

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Stephen Baker

Heard on: Monday, 3 September and Tuesday, 30 October 2018

Location: The Adelphi, 1-11 John Adam Street, London. WC2N 6AU (3 September 2018); and The Chartered Institute of Arbitrators, 12 Bloomsbury Square, London, WC1A 2LP (30 October 2018)

Committee: HH Suzan Matthews QC (Chairman), Mr Alastair Papps (Lay member) and Ms Wanda Rossiter (Accountant)

Legal Adviser: Mr Leighton Hughes (3 September 2018)
Mr Conor Heaney (30 October 2018)

Persons present

and capacity: Ms Samantha Hatt (Case Presenter on behalf of ACCA)
Ms Helena Duong (Counsel for Mr Baker: 3 September 2018);
Mr Christopher Hamlet (Counsel for Mr Baker: 30 October 2018)
Miss Rachael Davies (Hearings Officer)

Summary: **Regarding Allegation 1(a) and 1(b)(i), Member is Severely Reprimanded. Regarding Allegation 2, Member is Admonished.**
Member is to pay costs to ACCA in the sum of £9,000.

HEARING

1. The Committee had before it hearing bundles paginated A-U, 1-80, 81-82, 83 and a service bundle paginated 1-12. References to numbered pages are references to pages in the hearing bundles.
2. Mr Baker faced the following allegations (where in bold and underlined, the allegations reflect amendments made by the Committee, and where a line is drawn through the allegations, it reflects withdrawals directed by the Committee):

Allegation 1

- (a) Between 15 March 2010 and 12 September 2016 Mr Stephen Baker, an ACCA member, made a series of postings on his public Facebook page including but not limited to those set out in Schedule A.
- (b) Mr Stephen Baker's conduct in respect of 1(a) above breached:
 - (i) section **150.1 and/or** 150.3 of the ACCA Code of Ethics and Conduct (The Fundamental Principle of Behaviour'); and/ or
 - (ii) ~~section 250.2A(a) of the ACCA Code of Ethics and Conduct (The Fundamental Principle of Marketing Professional Services');~~ and/or
 - (iii) section 140.1 and/or 140.2 of the ACCA Code of Ethics and Conduct (The Fundamental Principle of Confidentiality')
- (c) By reason of his conduct in respect of any or all of the matters set out at 1(a) and (b) above, Mr Stephen Baker is:
 - (i) Guilty of misconduct pursuant to bye-law 8(a)(i); and/ or
 - (ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii).

Allegation 2

- (a) Between 6 February 2017 and 1 December 2017 Mr Stephen Baker, an ACCA member, breached Paragraph 3(2)(a) of the Global Practice Regulations (as applicable in 2017) in that he was a director of Maple Accountancy Group Limited, which holds itself as carrying on public practice, without holding an ACCA practising certificate.

HEARING

- (b) By reason of his conduct in respect of any or all of the matters set out at 2(a) above, Mr Stephen Baker is
- (i) Guilty of misconduct pursuant to bye-law 8(a)(i); or
 - (ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii).

APPLICATION TO AMEND THE ALLEGATIONS

3. At the outset of the hearing Ms Hatt applied to amend Allegation 1(b)(i) so as to replace the pleaded "Section 150.3 of the ACCA Code of Ethics and Conduct" with "Section 150.1 and/or Section 150.3 of the ACCA Code of Ethics and Conduct." Ms Duong, on behalf of Mr Baker, did not oppose the application.
4. The Committee bore in mind the agreement of Counsel in relation to the proposed amendment. It was satisfied that the proposed amendment could be made without injustice and accordingly, the Committee granted Ms Hatt's application.
5. Ms Hatt made a further application to withdraw Allegation 1(b)(ii). She submitted that the alleged breach of Section 250.2A(a) was predicated upon the basis that Mr Baker was engaged in public practice at the material time, and she candidly accepted that ACCA's case was that the only time that he was doing so was between 6 February 2017 and 1 December 2017. The relevant Facebook posts relied upon by ACCA were outside this time span and, accordingly, she invited the Committee to permit ACCA to withdraw Allegation 1(b)(ii), on the basis that there was no reasonable prospect of the allegation being found proved by the Committee.
6. Ms Duong, on behalf of Mr Baker, did not oppose the application.
7. The Committee granted the application to withdraw Allegation 1(b)(ii), in so doing it accepted the reasoning in Ms Hatt's submission.

BRIEF BACKGROUND AND ACCA's CASE

8. Mr Baker has been a member of ACCA since 30 September 2005. He is a Fellow of ACCA ('FCCA'). He has never held an ACCA practising certificate.

HEARING

9. ACCA's case in respect of Allegation 1, in essence, was that between March 2010 and September 2016, Mr Baker made a large number of posts on Facebook that were derogatory, homophobic, racist, sexist and highly offensive. Those posts were set out at Schedule A to the Allegations.
10. ACCA's case in respect of Allegation 2 was that between February and December 2017, Mr Baker was a director of a firm which held itself out as carrying on public practice, when he did not hold a practising certificate. ACCA relied upon a number of further Facebook posts in order to establish this.

[SCHEDULE A REDACTED]

35. On 6 February 2017, Mr Baker became a director of Maple Accountancy Group Limited (page 38).
36. The nature of Maple Accountancy Group Limited's business is recorded at Companies House as being "Accounting and auditing services" (page 39).
37. On 1 December 2017, Mr Baker resigned as a director of Maple Accountancy Group Limited (page 40).

THE MEMBER'S RESPONSE

38. At the outset of the hearing, Mr Baker admitted Allegations 1(a), 1(b)(i) [insofar as it related to Section 150.1 of the ACCA Code], 1(c)(i), 2(a) and 2(b)(i). Mr Baker denied Allegation 1(b)(iii).
39. Ms Duong, on behalf of Mr Baker told the Committee that his admission in relation to Allegation 1(b)(i) was qualified, in that he did not accept that all of the Facebook posts in Schedule A were breaches of Section 150.1 of the ACCA Code. To this end Ms Duong produced a schedule, added to the hearing bundles as page 83, which set out where Mr Baker accepted his conduct breached the principle of professional behaviour.

HEARING

SUBMISSION OF NO CASE TO ANSWER

40. At the close of the case presented by Ms Hatt on behalf of ACCA, Ms Duong submitted that there was no case for Mr Baker to answer in respect of Allegation 1(b)(iii). She reminded the Committee that ACCA's case in respect of the allegation relied upon the Facebook post on 10 September 2012 as follows:

'As an accountant I had a newly retired gentleman visit me with a demand which on his modest pension threatened his retirement. It was effecting his health & as he had never owned anything in his life he was worried to the point that he wasn't sleeping or eating. I removed the liability (Caused by HMRC inefficiency) & he wept with joy. I would hate to think what would have happened had I not had ESC A19 at my disposal.'

41. Ms Duong submitted that the post was wholly non-specific and did not identify any client, and accordingly that there could not have been any breach of the Fundamental Principle of Confidentiality. Further, she submitted that even if sufficient evidence had been adduced to establish a case to answer in this respect, there was no prospect of a finding that what Mr Baker had done was sufficiently serious as to amount to misconduct.
42. Ms Hatt reminded the Committee that the Fundamental Principle of Confidentiality imposed an obligation to refrain from disclosing confidential information acquired, as a result of professional and business relationship without authority. Ms Hatt argued that the Principle was not limited to the disclosure of information that could be attributed to a specific person or client, and that there was ample evidence before the Committee that established a prima facie case that the Facebook post of 10 September 2019, represented the disclosure of confidential information acquired professionally. It was confidential information relating to the health condition of a client who had visited him "as an accountant." Ms Hatt further submitted that professional confidentiality was a fundamental expectation of a member of ACCA, and that that the Facebook post reflected conduct falling far short of the standards expected of an ACCA member. She accordingly submitted that ACCA had also established a prima facie case that Mr Baker's conduct, if eventually found proved, could amount to Misconduct.

HEARING

THE COMMITTEE'S DECISION

43. The Committee carefully considered the opposing submissions of Counsel, together with all of the evidence adduced thus far. The Committee bore in mind the specific wording of Sections 140.1 and 140.2 of ACCA's Code of Ethics and Conduct.
44. There was no dispute that Mr Baker had made the Facebook post, dated 10 September 2012. The Committee was satisfied that Mr Baker's post created no real risk of identifying any individual client, however it considered the mischief aimed at in Sections 140.1 and 140.2 was not limited to cases where an individual could be linked to confidential information, but rather the sections reflected the fundamental importance of maintaining the expectation of professional confidentiality. The Facebook post referred to a person whom he had met "as an accountant" dealing with a tax liability that was affecting his health. The Committee was satisfied that ACCA had presented a *prima facie* case that Sections 140.1 and/or 140.2 had been breached by Mr Baker's post. Whether in fact they had been breached will be a matter for the Committee at a later stage, once all the evidence is before it, including any evidence by, or on behalf of, Mr Baker.
45. The Committee considered that a breach of professional confidentiality always had the potential to amount to be conduct falling so far short of the standards expected of an ACCA member, as to amount to misconduct. However, the Committee was bound to place the allegation in its proper context - Mr Baker's apparently genuine wish to express his ongoing concern of the sometimes serious effect upon others of HMRC inefficiency, together with there being a negligible chance of a client being identified. In all the circumstances, the Committee considered there was no reasonable prospect of a finding in this case that Mr Baker's conduct, if found proved, amounted to misconduct.
46. Accordingly, the Committee found that Mr Baker had a case to answer in respect of Allegation 1(b)(iii) and 1(c)(ii), but not in respect of Allegation 1(c)(i) concerning 1(b)(iii).

HEARING

MR BAKER'S CASE

47. Mr Baker had previously provided a detailed response to ACCA on 26 February 2018 (page 32), and thereafter detailed written representations on 4 May 2018, in respect of the Allegations (page 45-57).
48. Mr Baker gave oral evidence to the Committee.
49. Mr Baker acknowledged that Section 150.1 of the ACCA Code of Ethics meant that he was bound to act with integrity and honour, and he candidly accepted that his conduct, through his Facebook posts, had adversely affected the reputation of the accountancy profession.
50. Mr Baker gave an explanation for why he did not consider the disputed Facebook posts to be offensive. He strenuously denied having sexist, racist or homophobic views but he acknowledged that, with hindsight, many of his posts had been offensive. He told the Committee that these proceedings had caused him to reflect, at length, at his behaviour, and that he had learned to appreciate that he had acted without thinking of the impact of his behaviour upon either others or the reputation of the profession.
51. Mr Baker told the Committee that his role at Maple Accountancy Group limited was that of a manager, and that it was a multi-faceted business, offering a number of professional services. He did not practise as an accountant. He said he was made a director of the company in order to facilitate a car finance agreement, that he resigned as a director almost immediately once the vehicle had been supplied. He said he did not properly think through the other potential professional consequences. His representations to ACCA in February 2018 were *"No mention was made externally to clients/ potential clients or internally to the team. Maple did not trade as an ACCA practice nor did I or Maple get any gain from me being a director (Other than the purchase of the vehicle). I was not mentioned as a director on any paperwork & I was not a signatory on the bank. I do however accept from reading the extract from GPR 3 that I am in breach of the regulations. This was an genuine error as I was not practicing in my own right or through a company & therefore did not consult the ACCA Rulebook. The dynamic of the company did not change."*

HEARING

ACCA'S POSITION IN RELATION TO ALLEGATION 1(b)(i)

52. Allegation 1(b)(i), as amended at the outset of the hearing, pleaded that Mr Baker's conduct in respect of Allegation 1(a) was "contrary to section 150.1 and/or 150.3 of the ACCA Code of Ethics and Conduct (The Fundamental Principle of Behaviour)". Ms Hatt told the Committee that, in light of Mr Baker's acceptance that his conduct breached Section 150.1, it did not seek to pursue the alternative breach of Section 150.3.

DECISION ON ALLEGATIONS AND REASONS

53. The Committee carefully considered all of the evidence, oral and documentary, weighing that evidence dispassionately and determining, using its experience, expertise and commonsense, which evidence it accepted and which evidence it rejected. It bore in mind the submissions of both Counsel and accepted the advice of the Legal Adviser.

54. The Committee acknowledged that the burden of proving the allegations rested with ACCA, and that the standard of proof was on the balance of probabilities.

55. The Committee looked at each allegation individually, whether admitted or disputed, and exercised its independent judgment. It considered whether any allegation found proved rendered Mr Baker guilty of misconduct, or otherwise liable to disciplinary action.

56. In summary, the Committee made the following findings:

- Allegation 1(a): Found proved by way of admission.
- Allegation 1(b)(i): Found proved by way of admission, and to the extent admitted by Mr Baker
- Allegation 1 (b)(ii): Withdrawn
- Allegation 1(b)(iii): Found proved
- Allegation 1(c)(i): Found proved by way of admission in respect of Allegation 1(a) and 1(b)(i)
- Allegation 1(c)(ii): Found proved in respect of Allegation 1(b)(iii)
- Allegation 2(a): Found proved by way of admission

HEARING

- Allegation 2(b)(i): Found proved by way of admission
- Allegation 2(b)(ii): No finding required in light of the Committee's finding in respect of Allegation 2(b)(i)

57. The Committee's first task was to consider the outstanding area of dispute in Allegation 1(b)(i) and, in essence, to determine whether the "disputed" posts in Schedule A represented breaches of Section 150.1 of the ACCA Code of Ethics and Conduct.

58. The Committee carefully considered Mr Baker's explanations for the disputed Facebook posts identified as numbers 2, 4, 10, 11, 16, 21 and 23. The Committee noted Mr Baker's evidence that, at the time, he did not consider those posts to be offensive and he still did not consider them to be so. The Committee found that the disputed posts were ill-advised and should not have been posted in a Facebook account, still less one which identified Mr Baker as an accountant and FCCA. However, those posts were at the lower end of the scale and, taken either in isolation or combination, the Committee was not satisfied they met the threshold that a reasonable and informed third party would consider that the good reputation of the profession would be adversely affected by them.

59. As to Allegation 1(b)(iii), the Committee was satisfied on the available evidence that Mr Baker's Facebook post on 10 December 2012, represented the disclosure of confidential information acquired professionally by him. It was not suggested that Mr Baker had any authority to do so. The information contained in the post was confidential information, relating to the health condition of a client who had visited him as an accountant. The Committee was satisfied that Mr Baker's post created no real risk of identifying any individual client, however it considered the mischief aimed at in Sections 140.1 and 140.2 was not limited to cases where an individual could be linked to confidential information, but rather the sections reflected the fundamental importance of maintaining the expectation of professional confidentiality. Accordingly, the Committee found Allegation 1(b)(iii) proved.

60. The Committee next considered whether Mr Baker was guilty of misconduct by reason of his acts found proved, in relation to Allegations 1(a) and/or 1(b)(i) and/or 2(a).

HEARING

61. The Committee had at the forefront of its considerations the public interest, which included not only the protection of members of the public, but also the maintenance of public confidence in the profession and in ACCA, and the declaring and upholding of proper standards of conduct and behaviour.
62. The Committee bore in mind that not every professional act or omission, and not every professional failing, is sufficiently serious as to amount to misconduct. The Committee reminded itself of the definition of misconduct within bye-law 8, and also the legal authorities and guidance set out in the advice of the Legal Adviser, and in the submissions of Counsel.
63. The Committee was satisfied that Mr Baker's behaviour in Allegation 1(a) and (b)(i) was professionally culpable, and discreditable to Mr Baker, ACCA and the Accountancy Profession. The Committee considered his conduct as found proved to represent a serious departure from the high standards expected of an ACCA member, and conduct that brought ACCA and the profession into disrepute. Whilst Mr Baker's conduct was primarily outwith the course of his profession, it was apparent from his Facebook posts that he was an accountant and FCCA.
64. As to Allegation 2(a), the Committee noted that Mr Baker had never held an ACCA practising certificate, but that for almost 10 months he was a director of Maple Accountancy Group Limited, which held itself out as carrying on public practice. The nature of Maple Accountancy Group Limited's business was recorded at Companies House as being "Accounting and auditing services." Mr Baker was therefore a director of a firm, where public practice activities were being carried out.
65. The Committee considered that holding oneself out as engaging in public practise without a practising certificate was serious. The Committee was satisfied that Mr Baker's behaviour giving rise to Allegation 2 was discreditable to himself and the Accountancy Profession. The Committee considered his conduct to be serious departures from the high standards expected of an ACCA member.
66. For the above reasons, the Committee concluded that the matters found proved in Allegations 1(a), 1(b)(i) and 2(a) amounted to misconduct. To characterise them as other than misconduct would fail to uphold proper professional standards, and would

HEARING

undermine public confidence in the profession and in the regulatory function of ACCA. Accordingly, the Committee found Allegations 1(c)(i) and 2(b)(i) proved.

67. Having found Allegations 1(c)(i), 1(c)(ii) (in respect of Allegation 1(b)(iii) and 2(b)(i)) proved, the Committee did not need to go on to consider Allegation 2(b)(ii).

RESUMED HEARING: 30 OCTOBER 2018

68. The Committee reconvened to consider the question of sanction and costs. The Committee had before it, in addition to the papers received in evidence previously, a tabled additional bundle (3) and a tabled additional bundle (4).

SANCTION

69. The Committee heard submissions on sanction from both Counsel and heard from Mr Baker who gave further oral evidence. The Committee also had regard to a significant number of character references which attested to Mr Baker's personal and professional attributes.

70. In his evidence, Mr Baker outlined the steps that he had taken in the time following the bringing of regulatory proceedings against him by ACCA. He had attended a course in September 2018, entitled 'Equality, Diversity and Discrimination' organised by ACAS. Mr Baker had participated in a course in October 2018, in LGBT Awareness Training organised by Derbyshire LGBT+. The Committee had certificates which confirmed Mr Baker's successful completion of both courses. Mr Baker told the Committee that he had learned a great deal from his attendance on them. He now fully understood how his remarks were totally inappropriate and that they had the potential to cause serious harm and offence to third parties. Mr Baker expressed embarrassment for his previous actions and stated that he was '*mortified*' by what he had posted. Mr Baker assured the Committee that there would be no repeat in the future of the conduct which had resulted in these proceedings.

71. Ms Hatt, in her submission to the Committee, stressed the aggravating features. She reminded the Committee of the offensive nature of the language used in the posts, and that they had been posted on a social media platform, open to the public. Ms Hatt reminded the Committee that Mr Baker's posts made reference to his profession as an accountant, and that he had denigrated and offended various sections of the

HEARING

community over a prolonged period. Ms Hatt contended that Mr Baker had demonstrated a lack of insight in his evidence to the Committee. Ms Hatt submitted that Mr Baker had accepted in his evidence, at the fact-finding stage, that he had failed to grasp the offensive nature of his comments until the ACCA investigation into his actions had commenced.

72. Mr Hamlet addressed the Committee on three separate aspects of the facts found proved by the Committee. In respect of Allegation 1(b)(iii), which comprised a reference to an unidentified client with a health issue in a Facebook post, and in respect of which the Committee had found that the facts found proved gave rise to disciplinary action, Mr Hamlet submitted that it would be appropriate for the Committee to take no further action. In respect of Allegation 1(a) and 1(b)(i), which comprised the remainder of the Facebook posts, Mr Hamlet submitted that the public interest would be satisfied by the imposition of a Reprimand, either on its own or in conjunction with a nominal fine. With regard to Allegation 2, which comprised Mr Baker engaging in public practice without a practising certificate, Mr Hamlet submitted that the gravity of that finding could be met by the imposition of an Admonishment.

73. The Committee considered very carefully the parties' submissions, the documentary evidence, and the oral evidence given by Mr Baker. The Committee accepted the Legal Adviser's advice. The Committee had regard to ACCA's Guidance for Disciplinary Sanctions, with effect from 1 July 2018 ('the Guidance').

74. In considering what, if any, sanction to impose, the Committee had regard to the principle of proportionality and the need to balance the public interest against Mr Baker's interests. The Committee also bore in mind that the purpose of a sanction was not to be punitive but to protect members of the public, maintain public confidence in the profession and ACCA, and to declare and uphold proper standards of conduct and performance.

75. The Committee was told that Mr Baker had no previous disciplinary findings against him.

76. The Committee first considered Allegation 1(b)(iii). The Committee considered that, as a general proposition, accountants were expected by the public, and their clients for whom they acted, to adhere to the highest professional standards and to treat

HEARING

information entrusted to them with the utmost confidence. The Committee considered that the scope of ACCA's Code of Ethics and Conduct was wide enough to capture identification of third parties whose identity had not been divulged by an Accountant. In this case, however, the Committee did not consider that Mr Baker's actions, on a singular occasion, were such as to require the imposition of a sanction. In the Committee's view, a finding that Mr Baker's actions, which were ill-judged, were such as to render him liable to disciplinary action was a sufficient measure to uphold the public interest.

77. The Committee next turned to consider Allegation 1(a) and 1(b)(i). The Committee considered that, in light of the seriousness of its findings, it would be inappropriate to take no further action or conclude the matter by the imposition of an Admonishment. The Committee next considered whether the public interest would be upheld by the imposition of a Reprimand. In the Committee's judgment, the factors that would make such a sanction appropriate as set out in the Guidance, were largely absent. Mr Baker made admissions to a considerable degree in the course of the proceedings and had demonstrated remorse. Set against this, however, the Committee reminded itself that the posts in question had occurred over a period of six years. The Committee also noted in the course of Mr Baker's evidence to the Committee, at the sanction stage, he candidly and properly accepted that his posts had the potential to cause offence and distress to those sections of the community about whom he was commenting. Taken individually and collectively, the Committee considered that the posts in question were distasteful and grossly offensive to the public. To impose a Reprimand, in those circumstances, to the Committee's mind would fail to mark the seriousness of the misconduct identified, and would fail to uphold proper standards of conduct to be expected by members of ACCA.

78. The Committee decided that the only appropriate sanction to impose in respect of Allegation 1(a) and 1(b)(i) would be a Severe Reprimand. Mr Baker had used gratuitously offensive language to describe groups in society on a social media platform to which the public had access. The Committee considered, however, that Mr Baker had demonstrated genuine remorse and was now greatly embarrassed by his actions. The Committee also noted the significant number of references which spoke highly of Mr Baker, both personally and professionally. He had undertaken training, on his own initiative, to acquire knowledge of those groups about whom he posted unacceptable remarks. The Committee considered that Mr Baker was now insightful into his past conduct, and that there would be no repetition of it in the

HEARING

future. The Committee considered that a Severe Reprimand was appropriate to mark the seriousness of the misconduct, to maintain confidence in the profession and to uphold proper standards of conduct and behaviour expected of members of ACCA.

79. The Committee then turned to consider Allegation 2 and considered that it was inappropriate to take no further action and that it was appropriate to impose an Admonishment. The Committee considered that Mr Baker's actions, in becoming a director, were designed on a one-off basis to avail of a tax efficiency in respect of the purchase of a company car. While that procured a financial benefit, the Committee accepted that there were no other professional or financial advantages which accrued as a result of Mr Baker's actions, and that the breach of the rules was for a short period.

COSTS

80. Ms Hatt, on behalf of ACCA, applied for costs against Mr Baker in the sum of £12,106.76. An additional bundle (5), numbering pages 113-117, was provided to support the costs application.

81. Ms Hatt acknowledged that Mr Baker in May 2018, had expressed a willingness to resolve the complaint against him by way of limited admissions and the making of a Consent Order, but ACCA submitted that would have limited the available sanctions, and was not appropriate in view of the seriousness of these allegations.

82. Ms Hatt accepted that at the start of the hearing, part of the allegations had been withdrawn, and some allegations amended, and that Mr Baker had ultimately been sanctioned in respect of those allegations he had admitted, and were found proved. Ms Hatt submitted that public interest had been engaged in this case on his admissions. She reminded the Committee that a Consent Order would have required approval from a Chairman, (n.b, which could have been withheld), and that costs would have continued to accrue beyond those arising prior to May 2018.

83. Mr Hamlet, on behalf of Mr Baker, resisted ACCA's costs application. He submitted that the matter should have been resolved by way of a Consent Order. Mr Hamlet stated that ACCA had acted at the last possible moment, abandoning some matters, and applying on the first day of the hearing to amend the allegations.

HEARING

84. In order to reflect these matters, Mr Hamlet submitted that fairness demanded that each side should bear their own costs, or Mr Baker should only be required to make a nominal contribution towards ACCA's costs. Mr Hamlet stated (and the Committee accepted) that the Committee should also pay due regard to Mr Baker's ability to pay any costs awarded and, in that regard, furnished the Committee with tabled additional bundle (6), numbering pages 118-130, which comprised Mr Baker's statement of means and the legal fees which he had incurred in the course of these proceedings.
85. The Committee reminded itself that it had a broad discretion on the question of what, if any, costs Mr Baker should be required to pay. The Committee considered a number of matters arising out of the submissions. The Committee considered whether or not the matter could, or should, have been resolved by way of a Consent Order. It concluded that disposal by Consent Order was subject to its own regulatory framework & guidance, and accepted the submission of ACCA that the circumstances of these allegations, including their cumulative seriousness, took this matter out of the area of resolution by consent.
86. Having accepted that a costs order was applied for correctly, the Committee considered whether some costs could have been saved by earlier decision making in respect of the allegations, after the admissions were made in May 2018. The Committee noted that allegations had been withdrawn. The Committee concluded that some time saving had been possible, and it was reasonable to disallow a half day of the total hearing costs to reflect this. The Committee noted that Mr Baker faced fees to his legal representatives, inclusive of VAT, and which were not covered by legal insurance. The Committee took into account the financial information provided on behalf of Mr Baker in bundle 6. Although the proceedings had been properly brought, the Committee was of the view that a significant financial burden resulted to Mr Baker.
87. To reflect the above matters, the Committee considered that it was fair and reasonable to reduce the costs claimed by ACCA, and to order that Mr Baker pay ACCA's costs in the sum of £9,000.

HEARING

EFFECTIVE DATE OF ORDER

88. The Committee ordered that the Order will take effect from the date of the expiry of the appeal period as provided for in the Appeal Regulations, or at the conclusion of any appeal if one is made.

HH Suzan Matthews QC
Chairman
30 October 2018