

# ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

## REASONS FOR DECISION

<b>In the matter of:</b>	Mr Kunverji Kanji Patel
<b>Heard on:</b>	Tuesday, 23 January 2018
<b>Location:</b>	The Adelphi, 1-11 John Adam Street, London WC2N 6AU
<b>Committee:</b>	Ms Lubna Shuja (Chairman), Mr Jonathan Beckerlegge (Accountant), Dr Hazel Bentall (Lay)
<b>Legal Adviser:</b>	Mr David Marshall
<b>Persons present and capacity:</b>	Ms Samantha Hatt, Case Presenter for ACCA, Mr Kunverji Kanji Patel (Member) Mrs Neelam Patel (Support) Ms Poonam Patel (Hearings Officer)
<b>Observers:</b>	Mr Daniel Park and Mr Rory O'Brien of the Financial Reporting Council
<b>Summary:</b>	Audit qualification withdrawn, effective immediately

1. The Committee considered the eligibility of Mr Patel and his firm to continue to hold Audit qualifications following an allegedly unsatisfactory Monitoring visit. Ms Hatt appeared for ACCA. Mr Patel was present and represented himself.

## **BRIEF BACKGROUND**

2. Mr Patel is a Partner in the Firm KBMD Ltd, together with two other ACCA Members. Mr Patel has been a Member of ACCA since 1989 and for most of that time he has held a Practising Certificate with Audit qualification. His Firm holds an Auditing Certificate. The other two partners do not have Audit qualifications from ACCA.
3. The Firm has had six Monitoring visits. The first two were in 1997 and 1999 when Mr Patel was in sole practice. Both had unsatisfactory outcomes. There was a third visit in 2004 when the Compliance Officer concluded that the Firm had made insufficient improvements and the Firm was referred to the Admissions and Licensing Committee ('ALC'). On 23 February 2005 that Committee made an order which included 'hot reviews' of all Audit work and an accelerated Monitoring visit before 31 March 2007. In fact, the Firm resigned all its Audit and Regulated appointments so the accelerated Monitoring visit did not take place at the expected time. At some point after that the Firm took on two new Audit appointments and the Monitoring visit (the fourth) followed on 31 August 2008. The outcome was satisfactory and the Firm was released from the ALC's order.
4. The fifth visit took place on 6 November 2012, when ACCA carried out a routine Monitoring visit. By this time the Firm was a limited company. The Compliance Officer examined two Audit Files and one file relating to a Regulated client, a Solicitor. The Compliance Officer considered that on one of the Audit Files the opinion was not adequately supported by the work performed and recorded, and that there were serious deficiencies in relation to the work for the Regulated client. The Firm resigned from the Audit which had been found to be unsatisfactory. The report was therefore not referred to the Committee and the overall outcome was deemed to be satisfactory.
5. The sixth visit took place on 1 June 2017. The Compliance Officer considered that the Firm had made no effective improvement to its procedures. It was not producing a consistently satisfactory standard of Audit work. On two of the three files examined, the Audit opinion was not adequately supported by the work performed and recorded. Mr Patel was referred to this Committee in relation to the Audit work. The Solicitors' Regulation Authority work was considered to be acceptable.

## **DECISION ON FACTS AND REASONS**

6. The report contained a number of detailed criticisms, to which Mr Patel responded at length. To assist its deliberations, the Chairman ordered that ACCA prepare a 'Scott Schedule': a table setting out precisely those matters that were agreed and those that were not agreed between Mr Patel and the Compliance Officer. The Committee heard evidence from the Compliance Officer, the Compliance Officer who conducted the visit and prepared the report. The Compliance Officer was taken through the disputed items in the Scott Schedule and explained the reasons for her findings, and her responses to Mr Patel's comments. Mr Patel asked one question in cross-examination, as a result of which the Compliance Officer agreed that if file 1 alone had been considered, the outcome of the Monitoring visit would have been satisfactory.
7. The Committee found the Compliance Officer to be very experienced both as an Auditor and as a Compliance Officer. Her evidence was clear and compelling, and backed up by contemporary records. She expressed her views forcefully but the Committee rejected Mr Patel's suggestion that she was prejudiced against him. She had in fact carried out the 2008, Monitoring visit where the outcome was satisfactory. The Committee accepted the Compliance Officer's evidence.
8. Mr Patel did not give evidence or call any witnesses but he stood by the comments he had made in writing and made submissions on the facts. By the end of his submissions he said that he accepted that Audit Files 2 and 3 were not satisfactory but emphasised that if File 1 alone had been considered, the outcome of the visit would have been satisfactory.
9. In many cases, Mr Patel's position was that he had done the necessary work but had failed to record it. The Committee accepted the Compliance Officer's evidence that recording is an integral part of Auditing and a failure to record is a failure to complete that aspect of the Audit.
10. The Committee was satisfied by the evidence of the Compliance Officer that the deficiencies alleged in the report had been proved. Mr Patel had disputed some of her conclusions in his letters to ACCA but failed to provide any evidence to support his case. Furthermore, the Compliance Officer had convincing answers to each of the points he had raised in his letters.

11. The Committee was satisfied that the deficiencies set out in the report were failures to comply with the International Standards on Auditing (UK and Ireland) and amounted to breaches of the Global Practising Regulations. Accordingly the ground for taking action in relation to his Practising Certificate, under regulation 5(2)(f), was made out.

### **ORDER AND REASONS**

12. In deciding what action, if any, to take in this case, the Committee had regard to Admissions and Licensing Guidance and the particular factors referred to in The Statutory Auditors and Third Country Auditors Regulations 2016.
13. The report contained wide ranging and serious criticisms of the Audit reports, in about 15 separate areas, with the result that for two Audits, the Audit opinion was not adequately supported. The Committee was concerned about Mr Patel's response to the criticisms. He minimised the concerns and failed to accept the importance of Auditing according to established procedures. He appeared to believe that because he knew the businesses well, he was not required to document the steps that had been taken. He appeared to consider that because the businesses were relatively small (although still with a turnover of over £3.7 million in one case) the Audit requirements did not have to be applied strictly. He implied that smaller Audit Firms should not be expected to comply with the same standards as large Audit Firms.
14. Mr Patel did not demonstrate that he took responsibility for the deficiencies, although he was the only Audit-qualified person in the Firm. He did not seem to appreciate that his oversight involved more than simply being closely involved in the carrying out of the Audit. It was his responsibility alone to ensure that the Audit had been performed properly. In his submissions he relied heavily on the ability of his Practice Manager. He said she had carried out the Audit work on File 1 (which was satisfactory). He proposed a way forward whereby she would be solely responsible for Audit work in the future. His Practice Manager is not Audit-qualified and the Committee found this proposal quite unacceptable. It also considered that the proposal demonstrated a lack of insight into his role and personal responsibility as the qualified Auditor.

15. The Committee concluded that placing Conditions on his Certificate would be both unworkable and inadequate.
16. The Committee took into account that Mr Patel had four previous unsatisfactory Monitoring visits since 1997 and that he had been subject to a previous order of the Admissions and Licensing Committee. The Guidance for Regulatory Orders states that on a second referral 'the Committee will normally order that the Firm's Audit registration be withdrawn'.
17. Despite the opportunities given to him to improve his Firm's Audit practice there had been no sustained period of good performance by the Firm. The Committee had no confidence that Mr Patel or his Firm would be able to perform Audits to a satisfactory standard in the long term. The Committee concluded that the minimum order necessary to protect the public and maintain standards was to withdraw their Auditing qualifications. Because of the extent of the deficiencies, the Committee considered that restrictions should be imposed on any future application for a Certificate.
18. The Committee made an order pursuant to Authorisation Regulation 5(2)(f) that:
  - (a) Mr Patel's practising certificate with Audit qualification and the Firm's Auditing Certificate be withdrawn and he be issued with a Practising Certificate; and
  - (b) Any future re-application for Audit Registration by Mr Patel, or by a Firm in which he is a Principal, must be referred to the Admissions and Licensing Committee, which will not consider the application until he has attended a practical Audit course, approved by ACCA and, following the date of this order, passed paper P7, Advanced Audit and Assurance, of ACCA's professional examinations.

#### **EFFECTIVE DATE OF ORDER**

19. Ms Hatt invited the Committee to consider directing that its order take effect immediately. The Committee was particularly concerned about Mr Patel's lack of insight. It determined that there would be a risk to the public if Mr Patel were permitted to retain his Audit qualification during the appeal period. The Committee directed that its order should have immediate effect.

#### **PUBLICITY**

20. The Committee did not consider that there were any circumstances justifying a departure from the normal rule that this decision be published, including details of Mr Patel's identity.

**Mrs Lubna Shuja  
Chairman  
23 January 2018**