

## HEARING

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

**In the matter of:** Mr David James Pape

**Heard on:** Monday, 09 November 2020

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

**Committee:** Mr Andrew Gell (Chair),  
Mr Trevor Faulkner (Accountant)  
Ms Victoria Smith (Lay)

**Legal Adviser:** Mr Sanjay Lal

**Persons present**

**and capacity:** Ms Michelle Terry (ACCA Case Presenter)  
Ms Anna Packowska (Hearings Officer)

**PRELIMINARY APPLICATIONS**

1. The Committee had before it a Main Bundle pages 1-57, a Service Bundle pages 1-16 and subsequently a Costs Schedule.

## ACCA



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## **PROCEEDING IN ABSENCE**

2. The Committee was satisfied that Mr Pape was served with notice of this hearing both to his registered email address and also by registered post to his current place of residence, which is HMP Berwyn, in accordance with Regulation 10 and 22 of the Complaints and Disciplinary Regulations 2020.
3. The Committee then turned to whether to proceed in the absence of Mr Pape. It noted no communication has been received from Mr Pape in respect of the investigation and this hearing. There was no application to adjourn the matter. The Committee noted the strong public interest in this matter being heard and, in the circumstances, determined to exercise its discretion to proceed in the absence of Mr Pape.

## **ALLEGATION(S)/BRIEF BACKGROUND**

4.
  1. On 23 July 2019, David Pape was convicted of the following offences at Manchester (Crown Square) Crown Court which are discreditable to the Association and the accountancy profession:
    - i. Furnishing false information relating to accounts;
    - ii. Conceal/disguise/convert/transfer/removed criminal property.
  2. By reason of his conduct at 1 above, David Pape is liable to disciplinary action pursuant to byelaw 8(a)(ix).
  3. On 12 September 2019, David Pape was disqualified from holding the position of a director for a period of ten years.
  4. By reason of his conduct at 3 above, David Pape is guilty of misconduct pursuant to byelaw 8(a)(i).
5. Mr Pape became an ACCA member on 15 September 2000. Mr Pape held a general practising certificate from 11 February 2005 to February 2016. During this period he was in practice as D J Pape Associates Ltd.

6. On 23 July 2019, Mr Pape was tried and convicted on indictment at Manchester (Crown Square) Crown Court on two counts as follows,
  - i. 'Furnishing false information relating to accounts'
  - ii. 'Conceal/disguise/convert/transfer/removed criminal property'.
7. A copy of the Certificate of Conviction recording the above was provided to the Committee.
8. Shortly after his conviction ACCA received an email dated 31 July 2019 from Greater Manchester Police which provided particulars of the first offence, namely between 01 of April 2007 and the 31 December 2008, Mr Pape dishonestly and with a view to gain for himself or another, or with intent to cause loss to another, furnished false information by providing a reference and making accounting records dated 2005 to 2008 for Ms LB trading as "Interiors by Louise", made or required for an accounting purpose, which he knew was or might be misleading, false or deceptive in a material particular, in that it purported to be an accurate record of LB's year-end accounts trading as "Interiors by Louise".
9. In respect of the second offence, between the 20th day of January 2009 and the 24th day of February 2015, together with RM concealed, disguised, converted or transferred criminal property, namely monies, through CFRE (UK) Ltd.
10. The Certificate of Conviction goes on to state that on 12 September 2019 Mr Pape was sentenced to '*18 months' imprisonment*' for the first count and '*5 years imprisonment consecutive*' for the second count with therefore a '*Total sentence of 6 years and 6 months imprisonment*'.
11. Regarding Mr Pape, the sentencing remarks of the judge state, '*During the course of this trial you sought to present yourself as being a respected, respectable, committed and hardworking man, controlling at times (but one who loved his profession) fighting hard for his clients, someone who was deserving of and held a position as a respected member of a local business community in Glossop. The evidence given at trial, combined with the jury's verdicts,*

*demonstrate that this picture of respectability was a false one. It shows you to be have been wholly dishonest and manipulative, both with regards to the evidence and, more particularly, with the way in which you managed your accounting practice in the years covered by the indictment. You believed, with some degree of brazen arrogance, that you could confound and confuse the two juries who have tried you, but you could not. ... .. You had no regard to [the Code of Ethics and Standards of your association] as you conducted your accountancy practice in what I find to be a wholly dishonest fashion. Putting the criminal financial interests of your clients and yourself first and the public interest last, thereby bringing the profession that you claimed to hold so dear into disrepute.”*

12. In respect of the second offence, the judge went on to say *“You sought to prop up or finance the business with money from your accountancy practice. You also sought out external investors. Of those individuals who put money into the company, some were honest and genuine investors, persuaded by you as to the value of their investments, promising, as you did, significant levels of return, but you also sought out two criminals, also clients of yours, who placed money at different times into CFRE. Each receiving, seemingly, disproportionate high rates of return for the value of their investments or the almost immediate return of money ostensibly lent to CFRE. ... .. The two criminals to whom I have referred were Mr H and Mr B. You sought to disguise their involvement in CFRE by a variety of means, making bogus payments that were said to be wages when neither was, in truth, employed by CFRE in any recognised sense. By transferring shares to Mr. B at what an inflated price when contrasted with the share purchases purchased by others and which itself was not justified by the true underlying financial state of the company; making payments that were stated to be dividend payments when such payments were both irregular and unjustified by the fact that there were, in truth, no retained profits from which to lawfully make such payments At all times, and relevant times, the company was, in reality, operating insolvently.”*
13. The sentencing remarks state that Mr H invested two amounts of £15,000 in to CFRE and that there was *‘no evidence of any real money laundering checks having been undertaken’ and that the ‘payments to Mr H ... .. amounted to an equivalent of almost seventy per cent return on a £30,000 investment.’*

14. In relation to Mr B, the judge stated, *“As far as Mr. B is concerned, there is and was no issue that the money that he introduced to CFRE amounted to the proceeds of his criminal activity, constituting thereby criminal property. As far as the amounts involved were concerned, between December 2011 and August 2012 he paid a total of £251,590 by various means, including faux payments made via D. J. Pape, your accountancy practice, into CFRE. In return for that forty-five shares were transferred to him in November 2012. Of that sum that I have identified, it was £188,000, or thereabouts, that was channelled through your practice. In addition to this sum, Mr. B, through his own limited property companies, also lent to CFRE a series of short-term loans, totalling £125,000, between July 2012 and February 2013. Those loans, effectively, being repaid almost immediately. The limited benefit to CFRE would have been just that, limited, but the value to Mr. B would have been money that he held going through one area, through his own property company, again through another, and being repaid to him. ... .. the money laundering activity overall was indeed undertaken over a sustained period of time between 2009 and early 2013.*
  
15. The Judge went on to say *“The fact that it was as an accountant you came to know Mr. H, Mr. B, as an accountant that you were aware of their true financial position, and as an accountant that you used those devices to disguise the money laundering operation that you were undertaking. A good deal of money itself also being transferred and channelled through your accountancy practice. It is difficult, if not impossible, to distinguish your position as an accountant and as a shadow director of CFRE, those roles, effectively, being run interchangeably one with the other. The abuse of your position as an accountant is itself an aggravating feature ... ..As far as further ancillary orders are concerned, I am satisfied that you managed and abused your position as a director, not only in your accounting practice, but also in CFRE where you were effectively the shadow director and that, in turn, in my view, warrants your disqualification from holding office as a director and I impose a disqualification which, in my view is appropriate, which is a period of ten-years running from today...”.*

## DECISION ON FACTS/ALLEGATION(S) AND REASONS

16.

1. On 23 July 2019, David Pape was convicted of the following offences at Manchester (Crown Square) Crown Court which are discreditable to the Association and the accountancy profession:

i. Furnishing false information relating to accounts **FOUND PROVED**;

ii. Conceal/disguise/convert/transfer/removed criminal property **FOUND PROVED**

2. By reason of his conduct at 1 above, David Pape is liable to disciplinary action pursuant to byelaw 8(a)(ix). **FOUND PROVED**

3. On 12 September 2019, David Pape was disqualified from holding the position of a director for a period of ten years. **FOUND PROVED**

4. By reason of his conduct at 3 above, David Pape is guilty of misconduct pursuant to byelaw 8(a)(i). **FOUND PROVED**

17. The Committee was satisfied from the Certificate of Conviction that Mr Pape has been convicted of two dishonesty related offences. The first offence was for furnishing false information relating to the accounts of a client's business between April 2007 and December 2008. The second offence, as described in the indictment and as referred by the judge in his sentencing remarks, related to money laundering between 2009 and 2013. Both offences were found by the Court to have been connected to his accountancy practice. Mr Pape did not admit the charges against him and was found guilty following a nine-week trial.

18. In his sentencing remarks, the Judge made reference to the Code of Ethics that '*any accountant is expected to and must practice*' and found Mr Pape had '*no regard for those standards*' and that he conducted his accountancy practice in '*a wholly dishonest fashion*'.

19. In particular, the Judge stated *'Putting the criminal financial interests of your clients and yourself first and the public interest last, thereby bringing the profession that you claimed to hold so dear into disrepute'*.
20. In relation to Allegations 1 and 2, the Committee was satisfied that Mr Pape is liable to disciplinary action under byelaw 8(a)(ix) as he has been found guilty of two offences, both of which, separately or combined, are self-evidently discreditable to him and the accountancy profession. The Certificate of Conviction was provided to the Committee. As a direct result of the facts which led to his conviction, the judge disqualified Mr Pape as a director for ten years. This related not only to his being found to have acted as a 'shadow director' of CFRE which facilitated money laundering but also his conduct as director of his accountancy practice. These are serious offences and related to his work as an accountant.
21. In respect of Allegation 3, the Committee noted the Judge's sentencing remarks that Mr Pape be disqualified as a Director for 10 years and accordingly the Committee found this proved.
22. Accordingly, in respect of Allegation 4, the Committee is satisfied that having been disqualified as a director in such circumstances, a finding of misconduct pursuant to byelaw 8(a)(i) must follow as his actions would rightly and self-evidently be regarded as deplorable by members of the public and the profession. The disqualification was in the context of having been convicted of serious offences of dishonesty in Mr Pape's work as an accountant.

## **SANCTION**

23. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted his advice that any sanction must be proportionate, and it should consider the least restrictive sanction first and move upwards only if it would be proportionate to do so.
24. The Committee balanced Mr Pape's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper

standards of conduct and performance. The issue of sanction was for the Committee exercising its own professional judgement.

25. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee considered the following to be aggravating features:
  - The serious nature of the convictions inextricably linked to the abuse of trust of his professional position as an accountant
  - Mr Pape' failure to report to the ACCA that he was criminal investigation at an early stage
26. In terms of mitigating factors, the Committee considered the following factors:
  - No previous regulatory or disciplinary matters
27. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of Mr Pape's misconduct and would undermine confidence in the profession and in ACCA as regulator.
28. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.
29. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment or Reprimand, but the Committee decided that the misconduct found was too serious and that public confidence in the profession and in the regulator would be undermined if any such orders were made.
30. The Committee then went on to consider whether a Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Severe Reprimand would not be the proportionate sanction because it was misconduct of a particularly serious nature.
31. In the circumstances, the Committee determined that the only appropriate and proportionate sanction would be one of Exclusion from membership for the



maximum period of 5 years. The dishonesty underpinning the allegations was serious and the Committee determined that anything less than the maximum period would be disproportionate. The nature of the dishonest conduct was fundamentally incompatible with continued membership of ACCA. The Committee was in no doubt that any lesser sanction would undermine public confidence in the profession and in ACCA as its regulator.

32. The Committee further decided that were Mr Pape to reapply for readmission to the ACCA after the expiration of the maximum period his case be referred to the Admissions and Licensing Committee.

### **COSTS AND REASONS**

33. ACCA claimed costs of £5,299.50 which comprised the costs of the investigation and the matters as highlighted by Ms Terry in respect of the history of the matter. These cover the costs of investigation, preparation and the presentation of the case as well as the costs of the Committee Officer and of today's hearing. The Committee noted the Costs Schedule was sent to Mr Pape in advance of the hearing, but he has not responded. The Committee had regard to the Guidance of Costs document.
34. The Committee decided that it was appropriate to reduce costs to the sum of £4,400 to reflect the fact that hearing concluded in less time than anticipated.

### **EFFECTIVE DATE OF ORDER**

35. The Committee decided that the order would be effective immediately.

**Mr Andrew Gell**  
**Chair**  
**09 November 2020**