

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Sohail Farooq Chaudhry

Heard on: Monday, 11 – Thursday, 14 November 2019, Tuesday, 28
January 2020 (in private) and Wednesday, 29 – Thursday,
30 January 2020

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

Committee: Mr Andrew Popat CBE (Chair)
Mr Jonathan Beckerlegge (Accountant)
Mr John Walsh (Lay)

Legal adviser: Mr Alastair McFarlane

Persons present

and capacity: Mr Simon Walters (Case presenter on behalf of ACCA)
Miss Rachael Davies (Hearings Officer)
Mr Sohail Farooq Chaudhry (Member)
Miss Nkechi Owuachi (Hearings Officer – attended 29-30
January 2020)

Outcome: Member excluded from ACCA membership

Costs: £13,000

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

1. ACCA was represented by Mr Walters, Counsel instructed on behalf of ACCA. Mr Chaudhry attended and represented himself. The Committee had before it a bundle of papers, numbered pages 1 – 484, a service bundle, numbered pages 1-14, an additional bundle, numbered pages 1-9, and a tabled additional bundle, numbered pages 1-6.

SERVICE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mr Chaudhry in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).

ALLEGATIONS

Allegation 1

- (a) On 20 November 2017, Sohail Farooq Chaudhry FCCA sent an email to ACCA’s Monitoring Department which stated that the audit work in respect of those audit clients referred to in Schedule 1 was complete and ready for the audit opinions when he had already given those audit opinions.
- (b) Sohail Farooq Chaudhry FCCA’s conduct in respect of 1(a) was:
 - (i) Dishonest, in that he knew that he had already given the audit opinions in respect of those files referred to in Schedule 1 at the time he sent the email of 20 November 2017; or in the alternative
 - (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2017) in that such conduct demonstrates a failure to be straightforward and honest.

Allegation 2

(a) Sohail Farooq Chaudhry FCCA, provided the audit file of Client B (as referred to in Schedule 1) which did not contain the audit report which had been signed by Sohail Farooq Chaudhry FCCA on 5 November 2017 to:

- (i) PCP in connection with their review of the audit file of Client B dated 12 November 2017; and/or
- (ii) A Senior Compliance Officer of ACCA during an ACCA Monitoring visit on 20 and 21 November 2017.

(b) Sohail Farooq Chaudhry FCCA's conduct in respect of 2(a)(i) and 2(a)(ii) was:

- (i) Dishonest, in that he knew that he had signed the audit report of Client B on 5 November 2017 but did not include this in the file that was provided to ACCA's Senior Compliance Officer and/or PCP; or in the alternative
- (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2017) in that such conduct demonstrates a failure to be straightforward and honest; or in the alternative
- (iii) Contrary to Regulation 14(2) of the Global Practising Regulations (as applicable in 2017).

Allegation 3

Between 31 May 2017 and 15 November 2017 Sohail Farooq Chaudhry FCCA failed to comply with an Order of the Admissions and Licensing Committee dated 29 July 2016 in that he signed those audit reports referred to in Schedule

1 before these had been reviewed by a training company, contrary to paragraph 3 of the Order.

Allegation 4

(a) On or around 13 January 2018, Sohail Farooq Chaudhry FCCA filed amended accounts of Client A for the year-ended 31 July 2016 at Companies House which were purportedly approved by the directors of Client A on 31 May 2017 and which contained an audit report which was purportedly signed by Sohail Farooq Chaudhry FCCA on 31 May 2017.

(b) Sohail Farooq Chaudhry FCCA's conduct in respect of 4(a) was:

- (i) "Dishonest, in that he knew that the directors of Client A had not approved, and/or that he had not signed the audit report for, the amended annual accounts of Client A for the year-ended 31 July 2016 on 31 May 2017; 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; or in the alternative
- (iii) Contrary to the Fundamental Principle of Professional Competence and Due Care (as applicable in 2018).

Allegation 5

It is alleged that Sohail Farooq Chaudhry FCCA breached:

(a) Regulation 13(2)(e) of the Global Practising Regulations (Annex 1, Appendix 1) (as applicable in 2017) in that he did not use the designation of "Statutory Auditor" or "Statutory Auditors" after the name of the firm in the audit report of Client A, as set out in Schedule 1;

- (b) Section 290.7 of the ACCA Code of Ethics and Conduct (as applicable in 2017) in that he did not document his evaluation of a self-review threat of using the services of a partner of a firm that provided tax and accountancy services to Client A as part of his firm's audit team.

Allegation 6

- (a) It is alleged that Sohail Farooq Chaudhry FCCA signed the audit report in respect of Client A, as set out in Schedule 1, certifying that the audit was conducted in accordance with the International Standards on Auditing when, in fact, it had not been.
- (b) Sohail Farooq Chaudhry FCCA's conduct in respect of 6(a) was:
- (i) Dishonest, in that he knew that the audit of Client A, as set out in Schedule 1, had not been conducted in accordance with the International Standards on Auditing yet still signed an audit report to certify that it had been conducted in accordance with these standards; or in the alternative
 - (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2017) in that such conduct demonstrates a failure to be straightforward and honest; or in the alternative
 - (iii) Contrary to Regulation 13(1) of the Global Practising Regulations (Annex 1, Appendix 1) (as applicable in 2017).

Allegation 7

By reason of his conduct Sohail Farooq Chaudhry is:

- (a) Guilty of misconduct in respect of any or all of the matters set out at allegations 1-6 above, pursuant to bye-law 8(a)(i); and/or

- (b) Liable to disciplinary action in respect of any or all of the matters set out at allegations 1(a), 1(b)(ii), 2(a), 2(b)(ii), 2(b)(iii), 3, 4(a), 4(b)(ii), 4(b)(iii), 5, 6(a), 6(b)(ii) and/ or 6(b)(iii) above pursuant to bye-law 8(a)(iii).

BACKGROUND

3. On 11 July 1991, Mr Chaudhry became a Member of ACCA, and on 11 July 1996, he became a Fellow of ACCA.
4. On 11 January 2006, Mr Chaudhry was issued with an ACCA practising certificate with audit qualification.
5. On 29 July 2016, ACCA's Admissions & Licensing Committee made an Order that Mr Chaudhry be required to:

I. Provide Governance – Monitoring within 30 days of the date of written notification of this decision with a list of current audit clients, identifying any Public Interest Entity audits.

II. Promptly notify Governance – Practice Monitoring if the Firm accepts any new audit appointments or if any of the audit clients in I above cease to be an audit client at any time in the future while this decision remains in effect.

III. Have all future audit work on all audit clients identified in I and II above reviewed by a training company before audit reports are signed, such training company being subject to ACCA approval.”

6. Mr Chaudhry's firm had, at all material times, two audit clients, Client A and Client B.
7. On 31 May 2017, Mr Chaudhry signed the audit report contained in the annual accounts of Client A for the year-ended 31 July 2016. The audit report stated that:

“Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland)...”

8. On 31 May 2017, the annual accounts of Client A for the year-ended 31 July 2016 were filed at Companies House.
9. ACCA contended that, on 5 November 2017, Mr Chaudhry signed the audit report contained in the annual accounts of Client B for the year-ended 30 September 2016. The audit report contained the same declaration as set out in paragraph 7 above.
10. On 10 November 2017, PCP completed their review of the audit file of Client A in respect of the year-ended 31 July 2016 and on 12 November 2017, PCP completed their review of the audit file of Client B in respect of the year-ended 30 September 2016. These were sent to Mr Chaudhry on 15 November 2017.
11. On 17 November 2017, Mr Chaudhry sent an email to ACCA attaching the two reviews that he had received from PCP on 15 November 2017 (page 172).
12. Between 20 and 21 November 2017, an ACCA Senior Compliance Officer undertook a practice monitoring visit of Rass:Mian, of whom Mr Chaudhry is the sole proprietor.
13. During that visit, on 20 November 2017, Mr Chaudhry sent an email to ACCA's Monitoring Department which stated:

“Please be advised that the audit work on the following audit clients is complete and ready for the audit opinion:

- 1. Client B- Year ended 30 September 2016.*
- 2. Client A- Year ended 31 July 2016.”*

14. On 27 December 2017, the annual accounts of Client B for the year-ended 30 September 2016 were filed with the Charities Commission.

15. On 10 January 2018, Mr Chaudhry signed an updated audit report dated 31 May 2017 in the amended annual accounts of Client A for the year-ended 31 July 2016. On 13 January 2018, the amended annual accounts of Client A for the year-ended 31 July 2016 were filed at Companies House.

ACCA SUBMISSIONS

Allegation 1(a)

16. Mr Chaudhry signed the audit reports in respect of Client A on 31 May 2017, and the audit report in respect of Client B on 5 November 2017. However, on 20 November 2017, Mr Chaudhry sent an email to ACCA in which he stated that the files referred to in Schedule 1 “*were ready for the audit opinion*”, when he had already signed the audit opinion of those files, by the time he sent his email to ACCA of 20 November 2017.

Allegation 1(b)(i) – Dishonesty

17. ACCA submitted that the conduct set out at Allegation 1(a) clearly amounted to dishonesty on the basis that Mr Chaudhry knew that he had already signed the audit opinions at the time he sent his email to ACCA of 20 November 2017, in which he stated that the audit work was complete and ready for the audit opinion.

Allegation 1(b)(ii) – Fundamental Principle of Integrity

18. Mr Walter’s conceded that as this Allegation as drafted (as with Allegations 2(b)(ii), 4(b)(ii) and 6(b)(ii)) adds nothing to the dishonesty allegation and is expressed “in the alternative”. He submitted that if the Committee did or did not find dishonesty, it adds nothing, given the particularisation as drafted.

Allegation 2(a)

19. ACCA submitted that Mr Chaudhry signed the audit report in respect of Client B on 5 November 2017, but that this was not present on the audit file that he provided to:

- a) PCP in connection with their review of the audit file of Client B dated 12 November 2017; and/or
- b) ACCA's Senior Compliance Officer during the monitoring visit to Rass:Mian on 20 and 21 November 2017.

Allegation 2(b)(i) – Dishonesty

20. ACCA submitted that the conduct set out at Allegation 2(a)(i) and 2(a)(ii) clearly amounts to dishonesty. This was on the basis that Mr Chaudhry knew that the audit file of Client B, which was presented to PCP in connection with their review of the audit file of Client B dated 12 November 2017 and/or the Senior Compliance Officer during the monitoring visit of 20 and 21 November 2017, was not a true reflection of the work that he had done at that point in time, as it gave the impression that Mr Chaudhry had not signed-off the audit report when, in fact, he had already done so on 5 November 2017.

Allegation 2(b)(ii) – Fundamental Principle of Integrity

21. ACCA repeated its observation set out at paragraph 18 above.

Allegation 2(b)(iii) – Regulation 14(2) of the Global Practising Regulations (“the GPR”)

22. ACCA further contended Regulation 14(2) of the GPR, which required Mr Chaudhry to supply ACCA with all the information necessary to enable it to complete its monitoring process. If the Committee finds Allegation 2(a) proven, it is submitted that Mr Chaudhry has acted contrary to Regulation 14(2) of the GPR on the basis that he has not provided ACCA with an accurate record of the extent of the work that he has undertaken in respect of the audit of Client B, with the result that ACCA has been unable to complete its monitoring programme efficiently. Mr Walters conceded that this Allegation was also drafted in the alternative to dishonesty.

Allegation 3

23. Paragraph 3 of the Order of the Admissions & Licensing Committee of 29 July 2016 (“the Order”) required Mr Chaudhry to have all future audit work in respect of Client A and Client B reviewed by an ACCA-approved training company before audit reports were signed.
24. ACCA submitted that Mr Chaudhry signed the audit reports for Client A on 31 May 2017, and Client B on 5 November 2017, and that this was before they had been reviewed by PCP in compliance with the Order, as PCP did not complete their reviews of the audit files until 10 November 2017-12 November 2017.

Allegation 4(a)

25. According to Companies House, the amended annual accounts of Client A for the year-ended 31 July 2016 were filed at Companies House on or around 13 January 2018. These accounts purport to have been approved by the director of Client A on 31 May 2017 and contain an audit report that purports to have been signed by Mr Chaudhry on 31 May 2017.
26. ACCA submitted that the amended annual accounts of Client A were not approved by the director of Client A on 31 May 2017 and/or the audit report was not signed by Mr Chaudhry on 31 May 2017 as:
 - a. During their monitoring visit of 20 and 21 November 2017, the amended annual accounts were not present on the audit file of Client A;
 - b. Mr Chaudhry has confirmed to ACCA that the amended accounts were signed on 10 January 2018 and
 - c. On 18 December 2017, Mr Chaudhry sent an email to a director of Client A, which attached the amended financial statements for the year-ended 31 July 2016 for their signature.

Allegation 4(b)(i) - Dishonesty

27. ACCA submitted that the conduct was dishonest on the basis that Mr Chaudhry knew that the director of Client A had not approved the amended annual accounts of Client A for the year-ended 31 July 2016 on 31 May 2017; and that Mr Chaudhry had not signed the audit report contained in the amended annual accounts of Client A for the year-ended 31 July 2016 on 31 May 2017, but still filed the amended annual accounts with Companies House on or around 13 January 2018 despite knowing that these contained incorrect statements.

Allegation 4(b)(ii) – Fundamental Principle of Integrity

28. ACCA repeated its observation set out at paragraph 18 above.

Allegation 4(b)(iii) – Fundamental Principle of Professional Competence and Due Care

29. Section 130.1(b) of the Fundamental Principle of Professional Competence and Due Care required Mr Chaudhry to “...*act diligently in accordance with applicable technical and professional standards when providing professional services.*”

30. ACCA submitted that he amended annual accounts that were submitted in respect of Client A contained amendments in respect of (i) the directors’ report/strategic report; and (ii) the accounts themselves. In addition, Mr Chaudhry also provided an updated audit report.

31. From Mr Chaudhry’s dating of the amended audit report as 31 May 2017, the impression is given that his updated audit report should stand in place of the original audit report as from 31 May 2017, a date on which it was not signed by him. It is submitted that this is not the correct approach, as it should be clear from Mr Chaudhry’s updated audit report that the date of effect was the date it was signed (which was not 31 May 2017). In addition to the above, it is submitted that Mr Chaudhry had signed an updated audit report in respect of annual accounts and the directors’ strategic report which were purportedly signed on 31 May 2017, which Mr Chaudhry knew to be incorrect.

32. For the above reasons, it is submitted that Mr Chaudhry had not acted in accordance with the applicable technical and professional standards, and had therefore acted contrary to Section 130.1(b) of the Fundamental Principle of Professional Competence and Due Care.

Allegation 5(a) – Regulation 13(2)(e) of the Global Practising Regulations (Annex 1, Appendix 1)

33. Regulation 13(2)(e) of the Global Practising Regulations (Annex 1, Appendix 1) provides that Mr Chaudhry was required to use the designation of “Statutory Auditor” or “Statutory Auditors” after the name of a firm in an audit report, in respect of accounting periods after 6 April 2008. Instead, Mr Chaudhry used the term “Chartered Certified Accountants and Registered Auditors” on the audit reports for Client A. ACCA therefore submitted that Mr Chaudhry acted contrary to Regulation 13(2)(e) of the Global Practising Regulations (Annex 1, Appendix 1).

Allegation 5(b) – Section 290.7 of the ACCA Code of Ethics and Conduct

34. Section 290.7 of ACCA’s Code of Ethics and Conduct required Mr Chaudhry to apply the conceptual framework approach, in respect of audit engagements, to:

- a. Identify threats to independence;
- b. Evaluate the significance of the threats identified; and
- c. Apply safeguards, where necessary, to eliminate the threats or reduce them to an acceptable level.

35. ACCA submitted that by using a partner of Client A’s accountants as part of his audit team in relation to the stock-take, he had failed to identify a potential threat to his independence as auditor, evaluate the significance of the threats identified and apply safeguards, and had therefore breached his obligation under the Code of Ethics.

Allegation 6(a)

36. ACCA submitted that Mr Chaudhry signed the audit report in respect of Client A certifying that the audit was conducted in accordance with the International Standards on Auditing ("ISA"), when the audit was deficient and had not been conducted in accordance with those standards. It relied upon the evidence of the Senior Compliance Officer as to the deficiencies.

Allegation 6(b)(i) – Dishonesty

37. ACCA submitted that this conduct was dishonest because Mr Chaudhry knew he had not completed the accounts in accordance with the ISA. The legal position in respect of dishonesty is contained at paragraph 27 of this Report and is relied upon in respect of this allegation.

Allegation 6(b)(ii) - Fundamental Principle of Integrity

38. ACCA repeated its observation set out at paragraph 18 above.

Allegation 6(b)(iii) – Regulation 13(1) of the Global Practising Regulations (Annex 1, Appendix 1).

39. Regulation 13(1) of the Global Practising Regulations (Annex 1, Appendix 1) provides that Mr Chaudhry was required to comply with all the applicable sections of ACCA's Rulebook and, in particular, the ISAs. ACCA submitted that the conduct amounted to a breach of this Regulation.

MR CHAUDHRY'S SUBMISSIONS

40. Mr Chaudhry admitted Allegation 5(a). He denied all other allegations. In particular, he denied that any of his conduct was dishonest.

41. Mr Chaudhry gave evidence to the Committee and adopted this evidence as his submissions when addressing the Committee at the end of his case. These included the following: He explained that he had been running his practice for

20 years and had never faced any disciplinary matters. While he accepted that his audits were deficient, he was adamant that he never had done anything dishonestly. He submitted that dishonesty refers to someone who *is “not honest and is disposed to lie and cheat and not to be worthy of trust”*. He stated this did not apply to him and that he had been *“up front all these years”*.

42. [REDACTED]

Allegation 1

43. Mr Chaudhry accepted the interim accounts were filed with Companies House on 31 May 2017 in relation to Client A, but maintained he was still doing the audit for Client B in November 2017, and therefore these could not have been signed. He submitted that he was not dishonest, given the circumstances existing at the time of the sending of the email to ACCA that had been dictated to him by Mr A.

Allegation 2

44. Mr Chaudhry indicated he had checked his diaries and timesheets and maintained that the audit was sent to PCP at some stage but he was at an “absolute loss” as to why the audit report appeared to be signed on 5 November 2017, and was “pretty sure” he did not sign the audit report on that day. In any event he maintained he was not dishonest.

Allegation 3

45. [REDACTED]

Allegation 4

46. Mr Chaudhry explained that he had telephoned Companies House on two occasions to explain that amended accounts were needed to be submitted and was advised to keep the same date as in the previous accounts.

Allegation 5(b)

47. Mr Chaudhry explained the stock take and maintained there was no threat to the integrity of the audit.

Allegation 6

48. Mr Chaudhry detailed the efforts he had made to attend to the audits and asserted that he did not set off at any stage in his career intending not to comply with the relevant standards. He asserted that when he signed the audits, he believed he had complied with the relevant standards.

DECISION ON ALLEGATIONS AND REASONS

49. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the Allegations rested upon ACCA. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the 'balance of probabilities'.

50. The Committee heard that there had been no previous findings against Mr Chaudhry and accepted that it was relevant to put his good character into the balance in his favour, in respect of both credibility and propensity. It also gave weight to the three written character references, which speak to Mr Chaudhry's good character and honesty.

DECISION ON FACTS

51. The Committee carefully considered all the documentary and oral evidence it had received, as well as the submissions of Mr Walters on behalf of ACCA and Mr Chaudhry on his own behalf. It reminded itself to exercise caution when working from documents, and carefully considered the weight to attach to them.

52. The Committee had the benefit of seeing and hearing from Mr Chaudhry, who gave evidence to the Committee and was cross examined by ACCA's counsel. It also heard from Mr A, an ACCA Senior Compliance Officer.

53. The Committee had to make an assessment of the credibility, reliability and accuracy of Mr Chaudhry and of Mr A. It considered that Mr A was a credible witness and gave cogent evidence. While the Committee made full allowance for the fact that Mr Chaudhry was nervous and that giving evidence would have been, for him, a novel and stressful experience, [REDACTED], the Committee found he was frequently unclear and, at times, inconsistent and contradictory. The Committee considered that he was a less reliable witness.

Allegation 1(a)

54. On 20 November 2017, ACCA undertook a monitoring visit at Mr Chaudhry's premises. This was undertaken by Mr A, an ACCA Senior Compliance Officer. It was agreed evidence that, at the visit on 20 November, Mr A requested that Mr Chaudhry send ACCA's Monitoring Department an email confirming that audit work in respect of Clients A & B *"was complete and ready for the audit opinions"*. The Committee has seen the email, dated 20 November 2017, that Mr Chaudhry accepted he sent. The Committee was satisfied for the reasons set out under Allegation 3 below that, in relation both Client A and Client B, Mr Chaudhry had already given those audit opinions. Therefore, the facts alleged in Allegation 1(a) are proved.

Allegation 1(b)

55. The Committee then considered whether ACCA had proved that Mr Chaudhry's conduct in Allegation 1 was dishonest. The Committee specifically considered the circumstances of the sending of the email by Mr Chaudhry on 20 November 2017 when ascertaining the actual state of his knowledge or belief as to the facts. The Committee accepted that the email was sent at the outset of the monitoring visit at the request of the Senior Compliance Officer, in circumstances that were undoubtedly stressful and anxious ones for Mr Chaudhry. It noted that at one point, Mr Chaudhry referred to being under "duress". The Committee was satisfied that it was more likely than not that Mr Chaudhry was, to some extent "put on the spot", by Mr A. The Committee was satisfied that, as Mr Chaudhry been subject to the Admissions and Licensing Order since 2016, was aware of the difference between a cold and hot review.

He knew that a cold review was an assessment after the audit report had been signed and a hot review was one before it had been signed. The Training Company ("PCP"), the reviewer, was conducting a hot review in relation to Client B, as directed by the Admissions and Licensing Committee. Mr Chaudhry had already signed the reports and had therefore given the audit opinions. In those circumstances, the Committee concluded that Mr Chaudhry spontaneously took a risk and sent out the email that was dictated to him by Mr A, rather than admitting that he had already signed the audit opinions and therefore had not complied with the terms of the Admissions and Licensing Order. Having determined that this was Mr Chaudhry's knowledge and belief at the time, the Committee was satisfied that his conduct in sending the email would be considered dishonest by the objective standards of ordinary decent people. Accordingly, Allegation 1(b)(i) was proved.

Allegation 2(a)(i)

56. The Committee was satisfied that Mr Chaudhry provided the audit file of Client B to the training company, for the review of the audit file. The Committee has seen PCP's review of that file, and it makes no reference to the audit report signed on 5 November 2017. Further, the Committee accepted the evidence of Mr A, who stated that when he had the audit file at his inspection, he did not see the signed report.

57. The Committee was satisfied that Client B's audit file that Mr Chaudhry provided to the training company did not contain the signed audit report. PCP indicated the review was a "hot review". The Committee is satisfied that it is a reasonable inference that the signed audit report was therefore not before PCP. It noted that Mr Chaudhry stated that the draft unsigned audit report was within the file, but the Committee reject that as unlikely, and is satisfied that the signed audit report was not before PCP. Accordingly, Allegations 2(a)(i) and (ii) are proved.

Allegation 2(b)(i)

58. The Committee then considered whether or not the conduct was dishonest, as contended for by ACCA. The Committee considered whether or not there had

been a deliberate withholding of the signed audit report by Mr Chaudhry. It was satisfied that he knew that he was on ACCA's radar and had been subject to an Admissions and Licensing Order. For these reasons, the Committee considered that it was more likely than not that he knew it would have been harmful to him to have included a report on the file, and there was a conscious withholding.

59. Having ascertained that this was more likely than not Mr Chaudhry's knowledge at the time, the Committee was satisfied that the deliberate withholding of the signed audit report would be considered dishonest conduct by the standards of ordinary decent people. Accordingly, Allegation 2(b)(i) is proved and the alternatives in Allegations 2(b)(ii) and (iii) fall on the basis conceded by ACCA.

Allegation 3

60. It was not disputed that on 29 July 2016 the Admissions and Licensing Committee made an Order which included a direction that Mr Chaudhry should have all future audit work reviewed by a training company before audit reports were signed by him.

61. Mr Chaudhry had two audit clients – Client A and Client B.

62. Mr Chaudhry accepted that he signed the audit report of Client A on 31 May 2017. The Committee was satisfied that this was before he had sent it to the training company, because the training company's "Audit File Review Report", dated 10 November 2017 in relation to Client A, referred to the review being a "cold review" i.e. a review undertaken after the signing of the audit report.

63. In relation to Client B, the audit report before the Committee stated, on its face, that it was signed by the Firm and dated 5 November 2017. Mr Chaudhry told the Committee that he had "no explanation" as to why the report was dated 5 November 2017 but believed he had not signed it on that date. He said that the audit had not been completed and that he was still doing work on it after 5 November 2017. Therefore, he concluded that it was more likely than not that he had not signed the report on that date. He sent the signed audit report to Client B by email dated 22 December 2017.

64. The Committee found Mr Chaudhry's evidence on this issue to be confused and at times, vague and inconsistent. The Committee considered it more likely than not that Mr Chaudhry signed this report on the date that was stated on the face of the report – namely 5 November 2017. However, it noted that Mr Chaudhry's emails dated 17 and 20 November 2017 to ACCA indicated that both files for Client A and Client B were ready for audit opinion; meaning that no audit report had been signed at that stage. This would be inconsistent with the fact that the Client A audit report had been signed on 31 May 2017 and, as it was discovered after the event, that the Client B's audit report had been signed on 5 November 2017. The Committee noted, however, that the report from PCP, the training company, dated 12 November 2017, referred to Client B as a "hot review", that is a review conducted before the audit opinion is issued. Therefore, the Committee was satisfied on the balance of probabilities that, Client B's audit report was signed by Mr Chaudhry before any training company review. It was satisfied this was in breach of the Admissions and Licensing Committee's Order and therefore Allegation 3 is proved.

Allegation 4

65. On 13 January 2018, Mr Chaudhry filed amended accounts for Client A. The Committee considered these documents and noted that "amending" is affixed to them with a date stamp and barcode, showing receipt at Companies House on 13 January 2018. Mr Chaudhry stated that he had filed them on that date.

66. The Committee was satisfied that these accounts were approved by the director, as they are signed by the director and dated 31 May 2017. Mr Chaudhry accepted that he got the director to sign those accounts on 31 May 2017. In addition, on page 6 of those accounts, the Committee saw the legend "independent audit report" signed by Mr Chaudhry and dated 31 May 2017. Further, in his oral evidence, Mr Chaudhry accepted this. Accordingly, Allegation 4(a) was proved.

Allegation 4(b)(i) - Dishonesty

67. The Committee was satisfied that Mr Chaudhry knew that the directors of Client A had not approved the amended accounts on 31 May 2017, and that he had

not signed those amended accounts on that date. However, the Committee accepted Mr Chaudhry's evidence as credible that he had telephoned Companies House and that he had either been advised to use the original date, or he had misunderstood the advice given in that phone call and used the original date in error. Having ascertained that this was Mr Chaudhry's genuine belief, the Committee was not satisfied that this conduct was dishonest by the standards of ordinary decent people. Therefore, Allegation 4(b)(i) was not proved.

68. Allegation 4(b)(ii) similarly falls, on the basis of ACCA's concession referred to above.

Allegation 4(b)(iii)

69. The obligation is on Mr Chaudhry to act diligently. While the Committee accepts that the phone call he has referred to was made, it was satisfied that it did not amount to sufficient discharge of his duty to act diligently, given the importance of ensuring that the correct dates are on accounts. Accordingly, the Committee was satisfied that Allegation 4(b)(iii) was proved.

Allegation 5(a)

70. This Allegation was admitted by Mr Chaudhry and is therefore proved on his admission.

Allegation 5(b)

71. Section 290.7 of the Code of Ethic and Conduct imposes an obligation on auditors to identify and evaluate and, where necessary, provide safeguards to eliminate or reduce to acceptable levels, threats to the independence of the auditor and audit.

72. The Committee was satisfied on the evidence that Mr Chaudhry used a partner in the firm, providing accounting services to Client A, as an audit assistant in relation to the stock-take part of the audit. The Committee was satisfied that using this partner in this fashion was a potential threat to the independence of

the audit because the partner may have different interests to the Independent Auditor. The Committee considered all the documentation before it, including all the documents provided by Mr Chaudhry, but saw no evidence of any documentary evaluation of that potential threat. Therefore, it was satisfied that Allegation 5(b) was proved.

Allegation 6(a)

73. The Committee was satisfied, on the face of the audit report and on Mr Chaudhry's acceptance, in his oral evidence, that he had signed the report knowing that it did not meet the relevant standards and certified that it had been conducted in accordance with the International Standards on Auditing. The Committee was satisfied on the evidence of Mr A as to the technical deficiencies, and on Mr Chaudhry's acceptance in his oral evidence of most of those deficiencies, that the report was not in accordance with those standards. Accordingly, Allegation 6(a) was proved.

Allegation 6(b)(i)

74. However, the Committee was satisfied that Mr Chaudhry was credible when he stated he believed he had undertaken the audit in accordance with the relevant standards. ACCA have, in effect, alleged that Mr Chaudhry was dishonest on the basis of signing the report knowing that it did not meet the relevant standards, and that this was a deliberate act. While the Committee was satisfied that the report contained many deficiencies and did not meet the standards of the ISA, it rejected ACCA's case on dishonesty. Accordingly, Allegation 6(b)(i) is not proved.

Allegation 6(b)(ii)

75. Allegation 6(b)(ii) similarly falls, on the basis of ACCA's concession referred to above.

Allegation 6(b)(iii)

76. The GPR state that the member shall comply with the standards. The Committee was satisfied on Mr A's evidence that the audit report did not comply with ISA standards and, therefore, the non-compliance was contrary to the obligation under the GPR to comply with those standards. Accordingly, Allegation 6(b)(iii) was proved.

Misconduct

77. The Committee next asked itself whether, by reason of his proved conduct, Mr Chaudhry was guilty of misconduct.
78. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It noted the submissions of Mr Walters and of Mr Chaudhry. It accepted the advice of the Legal Adviser.
79. The Committee reminded itself that whether conduct amounted to misconduct was a matter for its judgment and was not one of proof. The Committee was satisfied that Mr Chaudhry's actions, particularly in relation to the proven dishonesty under Allegations 1 and 2, and the failure to comply with the Order of the Admissions and Licensing Committee under Allegation 3, brought discredit on him, the Association and the accountancy profession. It was satisfied that the proven dishonesty in relation to the sending of the email on 20 November 2017 and the omission of the audit report from the audit file was serious and reached the threshold for misconduct. The obligation to be honest at all times was a fundamental tenet of the profession. Further, it was satisfied that non-compliance with the Admissions and Licensing Committee Order and the significant and widespread breaches of the International Standards on Auditing in relation to the audit of Client A, and the non-documentation of a self-review threat in relation to Client A, cumulatively reached the threshold for misconduct. It was not persuaded that the technical failure, proved by not putting "statutory auditor" after the name of the firm in Client A's audit report on its own, would amount to misconduct.

Accordingly, the Committee did not consider the alternative as set out in Allegation 7(b).

SANCTIONS AND REASONS

80. The Committee noted its powers on sanction were those set out in Regulation 12(4). 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 accepted the advice of the Legal Adviser.
81. The Committee considered that the dishonest conduct here was serious. While the Committee accepted that the sending of the email on 20 November was a spontaneous act of dishonesty, the deliberate withholding of the audit report cannot be so categorised. 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. Further, the Committee considered that the failure to comply with the Admissions and Licensing Committee Order in May and November 2017 was also very serious. The Order was an order of Mr Chaudhry's regulator. Compliance with such orders is mandatory, and failure to do so undermines public confidence in the regulator and presents potential risks to the public. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour.
82. The Committee considered that there were the following mitigating factors:
- Mr Chaudhry's previous good character;
 - He has had a long career and is highly regarded by his clients;
 - He has supplied supportive testimonials from authors who are aware of the situation;

- At least in relation to Allegation 1, the dishonesty was spontaneous rather than calculated;
- Mr Chaudhry was under not inconsiderable pressures at the time [REDACTED], which impacted upon his ability to run his practice;
- No evidence of harm or adverse impact caused to his clients;
- Mr Chaudhry has taken remedial steps regarding his audit work by voluntarily relinquishing his audit certificate, and has not had any audit clients since 2018;
- He has joined a support network of accountants for mutual professional support, with regular meetings.

83. The aggravating factors the Committee identified were:

- The conduct included two separate incidents of dishonesty;
- The deliberate withholding of the audit report amounted to deceiving his regulator;
- It also included the deliberate breaching of an Order of the Admissions and Licensing Committee of his regulator;
- The misconduct was not an isolated incident, and the failure to comply with the Order continued over a period of some months.

84. Given the Committee's view of the seriousness of the proven conduct, it was satisfied that the sanctions of No Further Action, Admonishment and Reprimand were insufficient to highlight, to the profession and the public, the gravity of the proven conduct.

85. The Committee had specific regard to section E2 of the Guidance on dishonesty. While it noted that exceptional circumstances were normally required for dishonesty not to result in exclusion, the Committee reminded itself that each case had to be addressed on its own merits, and that there was compelling personal mitigation in this case. It had specific regard to factors listed at section C4 of the Guidance in relation to a Severe Reprimand. While it accepted that most of the factors listed were present, the Committee was not persuaded that this sanction would be a sufficient sanction to mark the gravity of the conduct to the public, as it included both dishonesty and failing to comply with an order of the regulator. The Committee accepted that Mr Chaudhry, until the events of 2017, had been an honest man throughout his career. Nonetheless, at a late stage in his career, he made a series of acts and omissions flowing from the imposition of the Admissions and Licensing Order that led to acts of dishonesty. The Committee considered that had the dishonesty stood alone, it exceptionally may have been able to limit the sanction to a Severe Reprimand. However, the dishonesty, coupled with the breach of the Order, made the conduct and failings too serious for this disposal.

86. The Committee was therefore satisfied, albeit with some sympathy for Mr Chaudhry, that, cumulatively, his acts and omissions were so serious that they were fundamentally incompatible with him remaining a member.

87. The conduct was a serious departure from professional standards. The Committee was satisfied that the only appropriate and proportionate sanction was that he be excluded from membership.

88. The Committee was not persuaded that it was necessary for the order to have immediate effect.

COSTS AND REASONS

89. ACCA claimed costs of £23,046.75 and provided a breakdown of how this sum was calculated. ACCA have not claimed any costs for the 3 days

resumed hearing. Mr Chaudhry provided a “Statement of Financial Position” and annual fees for the years ended 31 December 2018 and 2019.

90. The Committee decided that it was appropriate to award costs in this case, as it was properly brought. It noted that Mr Chaudhry's financial means were limited and that he was successful in defending two of the dishonesty allegations. Considering all these matters, the Committee determined that it was appropriate and proportionate to order that Mr Chaudhry pay ACCA's costs in the sum of £13,000.

Mr Andrew Popat CBE
Chair
30 January 2020