

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Olalekan A N Arowolo

Heard on: Tuesday, 13 April 2021

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

Committee: Ms Wendy Yeadon (Chair)
Mr Edward Weiss (Accountant)
Ms Sue Heads (Lay)

Legal Adviser: Mr Andrew Granville-Stafford

Persons present

and capacity: Mr Phillip Law (ACCA Case Presenter)
Ms Nkechi Onwuachi (Hearings Officer)

Observers: None

Summary Exclusion from membership
Allegation 1(b), 2(b) and 3(a) found proved

Costs: £6,000.00

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

INTRODUCTION AND PRELIMINARY MATTERS

1. The Disciplinary Committee of ACCA (*the Committee*) convened to consider a report concerning Mr Olalaken Arowolo.
2. The Committee had before it a bundle of documents (pages 1 to 118), and a service bundle (pages 1 to 14).
3. In this decision the *'Chartered Certified Accountants'* Membership Regulations are referred to as *'MR'* and the *'Chartered Certified Accountants'* Global Practising Regulations are referred to as *'GPR'*.

PROCEEDING IN ABSENCE

4. Mr Arowolo did not attend the hearing and was not represented.
5. Notice of today's hearing was sent by email to Mr Arowolo on 16 March 2021. The Committee was provided with a delivery receipt confirming the notice was delivered at 19:11 hours on 16 March 2021. No response has been received to the notice from Mr Arowolo. The Hearings Officer sent a further email to Mr Arowolo on 06 April 2021 asking him to confirm if he would be attending the hearing. Again, there has been no reply.
6. The Committee was informed that the Hearings Officer had made three attempts on the day before the hearing to telephone Mr Arowolo on his registered number but there had been no answer.
7. The Committee was satisfied that the requirements of Regulations 10(1) and 22(5) of the *'Chartered Certified Accountants'* Complaints and Disciplinary Regulations (*'CDR'*) as to service had been complied with.
8. Having satisfied itself that service had been effected in accordance with the regulations, the Committee went on to consider whether to proceed in the absence of Mr Arowolo. The Committee bore in mind that the discretion to do so must be exercised with the utmost care and caution.
9. The Committee had some concern that, although Mr Arowolo had engaged with the ACCA investigation up to April 2020, nothing had been heard from him

since then despite a number of attempts to contact him by both email and telephone. However, there was no evidence before the Committee upon which it could conclude that this was due to anything other than a deliberate decision on the part of Mr Arowolo not to engage.

10. There has been no request for an adjournment, and in the circumstances, the Committee considered that no useful purpose would be served by an adjournment. Given the public interest in dealing with this matter expeditiously, the Committee determined that the appropriate course was to proceed in Mr Arowolo's absence.

APPLICATION TO AMEND

11. Allegation 1 as set out in the notice of hearing alleged that Mr Arowolo had engaged in public practice '*On and after 01 December 2005*'.
12. At the outset of the hearing Mr Law on behalf of ACCA applied to amend this by substituting the word '*or*' for the word '*and*', so that the start of Allegation 1 would read '*On or after 01 December 2005*'.
13. Notice had been given to the Registrant the day before the hearing that ACCA intended to make this application at the hearing. Mr Law submitted that this was a minor amendment which would align Allegation 1 with Allegation 2.
14. CDR 10(5) allows the Committee at any stage, upon the application of either party or its own motion, to amend the allegations provided that the relevant person is not prejudiced in the conduct of his defence.
15. The Committee was satisfied that no prejudice would be caused to Mr Arowolo in permitting the amendment and that it was in the interest of justice to do so. Therefore, the Committee allowed Mr Law's application.

ALLEGATIONS AND BRIEF BACKGROUND

16. The allegations faced by Mr Arowolo, as amended, were as follows.

Allegations

Mr Olalekan A N Arowolo ("Mr Arowolo"), a registered affiliate member of the Association of Chartered Certified Accountants ('ACCA'):

1. On or after 01 December 2005, carried out public practice contrary to Membership Regulations:
 - a. 6(2)(b) and 8(2)(a) (effective 2005 to 2012);
 - b. 6(2)(b) and 8(2)(a)(ii) (effective 2013 to 2020).
2. On or after 01 December 2005 was a director of a firm where public practice has been carried on in the name of the firm, contrary to Membership Regulations:
 - a. 6(2)(b) and 8(2)(a) (effective 2005 to 2012);
 - b. 6(2)(b) and 8(2)(a)(iii) (effective 2013 to 2020).
3. By reason of any of his conduct in 1 and/or 2 above, Mr Arowolo 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).
17. Mr Arowolo became a student member of ACCA on 06 December 2005. On 08 August 2008, he was admitted as an affiliate of the Association. He has never held full membership of ACCA nor an ACCA practising certificate.
18. ACCA students and affiliates and are prohibited from engaging in public practice or holding themselves out as being in public practice (MR 6(2)(b) and MR 8(2)(a)). A member is not allowed to carry out public practice unless they hold a practising certificate (GPR 3).
19. Public practice is defined in GPR 4(1) as meaning:

- (a) Accepting an appointment as an auditor; and/or
 - (b) Signing or producing any accounts or report or certificate or tax return concerning any person's financial affairs, whether an individual sole-trader, an unincorporated body or a firm, in circumstances where reliance is likely to be placed on such accounts or report or certificate or tax return by any other person (the "third party"), or doing any other thing which may lead the third party to believe that the accounts or report or certificate or tax return concerning the financial affairs of such a person have been prepared, approved or reviewed by the practitioner; and/or
 - (c) Holding oneself or itself out, or allowing oneself or itself to be held out, as being available to undertake the activities referred to in (a) and (b) above (and allowing oneself to be known as a, or a firm of "*Chartered Certified Accountant(s)*", "*Certified Accountant(s)*", "*Chartered Accountant(s)*", "*Accountant(s)*" or "*Auditor(s)*" or any similar description or designation standing for any such description in the context of the practitioner's business shall be regarded as an example of such a holding out); and/or
 - (d) Holding oneself out, or allowing oneself to be held out, as a sole proprietor, partner or director of a firm, or designated member or member of a limited liability partnership, where public practice is carried on.'
20. Book-keeping services do not constitute public practice (GPR 4(2)). Book-keeping services are restricted to the recording of basic accounting data (MR 8(2)(b)).
21. On 01 April 2005, Mr Arowolo became registered at Companies House as a director of Nathan Arrow Limited.
22. On 07 November 2019, ACCA received a complaint from Ms A. Ms A said she had appointed Nathan Arrow Ltd as her accountant in May 2018 for financial advice, tax planning and accounting services. She said that, despite promises, Nathan Arrow Ltd had failed to send her a tax planning guide.
23. She said she had had a conversation with Mr Arowolo in August 2018 in which he said he would begin the process of applying for Maternity Allowance on her

behalf. She said that nothing was done in that regard by Mr Arowolo for 9 months. She alleged that due to Nathan Arrow Ltd's poor service she had lost her Maternity Allowance.

24. As a result of that complaint, ACCA wrote to Mr A on 20 January 2020, questioning whether he was carrying out public practice without an ACCA practising certificate.
25. Mr Arowolo replied on 09 February 2020 by letter sent by email saying as follows:
 - He was not aware of being in breach of any ACCA regulations, as he has never practised as an ACCA member, ACCA Practising License Holder or ACCA affiliate, despite already competing his ACCA exams as far back as 2008;
 - In accordance with the AAT (Association of Accounting Technicians) Licenced Accountant Practising Certificate he has held for over 12 years, he is authorised to engage in public practice in the following areas; accountancy, taxation and consultancy;
 - As a principal at Nathan Arrow Limited, he does not carry out audit work and has never carried out or conducted any audit work for any client. Whilst he is licensed to carry out Independent Examination and Limited Assurance Engagements by the AAT, from inception of the firm and to date, he does not have any Limited Assurance Clients or any client requiring Independent Examination service, neither has he conducted any audit work;
 - He confirms that he does prepare accounts for sole traders and small limited companies in accordance with his AAT Practising License for statutory purposes for Companies House and HMRC submissions both of which only require clients to sign;
 - He further confirms that from time to time, if required by loan or mortgage lenders, he signs Accountant's Certificates, in respect of accounts he has

prepared for his clients by lenders who have listed / recognised AAT Licensed Accountants;

- He also prepares Company Tax Returns and Personal Tax Returns for his clients, which again only requires his clients to sign to confirm they are in agreement to the data used for the preparation of the aforementioned documents;
 - Mr Arowolo has a Licensed Accountant with AAT Practising License and is registered with AAT for AML purposes;
 - He is up-to-date with his AAT CPD requirements;
 - His firm, Nathan Arrow Limited, has held Professional Indemnity Insurance throughout his involvement in public practice from inception to date;
 - To regularise his position, Mr Arowolo undertook to make an application for ACCA membership and an ACCA Practising Certificate concurrently within the following couple of weeks.
26. On 25 February 2020, an ACCA Investigator spoke to Mr Arowolo and discussed the options available to him to regularise his position. It was agreed that Mr Arowolo would apply for ACCA membership by 10 March 2020, then proceed to apply for his practising certificate.
27. No application having been received, chasing emails were sent by ACCA on 16 March, 23 March and 02 April 2020.
28. On 04 April 2020, Mr Arowolo emailed ACCA stating that he had not received the reminder emails. He said that he was looking into the prerequisite steps he needed to take before he could make an application for full membership and practising license online via my ACCA portal.
29. The Investigator called Mr Arowolo on the 06 April 2020 to discuss the content of his email but there was no answer. On 06 April 2020, the Investigator forwarded to Mr Arowolo a response from the ACCA's Member Support team outlining the process he needed to follow to complete his application.

30. On 30 April 2020, the Investigator called Mr Arowolo but again there was no answer. The same day, ACCA emailed Mr Arowolo seeking an update on his membership application.
31. A further reminder email was sent on 05 May 2020. Further calls were made to his telephone number on 12 May 2020 and 19 May 2020, which also went unanswered.
32. On 19 May 2020, the Investigator made enquiries with the Member Support team to find out whether Mr Arowolo had made a membership application. The Member Support team confirmed that he had not.
33. On 19 May 2020, ACCA emailed Mr Arowolo giving him a further chance to adopt one of the other options available to him if membership was not possible for him at this stage.
34. On 22 June 2020, the Investigator called Mr Arowolo for an update but there was no answer. On 22 June 2020, following an enquiry from the Investigator, the Member Support team confirmed that Mr Arowolo had not made a membership application.
35. On 22 June 2020, ACCA wrote to Mr Arowolo to notify him that a report of disciplinary allegations was being drafted.
36. In support of the allegations, ACCA relied on screenshots from the Nathan Arrow website, which included the following:

'We offer a complete accounting and taxation for small and medium sized businesses and this includes:

- *Annual company accounts*
- *Annual Company Tax Return*
- *Quarterly VAT returns*
- *Payroll administration*
- *Director personal tax return'*

37. The website offered services of a similar nature to contractors and freelancers, partnerships, charities and individuals.

DECISIONS ON ALLEGATIONS AND REASONS

38. The Committee considered the documents before it, the submissions of Mr Law on behalf of ACCA 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.

Allegation 1

39. The Committee first considered whether ACCA had proved that Mr Arowolo, as a registered affiliate member, had carried out public practice, as defined in GPR 4(1) on or after 01 December 2005.
40. The Committee noted the admissions made by Mr Arowolo in his letter to ACCA dated 09 February 2020. He said that in accordance with his AAT Practising Certificate he was *'authorised to engage in Public Practice in the following areas'*. He then provided a list of areas of work which included *'Accounts preparation for Statutory Purposes'* and *'Accounts Preparation for Sole Traders and Partnerships'*. The list also included various areas of work in relation to taxation, including *'Value Added Tax'*, *'Personal Income Tax'* and *'Corporation Tax'*.
41. He said in the letter he did not do audit work, but stated:

'Having said that, I can confirm that I do prepare accounts for sole traders and small Ltd Companies in accordance with my AAT Practising License for statutory purposes for Companies House and HMRC submissions both of which only require clients to sign.

I can further confirm that from time to time, if required by loan or mortgage lenders, I am required to sign Accountant's Certificates, in respect of accounts I have prepared for my clients by lenders who have listed / recognised AAT Licensed Accountants. I have attached a sample Accountant's Certificate for your perusal.

I can also confirm that I prepare Company Tax Return and Personal Tax Return for my clients, which again, only requires my clients to sign to confirm they are in agreement to the data used for the preparation of the aforementioned documents.'

42. In the letter Mr Arowolo set out his career background. He said that after completing his ACCA exams he had spent four years consolidating his experience:

'Before embarking on my sole practitioner journey with Nathan Arrow Limited as an AAT Licensed Accountant.

Over the last 10 years, I have since acquired my own clients and grew my accounting practice from 0 clients to 110 clients, with [Mr B], as my Continuity-in-Practice Professional Cover as required by AAT.'

43. Mr Arowolo described the staffing of his firm, with himself as Principal and with two members of staff studying for AAT qualification.
44. The Committee was also provided with evidence from Companies House showing that Mr Arowolo was both director and 100% shareholder of Nathan Arrow Ltd.
45. The Committee was satisfied on the basis of this evidence that Nathan Arrow Ltd had been and was engaging in public practice as defined by GPR 4(1)(b). It was further satisfied that Mr Arowolo had engaged in public practice by virtue of GPR 4(1)(d) in that he held himself out both as sole proprietor and director of a firm where public practice was carried on.
46. The Committee next considered Allegation 1(a), which required ACCA to prove that Mr Arowolo carried out public practice between 2005 and 2012, contrary to Regulations 6(2)(b) and 8(2)(a) of the Membership Regulations as then in force. For that to be the case, the Committee would need to be satisfied that there was evidence of public practice being carried on by Mr Arowolo between 2008, when he became a registered affiliate, and 2012.
47. The Committee noted that the complaint which prompted the investigation was made in 2019. The Complainant says she engaged Nathan Arrow Ltd in August

2018. The screenshots taken relied on by ACCA were taken after the investigation commenced in 2020. Mr Arowolo had made admissions about the work he was doing in his letter to ACCA dated 09 February 2020. However, that letter was written in the present tense and certainly did not constitute proof that he had been doing that work back in the period 2008 to 2012.

48. In the absence of evidence showing that Mr Arowolo had been engaged in public practice during any of the years from 2008 to 2012, Allegation 1(a) was found not proved.
49. The Committee next considered whether ACCA had proved that Mr Arowolo carried out public practice from 2013 and 2020, contrary to Regulations 6(2)(b) and 8(2)(a)(ii) of the Membership Regulations as then in force.
50. The Committee was satisfied, for the reasons set out at paragraphs 40 and 41 above, that Mr Arowolo had engaged in public practice at least in the latter part of this period.
51. This constitutes a breach of MR 6(2)(b) as in force from 2013 to 2020, as this regulation prohibits an affiliate from holding himself out as being in public practice. It also requires an affiliate to abide by the obligations which are imposed on students in MR 8, which also prohibits being in, or holding oneself out as being in, public practice.
52. Therefore, the Committee found Allegation 1(b) proved.

Allegation 2

53. The Committee first considered whether ACCA had proved Mr Arowolo was a director of a firm which carried out public practice, as defined in GPR 4(1), on or after 01 December 2005.
54. Firm is defined in ACCA as including a body corporate. Companies House documents showed that Mr Arowolo became a director of Nathan Arrow Ltd on 01 April 2005 and, as at the date of the printout on 20 January 2020, was the sole director of the company.

55. The Committee next considered whether ACCA had proved that the firm carried out public practice between 2005 and 2012, and therefore whether Mr Arowolo would be in breach of Regulations 6(2)(b) and 8(2)(a) of the Membership Regulations as then in force. For the same reasons as set out in paragraph 46 and 47 above, the Committee was not satisfied there was any proof that the firm was engaged in public practice in this period. Therefore, ACCA had not proved Allegation 2(a).
56. The Committee then considered Allegation 2(b). The Committee was satisfied that the firm had carried out public practice in the period 2013 to 2020 inclusive for the reasons set out in paragraph 40 and 41 above.
57. The Committee was further satisfied that as a director of a firm engaging in public practice, Mr Arowolo had been in breach of MR 6(2)(b) and 8(2)(a)(iii) as effective during that period.
58. The Committee, therefore, found Allegation 2(b) proved.

Allegation 3

59. Allegation 3(a) alleged that Mr Arowolo's was liable to disciplinary action under bye-law 8(a)(i). The Committee therefore had to consider whether the conduct found proved in Allegations 1(b) and 2(b) amounted to misconduct.
60. Bye-law 8(c) says that misconduct includes, but is not confined to, any act or omission which brings, or is likely to bring, discredit to the member, the Association or the accountancy profession. The Committee bore in mind that the conduct in question must be a serious departure from acceptable standards before a finding of misconduct can be made.
61. The Committee noted that Mr Arowolo's account, which was not disputed by ACCA, was that he had engaged in public practice pursuant to an AAT practising certificate, which he has held for the past 12 years. He also stated that his firm held professional indemnity insurance permitting it to engage in such practice.
62. Although the Committee had no evidence as to the requirements of an AAT Practising Certificate, it was prepared to accept that it would afford a measure

of protection to the public engaging Mr Arowolo's or his firm's services. However, Mr Arowolo had chosen to become an affiliate member of ACCA and therefore was bound to comply with ACCA's rules. The more important question therefore was whether Mr Arowolo had deliberately flouted those rules.

63. The Committee was prepared to accept that Mr Arowolo may have generally misunderstood whether he was permitted to engage in public practice prior to the complaint being made to ACCA by Ms A. However, once the ACCA investigation had commenced it had been made clear to him what his obligations were. Further, he had been informed what options were available to him to regularise the position. Though he had initially indicated that he would comply with his obligations, he had then ceased to engage with the Association and had failed to make an application for full membership.
64. In light of those facts, the Committee was satisfied that Mr Arowolo's conduct was a serious departure from the standards expected of an ACCA affiliate and amounted to misconduct.
65. It therefore found Allegation 3(a) proved.
66. As Allegation 3(b) was in the alternative, there was no need for the Committee to consider it.

SANCTION AND REASONS

67. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions 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.
68. Mr Law informed the Committee that no previous disciplinary findings had been made against Mr Arowolo. He also sought permission to put before the Committee screenshots taken from the Nathan Arrow website the day before the hearing. The Committee was satisfied that it was in the interests of justice to consider this material and allowed the application. The screenshots showed

that the firm was giving the following assurance to its customers or potential customers:

'Our accountants have a range of qualifications from the Association of Accounting Technicians (AAT), Association of Chartered Certified Accountants (ACCA) and Institute of Chartered Certified Accountants in England and Wales (ICAEW).'

69. The Committee considered the fact that Mr Arowolo's public practice was overseen by AAT was a mitigating factor, as was his previous good record.
70. However, there had been a prolonged failure to comply with ACCA's regulations in relation to public practice, which was clearly an aggravating factor. The Committee accepted Mr Law's submission that conduct of this nature is likely to undermine the trust that the public places in ACCA and its members. The Committee considered it was particularly significant that, although Mr Arowolo had initially engaged with the investigation, there had been a complete lack of co-operation since April 2020. Furthermore, he had failed to take the appropriate steps to remedy the situation. This, in the Committee's view, demonstrated a lack of both insight and remediation.
71. Having found that Mr Arowolo'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.
72. The Committee considered that an admonishment was not an appropriate sanction in the light, in particular, of Mr Arowolo's failure to take any corrective steps and his lack of insight or remorse.
73. In the Committee's view, a reprimand was not an adequate sanction. The misconduct in this case, at least from the point that Mr Arowolo was contacted by ACCA, was quite deliberate, and the period of misconduct could not be described as short.
74. Further the Committee did not consider that a severe reprimand would be an appropriate sanction, particularly given Mr Arowolo's failure to co-operate

meaningfully to resolve the situation and the fact that it appears the issues which led to the investigation are still ongoing.

75. The Committee therefore considered that the only appropriate and proportionate sanction was removal from the affiliate register. This was a serious departure from the standards expected of an affiliate over a sustained period and Mr Arowolo's failure to remediate demonstrated a lack of understanding and insight into the seriousness of his conduct.
76. Therefore, pursuant to CDR 13.5(c), Mr Arowolo is removed from the affiliate register of ACCA.
77. The Committee did not consider it was necessary to exercise its powers under CDR 13.5(c) to extend the minimum period of exclusion.

COSTS AND REASONS

78. ACCA applied for costs in the sum of £8,305. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing and investigation. Mr Law accepted that it would be appropriate to reduce that figure on the basis that the hearing had been conducted remotely and because the hearing had not lasted a full day.
79. The Committee considered that in principle a costs order should be made in favour of ACCA. It agreed with Mr Law that some reduction was appropriate. The Committee had no evidence before it about Mr Arowolo's means.
80. The Committee ordered Mr Arowolo to pay ACCA's costs in the sum of £6,000.

EFFECTIVE DATE OF ORDER

81. Having made an order for exclusion, the Committee considered whether it would be in the public interest to direct that the order had immediate effect. However, the Committee noted that the investigation into this matter had been ongoing since the start of 2020 and it did not consider there was any urgent need to protect the public which justified a departure from the normal provisions regarding the effective date of an order.

82. Therefore, the order removing Mr Arowolo from the affiliate register 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 Mr Arowolo gives notice of appeal in accordance with the Appeal Regulations prior to that.

83. Pursuant to CDR 20(2) the costs award made by the Committee takes effect immediately. The Committee is required to inform Mr Arowolo that he will receive an invoice from ACCA in respect of this sum and that ACCA works with a third party legal firm to chase debts owed. They will be instructed to contact him if payment is not made, which could result in legal action being taken.

Ms Wendy Yeadon
Chair
13 April 2021