

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Neil McTaggart

Heard on: Wednesday, 11 December 2019

Location: ACCA, The Adelphi, 1-11 John Adam Street, London, WC2N
6AU

Committee: Wendy Yeadon (Chairman)
William Hay (Accountant)
Barry Picken (Lay)

Legal Adviser: Alastair McFarlane (Legal Adviser)

Persons present

and capacity: Elisabeth Acker (ACCA Case Presenter)
Jonathan Lionel (Hearings Officer)

Summary: Removal from the affiliate register

Costs: £1,000.00

1. ACCA was represented by Ms Acker. Mr McTaggart attended but was unrepresented. The Committee had before it a bundle of papers, numbered pages 1–62, and a service bundle, numbered pages 1-12.

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PRELIMINARY APPLICATION

2. Mr McTaggart made an application under Regulation 11 for the hearing to be in private because he had concerns for his safety given the nature of his conviction. Ms Acker did not oppose the application. The Committee accepted the advice of the Legal Adviser.
3. The Committee was satisfied that the particular circumstances of this case, and the potential risk to Mr McTaggart's safety outweigh the public interest in holding the case fully in public, and considered that a proportionate response would be to redact information relating to details of the conviction in the public reasons.

ALLEGATION

- (a) On 20 May 2019, ACCA Affiliate – Mr Neil McTaggart, was convicted at Chelmsford Crown Court of: *Attempt to meet a male child under 16 following sexual grooming*, which is discreditable to the Association or the accountancy profession;
- (b) By reason of his conduct at Allegation 1(a) above, Mr McTaggart is liable to disciplinary action pursuant to bye-law 8(a)(ix).

BACKGROUND

4. Mr Neil McTaggart became a student of ACCA on 30 April 2010. He graduated as an affiliate on 15 October 2017.
5. On 12 August 2019, Mr Neil McTaggart contacted ACCA and declared that he had “pleaded guilty to a crime” and supplied a copy of the certificate of conviction and his account of events which led to his conviction, and how he felt about the conviction.

6. Mr McTaggart accepted he pleaded guilty to the offence described in Allegation 1(a) but asserted that he was the victim of a vigilante group sting. Mr McTaggart added that he pleaded guilty after the IT expert hired by his lawyer could not recover the online chats which would have aided his defence.
7. ACCA obtained a copy of the Certificate of Conviction, which confirmed that Mr McTaggart was convicted of: *Attempt to meet a male child under 16 following sexual grooming – offender 18 or over*. A copy of the sentencing transcript was also obtained

PROOF OF CONVICTION

8. ACCA rely upon the certificate of conviction to evidence the conviction, and submitted that in accordance with Bye-law 8(ix), the conviction and the facts thereof are proven.

Discreditable to the Association or the Accountancy Profession

9. ACCA submitted that the offence of *Attempt to meet a male child under 16 following sexual grooming – offender 18 or over* is discreditable to the Association and the accountancy profession, given the serious departure from the standards that one would expect from an ACCA affiliate. In addition, ACCA submitted that the public interest should be considered. The public interest includes the protection of the public, maintenance of public confidence in the profession and ACCA, and declaring and upholding proper standards of conduct and behaviour. ACCA submitted that such an offence undermines public confidence in ACCA and the accountancy profession, and as such Mr McTaggart is liable to disciplinary action under byelaw 8(a)(ix).

10. ACCA contended that the public's trust in the profession might reasonably be undermined in light of this conviction, and as such, Mr McTaggart is liable to disciplinary action under byelaw 8(a)(ix).

MR McTAGGART'S SUBMISSIONS

11. Mr McTaggart admitted the Allegation and did not dispute that he was convicted of this offence, and accepted that such an offence was discreditable to the profession. While the Committee noted that in a written response, dated 30 November 2019, Mr McTaggart stated "I am not the slightest bit guilty", he did accept that he had not appealed the conviction and that he was not able to go behind the conviction, the facts of which are conclusively established by the certificate of conviction. The Committee noted Mr McTaggart's response in the Disciplinary Case Management Form that he understood that ACCA "will only look at the facts of the situation, which is that I pleaded guilty."

DECISION ON ALLEGATIONS AND REASONS

12. The Committee accepted the advice of the Legal Adviser.
13. The Committee considered the documentary evidence, together with the submissions of Ms Acker on behalf of ACCA and Mr McTaggart's submissions.
14. The Committee noted Mr McTaggart's admissions to the Allegation and found those facts proved by virtue of his admissions under Complaints and Disciplinary Regulations 12(3). Further, and in any event, the Committee was satisfied, by virtue of the certificate of conviction, that he was convicted of the offence *Attempt to meet a*

male child under 16 following sexual grooming. Accordingly, it was satisfied that the conviction set out under Allegation 1(a) was proved.

DISCREDITABLE TO THE ASSOCIATION AND PROFESSION

15. The Committee then considered whether the proved conviction was discreditable to the Association and the accountancy profession. It noted the submissions of Ms Acker for ACCA, and of Mr McTaggart and his acceptance that it was discreditable.

16. The Committee was satisfied that the proved conviction was discreditable to the Association and the accountancy profession. This was because of the serious nature of the conviction for which Mr McTaggart received a 10-month custodial sentence, which was suspended for two years. The Committee had regard to the Judge's sentencing remarks and it was the Committee's judgment that such serious offending would undermine the standing of the profession in the eyes of the public, and was therefore discreditable to the accountancy profession. Whilst the conduct that resulted in his conviction was unrelated to his profession, the Committee reminded itself that professionals' actions out with their calling can impact on the reputation of the profession, and as Sir Thomas Bingham said in *Bolton v Law Society* [1994] 1 WLR 512, this was "part of the price" of being a member of a profession. The Committee was satisfied that Mr McTaggart's conduct amounted to a serious falling short of his professional obligations.

17. Accordingly, the Committee was satisfied that the conviction rendered Mr McTaggart liable to disciplinary action pursuant to Bye-law 8(a)(ix).

SANCTIONS AND REASONS

18. The Committee noted its powers on sanction were those set out in Regulation 13(3). It had regard to ACCA's Guidance for Disciplinary Sanctions (the "Guidance"), 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 Mr McTaggart's conduct that led to the conviction to be serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour, and maintenance of the reputation of the profession.
20. It considered the following to be aggravating factors:
 - Serious conviction that undermined the reputation of the profession;
 - A suspended custodial sentence was imposed.
21. The Committee considered the following to be mitigating factors
 - Mr McTaggart pleaded guilty to the charges for which he was convicted;
 - He has admitted ACCA's case;
 - He has shown understanding and insight into the seriousness of such behaviour, and the consequences for the reputation of the profession;

- He was of previous good character before this conviction, and has no adverse disciplinary history;
 - He self-reported, has fully engaged and co-operated openly with ACCA and the Committee;
 - He has provided a positive testimonial.
22. Given the Committee's view of the seriousness of his conduct and the need to uphold the reputation of the profession, it was satisfied that it was not appropriate or sufficient to conclude this case with No Further Action.
23. The Committee noted that while some of the factors listed in the Guidance for an Admonishment, Reprimand and a Severe Reprimand were present, it was sequentially not satisfied that any of these sanctions were sufficient to highlight to the profession and the public the gravity of the conviction. The Committee considered that the conviction was so serious that the standing and reputation of the profession would be undermined by any sanction short of Removal. In the circumstances and having balanced the aggravating and mitigating factors, the Committee was satisfied that the proportionate and appropriate sanction was an order of Removal from the Affiliate Register.

COSTS AND REASONS

24. ACCA submitted a Tabled Additional Bundle, numbered pages 1-16. ACCA claimed costs of £6,240.50 based on an assessment of what work this case had involved, but noted Ms Acker's concession that the case had taken less time than estimated. The Committee noted the

Statement of Financial Position sent in by Mr McTaggart, which included detailed evidence of income and his submissions.

25. The Committee decided that it was appropriate to award costs. It noted that Mr McTaggart had self-reported this matter and fully co-operated with ACCA. The Committee concluded that his actions were beneficial to the expedient dispatch of this case. The Committee was not persuaded, given the straightforward nature of the case, that ACCA's full costs were justified. In addition, the Committee took account of Mr McTaggart's statement of means and his very limited financial position, which he described as "struggling" and was supported by evidence. It concluded that the sum of £1,000.00 was appropriate and proportionate. Accordingly, it ordered that Mr McTaggart pay ACCA's costs in the sum of £1,000.00.

Wendy Yeadon
Chair
11 December 2019

