

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Mark Christopher Suter

Heard on: Tuesday, 23 July 2019

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

Committee: Mrs Helen Carter-Shaw (Chairman)
Mr Edward Weiss (Accountant)
Ms Helen Kitchen (Lay)

Legal Adviser: Mr David Marshall

Persons present

and capacity: Mr Mohammed Ismail (ACCA Case Presenter)
Miss Rachael Davies (Hearings Officer)

Observers: None

Outcome: **Exclusion from ACCA membership with immediate effect. No application for re-admission before a period of 3 years. Costs of £2,500. Interim Order Rescinded.**

1. The Committee met to hear allegations of misconduct against Mr Suter. Mr Ismail appeared for ACCA. Mr Suter was not present or represented.

SERVICE OF PAPERS

2. The Committee was satisfied that Mr Suter had been served with the documents required by Regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, in accordance with Regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email, on 20 June 2019, to the email address he had notified to ACCA.

PROCEEDING IN ABSENCE

3. On 20 June 2019, Mr Suter emailed ACCA to acknowledge receipt of the documents, and confirm that he would not be attending the hearing 'for the same reason as given for the last hearing'. This was a reference to the original date fixed for this hearing, 14 May 2019. In the event that hearing did not take place due to lack of time.
4. On 23 April 2019, Mr Suter's solicitors had written to ACCA to say that he would not be attending the hearing on 14 May 2019 to avoid unnecessary costs being incurred. The letter made submissions on his behalf.
5. The Committee was satisfied that Mr Suter had chosen not to exercise his right to attend this hearing, and that no useful purpose would be served by an adjournment.
6. The Committee concluded that it would be fair and in the public interest to proceed with the hearing today, taking into account Mr Suter's written submissions.

ALLEGATIONS/BRIEF BACKGROUND

7. Mr Suter was admitted to ACCA as a student in 1997. He became a member in 2001 and a fellow in 2006. At the relevant time he worked for Company A as a Group Financial Controller. In November 2018, ACCA received information from the former Group Finance Director of Company A that Mr Suter had been convicted of criminal offences in connection with his employment at Company A.
8. The formal allegations against Mr Jones were as follows:

Allegations

- 1) *On 22 October 2018 and 05 November 2018 Mr Mark Christopher Suter who is a registered with ACCA (Association of Chartered Certified Accountants) as a fellow was convicted of 'fraud by abusive of position x8' at York Crown Court, which is discreditable to ACCA and the accountancy profession.*
- 2) *By reason of his conviction as described in 1 above, Mr Suter is liable for disciplinary action pursuant to bye-law 8(a)(ix).*

DECISION ON FACTS/ALLEGATION(S) AND REASONS

9. In his solicitor's letter dated 23 April 2019, Mr Suter admitted the allegations in full. Furthermore the Committee saw the Certificate of Conviction, dated 26 November 2018, proving the alleged convictions.
10. Under Bye-law 8(a)(ix) a member shall be liable to disciplinary action if he is convicted of 'any offence discreditable to the Association or to the accountancy profession'. The Committee was quite satisfied that convictions for fraud in the course of work as an accountant fell into this category.
11. **The Committee found Allegations 1 and 2 proved.**

SANCTION(S) AND REASONS

12. The Committee first considered the nature of the conduct that led to the convictions. Mr Suter was sentenced on 26 November 2018. In his sentencing remarks, the trial judge said:

You dishonestly, as you accept, took this money from your employer in a gross breach of trust. The fraud, as we've heard, had a degree of sophistication, you being the financial controller. The amount involved is significant, and it's worth reminding ourselves what the allegations involve. Count 1, ten cheques directly to your bank account over a period of less than four years. Count 2, Apple products. Count 3, Argos gift vouchers. Count 4, over £9,000 to your pension. Count 6, tyres. Count 7, fuel. Count 8, gardening equipment. Count 9, as we've heard today, a £4,800 Rolex watch.

So, a very expensive Rolex for yourself. Gardening equipment for yourself. Argos gift vouchers for yourself. These are not necessities, Mr Suter, frivolities. Luxury items that you did not need, your family did not need, items that were not necessary to pay the mortgage, to keep a roof over your family's heads.

The total loss to the victims of your frauds, this is not a victimless crime, there are victims here, is agreed to be £88,089, and the offending took place over a significant period of time. Count 1 began on 19th July 2012, and your offending continued until the point you resigned in March 2017, so over, in fact, four and a half years. As has been outlined, you began your employment at the company ... in February 2009, with a starting salary as we understand it of £40,000. That had risen to £49,000 by the time you resigned. A significant salary, but one that would not allow you to spend on the luxuries you did.

... Over and above the huge amounts of money you stole from this business, no doubt both your employers and indeed your colleagues from whom we've just heard have a sense of total betrayal by you. There was a cloud over them, for example Mr W... who is in court, when he did absolutely nothing wrong at all, and the machinations of your offending, over and above the mere loss, was significant for the company as a whole and for its employees. Again, this is not a victimless crime. Your offending has had a significant impact.

13. The trial judge imposed a sentence of two years imprisonment, suspended for two years, and imposed 300 hours of community service, unpaid work to the community. In deciding to suspend the sentence the judge stated that he was particularly influenced by two factors. One was the fact that Mr Suter had saved £78,000, which was going to be used to repay the victims of his crime. The other related to particular family circumstances operating at the time, which made this an exceptional case in terms of sentencing. Those circumstances were not referred to at this hearing.
14. The Committee considered that convictions for fraud were an extremely serious matter for any member of the accountancy profession. It then sought

to identify aggravating or mitigating factors which made this case more, or less, serious than other cases of this kind.

15. Aggravating factors included: the large sum of money involved, over £88,000; the fact that the fraud happened in a position of trust, and in the context of Mr Suter's role as financial controller of Company A, and as a member of ACCA; and the fact that it continued over a period of about four and a half years.
16. Mitigating factors included that Mr Suter was of previous good character, that he had committed to repay much of the money obtained. He will have to repay the rest as a result of further court orders. He made early admissions, both in the criminal courts and to ACCA. He had completed the 300 hours of unpaid work, although he is still subject to a suspended prison sentence.
17. Given the seriousness of the convictions, the Committee was satisfied that it was necessary to make an order in this case.
18. The Disciplinary Committee is under an obligation to consider the least serious disposal first. It considered the sanctions of admonishment, reprimand and severe reprimand. However, it took into account that Mr Suter is currently subject to a sentence of imprisonment, which is suspended. The offences were extremely serious. Mr Suter committed fraud in the course of his employment as an accountant, exploiting a position of trust. The offences struck at the heart of professional standards. The Committee was satisfied that any of these sanctions, even if combined with another sanction, would be entirely insufficient to mark the seriousness of this case.
19. The remaining sanction was exclusion from membership. The Committee found Mr Suter's actions to be fundamentally incompatible with continuing membership of ACCA, and was satisfied that exclusion was the minimum sanction required in this case, even after taking into account the mitigating factors. Mr Suter, himself, recognised in his written submissions that 'the only realistic sanction available to the disciplinary committee is his exclusion from membership of the ACCA.'

20. A member who is excluded is normally entitled to apply for re-admission after a period of 12 months. The Committee considered whether to extend that period. It took into account that the offences in this case were particularly serious in that they involved major dishonesty, in a position of trust, in the course of work as an accountant. It concluded that it was necessary to mark the seriousness of the case by extending the period. The maximum possible extension is five years. Taking account of the mitigation, the Committee decided to extend the period by three years.

EFFECTIVE DATE OF ORDER

21. Given the seriousness of this case the Committee considered that it was in the interests of the public for this order to have immediate effect. It would damage public confidence, and there would be a potential risk to the public, if Mr Suter were entitled to remain a member of ACCA during the appeal period.
22. **The Committee ordered that Mr Suter be excluded from membership of ACCA with immediate effect.**

COSTS AND REASONS

23. The Committee was satisfied that the case had been properly brought, and that ACCA was entitled, in principle, to an order for costs.
24. As to the amount, Mr Ismail applied for costs totalling £5,735.10, but he conceded that the case had taken less time than estimated. The Committee considered that it was appropriate to deduct the cost of two hours of the Case Presenter's time and one hour of the Hearings Officer's time. It also took into account that one other case had also been dealt with today, so it reduced the fixed costs of the hearing by approximately 50%. The Committee determined that the appropriate figure for costs was £3,820.
25. The Committee then considered Mr Suter's ability to pay, taking into account the written submissions and the statement of means. [REDACTED]. The Committee considered that Mr Suter would find it extremely difficult to pay the full amount at this time.

26. **The Committee ordered that Mr Suter make a contribution to ACCA's costs of £2,500.**

EXISTING INTERIM ORDER

27. **The Committee ordered that the existing interim order be rescinded.**

**Mrs Helen Carter-Shaw
Chairman
23 July 2019**