

IN THE MATTER OF :

**EXECUTIVE COUNSEL TO THE ACCOUNTANCY AND
ACTUARIAL DISCIPLINE BOARD**

AND

TIMOTHY JAMES HUNT

1. This is the Report of the Tribunal made in accordance with Regulation 37(a) of the Accountancy Regulations. The Report records the unanimous agreement of the Tribunal on its conclusions, findings and orders arrived at on 14th May 2012 after a hearing. Our original Report was signed on 16th May 2012. Following agreement between the parties, minor changes have been made to some factual details in Paragraph 7 of this Report and it has been resigned once those details have been incorporated by agreement.
2. The Tribunal has to consider an agreement between the parties recording in writing the agreed material facts and setting out the sanction agreed (provisionally, and subject to the discretion of the Tribunal). If the Tribunal does not accept the recommended sanction, the agreement is at an end and the case will proceed as a contested one. The analogy is the Carecraft procedure adopted in cases involving directors' disqualification. The advantages of the

procedure are obvious, but the independent consideration by a Tribunal is essential.

3. Mr. Hunt is a member of the Institute of Chartered Accountants in England and Wales (ICAEW). He qualified in 1992. On 10th January 2007, he took up the role of Executive Finance Director of the Worthington Nicholls Group (WNG). WNG had been admitted to AIM in June 2006. It was engaged in the business of managing the design and on-site installation of air conditioning units. It had raised £20m before expenses through the initial share placement. A further placing in November 2006 raised £6m before expenses. At its peak (on 16th April 2007) the market capitalisation of WNG was £146,357,167 and the share price 199p.
4. In the 6 months from 1st October 2006 to 31st March 2007 WNG's financial performance was substantially below what had been forecast and budgeted. Cashflow problems were particularly acute, with the group losing an average of £156,000 a week in cash during the period. Towards the beginning of April 2007 Mr Hunt became aware of a proposed share placing to raise £20m of funds; this took place in May 2007.
5. The interim results for the 6 months ended 31st March 2007 (announced on 29th June 2007) reported an operating loss of £174,000. The share price fell by 24% straight away. A trading update in August 2007 stated that turnover and profit for the year ended 30th September 2007 would be materially below market expectations. Mr. Hunt resigned as Finance Director on 19th September 2007.

6. Between September and December 2007 there was a review of accounting policies, an appointment of a new Board of directors, and Deloitte LLP were appointed as auditors. By 31st December 2007, WNG's share price was 14p, and the market capitalisation was £12,628,556.
7. Financial accounts for the year ended 30th September 2007 showed an operating loss of £42 m. This included write downs and provisions totalling £13.67m, being a prior year adjustment for the period ended 30th September 2006 in the sum of £5.37m and the balance of £8.3m related to the 2007 year.
8. The new Chief Executive's review of the year to 30th September 2007 was highly critical. It stated there had been a "a complete failure of corporate governance at all levels during 2006 and 2007", and the Board was unable to reconcile trading announcements with the true financial position.
9. It is unsurprising in those circumstances that an investigation was carried out by Executive Counsel to the AADB. Investigations having been carried out, a Formal Complaint under Paragraph 6(9) of the Accountancy Scheme was raised against Mr. Hunt. This was subsequently amended, and on 14th May 2012 the Tribunal gave permission to amend the Formal Complaint in the form tabled by the parties. The complaint relates to Mr. Hunt's role as finance director of WNG, and his involvement in the preparation and approval of financial statements and release of financial

announcements of WNG during the period of his appointment as Executive Finance Director .

10. It is asserted that in four areas, Mr. Hunt fell short of the standard reasonably to be expected of him as a professional accountant. We shall shortly describe those four areas. Mr. Hunt has admitted the Formal Complaint (in its amended form) and it is appended as Annexe A to this Report. He further admits all of the facts and matters set out in the Statement of Agreed facts in the form appended to this Report as Annexe B.

11. The agreement entered into between the parties records those admissions and recommends that the following order be made:

- 1) That Mr. Hunt be excluded from the ICAEW for a recommended minimum period of six years;
- 2) That the exclusion shall have immediate effect;
- 3) That an application for re-admission after the specified period will not necessarily be approved and will be considered by the Re-admissions Subcommittee of the ICAEW on its merits;
- 4) That Mr. Hunt pay a sum of £50,000 towards the costs of, and incidental to, the investigation relating to the Formal Complaint; and
- 5) That Mr. Hunt pay the sum referred to in paragraph 4) in equal monthly instalments over 24 months starting on 1st June 2012.

12. We therefore have to consider the agreed facts, the admissions made and the proposed sanctions. We have been assisted by the submissions made to us by both parties which we have fully taken into account in our deliberations.

13. The four areas of admitted misconduct can be summarised as follows. First, Mr. Hunt associated himself with an RNS announcement on 17th April 2007 stating “current trading is strong”. He knew this to be misleading. Secondly, he associated himself with the release of a Share Placement Letter in a Shareholder Circular dated 1st May knowing it contained misleading information, that is “that current trading is strong” and that there was “a strong trading momentum in the Group’s current business”. Thirdly, at an EGM and Board meeting on 24th May 2007, Mr. Hunt did not disclose his belief that those statements were materially false and misleading. The context of each of those three areas of misconduct was the additional share placing which was to raise some £20m. Finally, the Interim Financial Statements for the period ending 31st March 2007 prepared by Mr. Hunt were materially false and misleading to the extent of £770,000 of turnover for which he had no evidence.

14. All of these matters are admitted, and in respect of each and all of them Mr. Hunt accepts that he was not straight forward and honest.

15. Further details in respect of each of these failures are set out in the Formal Complaint and Statement of Agreed Facts, appended to this Report, which we have considered in full.

16. We bear in mind that the primary purpose of imposing a sanction in this type of case is the protection of the public interest. It is essential to maintain and to promote public and market confidence in the accountancy profession and in the quality and reliability of corporate reporting. It is also vital to declare and uphold proper standards of conduct among members.

17. We have considered the culpability of Mr. Hunt, which we assess as substantial. The harm to which his actions contributed (both in the context of the share placing and otherwise) was plainly significant.

18. In our judgment, the aggravating features of Mr. Hunt's misconduct are as follows:

- 1) He acted in a manner that was not straight forward and was not honest;
- 2) The conduct was repetitive;
- 3) He had responsibility for financial reporting;
- 4) He could have avoided his misconduct by talking to the NOMAD, or sought advice from Board members or he could have resigned, giving his reasons;
- 5) The Board, the market and investors relied upon the supposed honest, fair and accurate financial and other statements made by WNG.

19. The mitigating features are in our view as follows:

- 1) Mr. Hunt has fully admitted his wrong-doing and has accepted responsibility for his acts;
- 2) He had no direct financial interest in the share price action;
- 3) He took over a shambles in terms of accounting function at WNG. That function was very poor when he took up his position and he took steps to improve it.
- 4) The actions in question took place over a relatively short period, 17th April 2007 to 29th June 2007.
- 5) We proceed upon the basis that he did not initiate the misleading statements;
- 6) The events in question took place some five years ago and these proceedings have been hanging over him for some considerable time.

20. We asked for assistance in understanding the basis of the proposed sanction. It was explained to us by Mr. Kinnear QC that an initial period of disqualification of eight years, considered appropriate by Executive Counsel after taking advice, was reduced by twelve months to reflect the personal mitigation of Mr. Hunt. It was then reduced by a further twelve month period to reflect the admission of the four complaints, a discount of some 15%.

21. The contribution to the AADB's costs of £50,000 represented a satisfactory outcome to Executive Counsel after considering costs incurred and after considering representations from Mr. Hunt.

22. After careful consideration of the submissions made to us by Mr. Kinnear QC on behalf of Executive Counsel, and by Mr. Fulda on behalf of Mr. Hunt, and having considered all of the materials put

before us, we are unanimously satisfied that the sanctions provisionally agreed between the parties and recommended by them to us are appropriate in this case, and accordingly we make an order as follows:

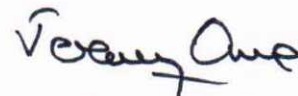
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- 5) That Mr. Hunt pay the sum referred to in paragraph 4) in equal monthly instalments over 24 months starting on 1st June 2012.

23. We commend the parties for their resolution of these proceedings, now endorsed by this Tribunal. The order made on 28th March 2012 giving directions for a full hearing is rescinded.

Dated 14th August 2012



Richard Jones QC



Jeremy Orme FCA

Ian Abrams

Ian Abrams