

HEARING**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of: Mr Ryan Farnworth

Heard on: Tuesday, 11 February 2020

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

Committee: Mrs Kathryn Douglas (Chair)
Mr William Hay (Accountant)
Mrs Yvonne Walsh (Lay)

Legal Adviser: Ms Fiona Barnett

Persons present

and capacity: Miss Harriet Gilchrist (Case Presenter on behalf of ACCA)
Miss Geraldine Murray (Hearings Officer)
Mr Ryan Farnworth (Member)

Observers: None

Summary: All facts admitted and found proved
Misconduct found
Severe Reprimand
Costs £3,500
Order to take effect at the end of the appeal period

PRELIMINARY

1. The Committee decided at the outset that any matters which might be raised relating to Mr Farnworth's health could be dealt with in private, pursuant to Regulation 11(1)(a) of the Complaints and Disciplinary Regulations 2014, (amended 1 January 2020).

ALLEGATIONS

Allegation 1

- (a) On 31 July 2018, Mr Ryan Farnworth ACCA signed a letter of engagement in the name of Client A.
- (b) Mr Ryan Farnworth ACCA's conduct in respect of 1(a) was:
 - (i) Dishonest, in that Mr Ryan Farnworth ACCA knew that this would give the incorrect impression that the letter of engagement had been signed by Client A when it had not; 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

- (a) On 12 October 2018, Mr Ryan Farnworth ACCA asserted to Mr A of Firm A that he had spoken to ACCA that morning.
- (b) Mr Ryan Farnworth ACCA's conduct in respect of 2(a) was:
 - (i) Dishonest, in that Mr Ryan Farnworth ACCA knew that he had not spoken to ACCA on the morning of 12 October 2018; 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 3

By reason of his conduct in respect of 1(a), 1(b), 2(a) and/or 2(b) above, Mr Ryan Farnworth ACCA is guilty of misconduct pursuant to bye-law 8(a)(i).

BRIEF BACKGROUND

2. Mr Farnworth became a member of ACCA on 27 July 2018.
3. At the time of the matters alleged, he was an employee of Firm A.
4. It is alleged that on 31 July 2018, Mr Farnworth signed a Terms of Engagement letter, (“the letter”), in the name of the client to whom it was addressed.
5. An employee of Firm A became suspicious about the signature and raised the issue with Mr Farnworth and with Mr A, (the Managing Director of Firm A). On 11 October 2018, Mr Farnworth informed Mr A that he had signed the letter in the name of the client.
6. Firm A held a disciplinary meeting on 12 October 2018. It is alleged that during that meeting, Mr Farnworth informed Mr A that he had spoken to ACCA that morning to seek advice about the letter, even though he had not done so.
7. In its consideration of this matter, the Committee had before it a bundle of papers, numbering pages 1 to 140. It was also provided with a service bundle, numbering pages 1 to 23, and a bundle of additional documents, numbering pages 1 to 4.

DECISIONS ON ALLEGATIONS AND REASONS

Allegation 1(a)

8. Admitted and found proved.

Allegation 1(b)(i)

9. Admitted and found proved.

Allegation 1(b)(ii)

10. In the light of Mr Farnworth's admission in relation to Allegation 1(b)(i), the Committee did not consider allegation 1(b)(ii).

Allegation 2(a)

11. Admitted and found proved.

Allegation 2(b)(i)

12. Admitted and found proved.

Allegation 2(b)(ii)

13. In the light of Mr Farnworth's admission in relation to Allegation 2(b)(i), the Committee did not consider Allegation 2(b)(ii).

Allegation 3 – misconduct found

14. Mr Farnworth accepted that he was guilty of misconduct. The Legal Adviser advised the Committee that the issue of misconduct, even if admitted by the member, is always a matter for the Committee to decide upon in the exercise of its own judgment.
15. The Committee therefore considered whether the matters admitted and found proved amounted to misconduct.
16. Mr Farnworth accepted that he had been dishonest on two occasions; first, when he signed a terms of engagement letter in the name of the client, to give the impression that the client had signed it; second, when he later told Mr A that he had spoken to ACCA about this matter, when he knew he had not.

17. Mr Farnworth's actions, in signing a document in the name of the client, amounted to a deliberate act of dishonesty, which was intended to give a false impression to others. In addition, he had then misled his employer into believing that he had spoken to ACCA about this issue, when he had not done so. The Committee decided that this conduct fell seriously short of the high standards of honesty expected of an accountant. The Committee's view was that this conduct would bring discredit to Mr Farnworth, Firm A, the Association and the accountancy profession. It was satisfied that his dishonesty was sufficiently serious so as to amount to misconduct.

MITIGATION

18. Mr Farnworth told the Committee that he found the environment at Firm A to be very stressful. He said there was no structure in the way that tasks were delegated, and even when tasks were delegated to junior colleagues, they would find their way back to him because junior colleagues were not prioritising his work. His workload required him to work long hours. [Private]
19. Mr Farnworth told the Committee that he made no financial gain, had no financial motives, and that the client had already verbally agreed the content of the terms of engagement letter in an earlier meeting. He said that signing the letter was a "moment of madness" which he sincerely regrets. He said that he had told Mr A of his own accord what he had done.
20. Mr Farnworth said that he was proud of his ACCA membership and had wanted to be an accountant since a young age. He said that he had been open and honest with his current employer about why he had been dismissed.
21. Mr Farnworth's current employer, Mr B of Firm B, provided a testimonial letter to the Committee dated 20 January 2020, and spoke on Mr Farnworth's behalf. He explained that Mr Farnworth's ethics were tested daily in his current work as a costs draftsman, and that there had never been a repeat of any dishonest behaviour. He said that Mr Farnworth actively seeks help when he needs it if he has too much work, and is able to manage any stress in the workplace. He told the Committee that Mr Farnworth is, "very good at what he does".

SANCTION AND REASONS

22. The Committee accepted the advice of the Legal Adviser, who referred the Committee to ACCA's current Guidance on Disciplinary Sanctions, ("the Guidance"). It bore in mind that it must act proportionately at this stage, balancing the member's interests against the public interest, and that any sanction imposed must be no more than necessary to meet the purpose of a disciplinary sanction.
23. The Committee first considered the seriousness of the conduct found proved, before deciding upon any sanction (in accordance with paragraph E3 of the Guidance). It decided that the conduct was serious for the following reasons:
 - The signing of the letter by Mr Farnworth could have resulted in the accumulation of costs for the client, even though the client had not signed the letter;
 - If any problems had occurred later with the standard of accountancy work, issues regarding liability could have arisen with Firm A and the client, because the letter had not been signed by the client;
 - Mr Farnworth's actions could have caused reputational damage for Firm A and for the accountancy profession.
24. The Committee found that there was one aggravating factor, which was that Mr Farnworth had breached his position of trust.
25. It also considered whether there were any mitigating factors, and found that there were a number of mitigating factors. These were as follows:
26. Mr Farnworth made no personal gain from his actions, and had not signed the letter with that intention. He also informed his employer, Mr A, of his own accord at an early stage about dishonestly signing the letter.
27. The Committee also found that Mr Farnworth was placed under significant stress at work when he committed his acts of dishonesty, and that this stress was a significant contributory factor. It accepted that whilst his employer had been aware of the stress he was under, the attempts to reduce this stress by delegating work did not resolve the problem. The Committee accepted that Mr Farnworth's action in signing the letter was,

as he expressed this, a “moment of madness”, rather than a pre-meditated decision. Mr Farnworth has since taken remedial steps, [Private].

28. Mr Farnworth admitted the allegations in full, although the Committee bore in mind that these admissions were made relatively late (when the Case Management Form was completed on 16 October 2019), and the Committee therefore attributed little weight to this as a mitigating factor. The Committee also took account of Mr Farnworth’s co-operation with these proceedings and the fact that he has shown genuine remorse for his actions. It found that he has good insight into his misconduct and a clear understanding of why his actions were wrong. He was aware of the regulatory requirement for a signed terms of engagement letter, and the potential consequences if such a letter is not obtained. The Committee accepted, as a mitigating factor, that the client had verbally agreed the content of the letter.
29. The Committee also had regard to the testimonial from Mr B, and the evidence he provided. The Committee was satisfied that Mr B knew Mr Farnworth well, and that he was fully aware of the matters which led to Mr Farnworth’s dismissal from his previous employment. It was evident that Mr B has placed Mr Farnworth in a position of trust in his current employment and that Mr Farnworth has not breached that trust, even though his ethics are tested regularly in his current workplace. Mr B also told the Committee that Mr Farnworth seeks help with his workload when he needs it.
30. The Committee found that the testimonial from Mr B, and his evidence to the Committee, was impressive mitigation to which it could attribute significant weight. It also concluded, as a result of this evidence and the steps Mr Farnworth has taken to ensure that he can cope with stress in future, that Mr Farnworth was highly unlikely to repeat his dishonest behaviour. Although there had been two distinct acts of dishonesty, the Committee’s view was that these were part of one course of conduct.
31. The Committee first considered whether to conclude this case without taking further action. It decided that to do so would not be appropriate, given the seriousness of the matters which were admitted.
32. The Committee then considered whether an Admonishment would be an appropriate and proportionate sanction in this case. It decided that the matters were too serious to be dealt with by an Admonishment. This sanction was insufficient to uphold the reputation of the profession and maintain proper professional standards.

33. The Committee next considered whether a Reprimand would be an appropriate and proportionate sanction. The Guidance states that this sanction is usually applied, “...where the conduct is of a minor nature.....”. Mr Farnworth’s conduct, which involved two acts of dishonesty, was not of a minor nature and the Committee therefore concluded that a Reprimand would not be a sufficient sanction.

34. The Committee next considered a Severe Reprimand. In doing so, it took account of Section C4 of the Guidance. This states that:

“This sanction would usually be applied in situations where the conduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public, and there is evidence of the individual’s understanding and appreciation of the conduct found proved.”

35. The Committee also considered the factors in sections (a) to (i) of section C4. It accepted that Mr Farnworth’s actions could have caused harm to Firm A, the client, and to the reputation of the profession as a whole. However, it found that the remaining factors in the list, which would support a Severe Reprimand, were applicable in the circumstances. Mr Farnworth’s conduct had not been intentional and was no longer continuing. He had good insight into his failings, a good regulatory record, and had made a genuine expression of regret and remorse. Whilst the incident was not “isolated” as such, his two acts of dishonesty were part of a short course of conduct relating to the same issue, and had not been repeated, as evidenced by Mr B. Mr Farnworth had taken relevant rehabilitative steps, in seeking counselling, to ensure that he can cope with stress and will not re-offend in the same way in future. [Private].

36. The Committee was mindful that Mr Farnworth had acted dishonestly, and it considered whether a Severe Reprimand was a sufficient sanction to reflect the seriousness of the misconduct, even though most of the factors set out in C4 were met. It was mindful that dishonesty is always regarded as serious, even where no harm is caused. However, the Committee’s view was that there was compelling and exceptional mitigation which would justify the Committee in “stopping” at a Severe Reprimand. It was satisfied that Mr Farnworth acted purely as a result of the stress he was under, [Private]. It was satisfied that his misconduct is highly unlikely to be repeated, and is not fundamentally incompatible with continued ACCA membership. Having balanced the substantial

mitigation with the aggravating factor, and taken account of the interests of ACCA and the public interest, the Committee concluded that a Severe Reprimand would be the proportionate sanction in the circumstances of this case. It concluded that Exclusion would be disproportionate.

ORDER

37. The Committee ordered that a Severe Reprimand be recorded against Mr Farnworth.

COSTS AND REASONS

38. The Committee was provided with a schedule of costs, and Miss Gilchrist applied for costs in the sum of £6,608.50
39. Mr Farnworth told the Committee, in relation to the costs, that the hearing was not likely to last a full day. He also said that he had co-operated with ACCA during the investigation and provided information when requested to do so. He provided the Committee with written documentation about his means.
40. In deciding on the amount of any costs order, the Committee bore in mind that Mr Farnworth had co-operated throughout the investigation, and that the hearing had lasted less than a full day. It also bore in mind the information Mr Farnworth provided about his means. Taking these factors into account, the Committee concluded that £3,500 would be an appropriate sum in costs, and it ordered that Mr Farnworth pay ACCA £3,500.

EFFECTIVE DATE OF ORDER

41. This Order shall take effect on the date of expiry of the appeal period referred to in the Appeal Regulations.

Mrs Kathryn Douglas
Chair
11 February 2020