THE FACTS SET OUT IN THIS DOCUMENT HAVE BEEN AGREED BETWEEN EXECUTIVE COUNSEL AND THE RESPONDENT. NO FINDINGS HAVE BEEN MADE, NOR SHOULD BE TAKEN TO HAVE BEEN MADE, AGAINST ANY OTHER PERSONS.

IN THE MATTER OF:

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

- and -

KEVIN SILVERWOOD

PARTICULARS OF FACT AND ACTS OF MISCONDUCT

INTRODUCTION

1. The Financial Reporting Council (the "**FRC**") is the independent disciplinary body for the accountancy and actuarial professions in the UK. The FRC's rules and procedures relating to accountants are set out in the Accountancy Scheme of 8 December 2014 (the "**Scheme**").

2. This is the Executive Counsel's Particulars of Fact and Acts of Misconduct (the "**Particulars**") in relation to the preparation and approval of the financial statements of Tech Data Limited ("**Tech Data**")[1] for the financial years ended 31 January 2012 ("**FY12**") and 31 January 2013 ("**FY13**").

Mr Silverwood

3. The Respondent to the Particulars is Mr Kevin Silverwood ("**Mr Silverwood**"), the former Financial Management Controller of Tech Data and a member of the ICAEW[2]. By virtue of his membership of ICAEW, Mr Silverwood is also a Member for the purpose of the Scheme.

4. Mr Silverwood was the Financial Management Controller of Tech Data from approximately August 2011 until he resigned from Tech Data on 6 February 2013.

[1] Until 4 October 2013, Tech Data was named Computer 2000 Distribution Limited. References to Tech Data also include any predecessor company.

[2] References to "Member" in this document correspond to the definition as set out in paragraph 2(1) of the Scheme. References to "member" denote an individual's membership of the Institute of Chartered Accountants in England and Wales ("**ICAEW**").

Prior to his appointment as Financial Management Controller, Mr Silverwood had a number of other roles within Tech Data from 2009. Mr Silverwood was admitted to membership of the ICAEW in 2003. Mr Silverwood's role as Financial Management Controller would have included primary responsibility for the preparation of Tech Data financial statements, and the interim financial information provided to the parent company. The finance department included other experienced professional accountants, including Mr James, the Finance Director who Mr Silverwood reported to and who was ultimately responsible for the preparation and approval of the financial statements, along with the other directors of Tech Data. Mr Silverwood was subject to persistent and severe pressure in his role as Financial Management Controller. Mr Silverwood resigned from Tech Data on 6 February 2013, before the financial statements for FY13 were finalised, and left Tech Data on 6 March 2013.

THE RELEVANT STANDARDS & NATURE OF MISCONDUCT

The relevant standards of conduct

5. The standards of conduct reasonably to be expected of Members included those set out in the Fundamental Principles and Statements contained in the Code of Ethics (the "**Code**"), as applicable at the material time, issued by the relevant professional body, namely by the ICAEW. The Fundamental Principles and Statements contained in the Code are made in the public interest and they are designed to maintain a high standard of efficiency and professional conduct by all members of the ICAEW.

6. Executive Counsel will refer to and rely upon those Fundamental Principles and Statements, as well as the Statement of Principles, as extracted and annexed to the Particulars at Annex A.

7. In particular, at all material times, the Fundamental Principles in the Code required Mr Silverwood to act with '*integrity*', which required him to be straightforward and honest in all professional and business relationships and to:

   "*not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:*
   (a) Contains a materially false or misleading statement;

(b) Contains statements or information furnished recklessly; or

(c) Omits or obscures information required to be included where such omission or obscurity would be misleading."

8. The Fundamental Principles and the accompanying Conceptual Frameworks contained in Part A of the Code are supplemented by Part B of the Code in relation to professional accountants in public practice and Part C of the Code in relation to professional accountants in business.

9. Paragraph 320.1 of Part C of the Code requires that:

"A professional accountant in business shall prepare or present [financial or management] *information fairly, honestly and in accordance with relevant professional standards so that the information will be understood in its context."*

10. The standards of conduct reasonably to be expected of professional accountants also include the Statement of Principles (the "**Statement of Principles**" and "**SoPs**") issued by the Accounting Standards Board, which sets out the principles which should underlie the preparation and presentation of general purpose financial statements.

11. The Statement of Principles sets out, inter alia, *"*[i]*nformation provided by financial statements needs to be reliable"* (SoPs 3.7 and 3.8) and *"*[f]*inancial statements need to reflect, in an appropriate manner and as far as is practicable, the effects of transactions and other events on the reporting entity's financial performance and financial position."*

The relevant accounting standards

12. For FY12 and FY13, Tech Data prepared its financial statements under UK Generally Accepted Accounting Practice ("**GAAP**"). GAAP refers to the standard framework for financial accounting used in any given jurisdiction. UK GAAP comprises applicable UK law and UK Accounting Standards as issued by the FRC. Tech Data's interim financial information, compiled for its parent company, was prepared under US GAAP.

The Respondent's Misconduct

13. Paragraph 2(1) of the Scheme defines "Misconduct" as:

"an act or omission or series of acts or omissions, by a Member or Member Firm in the course of his or its professional activities (including as a partner, member, director, consultant, agent, or employee in or of any organisation or as an individual) or otherwise, which falls significantly short of the standards reasonably to be expected of a Member or Member Firm or has brought, or is likely to bring, discredit to the Member or the Member Firm or to the accountancy profession."

14. As set out more particularly below, the admitted Acts of Misconduct related to Mr Silverwood's conduct, in that it fell significantly short of the standards reasonably to be expected of a Member. Mr Silverwood did not act in a straightforward or honest manner and/or prepared, or allowed to be prepared, financial information for the purpose of the financial statements for Tech Data that he knew to be false and/or misleading, or was reckless as to whether it was, in relation to:

(i) the use of a balance sheet general ledger ("**GL**") account bearing the name "*Other liabilities/Supplier rebates*" (account 35075000) (the "**Other Liabilities Account**"); and

(ii) the use of a balance sheet GL account (account 29138000) (the **"DSA Account**").

BACKGROUND

The Tech Data Group

15. Tech Data is a wholly owned subsidiary of Tech Data Corporation ("**Tech Data Corp**"), which is one of the world's largest wholesale distributors of technology products and services. Tech Data Corp is headquartered in Clearwater, Florida, USA. It was ranked 108 in the 2016 Fortune 500 listing of US companies and 409 in the Fortune Global 500 and its group employs approximately 9,000 people. For the year ended 31 January 2016, Tech Data Corp had:

    a. total net sales of US$26.4bn;

    b. net income of US$266m; and

    c. total assets of US$6,358m.

16. Within the wider Tech Data group, Tech Data carries on business as a trade-only distributor to the computer and mobile communications industry operating through a number of product divisions. Customers are exclusively dealers and value added resellers in the UK and Ireland.

Restatement of Financial Statements

17. On 21 March 2013, Tech Data Corp announced that it would be restating some or all of its quarterly and audited financial statements for FY11 and FY12 and some or all of the quarters of FY13. Tech Data Corp stated that it anticipated that the restatement would be made to correct improprieties primarily related to how Tech Data reflected vendor accounting.

18. On 5 February 2014, Tech Data Corp reported a restatement in its FY13 group financial report. The restatements resulted in a cumulative reduction in consolidated net income of US$61 million for FY09 to FY13 inclusive.

19. At the same time as the restatements were published, a press release was issued by Tech Data Corp confirming that an independent investigation had identified the following weaknesses in internal control over financial reporting:

a. inadequate control environment in the primary operating subsidiary in the UK (i.e. Tech Data) and two other European subsidiaries;

b. inadequate controls over manual journal entries in Europe and in two Latin American countries;

c. inadequate account reconciliation procedures in Europe over certain aspects of vendor accounting; and

d. inadequate anti-fraud programme controls and monitoring.

20. The restatements included adjustments relating to the inadequate control environment set out at paragraph 19a. above which were necessary primarily to correct errors arising as a result of the following:

a. improper accounting for transactions with the Company's product suppliers, including the recognition of vendor incentives, product discounts/price variances, promotions and other vendor credits. These errors primarily affected inventory, accounts payable and cost of goods sold;

b. improper manual journal entries and the override of key balance sheet reconciliation controls by local management. These errors affected multiple accounts within the Company's balance sheet and income statement;

c. improper recognition of net foreign currency exchange losses, which resulted in an overstatement of cost of goods sold during the three fiscal years ended January 31, 2013. Multiple accounts on the balance sheet were affected during this period;

d. improper accounting for accounts receivable, including improper cash application and recording of value added taxes. These errors primarily affected accounts receivable, accrued expenses and net sales;

e. improper cut-off of certain inventory transactions at period end, which resulted in a net understatement of inventory and understatement of accounts payable or cost of goods sold;

f. improper cut-off of certain cash receipts at period end, which resulted in an overstatement of cash and understatement of accounts receivable.

21. On 30 June 2014, Tech Data signed its financial statements in the UK for FY13 containing significant restatements to the financial statements for FY12. The directors' report in the financial statements for FY13 stated:

"*The preparation of this report and financial statements was delayed pending the completion of an internal investigation of the Company's accounting practices. This investigation was initiated after significant accounting irregularities were identified in March 2013. The Company has engaged substantial internal and external resources to perform supplemental procedures to assist in reviewing its financial statements and accounting practices.*

The Company has restated its financial statements to correct improper accounting. There were a number of instances where there was improper timing of recognition in the profit and loss account of certain vendor incentives, product discounts, price variances, promotions and other vendor credits. There were also errors related to accounting for accounts receivable, manual journal entries, cash cut-off, certain inventory transactions, improper recognition of foreign exchange gains and losses and certain other errors."

22. In respect of Tech Data, the restatement resulted in:

a. a decrease of £8,701,000 in the profit before tax (and £5,931,000 in the profit after tax) for FY12;

b. a reduction in net assets of £21,961,000, meaning that £16,030,000 of the cumulative net asset restatement related to accounting periods prior to FY12.

23. The main captions before and after the restatement were as follows:

Profit and loss account	FY12 before restatement	Restatement	FY12 after restatement
Sales	1,431	(3)	1,428
Cost of sales	(1,352)	(2)	(1,354)
Gross profit	79	(5)	74
Operating costs	65	(4)	(69)
Tax and interest	(5)	3	(2)
Retained profit	9	(6)	3

Balance sheet	FY12 before restatement	Restatement	FY12 after restatement
Intangible assets	7	-	7
Tangible assets and investments	2	-	2
Stock	72	(8)	64
Debtors	191	(5)	186
Cash	66	(8)	58
Creditors and provisions	(252)	(1)	(253)
Share capital and share premium	(10)	-	(10)
Profit and loss account	(76)	22	(54)

24. Note 23 to Tech Data's FY13 financial statements included the following narrative explanations to support the main adjustments summarised in the table in paragraph 23 above:

a. Turnover adjustments primarily reflected the impact of appropriately presenting sales of vendor warranty services on an agency basis.

b. Cost of sales adjustments primarily reflected the impact of correcting vendor accounting errors such as the incorrect recording of rebates, discounts, price variances and other credits, and the presentation of sales of vendor warranty services on an agency basis.

c. Operating costs adjustments consisted of various errors including the incorrect recording of bad debts and payroll costs.

d. Stock included adjustments to amend the value for estimated sales returns, correct the impact of various cut-off errors, correct goods in transit accounting and various other errors.

e. Debtors had been adjusted primarily to reduce the balance for cash at bank cut-off errors and to adjust for irrecoverable balances.

f. Cash at bank and in hand included adjustments to reduce cash to correct bank reconciliation cut-off errors that incorrectly recognised cash in transit from customers.

25. Tech Data’s auditors in respect of both FY12 and FY13 were Ernst & Young LLP (“**EY**”).

THE ADMITTED ACTS OF MISCONDUCT

ACTS 1 – 4: USE OF THE OTHER LIABILITIES ACCOUNT

26. The Other Liabilities Account was a GL account which was designed to be used to record liabilities. It formed part of the caption *"accounts payable*" in Tech Data's financial statements which, in turn, was a component of *"current liabilities*". During FY13, a number of inappropriate entries were included in the Other Liabilities Account. These entries were as follows:

    a. the transfer of an irrecoverable debt of £900,528.97 due from a supplier named Philips (the "**Philips debt**") (see Act 1 below);

    b. the transfer of a credit of £535,495 that arose from purchase discounts but which was accounted for separately from inventory (the "**ZBUP Credit**") (see Act 2 below);

    c. the transfer of a credit of £861,568.19 relating to VAT liability on a construction project in respect of Tech Data's distribution centre in the Midlands known as Magna Park (see Act 3 below).

27. Further, Mr Silverwood was knowingly associated with a falsified breakdown of the balance on the Other Liabilities Account which was then sent to Tech Data's auditors, EY (see Act 4 below).

<u>ACT 1</u>

In relation to the preparation of Tech Data's financial statements for FY13, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he procured the transfer of the Philips debt to the Other Liabilities Account with the intention of obscuring the existence of losses and inflating reported income within the financial statements and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoPs 3.8, 4.1, 4.33, 4.34, 5.25. 5.26(b), 7.11 and 7.13.

Particulars of Act 1

28. In September 2012, Tech Data arranged with Philips to settle all outstanding payments under a business model that had ceased being used in February 2011.

    a. On 26 September 2012, the exposure in Tech Data's accounting records across all Philips trade payables, trade receivables and vendor receivables was calculated by Tech Data at a net debit (receivable) value of £508k.

    b. However, on 28 September 2012, Mr James agreed to settle all outstanding Philips balances for a net payment to Philips from Tech Data of £30k.

    c. Accordingly, this would have entailed a write off of £538k for Tech Data.

29. In October 2012, it became clear that there was a further exposure to Philips of £401k in respect of "*management fee invoices*". Mr James was informed of this by email on 23 October 2012. In his response later that day, Mr James asked,

    "…*does this mean that we are writing off £400k? This is not what you guys told me before I agreed to it, I understood that it is all net off. I think you need to run through with Kevin* [Silverwood] *when he is back to ensure that we know the accounting entries, then I can manage how*".

30. This discovery meant that the exposure to Philips was not in fact £508k (as had previously been thought) but instead was in excess of £900k. Mr James was clearly unhappy with this increased exposure and in emails sent on 6 November 2012, Mr James stated that, "*I have just been through the numbers with Kevin and it appears that the management fees for Philips are a write off*…", "*£500k is bad enough, £900k*

is a completely different ball game". Mr James sought a "*proposal on how we manage it through so it's not just left to me and Kevin to sort out*".

31. On 6 December 2012, Mr Silverwood emailed the Senior Management Accountant in Tech Data stating:

"*Can you move the following balances to 11009900, to sit with the other Philips flip please:*

Dr 11009900 £401,343.60
Cr 35075000 £401,343.60"

32. On 31 January 2013, Mr Silverwood emailed Mr James requesting a meeting and stated:

"*In short, we have now settled with Philips on this (which resulted in a £30k payment to them), and we currently have around £900k on our balance sheet, following the clear down on outstanding management fee amounts. I need to understand what we have to mitigate this balance for year end purposes*."

33. On 6 February 2013, Mr Silverwood emailed the Senior Management Accountant in Tech Data requesting that £900k relating to Philips be moved from account 11009000[3] (SAP-Trade Receivables Domestic > One) to the Other Liabilities Account.

34. There was no accounting justification for transferring the Philips debt to the Other Liabilities Account. As an experienced professional accountant, Mr Silverwood would have known that there was no justification for doing so but nonetheless proceeded as set out above. The Philips debt should instead have been written off in full and included within the profit and loss account which Mr Silverwood, as an experienced professional accountant, would have known. It should be inferred that, by acting as he did, Mr Silverwood intended to obscure the visibility of the Philips

[3] It is not clear whether the use of GL account 11009900, and then 11009000, was a mistake or intentional. However, they form part of the same caption ("*trade receivables*") on the balance sheet.

debt balance, to avoid the need to consider its recoverability and make provision for the debt and by failing to do so thereby inflate reported income.

35. In light of the matters set out in paragraphs 28 to 34 above, Mr Silverwood's conduct in relation to the transfer of the Philips debt to the Other Liabilities Account:

a. breached the Fundamental Principle of Integrity in that he did not act in a straightforward or honest manner and/or was knowingly associated with information which he knew contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. failed to present information fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4);

c. was contrary to the following SoPs:

(i) SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error, and therefore was not reliable;

(ii) SoP 4.1. because his conduct led to items being inaccurately classified within Tech Data's financial statements;

(iii) SoPs 4.33, 4.34. 7.11 and 7.13 because his conduct inappropriately offset assets and liabilities and gains and losses; and

(iv) SoP 5.25 and 5.26(b) because his conduct failed to recognise a loss and that an asset no longer existed.

ACT 2

In relation to the preparation of Tech Data's financial statements for FY13, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he procured the transfer of the ZBUP Credit to the Other Liabilities Account and was reckless as to whether this obscured and partly offset the Philips debt within the financial statements and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoPs 3.8, 4.1, 4.33, 4.34, 7.11 and 7.13.

Particulars of Act 2

36. On 6 February 2013 (i.e. the same day that Mr Silverwood sent the email in relation to the Philips debt, as described in paragraph 33 above), Mr Silverwood also emailed a Management Accountant in Tech Data stating:

"*I need to utilise some of the TDM ZBUP – please can you move 535,495 from 10406 to the 35075000 account*".

37. "ZBUP" credits reflected advantageous purchase prices, where the discount was accounted for in a separate GL account. The discount was held separately to avoid affecting the book price of the stock and cost of sales, mainly as an incentive to the sales force to maintain the previous margins.

38. Despite the instruction for the transfer being given on 6 February 2013, the transfer was in fact dated to 31 January 2013 (i.e. the last day of Tech Data's financial year). Mr Silverwood had asked for this to be done on the basis that the transfer would then be reversed following Tech Data's year end, and the transfer was indeed then reversed later in February 2013.

39. There was no accounting justification for the transfer of the ZBUP credit into the Other Liabilities Account and then reversal of the transfer. As an experienced professional accountant, Mr Silverwood would have known that there was no justification for doing so but nonetheless proceeded as set out above. It should be inferred that, by acting as he did, Mr Silverwood knew there was a risk that the Philips debt would be obscured and partly offset by this transfer, and that it was unreasonable to take that risk. Nonetheless, he did so. In addition, the transfer of

the ZBUP Credit to the Other Liabilities Account led to the valuation of stock being overstated.

40. In light of the matters set out in paragraphs 36 to 39 above, Mr Silverwood's conduct in relation to the transfer of the ZBUP Credit to the Other Liabilities Account:

a. breached the Fundamental Principle of Integrity in that he was reckless as to whether financial information contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. was reckless as to whether information was presented fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4);

c. was contrary to the following SoPs:

(i) SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error, and therefore was not reliable;

(ii) SoP 4.1. because his conduct led to items being inaccurately classified within Tech Data's financial statements; and

(iii) SoPs 4.33, 4.34. 7.11 and 7.13 because his conduct inappropriately offset assets and liabilities.

<u>ACT 3</u>

In relation to the preparation of Tech Data's financial statements for FY13, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he procured the transfer of a credit balance in relation to VAT due in respect of Magna Park to the Other Liabilities Account and was reckless as to whether this obscured and partly offset unrecoverable debts within the financial statements and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoPs 3.8, 4.1, 4.33, 4.34, 7.11 and 7.13.

Particulars of Act 3

41. Tech Data's distribution centre in the Midlands was known as Magna Park. Phase 2 of Magna Park was a construction project to extend the distribution centre. Tech Data had agreed with its landlord that the landlord would fund the construction project but that payments would be made via Tech Data whom the contractors would invoice.

42. During 2012, Tech Data was invoiced by the contractors £5,071k consisting of £4,226k plus VAT of £845k. In addition, Tech Data incurred professional fees of £42k plus VAT of £8k. Tech Data in turn invoiced the landlord exactly the same amounts (i.e. £4,268k plus VAT of £853k, totalling £5,121k). The input VAT in respect of the costs was posted to a VAT GL account and would have formed part of Tech Data's VAT returns.

43. On 7 November 2012, Mr Silverwood, along with others, was emailed with a list of questions on behalf of the Tech Data group. These questions included the following in relation to Magna Park:

"*10. Magna Extension*

a. Have final invoices been received (do you expect any additional cash out/increase in prepaid)?

b. *When is the prepaid expected to clear? When will 965k balance be reimbursed?*"

44. On 9 November 2012, Mr Silverwood replied to the above questions (copying in Mr James) in the following terms:

"*10. I have confirmed… that we are still expecting the final invoice, which will cover the final amount. We have received two amounts in the post month end period, and are expecting a final settlement of the final amount outstanding in the next few days*".

45. On 7 January 2013, Mr Silverwood, following an instruction to do so from Mr James, sent the following email request to a Management Accountant in Tech Data:

"*Can we please move the balance of £861,568.16 – Magna Phase 2 extension from 19100000 to 35075000 account*".

46. This credit balance was in a "*prepaid expenses*" GL account (19100000) and was exactly £8k more than the total VAT output tax which Tech Data had invoiced to the landlord in respect of Magna Park.

47. The reimbursement arrangement with the landlord was clear and provided no opportunity for Tech Data to make a profit. The credit balance that remained represented the total VAT output tax on Tech Data's invoices to the landlord. Despite this, Mr Silverwood made use of the credit balance as "*good news*" that could be used within Tech Data's financial statements. Subsequently, the VAT was paid to HMRC together with a penalty.

48. As a professional accountant, Mr Silverwood should have taken steps to verify any potential profit before allowing an entry that credited income but failed to do so. Further, any release of profit (if genuine) should have been separately treated within the profit and loss account rather than offset with a charge arising from an unrelated matter. No professional accountant could have considered it appropriate to recognise a gain arising from the Magna Park arrangement in the manner that it was recorded by Mr Silverwood. There was no possible justification for taking this course and Mr Silverwood knew there was a risk that his actions would serve unjustifiably to obscure and partly offset unrecoverable debts, such as the Philips debt, and that it was unreasonable to take that risk. Nonetheless, he did so.

49. In light of the matters set out in paragraphs 41 to 48 above, Mr Silverwood's conduct in relation to the transfer of the credit balance in respect of VAT due in relation to Magna Park to the Other Liabilities Account:

a. breached the Fundamental Principle of Integrity in that he was reckless as to whether financial information contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. was reckless as to whether information was presented fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4);

c. was contrary to the following SoPs:

   (i) SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error, and therefore was not reliable;

   (ii) SoP 4.1. because his conduct led to items being inaccurately classified within Tech Data's financial statements; and

   (iii) SoPs 4.33, 4.34. 7.11 and 7.13 because his conduct inappropriately offset assets and liabilities.

ACT 4

In relation to the preparation of Tech Data's financial statements for FY13, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he was knowingly associated with an analysis of the Other Liabilities Account provided to Tech Data's auditors that he knew was false and/or misleading and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoP 3.8.

Particulars of Act 4

50. Three versions of a spreadsheet containing analysis of the Other Liabilities Account for FY13 were prepared:

a. A "full" version. This was produced after the start of the investigation into accounting irregularities within Tech Data which was announced in March 2013. It contained over 80 lines of analysis.

b. A "ST" version. This was sent by the Senior Management Accountant ("ST") to Mr Silverwood on 19 February 2013, described as an "*amended version*", and contained 56 lines of analysis.

c. A "KS" version. This was sent by Mr Silverwood to ST later on 19 February 2013 and was then forwarded by ST to the EY audit team on 21 February 2013. This version contained just six lines of analysis.

51. The table below compares the contents of the three spreadsheets by category (aggregating common line analyses). The "final version" column shows the components following the completion of the investigation into accounting irregularities.

Category description	Full version £	ST version £	KS version £	Final version £
Canon	86,991	86,991	-	-
CI flip	212, 865	212,865	-	-
Finance	(845,974)	[1] (1,749,185)	-	(200,755)
Philips	427,588	427,588	-	260,000
Philips "old balance"	-	-	[2]39,968	-
Philips BOG	-	-	[3]212,142	-
Q3	(764,410)	(764,410)	-	-
Retail Pot	37,996	37,996	-	-

Category description	**Full version £**	**ST version £**	**KS version £**	**Final version £**
TD Mobile	1,058,093	1,058,093	-	-
Magna	(861,568)	(861,568)	-	[4](861,568)
Philips 3PL	900,529	-	-	-
13041000	(985,298)	-	-	(985,298)
Pass Thru/BS flips Jan 13	-	-	(985,298)	-
13042000	(818,442)	-	-	-
Pass Thru/BS flips Jan 13	-	-	(818,442)	-
Total	**(1,551,630)**	**(1,551,630)**	**(1,551,630)**	**(1,787,621)**

[1] This is equivalent to the lines *"Finance", "Philips 3PL", "13041000"* and *"13042000"* in full version. ST version shows no analysis of the £1,749,185 credit.

[2] Becomes £401,344 *"management fee"* on second tab (which therefore does not agree to first tab).

[3] Aggregates common Philips balances of £181,477.47, (£74,646.79) & £105,311.05.

[4] Retained as a VAT liability pending agreement with HMRC on late declaration.

52. The "Finance" line as contained in the "full" version contained a number of entries including the ZBUP Credit of £535k. The ST version also included the ZBUP Credit of £535k described as "*Release of £535k ZBUP credit*" and in her email to Mr Silverwood of 19 February 2013 attaching the ST version, ST asked Mr Silverwood, "[p]*lease check you are happy & also give an explanation for the ZBUP balance*".

53. However, in contrast, the KS version that Mr Silverwood sent back to ST later on 19 February 2013 did not mention the ZBUP entry or the other items within the "Finance" line. Given this omission, ST responded to Mr Silverwood on the following day stating, "[s]*orry to bother you on your day off, but this does not include the ZBUP entry from Laura* [of Tech Data] *that Natalie* [of EY] *already knows the other side is in 35075*". Notwithstanding this query, ST then sent the KS version to the EY audit team on the following day..

54. In light of the matters set out in paragraphs 50 to 53 above, Mr Silverwood's conduct in relation to the provision of information to Tech Data's auditors relating to the Other Liabilities Account:

a. breached the Fundamental Principle of Integrity in that he did not act in a straightforward or honest manner and/or was knowingly associated with information which he knew contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. failed to present information fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4A); and

c. was contrary to SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error, and therefore was not reliable.

ACTS 5 – 6: USE OF THE DSA ACCOUNT

55. Drop shipment accruals ("**DSAs**") were created when inventory was shipped directly from the vendor to the customer, without going through Tech Data's warehousing and inventory systems.

56. As a result of the inventory being shipped directly to the customer, sales invoices would sometimes be raised by Tech Data before corresponding vendor invoices had been received. When this happened, purchase orders ("**POs**") were raised to record the liabilities where vendor invoices had not yet been received. When those vendor invoices were later received, duplicate POs were raised to match the vendor invoice. However, sometimes the earlier PO would not be cleared, leaving duplicated POs and therefore duplicated liabilities. The DSA liability account (29138000) in the GL captured these liabilities.

57. DSA-related accounting entries affect "*accounts receivable*" and "*accounts payable*" in the balance sheet, and "*sales*" and "*cost of sales*" in the profit and loss account.

58. During FY12 and FY13, a number of inappropriate entries were made in relation to the DSA Account. These entries were:

    a. the transfer of receivables owed by Hewlett Packard and Acer to the DSA Account in FY12 (see Act 5 below); and

    b. the transfer of expenses and other items to the DSA Account in FY13 (see Act 6 below).

ACT 5

In relation to the preparation of Tech Data's financial statements for FY12, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he procured the transfer of receivables owed by Hewlett Packard and Acer to the DSA Account with the intention of obscuring the existence of losses and inflating reported income within the financial statements and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoPs 3.8, 4.1, 4.33, 4.34, 5.25. 5.26(b), 7.11 and 7.13.

Particulars of Act 5

59. In around late 2011, two groups of receivables owed to Tech Data by Hewlett Packard and Acer respectively were transferred to the DSA Account.

60. In respect of Hewlett Packard:

a. 20 transactions had taken place between 26 January 2010 and 26 August 2011. The total transaction value was £2,351k.

b. All of the amounts owing were recorded as over 180 days past due date save for two that were recorded as between 90 and 180 days past due date.

c. The 20 transactions plus an unidentified balancing amount of £361 were then consolidated into one line of £2,351k for Tech Data's September 2011 balance sheet and given a new single transaction date of 30 September 2011. As a result, the ageing of the debt was designated as current.

d. A journal posted on 31 October 2011 then transferred the £2,351k to the DSA Account.

61. In respect of Acer:

a. 35 transactions had taken place between 31 March 2008 and 31 July 2010. The total transaction value was £830k.

b. All of the amounts owing were recorded as over 180 days past due date.

c. The 35 transactions were then consolidated into one line of £830k for Tech Data's September 2011 balance sheet and given a new single transaction date of 15 September 2011. As a result, the ageing of the debt was designated as current.

d. Out of that balance, £717k was then transferred to the DSA Account by an entry dated 31 October 2011.

62. The above transfers were made by the Senior Management Accountant in Tech Data under the instructions of Mr Silverwood and Mr James.

63. There was no accounting justification for:

a. changing the dates of the Hewlett Packard and Acer transactions: transaction dates are fixed and the age of a transaction is a principal indicator of a debt's recoverability;

b. re-ageing the debts as current: correct ageing determines whether any provision is required against irrecoverable receivables; and

c. transferring the Hewlett Packard or Acer debt to the DSA Account: the ability to evaluate debt balances for recoverability is facilitated by balances being held in appropriate GL accounts. Transferring balances to unrelated GL accounts obscures the ability to do so.

Instead, the Hewlett Packard and Acer debts should have been written off and included within the profit and loss account of Tech Data.

64. As an experienced professional accountant, Mr Silverwood would have known that there was no justification for the conduct described above. It should be inferred that, by acting as he did, Mr Silverwood sought to obscure the existence of losses and inflate reported income within the financial statements of Tech Data.

65. In light of the matters set out in paragraphs 59 to 64, Mr Silverwood's conduct in relation to the transfer of the Hewlett Packard and Acer receivables to the DSA Account:

a. breached the Fundamental Principle of Integrity in that he did not act in a straightforward or honest manner and/or was knowingly associated with information which he knew contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. failed to present information fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4);

c. was contrary to the following SoPs:

    (i) SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error and therefore was not reliable;

    (ii) SoP 4.1 because his conduct led to items being inaccurately classified within Tech Data's financial statements;

    (iii) SoPs 4.33, 4.34. and 7.13 because his conduct inappropriately offset assets and liabilities; and

    (iv) SoP 5.25 and 5.26(b) because his conduct failed to recognise a loss and that an asset no longer existed.

ACT 6

In relation to the preparation of Tech Data's financial statements for FY13, the conduct of Mr Silverwood fell significantly short of the standards reasonably to be expected of a Member in that he procured the transfer of expenses and other items to the DSA Account with the intention of understating expenses and inflating reported income within the financial statements and thereby he failed to act in accordance with the Fundamental Principle of Integrity contained in the Code and/or section 320 of Part C of the Code and/or SoPs 3.8 and 4.1.

Particulars of Act 6

66. On 6 November 2012, Mr Silverwood emailed a Management Accountant in Tech Data stating:

"*I'm going to post a journal to adjust for some of the balance sheet items that need to be corrected in the system. Could you post the following for me please?*"

67. The entries that followed (13 in total) were set out with just the GL account numbers for the debit and credit, plus the amounts. All of the debits were to the DSA Account. The credits were as set out in the table below (comments on the appropriateness of the entries have been included):

Account name	GL account (of credit entry)	Amount £	Comments on appropriateness of entries
Inventory buy ups-corporate burdens	10406000	196,100	Cost of Sale credits arising from favourable purchase terms or discounts
SD/BW-corrections	13044600	265,983	Unclear
Social security liabilities	37400000	320,000	Payroll-related liability, unrelated to DSAs
Other liabilities/supplier reb.	35075000	525,620	Liability unrelated to DSAs
Accruals-rebates to customers	29015000	350,000	Liability unrelated to DSAs
Accruals-employee incentive plans	28400000	151,230	Liability unrelated to DSAs
Severance costs, not sub. to social charges	60510000	30,000	Profit & Loss charge
Wages and salaries	60200000	50,000	Profit & Loss charge
Expenses for temporaries (agencies)	63066000	45,000	Profit & Loss charge

Account name	GL account (of credit entry)	Amount £	Comments on appropriateness of entries
Commissions to employees non-management	60220000	30,000	Profit & Loss charge
Incentive payments to officers	60250000	30,000	Profit & Loss charge
Car insurance	64240000	30,000	Profit & Loss charge
Employers contribution to social security	61010000	25,000	Profit & Loss charge
Total		**2,048,933**	

68. The transfers were made, with the express or implied agreement and/or approval of Mr James, who had instructed Mr Silverwood to achieve profit targets and targets for individual expense lines.

69. There was no accounting justification for the transfer of these entries (consisting of expenses from seven lines totalling £240k in the profit and loss account and entries totalling £1,809k from six balance sheet accounts) to the DSA Account. The profit and loss transfers inflated reported income. As an experienced professional accountant, Mr Silverwood would have known that there was no justification for the transfers being made. It should be inferred that, by acting as he did, Mr Silverwood sought to inflate income and achieve targets for individual expense lines.

70. In light of the matters set out in paragraphs 66 to 69 above, Mr Silverwood's conduct in relation to the transfer of the above expenses and other items to the DSA Account:

a. breached the Fundamental Principle of Integrity in that he did not act in a straightforward or honest manner and/or was knowingly associated with information which he knew contained materially false or misleading statements and omitted and obscured information in a way that was misleading (contrary to ICAEW 100.5(a), 110.1 and 110.2);

b. failed to present information fairly, honestly and in accordance with the relevant professional standards (contrary to ICAEW 320.1 and 320.4);

c. was contrary to the following SoPs:

(i) SoP 3.8 because he was associated with information that did not represent faithfully what it either purported to represent or could reasonably be expected to represent and was not free from material error, and therefore was not reliable; and

(ii) SoP 4.1 because his conduct led to items being inaccurately classified within Tech Data’s financial statements.