

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mrs Jalpa Hariom Trivedi

Heard on: Tuesday, 21st January 2020

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

Committee: HH Suzan Matthews QC (Chair)
Ms Fiona MacNamara (Accountant)
Ms Samantha Lipkowska (Lay)

Legal Adviser: Mr Andrew Granville Stafford

Persons present

and capacity: Mrs Jalpa Hariom Trivedi (Member)
Mr Hari Trivedi (Mrs Trivedi's representative)
Mr Benjamin Jowett (ACCA Case Presenter)
Mr Jonathan Lionel (Hearings Officer)

Observers: None

Outcome: Allegations 1(i) and 1(ii) proved
Excluded from membership, and no application for re-
admission may be considered for 5 years from the
effective date of this order.

Costs: £3,600

INTRODUCTION AND PRELIMINARY MATTERS

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mrs Jalpa Hariom Trivedi.
2. The Committee had before it a bundle of documents (111 pages), an additional bundle (7 pages), a service bundle and a one page document submitted by Mr Trivedi during the hearing.

PRELIMINARY APPLICATIONS

3. At the outset of the hearing, Mr Trivedi applied on behalf of his wife for the case to be heard in private.
4. The reasons given in her case management form for making the application were as follows:

'This case is not purely about Fraud, or Cheating the Revenue. It involves Government officials in doing their very best to over-take this trial at the 11th hour. Names that will be mentioned are all based on assumption but shocking in itself. There are tabloid articles which suggest the assumptions may be correct. However, the key fact, which is undisputed and remains true is that the main criminal in this matter is 'free, alive and in a political position' in their home nation of Bangladesh, with over 2M GBP in his pocket, having been sentenced to 10 years in prison. How? This is a serious matter of Government/National Security interference to ensure conviction on all in this trial, and at any means possible.

Therefore, it will cause some concern to the public as to how fair the justice system of this country actually stands. Currently, Mr. & Mrs. Trivedi are maintaining the peace in this matter to resolve it calmly with local MP support but as time goes by, it is inflaming individuals that are piecing together the trial. It should be noted as a result of all findings an application has been filed with the Criminal Case Review Commission (CCRC) as of August 7th 2019. This may, or may not lead to an appeal, or some other form of mercy but details are damning all the same.'

5. In an email to ACCA dated 20 February 2019, Mrs Trivedi requested ACCA not to publicise her name as her family had gone through enough humiliation already. Mr Trivedi said in his oral submissions that there was no reason to add to the adverse publicity his wife had already received by having a public hearing.
6. The application was opposed by Mr Jowett on behalf of ACCA.
7. Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') gives the Committee a discretion to hear all or part of a case in private if it satisfied that the particular circumstances of the case outweigh the public interest in holding the hearing in public. In the Committee's view, Mrs Trivedi had not provided any reason which outweighed the public interest in an open hearing or which would justify holding the hearing in private. The Committee refused this application, save

that it agreed that any matters relating to health should be considered in private.

8. Mr Jowett applied under CDR 10(5) to amend the allegation so the numbering was consistent. There was no objection to the proposed amendment and the Committee was satisfied it was appropriate to allow it to correct an obvious typographical error.

ALLEGATIONS AND BRIEF BACKGROUND

9. The allegation faced by Mrs Trivedi as amended was as follows.

Allegation 1

- (i) On 17 May 2018 Mrs Jalpa Hariom Trivedi was convicted of 'Conspire to defraud x 1' and 'Cheat the public revenue x 1', at Southwark Crown Court which is discreditable to the Association or the accountancy profession;
 - (ii) By reason of her conduct at 1(i) above, Mrs Jalpa Hariom Trivedi is liable to disciplinary action pursuant to bye-law 8(a)(ix).
10. Mrs Trivedi was admitted as a member of ACCA in 2006, and as a fellow in 2011.
 11. On 17 May 2018, Mrs Trivedi was convicted after a trial at Southwark Crown Court of conspiracy to defraud (count one) and cheating the public revenue (count two). The convictions arose out of a fraud involving the creation of bogus documentation, used by Bangladeshi nationals to support applications for UK visas.
 12. Mrs Trivedi was sentenced on 23 November 2018. In his sentencing remarks, the judge described it as a very large, long running fraud. The purpose of the fraud in its original form was to provide false evidence, making it appear that the visa applicants had large salaries. This was to fool the Home Office into granting visas.
 13. As a result, the judge said 18 people were granted visas based on false figures, three subsequently became naturalised British citizens and two have been granted indefinite leave to remain.
 14. The judge said that from the initial scam of creating an appearance of an income, the conspiracy turned to the production of entirely false information relating to investments in companies. For that purpose, the conspirators needed an accountant, and Mrs Trivedi allowed herself to be used to provide a gloss that the Home Office would be looking for. She allowed the veneer of her qualification to be put on to figures prepared by Person A.
 15. The judge said that he considered Person A and Person B to be the leaders of what he described as a sophisticated fraud. He described Mrs Trivedi as being of medium culpability. He said her role was significant because she was preparing dishonest returns for companies that she knew did not exist.
 16. The judge imposed a sentence of two-and-a-half years' imprisonment on count one and six months' consecutively on count two, making a total of three years' imprisonment.
 17. Under Bye-law 8(a)(ix), a member is liable to disciplinary action if they have before a court of competent jurisdiction in the United Kingdom or elsewhere, pleaded guilty to, or been found guilty of, any offence discreditable to the Association or to the accountancy profession.

18. Under Bye-law 8(e) a copy of the certificate or memorandum of conviction given in the criminal proceedings is conclusive proof of the conviction and of any facts and matters found, as the case may be.
19. On 26 January 2019, Mr Trivedi submitted a response to the allegations on behalf of his wife, in which he stated as follows:
 - Mrs Trivedi was not the only one at fault.
 - Mrs Trivedi worked for Person A who was a Home Office approved immigration specialist. Mrs Trivedi made checks on him before she started working for him;
 - Previous accountants that had worked with Person A must have known he was not genuine, yet none of them were under trial or held to account;
 - Mrs Trivedi worked with Person A for a short period, perhaps a year or a year-and-a-half. She made a mistake in that she was negligent in not inspecting the bank statements prior to posting the letters to the Home Office. [PRIVATE];
 - In the letters she had sent to the Home Office she clearly asked them to contact her if they had any concerns, again not hiding anything from them about the visa applications. The Home Office never contacted her. At trial a representative of the Home Office, when asked why nobody read the contents of the letters, said words to the effect '*We go blindly by the ACCA logo observed* [on the letter]';
 - In respect of HMRC rebates, Mrs Trivedi had no idea that Person A was claiming refunds;
 - At worst, she was negligent and she should not be allowed to work in the immigration aspect of accountancy work in the future, but she did not defraud the tax system;
 - The media reported the number of visa application was in the hundreds, but Mrs Trivedi was not involved in more than 25-35 applications;
 - Mrs Trivedi did not ever come across any money in the £9-13 million range. She only earned [PRIVATE], and paid tax on it;
 - The media has blown this case completely out of proportion when it comes to Mrs Trivedi, and because the three main criminals absconded, all spotlight fell upon her;
 - Mrs Trivedi's head and heart have been clean from the start, it is just sad that after all the work and effort she put into the profession and studies it is all going to come to an end. This is very sad because for 99% of her work she has been excellent.
20. On 31 January 2019, ACCA received a letter from prison from Mrs Trivedi, saying her husband could speak on her behalf.
21. On 20 February 2019, ACCA received a further letter from Mrs Trivedi. [PRIVATE]. She had been asked to work for a company in Canary Wharf which, after her inspection, appeared legitimate. She worked with this firm for 18 months and found no reason to distrust them as they had worked with

other bigger accounting firms before. [PRIVATE] she started working for the company remotely via email. She stopped working for them in 2013 when the investigation started. She admitted that due to [PRIVATE] her professional standards had slipped. She apologised profusely for having let herself, the profession and ACCA down and she said she accepts her punishment.

22. In her Case Management Form, which was completed on her behalf by her husband, Mrs Trivedi denied both Allegation 1(a) and 1(b). Her reasons were as follows:

Allegation 1: 'I am 'not guilty' on both counts. At the time, I did everything possible to ensure the business that I had established this working relationship with, was legitimate and corroborated by previous accountant names. This business had been in operation for years prior to my support. Therefore, I believed this work to be honest after I inspected the office. However, personal circumstances and trust on this business meant that I was unaware it was actually criminal in nature. Very sophisticated operation (Judge's re-mark). I did not spot how smart this business was and hence accept that I was negligent in not performing my work to a high standard and relying too much on the information provided without checking it first-hand. I am negligent but not 'a party' to fraud. In matter of cheating revenue. Someone in HMRC was at fault, this was known to everyone but I had to take the fall.'

Allegation 2: 'I believed an appropriate punishment was due but as there is direct influence by outside forces in convicting me for 3 years, I deem my punishment above what everyone believed should have happened (even some in CPS). If, the punishment at sentencing was to face disciplinary action by the ACCA, I would have accepted it but this has now become more of an execution, rather than just a punishment, therefore at this stage, disciplinary action is not going to impact what already is an 'extraordinarily' extreme punishment.'

DECISIONS ON ALLEGATIONS AND REASONS

23. At the outset of the hearing, Mrs Trivedi admitted the allegations. Pursuant to CDR 12(3), the Committee found the fact of the conviction proved on the basis of the admission and also the certificate of conviction. The issues for the Committee, therefore, were whether the conviction was discreditable to the Association or the accountancy profession, and whether that rendered Mrs Trivedi liable to disciplinary action under Bye-law 8(a)(ix).
24. The Committee considered the documents before it, the submissions of Mr Jowett on behalf of ACCA, and of Mr and Mrs Trivedi and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA, and the standard to be applied is proof on the balance of probabilities.
25. The Committee was in no doubt that these convictions for conspiracy to defraud and cheating the public revenue were very serious offences. Mrs Trivedi had used her position as a certified accountant to assist in the commission of a fraud. The convictions resulted in a lengthy immediate sentence of imprisonment. This brings discredit to herself, to ACCA and to the profession as a whole. The Committee therefore finds Allegation 1(i) proved.
26. This therefore renders Mrs Trivedi liable to disciplinary action under Bye-law 8(a)(ix). Allegation 1(ii) is therefore also proved.

SANCTION AND REASONS

27. The Committee considered what sanction, if any, to impose, taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. It took into account the submissions of the parties and the advice of the Legal Adviser.
28. The Committee took into account that Mrs Trivedi was of previous good character and there were no previous disciplinary findings against her. It took into account the three testimonials provided on her behalf.
29. In his email dated 13 December 2018 Mr Trivedi said:

'Everything that has happened is truly extraordinary and has shocked us, as a family, her clients and many legal representatives, even on the prosecution side from what I have come to learn based on the reaction of this verdict. Jalpa is suffering quietly [sic] inside now, and we are trying to help her to stay strong and move onwards but this has been a terrible time for her, and her family especially children. This outcome was not expected.'
30. In a further email Mr Trivedi said:

'... I know my wife is not perfect and but she has always been honest. She is naive, and negligent because of family circumstances which should have stopped her from working but she is a mother and a wife, her concerns are with her children and husband. She felt she needed to keep work going, and that is actually her mistake because to be honest this is where she failed to be 'professional.'
31. The Committee took into account the information provided about her personal and family circumstances [PRIVATE]. She had engaged with the disciplinary process and had admitted the allegations at this hearing.
32. Mrs Trivedi expressed her apology to the Committee. She said at the time, she had not been as assertive as she should have been, but she has moved on from that position. She has done assertiveness courses and lead conflict training whilst in prison.
33. Mr Trivedi submitted that this matter dates back nearly ten years and she has been working during that time without any concerns about her practice. He said the prison sentence she had received had punished her family and she had learnt from her mistake.
34. The Committee were provided with information about Mrs Trivedi's financial circumstances. She has substantial debts in respect of legal fees and the confiscation order which will exhaust their assets. Mrs Trivedi is currently on licence and has no income.
35. Having found that Mrs Trivedi's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
36. The Committee was in no doubt that admonishing, reprimanding or severely reprimanding Mrs Trivedi would be insufficient to mark the gravity of the situation.

37. Public confidence in the profession would be diminished if any sanction less than exclusion were imposed. These were very significant failings which have damaged the reputation of the profession. The Committee's obligation to protect the public would not be satisfied if she remained a member of the Association.
38. Therefore, pursuant to CDR 13.1(c), Mrs Trivedi is excluded from membership of ACCA. The Committee further ordered that no application for re-admission may be considered until the expiry of a period of five years from the effective date of the order.

COSTS AND REASONS

39. ACCA applied for an order for costs. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing, in the sum of £8,900 (additional bundle pages 1 to 5). Mr Jowett accepted that it would be fair to make some reduction on this figure to reflect an amount that would be reasonable in the circumstances. The Committee considered the concessions made by Mr Jowett were sensible, given the limited scope of the investigation in this case.
40. The Committee considered that, in principle, a costs order should be made in favour of ACCA. The Committee took into account the submissions of both parties and the information provided by Mrs Trivedi as to her means, which it accepted. However, it considered that an order ought to be made, as costs had been incurred by ACCA in investigating and presenting the case.
41. The Committee determined that the appropriate order was that Mrs Trivedi pay ACCA's costs in the sum of £3,600.

EFFECTIVE DATE OF ORDER

42. The order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Mrs Trivedi gives notice of appeal in accordance with the Appeal Regulations prior to that.

HH Suzan Matthews QC
Chair
21 January 2020

