

HEARING

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Francis Arthur FCCA

Heard on: Wednesday 04 December 2019 and
Monday, 03 February 2020

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

Committee: HH Graham White (Chair)
Mrs Ruby Sukkersudha (Accountant)
Dr Pamela Ormerod (Lay)

Legal Adviser: Mr Mark Ruffell (Legal Adviser) 04 December 2019 only
Miss Juliet Gibbon (Legal Adviser) 03 February 2020 only

Persons present

and capacity: Ms Sarah Cawley-Wilkinson (Case Presenter)
04 December 2019 only
Mr Simon Walters (Counsel on behalf of ACCA)
03 February 2020 only
Miss Geraldine Murray (Hearings Officer)

ACCA

 +44 (0)20 7059 5000 

info@accaglobal.com 

www.accaglobal.com



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

Mr Francis Arthur (Member)

Mr Marcellius Nwonu (Solicitor for Mr Arthur)

Observers: None

Outcome: **The Order that Mr Arthur's practising certificate and audit qualification be withdrawn and replaced with a practising certificate, and the auditing certificates of his firms be withdrawn shall have immediate effect, subject to it being varied or rescinded on appeal as specified in the Appeal Regulations.**

Any future re-application for audit registration by Mr Arthur, or by a firm in which he is a principal, must be referred to the Admissions and Licensing Committee, which will not consider the application until he has provided an action plan, attended a practical audit course, and passed paper P7 (or the equivalent advanced level audit paper) of ACCA's professional qualification.

PRELIMINARY

1. The Committee had read and considered the service bundle pages and the hearing papers pages 1-17, and additional pages 1-88 and pages 1-5. The additional pages had been served on 03 December 2019. Further documents were provided at the start of the hearing, a witness statement from Mr A and a report from ACCA relating to the monitoring visit on 18 April 2017. The parties did not oppose the late introduction of this evidence, and the Committee was content to admit the documentation.

BRIEF BACKGROUND

2. Sam Dee & Co, Arthur Godsons & Associates and Platinum London Accounting Limited are the sole practices of Mr Francis Arthur FCCA (the audit principal). Mr Arthur also has an incorporated partnership, Sami Francis & Co Accountants Limited, which is a dormant company, has never traded, but holds an auditing certificate. Sami Francis & Co Accountants Limited does not have any audit clients. Arthur Godsons & Associates has one audit client, and Sam Dee & Co has sixteen audit clients. Mr Arthur is the only audit qualified director in the firm. ACCA had brought the case to the Admissions and Licensing Committee as a result of three monitoring visits.

3. The first two monitoring visits to the audit principal, Mr Arthur, were carried out to Sam Dee & Co and Arthur Godsons Associates. There were no audit clients in Arthur Godsons & Associates at both visits. At the first monitoring visits on 25 October 2012 and then 09 January 2013, the Compliance Officer found that the audit work was satisfactory on two of the three audit files inspected, resulting in an overall satisfactory outcome. However, there were serious deficiencies in audit work on one file, which had resulted in audit opinion not being adequately supported by the work performed and recorded.
4. The report on the first monitoring visits set out these deficiencies and was sent to the firms on 12 February 2013. Mr Arthur provided an action plan on 13 March 2013, detailing the action that he intended to take in order to rectify the deficiencies found.
5. The second monitoring visit was carried out on 18 April 2017. The Compliance Officer informed Mr Arthur of serious deficiencies in audit work, which had resulted in audit opinions not being adequately supported by the work performed and recorded on two of the three/four audit files inspected, resulting in an overall unsatisfactory outcome. The report on the visit set out these deficiencies, and this report was sent to the firms on 20 April 2017. Mr Arthur acknowledged receipt of the report on 18 May 2017, and informed ACCA that he would engage an external training company to carry out cold reviews. A detailed action plan was provided by the audit principal on 29 August 2017.
6. The third monitoring visit took place on 06 and 07 August 2019. The Compliance Officer found that Mr Arthur and the firms had made little improvement to their procedures. The firms' procedures were not adequate to ensure that it conducted all audits in accordance with the International Standards on Auditing (UK) (ISAs). The firms were using a standard audit programme on all audits, but they were not tailoring this to ensure that it met the needs of the audit of each client. The working papers in some sections comprised accounting schedules, which contained no indication of any audit work. As a result, on all the files examined, the audit opinion was not adequately supported by the work performed and recorded. It did not appear that the audit principal had implemented the action plan provided at the previous visit, and no audit files had been subjected to 'cold' reviews' by an external training company.

EVIDENCE FROM THE MEMBER

7. Mr Arthur gave evidence, and stated that he had 16 audit clients and 7 regulatory clients. He had 40 other clients. He had owned the firm since 2011. He had worked for 33 years as an auditor. He stated that ACCA's first monitoring visit was in 2012. There was a second separate visit in 2013, where five files were examined and only one was unsatisfactory. In April 2017, four files were examined: two were found to be unsatisfactory and two satisfactory. Mr Arthur said that he had asked the Compliance Officer as to why the outcome, as it was balanced, was unsatisfactory, and did not receive a response. He questioned whether he had been brought before the Admissions and Licensing Committee too soon, based on the relevant criteria for referral. It was Mr Arthur's view that he had only one unsatisfactory visit (August 2019), and should not have been referred.
8. Mr Arthur stated that since the monitoring visit of 06 and 07 August 2019, he was intending to attend an audit course hosted by ACCA on 17-18 December 2019, he would work with an ACCA approved training firm for audit file reviews, that a new audit programme had been purchased and a senior audit manager, Mr A, had been employed. Mr Arthur stated that he had attended CPD courses.
9. In cross-examination, Mr Arthur accepted that breaches of ISA's 210, 230, 240, 250, 300, 315, 320, 500, 550, 560 and 570 had been identified in the monitoring visit of 2017, and in the monitoring visit of 2019. He accepted that he had proposed that he should attend the same course in 2019 that he had attended in 2014, as a result of the action plan proposed in 2013. He had stated that he would attend a similar course in 2017 in the 2017 action plan, but did not do so because he was unwell. He found the courses helpful. He stated that some of the previous deficiencies had not been due to a lack of knowledge by him, but a failure to record information in the right place in an audit file. He stated that the training firm would be able to give him additional support and guidance that he had previously lacked. He stated that Mr A did not have an audit certificate but would assist him with auditing by reducing the pressures that he currently faced.
10. In answer to questions from the panel, Mr Arthur stated that some of the deficiencies had occurred because he had been unwell when he completed the files. He had staff that did not perform to the level that he had hoped. He had thought that he was able to cope at the time, but with hindsight, realised that he needed support. Hence, he had now employed Mr A, who had worked for firms with audit certificates previously. He explained that if he and his companies lost their audit certificates, his business would have hardly any income.

11. Mr A gave evidence. He stated that he was employed by Firm 1 since 15 November 2019 for an average of two days a week. He was also a freelance lecturer, had his own accountancy firm and worked as a consultant to another firm. He stated that he had been trained by Mr Arthur and had been given an opportunity to practise for 4 years between 2011 and 2015. He stated that Mr Arthur had been unwell and had difficulty getting to the office prior to the ACCA inspection in 2019. He stated that he had been employed to review the work carried out by staff and supervising it. He stated that he had examined some of Mr Arthur's audit files prior to his employment.

ACCA SUBMISSIONS

12. Ms Cawley-Wilkinson, on behalf of ACCA, recommended that the Committee withdrew the auditing certificates of all of Mr Arthur's audit firms, and his audit qualification, with immediate effect. She asserted that this was in line with the approach set out in the Guidance for Regulatory Orders for visits with unsatisfactory outcomes following material breaches of international standards of auditing. She stated that the breaches were significant and widespread. Ms Cawley-Wilkinson explained that one of the files inspected in the 2017 monitoring visit was for a solicitors' firm and was not an 'audit file' for the purpose of the Guidance on Regulatory Orders. This meant that the assertion that two out of the three audit files had serious deficiencies was accurate, and led to the overall conclusion that, for audit purposes, the visit was unsatisfactory.
13. Ms Cawley-Wilkinson stated that Mr Arthur had not demonstrated any insight into the breaches, or their significance. She stated that Mr Arthur had failed previously to address similar concerns, and she stated that previous action plans, written in similar terms to the 2019 action plan, had not resulted in improvement. Ms Cawley-Wilkinson stated that the course that Mr Arthur planned on attending was not a course that would necessarily remedy the deficiencies identified in Mr Arthur's auditing. She stated that Mr Arthur's previous attendance on the course had not resulted in improvement. Ms Cawley-Wilkinson stated that ACCA did not consider the use of external reviewers as solving internal problems, and when they had been employed previously by Mr Arthur, the internal problems had remained when the monitoring visits subsequently took place.
14. Ms Cawley-Wilkinson stated that Mr A did not have an audit certificate and reported to Mr Arthur. ACCA did not have confidence in Mr A's ability to improve Mr Arthur's standard of auditing, when Mr Arthur was the person responsible for audits who had oversight of Mr A. Furthermore, Mr A's apparent assistance since 2017, with his limited availability, had not driven up standards.

15. Ms Cawley-Wilkinson applied for the order to have immediate effect, as Mr Arthur had 17 current audit clients and they needed to be protected.

MEMBER SUBMISSIONS

16. Mr Nwonu, on behalf of Mr Arthur, accepted the breaches of regulations as set out in the Compliance Officer's report dated 04 September 2019. He submitted, on Mr Arthur's behalf, that in 2017, two audit files were satisfactory, and it was unfair that a solicitor's file had been removed from consideration. He submitted that there had been improvement between the 2017 monitoring visit and the 2019 monitoring visit.
17. Mr Nwonu stated that Mr Arthur had put in place steps to improve standards since the 2019 monitoring visit. Mr Nwonu submitted that Mr Arthur's and the firms' audit certificates should not be removed. Mr Nwonu stated that Mr Arthur had been on courses, undertaken CPD training and employed staff in order to remedy the problems, and so conditions to this effect on his certificate, or the firms' certificates, were unnecessary. He submitted that the Committee should take no action against Mr Arthur.
18. The Committee accepted the advice of the Legal Adviser. The Committee considered all of the evidence and had regard to the Guidance on Regulatory Orders. The Committee accepted that one of the files examined in the 2017 monitoring visit was a solicitors' file, and hence was not an 'audit file' for the purpose of the Guidance on Regulatory Orders. Hence, the Committee accepted ACCA's submission that in the 2017 monitoring visit two out of three 'audit files' were 'unsatisfactory', and therefore it was correct to consider that the visit was classed as 'unsatisfactory.' In any event, the Committee noted that the Guidance stated that a single unsatisfactory monitoring visit may justify a referral, dependent on the circumstances.
19. The Committee noted that there were approximately 18 ISA's that had been breached in 2017, and the same number in 2019, with 12 ISA's being common to both. The Committee considered that these were serious breaches, and there was no noticeable improvement between the 2017 monitoring visit and the 2019 monitoring visit. The Committee noted that some of the breaches were of the same regulations that had been breached in the 2013, 2017 and 2019 monitoring visits.

20. The Committee went on to consider Mr Arthur's response to the 2017 monitoring visit. His action plan had stated that he would attend a course, but Mr Arthur did not do so. He had offered to use file reviews from an external company, but that had not taken place. He had offered to employ an extra member of staff but had not done so. Whatever he may have done since the 2017 monitoring visit, it had not resulted in an improvement of standards.
21. The Committee considered that Mr Arthur did not display any insight into the effect of these deficiencies on the protection of the public, and public confidence in the profession.
22. The Committee determined that taking no further action would not adequately protect the public, maintain public confidence in the profession and maintain proper standards of conduct.
23. The Committee considered the evidence given by Mr A. The Committee noted that he was a younger man with enthusiasm for his work. However, the Committee were not persuaded that Mr A would have the authority within the firm to ensure an improvement in Mr Arthur's work.
24. The Committee went on to consider whether there were conditions that could be imposed to protect the public, maintain proper standards of conduct and maintain public confidence in the profession. The Committee noted that the course that had been booked by Mr Arthur would not necessarily cause Mr Arthur to improve his standards. The Committee was concerned that Mr Arthur had not taken steps of his own volition to improve standards since 2017, and the Committee did not have confidence that, despite his loyalty and best intentions, Mr A could improve Mr Arthur's auditing. The Committee did not consider that the setting of a date for an accelerated monitoring visit would maintain proper standards of conduct, or adequately protect the public. The Committee concluded that the risk to the public could not be adequately protected by the imposition of conditions. The Committee recognised that there could be a consequence to Mr Arthur's business as a result of removing his audit certificate. The Committee had to have regard to the fact that the reputation of the profession outweighs the fortunes of any individual member. The Committee concluded that the only proportionate outcome was for Mr Arthur's audit certificate and for his firms auditing certificates to be removed.
25. The Committee determined to make an order pursuant to Authorisation Regulation 5(2)(f) that:

- (i) Mr Francis Arthur's practising certificate with audit qualification, and the auditing certificates of Firm 1, Firm 2, Firm 3 and Firm 4 be withdrawn, and Mr Francis Arthur be issued with a practising certificate; and
- (ii) Any future re-application for audit registration by Mr Arthur, or by a firm in which he is a principal, must be referred to the Admissions and Licensing Committee, which will not consider the application until he has provided an action plan, which ACCA regards as satisfactory, setting out how Mr Arthur intends to prevent a recurrence of the previous deficiencies and attended a practical audit course, approved by ACCA and, following the date of this order, passed paper P7 (or the equivalent advanced level audit) of ACCA's professional qualification.

26. The Committee decided to adjourn consideration of whether the order should have immediate effect, as there was insufficient time to consider the application made by ACCA and Mr Arthur had not made representations. It was approximately 18:00 hrs when this decision to adjourn was made.

EFFECTIVE DATE OF ORDER

27. The Committee reconvened on 03 February 2020 to determine the effective date of the order made by the Committee on 04 December 2019, which had been adjourned due to lack of time to consider an application made by ACCA, and Mr Arthur had not made representations. The written statement of the reasons for the Committee's decision was sent to Mr Arthur on 13 December 2019.
28. The Committee had read and considered the previous hearing bundle and the tabled additional bundle, numbered pages 1-62, together with a transcript of the previous hearing and the service bundle, numbered pages 1-15. The Committee had re-read the written statement of the Committee's reasons, dated 12 December 2019.
29. ACCA was represented by Mr Simon Walters. The member, Mr Francis Arthur, attended the hearing and was represented by Mr Nwonu.
30. On 04 December 2019, the Committee announced its intention to make the following order, pursuant to Authorisation Regulation 5(2)(f):

- (i) Mr Francis Arthur's practising certificate with audit qualification, and the auditing certificates of Sam Dee & Co, Arthur Godsons & Associates, Platinum London Accounting Limited and Sami Francis & Co Accountants Limited be withdrawn, and Mr Francis Arthur be issued with a practising certificate; and
 - (ii) Any future re-application for audit registration by Mr Arthur, or by a firm in which he is a principal, must be referred to the Admissions and Licensing Committee, which will not consider the application until he has provided an action plan, which ACCA regards as satisfactory, setting out how Mr Arthur intends to prevent a recurrence of the previous deficiencies and attended a practical audit course, approved by ACCA and, following the date of this order, passed paper P7 (or the equivalent advanced level audit paper) of ACCA's professional qualification.
31. On 04 December 2019, the Committee heard oral evidence from Mr Arthur and Mr A, and the submissions made by Miss Cawley-Wilkinson, the Case Presenter at that hearing, and Mr A, on behalf of Mr Arthur. Full details of the evidence and submissions are contained in the written statement of the Committee's reasons, dated 12 December 2019.

DECISION AND REASONS

32. The Committee accepted the advice of the Legal Adviser. She informed it that Regulation 9 of the Regulations provided that:

Any decision made by the Admissions and Licensing Committee pursuant to regulations 3(6) or 6(16) shall take effect from the date of expiry of the appeal period referred to in the Appeal Regulations unless:

The appellant shall duly give notice of appeal prior to the expiry of such period in which case it shall become effective (if at all) as specified by the Appeal Regulations: or

The Admissions and Licensing Committee directs that, in the interests of the public, the order should have immediate effect, subject to it being varied or rescinded on appeal as specified in the Appeal Regulations.

33. Mr Walters, on behalf of ACCA, submitted that it was in the interests of the public that the order should have immediate effect because of the serious findings that it had made against Mr Arthur. He submitted that the Committee had found that Mr Arthur had been incapable of addressing the deficiencies in his practice over a lengthy period of time. He submitted that the order should have immediate effect, in order to protect Mr Arthur and his firms' audit clients. He reminded the Committee that, as a result of the adjournment, there had been an extended period of time for Mr Arthur to put his affairs in order. Mr Walters submitted that had limited any prejudicial effects of an immediate order.
34. Mr Nwonu, on behalf of Mr Arthur, did not challenge that the Committee's order should have immediate effect. He informed the Committee that Mr Arthur had made arrangements, through the continuity partner, to ensure that the firms' audit client's files are taken care of, and the clients will be informed of the decision after today's hearing.
35. The Committee accepted the advice of the Legal Adviser. It considered that, for the reasons set out in the decision, there would be a risk to the public if Mr Arthur were to be permitted to carry out audit work. The Committee determined that it was, therefore, in the public interest for the order, as set out at paragraph 4 above, to have immediate effect.
36. For the avoidance of doubt, the Interim Order imposed on 11 December 2019 is now revoked.

HH Graham White Chair 03 February 2020