those of the company and in separate accounts, and so marked in the books of the company for each particular trust as always to be distinguished from any other in the registers and other books of account to be kept by the company, so that at no time shall trust moneys form part of or be mixed with the general assets of the company; and all investments made by the company as trustee shall be so designated that the trusts to which such investments belong can be readily identified at any time."**
38. We have decided that Ms. Annells is a professional accountant in public practice so that section 270 of the Code applies. This section requires that a professional accountant in public practice entrusted with money or other assets belonging to others shall keep such assets separately from firm assets.
39. Section 460 relates to Clients' Monies and states that it should be read in conjunction with section 270. Sections 460.1, 460.4, 460.8, and 460.12 apply to a member in practice or a practice. In the context, these terms must refer to a professional accountant in public practice, and the firm.
40. Ms. Annells, as a director of AzureTrustees, entered into arrangements to

receive and hold client funds, including for the Cordell Family Trust.

41. Accordingly, Ms. Annells on behalf of AzureTrustees was required to keep all moneys, property and securities received or held by it on trust distinct from those of AzureTrustees and in separate accounts, so that at no time would trust moneys form part of or be mixed with the general assets of AzureTrustees.
42. It is clear from the HSBC bank statement dated 24 August 2011 for the AzureTrustees account (A/Tab 29/A282-311), and the Ma witness statement (A/126), that upon the receipt of funds received for the benefit of the Cordell Family Trust, Ms. Annells failed to:
 - (a) keep client money separate from money belonging to the Azure Tax Group; and
 - (b) deposit client monies into a separate bank account.
43. These failures amount to a breach of sections 100(5)(e), 150, 270.2(a), and 460.1 of the Code.
44. We do not consider that compliance with the requirements of section 460.4 is relevant where there has been a breach of section 460.1.
45. In light of the Tracy Ma witness statement, we do not consider that a breach of section 460.8 or section 460.12 is established in terms of internal record-keeping; however, there is a breach of section 460.8 to the extent of there being no separate client account opened to receive the trust monies.
46. Although there has been breach of several different provisions in the Code, the failure to observe and apply a professional standard by Ms. Annells is founded on the factual finding of a failure to segregate client monies from general firm monies. The 2nd Complaint is established.
47. The 3rd Complaint is as follows: *"Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the PAO, in that she conducted her practice improperly to such an extent she knows or should know may discredit the profession or adversely affect the good reputation of the profession, the Institute, its Members, and the accountancy profession contrary to fundamental principle 100.5 (e) as more specifically detailed in section 150 of the Code, and/or was guilty of professional misconduct in breach of section 34(1)(a)(viii) and/or dishonourable conduct in breach of section 34(1)(a)(x) of the PAO."*
48. The Complaint alleges that Ms. Annells conducted her practice improperly in that:
 - (a) she failed in her fiduciary duty to act in the best interests of the Cordell

Family Trust;

- (b) she failed to follow Ms. Hilary Cordell's express instructions to place monies belonging to the Cordell Family Trust in a 7-day deposit account;
 - (c) she failed to return monies entrusted to her by the Cordell Family Trust upon demand;
 - (d) she failed to prevent a false bank statement from being sent to Mr. Alexander de Neree; and
 - (e) she failed to supply a certified or original copy of a material bank statement (HSBC account 112-186200-838) to Mr. Alexander de Neree pursuant to his request.
49. So far as the three grounds concerning the Cordell Family Trust are concerned, these matters have been clearly established in the context of the 1st and 2nd Complaints; and professional misconduct and dishonourable conduct have already been established in the context of those 2 complaints. So far as it is necessary, we agree that the relevant conduct relating to the Cordell Family Trust is such that Ms. Annells knew or should have known may discredit the profession or adversely affect the good reputation of the profession, the Institute, its Members, and the accountancy profession.
50. As to the fourth ground of failing to prevent a false bank statement from being sent to Mr. de Neree, we in fact find (as addressed below) that she caused a false statement to be sent to Mr. de Neree, and that is professional misconduct and dishonourable conduct. That is self-evidently conduct that Ms. Annells knew or should have known may discredit the profession or adversely affect the good reputation of the profession, the Institute, its Members, and the accountancy profession.
51. We do not find the 5th ground to be established as we have not seen evidence of a request by Mr. de Neree for a certified or original copy of his bank statement. It seems unlikely that this ground adds anything to the previous ground in any event.
52. Indeed, Ms. Annells only appears to have opposed the 3rd Complaint on the basis that it adds nothing to the other Complaints. Whether or not the establishment of the 3rd Complaint should impact sanctions is a matter to be considered when submissions as to sanctions are made. The 3rd Complaint is established.
53. The 4th Complaint is as follows: "*Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the PAO by breaching the fundamental principles, in that she sought to deceive a client by relying upon a bank statement that she knew or*

ought to have known was forged, purporting to show funds held in the HSBC account number 112-186200-838 as at 5 July 2011, contrary to sections 100.5(a) and/or (c), as more specifically detailed in 110.1, 110.2, 130, 270.2, and 460.12 of the Code and/or was guilty of professional misconduct in breach of section 34(1)(a)(viii) and/or dishonourable conduct in breach of section 34(1)(a)(x) of the PAO."

54. The facts and circumstances relied upon in support of the 4th Complaint are as follows:
- (a) Mr. Alexander de Neree, a solicitor, acted on behalf of the Delmage Trust (the beneficiary being Mr. Gerrit Van der Wiele). The Delmage Trust deposited monies with the Azure Tax Group.
 - (b) On or about 20 June 2011, Mr. Van der Wiele sent an email to Ms. Annells and other parties stating that there had been an unauthorized transfer of funds in Euros from the account of the Delmage Trust maintained with AzureTrustees.
 - (c) On or about 4 July 2011, Mr. de Neree wrote to Ms. Annells asking her to return the funds.
 - (d) Ms. Annells maintained that an attempt had been made to return €1.110 million the following day, but the transfer did not happen, as an incorrect IBAN number had been used and the wrong amount had been quoted.
 - (e) On 10 August 2011, Mr. de Neree attended Ms. Annells' office demanding an explanation for Azure's failure to comply with the demand and requested proof that payment had in fact been made on 5 July 2011.
 - (f) On 10 August 2011, Ms. Annells emailed an extract of AzureTrustees' HSBC bank statement to Mr. de Neree in order to prove the existence and location of the Delmage Trust funds. The bank statement contained false representations namely:
 - (i) that "we" (i.e. the AzureTrustees bank account) had a credit balance of €1,119,940.59 in the HSBC bank account 112-186200-838 on 5 July 2011;
 - (ii) further, that on or about 5 July 2011, €1,110,000 was debited (under the reference HK108071HN932865); and
 - (iii) the email also stated that the bank statement was difficult to read because: "of a problem with the company's scanning equipment."

- (g) Further, and in particular, the email extract sent to Mr. de Neree was deliberately manipulated with the intention to deceive the recipient into believing that on 5 July 2011 HSBC account number 112-186200-838 held a balance of over €1,100,000.00, when in fact the true balance was less than €1,000. Ms. Annells supplied information and made statements she knew to be false or ought to have known had been falsified:
- (i) on 13 September 2011, Mr. Van der Wiele sent an email to Ms. Annells about the false bank statement; and
 - (ii) on 14 September 2011, Ms. Annells sent an email to, amongst other persons, Mr. Van der Wiele and Mr. de Neree denying the allegations raised in the email.

55. Ms. Annells has accepted the 4th Complaint. Accordingly, it is established.
56. The 5th Complaint is as follows: "*Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap.50), in that as a member of the Hong Kong Institute of Certified Public Accountants, whilst promoting her practice by sending an email dated 22 September 2012 to a prospective client, Mr. Carola van Goozen, she made disparaging references to and in comparison with the services or work of Mr. Graham Moore, in breach of section 450.12(e) of the Code of Ethics for Professional Accountants (February 2012).*"
57. The relevant email dated 22 September 2012 from Ms. Annells to Carola van Goozen, which Ms. Annells accepts was sent by her, (marked A799 in Bundle A Item 29), states as follows:

*"Good morning Carola
Graham Moore no longer works for AzureTax Ltd; we actually found him to be a danger to our business, and his colleagues. His previous employer also said he was a liability. We are surprised you use his services (if you do). He is capable of making lots of simple mistakes, and his only response will be 'I'm sorry' and he'll expect you to tidy up after his mess. He may cost you millions of dollars. You have been warned. If you wish to use a proper professional practice with 20 professional staff, proper offices, backup, and insurance, you are of course welcome to contact us. And we are experts at sorting out mistakes made by Moore! His ex colleagues have got nothing good to say about him. We look forward to hearing from you.
Yours sincerely
Debbie Annells
CTA(fellow)
AzureTax Ltd"*

58. Section 450.12(e) of the Code prohibits the making of disparaging references to or disparaging comparisons with the services of others. Section 450 of the Code is concerned with practice promotion and applies to practising CPAs and members advertising themselves as professional accountants providing professional and other services. It is not disputed that Ms. Annells was a CPA, and marketed herself as a professional accountant and her company/companies as providing professional services including taxation services.
59. Ms. Annells denies this complaint principally on the basis that she was not engaging in practice promotion, and there was no comparison of services rather than a straight warning. However, from the plain words of the email message (i.e. *"If you wish to use a proper professional practice ...you are of course welcome to contact us"*), it is clear from the email that Ms. Annells was offering her company's services to replace those of Mr. Moore, and she described Mr. Moore's work as erroneous in comparison to that of her company which fixed his mistakes, and the comparisons made were disparaging.
60. We have also considered whether there is a breach of section 450.12(e) of the Code if the negative comments made are true.
- (a) Ms. Annells has put forward some information seeking to justify the truth of her comments. The DC is certainly not in a position to determine whether the comments made are true or not.
 - (b) The Collins English Dictionary defines "to disparage" as "to speak contemptuously of; belittle" or "to damage the reputation of".
 - (c) In our opinion, as a matter of literal meaning, it is not relevant whether the disparaging, belittling, reputation-damaging remarks are true or not.
 - (d) In light of section 450.12(e) being concerned with practice promotion, it seems to us that the concern is to ensure that accountants do not engage in the unprofessional behavior of belittling and damaging the reputation of their competitors. It is not concerned with the truth, or defamatory nature, of the remarks.
61. We find the 5th Complaint to be established.
62. The 6th Complaint is as follows: *"Ms. Annells failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap.50) by breaching the fundamental principles in that she failed to transfer client funds pursuant to instructions and applied client funds for unauthorized purposes, contrary to sections 100.5(a), and/or (c) and/or (e), as more specifically detailed in 110.1, 110.2, 130.1, 130.4, 150.1, 270, 460.1, and 460.12 of the Code and/or was guilty of professional misconduct in breach of*

section 34(1)(a)(viii) and/or dishonourable conduct in breach of section 34(1)(a)(x) of the PAO."

63. The facts and circumstances relied on in support of the 6th Complaint are as follows:

(a) Ms. Annells made false or misleading statements to Mr. Edward Nicol and an investment manager, Ms. Samantha Baber-Scovell of Bloomsbury, that she would remit funds of £1,010,000 contributed by Mr. Nicol and his wife to a designated securities account. The background to the said false or misleading statements is as follows.

(i) The Coron Pacific Pension Trust (the "**Coron Trust**") was set up by Coron Pacific Limited, of which AzureTrustees is the Trustee.

(ii) A Trust Deed was made on or about 18 March 2013 between AzureTrustees as Trustee and Coron Pacific Limited as sponsor (the "**Coron Trust Deed**").

(iii) On 19 March 2013, Coron Pacific Limited contributed a total sum of £1,010,000 to the Coron Trust for Mr. Edward Nicol and Ms. Charlene Nicol (the "**Nicols**").

(iv) The Nicols are the Beneficiaries of the Coron Trust and also the directors of Coron Pacific Limited.

(v) Pursuant to section 89 of the Trustee Ordinance (Cap. 29) and the Coron Trust Deed, Ms. Annells on behalf of AzureTrustees is required to keep the contributions to the Coron Trust made by and on behalf of the Nicols in a separate account, and so marked in its books for each particular trust administered by it so as always to be distinguished from any other in its registers and other books of account, and all investments made by AzureTrustees as trustee must be so designated that the trust to which such investments belong can be readily identified at any time.

(vi) AzureTrustees is a company controlled by, or on behalf of, or for the benefit of Ms. Annells.

(vii) Ms. Annells is a director of AzureTrustees and the sole signatory of the bank account at the relevant time. She was entrusted with the duty to take proper care of the property of the Coron Trust.

(viii) By a date no later than 15 April 2013, AzureTrustees agreed to appoint Bloomsbury as the Investment Manager for the

Coron Trust.

- (ix) Following its appointment as the Investment Manager for the Coron Trust, Bloomsbury opened an account with its nominees, Pershing Securities Ltd ("**Pershing**"), with the intention that Nicol's contributions to the Coron Trust would be transferred into the said account for investment.
 - (x) On or about 23 July 2013, Ms. Annells first represented to the Investment Manager of Bloomsbury in an email that the funds would be transferred to the designated account once a legal opinion on the Qualified Non-UK Pension Scheme arrangement had been received.
 - (xi) On 1 August 2013, Ms. Annells represented to the Investment Manager of Bloomsbury in an email that Counsel had signed off the opinion and she would remit the funds the week after.
 - (xii) On 6 August 2013, Ms. Annells emailed Bloomsbury indicating that the funds would be transferred to Pershing the following day.
 - (xiii) On 7 August 2013, Ms. Annells represented to Mr. Nicol by email that the telegraphic transfer forms had been submitted to HSBC on that day in order to effect a transfer from the client account of AzureTrustees to Pershing.
 - (xiv) Ms. Annells was knowingly involved in these documents which contained materially false or misleading statements. Ms. Annells was in breach of sections 100.5(a) and/or 110 of the Code.
- (b) Ms. Annells furnished to Mr. Nicol's solicitors, via AzureTrustees' then solicitors, copies of documents purportedly issued by or submitted to HSBC that were subsequently confirmed by HSBC not to be in their records:
- (i) On 16 August 2013, Ms. Annells confirmed via email to Mr. Nicol that the fund transfers, with specific bank transfer references quoted, had been effected. Ms. Annells also confirmed to Bloomsbury that the funds had left AzureTrustees' client account on 12 August 2013.
 - (ii) On 22, 28 and 29 August 2013, AzureTrustees's then solicitors provided Mr. Nicol's solicitors with
 - (A) two telegraphic fund transfer application forms, each

dated 7 August 2013 apparently showing a transfer of £500,500 to the designated account;

- (B) two copies of cable advices purportedly from HSBC indicating that the funds had been sent to the designated account on 20 August 2013; and
- (C) a letter purportedly signed by Amen Cheung of HSBC to AzureTrustees, stating, inter alia, that HSBC knew that the funds were in the UK Banking system.

(iii) On 4 September 2013, Mr. Nicol's solicitors wrote to HSBC enclosing the documents provided by Ms. Annells via her solicitor, and enquiring if the said documents were genuine. In its reply on 6 September 2013, HSBC confirmed that "we do not have any record of having issued any of the [said] documents".

(c) Mr. Nicol commenced civil proceedings against Ms. Annells on 6 September 2013 seeking repayment of the funds to the Pershing account. Ms. Annells accepted that the funds were not remitted to Pershing but claimed that she had lent the funds to AA Management Pty Ltd. AA Management Pty Ltd required a private loan because it had been unable to obtain a bank loan to fund its property development project in Melbourne. Ms. Annells claimed that, as trustee, she had the absolute power of investment, and so could ignore Mr. Nicol's instructions.

(d) As a trustee and/or having received monies for a specified investment, Ms. Annells was under a fiduciary duty to invest those monies pursuant to her instructions. Ms. Annells' failure to comply with those instructions was a breach of her fiduciary duties. Further or in the alternative, Ms. Annells was in breach of sections 270 and/or 460 of the Code for failing to apply the client monies for the purposes of the client.

(e) Ms. Annells also committed a breach of trust in executing the trustee obligations of AzureTrustees and breached sections 100.5(c), and/or 100.5(e), and/or 130 and/or 150 of the Code.

(f) Ms. Annells has made certain representations in respect of the subject matter of this complaint to the Institute in correspondence.

64. Ms. Annells has accepted the 6th Complaint. The admission of the complaint is accepted. The 6th Complaint is accordingly established.

65. The 7th Complaint is as follows: "*Ms. Annells, failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the PAO by breaching the fundamental principle of integrity in*

that she withdrew monies from Azure Tax Pte Limited and/or Hundred Fortune Asia Limited ("HFAL") and she submitted documents to appoint unauthorized signatories to the bank account of HFAL and/or ACG Global Ltd, contrary to sections 100.5(a), and/or (c) and/or (e) as more specifically detailed in sections 110.1, 110.2, 130.1, 130.4, 150.1, 270, 460.1 and 460.12 of the Code and made statements which are material and which she knew to be false in breach of section 34(1)(a)(iii)(B) of the PAO, and/or was guilty of professional misconduct in breach of section 34(1)(a)(viii) of the PAO and/or dishonourable conduct in breach of section 34(1)(a)(x) of the PAO."

66. This complaint in fact encompasses separate allegations:
- (a) Withdrawal of monies from Azure Tax Pte;
 - (b) Withdrawal of monies from HFAL;
 - (c) Attempt to appoint unauthorized signatories to bank account of HFAL;
 - (d) Attempt to appoint unauthorized signatories to bank account of ACG Global Ltd; and
 - (e) Making statements which were known to be false.
67. The facts and circumstances in respect of withdrawal of monies from Azure Tax Pte Limited, and making false statements in respect of the same, are as follows:
- (a) It is undisputed that Azure Tax Pte Limited was a Singapore company jointly owned by Ms. Annells and Dr. Alan Wilson; they were both directors. Dr. Wilson was Executive Director and CEO; Ms. Annells was a non-Executive Director. Dr. Wilson was responsible for Azure Tax Pte's daily operations. Both Directors were authorised bank signatories.
 - (b) It is undisputed that on or about 6 May 2011, Ms. Annells or someone acting on her behalf withdrew US\$10,000 from the bank account of Azure Tax Pte Ltd and paid this amount into an account operated by or on behalf of Azure Tax Ltd, Hong Kong, a company under Ms. Annells' control.
 - (c) It is undisputed that the transfer was made in the absence of Dr. Wilson's knowledge or consent.
 - (d) By emails dated 6 May 2011, Ms. Annells informed Dr. Wilson that she had authorized the transfer but that it was an error. By email dated 11 May 2011, she told Dr. Wilson that she had on 9 May authorized a transfer of US\$10,000 back to Azure Tax Pte. Dr. Wilson then chased Ms. Annells on this until funds were indeed

received on 1 June 2011. This acceptance that the money ought not to have been taken and would be returned renders irrelevant the question of whether Ms. Annells was generally authorized to make a withdrawal. It is common ground that this particular withdrawal was not proper.

- (e) Ms. Annells blamed HSBC for the delay (eg by email of 17 May 2011). Dr. Wilson took steps to cancel the original transfer of 6 May out of Azure Tax Pte on the basis it was unauthorized, and proceeded to investigate with HSBC what was happening to the funds taken and Ms. Annells' alleged instruction to HSBC of 9 May to refund the monies. However, by email from HSBC to Dr. Wilson dated 1 June 2011, HSBC stated that they had been advised by the beneficiary bank that "beneficiary had refused to refund as funds should be intended for beneficiary". We consider this to be independent evidence that Ms. Annells was telling HSBC not to refund the monies, which is consistent with why there was no return of monies on or shortly after 9 May. Ms. Annells has offered no explanation for this HSBC information. On this basis we believe that Ms. Annells made a false statement to Dr. Wilson as to her attempts to return the funds which she accepted she had not been entitled to take.

68. We note that Ms. Annells accepted in her meeting with Ms. Cordell that in about August 2011, Ms. Annells/the Azure Tax Group was under financial pressure in light of (at least) expenses of US litigation. This is relevant context to the allegedly erroneous bank transfers being made at about that time in favour of Azure Tax Group.

69. We consider that the unauthorized transfer of funds from Azure Tax Pte, and the associated false statements made to Dr. Wilson about repayment, amount to a breach of the fundamental principle of integrity, professional misconduct and dishonourable conduct in breach of sections 34(1)(a)(vi), (viii), and (x). It is not clear to us that there has been a breach of section 34(1)(a)(iii)(B) i.e. the making of a materially false statement in respect of any document, where the relevant falsity is in respect of the making of a bank transfer rather than any particular document.

70. As to the allegations in respect of withdrawal of monies from HFAL, and attempts to appoint unauthorized signatories:

- (a) The Complainant relies on documents at Tabs 62-67 of Bundle A Item 29 (which relate to the complaint lodged by Dr. Wilson with the TDB, and Tabs 68 to 70 of Bundle A Item 29 (which consist of the TDB Charges, Ms. Annells' responses to the same, and the TDB Decision). On the basis that Ms. Annells disputes the factual allegations made, and in particular disputes the adequacy of the underlying evidence to establish the allegations, we do not consider

it appropriate to simply rely on the TDB Decision alone.

- (b) The documents provided at Tabs 62 to 67 are inadequate to establish the facts alleged by the Complainant. For instance:
 - (i) The complaint by Dr. Wilson is supported by a compilation of incomplete emails apparently assembled by Dr. Wilson – but not the original emails themselves.
 - (ii) Also in support is a 1-page extract of a document, undated, indicating a Mr. Gary Maguire to be sole signatory to a bank account, but the extract is unsatisfactory to show the true content and context of the whole document.
 - (iii) Dr. Wilson's actual complaint contains hearsay evidence from Mr. Maguire and Mr. Moore e.g. as to the use of funds taken from HFAL, but no relevant supporting statements from them or Ms. Ma are provided to the DC.
- (c) Ms. Annells' submissions to the TDB admit that two withdrawals were made from HFAL, which was beneficially owned by Gary Maguire. However, she asserted this was effected by Mr. Moore or Ms. Ma using pre-signed blank bank transfer forms, and the withdrawals were banking errors; and that the amounts were credited back to the HFAL bank account on discovery of the errors. It is undisputed that the monies were returned on 22 July 2011.
- (d) Ms. Annells' submissions to the TDB accept that Aqua Blue Ltd was added as a signatory to HFAL's bank account, and asserts that this was done following compliance advice given to Dr. Wilson, in the belief that the same was authorized, in the belief that Dr. Wilson had informed Mr. Maguire of the same. These submissions are supported by (at least) a HFAL written resolution dated 31 January 2011, and a signed witness statement of Connie Lee dated 26 August 2013.
- (e) Ms. Annells' submissions to the TDB accept that Aqua Blue Ltd was added as a signatory to ACG Global Ltd's bank account, and (as with HFAL) asserts that this was done following compliance advice given to Dr. Wilson, in the belief that the same was authorized, in the belief that Dr. Wilson had informed Mr. Littlewood (the beneficial owner) of the same. These submissions are supported by (at least) a ACG Global Ltd written resolution dated 24 June 2011, and a signed witness statement of Connie Lee dated 26 August 2013.
- (f) In sum, we do not consider that on the state of the evidence, and in light of substantiated objections by Ms. Annells, that it is possible for us to rely on the TDB findings and/or to independently decide on paper that the Complainant has made out these three allegations.

71. The 7th Complaint is established by establishing the facts at paragraphs 49 to 53 of the Complaint. However, the facts alleged at paragraphs 54 are not established.
72. The 8th Complaint is as follows: *"Ms. Annells was guilty of dishonourable conduct in breach of section 34(1)(x) of the PAO in that she conducted her practice dishonestly and/or improperly to such an extent as to bring or likely to bring discredit upon herself, to the Institute, or the accountancy profession and/or was guilty of professional misconduct in breach of section 34(1)(a)(viii)"*
73. By the Complainant's Reply paragraph 7, the Complainant stated it would not pursue the entirety of the matters relied on under Complaint 8. By letter dated 15 December 2017, the Complainant clarified that it would not rely on sub-paragraphs 56(d) and 56(h) of the Complaint, and that under sub-paragraph 56(b) it relied on theft of US\$688,018.22 rather than US\$2,193,977.49.
74. Accordingly, the facts alleged by the Complainant against Ms. Annells as supporting the 8th Complaint are as follows: Ms. Annells conducted her practice dishonestly and/or improperly in that:
- (a) She failed in her fiduciary duty to act in the best interests of Ms. Helen Suzanne Gujadhur ("**Ms. Gujadhur**").
 - (b) On divers dates between 10 June 2009 and 11 October 2011, she stole a total sum of US\$688,018.22 owed by HSBC to Azure Worldwide Ltd.
 - (c) She failed to return monies entrusted to her by Ms. Gujadhur, the donor of Dunluce Trust, upon demand.
 - (d) She failed in her fiduciary duty to act in the best interests of Mr. Anthony Simon Parker.
 - (e) On divers dates between 30 November 2009 and 4 October 2011, Ms. Annells dishonestly stole a total sum of US\$379,959.29 owed by HSBC to Silverock Group Limited.
 - (f) Between 31 March 2010 and 30 September 2011, Ms. Annells falsely represented in the Unaudited Financial Statements for the year ended 31 March 2010 and 31 March 2011 for the Silverock Trust that the amounts of cash at bank as at 31 March 2010 and 31 March 2011 were accurate, with intent to defraud, induced Mr. Parker (the Settlor of the Trust) to believe that the sums had been accurately recorded in the Reports and not to take prompt action against Ms. Annells or Azure Trustees for the recovery of the said sum, which resulted in

benefit to Ms. Annells or Azure Trustees or in prejudice or a substantial risk of prejudice to Mr. Parker.

75. In Ms. Annells' Case: Executive Summary, she stated that she partly denied and partly accepted Complaint 8. The DC directed Ms. Annells on 8 December 2017 to clarify which parts of Complaint 8 were accepted and denied by reference to paras. 55-56 of the Complaint. By letters dated 18 December 2017 and 2 January 2018, Ms. Annells referred to her case on Complaint 8 at Tabs 43 and 7 of the Bundle stating that should make clear which parts were accepted and denied. Unfortunately, neither those submissions nor Ms. Annells' Case: Executive Summary at Tab 9 of the Bundle, specify which particular factual allegations of Complaint 8 is denied or accepted. The letter of 18 December 2017, however, indicates that Ms. Annells fully accepted the guilty plea on the Nicol charges and the fraud element of that, but that she does not accept any guilt on the Cordell, Guyardhur/Jagamath or Parker matters, and she asserts that the guilty plea in respect of those latter charges was strategic. Ms. Annells erroneously attempts to assert that a plea bargain differs from a guilty plea.
76. To establish the 8th Complaint, the Complainant effectively relies on the High Court conviction of 11 July 2016 based on Ms. Annells' guilty pleas to 47 offences. The Complaint itself does not refer to the conviction (which postdated the Complaint, which was not amended). The DC has been provided with the Reasons for Sentence which sets out the agreed facts and refers to the counts. The DC also has the criminal charge sheets. However, the DC does not have any of the underlying evidence in support of the charges. Indeed the Complainant does not have it (or at least did not have it at the time of filing his Case). The DC is asked to rely solely on the guilty pleas and conviction. Yet, the Complaint is made on the basis that the DC must find the facts to be true, so as to establish dishonourable conduct and/or dishonest or improper conduct. The Complaint is not made on the basis of a conviction for dishonesty or otherwise under any of section 34(1)(a)(i) to (ii) of the PAO. The conviction and reasons for sentence are, however, evidence in so far as the criminal charges correspond to the facts supporting Complaint 8.
77. Ms. Annells' comments on the Reasons for Sentence (Appendix 3 to her Reply) also indicate that she pleaded guilty to the relevant charges on strategic and costs grounds by virtue of late legal aid and problems getting factual and expert witnesses.
78. The information before the DC only enables the DC to find that there were convictions based on guilty pleas, but not to assess the truth of the facts alleged at paragraph 56 of the Complaint by reference to underlying evidence. However, the facts to which Ms. Annells agreed when making her guilty pleas are set out in the Reasons for Sentence from paragraph 14 to paragraph 55 (the "**Agreed Facts**"). We have not seen any separate summary of facts document, and rely on the judgment as accurately setting

out the facts which would have been put to Ms. Annells and agreed by her before her guilty pleas would be accepted.

79. Although Ms. Annells accepts her guilt for the Nicol charges, the Nicol charges do not form any part of the 8th Complaint.
80. As to the Gujadhur element of the complaint, despite discrepancies in dates and amounts, it is clear from the Agreed Facts at paragraphs 18-19, 23-28 that Ms. Annells admitted to stealing substantial funds from the trust set up by Ms. Gujadhur and using such stolen funds for her own use. Counts 2, 5, 7 and 8, to which Ms. Annells pleaded guilty, alleged theft totaling US\$1,505,959, the loss stated by Zervos J., but not the same amount detailed in the Complaint as recently clarified. However, the admission of Ms. Annells to the 4 counts is sufficient to establish a failure to return trust monies on demand, a breach of her fiduciary duty to act in Ms. Gujadhur's trust's best interests, which is improper conduct, and the admission of theft is an admission of dishonesty.
81. As to the Parker element of the complaint:
 - (a) Ms. Annells admitted counts 10 to 18 which were all counts of theft for stealing debts owed by HSBC to Silverrock Group Limited (the trust set up for Mr. Parker). The relevant debts set out in those charges totaled US\$331,125 and GBP 48,834.29. The complaint appears to have mistakenly treated the GBP sum as a US\$ sum – in fact the amounts stolen exceeded the amount stated in the complaint. In any event, Ms. Annells on her own admission stole approx. US\$400,000 from Mr. Parker's trust. That is a breach of fiduciary duty to act in the best interests of the trust, and thereby improper conduct, and is also dishonest conduct.
 - (b) However, the criminal charges admitted by Ms. Annells were all counts of theft. She did not admit any charge of false representation as alleged at paragraph 56(g) of the original Complaint (and set out at paragraph 75(f) above). Accordingly that part of the complaint is not established.
82. In the circumstances, the 8th Complaint is established upon the facts established at paragraph 56 (a)-(c), subject to a different amount at (b), and (e)-(f).

Conclusion

83. The 1st to 6th Complaints are established. The 7th and 8th Complaints are established in part. It is noted that the 4th and 6th Complaints were admitted.
 - (a) The Complainant is directed to make written submissions on sanctions and costs within 14 days. Those submissions should particularly

address the impact of the decision not to amend the Complaints to rely on the criminal convictions, where it appears to the DC that much time and effort could have been avoided. The submissions should also take account of the less than satisfactory compilation of the bundles for the DC.

- (b) Ms. Annells is to make her submissions on sanctions and costs in reply within 21 days thereafter.

Ms. ISMAIL, Roxanne, SC
Chairman

Mr. TSANG, Man Hing, Johnson
Member

Mr. DONOWHO, Simon Christopher
Member

Mr. YOUNG, Ngai Man, Simon
Member

Mr. BEST, Roger Thomas
Member