

**Financial Reporting Council**

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

and

**John Whelan**

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**Settlement Agreement**

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1. This Settlement Agreement ("**Agreement**") is made on the 9<sup>th</sup> day of December 2015 between Gareth Rees QC as the Executive Counsel of the Financial Reporting Council ("FRC"), of 8<sup>th</sup> Floor, 125 London Wall, London, EC2Y 5AS ("**the Executive Counsel**") of the first part, and John Whelan of the second part. The Executive Counsel and Mr Whelan together are described as "**the Parties**".
2. The Agreement is evidenced by signatures of the Executive Counsel on his own behalf and by Mr Whelan on his own behalf.
3. The Formal Complaint alleging Misconduct against Mr Whelan as a member of the Institute of Chartered Accountants in England and Wales ("**ICAEW**"), was issued by the Executive Counsel under paragraph 7(11) of the FRC Accountancy Scheme ("**The Scheme**") on 21 May 2015. Subsequently, Executive Counsel applied to the Disciplinary Tribunal ("**the Tribunal**") to amend the Formal Complaint. The amended Formal Complaint (annexed to this Settlement Agreement) has been approved by the Tribunal. The amended Formal Complaint concerns the conduct of Mr Whelan as European Financial Director and latterly Group Finance Director of iSoft Group plc ("**iSoft**"), in relation to the inappropriate recognition of revenue and cash from an unsigned contract with the Irish South Eastern Health Board ("**the Irish Contract**") in iSoft's interim accounts at 31 October 2003 and 31 October 2004 and its Year End Financial Statements at 30 April 2004.
4. Mr Whelan admits allegations 1 to 5 in the amended Formal Complaint.
5. The Parties recognise that the determination to be made in this case is a matter for the Tribunal, in accordance with paragraph 8(5) of the Scheme. The parties have agreed the following terms of settlement:
  - a) Exclusion from the ICAEW for a recommended period of 8 years.
  - b) No order as to costs.
6. In reaching this agreement, the Executive Counsel considered the following stages and took account of the following factors in accordance with the FRC's Sanctions Guidance:

### **Nature and Seriousness of the Misconduct**

- a) The Misconduct was significant, given the value and importance of the Irish Contract;
- b) The Misconduct was reckless and involved a failure to act with integrity;
- c) The Misconduct involved a failure to comply with professional standards;
- d) iSoft was a FTSE 250 listed company;
- e) The Misconduct adversely affected, or potentially adversely affected, a significant number of people in the United Kingdom (including creditors, shareholders and potential investors);
- f) The Misconduct could undermine confidence in the standards of conduct in general of Members and/or in financial reporting and/or corporate governance in the United Kingdom and/or in the profession generally;
- g) Mr Whelan held a senior position and supervisory responsibilities at iSoft;
- h) The Misconduct was not dishonest.

### **Identification of Sanction**

- 7. Having assessed the seriousness of the Misconduct, the Executive Counsel determined that Exclusion for a recommended period of 10 years is an appropriate sanction. Executive Counsel has then taken into account any aggravating and mitigating factors that exist (to the extent that they have not already been taken into account in relation to the seriousness of the Misconduct). Having considered the additional mitigating factors set out below, Executive Counsel has determined that an adjustment to sanction is appropriate by reducing the recommended period of exclusion to 8 years.

### **Aggravating Factors**

- 8. The Misconduct was repeated and/or occurred over an extended period (three half-yearly accounting periods).

### **Mitigating Factors**

- 9. i) The Misconduct took place over 10 years ago and is unlikely to be repeated.  
ii) The effect of Mr Whelan's involvement with iSoft has been, professionally and personally, significantly adverse.

iii) Mr Whelan cooperated during the Executive Counsel's investigation.

iv) Mr Whelan has a good compliance history and disciplinary record.

**Deterrence**

10. No adjustment for deterrence is required in this case.

**Other considerations**

11. The Executive Counsel has taken into account Mr Whelan's financial resources.

12. If the Tribunal's decision is to approve the Agreement, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is given to Mr Whelan in accordance with paragraph 8(5) of the Scheme.

13. The Agreement and annex will remain confidential until publication in accordance with paragraph 8(6) of the Scheme.



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**Gareth Rees QC**  
**Executive Counsel**

9.12.15

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**Date**



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**John Whelan**

9/12/15

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**Date**