

# CONCERNING CONDUCT: QUARTERLY CASES

Recent cases concerning culture and conduct Q4 2019

## OCTOBER 2019

### **Californian sexism lawsuit.**

A California-based, African-American female lawyer at Pimco filed a gender and racial discrimination lawsuit against her employer. She alleges that 'senior male officers encourage drinking and fraternisation at strip clubs, golf outings and poker nights' and their culture influences personnel decisions. She claims to have been passed over for promotion 'in favour of less-qualified males'.

### **Solicitors' Tribunal finds against Freshfields partner.**

A Solicitors' Disciplinary Tribunal case in the UK reached its conclusion. The case involved a sexual encounter between a partner at law firm Freshfields and a junior colleague who was intoxicated at the time - 'to the extent that her judgement was impaired'. The Freshfields partner was found to have breached the legal profession's rules by acting without integrity and was ordered to pay a £35,000 fine plus £200,000 in costs. He resigned from Freshfields.

### **Fund manager alleged to have sexually harassed juniors.**

Negative press hit fund management firm M&G just ahead of its demerger from Prudential. M&G suffered the reputational damage from an allegation of sexual harassment by a senior fund manager. It is alleged that the male fund manager has sexually harassed women in junior positions at the firm with sexually explicit text messages, inappropriate comments and unwanted physical contact. M&G has hired law firm Baker McKenzie to assist in an investigation into the allegations.

## NOVEMBER 2019

### **PRA warns insurers to improve culture.**

In the wake of revelations that 500 people at Lloyds of London had witnessed sexual harassment, UK regulator the Prudential Regulation Authority (PRA) warned insurance CEOs to improve company culture. The warning stated the 'deep concern' of the regulator that a workplace where harassment and bullying is rife might also be one where employees feel they cannot come forward with concerns about general risks at their companies.

### **UBS fined for overcharging Hong Kong clients.**

UBS was fined HK\$400m (\$51m) for overcharging thousands of customers for bond trades between 2008 and 2015. The Hong Kong Securities and Futures Commission disclosed that UBS charged the customers of its wealth management division an additional 'spread' in its bonds and structured debt products on almost 30,000 transactions spanning around 5,000 clients. The regulator referred to UBS's misconduct involving deception and an abuse of trust. UBS will also spend around HK200m repaying the affected clients.

### **Concerns over ethical breaches at G4S.**

UK-listed G4S (often referred to as Group 4 Security) was highlighted by Norway's massive \$1tn sovereign wealth fund for alleged ethical breaches. The Norwegian fund decided to sell its shares in G4S after its council on ethics found that G4S harassed migrant workers in the Middle East (specifically Qatar and the UAE), confiscating passports and paying lower wages than had been agreed.

**Humiliation for the UK’s FCA over its new London HQ.**

The UK Financial Conduct Authority suffered a conduct embarrassment. The regulator’s new offices in East London were said to be in a ‘shameful’ state by its chief operating officer and its staff were reprimanded for verbal abuse of security and catering staff, as well as faeces on the floor of the toilet cubicles.

**Westpac CEO steps down over anti-money laundering failings.**

The CEO of Westpac, Australia’s second largest bank, stepped down as the bank faces allegations of 23m breaches of counter terrorism and money laundering laws. Most of the offences related to late reporting of transactions but there were also potential links to child exploitation. Westpac failed to adequately monitor the accounts of a convicted child sex offender who had regularly sent money to the Philippines.

**Former CEO faces £154,000 fine over lack of integrity.**

A former CEO of a mutual insurance company (Scottish Boatowners’ Mutual Insurance Association) was fined by the FCA (£78,318) and the PRA (£76,180) for transferring excessive

amounts of his own remuneration to his wife to avoid tax and therefore lacking the integrity expected of him. Between 2010 and 2016 he transferred more than £200,000 of his pay to his wife such that by 2016 she was paid £52,000 – more than any other employee other than her husband. The payments were supposed to reflect her role in ‘out of hours administrative support and occasional hospitality at home’, saving her husband around £18,000 in income tax.

**DECEMBER 2019**

**Baker McKenzie partner embarrassed over kissing episode.**

The former managing partner of UK law firm Baker McKenzie is facing a Solicitors Disciplinary Tribunal over an attempt to kiss a female lawyer in 2012. The managing partner faces a misconduct charge alongside two other charges – for the original misconduct, failure to report and the way the incident was subsequently handled. It is alleged that the managing partner attempted to kiss the female lawyer after a recruitment event that ended with a small group drinking in his hotel room. He allegedly asked her to stay behind and sought to “initiate intimate activity” with her. He later wrote in a statement that he was “terribly embarrassed, drunk and it was a moment of madness”.

**Ex-partner at Deloitte goes to court over misconduct claims.**

An ex-partner in Deloitte’s Switzerland offices was dismissed after an investigation into his behaviour following whistleblowing complaints in 2018. He is challenging Deloitte in the high court in London. The probe into his behaviour claimed his bullying” and “manipulative” behaviour led to a “toxic working environment”. He also charged business development trips to client accounts and his expense claims included a new scarf, health club membership, an iPhone 6 case and an iPad pro.

**EY transaction services improper conduct claims.**

The transactions advisory services team at EY was subject to allegations about improper conduct. Amongst these was discriminatory behaviour by several partners over an associate partner who was transgender. Jennifer Fountain transitioned in January and one partner is alleged to have said the transition would “hold back her career by two years” as she would have to “prove herself” as Jennifer. Another said it would not be “suitable” for her to attend a client meeting in woman’s clothing.

**Your training needs covered**



**eLearning modules**

Introduction to the SM&CR  
SM&CR Conduct Rules



**Face to face training**

Conduct Rules Training  
Senior Management Briefings  
SMF Interview Coaching



**Train the trainer**

We can train your internal trainers and provide all of the materials you will need.