

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Ibttam Hamid

Heard on: Thursday 18 August 2016

Location: The Chartered Institute of Arbitrators, 12 Bloomsbury
Square, London, WC1A 2LP

Committee: Mr Maurice Cohen (Chairman), Mr Constantinos
Lemonides (Accountant) and Mr Michael Lamb (Lay)

Legal Adviser: Mr Alastair McFarlane

Persons present

and capacity: Mr Chris Ware (ACCA Case Presenter)
Ms Pamela Ramphal (Hearings Officer)

1. ACCA was represented by Mr Ware. Mr Hamid did not appear and was not represented. The Committee had before it a bundle of papers, numbered pages 1 – 280, a service bundle numbered pages 1 – 22 and two further service bundles numbered pages 23 – 27 and 28.

SERVICE/ PROCEEDING IN ABSENCE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing, dated 15 July 2016, was served on Mr Hamid in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”). Regulation 22 permits for service of the notice of hearing to be served on Mr Hamid’s registered address or to be sent by email provided he has

previously indicated in writing to the Association and he is willing to accept service by email under Regulation 22 (2). The Committee was satisfied that the notice of hearing was sent to Mr Hamid's registered address in West Yorkshire in accordance with the Regulations.

3. The Committee next considered whether it was in the interests of justice to proceed in Mr Hamid's absence. The Committee accepted the advice of the Legal Adviser. The Committee was mindful that Mr Hamid had a right to attend the hearing and to participate and that the discretion to proceed in his absence must be exercised with the utmost care and caution. The Committee noted that the Regulation 10 (7) empowers the Committee to hear a case in the member's absence if it is satisfied that he has been served with the relevant documents in accordance with Regulation 22. The Committee notes that Mr Hamid was sentenced to 6 years imprisonment at Birmingham Crown Court on 6 November 2014 and that ACCA received an email confirmation, dated 8 January 2015, confirming that at that time Mr Hamid was serving his sentence at HMP Birmingham.

4. The Committee noted that a copy of ACCA's letter dated 9 August 2016, sent to his registered address in Shipley, West Yorkshire, was sent to Mr Hamid's email address. That letter offered him the opportunity of attending via video or telephone link, with the costs being met by ACCA. Mr Hamid has not availed himself of this opportunity or made any communication with ACCA about attending this hearing. Mr Hamid did respond to ACCA's initial letter dated 8 January 2015 by a letter from his solicitors, Opus Law, dated 21 January 2015, who confirmed they represented Mr Hamid; enclosed a copy of the case summary in respect of the proceedings before Birmingham Crown Court and confirmed that an application for leave to appeal against his conviction had been lodged with the Court of Appeal. Further, it noted that ACCA's letter, dated 19 March 2015, in response to Opus Law's letter of 21 January 2015, and ACCA's subsequent letter, dated 16 April 2015 enclosing a report on the allegations, were sent directly to Mr Hamid at his Yorkshire address and to HM Prison Birmingham where he was residing. Both ACCA letters assert that copies were sent to Opus Law Solicitors.

The Committee has seen no correspondence from ACCA to Mr Hamid from 16 April 2015 until the notice of hearing, dated 15 July 2016. It notes that the

notice of hearing was sent to Mr Hamid's West Yorkshire address and to his email address, but not to HM Prison Birmingham. ACCA sent further emails to Mr Hamid's email address enquiring about his attendance on 28 July, 5 August, 8 August and 9 August 2016. A letter was also sent to his West Yorkshire address on 9 August 2016. In addition, owing to a late change of venue, ACCA sent a letter to the West Yorkshire address, dated 17 August and an email to the email address of the same date. The Committee has not seen any letters sent to HM Prison Birmingham - the location where ACCA were informed Mr Hamid was residing in January 2015 or any further correspondence with the prison service to determine where he is currently being held. The Committee has seen no evidence that Mr Hamid has indicated that he was willing to accept service by email.

Further, the Committee has seen an undated email from his solicitors, Opus Law, received by ACCA after 28 April 2016 in which they confirmed that Mr Hamid's appeal against conviction was dismissed by the Court of Appeal on 17 March 2016. There has been no further correspondence from his solicitors.

The Committee noted that an e-mail was sent from Mr Hamid's e-mail account at 16.47 on 9 August 2016 indicating that ACCA's email of the same date had been "read". The Committee considered it significant that the e-mail from ACCA had an attachment, which was ACCA's letter of 9 August 2016, which repeated that ACCA offered telephone or video link facilities for his participation and that ACCA would bear the cost of these. The Committee accepted, on the balance of probabilities, that Mr Hamid was aware that he could participate in this manner from prison from at least 28 July 2016.

Considering all the material before it, while it is regrettable that no more recent efforts were made to ascertain where he is currently serving his sentence and/or to have written directly to HMP Birmingham since April 2015, the Committee's conclusion is that Mr Hamid is aware of the proceedings and has voluntarily disengaged from the process. He had not engaged with ACCA about the case at all beyond the two communications from his solicitors. The Committee was satisfied that reasonable attempts have been made to secure Mr Hamid's participation in the hearing. The

Committee was not persuaded that any adjournment would increase the chance of Mr Hamid attending or participating further in the case. On the information before it, and bearing in mind its duty to ensure the expeditious conduct of its business, the seriousness of the allegation and the wider public interest, the Committee was satisfied that it was in the interests of justice to proceed in the absence of Mr Hamid. The Committee reminded itself that his absence added nothing to ACCA's case and was not indicative of guilt.

ALLEGATION

Allegation 1

Pursuant to bye-law 8(a)(ix), Mr Hamid is liable to disciplinary action, by virtue of his conviction, having been found guilty of Conspiracy to Cheat the Public Revenue at Birmingham Crown Court on 06 November 2014, which is discreditable to the Association or to the Accountancy Profession.

BACKGROUND

5. Mr Hamid became a member of ACCA on 31 March 2007. He was admitted as a fellow on 31 March 2012.
6. In December 2014 HMRC notified ACCA that Mr Hamid had been convicted after a trial of Conspiracy to Cheat the Public Revenue on 06 November 2014.
7. HMRC informed ACCA that the conviction related to his role in a £2.6 million VAT repayment fraud committed between September 2007 and May 2012. HMRC stated that Mr Hamid acted as "a guiding mind in the fraud, utilising his skills as an accountant to orchestrate a protracted attack on HMRC's VAT system." In total 19 fraudulent companies were created and used as vehicles to facilitate the fraud and Mr Hamid paid for the formation of a number of companies, submitted fraudulent VAT returns, created and supplied false paperwork in order to substantiate the VAT repayment claims and called HMRC's VAT advice line in respect of these companies, purporting to be the various company's director. In total £2.6 million was fraudulently claimed in

VAT. He was found guilty on 6 November 2014 after a trial and on 18 December 2014 was sentenced to 6 years imprisonment and disqualified from being a company director for 10 years.

8. ACCA obtained a copy of the Certificate of Conviction. The Certificate states that Mr Hamid was convicted of Conspiracy to Cheat the Public Revenue at Birmingham Crown Court on 06 November 2014. He was sentenced to 6 years imprisonment and disqualified under section 2 Company Directors Disqualification Act 1986 for 10 years.
9. ACCA also obtained a copy of the Judge's sentencing remarks. The Judge described Mr Hamid as "one of the controlling minds" and "one of the central organisers" in the conspiracy. He said to Mr Hamid:

"... you used your knowledge of the VAT system and your position as an accountant to deceive revenue officers. On at least one occasion directly when one of the inspectors visited your office. And you were directly involved... in many of the stages which were the foundation of this fraud—that is, setting up the companies, recruiting and installing directors, submitting fraudulent VAT claims, dealing with checks by the revenue, either making telephone calls in your own name and in some instances pretending to be company directors. You created false invoices and documents which were found on computers which were seized."

10. The learned judge referred to 2 aggravating features – namely Mr Hamid arranging for his brother to dispose of incriminating evidence, and secondly his continued use of companies as fraudulent vehicles for re-claims after his initial arrest.

ACCA's case

11. ACCA contended that the Certificate of Conviction is conclusive proof of the conviction and any facts found, as set out in bye-law 8(e). It submitted that the offence of conspiracy to cheat the public revenue is discreditable and damaging to the reputation of the Association and to the accountancy profession given the serious departure from the standards that one would expect from an accountant. Consequently, this raises issues of public

protection from an accountancy perspective, and also issues of trust and integrity. He essentially abused his position as an accountant for the purposes of a serious crime. Further to this, the offence committed by Mr Hamid is derogatory to ACCA and the accountancy profession given that the public's trust in the profession might reasonably be undermined in light of his conduct, and as such Mr Hamid is liable to disciplinary action under by-law 8(a)(ix).

Mr Hamid's case

12. Mr Hamid has not made any response. In the letter dated 21 January 2015, Opus Law submitted Counsel for the Crown's "Extended Case Summary". This was not a defence document. It shows that Mr Hamid was interviewed under caution on four occasions and gave "no comment" answers on each occasion. During the course of ACCA's investigation Mr Hamid has not made any response.

DECISION ON ALLEGATIONS AND REASONS

13. The Committee accepted the advice of the Legal Adviser.
14. The Committee carefully considered all the documentary evidence it had received, as well as the submissions of Mr Ware on behalf of ACCA.
15. The Committee was satisfied on the documentary evidence provided including the certificate of conviction that Mr Hamid was convicted of conspiracy to cheat the public revenue on 18 December 2014. Further, it was satisfied that Mr Hamid was a central figure in the conspiracy which concerned a £2.6 million VAT fraud and that he was sentenced to 6 years imprisonment and disqualified as a director for 10 years.
16. The Committee was satisfied that, as the Sentencing Judge stated, Mr Hamid abused his professional position as an accountant "for the purposes of serious crime". It has no hesitation in concluding that such a conviction undermines the fundamental tenet of the profession to be honest and trustworthy and that the offence is clearly discreditable to the association and to the accountancy profession.

17. For these reasons the Committee is satisfied, by reason of the conviction for an offence discreditable to the association and the profession, that Mr Hamid is liable to disciplinary action.

SANCTIONS AND REASONS

18. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
19. The Committee considered that the conviction for such a serious offence is fundamentally incompatible with the accountancy profession. Trust is central to being a professional person and to the reputation of the profession. The scale, planning, premeditation, extent and duration of the fraud are all aggravating factors. The Committee is unaware of any mitigating factors, save that he is a family man, as identified by the Sentencing Judge. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour.
20. The Committee considered the conduct to be far too serious for it to take no further action. It noted that the conduct was deliberate and considered it was too serious for Admonishment or a Reprimand or a Severe Reprimand to be a sufficient sanction. Further, such sanctions would not highlight to the profession and the public the gravity of the conviction.
21. The Committee considered the factors listed for removal in the Guidance for Disciplinary Sanctions and determined that all of the factors listed at paragraph C5(a – l) were present. Mr Hamid's behaviour represented the most serious abuse of his professional position; it significantly adversely impacted upon the standing of the profession in the eyes of the public; it caused financial loss to the Exchequer and was dishonest. Mr Hamid denied his guilt and no evidence of any insight whatsoever has been shown by Mr Hamid to this Committee or of any remorse. The Committee

was persuaded that removal from the register was the only sufficient and proportionate sanction. The behaviour was fundamentally incompatible with Mr Hamid remaining on the register.

COSTS AND REASONS

22. ACCA claimed costs of £2,116.50. There were no representations on this from Mr Hamid. The Committee decided that it was appropriate and proportionate to award costs in the sum sought.

EFFECTIVE DATE OF ORDER

23. Under Regulation 20, this Committee's order takes effect from the date of the expiry of the appeal period unless the Committee directs that in the interest of the public the order should have immediate effect. Given the seriousness of the conviction, the Committee is satisfied that it is in the public interest to direct that the order shall have immediate effect.

PUBLICITY

24. Regulation 11(3)(6) mandates the Committee to publish all findings and orders together with the reasons naming the relevant person as soon as practicable in such manner as the Association thinks fit.

Maurice Cohen
Chairman
18 August 2016