

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Neville David Ward

Heard on: Thursday, 06 August 2020

Location: Remote hearing held by skype with access to the public
available on request

Committee: Mr Martin Winter (Chair),
Mr George Tranter (Lay)
Mrs Joanne Royden-Turner (Accountant)

Legal Adviser: Mr Sanjay Lal (Legal Adviser)

**Persons present
and capacity:** Mr Phillip Law (ACCA Case Presenter),
Mr Jonathan Lionel (Hearings Officer)

Observers: N/A

Summary Severe Reprimand

PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Committee had before it the Main Bundle pages 1-71, a Service Bundle pages 1-10 for this hearing, an Additional Bundles 1 pages 1-27 and an Additional Bundles 2 pages 1-4.

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2. This hearing is a resumed hearing from 06 May 2020 when the matter was adjourned, and directions made.
3. Mr Law made an application to amend Allegation 1 by replacing the reference to the year “2018” with the correct year of “2019” and in addition to change “03” to “08” May. The Committee noted that notice of this proposed amendment had been sent to Mr Ward prior to the 06 May 2020 hearing.
4. Mr Ward did not oppose the proposed amendment.
5. The Committee was satisfied that such amendment could be made fairly and justly in accordance with Rule 10(5), as no prejudice would be caused to Mr Ward as this was clearly a typographical correction and the documents in the main bundle make it clear that the events in question allegedly happened in 2019.

ALLEGATION(S)/BRIEF BACKGROUND

Allegation 1

Contrary to paragraph 14(3) of the Global Practising Regulations (as applicable in 2019), between 08 May 2019 and 07 September 2019 Mr Neville David Ward 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 put written ISQC 1 procedures in place;
- (ii) Failed to update his firm’s website to include its company registration details.

Allegation 2

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

- i) 06 August 2019
- ii) 28 August 2019
- iii) 16 September 2019

Allegation 3

By reason of his conduct in respect of any or all the matters set out at 1 and 2 above, Mr Neville David Ward is:

- i) Guilty of misconduct pursuant to byelaw 8(a)(i); or
- ii) Liable to disciplinary action pursuant to byelaw 8 (a) (iii).

DECISION ON FACTS/ALLEGATION(S) AND REASONS

Allegation 1

Contrary to paragraph 14(3) of the Global Practising Regulations (as applicable in 2018), between 08 May 2019 and 07 September 2019 Mr Neville David Ward 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 put written ISQC 1 procedures in place **ADMITTED AND FOUND PROVED**
- (ii) Failed to update his firm's website to include its company registration details **NOT PROVED**

Allegation 2

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

- i) 06 August 2019 **ADMITTED AND FOUND PROVED**
- ii) 28 August 2019 **ADMITTED AND FOUND PROVED**
- iii) 16 September 2019 **ADMITTED AND FOUND PROVED**

Allegation 3

By reason of his conduct in respect of any or all the matters set out at 1 and 2 above, Mr Neville David Ward is:

- i) Guilty of misconduct pursuant to bye-law 8(a)(i); **FOUND PROVED** or
- ii) Liable to disciplinary action pursuant to bye-law 8 (a) (iii). **FOUND NOT PROVED**

- 6. ACCA bring this case and, therefore, the burden of proving the case rests throughout on ACCA to the civil standard of a balance of probabilities. The Committee noted that Mr Ward made full admissions to all the Allegations at the outset of the hearing, including misconduct. The Committee had regard to the documents before it and it noted the following.
- 7. Mr Ward has been a fellow of ACCA since 04 October 1995 and holds an ACCA practising certificate with audit qualification. On 19 November 2018, the Practice Reviewer sent Mr Ward a compliance questionnaire to complete and return with requested documentation by 03 December 2018.
- 8. Mr Ward returned the monitoring questionnaire on 02 April 2019.

9. On 10 April 2019, the Practice Reviewer requested Mr Ward to provide:
- Confirmation that his firm had put written International Standard on Quality Control 1 (ISQC1) procedures in place; and
 - Confirmation that his firm had amended the website to include the missing company registration details.
10. On 24 April 2019 Mr Ward replied to the Practice Reviewer saying that:
- “The written procedures as required by ISQC 1 will be put in place before any Audit assignment is accepted (none is anticipated before the next review point). Your clearance would be requested as that (sic) the time of the appointment.”*
- “The website is to be refreshed and updated and this will be incorporated into the new site. I meet the designer tomorrow.”*
11. On 25 April 2019, the Practice Reviewer informed Mr Ward that he needed to have written procedures in place regardless of whether he held any audit appointments and should, therefore, confirm that written procedures were in place and that his website had been updated. The Practice Reviewer requested this confirmation by 08 May 2019.
12. On 20 May 2019, the Practice Reviewer informed Mr Ward that she had not received a response from him to her email dated 25 April 2019.
13. On 22 May 2019, the Practice Reviewer received a “read receipt” from Mr Ward’s email account in relation to the Practice Reviewer’s email dated 20 May 2019.
14. On 10 June 2019, the Practice Reviewer informed Mr Ward that she had not received any responses from him to her emails dated 25 April 2019 and 20 May 2019 and that if no response was received from him by 17 June 2019, she

would refer him to ACCA Assessment to consider disciplinary action without any further notice.

15. On 06 August 2019, an ACCA Senior Investigations Officer wrote to Mr Ward at his ACCA registered address setting out the issues raised by the referral from the Practice Reviewer and requesting his response by 27 August 2019. No response was received from Mr Ward.
16. On 28 August 2019, the ACCA wrote again to Mr Ward enclosing a copy of the 06 August 2019 letter requesting Mr Ward's response no later than 11 September 2019. No response was received from Mr Ward.
17. On 16 September 2019, the ACCA sent a final letter to Mr Ward informing him that if he failed to co-operate by not providing a satisfactory response by 23 September 2019 an allegation would be raised against him. No response was received from Mr Ward.
18. Mr Law submitted that [Private]. In addition, Mr Law referred to the discharge summary of June 2019 which referred to good progress. Furthermore, [Private] He submitted that Mr Ward was under a duty as a result of the relevant Bye-laws and Regulations. He highlighted that Mr Ward was working from April 2019 onwards and that it would be inadequate to postpone the actioning of the requests on the basis that they would be attended to at some point in the future.
19. Mr Ward in his oral evidence to the Committee referred to an earlier compliance visit from 2012 and his own misunderstanding of the actions required following the review in 2018/19. He accepted that he was probably remiss in not chasing his website designer; he was unable to say when the website was updated, although the Committee noted his email to ACCA dated May 2020 confirming that the website had been updated. Mr Law informed the Committee at the hearing that the website issue had now been resolved. [Private]
20. In cross examination he accepted that he had never actioned the ISQC1 request, although he acknowledged that he had, since April 2019, understood

what action the ACCA was requesting he take. [Private]. He accepted that he worked from April 2019 albeit part time. He conceded that it had not occurred to him to ask ACCA for additional time or assistance.

21. In response to Committee questions, he accepted that he did not realise the seriousness of the requests made of him by ACCA in 2019. He stated that he currently does not actively seek audit clients and would probably not accept audit clients. He accepted that he was still not ISQC1 compliant. He was unable to give any explanation as to why he had not responded to the ACCA in 2019 [Private]
22. The Committee is satisfied from the evidence above that Mr Ward had not been in communication with ACCA during the material time between 08 May and 17 September 2019. It noted that Mr Ward made full admissions to Allegation 1 and 2 at the outset of the hearing. The Committee found Allegation 1(i) and Allegation 2 proved as admitted. In respect of Allegation 1(ii) the Committee noted that although admitted at the outset, the Committee was unable to find any evidence that the website was not changed during the relevant time and accordingly found that ACCA had not discharged its burden of proof.
23. In respect of Allegation 3, misconduct is a matter of judgment for the Committee. The Committee noted that Mr Ward accepted that his acts and omissions amounted to misconduct. The Committee was in no doubt that the actions of Mr Ward, in ignoring repeated requests from his regulator, amount to misconduct and that they would be regarded as deplorable by members of the public and the profession. [Private] did not mitigate the cumulative effect of his acts and omissions in so far as his obligations to communicate with his Regulator and or action the requests of his Regulator. Such cooperation with the one's professional body lies at the heart of professional regulation. Therefore, the Committee found Allegation 3 (i) proved.
24. In the light of its finding in respect of Allegation 3(i) the Committee did not go on to consider Allegation 3(ii) as this was charged in the alternative.

SANCTION

25. 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 had balanced Mr Ward'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.
26. The issue of sanction was for the Committee exercising its own professional judgement.
27. Mr Law informed the Committee that there were no previous matters known to ACCA. He applied for an order of costs. He highlighted the history of the matter and he submitted that the costs were as set out in the Costs Schedule although accepted that they may have to be reduced to reflect the reduced length of the hearing.
28. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee noted that there were no references or testimonial evidence in support, but it [Private]. The Committee considered the following to be aggravating features:
 - Non co-operation with the Regulator
 - Mr Ward has still not complied with the ISQC 1 requirement
 - Partial insight only
29. In terms of mitigating factors, the Committee took into account the following factors:
 - No previous regulatory or disciplinary matters
 - [Private]

- Full admissions at the outset of this hearing
 - Compliance with issues relating to the web site
30. 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 Mr Ward's misconduct and would undermine confidence in the profession and in ACCA as regulator.
31. 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.
32. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment or Reprimand, but the Committee decided that the misconduct found was too serious and that public confidence in the profession and in the regulator would be undermined if any such orders were made. As already noted, co-operation with the Regulator lies at the heart of public protection and the maintenance of public confidence in the profession.
33. The Committee then went on to consider whether a Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Severe Reprimand would be the proportionate sanction because although it was misconduct there was no evidence that the public were placed at risk of harm. Furthermore, the Committee was satisfied that in light of developing insight and the full admissions made at the hearing, Mr Ward now realised what he should have done. The medical evidence, although not providing a defence to the allegations, was nevertheless an important part of the contextual background.
34. In the circumstances the Committee determined that the only appropriate and proportionate sanction would be one of severe reprimand. The Committee determined that the next sanction, which was exclusion from membership, would be wholly disproportionate in the circumstances.

COSTS AND REASONS

35. ACCA claimed costs of £6034 which comprised the costs of the investigation and the matters as highlighted by Mr Law in respect of the history of the matter. These cover the costs of investigation, the presentation of the case as well as the costs of the Committee Officer and of today's hearing.

36. The Committee noted Mr Ward had not prepared a Statement of Financial Position although he stated to the Committee that he was unable to pay the costs as he had no savings or income. He had not produced evidence to this effect. He stated that he had applied for universal credit but had not heard back. The Committee accepted from the medical evidence that his earning capacity would have been significantly impaired over the last two years. The Committee decided that it was appropriate to award costs in the sum of £3000 which reflected that some costs had been incurred by the regulator as a result of this matter proceeding to a substantive hearing. The Committee was satisfied that a costs figure of £3000 would reflect Mr Ward's reduced future earning potential in the current situation.

EFFECTIVE DATE OF ORDER

37. The Committee decided that the order would be effective at the end of the expiry of the appeal period referred to in the Regulations

Mr Martin Winter
Chair
06 August 2020