

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTRED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Conor Patrick Gavin

Heard on: Thursday, 22 August 2019
Thursday, 14 November 2019
Tuesday, 03 March 2020

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

Committee: HH Suzan Matthews QC (Chair)
Mrs Joanne Royden-Turner (Accountant)
Mr Garrett O'Reilly (Lay)

Legal Adviser: Mr Richard Ferry-Swainson (22 August 2019)
Ms Judith Chrystie (14 November 2019 and 3 March 2020)

Persons present

and capacity: Ms Sarah Cawley-Wilkinson (ACCA Case Presenter – 22
August 2019 and 14 November 2019)
Mr George Wills (ACCA Case Presenter – 03 March 2020)
Miss Rachael Davies (Hearings Officer – 22 August 2019 and
03 March 2020)
Ms Anna Packowska (Hearing Officer – 14 November 2019)

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Observers: Ms Jackie Alexander, (Trainee Panel Member - 14 November 2019)

Summary: Facts admitted and found proved;
Dishonesty found proved;
Guilty of misconduct;
Member severely reprimanded;

Costs: Cost order in the sum of £5,000.

PRELIMINARY AND OTHER APPLICATIONS

Hearing to be partly in private

1. At the outset of the hearing the Chair indicated that any references to Mr Gavin's health would be dealt with in private session, in accordance with Regulation 11(1)(a) of the Complaints and Disciplinary Regulations 2014 (as amended) ('the Regulations').

Application to adjourn

2. At the conclusion of the fact-finding stage on 22 August 2019 (but before the Committee had announced its decision), the Case Presenter made an application to adjourn the case. She said that on checking the records, it appeared that Mr Gavin did not hold a practising certificate with audit qualification at the relevant time. She explained that if this was the case, it would impact upon the validity of Allegations 1 and 2 and she requested an adjournment for that matter to be properly investigated.
3. Mr Gavin was firmly of the view that he held an audit certificate at the relevant time. He supported the application to adjourn for this matter to be properly investigated, and the position confirmed.
4. The Committee agreed that the most appropriate way forward was to adjourn the matter in order to fully ascertain the position with regard to the audit certificate, and therefore the validity of Allegations 1 and 2. The Committee emphasised the importance to this matter being resumed as soon as practicable, and very much took into account the additional stress and uncertainty caused to Mr Gavin as a result.

Committee directions

5. Prior to the adjournment of the case on 22 August 2019, the Committee made the following directions:

- a. The case is adjourned part heard for further investigations;
 - b. Mr Gavin, ACCA and the Committee to provide their availability within 24 hours;
 - c. Any additional evidence to be served on Mr Gavin and the Committee within 5 weeks;
 - d. A resumed hearing to be listed at the first available date after five weeks;
 - e. If more time is needed by either party then they have leave to apply for more time;
 - f. The matter to be listed for 1 day with no other matters to be listed on the same day.
6. The hearing resumed on 14 November 2019 but could not be completed as evidence was outstanding, and so the Committee issued the following directions:
- a. The case is adjourned part heard for further investigations.
 - b. Mr Gavin, ACCA and the Committee to provide dates that they are not be available between 1 January 2020 - 27 March 2020 (dates to avoid) by 21 November 2019.
 - c. Any additional evidence to be served by the parties by 31 December 2019.
 - d. A resumed hearing to be listed at the first available date in quarter 1 of 2020.

- e. The matter to be listed for 1 day with no other matters to be listed on the same day.

Application to amend

7. On 22 August 2019, Ms Cawley-Wilkinson made an application to amend Allegations 1 and 2. The Committee allowed the application. Details of the application and the decision are not set out in this document given that these allegations were subsequently withdrawn.
8. On 21 October 2019, ACCA made written applications to the Chair as follows:
 - a. Under Regulation 9(6) of the Regulations to withdraw Allegations 1 and 2 on the basis that: (i) there was no real prospect of a reasonable tribunal finding Allegations 1 and 2 proved in light of the evidence; and (ii) it was not in the public interest for the case to be heard by the Disciplinary Committee;
 - b. Under Regulation 10(5) of the Regulations to add a further allegation (Allegation 7).
9. In a written decision dated 29 October 2019, the Chair granted both applications.

ALLEGATIONS

10. The Committee considered the following allegations:

Allegation 1

Withdrawn

Allegation 2

Withdrawn

Allegation 3

Contrary to Global Practising Regulation 11(1)(a), Mr Conor Patrick Gavin failed to enter into a written agreement with another individual or firm making provision for the continuity of his practice in the event of his death or incapacity.

Allegation 4

Contrary to Global Practising Regulation 14(3), Mr Conor Patrick Gavin failed to co-operate with the Association's monitoring and process in that he failed to provide any or all of the information requested by the Senior Compliance Officer in correspondence dated:

- i. 24 October 2016;
- ii. 12 December 2016;
- iii. 18 January 2018.

Allegation 5

Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Conor Patrick Gavin failed to co-operate fully with the investigation of a complaint in that he failed to provide any or all of the information requested by an investigation officer in correspondence dated:

- i. 6 June 2018;
- ii. 27 June 2018;
- iii. 18 July 2018;
- iv. 18 October 2018

Allegation 6

By reason of his conduct in respect of any or all of the matters set out at Allegations 1 to 5 above, Mr Conor Patrick Gavin is:

- a. Guilty of misconduct pursuant to bye-law 8(a)(i); or
- b. Liable to disciplinary action pursuant to bye-law 8 (a)(iii).

Allegation 7 (further allegation following ACCA's application on 21 October 2019)

It is alleged that Mr Conor Patrick Gavin breached Global Practising Regulations (as applicable in 2015) by virtue of not holding a practising certificate with audit qualification with regards any or all of the following:

- a. He signed audit reports for the clients in Schedule A contrary to Paragraph 3(1)(a) of the Global Practice Regulations (as applicable in 2015);
- b. Between 13 June 2013 and 24 August 2014 he was sole proprietor of Firm A where public practice was carried out contrary to Paragraph 3(2)(a) of the Global Practice Regulations (as applicable in 2013 to 2015);
- c. Mr Gavin's conduct as set out in paragraph 7(a) above was:
 - i. Dishonest in that he knew at the time he signed the audit reports set out in Schedule A that he did not have a practising certificate with audit qualification; or in the alternative;
 - ii. Contrary to the Fundamental Principle of Integrity, as applicable in 2015 to 2016, in that such conduct

demonstrates a failure to be straightforward and honest.

- d. By reason of his conduct, as set out at paragraphs 7(a), 7(b) and/or 7(c) above, Mr Conor Patrick Gavin is:
- i. Guilty of misconduct pursuant to bye-law 8(a)(i); or
 - ii. Liable to disciplinary action pursuant to bye-law 8(a)(iii).

Schedule A

Company	Date audit report signed
Company A	6 May 2015
Company B	26 June 2015
Company C	6 July 2015
Company D	15 July 2015

11. Through his Case Management Form dated 20 August 2019 and during the hearing, Mr Gavin made admissions to factual Allegations 3, 4, 5, 7(a) and 7(b). The Chair announced that these facts were therefore found proved in accordance with Regulation 12(3) of the Regulations.

BRIEF BACKGROUND and SUBMISSIONS

Papers

12. On 22 August 2019, 14 November 2019 and 3 March 2020, Mr Gavin attended by telephone and represented himself.
13. On 22 August 2019, the Committee had the following papers:

- a. Main bundle, with pages numbered 1 to 167;
 - b. Additional Bundle 1, with pages numbered 1 to 9;
 - c. Tabled Additional (2), with pages numbered 1 to 29;
 - d. Tabled Additional (3), with pages numbered 1 to 6 (cost schedule);
 - e. Service Bundle, with pages numbered 1 to 27;
 - f. Tabled Service Bundle, with pages numbered 1 to 8;
 - g. Service Bundle for a previous hearing on 13 June 2019, when the matter was adjourned, with pages numbered 1 to 14.
14. On 14 November 2019, the Committee had the following additional papers:
- a. Transcript of the hearing on 22 August 2019;
 - b. Additional Bundle (1), with pages numbered 1-120;
 - c. Tabled Additional (4), with pages numbered 1-14;
 - d. Tabled Additional (5), with pages numbered 1- 4;
 - e. Service Bundle, with pages numbered 1-10, and additional tabled page number 11.
15. On 3 March 2020, the Committee had the following additional papers:
- a. Transcript of hearing on 14 November 2019 (both in public and private hearings sessions);
 - b. Tabled Additional (6), with pages numbered 1-20;
 - c. Service Bundle, with pages numbered 1 to 16.

History of Mr Gavin's Practising Certificate and Firm's Audit Certificate

16. Mr. Gavin became a member of ACCA on 10 February 1994, and a Fellow on 10 February 1999.
17. Mr Gavin is the Sole Proprietor of Conor Gavin and Co ('the Firm').
18. ACCA's records of Mr Gavin's history of holding a practising certificate (PC) and the nature of the PC is set out below:

Date from	Date to	Description
5 February 1997	7 May 2003	(PC with audit qualification (PC (A)) (UK and Ireland)
8 May 2003	1 November 2010	None
2 November 2010	15 July 2011	(PC (A)) (Ireland)
16 July 2011	28 August 2011	None
29 August 2011	12 June 2013	(PC (A)) (Ireland)
13 June 2013	24 August 2014	None
25 August 2014	5 August 2015	PC general (G) (Ireland)
5 August 2015	27 April 2017	PC (A) (Ireland only)
28 April 2017	24 May 2017	None
25 May 2017	To date	PC (G) (Ireland)

19. ACCA's records show that the Firm held a Firm's Audit Certificate (FAC) for Ireland to and from the dates set out below:

Date from	Date to
16/05/2016	27/04/2017
26/11/2015	31/12/2015
18/08/2015	31/12/2014
05/08/2015	31/12/2014
16/05/2012	12/06/2013
02/11/2010	31/12/2011

20. ACCA were unable to explain why the dates set out in paragraph 19 – which were taken from ACCA's electronic system – were inconsistent, and why the FAC was shown as issued three times in 2015 with an expiry date of 31 December 2014. These dates made no sense to the Committee. A witness statement was obtained from an Authorisation Team Leader in ACCA's Authorisation Department - the department with responsibility for administering ACCA's regulatory arrangements for the issue of practising certificates and licences to members undertaking public practise. The Authorisation Team Leader had dealt with Mr Gavin's matter in the

past, in his previous role an Authorisation Officer, but in reviewing his archive, was unable “*to shed any light on the issue with the dates for the firm’s auditing certificate*”.

21. On 23 April 2015, Mr Gavin applied for an FAC. The application form stated that the Firm had no audit clients. The FAC could not be processed until Mr Gavin resumed holding the PC(A). On 26 June 2015, Mr Gavin submitted his PC(A) application.
22. On 28 July 2015, Mr Gavin sent ACCA’s Assessing Officer an email enquiring about the courses he was required to attend to be eligible for a PC(A).
23. On 30 July 2015, Mr Gavin sent emails to the Assessing Officer seeking a decision on his PC(A) application, and advising that he required the PC(A) as a matter of urgency, as he had to file audited accounts to the Companies Registration Office (CRO).
24. On 03 August 2015, the Head of Licensing granted Mr Gavin a PC(A).

Audit Reports

25. ACCA submitted that:
 - a. Mr Gavin required a PC(A) to sign the audits, and to undertake audit work without a PC(A) was a breach of the Global Practising Regulations (GPR);
 - b. Mr Gavin’s correspondence with ACCA in June and July 2015 demonstrated that Mr Gavin was aware of the requirements to have a PC(A);
 - c. Regulation 3(2)(a) of the GPR required Mr Gavin to hold a PC(A) as the sole proprietor of a firm that, by the very nature of the work it undertook and the nature of its business, was a public practice firm.

26. Mr Gavin signed audit reports for four companies as set out below:

- a. Company A - 6 May 2015;
- b. Company B - 26 June 2015;
- c. Company C - 6 July 2015;
- d. Company D - 15 July 2015.

27. In an email dated 27 September 2019, Mr Gavin stated that at the time he signed and submitted the audits in schedule A, he:

- a. Had a specific Auditor Registration Number (ARN) which had to be included on the B1 Annual Returns which accompanied the audit report within the abridged accounts;
- b. Was registered with the Public Register of Auditors which is held by the CRO, and would not have been able to file Abridged Accounts and B1 Annual Returns with the CRO without this ARN number.

28. ACCA submitted that the 7 digits in the ARN were the firm's number with ACCA, however this has been handwritten onto the B1 forms and did not prove that Mr Gavin was entitled to act as auditor.

29. In his evidence at the hearing, Mr Gavin admitted that he signed the audit reports but said that had retained them in his filing cabinet until he had his PC(A);

30. The audits were date stamped as being received by the CRO on:

- a. Company A - 11 [illegible] 2015;
- b. Company B - 16 December 2015;

c. Company C - 22 October 2015;

d. Company D - 22 October 2015.

31. ACCA argued that for the purposes of Allegation 7(1) it did not matter that the audits were not made public, the issue was whether they were signed at a time that he did not hold a practicing certificate. ACCA submitted that signing audits whilst being fully aware that he did not hold a PC(A) entitling him to do so was, arguably, one of the most serious things of which an ACCA auditor can be accused.

32. ACCA submitted that Mr Gavin's conduct was dishonest in that:

a. In his application for an FAC, submitted on 23 April 2015, he stated that the Firm had no audit clients, yet two weeks after this date he signed the audit report for Company A;

b. Submitted the application for a PC one day after signing the audit report for Company B;

c. He had signed four audit reports despite knowing that he was not entitled to do so.

33. Mr Gavin denied that he was dishonest. He stated that he would not describe his behaviour as dishonesty but rather as incompetent or inefficient. He advised that the audits were signed in error, but they were not made public until they were filed with the accounts at CRO; he had the PC(A) at the time the accounts were filed and until that point, the audit reports were retained in his filing cabinet.

[PARAGRAPHS 34-35 HEARD IN PRIVATE]

Co-operating with Monitoring Process

36. ACCA submitted that Regulation 11(1) of the GPR required the holder of a PC to enter into (and keep in force) a written agreement with another individual or firm, in relation to the responsibility for the PC holder's firm, in the event of the PC's death or incapacity.
37. On 28 September 2016, ACCA's Senior Compliance Officer (SCO) conducted a monitoring visit. During the visit, it was identified that Mr Gavin's continuity arrangement with another firm of accountants was not in writing. Mr Gavin told her that he was in the process of getting a written agreement.
38. On 24 October 2016, the SCO sent Mr Gavin a copy of her monitoring visit report and, in a covering letter, asked Mr Gavin to send her a copy of the signed written agreement as soon as possible.
39. On 25 November 2016, Mr Gavin emailed the SCO to advise that he had not been well.
40. On 12 December 2016, the SCO emailed Mr Gavin advising him that he needed to respond to her draft report.
41. On 16 December 2016, Mr Gavin emailed to apologise for the delay and to advise that he would respond to the report in the following week. However, no such response was received.
42. On 18 January 2018, the SCO sent a letter to Mr Gavin to advise that a failure to provide the outstanding information by 31 January 2018 may result in the matters being referred for investigation. No communication was received from Mr Gavin and so, on 24 April 2018, the SCO referred Mr Gavin for investigation.

43. On 20 August 2019, Mr Gavin signed a completed Case Management Form in which he admitted that the written continuity of practice was not in place at the time of the monitoring visit due, he said, to human error on his part.

Co-operating with investigation process

44. On 15 May 2018, ACCA's Senior Investigations Officer (SIO) wrote to Mr Gavin enclosing a copy of the referral and the concerns about his conduct. The SIO asked Mr Gavin whether he had received the SCO's letter, dated 24 October 2016, and pointed out his failure to provide, among other matters, the signed copy of the Firm's written continuity agreement.

45. On 05 June 2018, Mr Gavin wrote to the SIO and confirmed that he had received the requests to supply information and documents from the SCO, but did not supply them because his PC(A) was withdrawn in March 2017 and, because he was no longer able to undertake audit work, he *"mistakenly thought there was no requirement to furnish the information."* In the same letter he stated:

- a. He was disappointed and embarrassed at losing his audit practising certificate and wanted to put the whole episode behind him;
- b. He renewed the PC on 31 March 2017 with [Firm B] as the continuity practice provider;
- c. He did not receive SCO's letter dated 18 January 2018;
- d. He agreed that was a strong public interest in ACCA completing its monitoring process efficiently;
- e. He apologised for not providing the SCO with information and accepted this was likely to bring discredit to him, his firm, to ACCA and the accountancy profession, but would not knowingly do so.

46. On 06 June 2018, the SIO wrote to Mr Gavin asking for the Firm's continuity agreement to be provided (among other matters). Chasing correspondence was sent on 27 June 2018 and 18 July 2018.
47. On 18 October 2018, having received no response from Mr Gavin, the SIO wrote to inform Mr Gavin that he would raise an allegation of failure to co-operate fully with an investigation. In addition, he asked Mr Gavin send a copy of his file and working papers for Company A, in respect of the year ended 30 April 2015, by 25 October 2018 at the latest.
48. On 26 October 2018, Mr Gavin emailed the SIO to advise that he would arrange to forward working papers/file for Company A "*early next week.*" No working papers or file from Company A were provided.
49. On 11 December 2018, the SIO wrote again to Mr Gavin, pointing out that he had not received the working papers/file for Company A.
50. During his evidence at the hearing, Mr Gavin accepted he had still not provided ACCA with a copy of his written continuity agreement, saying it was only a matter of forwarding it. He also accepted he had not provided his working papers or file on Company A, notwithstanding his earlier assertion that he would provide them. When asked by the Chair why he had not provided them, Mr Gavin said he did not honestly know. He said the auditing part of his business had gone, and in his head it was "*over.*"

DECISION ON FACTS/ALLEGATION(S) AND REASONS

51. Mr Gavin admitted the factual allegations at Allegations 3, 4, 5, 7(a) and 7(b). In accordance with Regulation 12(3) of the Regulations, the Chair announced that these allegations were found proved. Mr Gavin admitted Allegation 6(b) but ACCA proceeded on Allegation 6(a).
52. The Committee considered whether Allegation 7(c)(i) was proved, namely, whether ACCA had established, on the balance of probabilities, that Mr Gavin

was dishonest when he signed the audit reports for four companies without holding a practising certificate with audit qualification, and by being the sole proprietor of the Firm where public practice was carried out, contrary to the GPR. Mr Gavin had denied his conduct was dishonest.

53. The Committee applied the two-stage test set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 to determine whether Mr Gavin had been dishonest.

54. The Committee first ascertained the actual state of Mr Gavin's knowledge or belief as to the facts. The Committee recognised that Mr Gavin's knowledge or belief did not need to be reasonable but must be genuinely held. However, the Committee also appreciated that the reasonableness of Mr Gavin's purported state of knowledge and belief was something that it could consider in weighing and ascertaining his actual state of knowledge or belief.

55. The Committee found from the evidence, and it was admitted by Mr Gavin, that he signed the audit reports at a time he did not hold a PC(A). Mr Gavin said that the accounts were retained in his filing cabinet and not submitted until after he had received his PC(A). This is corroborated by the date receipts on the accounts. However, the Committee considered that that date the accounts were submitted was not the key issue; the crucial and critical point was when the audit reports were signed. The fact that Mr Gavin was applying, and chasing, for a PC(A), and keenly undertaking the courses necessary to obtain the certificate, demonstrated to the Committee that Mr Gavin was fully aware that the practising certificate was essential for him to conduct audit work.

56. The Committee recognised that at the time the audit reports were signed, Mr Gavin had significant health issues. However, notwithstanding Mr Gavin's submission to the contrary, the Committee was satisfied that his conduct in applying for, and continuing to pursue, a PC(A) plainly demonstrate that he was aware that an auditor should not sign an audit report without a holding a PC(A), and that his firm should not conduct public practice work without the necessary certificates being in place.

57. Having established Mr Gavin's knowledge and belief as to the facts, the Committee considered the objective limb of the test for dishonesty, namely, whether his conduct, by reference to that knowledge and belief, was honest or dishonest by the standards of ordinary people. The Committee considered that an ordinary honest and decent member of the public would regard Mr Gavin's conduct in knowingly: (i) signing four audit reports when he knew he was not entitled to do so; and (ii) allowing his firm to undertake public practice work when it was not permitted to do so, as dishonest. Therefore, the Committee found Allegation 7(c)(i) proved. Having done so, the Committee did not consider Allegation 7(c)(ii), which was pleaded in the alternative.
58. The Committee considered Allegation 6(a) and whether the allegations admitted and found proved at Allegations 3, 4 and 5 amounted to misconduct. It judged that, collectively, the conduct was so serious as to amount to misconduct. There was a fundamental expectation that a member of a professional regulatory body would comply with the membership rules and co-operate fully with the body. Mr Gavin, as a member of ACCA, failed to comply with ACCA's rules and failed to co-operate with ACCA's proper monitoring, compliance and disciplinary process. The Committee judged that these professional failings cumulatively amounted to a serious falling short of the standards expected, and that Mr Gavin was guilty of misconduct.
59. Having found Allegation 6(a) proved, the Committee did not consider Allegation 6(b), which was pleaded in the alternative, and which Mr Gavin had admitted.
60. The Committee considered Allegation 7(d)(i). It was satisfied that a finding that an accountant had been dishonest in a professional regard was conduct that fell seriously short of the standards of behaviour expected of a professional and a member of ACCA. This was plainly discreditable and deplorable conduct. The Committee therefore found Allegation 7(d)(i) established. Having done so, the Committee did not consider Allegation 7(d)(ii), which was pleaded in the alternative.

61. In considering the two allegations of misconduct, the Committee recognised that matters of personal mitigation could not downgrade what would otherwise amount to misconduct to some lesser form of conduct.

SANCTIONS AND REASONS

62. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').

63. The Committee considered the mitigation in the case. It was advised that there was no disciplinary history; Mr Gavin had a previous good record having been a student or member of ACCA for over 25 years. The Committee acknowledged that Mr Gavin had engaged in its proceedings, had some – albeit incomplete and limited - insight into the consequence of his conduct, and had apologised to ACCA.

64. Further, the Committee recognised that Mr Gavin had made some partial admissions regarding a number of the facts alleged and had admitted he had made professional errors of judgement. However, Mr Gavin had consistently denied he had been dishonest, which was the most serious allegation that the Committee had found proved.

65. The Committee considered that the significance and severity of Mr Gavin's conduct required the imposition of a sanction in the public interest and that, further, it would be wholly inappropriate and insufficient to conclude this matter with an admonishment or a reprimand. Having carefully considered the specific terms of the Guidance, the Committee was satisfied that these sanctions would not adequately reflect the gravity of the misconduct, which involved both professional failings and dishonest conduct in a professional respect.

66. The Committee carefully considered whether it would be sufficient to conclude the matter with a severe reprimand. It was mindful that a finding of dishonesty

was one that would generally lead to exclusion from membership. Honesty and a high degree of probity were fundamental tenets of the accountancy profession; they justified the trust that the public expect to place in an accountant and ACCA member. Paragraph E2.3 of ACCA's Guidance for Disciplinary Sanctions specifically flagged that these issues should be borne in mind by the Committee, in considering whether any mitigation presented by the member was so remarkable or exceptional that it warranted an order other than exclusion from membership.

67. The Committee recognised that in many other cases the misconduct of which Mr Gavin was guilty could be considered incompatible with him remaining a member of ACCA. However, it concluded that the mitigation in this case was significant and exceptional. The dishonesty was for a limited time and coincided with a period of intense and significant ill health, which was substantiated by independent medical evidence. The Committee regarded the personal health mitigation in the case as exceptional, and distinctive to this particular case. This health mitigation, combined with Mr Gavin's previous good record for over 25 years, his genuine remorse and apology, the fact there has been no actual or adverse impact on clients to the knowledge of the Committee, nor an abuse of trust and position, his engagement at the hearing and partial insight, were such that the Committee determined that it would be sufficient to conclude this matter in the public interest with a severe reprimand.

68. The Committee was satisfied that a severe reprimand would proportionately reflect the context of the dishonesty and the fact that Mr Gavin had seriously departed from the professional standards expected of him.

COSTS AND REASONS

69. ACCA claimed costs in the sum of £11,411.00. These were the costs submitted by ACCA at the hearing on 22 August 2019 and ACCA chose not to make a further claim for the costs incurred after this date.

70. In 2019, Mr Gavin provided a statement of financial position, which set out his income and expenditure and his assets. No independent evidence was provided to corroborate the statement. However, there was nothing to dispute the veracity of the figures. During the hearing on 03 March 2020, Mr Gavin advised that he currently had additional expenditure [REDACTED].

71. The Committee considered that this was a difficult case. ACCA's handling of the case was not as efficient or as effective as the Committee would have expected. In determining the appropriate order for costs, the Committee noted that Mr Gavin had not disputed the costs. However, he argued that he could not pay the sums claimed by ACCA. He called the sum "overwhelming" and said that he was not able to contemplate financing such a figure given the small size of his business and his lack of assets other than his home.

72. The Committee considered that other ACCA members should not be penalised by having to fund the costs of a hearing necessitated by Mr Gavin's dishonest and unprofessional conduct. However, it was mindful of ACCA's conduct of the case, and that it could not impose a sum that would lead to undue hardship for Mr Gavin. Balancing these matters, the Committee ordered that Mr Gavin pay costs to ACCA in the sum of £5,000.

HH Suzan Matthews QC
Chair
03 March 2020