

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Gareth Roger Jones

Heard on: Wednesday, 23 October 2019

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

Committee: Mr Maurice Cohen (Chairman)
Mr Trevor Salmon (Accountant)
Mr George Tranter (Lay)

Legal Adviser: Mr Sanjay Lal (Legal Adviser)

Persons present

and capacity: Mr Benjamin Jowett (ACCA Case Presenter)
Miss Rachael Davis (Hearings Officer)

Observers: None

Summary Exclusion from membership

Costs: £6,394.74

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PRELIMINARY APPLICATION

1. The Committee had before it a Main Bundle, pages 1-56, an Adjournment Bundle, pages 1-10, three Service Bundles pages 1-21, a Service Bundle 4 pages 1-10, and an Additional Bundles page 59.
2. Mr Jowett made an application to proceed in the absence of Mr Jones. He set out the history of the matter, and the circumstances of the previous adjourned hearing in July 2019. He referred the Committee to the notice of today's hearing, sent by email to Mr Jones on 16 September 2019. He informed the Committee that no communication had been received from Mr Jones since prior to the adjourned hearing in July 2019. He had not complied with Directions issued by the previous Committee.
3. Having regard to the above, the Committee is satisfied that the Notice of Hearing has been served in accordance with the Rules. Furthermore, the Committee determined that it would be in the interests of justice to proceed in the absence of Mr Jones. It noted that there has been no adjournment request received from him in respect of today's hearing. In fact no communication has been received from him. There is also a strong public interest in the matter being heard today, in light of the previous adjourned hearing.

ALLEGATIONS/BRIEF BACKGROUND

Allegation 1

Contrary to paragraph 14(3) of the Global Practising Regulations (as applicable in 2018), between 3 May 2018 and 7 September 2018 Mr Gareth Roger Jones failed to co-operate with ACCA in its monitoring and enforcement of compliance with these regulations in that he:

- (i) Failed to provide confirmation that he had received a report of an ACCA Compliance Review conducted on 18 April 2018 and sent on 19 April 2018
- (ii) Failed to provide ACCA with a copy of his firm's signed continuity agreement by virtue of which his firm had made arrangements to comply with Global Practising Regulation 11
- (iii) Failed to provide confirmation that his firm had addressed money laundering recommendations made in a report of an ACCA Compliance Review conducted on 18 April 2018
- (iv) Failed to provide a copy of his firm's revised letterhead to ACCA

Allegation 2

Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Gareth Roger Jones failed to co-operate with the investigation of a complaint in that he failed to provide any or all of the information requested by an investigation officer in correspondence dated:

- i) 4 December 2018
- ii) 2 January 2019
- iii) 16 January 2019

Allegation 3

By reason of his conduct in respect of any or all of the matters set out at 1 and 2 above, Mr Gareth Roger Jones is:

- (a) Guilty of misconduct pursuant to bye-law 8(a)(i)

(b) Liable to disciplinary action pursuant to bye-law 8 (a)(iii)

4. Mr Jones is a member of ACCA and a previous holder of an ACCA practising certificate ("PC"), having submitted a PC renewal application to ACCA on 20 February 2018, confirming his status as a Sole Practitioner.
5. The Practice Reviewer sent Mr Jones a compliance questionnaire on 9 October 2017, to complete and return by 23 October 2017. On 17 April 2018, Mr Jones returned the compliance review questionnaire with supporting documents.
6. On 19 April 2018, the Practice Reviewer sent Mr Jones a report of her findings, requesting him to provide further information/documents as well as confirm he had received the report.
7. On 1 June 2018, ACCA's Monitoring Operations Manager wrote to Mr Jones requesting a response from him by 15 June 2018. No response having been received, on 19 June 2018, ACCA's Monitoring Operations Manager wrote to Mr Jones, requesting a response from him by 13 July 2018 or confirmation that he was unable to do so by that date.
8. On 31 August 2018, the Monitoring Operations Manager sent Mr Jones an email following a telephone conversation where Mr Jones told the Monitoring Operations Manager that he had not seen her emails, but would deal with the outstanding matters as a matter of urgency. The Monitoring Operations Manager pointed out that a failure to co-operate with the monitoring process could lead to serious consequences.
9. On 17 September 2018, the Monitoring Operations Manager wrote to Mr Jones to inform him that, in the continuing absence of any response from him, he was being referred for investigation for failure to engage with the monitoring process.

10. On 4 December 2018, Investigations wrote to Mr Jones by letter addressed to his registered address, informing him that his conduct was now being investigated. Mr Jones was asked to provide a response by 27 December 2018.
11. On 2 January 2019, Investigations wrote to Mr Jones by letter addressed to his registered address, informing him that ACCA had not received a response to the letter dated 4 December 2018, that he was under a duty to co-operate with the investigation and that he should respond by no later than 16 January 2019.
12. On 16 January 2019, Investigations wrote to Mr Jones by letter addressed to his registered address informing him that ACCA had still not received a response from him and that, as a consequence of his failure to co-operate, an allegation under the Complaints and Disciplinary Regulations would be raised against him if no response had been received by 23 January 2019.

DECISION ON FACTS/ ALLEGATION(S) AND REASONS

Allegation 1

Contrary to paragraph 14(3) of the Global Practising Regulations (as applicable in 2018), between 3 May 2018 and 7 September 2018 Mr Gareth Roger Jones failed to co-operate with ACCA in its monitoring and enforcement of compliance with these regulations in that he:

- (i) Failed to provide confirmation that he had received a report of an ACCA Compliance Review conducted on 18 April 2018 and sent on 19 April 2018 **Found Proved**
- (ii) Failed to provide ACCA with a copy of his firm's signed continuity agreement by virtue of which his firm had made arrangements to comply with Global Practising Regulation 11 **Found Proved**

- (iii) Failed to provide confirmation that his firm had addressed money laundering recommendations made in a report of an ACCA Compliance Review conducted on 18 April 2018. **Found Proved**
- (iv) Failed to provide a copy of his firms revised letterhead to ACCA. **Found Proved**

Allegation 2

Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Gareth Roger Jones failed to co-operate with the investigation of a complaint in that he failed to provide any or all of the information requested by an investigation officer in correspondence dated:

- i) 4 December 2018. **Found Proved**
- ii) 2 January 2019. **Found Proved**
- iii) 16 January 2019. **Found Proved**

Allegation 3

By reason of his conduct in respect of any or all of the matters set out at 1 and 2 above, Mr Gareth Roger Jones is:

- (a) Guilty of misconduct pursuant to bye-law 8(a)(i); **Found Proved** or
- (b) Liable to disciplinary action pursuant to bye-law 8 (a)(iii). **Not Proved**

13. The Committee had regard to the material in the Main Bundle, which consisted of the relevant correspondence sent by ACCA in both email and in letter form. It noted the record of the telephone call made to Mr Jones on 31 August 2018, and his response that he would deal with the matters urgently. It noted that Mr Jones had never responded to the requests made of him by the Investigation Officer in respect of the monitoring and

compliance visit, as well as investigation of the subsequent complaint. The Committee therefore found the individual particulars in Allegation 1 and 2 to be proved, based on the documentary material before it. The Committee noted that Mr Jones has not responded at any time to the substance of the Allegations.

14. In respect of the outstanding matter of misconduct, the Committee reminded itself this is a matter for its professional judgement. Misconduct has been defined as conduct that would be regarded as deplorable by fellow professionals. The Committee is satisfied that the public would expect a professional person to co-operate with ACCA's reasonable request as part of the monitoring visit and subsequent investigation. Such co-operation lies at the heart of professional regulation, and the Committee is in no doubt that the failure to respond to the various emails, letters and telephone calls would be regarded as a serious departure from proper professional standards. The Committee made no finding in respect of Allegation 3(b), as it was charged in the alternative to misconduct.

SANCTION AND REASONS

15. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted his advice that any sanction must be proportionate, and it should consider the least restrictive sanction first and move upwards only if it would be proportionate to do so. The Committee has balanced Mr Jones' 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. The issue of sanction is for the Committee exercising its own professional judgement.
16. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee considered the following to be aggravating features:

- No reply to the substantive allegations;
- Persistent disregard of the investigation and disciplinary process;
- No engagement with the Committee notwithstanding the previous adjourned hearing;
- Failure to comply with Directions.

17. In terms of mitigating factors, the Committee was unable to identify any, as Mr Jones has not engaged with the process. It noted that there have been no previous findings against Mr Jones.

18. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of the matter, and would undermine confidence in the profession and in ACCA as regulator. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.

19. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment, but the Committee decided that the failure to co-operate was too serious, and that public confidence in the profession and in the regulator would be undermined if an Admonishment were made.

20. The Committee then went on to consider the question whether a Reprimand or Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Reprimand or Severe Reprimand would not be the proportionate sanction, because engagement with reasonable requests from the regulator lies at the heart of professional regulation, and a failure to do so would not maintain public confidence in the profession and in ACCA.

21. The Committee then went on to consider whether exclusion would be the appropriate and proportionate sanction. It determined that it would be because the duty to co-operate lies at the heart of professional regulation, and Mr Jones has demonstrated, throughout, a persistent disregard to reasonable requests for information

COSTS AND REASONS

22. The Case Presenter applied for costs in the sum of £6,394.74. He provided a Schedule of Costs, which covered the previous adjourned hearing but not the resumed date. Mr Jones had never supplied the Committee with a Statement of Financial Position.

23. In the circumstances the Committee determined to make a costs award of £6,394.74, as being fair and reasonable in the circumstances.

EFFECTIVE DATE OF ORDER

24. The Case Presenter made no 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 the ACCA did not make an application for an Interim Order at any stage in this case, and the Committee was satisfied that the ordinary appeal period should apply.

Mr Maurice Cohen
Chairman
23 October 2019