

Wilkinson v Fairway Trust Limited [2020] TRE 091

Service area / [Employment, Pensions and Incentives](#)

Legal jurisdictions / [Jersey](#)

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Huw Thomas, Tarina Le Boutillier and Adele Browne of Carey Olsen's Employment Team acted for the successful Respondent in the case of [Wilkinson v Fairway Trust Limited \[2020\] TRE 091](#).

The facts

The Claimant was a senior financial services professional and a director of the Respondent, which is a regulated financial services business.

During the Claimant's employment, a friendship developed between her and one of the company's clients for whom she and her team provided professional services (via a corporate structure with which the client was associated). The Claimant received gifts and hospitality from the relevant client.

Once the friendship became known to the Respondent, an investigation commenced into whether the relationship and the gifts and hospitality were properly declared in accordance with its policies.

It was decided following that investigation that they had not been properly declared and as a result there was a disciplinary case to answer.

Following a disciplinary hearing, the Claimant was dismissed for gross misconduct. A subsequent internal appeal upheld that decision.

The Claimant proceedings alleged unfair dismissal and wrongful dismissal – whilst she accepted that there had been misconduct, it was the Claimant's case that the sanction was disproportionate.

Following a hearing which took place over four days before the Jersey Employment & Discrimination Tribunal, the Tribunal found for the Respondent and held that the Claimant's dismissal was both fair and lawful.

Comment

This was a complex case involving a number of witnesses, in which the status of the Respondent as a regulated financial services entity and that of the Claimant as a director and principal person of the Respondent was highly relevant.

The risk posed as a result of misconduct by senior financial services professionals is higher and accordingly the standards of behaviour expected of them are also higher – reflected in the requirement for principal persons to be fit and proper and to conduct themselves with integrity.

In reaching its decision, the Tribunal had particular regard to the potential regulatory risks which arose as a result of the Claimant's conduct:

"The procedures are in place in regulated entities for a crucial purpose, namely to recognize and manage situations in which, with the best will in the world, the entity and therefore the Island, risk becoming vulnerable to money laundering, terrorist financing and corruption. Non-compliance is highly dangerous and a regulatory default."

Should you wish to discuss this case or any of the issues arising from it, please contact Huw Thomas or Tarina Le Boutillier.

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