

# HEARING

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

### REASONS FOR DECISION

- In the matter of:** Mr Farhan Abdul Aziz Khatri
- Heard on:** Thursday, 3 May 2018
- Location:** ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU
- Committee:** Mrs Helen Carter-Shaw (Chairman), Mr Edward Weiss (Accountant) and Mr Paul Moulder (Lay)
- Legal Adviser:** Mrs Fiona Barnett
- Persons present and capacity:** Mr Mohammed Ismail (ACCA Case Presenter)  
Mr Richard Lorkin (Hearings Officer)  
Mr Christopher Badoo (Hearings Officer)
- Observers:** None
- Summary:** **Conditions**

### SERVICE OF PAPERS

1. Mr Khatri was neither present nor represented.
2. The Committee had before it a Service Bundle with pages numbering 1 to 11.
3. The documents within the Service Bundle demonstrated that notice of this hearing, which was dated 28 March 2018 was sent on that date by recorded delivery to Mr Khatri's registered address. The notice was also sent by email.

## HEARING

4. The Committee was therefore satisfied that proper notice had been given, and that service had been properly effected in accordance with Regulations 6(1)(a) and (b) and 11(1) of the Authorisation Regulations 2014 (AR).

### PROCEEDING IN ABSENCE

5. Mr Ismail submitted that Mr Khatri had both voluntarily absented himself and provided written submissions to the Committee. In the circumstances, the Committee should proceed in his absence.
6. The Committee then determined whether to proceed in the absence of Mr Khatri. It accepted the advice of the Legal Adviser. It bore in mind that whilst it has a discretion to commence and conduct proceedings in the absence of the member, it should exercise that discretion with the utmost care and caution. The Committee had regard to the factors set out by Lord Bingham in the case of **R v Jones 2002 UKHL 5** and the case of **General Medical Council v Adeogba and Visvardis 2016 EWCA Civ 162**.
7. Mr Khatri responded to the notice of hearing. He stated, in an email to ACCA dated 11 April 2018, “... *I do not wish to attend, but I am sending some documents as detailed below.*” The Committee was therefore satisfied that Mr Khatri was aware of the hearing, and had voluntarily waived his right to attend. He had not sought an adjournment and had provided documents to be put before the Committee. In the circumstances, the Committee decided that the hearing should proceed, and that proceeding would be fair and in the public interest.

### ACCA APPLICATION TO ADMIT LATE EVIDENCE

8. Mr Ismail explained that after the notice of hearing was served on Mr Khatri, he responded to ACCA by email, dated 11 April 2018. Mr Ismail said that subsequently, ACCA wrote to Mr Khatri on 20 April 2018, responding to his email, seeking clarification from him on a number of issues, and addressing matters raised by him. Mr Ismail told the Committee that ACCA sought to put their letter dated 20 April 2018, and its enclosures, before the Committee, but that Mr Khatri had objected to this. Mr Ismail submitted that it would cause no

## HEARING

prejudice to Mr Khatri if this letter and the attached documents were put before the Committee. Mr Ismail accepted that the letter contained new evidence which expanded upon and clarified ACCA's case.

9. The Committee was not provided with the documents which were the subject of this application.
10. The Committee accepted the advice of the Legal Adviser, and considered whether it would be fair and in the interests of justice to admit the late evidence.
11. The Committee decided that it would be unfair to admit ACCA's letter of 20 April 2018, and the attached documents. This was because the evidence had been served late and contained new evidence which expanded upon and clarified ACCA's case. Given that the evidence was served late, and following Mr Khatri's objection, he has not had a proper opportunity to respond to it. Mr Ismail had also told the Committee that ACCA would not be prejudiced if the Committee refused ACCA's application to admit this evidence.
12. The Committee therefore refused the application,

### **BRIEF BACKGROUND**

13. Mr Khatri is the sole director in Amstor Accountants Ltd, ("the Firm"). He is the holder of a practising certificate with audit qualification.
14. A monitoring visit took place at the Firm in February 2014. The Compliance Officer identified serious deficiencies in audit work which resulted in the Firm's audit opinions not being adequately supported by the work performed and recorded. The findings were referred to ACCA's Admissions and Licensing Committee. In June 2014, that Committee imposed conditions, which included requirements to have all future audit work (limited to three clients) and all other regulatory work reviewed by a training company approved by ACCA, and to be subject to an accelerated monitoring visit before 30 June 2016.

## HEARING

15. The second (accelerated) monitoring visit took place on 23 November 2016. The Firm no longer had any audit clients, but had signed one audit report and that file was inspected. The Compliance Officer found that the Firm had made some improvements in the recording of audit work, but that the changes made were not adequate and the audit opinion was not adequately supported by the work performed and recorded.
16. Mr Khatri provided an action plan, and ACCA referred the matter to a Regulatory Assessor with a recommendation that the Assessor imposes conditions. On 22 November 2017, the Regulatory Assessor made a decision to impose conditions on Mr Khatri's audit certificate and made a publicity order.
17. Following the Regulatory Assessor's decision, in a letter dated 28 February 2018, Mr Khatri notified ACCA that he wished to "appeal" against the decision.
18. In considering this matter, the Committee had before it a bundle with pages numbering 1 to 86, and an additional bundle with pages numbering 87 to 99. Pages 100 to 103 were provided to the Committee on the day of the hearing. Page 103 included an email from Mr Khatri telling the Hearings Officer that he did not want the documents that were the subject of ACCA's application to admit late evidence referred to at paragraph 8 above, to be put before the Committee.

## APPLICATION

19. Mr Ismail, on behalf of ACCA, referred the Committee to the Compliance Officer's findings, following the monitoring visit on 23 November 2016, and invited the Committee to impose conditions on Mr Khatri's practising certificate. He referred the Committee to order B8, in the *Guidance for Regulatory Orders, eligibility for certificates or licences and unsatisfactory outcomes to monitoring visits, updated November 2014, ("GRO")*, and submitted that this would be an appropriate and proportionate order.

# HEARING

## DECISION ON APPLICATION AND REASONS

20. The Committee accepted the advice of the Legal Adviser.
  
21. In reaching its decision, the Committee had regard to Authorisation Regulation 5(2)(f). It took account of all the evidence before it. It had regard to the findings of ACCA's Compliance Officer following the monitoring visit on 23 November 2016, and noted the breaches of international auditing and quality standards which were referred to in the documents before it. It was satisfied that it had been notified of a material breach of Practising Regulation ("PR") 13(1), which applies to Mr Khatri in the conduct of his audit work.
  
22. The Committee then went on to decide what order, if any, it should impose.
  
23. In reaching its decision, the Committee took account of the GRO. It also had regard to the Statutory Auditors and Third Country Regulations 2016, ("SATCAR"). It bore in mind that in determining what order to impose, if any, it must act proportionately, balancing Mr Khatri's interests against the purpose of regulatory orders.
  
24. The Committee was mindful that Mr Khatri's audit work had not reached a satisfactory standard after two monitoring visits. However, it accepted Mr Khatri's submissions that he has taken steps to improve his audit work. These submissions were supported by ACCA's conclusions that the standard of his audit work was found to have improved at the second visit in November 2016.
  
25. Mr Khatri, in his correspondence with ACCA, referred to ACCA's decision to relieve him from the "hot review" requirement imposed by the Committee in 2014. He said that this *"caused confusion"*, and *"resulted in postponement of our plan to get hot file review done for our audit"*. He said that with hindsight, it might have been better to have had the file hot reviewed even though the hot review requirement had been lifted by ACCA. He also said, with reference to the action plan required after the second monitoring visit, *"ACCA initially did not give us enough time to come up with a plan even*

## HEARING

*after several requests....they gave us a couple of weeks when we had busy schedule of work to deal with at the same time”.*

26. The Committee considered these submissions carefully. It appreciated that Mr Khatri may have been confused by ACCA lifting the hot review requirements; however, there was no way of knowing what would have happened if Mr Khatri had pursued the hot review of his own volition. The monitoring visit had revealed deficiencies in Mr Khatri's audit work, and the Committee must make its decision on the basis of the evidence before it. It was nonetheless encouraged that Mr Khatri had shown a willingness to engage with hot reviews, even where they were not mandatory. It was satisfied, from the evidence before it, that Mr Khatri was committed to improving the standard of his audit work and that the standard had in fact improved to some extent between the first and second monitoring visits.
27. In relation to the action plan, the Committee noted that Mr Khatri took issue with the period of time allowed to complete this. However, it bore in mind that Mr Khatri eventually submitted an action plan which gave the Regulatory Assessor, and this Committee, confidence that he was willing to improve his audit work and comply with reasonable requirements imposed upon him. The matter was referred to the Regulatory Assessor because Mr Khatri had submitted a satisfactory action plan. If he had not done so, the matter would, in all likelihood, have been referred to the Admissions and Licensing Committee at that stage, with a recommendation that his auditing certificate be withdrawn.
28. The Committee first considered whether it could conclude the case without taking any action on Mr Khatri's audit certificate. Given that the Committee had been notified of a material breach of PR 13(1), it decided that the public would not be protected, and public confidence in the profession would not be upheld if no action was taken on Mr Khatri's audit certificate.
29. The Committee next considered whether conditions could be formulated, which would be imposed on Mr Khatri's practising certificate with audit qualification. It bore in mind that conditions must be appropriate, proportionate, workable and measurable, and that they must protect the

## HEARING

public and the wider public interest whilst giving Mr Khatri an opportunity to improve his audit work.

30. The Committee bore in mind that:

- Mr Khatri had made improvements in his audit work to date.
- He had shown a willingness to meet a satisfactory standard in his audit work; and
- In recent correspondence with ACCA, he accepted that he would be willing to comply with hot reviews.

31. It therefore concluded that the imposition of conditions on Mr Khatri's audit certificate would be an appropriate and proportionate response to the regulatory concerns.

### ORDER AND REASONS

32. The Committee made an order, pursuant to Authorisation Regulation 5(2)(f), that Mr Khatri be required to:

- i. Provide Governance – Practice Monitoring within 30 days of the date of written notification of this decision with a list of current audit clients, identifying any Public Interest Entity (PIE) clients;
- ii. Promptly notify Governance – Practice Monitoring if the firm accepts any new PIE audit appointments, or if any of the PIE audits identified in *i* above ceases to be an audit client at any time in the future while this decision remains in effect;
- iii. Have all future audit work on all PIE clients identified in *i* and *ii* above and confirmed by Governance – Practice Monitoring reviewed by a training company before audit reports are signed, such training company being subject to ACCA approval;
- iv. Notify ACCA of the identity of the training company referred to in *iii* above within 14 days of the date of Governance – Practice

## HEARING

Monitoring confirming the PIE audit clients to be subject to review in accordance with i and/or ii above;

- v. Submit all reports prepared by the nominated training company (including details of how the Firm has addressed the points raised by the reviewer) pursuant to iii above to Governance – Practice Monitoring within seven days of signing the audit report;
- vi. Be subject to an accelerated monitoring visit before 3 May 2019, at a cost to the firm of £1,000 and £400 for each additional audit qualified principal; and
- vii. Note that failure to make the necessary improvements in the level of compliance with auditing standards and with the requirements of any regulators by that time will jeopardise his and his Firm's continuing audit registration.

33. In relation to condition *vi*, the Committee noted that the Regulatory Assessor imposed a requirement for an accelerated monitoring visit before December 2018. However, the Committee decided that it would be appropriate and proportionate to allow Mr Khatri a longer period, to give him an opportunity to carry out an audit. It was mindful that at the end of February 2018, he had no audit clients.

### EFFECTIVE DATE OF ORDER

34. This order shall take effect from the date of the expiry of the appeal period referred to in the Appeal Regulations.

### PUBLICITY

35. Mr Khatri requested that his name or the name of his Firm should not be published.

36. Mr Ismail submitted that Mr Khatri had submitted no information to persuade the Committee that he should not be named in any publicity.

## HEARING

37. The Committee accepted the Legal Adviser's advice. It accepted that it had made an order pursuant to SATCAR Regulation 5(h), and that in such circumstances, publicity is mandatory, pursuant to SATCAR Regulation 6. However, in accordance with SATCAR Regulation 6(3), Mr Khatri's identity must not be published in certain circumstances. These are:

- (a) Where A is an individual and the competent authority considers the publication of personal data would be disproportionate;
- (b) Where publication would jeopardise the stability of financial markets;
- (c) Where publication would jeopardise an ongoing criminal investigation;  
and
- (d) Where the publication would cause disproportionate damage to any institution or individual involved.

38. Mr Khatri had provided no explanation in correspondence with ACCA as to why his name, or that of his Firm, should not be included in any publicity. The Committee was not therefore persuaded that any of the circumstances set out above applied.

39. The Committee ordered that ACCA publish details of this order, and that Mr Khatri be named in any publicity.

**Mrs Helen Carter-Shaw**  
**Chairman**  
**3 May 2018**