

Board Report

Outcome of the Appeal by Mr. Michael Scanlon Former CEO of the ICU Following His Dismissal

This report is for the information of members of the ICU only and should not be circulated otherwise distributed

BACKGROUND

At the 2010 AGM a new Honorary Treasurer was elected who commenced a series of Corporate Governance checks in a range of areas including: Financial Controls, Staff Contracts, and Credit Card Limits etc. At the preliminary stage the treasurer had the full co-operation of the CEO and this was acknowledged by the treasurer at Board meetings. A number of reports were made to the Board and based on the Treasurers recommendations improved governance policies, processes and procedures were put in place.

As the Treasurer's work continued, he sought clarification from the CEO in relation to an apparent salary overpayment and he became concerned at the diminished co-operation of the CEO. The Treasurer contacted the President and apprised him of the situation. The President wrote to the CEO on the 15th September 2010 requesting a report from him on the situation and the following series of events occurred:

- On the 22nd September 2010 the CEO revealed to the President and Treasurer that there were a number of matters, that were heretofore unknown to either the Executive or Board of the ICU, relating to a backdated document purporting to be a "Contract of Employment" that he had drafted, backdated and signed and had countersigned by a former President. This document included the following:
 - The introduction of a new public sector pay structure
 - It encompassed two pensions schemes, and
 - The introduced a Plan E. VHI Scheme where none previously existed.

All this was done without the knowledge or consent of the current President, the Executive or the Board.

- The President accompanied by the Honorary Secretary (as the only two Directors of the ICU) sought legal advice and the advice received was to immediately suspend the CEO, with pay and without prejudice, pending an independent investigation by a HR Consultant that specialised in such investigations.
- The President and the Treasurer became witnesses in this process and both made comprehensive submissions to the Investigator.
- An investigation took place by an independent investigator which the CEO attended, accompanied by his legal adviser, and he participated fully in the investigation process.
- The Investigator considered 16 points of concern of which seven (7) were of such a serious nature that they were referred to the Board for a disciplinary hearing.
- The CEO was advised of the outcome of the Investigators Report and was invited to attend a meeting of the Disciplinary Panel. The CEO made an application to the High Court for an injunction to prevent the Disciplinary Panel from considering the report of the Independent Investigator.
- The High Court refused the CEO's application and awarded the costs of the High Court proceedings in favour of the ICU.
- The Disciplinary Panel subsequently met with the CEO and subsequently made a recommendation to the Board that the CEO be dismissed on six (6) grounds of Gross Misconduct. On 29th June 2011 the Board (by a unanimous decision of the members participating in the vote) took a decision to dismiss the CEO.

In the letter of dismissal that was sent to the CEO on the 30th June 2011 he was advised that the Irish Sports Council had agreed to establish an appeals mechanism in the event that he chose to appeal the Board's decision.

- The CEO made known his intention to appeal the decision of the ICU Board and the ISC proceeded to nominate Mr. Raymond McGee as the Appeals Officer (Mr. Mc Gee is the former head of the Labour Relations Commission's Conciliation Service and Former Deputy Chair of the Labour Court).
- An appeal hearing took place on 19th August 2011 and following four subsequent written submissions (two from each side) and on the 4th October 2011 the Appeals Officer made known his decision as follows:

Decision of Mr. Ray McGee Irish Sports Council Appointed – Appeals Officer

Complaint no.1

That the Appellant drew up a post-dated Contract of Employment for himself in November 2006 in order to satisfy a PWC Corporate Governance Audit undertaken on behalf of the Irish Sports Council.

Decision: The appeal on this complaint is not upheld.

Complaint no.2

The question of the appellant adjusting his own salary without the agreement of or ratification by the Board.

Decision: The appeal on this complaint is not upheld.

Complaint no.3

Signing and backdating of Contract of Employment by a Past President of the I.C.U.

Decision: The appeal on this complaint is not upheld.

Complaint no.4

Appellant's admittance that he carried out the actions in complaints 1-3 without the knowledge or consent of the President, Executive or Board.

Decision: The appeal on this complaint is not upheld.

Complaint no.6

The taking out by the Appellant of VHI Plan E fully funded by the I.C.U. without the prior knowledge, ratification or consent of the sitting Board or Executive.

Decision: In my view this was an act of misconduct which was quite serious but which, in the circumstances, falls just short of the ultimate sanction but still worthy of disciplinary action. The alleged role of the Past President in this particular issue is not one for me but is a matter between that individual and the I.C.U. The appeal on this complaint is conditionally upheld.

Complaint no.16

Recording of meeting with President and Treasurer in September 2010 without their knowledge and denying that he had done so.

Decision: The appeal on this complaint is not upheld.

Overall:

I cannot say that the Appellant acted dishonestly. He did, however (remembering the number of complaints involved – not just one) engage in deception and concealment and act in breach of the duties of a C.E.O. towards his employing Board as instanced in the I.C.U. Articles.

The total picture amounts to a serious breach of trust, (regardless of the control shortcomings of the voluntary Board) which, in my view, fatally affects the possibility of a satisfactory future employment relationship between the parties.

Consequently, I cannot disagree with the overall conclusions of the Disciplinary Panel that dismissal is the appropriate sanction. The appellant should, of course, receive all statutory entitlements to which he is due in relation to his employment with the I.C.U.

Raymond McGee
4th October 2011

The Board at its meeting held on Tuesday 11th October 2011 decided to note the decision of the Appeals Officer as this now concludes the matter from the perspective of the Irish Canoe Union.

The Board is now in a position to implement a number of outstanding decisions e.g. change the name of Irish Canoe Union to Canoeing Ireland (in accordance with the decision of the 2009 AGM), advertise for a new person to manage our affairs and proceed with holding the 2010 AGM in accordance with our Articles of Association.

Eamon Devoy
President

12th October 2011