

HEARING

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Martin Collier

Heard on: Thursday, 21 May 2020

Location: Held remotely by Skype via ACCA, The Adelphi, 1-11 John
Adam Street, London, WC2N 6AU

Committee: Mr Maurice Cohen (Chair)
Mr Trevor Faulkner (Accountant)
Ms Helen Kitchen (Lay)

Legal Adviser: Mr Alastair McFarlane (Legal Adviser)

Persons present

and capacity: Miss Harriet Gilchrist (ACCA Case Presenter)
Miss Rachael Davies (Hearings Officer)
Mr Jonathan Lionel (Hearings Officer)

Summary: Mr Collier's practicing certificate with audit qualification
be withdrawn, and his firm's audit certificate be
withdrawn.

Any future re-application for audit registration by Mr
Collier, or by a firm in which he is a principal, be referred
to the Admissions and Licensing Committee

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1. The Committee had before it a bundle of papers, numbered pages 1 to 21, a service bundle, numbered pages 1 to 16, and a tabled additional bundle, numbered pages 1 to 5.
2. ACCA was represented by Miss Gilchrist. Mr Collier did not attend, and was not represented.

SERVICE / PROCEEDING IN ABSENCE

3. Having considered the service bundle on this case, the Committee was satisfied that the notice of the hearing, dated 23 April 2020, was served on Mr Collier in accordance with the Regulations.
4. The Committee next considered whether it was in the interests of justice to proceed in Mr Collier's absence. The Committee accepted the advice of the Legal Adviser. The Committee was mindful that Mr Collier had a right to attend the hearing and to participate, and that the discretion to proceed in his absence must be exercised with the utmost care and caution.
5. The Committee noted that ACCA's notice of the hearing, dated 23 April 2020, sent to Mr Collier's address in Ireland offered him the opportunity of attending via video or telephone link. Mr Collier had responded to ACCA by an email dated 05 May 2020, in which he indicated that he would not be attending the hearing. Further, the Committee noted the telephone attendance note of a telephone conversation between Mr Collier and ACCA on 20 May 2020, where it was recorded that Mr Collier again indicated that he was "not inclined to participate in proceedings any further". The Committee noted that he did not make any request for an adjournment and that while he said that the Committee could speak to him if they wished, he repeated that he did not wish to participate. The Committee also noted that it was explained to him that he was unable to resign his membership while proceedings were ongoing.
6. The Committee was satisfied that all reasonable attempts had been made to secure Mr Collier's attendance at the hearing. The Committee was satisfied that Mr Collier had voluntarily waived his right to attend and did not wish to participate in the hearing. It was mindful that it was emphasised in *Adeogba v the General Medical Council*

[2016] EWCA Civ 162 that there was an obligation on all professionals' subject to a regulatory regime to engage with the regulator. The Committee was not persuaded that any adjournment would increase the chance of Mr Collier attending or participating in the case on a future date. These were serious matters. On the information before it and bearing in mind its duty to ensure the expeditious conduct of its business and the wider public interest, the Committee was satisfied that it was in the interests of justice to proceed in the absence of Mr Collier.

BACKGROUND

7. CMM ("the Firm") is the sole practice of ACCA member, Mr Martin Collier ACCA. The Firm was visited by ACCA for a monitoring visit on 08 and 09 January 2020. The purpose of this first monitoring visit was to monitor the conduct of the firm's audit work. The visit also included confirming the firm's eligibility for registered auditor status and monitoring compliance with the Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs).
8. The Firm and the principal have issued audit opinions on seven limited company audit clients since the commencement of its audit registration with ACCA on 10 January 2019 (prior to which it was registered for audit with another professional body). Five limited company files were selected for inspection. The Firm had issued an audit report on the financial statements of one audit client (File 5) without carrying out any audit work. On four of the remaining audit files, some significant deficiencies were found in the audit work.

FITNESS AND PROPRIETY

9. At the visit on 08 and 09 January 2020, it was found that Mr Collier had issued an audit report on the financial statements of Client A (File 5) without any credible attempt to carry out an audit. At the visit, the Compliance Officer requested that Mr Collier provide all the documentation in his possession, which related to any audit work he may have performed on this audit client. The Compliance Officer reviewed the information, which only consisted of a trial balance, an engagement letter and a letter of representation, and concluded that the documents provided no evidence of any genuine attempt at significant audit work having been undertaken.

10. The four other audit files subjected to a detailed inspection demonstrated that Mr Collier and the Firm had some understanding of the requirements of an audit, including the need for documentation of the planning and execution of the audit work and for complying with relevant auditing standards, notwithstanding that these contained many deficiencies as noted below. The information and documents supplied in respect the audit of Client A (File 5) fall far short of the required standard, and therefore demonstrated that there was no credible attempt to carry out and document an audit in accordance with International Standards on Auditing (“ISA”) on this client.

Summary of findings of current visit

11. At the visit on 08 and 09 January 2020, the Compliance Officer informed Mr Collier of serious deficiencies in the audit evidence which had resulted in audit opinions not being adequately supported by the work performed and recorded. The Firm had used a standard audit programme in some areas, but it had not tailored it to the needs of the audit of the individual client. In areas where the Firm had not used a standard programme, it had no means to control the work required. As a result, on all of the files examined, the audit opinion was not adequately supported by the work performed and recorded.

12. ACCA submitted that there were serious deficiencies in the audit work. These included alleged failings in the following areas.

International Standard on Quality Control 1 (ISQC 1)

13. Although the Firm had a documented system of quality control policies and procedures in place that appeared to comply with ISQC 1 in most respects, these were not always effective, particularly in the areas of engagement performance and monitoring, in ensuring the firm performed its audit work in accordance with ISAs. Examples of the other weaknesses were noted in the report of the monitoring visit.

Detailed findings on audit work

14. Details of the deficiencies found are shown in the report of the monitoring visit. The description “unsatisfactory” is based on the evidence seen on the files at the visit and is an assessment of whether or not the audit opinion was supported on each file inspected.

APPARENT BREACHES OF THE GLOBAL PRACTISING REGULATIONS

15. ACCA contended that the lack of audit work on the Firm’s Client A (File 5) raised significant concerns regarding Mr Collier’s fitness and propriety to hold a practising certificate with audit qualification under GPR 8(2)(d). He had issued an audit report which contained a statement that the audit was carried out in compliance with auditing standards without any meaningful evidence to support that statement. This indicated a failure to comply with the fundamental principles as set out in CEC R111.2 and ICEPA R113(1)(b) and PR 13(1).
16. ACCA further contended that Mr Collier and the Firm had breached PR 13(1) in that they failed to comply with the International Standards on Auditing (Ireland) in the conduct of audit work. There were deficiencies in the planning, control and recording of audit work and, in all of the remaining four cases examined, the audit opinions were not adequately supported by the work performed and recorded.

ACCA SUBMISSIONS

17. ACCA indicated that *“it appears that Mr Collier may not be a ‘fit and proper’ person under GPR 8(2)(d) in that he has committed material breaches of applicable regulations of the Association”* in that he has breached sections R111 and R113 of ACCA’s Code of Ethics and Conduct (CEC) as he has not acted with integrity and/or professional competence and due care.
18. In particular, section R111.2(a) of the CEC requires that a professional accountant shall not knowingly be associated with a report which contains a materially false or misleading statement. In addition, section R113.1(b) requires an accountant to act

diligently in accordance with applicable technical and professional standards when providing professional services.

19. Furthermore, PR 13(1) requires that, in the conduct of audit work, holders of an audit qualification and firms holding an auditing certificate shall comply with all the applicable sections of the Association's Rulebook and in particular:

- a) for audits of financial periods beginning on or after 17 June 2016, the International Standards on Auditing (Ireland), the International Standard on Quality Control (Ireland) and the Ethical Standard for Auditors (Ireland) issued by IAASA;
- b) for audits of financial periods beginning before 17 June 2016, the International Standards on Auditing (UK and Ireland), the International Standard on Quality Control (UK and Ireland) and the Ethical Standards for Auditors issued by the Financial Reporting Council;
- c) on and from the adoption by the Commission of the European Union of international auditing standards, those standards.

20. ACCA submitted that *"it appears Mr Collier has signed an audit report which states that his firm has carried out an audit in accordance with the ISAs when this was evidently not the case, in apparent breach of these regulations"*. However, it indicated that these matters have also been referred to ACCA's Assessment department for investigation and submitted that the Committee should therefore consider these matters only to the extent that it is relevant to future licensing.

21. ACCA invited the Committee to consider two matters:

- a. Mr Collier's fitness and propriety, and therefore eligibility, to hold a practising certificate;
- b. The standard of audit work found at this first audit monitoring visit to the Firm.

Fitness and propriety

22. ACCA referred to Mr Collier as having issued an audit report without apparently undertaking any audit work in accordance with the ISAs and, in light of this, invited the Committee to consider whether Mr Collier's actions are sufficiently serious for it to determine that he is not "fit and proper" to hold a practising certificate. ACCA invited the Committee to note that, in principle, the question of fitness and propriety should determine whether or not a member is eligible to hold a practising certificate at all, rather than just the audit qualification. However, as the issues in this report relate only to Mr Collier's conduct of audit work and compliance with his obligations as an auditor, submitted that the Committee may deem it appropriate to remove his practising certificate with audit qualification and issue him with a general practising certificate.
23. ACCA further submitted that if, however, the Committee decided to remove Mr Collier's practising certificate with auditing qualification and not issue him with a practising certificate, then he would be placed in a position where he is engaged in public practice without a practising certificate, rendering him liable to disciplinary action unless he immediately resigns from ACCA. ACCA submitted that as Mr Collier has been referred to ACCA's Assessment department for investigation in respect of the matters in this report, he would not be permitted to resign, so rendering him liable to further disciplinary action.
24. ACCA therefore recommended that the Committee removes the Firm's auditing certificate and Mr Collier's practising certificate with audit qualification and reissue him with a practising certificate. ACCA further recommends that the Committee order that any future application for audit registration must be referred to the Admissions and Licensing Committee. It referred the Committee to paragraphs 3.1.12 and 4.1.5 respectively of the Regulatory Guidance, and contended that this approach would be in line with Regularly Board Policy Statement 7(1)(i), which states that:

"If on any of the files inspected there is little or no evidence that the firm has attempted to comply with auditing standards, regardless of the standard of work on the other files inspected ACCA is likely to refer the matter to the Admissions and Licensing Committee with the recommendation that it

withdraws the audit certificates. This approach is appropriate because such a serious failure to comply with applicable standards raises concerns about the competency and/or integrity of the auditor and hence has implications for the fitness and propriety of the certificate holder.”

Audit matters

25. ACCA submitted the following as the relevant facts in the Committee’s consideration of the standard of the Firm’s audit work:

- i. This is the first monitoring visit to the Firm and its principal since the Firm’s audit registration with ACCA commenced on 10 January 2019;
- ii. Work recorded on the audit files inspected did not support the audit opinions, and the visit had an unsatisfactory outcome;
- iii. On one file, the Firm had made no credible attempt to undertake an audit;
- iv. On all other files, the Firm has shown little attempt to comply with auditing standards, and the audit work was generally very poor with pervasive deficiencies.

26. In light of the above facts, ACCA submitted that the Committee remove the Firm’s auditing certificate and Mr Collier’s practising certificate with audit qualification and reissue him with a practising certificate. ACCA further recommends that the Committee order that any future application for audit registration must be referred to the Admissions and Licensing Committee, and that such application will not be considered until Mr Collier has provided an action plan, which ACCA regards as satisfactory, setting out how he intends to prevent a recurrence of the previous deficiencies; has attended a practical audit course approved by ACCA and, following the date of this order; passed the advanced audit and assurance paper of ACCA’s professional qualification. The approach taken by ACCA and the Committee is explained at 6.2.3 to 6.2.4 and at 7.2.1 and 7.2.6, respectively, of the Regulatory Guidance. This is in line with Regulatory Board Policy Statement 7(1)(ii), which states that:

“If all of the files inspected are unsatisfactory but there is some attempt on each to comply with auditing standards, ACCA will either refer the matter to the Admissions and Licensing Committee with the recommendation that it withdraws the audit certificates, or require the firm to submit an action plan and then refer the matter to the Regulatory Assessor with the recommendation that he imposes conditions on the audit certificates. The approach taken by ACCA will largely depend on the pervasiveness of the serious deficiencies and the existence of any other risk or mitigating factors.”

MR COLLIER’S SUBMISSIONS

27. While Mr Collier was not present, the Committee noted that he had indicated, in an undated letter, to the Senior Compliance Officer referring to his letter of 17 February 2020, that *“I do not intend to continue offering auditing services after 10 April 2020”* and that he did *“not wish to comment”* on the report.

DECISION ON APPLICATION AND REASONS

28. The Committee had regard to the submissions made by Miss Gilchrist, on behalf of ACCA, and such information as it had from Mr Collier.

29. The Committee accepted the Legal Adviser’s advice. The Committee had regard to the guidance contained in ACCA’s “Guidance for Admissions and Licensing Hearings” (January 2019) and the “Regulatory Board Policy Statement and Regulatory Guidance - Audit Monitoring and ACCA’s Approach to Non-Compliance with Auditing Standards” (November 2019).

30. The Committee carefully considered all the material before it.

31. The Committee was satisfied, on the balance of probabilities, that ACCA has proved each of the breaches of regulations and rules listed by ACCA, including the International Standards and Global Practising Regulations.

32. The Committee was satisfied that Mr Collier’s failings in relation to the audits on the five files sampled at the monitoring visit were as contended by ACCA. In relation to file 5, the Committee was satisfied that there was a shocking lack of work undertaken.

In relation to the other four files it categorised the work done as very poor indeed and was satisfied that there were basic and extensive shortcomings. There was no evidence of Mr Collier having insight into the failings identified or his having taken any steps to remedy or prevent a reoccurrence of the issues that had arisen.

33. The Committee accepted ACCA's submissions in relation to the deficiencies being established in relation to audit work, and its submission that it had no evidence that Mr Collier was not a fit and proper person to hold a practising certificate.
34. The Committee did not consider that the evidence before it justified a finding that Mr Collier was not a fit and proper person to hold a practising certificate. Nonetheless, the Committee had no hesitation, given the widespread and basic failings in relation to Mr Collier's audit work and the breaches that, it is satisfied, have been established, that Mr Collier should no longer be permitted to undertake audit work and that the Firm should no longer be authorised to undertake such work.
35. In these circumstances, the Committee considered that only proportionate order sufficient to protect the public and maintain confidence in the profession was to withdraw the Firm's audit certificate and Mr Collier's practising certificate with audit qualification, and to issue him with a practising certificate.

ORDER

36. The Committee made an order pursuant to Authorisation Regulation 5(2)(f) that:
 - i. The auditing certificate for the Firm and Mr Collier's practising certificate with audit qualification be withdrawn;
 - ii. Mr Collier be re-issued with a practising certificate;
 - iii. Any future re-application for audit registration by Mr Collier, 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 Collier 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 the advanced audit and assurance paper of ACCA's professional qualification.

Mr Maurice Cohen
Chair
21 May 2020