

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Edward Lane

Heard on: Thursday, 25 July 2019

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

Committee: Mr Michael Cann (Chairman)
Mrs Judith Glover (Accountant)
Mr Garrett O'Reilly (Lay)

Legal Adviser: Ms Valerie Charbit (Legal Adviser)

Persons present

and capacity: Ms Sarah Cawley-Wilkinson (ACCA Case Presenter)
Mr Richard Lorkin (Hearings Officer)
Mr Theo Brooke (Hearings Officer)

Observers: None

Summary **Exclusion from membership**

Costs: **£8,941.00**

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

PAPERS AND SERVICE

1. The Committee had before it a bundle of papers, numbering 1-472, and a service bundle numbering 1-18.
2. Mr Lane was notified of the hearing date by email with a letter dated 21 June 2019. The Committee was satisfied that ACCA had given adequate notice of this hearing in accordance with ACCA's rules, and that Mr Lane was aware of the date of hearing.
3. Mr Lane was not present and not represented.

PROCEEDING IN ABSENCE

4. In a case management form dated 16 April 2019, received by ACCA on 25 April 2019, Mr Lane stated that he was willing for the hearing to proceed in his absence. [Private].
5. [Private].
6. Ms Cawley-Wilkinson invited the Committee to proceed in Mr Lane's absence. She submitted that he had been served with proper notice of the hearing, and he had voluntarily absented himself. She submitted that there was no evidence that Mr Lane would attend if the matter was adjourned.
7. The Committee considered whether it was in the interests of justice, and the interests of the member to proceed in the absence of Mr Lane. It concluded that if it was to adjourn the hearing, Mr Lane would in all likelihood, not attend again, and therefore an adjournment would be very unlikely to secure Mr Lane's attendance.
8. Having considered all of the information submitted by Mr Lane, including the fact that he agreed to the hearing proceeding in his absence, the Committee decided to proceed in Mr Lane's absence.

BACKGROUND AND ALLEGATIONS

9. ACCA's schedule of allegations are as follows:

It is alleged that Edward Lane, ACCA Fellow and sole principal, at the relevant time, of Lane Kilbride & Co:

(1) In an ACCA Compliance Questionnaire dated 14 July 2010, signed the following undertakings,

(i) 'Audit work

I confirm that neither I nor any firms in which I am a partner or a director, nor any other partner or director of firms in which I am a partner or director carries out any audits as a registered auditor...'

(ii) 'Future appointments

I confirm that I will notify ACCA, in writing, immediately if I, or any firm in which I am principal, accepts any audit appointment in the future'.

Despite the above signed undertakings, Mr Lane failed to disclose to ACCA, at any time, including in his annual practising certificate renewal forms and other documents referred to in Schedule B, any or all of the audit clients for which he produced audits reports as set out in Schedule A.

(2) Mr Lane's conduct in respect of (1) above was:

(i) Dishonest, in that he knowingly failed to disclose to ACCA any or all of the audit clients for which he produced audits reports as set out in Schedule A;

(ii) Contrary to the Fundamental Principle of Integrity (as applicable 2010 to 2016);

(iii) Contrary to Global Practising Regulation 14(2) (as applicable in 2010 to 2016);

(3) Failed to retain the audit working papers for those companies referred to in Schedule C for seven years, in breach of paragraph 5, Section B6 of the Code of Ethics and Conduct, as applicable 2015 to 2017.

(4) Signed an audit report for Company A for the year ended 30 November 2016 on 1 March 2017 in breach of the Global Practising Regulations (as applicable in 2017) referred to below in that as of 1 January 2017 he had ceased holding a practising certificate authorising him to carry on such work,

i) Paragraph 3(1)(a) of the Global Practising Regulations

ii) Paragraph 3(2)(a) of the Global Practising Regulations

iii) Paragraph 3(1) of the Global Practising Regulations (Annex 2)

(5) Signed those audit reports referred to in Schedule D for and on behalf of E Lane & Co and / or Lane & Co in breach of paragraph 3(1) of the Global Practising Regulations (Annex 2) in that neither firm held or has ever held an auditing certificate issued by ACCA authorising those firms to carry on audit work.

(6) By reason of his conduct Mr Lane is:

(i) Guilty of misconduct in respect of Allegations 1, 2(i), 2(ii), 2(iii), 3, 4 and / or 5 above, pursuant to bye-law 8(a)(i); or

(ii) Liable to disciplinary action in respect of 2(iii), 3, 4 and / or 5 above, pursuant to bye-law 8(a)(iii).

4. ACCA's records show Mr Lane became an ACCA member on 29 June 1976, and Fellow on 29 June 1981. He held an ACCA practising certificate with audit qualification continuously since at least 1995, until 31 December 2016. His firm, Lane Kilbride & Co, held a firm's auditing certificate, also until 31 December 2016. Mr Lane has not held a practising certificate since 1 January 2017, and is registered with ACCA as a member in retirement.

5. ACCA's records show Mr Lane was placed on the register of retired members on 26 June 2017.
6. ACCA submitted that Mr Lane remains a current ACCA member, and therefore liable to disciplinary action in accordance with bye-law 8 and Membership Regulation 4(6).
7. The first occasion ACCA carried out a monitoring exercise on Mr Lane's firm, Lane Kilbride & Co, was in July 2010. This was by way of a desk top review in which Mr Lane was required to complete a Compliance Questionnaire. In a completed questionnaire, signed and dated by Mr Lane on 14 July 2010, Mr Lane gave undertakings that he had no audit clients, but would advise ACCA 'immediately' should he accept an appointment as auditor. His covering letter to ACCA dated 14 July 2010, enclosing the questionnaire, was produced by ACCA in its bundle.
8. A few years after the questionnaire was signed by Mr Lane, ACCA's Monitoring Department gained access to an online search engine capable of finding out whether any statutory audit reports have been signed by a member. In 2014, Mr Lane was subject to a further desktop review by which date this search engine had become available. The search engine revealed that, despite the undertakings given by Mr Lane in July 2010, and his subsequent practising certificate renewal forms declaring he had no audit clients, he had in fact signed a number of audit reports.
9. ACCA's Practice Reviewer wrote to Mr Lane in a letter dated 17 January 2014, notifying him of the above, and asking that he provide a list of all his audit reports signed in the last two years, and an explanation as to why he had not disclosed such audit engagements to ACCA previously.
10. Mr Lane responded in a letter dated 16 February 2014 stating:

'...I never intended to have any audit clients, only audit exempt, however I did make an error when filling out the practising certificate application as I just copied from previous years.'

I have now resigned from all companies that require to be audited and will have not audit work going forward...’.

11. The desktop reviewer wrote to Mr Lane in response on 21 February 2014, and asked him again to provide a list of all audits reports signed in the last two years. ACCA has no record of any response from Mr Lane to this letter, and the matter was not followed up at the time.
12. Mr Lane’s firm was scheduled for a further desktop monitoring review in 2016. Despite Mr Lane’s statement in his letter of 16 February 2014 that he would not be carrying out any audit work going forward, the search engine revealed he had continued to sign off audit reports.
13. Attempts were made to arrange a monitoring visit at his firm’s address, in order that his audit files could be reviewed by an ACCA Compliance Officer. In the event, no visit took place. Initially, Mr Lane cited [Private] for not being available. He then went on to advise he had no audit files from the previous two years, as these had all be handed to his clients. Finally, in an email dated 10 July 2017, he advised the Compliance Officer he had retired from practice, having not renewed his practising certificate from 1 January 2017. Mr Lane’s email, and confirmation with ACCA’s Authorisation Department that Mr Lane stated that he did not wish to renew his practicing certificate, is set out within ACCA’s bundle.
14. The Compliance Officer referred the matter to ACCA’s Assessment Department, which in turn referred the matter to Investigations.

ACCA’s submissions

Allegation 1

15. In the first undertaking given by Mr Lane in the questionnaire signed by him on 14 July 2010, he confirmed he did not carry out any audits as a registered auditor. ACCA accepts there is insufficient evidence Mr Lane had any audit clients prior to the date of this undertaking.

16. In the third undertaking given by Mr Lane, in the same questionnaire, he confirmed he would notify ACCA '*in writing, immediately if I, or any firm in which I am principal, accepts any audit appointment in the future*'. ACCA has no record of Mr Lane having ever notified ACCA in writing, or by any other form of communication, that he had accepted any audit appointments. Moreover, in his annual practising certificate renewal forms which post-date his undertaking, being for the 2011 to 2016 years inclusive, he declared he had no audit clients.
17. However, the evidence obtained from Companies Registration Office shows from the date of his undertaking to 1 March 2017, he acted as auditor for 42 companies, signing off 114 audit reports. For some of these companies he was auditor for a single year, but for most he was auditor for at least two years or more.
18. There are three audit reports referred to in Schedule A which are in the name of Mr Lane, but not signed. Given the financial statements for the following year for each of these contained a signed audit report in the name of Mr Lane, and are in a similar format to the previous year, ACCA submitted that an inference can be drawn that the audit reports for the previous year for each company were prepared by him.

Allegation 2

19. It is submitted that in the event Allegation 1 is found proved, the conduct concerned amounts to dishonesty, on the basis Mr Lane stated unambiguously and repeatedly in annual practising certificate renewal applications for 2011 to 2016 inclusive, as referred to in Schedule B, that he had no audit clients. It is apparent from the evidence obtained from Companies Registration Office, as detailed in Schedule A, this was not true. Accordingly, ACCA submitted Mr Lane acted dishonestly, in that he would have known of his audit engagements at the time of signing those forms.
20. It was further submitted by ACCA, that the sheer volume of audit reports completed by him over a six year period, during which period he repeatedly

claimed to have no audit clients, demonstrated a deliberate attempt to conceal from ACCA any and all of his audit clients.

21. ACCA further submitted that, on the basis Mr Lane's conduct was dishonest, it followed that his conduct was also contrary to the Fundamental Principle of Integrity. Alternatively ACCA submitted that if the conduct was found not to be dishonest, a Committee would remain entitled to consider whether or not other aspects, contained in the definition of the Fundamental Principle of Integrity, might apply.
22. ACCA has been delegated the responsibility for regulating statutory audit work carried out by ACCA firms. In order to effect this, it is customary for a Compliance Officer from ACCA's Monitoring Department to carry out a monitoring visit about every four years to all firms who have audit certificates, to review a sample of audit files, to check the audit work is satisfactory and in accordance with relevant standards.
23. If a firm with an audit certificate declares it has no audit clients, such a visit is unlikely. Instead, a principal of that firm will be asked to declare to ACCA, should the firm subsequently take on any audit engagements. This was the reason for ACCA seeking and obtaining an undertaking from Mr Lane in 2010 that he would 'immediately' notify ACCA once he had taken on any audit engagements.
24. In failing to notify ACCA of any of his audit clients, and repeatedly declaring he had no such clients, ACCA submitted that Mr Lane prevented ACCA from monitoring any of his audit work. Accordingly, ACCA submitted Mr Lane is in breach of Global Practising Regulation 14(2), in that he has failed to supply ACCA with the information necessary to enable ACCA to carry out its monitoring process efficiently, or at all.

Allegation 3

25. Correspondence between Mr Lane and ACCA's Monitoring Department dated October 2016 to July 2017, referred to the efforts made by ACCA to arrange a monitoring visit to Mr Lane's practice.
26. An Administration Officer from ACCA's Monitoring Department emailed Mr Lane on 9 March 2017, to confirm the monitoring visit would take place on 11 and 12 May 2017.
27. In an email response dated 23 March 2017, Mr Lane made reference to [Private] and advised he had therefore decided to retire. His email went on to state that he believed the proposed visit was therefore no longer necessary.
28. ACCA's Senior Compliance Officer responded on 18 April 2017, to advise the visit would still go ahead, given his firm had signed numerous audits over the previous 24 months. This was also confirmed in a letter dated 26 April 2017.
29. Paragraph 5 of Section B6 of ACCA's Code of Ethics and Conduct makes it clear that, without exception, audit files are to be retained for a minimum of seven years - though may be longer, taking into account the factors referred to in paragraph 1 of section B6.
30. In response to the Senior Compliance Officer's specific question as to whether he had retained any audit files for the past two years, Mr Lane responded unequivocally that he had not. He claimed he had 'little or no choice', given he was retiring and his continuity provider had retired without advising him.
31. ACCA submitted that it did not accept that Mr Lane had 'little or no choice'. It submitted that irrespective of the fact he was retiring or had no continuity provider, Mr Lane was under an obligation to keep his working papers for a minimum of seven years, and failed to do so.

Allegation 4

32. [Private].
33. ACCA'S Authorisations department responded on 20 March 2017, stating he would need to *'submit your PC renewal or advise us otherwise by the end of the month'*. In an email of 23 March 2017, Mr Lane advised he would not be renewing his practising certificate.
34. As Mr Lane did not renew his practising certificate for 2017, ACCA's records show his practising certificate was withdrawn on 31 December 2016, as was his firm's auditing certificate.
35. The final audit report signed by Mr Lane, obtained from Companies Registration Office, is for Company A for the year ended 30 November 2016. The audit report is dated 1 March 2017.
36. ACCA submitted that given Mr Lane ceased holding a practising certificate on 31 December 2016, he was not authorised to sign the audit report for Company A, on 1 March 2017.
37. Further, ACCA submitted that Mr Lane was not authorised to carry on public practice from 1 January 2017, given he did not renew his practising certificate for 2017. He has therefore not been authorised to engage in any public practice, including any audit work since that date.
38. Although Mr Lane claims he signed the audit report for Company A year ended 30 November 2016 in December 2016, and therefore whilst he held a practising certificate, ACCA did not accept his position for the following reasons:
 - Company A's year end was to 30 November 2016. It is submitted this would have provided Mr Lane with very little time to complete an adequate audit prior to 31 December 2016.
 - Mr Lane appears to claim he signed the audit report in December, but failed to include the date. When it came to being filed in March, he

appears to claim the March date was added, rather than the December date. If he had indeed completed the audit report in December, it is submitted he would have ensured the correct date was added.

- Mr Lane was auditor for Company A for the prior year, which ended 30 November 2015, and for which he signed the audit report on 1 March 2016. It is submitted it is therefore more likely than not he signed the audit report for the year ended 30 November 2016, in or around March 2017, rather than December 2016 as he claims.
- Mr Lane refers in his emails to ACCA that he 'felt obliged' or 'feeling an obligation' to his audit clients to audit them while he had his certificate. It is submitted that, given these comments, it is more likely than not Mr Lane signed the audit in or around March 2017, given the obligations he felt to his client and the wish to avoid upsetting them, and that he was willing to do so at the risk of breaching ACCA's regulations, which required him to hold a practising certificate.

39. On the basis Mr Lane signed the audit report on 1 March 2017, ACCA submitted he was in breach of GPR 3(1) as he did not hold a practising certificate which authorised him to act as auditor. Similarly, he was in breach of GPR 3(2) given he was the sole principal of his firm. He was also in breach of GPR (Annex 2) paragraph 3, given his firm did not hold a firm's auditing certificate.

Allegation 5

40. In order to accept an appointment as auditor, an ACCA member must hold a practising certificate with audit qualification, referred to in ACCA's records as a PC+A. In addition, where audit work is carried out in the name of a firm of which the member is a director, sole proprietor or partner, the firm must hold an auditing certificate issued by ACCA, in accordance with, the Republic of Ireland, Global Practising Regulation (Annex 2), paragraph 3. Such a firm's auditing certificate is referred to in ACCA's records as an FAC.

41. It is accepted that until 31 December 2016, Mr Lane held a PC+A and his firm, Lane Kilbride & Co, of which he was sole proprietor, held an FAC.
42. Besides Lane Kilbride & Co, ACCA has no record of any other firm which Mr Lane was connected with. He was therefore not authorised to accept an appointment as auditor, other than in the name of Lane Kilbride & Co.
43. Of the audit reports listed in Schedule A, all have been signed in the name of Mr Lane on behalf of Lane Kilbride & Co, save for four, as referred to in Schedule D.
44. ACCA submitted that, in signing the four audit reports in the name of E. Lane & Co and / or Lane & Co, Mr Lane is in breach of Global practising Regulation (Annex 2), paragraph 3.

Misconduct

45. ACCA submitted that misconduct is made out if the Committee found dishonesty. It further submitted that misconduct is made out in the event of any or all of the matters set at Allegations 1, 2(ii), 2(iii), 3, 4 and 5 are found proved, for the following reasons.
 - Mr Lane undertook to notify ACCA immediately he took on any audit clients, but failed to do so. Not only that, but he proceeded to advise ACCA over a six year period he had no audit clients when he had a very significant number. It is submitted, in doing so, he breached the Fundamental Principle of Integrity, and is therefore guilty of misconduct (Allegations 1 and 2(ii)). That said, if Allegations 2(i) and 2(ii) are found not proved, it would be open for a Committee to consider whether or not Allegation 1 in itself constituted misconduct.
 - The failure by Mr Lane to notify ACCA of his audit work had the effect of ACCA being unable to monitor the quality of that work by reviewing his audit files, which would have taken place at least once during the period of his non-disclosure (Allegations 1 and 2(iii)).

- Mr Lane failed to retain any of his audit files for the final two years he was in practice, which is a clear breach of Section B5 of ACCA's Code of Ethics and Conduct, which specifies they should be retained for a minimum of seven years, and lists the reasons for such retention, as specified above. This has also prevented ACCA's Monitoring Department from being able to review such audit work (Allegation 3).
- He signed an audit report when he no longer held a practising certificate with ACCA, and was therefore unauthorised to do so (Allegation 4). Finally, he signed four audit reports in the name of a firm which did not hold a firm's auditing certificate with ACCA, and was therefore not authorised by ACCA to do so (Allegation 5).

46. In the absence of a finding of misconduct in relation to Allegations 2(iii), 3, 4 and / or 5, if it is accepted Mr Lane has breached the provisions referred to in those allegations, by reason of the facts set out above, then ACCA submitted in the alternative, that byelaw 8(a)(iii) in relation to each allegation is automatically engaged, as per Allegation 6(ii).

Members Response

47. Mr Lane responded in an email dated 2 May 2017 stating:

- '... On reviewing my clients I discovered that due to [Private] I missed some ARD audit exemptions, which would now require an audit. I contacted my continuity in practice provider with a view for him to take over and audit these, unfortunately he had ceased practice in 2016 (without informing me). I therefore felt an obligation towards these people completing and certifying their accounts for 2016 whilst my practising cert was still valid.*
- I then informed them I was retiring due to my ongoing [Private] problems and that they needed to engage a new accountant and that I was not in a position to recommend anyone.*
- However not wishing to have a detrimental effect on these clients and to ease the transition to any new accountants as much as possible*

since I would not be in a position due to [Private] to deal with ongoing requests on a timely basis for hand over information from said accountants over the coming year, the only practical option was to give these clients their audit files. I know this does not strictly adhere to the best practice principals as laid down by the association but I had little or no choice as I might not otherwise be able to provide this information...’

48. ACCA enquired whether Mr Lane had retained any audit files, and Mr Lane responded in an email dated 10 July 2017, stating:

‘...I confirm the content of my email of 2nd May which made quite clear that I have not retained audit files as the continuity practice ceased and because of [Private].

I thought the best way forward for my old clients was to source a new accountant themselves and pass on the necessary hand over information that I was not in a position to supply...’

49. Mr Lane further responded to complaints raised in an email dated 12 February 2018, in which he stated:

‘I was in sole practice working from home. When audit exemption for small companies came into effect it was my intention to cease all audit work and I resigned as auditor from all the management companies that did not qualify for audit exemption.’

He stated when [Private].

‘my work suffered to an enormous degree... ... Due to this I missed some ARD [Annual Return Date] filing dates which then required these companies to have audited accounts. As previously stated...my continuity arrangements failed and I felt obliged to audit them while I still had my cert and allow these companies time to put a new auditor in place as I would not be able to assist because of my ailing health....’

50. In a response to ACCA's Investigations Officer, dated 12 February 2018 regarding Allegation 4, Mr Lane stated,

'...With regard to [Company A] their year-end was November 2016 and I completed signing off on this company in 2016 while I still had an Audit Certificate. The Annual return was made in March 2017 however the report was dated incorrectly at the filing date instead of the date I signed off in December 2016...'

51. The complaints were further put to Mr Lane in a letter dated 22 November 2018, and Mr Lane responded:

'... As I have repeatedly told you I accept your findings and as I told you nearly a year ago I plead guilty to these failings as I want an end to this procedure...'

52. In a case management form dated 16 April 2019, received by ACCA on 25 April 2019, Mr Lane stated that he admits all the allegations including dishonesty and misconduct.

53. In an email dated 18 June 2019, Mr Lane stated

'as stated previously on several occasions I just want an end to all this and therefore am willing to plead guilty to all charges'

DECISION AND REASONS

54. The Committee first considered whether a retired member such as Mr Lane was liable to disciplinary action in accordance with bye-law 8 and Membership Regulation 4(6) (MR). It noted that bye-law 8 referred to members being liable to disciplinary action, and bye-law 8 made no distinction that such members would not include retired members. The Committee further noted that MR4(6) referred to retired members and it did not indicate that such members would not be liable to disciplinary proceedings. MR4(6) simply indicated that such members were not required to obtain a practicing certificate or undertake continuing professional development.

55. The Committee was therefore satisfied that Mr Lane was liable to disciplinary action, notwithstanding the fact that he was a retired member.
56. The Committee noted that Mr Lane admitted all the allegations in a case management form, and in prior correspondence. The Committee therefore found the facts of all Allegations 1, 3, 4 and 5 proved in accordance with the Regulation 12(3)(b) of the Complaints and Disciplinary Regulations 2014 (Amended 1 January 2019).
57. Notwithstanding that Mr Lane admitted all the allegations set out in the case management form, the Committee exercised its judgement in order to consider the following:

Allegations 2(i), 2(ii), 2(iii)

58. The Committee considered whether the facts of Allegation 1 amounted to dishonest conduct, as set out in Allegation 2(i), in that Mr Lane failed to disclose to ACCA any or all of the audit clients for which he produced reports as set out in Schedule A. The Committee was satisfied that the audit reports in Schedule A referred to audit reports signed by Mr Lane between 2010 and 2016, when he had declared since 14 July 2010, and repeatedly thereafter in declarations set out in Schedule B that he had no audit clients.
59. The Committee was satisfied that Mr Lane must have known in signing those audit reports that he knew what he was doing, and that he had not disclosed the same to ACCA in spite of the previous undertakings and declarations he had made. It was further satisfied that the number of instances set out in Schedule A (totalling 114 audit reports and 42 audit clients) over a period of approximately six years, meant that the Committee had no difficulty in concluding that such conduct was dishonest. It therefore found Allegation 2(i) proved.
60. The Committee went on to consider whether the conduct set out in Allegation 1 amounted to a breach of the Fundamental Principle of Integrity, as applicable in 2010 to 2016, as set out in Allegation 2(ii). The Committee was satisfied that Mr

Lane had not acted in accordance with the Fundamental Principle of Integrity (2010 and 2011-2017), when he made the ten declarations set out in Schedule B, because he was signing audit reports when he had declared that he was not doing so. He was therefore not acting in a straightforward or honest way, as required by the Fundamental Principle of Integrity. Furthermore, by signing such declarations he was making a materially false statement on each occasion. The Committee therefore found Allegation 2(ii) proved.

61. The Committee went on to consider whether the conduct set out in Allegation 1 amounted to a breach of GPR 14(2) (as applicable in 2010 to 2016), as set out in Allegation 2(iii). In failing to notify ACCA of any of his audit clients, and by repeatedly declaring he had no such clients; Mr Lane had prevented ACCA from monitoring any of his audit work. The Committee was therefore satisfied that Mr Lane is in breach of Global practising Regulation 14(2), because he had failed to supply ACCA with the information necessary to enable ACCA to carry out its monitoring process efficiently, or at all.

Allegation 3

62. The Committee then went on to consider whether the facts found proved in Allegation 3 was in breach of paragraph 5, B6 of the Code of Ethics and Conduct, as applicable 2015-2017.
63. The Committee noted that Mr Lane had not produced any working papers for audit clients. The Committee was not persuaded that Mr Lane's explanations that he had returned the papers was a sufficient defence, because he was required to keep audit working papers for a minimum of 7 years. The Committee was satisfied that Mr Lane had therefore breached GPR 14(2).

Allegation 4

64. The Committee noted that by 1 January 2017, Mr Lane had ceased to hold a practising certificate. Therefore, it was satisfied that he had breached paragraph 3(1)(a) of GPR, because that required him to hold a practising certificate when acting as an auditor. In so finding, the Committee also accepted the

submissions made by ACCA and admitted by Mr Lane, and found Allegation 4(i) proved.

65. The Committee was further satisfied that Mr Lane had also breached Paragraph 3(2)(a) of the GPR, and Paragraph 3(1) of the GPR (Annex 2), by signing a report for Company A, because he was the sole principal of the firm when the firm also did not have an auditing certificate. There was therefore no body/person authorised to carry out audit work. The Committee therefore found Allegations 4(ii) and 4(iii) proved.

Allegation 5

66. The Committee was satisfied that by signing the audit reports as set out in Schedule D, Mr Lane was signing audit reports for firms E Lane & Co and/or Lane & Co, which were firms which did not have an auditing certificate. This was in breach of Paragraph 3(1) of the Global Practising Regulations (Annex 2). The Committee therefore found Allegation 5 proved.

Allegation 6(i) or alternatively Allegation 6(ii)

67. The Committee went on to consider whether the allegations found proved amounted to misconduct.
68. In respect of Allegations 1 and 2, the Committee was satisfied that such conduct amounted to misconduct, because repeatedly signing audit reports when he had had not disclosed the same to ACCA, was a serious omission of failing, which fell far short of the standard to be expected of a professional accountant. The Committee further considered that in acting dishonestly, and in breaching the Fundamental Principle of Integrity, Mr Lane had brought the accountancy profession and ACCA into disrepute. Further, it concluded that the effect of Mr Lane's actions was potentially very significant for members of the public. The Committee therefore had no hesitation in finding that Allegations 1 and 2 amounted to misconduct.

69. In respect of Allegation 3, the Committee was not satisfied that such conduct amounted to misconduct, given Mr Lane's explanations that he felt he was acting in the best interests of his clients by sending them the audit papers. The Committee accepted Mr Lane's explanation that he had returned working papers to the audit clients, because he was retiring, and [Private] and because his continuity provider had failed. The Committee therefore did not consider that his failure to retain working papers, despite being required to do so, amounted to misconduct because of his explanations. The Committee therefore found, in respect of Allegation 3, Allegation 6(i) unproved.
70. However, the Committee decided that Mr Lane was liable to disciplinary action in the alternative, and it therefore found Allegation 6(ii) proved in respect of Allegation 3.
71. In respect of Allegations 4(i), 4(ii) and 4(iii), the Committee did not accept that Mr Lane signed the audit on 31 December 2016, which he had suggested in correspondence with ACCA. The audit report showed it was signed on 1 March 2017. Furthermore, the Committee noted the previous audit reports had been signed in March each year, and the end of the accounting year was November 2016, so it was unlikely that matters would have been ready by December 2016. The Committee was satisfied, that in signing the report in March 2017, such conduct amounted to misconduct because it was serious to sign an audit report, where neither Mr Lane, nor his firm, held an auditing certificate. The Committee noted that the 'signature of the firm' on the audit report, dated 1 March 2017, referred to the firm as Chartered Certified Accountants and Statutory Auditors, when this was not true. The Committee was therefore satisfied that such conduct amounted to misconduct, since it fell far short of the standards to be expected of a professional accountant.
72. In respect of Allegation 5 the Committee noted that four reports had been signed in the name of E Lane & Co or Lane & Co; firms which also did not have an auditing certificate. Mr Lane had not given any explanation as to why this was done. Since those firms did not have an auditing certificate, and there was no record that Mr Lane, who at that time had an auditing certificate, was associated with E Lane & Co or Lane & Co, the Committee was satisfied that

Mr Lane's conduct in signing four audit reports on behalf of those firms, in the absence of any explanations, amounted to misconduct. The Committee concluded that, these were omissions which fell far short of the standards to be expected of a professional accountant.

SANCTION AND REASONS

73. The Committee referred to the Guidance on Disciplinary Sanctions (updated 1 January 2019). The Committee balanced Mr Lane's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and performance. The Committee exercising its own professional judgement in deciding the fair and proportionate sanction to impose.
74. It noted the following mitigating factors:
 - Mr Lane had been a member of ACCA since 1976 with no previous disciplinary findings against him;
 - Mr Lane had retired through [Private] after a long unblemished career;
 - He had cooperated with the disciplinary process, and admitted the allegations.
75. The Committee noted no aggravating factors.
76. The Committee went on to consider what sanction was proportionate, given the seriousness of the allegations found proved. It decided that 'no further action' was wholly inappropriate when the allegations found proved included dishonesty and misconduct.
77. The Committee went on to consider whether an 'admonishment' and 'reprimand' were appropriate and proportionate sanctions. It noted that there

had been repetition of serious misconduct by signing audit reports over a number of years, when unauthorised to do so, and repeated dishonesty throughout the period. It therefore concluded that these sanctions were insufficient sanctions, and would not uphold the public interest or the reputation of ACCA as a regulator.

78. The Committee went on to consider the sanction of 'severe reprimand'. It noted that Mr Lane had acted intentionally and deliberately when signing audit reports despite not disclosing the same to ACCA and/or when he was no longer authorised to do so. The Committee was satisfied that despite Mr Lane's previous good character, his admissions, and his apology that the misconduct found proved was serious, wide-ranging, and a serious departure from relevant professional standards. The Committee was not persuaded that Mr Lane had developed any insight into understanding the effect of his misconduct. Furthermore, the Committee considered that the period of time over which the misconduct took place, and the potential adverse effect on members of the public, meant that the only proportionate sanction was exclusion from the register. The Committee concluded that the behaviour found proved which included dishonesty over an extended period of time was fundamentally incompatible with continued membership of ACCA.

COSTS

79. Ms Cawley-Wilkinson applied for costs of £8,941 to be paid by Mr Lane to ACCA. The Committee considered that Mr Lane had failed to provide any statement of means to persuade the Committee that he could not afford to pay such costs. The Committee found the costs applied for were reasonable.
80. The Committee therefore ordered costs of £8,941 to be paid for by Mr Lane to ACCA.

EFFECTIVE DATE OF ORDER

81. The Case Presenter did not make an application for an immediate order. The Committee was satisfied that it is not in the interests of the public that its order

should have immediate effect under Regulation 20. The Committee noted that ACCA did not make an application for an Interim Order at any stage in this case, and the Committee was satisfied that the effective date of order should be at the conclusion of the appeal period.

Mr Michael Cann
Chairman
25 July 2019