

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

- In the matter of:** Mr Ian Martin Greenwood
- Heard on:** Tuesday 04 -Thursday 06 February 2020 (in person) and  
remotely on Friday 04 December 2020.
- Location:** ACCA, The Adelphi, 1-11 John Adam Street, London,  
WC2N 6AU on Tuesday 04-Thursday 06 February 2020  
and Remotely via ACCA Offices on Friday 04 December  
2020
- Committee:** Mr James Kellock (Chairman)  
Ms Wanda Rossiter (Accountant)  
Ms Victoria Smith (Lay)
- Legal Adviser:** Mr Robin Havard (Legal Adviser) 04-06 February 2020  
Mr Alastair McFarlane (Legal Adviser) 04 December 2020
- Persons present  
and capacity:** Mr Simon Walters (ACCA Case Presenter) 04-06 February  
2020  
Ms Anna Packowska (Hearings Officer) 04-06 February  
2020  
Mr Ian Martin Greenwood (Member)  
Mr A (Witness – by telephone) 04-06 February 2020  
Mr B (Witness – in person) 04-06 February 2020  
Mr Phillip Law (ACCA Case Presenter) 04 December 2020

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**Ms Nkechi Onwuachi (Hearings Officer) 04 December 2020**

**Observers: None**

**Summary Removed from the register with Immediate effect**

**Costs: Mr Greenwood ordered to pay ACCA's costs in the amount of £15,481.00.**

## **PRELIMINARY APPLICATIONS**

### **JURISDICTION**

1. Mr Greenwood has claimed that the Committee does not have jurisdiction to consider the allegations against him. This is on the basis that, by an email dated 20 August 2019, ACCA had accepted his resignation and that, therefore, from that date, he was no longer a member.
2. The complaints which have given rise to these proceedings were received by ACCA on 13 October 2018.
3. Regulation 10(3) of the Membership Regulations states as follows:

*"An individual's notice of resignation or notice seeking removal from the member, affiliate or student register shall not be accepted, and the individual shall accordingly not cease to be a member or, as the case may be, an affiliate or a registered student, where a complaint in respect of him or of a relevant firm in relation to which he is a specified person has been received by the Association, or where disciplinary proceedings of the Association are otherwise pending against him or such relevant firm until such time as the matter has been finally disposed of and the amount of any fine or costs specified in a disciplinary order made in respect of him or such relevant firm has been paid in full."*

4. The Committee noted that this is a mandatory requirement. ACCA had no discretion whether or not to accept Mr Greenwood's resignation. Therefore, taking account of the complaints having been submitted in October 2018, and as the investigation was ongoing, ACCA was in no position to accept Mr Greenwood's resignation in August 2019. The Committee concluded that this was clearly an error and the register was rectified by Mr Greenwood's name being placed back on it on 24 October 2019. The Committee is satisfied that, as ACCA had no discretion, it was as if Mr Greenwood's name had never been removed from the register.
5. The Committee decided that this was an error on the part of ACCA which had been rectified and the requirements of Regulation 10(3) are mandatory. Having considered carefully the interests of Mr Greenwood, the Committee is satisfied that, in the circumstances, such interests are outweighed by the public interest in the proceedings continuing. The Committee is satisfied that it has jurisdiction to consider the allegations made against Mr Greenwood and the hearing will proceed.

#### **ADMISSIBILITY OF TRANSCRIPT**

6. The Committee was invited by Mr Greenwood to consider the admissibility of the transcript of the recording made by Mr A of the meeting on 17 or 18 September 2018.
7. Mr Greenwood based his objection on three grounds:
  - (i) That the recording had been made without his knowledge, although he accepted that Mr A had asked his permission to record an earlier meeting;
  - (ii) He was suspicious that the recording may be incomplete;

(iii) He was suspicious that the recording, which had been transcribed, may in fact represent sections of more than one meeting or that it could have been re-ordered.

8. Mr Greenwood accepted that he was not able to prove either points 2 and 3 other than in relation to point 2 by his oral evidence, and also accepted that the transcription prepared by ACCA was an accurate transcription of what had been provided to it.
9. Mr Walters confirmed that it was a matter of relevance and fairness. He submitted that it was clearly relevant and, as Mr Greenwood had had advance notice of ACCA's intention to rely upon it, it would be fair for the evidence to be admitted. It would then be open to Mr Greenwood to challenge the reliability of the evidence, both by challenging the witnesses and in his own evidence, and for the Committee to place such weight on it as it considered appropriate.
10. In reaching its decision, the Committee had been referred to Regulation 12 of the Complaints and Disciplinary Regulations 2014 as amended. This states that, subject to the requirements of justice and of fairness to Mr Greenwood, the Committee may admit oral or documentary evidence whether or not such evidence would be admissible in a court of law.
11. The Committee was satisfied that the content of the transcript was potentially relevant to the allegations being made. The Committee was also satisfied that it was not unfair to Mr Greenwood to allow the transcript into evidence. He had had considerable advance notice of ACCA's intention to rely on the recording and had been provided with the transcript in advance of the hearing such that he could consider the evidence.
12. As for the specific objections raised by Mr Greenwood, the Committee would ensure that Mr Greenwood had sufficient opportunity to challenge the accuracy and reliability of the recording. The Committee would take such issues into account when considering the extent to which it was able to rely on the accuracy of such evidence when reaching its decisions in respect of the

allegations. Indeed, the Committee anticipated that, whilst noting that Mr Greenwood did not dispute the accuracy of the transcript prepared by ACCA of the recording provided to it, it would wish to listen to the recording at the appropriate stage.

#### **AMENDMENT TO ALLEGATION 1(a)**

13. Following the conclusion of the evidence, the Committee considered the wording of Allegation 1(a).
14. It was alleged by ACCA that the meeting to which reference was made in Allegation 1(a) took place on 18 September 2018. Mr Greenwood suggested that it took place on 17 September 2018, although he had not produced any evidence to support his assertion. He had made reference to an entry in his diary, but he had not produced his diary in support of his contention. The Committee was prepared to accept that he had a diary entry to that effect.
15. The Committee had noted that Mr B had been uncertain in respect of certain of the dates on which events took place, which was not unusual taking account of the length of time that had elapsed.
16. On the balance of probabilities, the Committee was prepared to accept that the meeting took place on either 17 or 18 September 2018.
17. Mr Walters suggested the Committee could exercise its power under Regulation 10(5)(i) to amend the allegation. He said that no prejudice would be caused to Mr Greenwood by such an amendment. Mr Greenwood submitted it would be unfair to make such an amendment. He pointed out that ACCA had had many months to prepare and bring its case and it was not appropriate to make such a change so late on.
18. The Committee carefully considered whether any prejudice would be caused to Mr Greenwood by making such an amendment and concluded it would not. He had defended the allegation vigorously and had addressed the meeting in

considerable detail. The Committee was not persuaded that, had the allegation read "On 17 or 18 September 2018..." originally, Mr Greenwood would have done anything differently, nor had Mr Greenwood said that he would have acted differently in presenting his case.

19. In the circumstances, the Committee decided to amend Allegation 1(a) so that it read that it was on either 17 or 18 September 2018 that Mr Greenwood proposed the no win, no fee arrangement to Mr A. In doing so, the Committee made the amendment on its own motion in accordance with Regulation 10(5)(i) of the Complaints and Disciplinary Regulations 2014 as amended.

#### **ALLEGATIONS (as amended)**

##### 20. Allegation 1

- (a) On 17 or 18 September 2018, Ian Martin Greenwood FCCA proposed a 'no win, no fee' arrangement with Mr A when he already had confirmation that he would be successful in respect of the proposed engagement and had not informed Mr A of this.
- (b) Ian Martin Greenwood FCCA's conduct in respect of 1(a) was:
  - (i) Dishonest, in that he knew that he would be successful in respect of the proposed 'no-win, no-fee' arrangement but did not inform Mr A of this; or in the alternative
  - (ii) Contrary to the Fundamental Principle of Integrity, as applicable in 2018, in that such conduct demonstrates a failure to be straightforward and honest.

##### Allegation 2

During the period of 03 July 2018 to 12 September 2018, Ian Martin Greenwood FCCA undertook work in respect of Mr A without first verifying the identity of his

client by reliable and independent means, contrary to paragraph 9 of Section B2 (Anti-Money Laundering), as applicable in 2018.

### Allegation 3

Ian Martin Greenwood FCCA acted contrary to paragraph 5 of Section B9 (Professional liability of accountants and auditors) of the ACCA Code of Ethics and Conduct, as applicable in 2018, by failing to send a letter of engagement, either before work was undertaken or as soon as practicable after the engagement commenced, during the period of 03 July 2018 to 12 September 2018.

### Allegation 4

By reason of his conduct, Ian Martin Greenwood FCCA is:

- (a) Guilty of misconduct in respect of any or all of the matters set out at Allegations 1 to 3 above, pursuant to byelaw 8(a)(i); and/or
- (b) Liable to disciplinary action in respect of any or all of the matters set out at Allegations 2 and/or 3 above pursuant to byelaw 8(a)(iii).

### **BRIEF BACKGROUND**

- 21. On 01 April 1981, Mr Greenwood became a Member of ACCA.
- 22. On 01 April 1986, Mr Greenwood became a Fellow of ACCA.
- 23. Save for a break in membership in or about 2010, Mr Greenwood has remained a member up until the present day.
- 24. Throughout the material time, Mr Greenwood was a director of Greenwoods F.A.C. Limited ("the firm").

25. In February 2018, Mr B started working as a sub-contractor at the firm and, on 01 July 2018, he became an employee of the Firm.
26. In or about June 2018, Mr B was approached by Mr A for assistance with a problem that he was having in respect of a piece of land ("the Land Issue" or "the property"). Mr B worked closely with Mr Greenwood and informed him of the enquiry by Mr A.
27. In October 2018, both Mr A and Mr B submitted to ACCA complaints in respect of Mr Greenwood's conduct regarding the land issue and an investigation ensued, leading to the current proceedings.

#### **DECISION ON FACTS/ALLEGATIONS AND REASONS**

28. At the start of the hearing, Mr Greenwood denied all of the allegations.

#### **ALLEGATION 1(a)**

#### **ACCA'S CASE**

29. The Committee had been provided with a bundle (pages 1 to 282) and a service bundle (pages 1 to 30). In the course of the hearing, the Committee was provided with a copy of the letter from Mr Greenwood to the Government Legal Department dated 30 August 2018 (pages 283 to 284)
30. In support of ACCA's case, the Committee had heard oral evidence from Mr B, who attended in person, and Mr A, who gave evidence by telephone. Both witnesses had provided a statement and confirmed that they relied on their content.
31. In May 2018, Mr A's father passed away and, when dealing with the estate, Mr A discovered that his late father's company, which had been dissolved for many years, remained the owner of a bungalow. The title had not been registered in anyone's name following the dissolution of the company.



32. On taking advice from the solicitor who had acted for his late father, it was suggested to Mr A that it may be necessary to restore his late father's company and then transfer the property from the company to his late father's estate but this could take many years to resolve on the basis of claiming adverse possession. Mr A was not happy with the advice he had received.
33. On Friday 29 June 2018, Mr A telephoned Mr B to ask whether he and Mr Greenwood might be able to assist with the Land Issue. Mr B had acted for Mr A for a number of years as an accountant and had become a friend. Mr B indicated that he and Mr A are distantly related.
34. On or around 03 July 2018, Mr A attended a meeting with Mr Greenwood and Mr B to discuss the Land Issue. A limited amount of documentation relating to the issue was provided by Mr A. There was a further meeting on 13 August 2018 at which Mr A handed to Mr Greenwood the entirety of the documentation he had relating to the Land Issue.
35. Initially, Mr B thought that work may involve the restoration of the dissolved company and the filing of the accounts for the years since its dissolution. However, Mr Greenwood considered there may be another course which could be adopted to resolve the issue.
36. By a letter dated 30 August 2018, Mr Greenwood wrote to the Government Legal Department ("the GLD") in respect of the Land Issue. The letter set out the background to the matter and was based on the documentation provided by Mr A. In that letter, Mr Greenwood confirmed that the land was registered in the name of the company of Mr A's late father and that, as this company had been dissolved in 1994, *"the Land Registry have concluded that the land is Bona Vacantia."*
37. Having suggested to the GLD that this was as a result of an administrative oversight, Mr Greenwood said, *"we should be grateful if you could confirm that*

*the Crown has no interest in the property, in order that the Executors may properly register title to the land for [the father of Mr A's] estate."*

38. Mr Greenwood then went on holiday to Italy, returning to the office on 13 September 2018.
39. On 11 September 2018, whilst Mr Greenwood was on holiday, Mr B read an email from the GLD to which a letter was attached. He read the letter which confirmed that the Treasury Solicitor had no Bona Vacantia interest in land that was previously registered in the name of Mr A's late father's company ("Company A"). This meant that the Crown had no interest in this land.
40. On 11 September 2018, Mr B sent text messages to Mr Greenwood. In these, he wrote, *"sorry to bother you but do you want the good news or the very, very good news..... safe to say a distant cousin of mine owes us..... a lot!"*. He also asked if he could inform Mr A of the letter that had been received from the GLD. Mr Greenwood responded to Mr B by saying *"No, let me look tomorrow and we will discuss it ok!"*
41. On his return, Mr Greenwood spoke to Mr B and indicated that Mr A should not be told of the GLD's decision and that he would discuss with Mr A, a no win-no fee agreement in order to resolve the issue, even though the issue had been successfully resolved.
42. However, unknown to Mr Greenwood, Mr B informed Mr A of the situation and so, when a meeting was arranged for Mr A to meet with Mr Greenwood and Mr B, Mr A was aware of the outcome of the issue with GLD, and that the Treasury Solicitor ("GLD") did not intend to claim any interest in the property.
43. On 18 September 2018, Mr A attended a meeting with Mr Greenwood and Mr B.
44. Without Mr Greenwood's knowledge, Mr A recorded the meeting and a transcript was later made. The Committee had not only read the transcript but

also listened to the recording of the meeting which did not include the start of the meeting or its conclusion. Mr A stated that all that was missed were the introductions and that the last two to three minutes of the recording were not included. Mr A indicated that he had been prevented from sending the entire recording as it was too large an attachment to send and he was given the option to "clip" the recording so that it was of a size which could be transmitted. Initially he said he had the full recording but later said he no longer had it as he had lost the phone he used to record the meeting when in a public house having a meal.

45. ACCA alleged that, at that meeting, Mr Greenwood proposed a 'no win, no fee' arrangement with Mr A to resolve the issue of a potential claim by the Crown of Bona Vacantia when he already had confirmation that he would be successful in respect of the proposed engagement and had not informed Mr A of this. The proposed engagement was the resolution of any claim by the GLD that the land was Bona Vacantia. ACCA relied on what was said in the course of the meeting and gave the following examples from the transcript.

46. Mr Greenwood stated to Mr A that:

- (i) *"We would – if it isn't successful, we walk away from it; we won't charge. So it's really a case of seeing where we're at on it.;"*
- (ii) *"If they came back and said 10...";*
- (iii) *"I don't know what they're actually going to say at the end of the day on that" ;*
- (iv) *"I think there's gonna be quite a lot of grief in dealing with it" ;*
- (v) *"They might make in unpalatable...";*
- (vi) *"If we're not successful, we'll walk away...";*
- (vii) *"What if we got it for 1,000?";*

- (viii) *"If they came in at ten that leaves me with nil"; and*
- (ix) *"What if they come back and say 25 grand...for the interest in the property?" .*
- (x) *Mr A stated to Mr Greenwood that, "the best result in the world will be 'you can have it' but I don't think that's going to happen".*

47. ACCA alleged that the conduct set out at Allegation 1(a) clearly amounted to dishonesty on the basis that Mr Greenwood knew that his proposal of a 'no-win, no-fee' arrangement would be successful. A feature of a 'no-win, no-fee' arrangement was that it was intended to reward risk in the event of success, accepting that there was a real possibility of failure. Mr Greenwood proposing a 'no-win, no-fee' arrangement in circumstances when he knew there was no prospect of anything other than a successful outcome, and the failure to inform Mr A of the true position was dishonest. It was further submitted that such conduct would be regarded as dishonest according to the standards of ordinary decent people.

#### **MR GREENWOOD'S CASE**

48. In the course of the investigation, Mr Greenwood had provided written responses to ACCA on 19 February 2019, 14 March 2019, 24 June 2019 and 22 August 2019. Mr Greenwood referred the Committee to those documents and said that they formed the basis of his case. Mr Greenwood also gave evidence to the Committee and made closing submissions. The Committee had read the correspondence from Mr Greenwood, and listened carefully to his evidence and final submissions.

49. Mr Greenwood indicated that he was informed by Mr B that the estate of Mr A's father held £20,000 in cash and that the family would be willing to use that money to gain title to the property. He indicated in his letter of 19 February 2019 that he, *"thought £10,000 would be a fair fee should somebody successfully overturn the Bona Vacantia problem. Mr B said that the family would be*

*extremely happy with that outcome, and I agreed to meet with Mr A on 03 July at 10.00 in my offices. This meeting was arranged by Mr B."*

50. Mr Greenwood confirmed that there were two previous meetings to the meeting on 17 or 18 September 2018. At the first meeting with Mr B, on 03 July 2018, he was provided with an amount of paperwork and at a second meeting, on 11 August 2018, he received further paperwork. He discussed with Mr B the potential for, *"an alternative outcome for the property and that I may or may not be successful."*
51. Under pressure from Mr B to act swiftly, and having taken time to consider the documentation, Mr Greenwood wrote the letter to the GLD dated 30 August 2018, the day before he was due to go on holiday to Italy. The letter made representations to the GLD as summarised at paragraphs 36 to 37 above.
52. Mr Greenwood said that it had been a mistake to write the letter to GLD when he did, as he expected that it would take at least a month to six weeks for them to respond.
53. On 11 September 2018, whilst still on holiday, he received a text from Mr B informing him of the response from GLD confirming that they had no interest in the property. Whilst Mr B asked if he could tell Mr A, Mr Greenwood said that he should not and that he wished to see the email on his return but requested Mr B to arrange a further meeting with Mr A to discuss the way forward.
54. Whilst Mr A and Mr B said the meeting took place on 18 September 2018, Mr Greenwood said that it took place on 17 September 2018 and Mr Greenwood said that the purpose of the meeting was to finalise the terms of the engagement and also the parties to the engagement. Whilst Mr Greenwood told Mr A at the meeting that he was confident of a successful outcome, he thought a fee of £10,000 would be appropriate and then he confirmed the discussion that took place with Mr A with regard to the fee arrangement. It was accepted by Mr Greenwood that his proposal was on a no win, no fee basis.

55. It was also asserted by Mr Greenwood when he gave evidence that the successful outcome was not restricted to resolution of the potential claim by the Crown but also the registration of the title of the property, which was not straightforward.
56. It was suggested by Mr Greenwood that the registration of the title would be undertaken by solicitors and that he would pay the fees of those solicitors, recognising that if the solicitors were unsuccessful in registering the title, this would mean not only that Mr Greenwood would not receive a fee but he would also be liable to pay the costs incurred by the solicitor which he estimated at £3,000.
57. In answer to questions from the Committee, Mr Greenwood said that at the end of the meeting on 17 September 2018, in the part that did not appear on the recording in ACCA's possession, Mr A had changed his instructions. Mr A then said he only wanted Mr Greenwood to deal with the Bona Vacantia issue.
58. On 02 October 2018, he received a letter from solicitors instructed by Mr A, Glaisyers, which was followed by further correspondence where there was reference to the tape-recorded interview. Mr Greenwood confirmed that he had suggested to ACCA some months ago that the recording was incomplete. He stated that, at the end of the meeting, Mr A had agreed to pay a fee of £7,000. Therefore, he later sent an invoice from his firm for that amount when it was clear to him that Mr A was marketing the property.
59. As Mr Greenwood maintained that the engagement related to more than just the issue of the potential claim by the Crown, and included the successful registration of the title to the property, he had not entered a no win, no fee arrangement knowing that Mr A would be successful.

## **THE COMMITTEES REASONS AND DECISION**

60. In reaching its decision, the Committee had taken into consideration the fact that Mr Greenwood is a person of previously good character when assessing his credibility and the likelihood of him acting in the manner alleged.
61. As for the witnesses called by ACCA, Mr A and Mr B, the Committee had found them both to be credible and reliable witnesses although they could not remember every detail, which was not surprising. They had both endeavoured to answer questions fully and without hesitation. The Committee also considered that, in all material respects, their evidence was consistent. The Committee did not accept the suggestion made by Mr Greenwood that he suspected that there was some arrangement between Mr A and Mr B whereby Mr B would benefit in some way by fabricating his evidence. This was speculative and there was no support for such a suggestion.
62. As for Mr Greenwood, the Committee had not found him to be a credible witness. For the reasons set out below, the Committee did not consider his account to be plausible. Furthermore, the Committee had taken into consideration certain inconsistencies in his account when assessing his evidence.
63. For example, in the course of the meeting in September 2018, he stated to Mr A that he would undertake the work, *"...through another vehicle rather than the accountancy practice in order to remove the VAT element of anything. Because, in the nicest possible way, VAT is a nasty surprise for people."*
64. However, in his letter to ACCA dated 19 February 2019, Mr Greenwood suggests that it was Mr A who indicated that he was not going to pay VAT and it was at that stage that Mr Greenwood said that he, *"... could facilitate this as long as he understood he would be dealing with a different company"*.
65. In the course of the meeting in September 2018, when discussing with Mr A the potential interest in the property held by the Crown, Mr Greenwood states, *"What if they come back and say '25 grand'?"*

66. When asked by Mr Walters who "*they*" were, Mr Greenwood stated that he did not know who he meant by "*they*". The Committee found such a response to be evasive and lacked credibility. Indeed, Mr Greenwood referred to "*they*" on a number of occasions but without identifying who "they" were.
67. The Committee was also concerned that Mr Greenwood had failed to disclose his letter to the GLD to ACCA in the course of its investigation, as it was obviously a key document. Mr Greenwood only disclosed it in the course of the hearing and even then, only when the Committee asked if it might have sight of it.
68. Subsequently, Mr Greenwood stated that, in professional conduct, whether dishonesty was serious would depend on whether a professional relationship existed. If there was no professional relationship, he said it was acceptable to be dishonest in one's dealings although he subsequently withdrew that comment. He also stated that, as a member of ACCA, he did not recognise that he was a representative of ACCA nor did he consider that, as an accountant, he was a representative of the profession.
69. The Committee made the following findings when reaching its decision.
70. Clearly, the reliability of the recording of the meeting on 17 or 18 September 2018 had been called into question. It was not disputed that the recording of the beginning and the end of the meeting had not been made available. Mr Greenwood had indicated that an exchange took place between him and Mr A at the end of the meeting which he considered to be relevant and which is described in paragraph 57 above. The Committee took this fully into account when reaching its decision.
71. No expert evidence had been called by Mr Greenwood to support his assertion that the recording was a composite of parts of different meetings. Nevertheless, whilst Mr Greenwood stated that he was suspicious regarding the integrity of the recording, having listened to it, the Committee was satisfied that it represented a recording of a continuous conversation between Mr Greenwood,



Mr A and Mr B taking place on one occasion. Mr Greenwood also accepted that the transcript of the recording was accurate. To that extent, the Committee considered it was appropriate to rely on its content.

72. Mr Greenwood suggested that the proposed engagement was not only the issue of whether the Crown had an interest in the property under Bona Vacantia but that it also related to registration of the title, part of the property being unregistered, and part being registered.
73. However, in the meeting between Mr Greenwood, Mr A and Mr B on 17 or 18 September 2018, the overwhelming emphasis was whether a claim would be made on the property by the Crown, and, if so, how much that might be.
74. In the meeting, there was a lengthy discussion regarding the basis of the fee payable to Mr Greenwood's firm if Mr Greenwood was successful.
75. To a large extent, it centred around how much "they" may demand if they claimed an interest in the land. Mr A refers to the Land Registry. Throughout the meeting, Mr Greenwood does not refer to anyone specifically.
76. However, Mr Greenwood accepted that the cost payable to the Land Registry for registering the title would be in the region of £300. Therefore, he cannot have had the Land Registry in mind when he was discussing with Mr A the prospect of "*them*" indicating a claim of £25,000 or £100,000 or, for example, "*what if they come back and said 10*".
77. The Committee found, on the balance of probabilities, that the only plausible explanation was that Mr Greenwood was referring to the GLD.
78. Indeed, this is consistent with a letter from Mr Greenwood to GLD of 30 August 2018, which Mr Greenwood produced for the first time when giving evidence at the hearing and upon being requested to produce it. In that letter, he wrote:

*"If you are indeed in agreement with us in the matter, we should be grateful if you could confirm that the Crown has no interest in the property, in order that the Executors may properly register title to the land for Mr A's estate."*

79. GLD then replied on 11 September 2018, confirming that they made no claim on the land.
80. Further, he knew that at no stage would a lump sum of £25,000 or £100,000 or any such sum as referred to in the transcript ever have to be paid to the Land Registry to reflect an interest or claim that the Land Registry may have in the land. He never seeks to correct Mr A during the meeting when Mr A made reference to the amount of any potential claim. He knew that the only body who could have made such a claim on the property would have been GLD.
81. When Mr B read the letter from GLD, he was excited at the outcome and asked Mr Greenwood whether he could send the letter to Mr A. Mr Greenwood said no and that he wished to see it. He would have seen it on his return from holiday and before the meeting on 17 or 18 September 2018. There was no legitimate reason whatsoever to refrain from giving a copy of the letter to Mr A on his return and prior to, or at, the meeting, whether the proposed engagement was limited to dealing with the Bona Vacantia issue alone or whether it was wider including securing registered title and paying solicitors' fees.
82. His decision not to do so and to instruct Mr B not to do so before 17 and 18 September 2018 was an important feature as, in the meeting, he made no mention of the letter at any stage even though he had every opportunity to do so.
83. The reasons provided by Mr Greenwood for deciding not to tell Mr A of the existence of the letter from GLD lacked credibility. However, disclosure of that letter would have frustrated his attempt to secure a no win no fee agreement.

84. One explanation he gave in evidence was that he suspected Mr A knew about it. If that were the case, there was no reason for Mr Greenwood not raising the existence of the letter in order to discuss it with Mr A.
85. He also said that he thought Mr A knew because of the *"hesitancy of Mr B"* when talking at the meeting. Again, the Committee found that this was not a credible explanation for his failure to inform Mr A of the existence of the letter from GLD.
86. Mr Greenwood described his decision to write the letter to the GLD on 30 August 2018 as a mistake because he did not expect a response for some weeks. The Committee could not understand the basis on which this could be described as a mistake. Mr Greenwood had written a letter and the GLD had replied providing him, and thereby Mr A, with the result that they wanted to achieve. The timing of the letter being sent to GLD can have no bearing or relevance whatsoever, save that the letter from the GLD confirming that it would not claim an interest in the land arrived before Mr Greenwood was able to negotiate the terms of any retainer with Mr A.
87. When asked who "they" were when Mr Greenwood said in the meeting *"What if they come back and say 25 grand"*, Mr Greenwood said in evidence he did not know who he meant by *"they"*. Again, and as stated above, the Committee found this lacked any credibility.
88. He also accepted that £25,000 would not be required to register the property with the Land Registry.
89. Mr Greenwood suggested in his evidence that the issue with regard to Bona Vacantia and any potential claim of the Crown was not the only problem faced by Mr A. However, the Committee could see no reference in the transcript to any discussion about anything else, such as potential complications in registration, throughout the meeting.

90. In the transcript of the meeting, both Mr Greenwood and Mr A make frequent references to circumstances in which "they" come back and claim varying amounts of money. This was all interrelated with, and formed part of the negotiation of, how much Mr Greenwood would be able to charge on the no win, no fee agreement he was proposing.
91. As stated, Mr A made reference to the Land Registry, but Mr Greenwood never sought to correct him on the basis that he would know that it would not be the Land Registry who would be claiming an interest in the land.
92. In the course of the meeting, the following are examples of remarks made by Mr Greenwood:

*"Well, let me ask another question: if they came back and said, "ten"..."*

When Mr A said that:

*"They might ask for 25,000 or they might ask for 50,000",*

Mr Greenwood replies:

*"They might make it unpalatable, but..."*

Mr A then says:

*"Okay, and we say to you, if I – I would sooner go back to [inaudible] and say – look, you've indicated that you want 10,000 as a fee. However, if the Land Registry come in and ask for an exorbitant amount, that 10,000 fee may be negotiable down a little bit to make –"*

And Mr Greenwood replies:

*"Yeah".*

Later in the meeting Mr A says:

*"I'm actually – so you want to keep your costs in at ten. From my point of view, if they came in at ten, that leaves me with nil."*

Mr Greenwood later says:

*"What if they come back and say, "twenty five grand?"*

Mr A replies:

*"What do you mean if they come back and say...?"*

Mr Greenwood says:

*"For the interest in the property."*

93. Again, Mr A says that whatever figure *"they"* were going to ask for could be a pound, could be a hundred thousand and Mr Greenwood says *"yeah"*.
94. The Committee concluded that Mr Greenwood can only have been referring to GLD as he requested GLD in his letter of 30 August 2018 to confirm that *"the Crown has no interest in the property..."* and that the only possible involvement of GLD was in relation to the possible issue of Bona Vacantia. At no stage did Mr Greenwood explain to Mr A that any claim by the Crown had been resolved and that there would be no claim on the property.
95. Whilst no reference was made in the meeting to the legal work necessary to register the title, Mr Greenwood said in evidence that such work would be undertaken by solicitors. Furthermore, he would take responsibility for the fees of those solicitors. As stated, Mr Greenwood accepted that he wished to proceed on a no win – no fee basis for £10,000. This meant that if Mr A did not *'win'*, on Mr Greenwood's account, not only would Mr Greenwood receive no

fees, but he would also be responsible to pay the solicitors' costs which he thought might be in the region of £3,000.

96. In fact, the only reference to solicitors in the meeting was when there was a discussion about Mr A instructing his solicitor. Mr Greenwood asked Mr A who he would instruct. This supported ACCA's case that the engagement was limited to resolving the Bona Vacantia problem.
97. There was no mention in the meeting of Mr Greenwood instructing, and bearing the cost of, solicitors for carrying out that work whether he was successful or not. Taking account of the lengthy discussions between Mr Greenwood and Mr A with regard to the basis of the no win, no fee arrangement and the sums involved, it was not credible that, if Mr Greenwood was going to bear the solicitors' costs, he would not have mentioned it unless it was because he was confident, because of the letter from GLD, that registration of title would be achieved. This would have been highly material to Mr Greenwood's negotiation with Mr A.
98. The Committee rejected Mr Greenwood's assertion that the no win, no fee agreement was to reflect work over and above the resolution of any claim by the Crown.
99. The Committee had considered very carefully the correspondence Mr Greenwood had sent to ACCA in response to its investigation. The Committee considered that the correspondence did not reflect Mr Greenwood's assertion in oral evidence.
100. For example, in his letter of 19 February 2019, Mr Greenwood said as follows:

*"Mr B went on to say that there was almost £20,000 in cash in the Estate and that the family would be willing to use all of that money to successfully gain title to the property. I replied that I thought £10,000 would be a fair fee should somebody successfully overturn the Bona Vacantia problem."*

101. At paragraph numbered 3 later in the same letter, Mr Greenwood stated:

*"As previously outlined, the services being provided were entirely of a legal nature. I had said that I would peruse the papers to see if there was anything I could do to assist, with a view to a fee of £10,000 for successfully obtaining a waiver of interest from the Government Solicitor. This was fully communicated to Mr B who told me that Mr A was really happy with that course of action."*

102. There was no reference in that statement in the letter to any work being included over and above the resolution of the potential claim by the Crown and the amount quoted of £10,000 was the same amount quoted by Mr Greenwood at the meeting on 17 or 18 September 2018.

103. Other than a comment at the start of the meeting (as recorded) of the need to unlock the problem and register title, the remainder of the meeting concentrated on the negotiation by Mr Greenwood of his firm's fee, Mr A arguing that the level of such a fee should be dependent on any claim, and the size of that claim, being made on the property by the Crown. Mr Greenwood fully engaged in that debate.

104. For these reasons, the Committee was satisfied that Mr Greenwood proposed a 'no win, no fee' arrangement with Mr A when he already had confirmation that he would be successful in respect of the proposed engagement, namely the resolution of the claim of Bona Vacantia by the Crown, and had not informed Mr A of this.

105. On this basis, the Committee found the facts of Allegation 1(a) proved.

#### **ALLEGATION 1(b)(i)**

106. The Committee relied on its findings of fact in respect of Allegation 1(a).

107. The Committee had found that, both prior to, and during, the meeting on 17 or 18 September 2018, Mr Greenwood had deliberately withheld from Mr A the existence of the letter of 11 September 2018 from GLD. The Committee had found that the proposed engagement of Mr Greenwood's firm, and the terms of that engagement, were to dispose of the potential of a claim by the Crown of Bona Vacantia in respect of the property.
108. The intention of a "*no win – no fee arrangement*" was that it was designed to reward risk in the event of success, accepting that there was a real possibility of failure. Mr Greenwood would have known that, had he disclosed the letter, he would not have secured agreement to the levels of success fee he was asking for since there was no risk of failure to him.
109. Mr Greenwood knew that the decision contained within the letter from GLD was, therefore, central to the proposed engagement and represented a successful outcome. Therefore, the Committee found that Mr Greenwood's decision to withhold the letter and to go on and attempt to negotiate a no win, no fee agreement in relation to a potential claim in the knowledge that there would be no claim would, by the standards of ordinary decent people, be considered dishonest.
110. On this basis, the Committee found Allegation 1(b)(i) proved.

#### **ALLEGATION 1(b)(ii)**

111. This allegation was pleaded in the alternative to Allegation 1(b)(i). Consequently, having found Allegation 1(b)(i) proved, the Committee made no separate findings in respect of this allegation.

#### **ALLEGATION 2**

112. Paragraph 9 of Section B2 (Anti-Money Laundering) of the ACCA Code of Ethics and Conduct, as applicable in 2018, required Mr Greenwood to verify the identity of his potential client by reliable and independent means.



113. ACCA alleged that Mr Greenwood did not verify the identity of his potential client, Mr A, by reliable and independent means.

114. In response to ACCA's request as to what steps Mr Greenwood took to verify the identity of the potential client, he stated:

*"I relied upon the personal knowledge and familial links of my senior employee, Mr B, to provide comfort as to Mr A's identity."*

115. Mr Greenwood suggested that he had also placed reliance on a letter he received from Mr A's solicitors on 02 October 2018 to identify his client, but this was a substantial time after work had been undertaken on behalf of Mr A.

116. Paragraph 9(a) and (b) of Section B2 (Anti-Money Laundering) makes specific reference to obtaining independent evidence of an individual client's identity (such as a passport and proof of address) and obtaining specific information in respect of a company or other legal entity, which was not done by Mr Greenwood.

117. It was not disputed by Mr Greenwood that neither a copy of Mr A's passport nor a utility bill had been obtained to provide formal verification of Mr A's identity. He suggested in his evidence that this was the responsibility of Mr B who had introduced Mr A to the firm. However, the Committee found that it was Mr Greenwood who had responsibility for ensuring compliance with the requirements of the Code of Ethics and Conduct. Mr B was an unqualified assistant. Mr Greenwood was the director of the firm and he had a direct involvement in acting for Mr A. Mr Greenwood's case was that he did not know who his client was until the meeting of 17 or 18 September 2018. However, he had already written to the GLD on behalf of an identified client.

118. On this basis, the Committee found the facts of Allegation 2 proved.

### **ALLEGATION 3**

119. Paragraph 5 of Section B9 (Professional liability of accountants and auditors) of ACCA's Code of Ethics and Conduct required Mr Greenwood to send to his client a letter of engagement before any work was undertaken or as soon as practicable after the engagement commences.
120. Mr Greenwood had accepted that no letter of engagement had been sent to Mr A.
121. Again, he stated that the responsibility for sending Mr A a letter of engagement rested with Mr B. For the same reasons as outlined under Allegation 2, the Committee considered that it was Mr Greenwood's responsibility to send such a letter or, even if he had delegated the task, to ensure that such a letter had been sent.
122. Mr Greenwood also suggested that Mr A had not been a client of the firm and that this was confirmed by Mr A. However, in the course of his evidence, Mr Greenwood produced a copy of the letter he had written to GLD dated 30 August 2018. This letter starts with the words, "*We act on behalf of the Executors of Mr C (deceased).*" This confirms that Mr Greenwood had identified his client.
123. Further, when cross-examined, he confirmed that, when he wrote to GLD, he purported to do so on behalf of Mr A as a client, that it was foolish of him to do so without getting Mr A to sign a letter of engagement and that it was a fundamental mistake.
124. On this basis, the Committee found Allegation 3 proved.

### **ALLEGATION 4(a)**

#### **Misconduct – in respect of Allegation 1**

125. Taking account of its findings in respect of Allegations 1(a) and (b) and that Mr Greenwood had acted dishonestly, the Committee was satisfied that Mr Greenwood was guilty of misconduct. Such dishonest conduct could properly be described as deplorable and falling below the standard expected of an ACCA member. Transparency and honest dealing were central to the protection of the public interest and maintaining the reputation of, and confidence in, the profession. The dishonest conduct of Mr Greenwood brought discredit to himself, the Association and the accountancy profession.
126. Therefore, the Committee found Allegation 4(a) proved in respect of Allegation 1.

#### **Misconduct – in respect of Allegations 2 and 3**

127. Whilst the facts of Allegations 2 and 3 had been found proved, in its judgment, the Committee was not satisfied that, in isolation, and in the circumstances in which Mr A was introduced to the firm, these two failures in respect of a single client were of such seriousness as to amount to misconduct.
128. Consequently, the Committee had not found Allegation 4(a) proved in respect of Allegations 2 and 3.

#### **ALLEGATION 4(b)**

#### **Liability to disciplinary action – in respect of the conduct in Allegations 2 and 3**

129. The Committee relied on its findings of fact in respect of Allegations 2 and 3.
130. Whilst the Committee had found that the failures on the part of Mr Greenwood did not meet the threshold of misconduct, it nevertheless found that such failures were in breach of ACCA's Code of Ethics and Conduct.

131. Accordingly, the Committee was satisfied that Mr Greenwood was liable to disciplinary action pursuant to byelaw 8(a)(iii).

132. On this basis, the Committee found Allegation 4(b) proved.

#### **04 DECEMBER 2020**

133. ACCA was represented by Mr Law. Mr Greenwood attended and was not represented.

134. This case resumed today after the Committee sat for three days in February 2020, when it had heard all the evidence and submissions, and then adjourned part heard. The Committee resumed in private in April and determined the facts. Having announced its decision on the facts today and handed down its reasons, the Committee proceeded to the sanction stage.

#### **SANCTIONS AND REASONS**

135. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive, and that any sanction must be proportionate. It considered the available sanctions in ascending order and applied the principle of proportionality. It accepted the advice of the Legal Adviser.

136. The Committee considered that the dishonest conduct in this case was very serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.

137. The mitigating factors the Committee identified are as follows:

- ,A previous good character with no disciplinary record
- A very long ACCA membership of nearly 40 years

138. The aggravating factors the Committee identified were:

- Mr Greenwood's actions were deliberate, planned, dishonest and for his own financial benefit.
- The sums involved were significant.
- The conduct was a breach of trust – Mr Greenwood was acting as an accountant and acted for his own financial gain as opposed to a client/potential client's interests.
- Mr Greenwood has not sought to advance any submissions as to any insight into the seriousness of his conduct and the importance of acting with integrity in order to maintain the reputation of the profession and uphold the public's trust in it.
- The serious potential impact on the reputation of the profession.

139. Given the Committee's view of the seriousness of Mr Greenwood's conduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. When considering the Guidance for a Severe Reprimand, the Committee noted that most of the factors listed were not present. In particular, the misconduct was intentional and had the potential to cause direct harm. In any event, the Committee was satisfied that a severe Reprimand was not a sufficient sanction to reflect the gravity of the conduct to the profession and the wider public and to uphold the reputation of the profession. The Committee did not consider that a fine was appropriate in this case.

140. The Committee considered that the following important factors: serious departure from relevant professional standards; potential loss to a client; abuse of trust; dishonesty, listed in the Guidance under Exclusion were

present in this case. The Committee determined that Mr Greenwood's behaviour was fundamentally incompatible with Mr Greenwood remaining a member of ACCA and considered that the only appropriate and proportionate sanction was that he be excluded from membership and that no application for re-admission may be considered for 3 years.

### **COSTS AND REASONS**

141. ACCA claimed costs of £15,481 and provided a detailed schedule of costs. It noted Mr Greenwood had criticised some of the investigation process, which he said was exacerbated by the involvement of the two principal witnesses. The Committee were not sympathetic with Mr Greenwood's submissions on this point, as his behaviour brought this matter on himself and it considered that the costs incurred by ACCA were reasonably incurred. It had regard to ACCA's Guidance for Costs Orders. The Committee decided that it was appropriate to award costs in this case. It noted Mr Greenwood's submissions as to his current limited income, but also noted his assets. It decided that it was not appropriate to make any reduction in the circumstances, in view of his assets. It concluded that the sum of £15,481 was appropriate and proportionate. Accordingly, it ordered that Mr Greenwood pay ACCA's costs in the amount of £15,481.00.

### **EFFECTIVE DATE OF ORDER**

142. The Committee was persuaded in the circumstances that the ground for imposing an immediate order was made out. The Committee was concerned, given the lack of insight, that there was a risk of repetition should Mr Greenwood continue in practise, and hence a risk to the public existed. Further, it was satisfied that a member of the public would be concerned, given the seriousness of the matter, if the Committee's decision were not made immediate to cover any potential appeal period. It noted that Mr Greenwood did not oppose this step.

**Mr James Kellock**  
**Chair**  
**04 December 2020**

