

**IN THE MATTER OF**

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

**-and-**

**JOHN ANTHONY MEHIGAN**

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**SETTLEMENT AGREEMENT**

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1. This Settlement Agreement ("**Agreement**") is made on the 14th day of October 2016 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 Anthony Mehigan ("**Mr Mehigan**") of the second part. The Executive Counsel and Mr Mehigan together are described as "**the Parties**".
2. The Agreement is evidenced by the signatures of the Executive Counsel on his own behalf and by Mr Mehigan on his own behalf.
3. The Particulars of Fact and Acts of Misconduct against Mr Mehigan ("**the Particulars**"), a member of the Institute of Chartered Accountants in England and Wales ("ICAEW"), were prepared by the Executive Counsel in accordance with the FRC Accountancy Scheme and are annexed. The Particulars relate to the conduct of Mr Mehigan, in relation to:
  - (a) The operation of a UK registered charity (No. 1129044) known as the Cup Trust ("**the Charity**"). Between January and November 2010 the Charity participated in a tax avoidance scheme utilising Gift Aid relief ("**the Scheme**"); and
  - (b) The approval of the financial statements of the Charity for the years ended 31 March 2010 and 31 March 2011 ("**the Financial Statements**").
4. Mr Mehigan admits Allegations 1 to 14 against him in the Particulars.
5. The Parties recognise that the determination to be made in this case is a matter for the Tribunal member in accordance with paragraph 8(4) (ii) of the Scheme. The Parties have agreed the following proposed orders in relation to sanction and costs:

- a. That Mr Mehigan be excluded from the ICAEW for a recommended period of 10 years; any application for readmission after the specified period shall not necessarily be approved, but shall be considered by the ICAEW on its merits.
  - b. That Mr Mehigan pay a Fine of £70,000, that sum being discounted for settlement from a Fine of £100,000.
  - c. That Mr Mehigan pay the sum of £80,000 as a contribution towards the Executive Counsel's costs of the investigation.
  - d. The sum of the costs and Fine shall be paid not later than 28 days after the date when the Settlement Agreement takes effect.
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 nature of the breaches consisted of (i) a failure to identify and properly address conflicts of interest, where substantial financial benefits were likely to and did accrue to a close associate of Mr Mehigan; and (ii) approval by Mr Mehigan of the Financial Statements when they had not been prepared in accordance with the relevant accounting standards.
- b. The Misconduct could undermine confidence in the standards of conduct in general of Members.
- c. The Misconduct occurred in Mr Mehigan's capacity as a director (at times the sole director) of the corporate trustee of the Charity.
- d. Mr Mehigan was solely responsible for the Misconduct.

#### **Identification of Sanction**

7. Having assessed the seriousness of the Misconduct, the Executive Counsel considers that a period of Exclusion and a Fine is an appropriate sanction. In reaching the agreed orders as to sanction set out above, 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 those additional factors set out below, Executive Counsel has determined that no adjustment to sanction is necessary.

#### **Aggravating Factors**

- a. The Misconduct was repeated and occurred over an extended period of time.
- b. The participation of the Charity in the Scheme was a matter that engaged the interests of the charitable sector as a whole and the wider public interest, and thus required a heightened level of care and diligence from Mr Mehigan in his

capacity as a director (at times the sole director) of the corporate trustee of the Charity.

**Mitigating Factors**

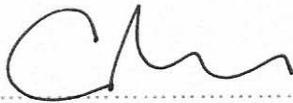
- a. Mr Mehigan did not personally benefit from the Misconduct
- b. Mr Mehigan did not believe that the Charity's funds were put at risk
- c. Mr Mehigan cooperated fully during the investigation of the Misconduct by the FRC.

**Deterrence**

- 8. No adjustment for deterrence is required in this case.

**Discount for Settlement**

- 9. This Agreement has been reached prior to the delivery of a Formal Complaint, during Stage 1, and Mr Mehigan has admitted substantially all the alleged Misconduct. In those circumstances Executive Counsel considers that a reduction of 30% of the Fine is appropriate, as reflected at paragraph 5(b) above. No reduction in the period of exclusion is appropriate.
- 10. If the decision of the Tribunal member is to approve the Agreement, including the sanction and costs set out at paragraph 5 above, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to Mr Mehigan in accordance with paragraph 8(4) (iv) of the Scheme.
- 11. The Agreement and annex will remain confidential until publication in accordance with paragraph 8(6) of the Scheme.

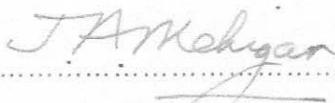


Gareth Rees QC

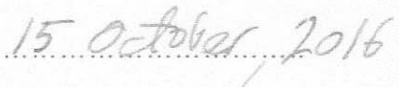
Executive Counsel



Date



John Anthony Mehigan



Date