

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Paul Laskier

Heard on: Thursday, 02 December 2021

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

Committee: HH Suzan Matthews QC (Chair)
Ms Wanda Rossiter (Accountant)
Ms Victoria Smith (Lay)

Legal Adviser: Mr Andrew Granville Stafford

**Persons present
and capacity:** Mr Paul Laskier (Member)
Ms Michelle Terry (ACCA Case Presenter)
Ms Nikita Apostol (Hearings Officer)

Observers: Mr Christian Paterson (FRC)

Outcome Audit certificate withdrawn

PRELIMINARY

1. The Admissions and Licensing Committee ('the Committee') convened to consider a report relating to Mr Paul Laskier.
2. The Committee had before it a bundle of documents (51 pages), a tabled

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additional bundle (8 pages) and a service bundle (28 pages).

3. In this decision the following abbreviations are used:

AR – Authorisation Regulations

PR – Practising Regulations

GRO – Guidance for Regulatory Orders

APPLICATION FOR ADJOURNMENT

4. The hearing was held remotely via Microsoft Teams and Mr Laskier attended by telephone. At the start of the hearing, he applied for an adjournment for a number of reasons. He said that he would have wished to take part by video conference, but he was not conversant with the Teams platform. He was having to take part from home, but unfortunately was not particularly well set up to do so. He had hoped his former boss would be able to say a few words for him, but unfortunately, [PRIVATE]. It was not clear if and when he would be in a position to help. Mr Laskier also told the Committee that he had considered getting professional representation and, having now better appreciated the nature of the process, that is something he thought he would like to do.
5. Ms Terry opposed the application. She submitted that Mr Laskier was effectively able to take part in the hearing by audio. She said it was not clear how his ex-boss was going to be able to assist with the issues the Committee had to decide. She further pointed out that Mr Laskier had been served with the documents for this case in accordance with the requirements of the AR, and therefore had been given plenty of notice about the hearing.
6. The Committee agreed with Ms Terry's submissions. It did not consider that Mr Laskier would be substantially disadvantaged by taking part in the hearing over the telephone and it was not convinced that his ex-boss would be able to add anything to the proceedings which would justify an adjournment. It noted that the application had been made very late in the day and that to allow it would involve an unacceptable delay for a number of months.
7. Overall, the Committee found there was nothing substantial in Mr Laskier's reasons that would justify delaying the progress of the case. It therefore refused the application for an adjournment.

APPLICATION AND BRIEF BACKGROUND

8. Mr Laskier is a Fellow of ACCA and was admitted to membership in 1989. He is the current holder of a practising certificate with audit qualification. He is a sole practitioner, trading as Fenlon & Co ('the firm').
9. The Committee was invited to consider making an order under Regulation 5(2) of the AR in respect of Mr Laskier's audit certificate. AR5(2) gives the Committee the power to withdraw, suspend or impose conditions on a certificate in certain circumstances. These include where the holder of the certificate has committed a material breach of any rule or regulation to which he was subject in the carrying on of the activities to which the certificate relates.
10. AR5(3) provides that, in determining whether to exercise its powers under AR 5(2), the Committee shall have regard to such matters as it considers relevant.
11. ACCA has conducted five audit monitoring visits to the firm and six of Mr Laskier himself. The initial review of Mr Laskier on 19 June 1992 was satisfactory.
12. At its first monitoring review of the firm on 27 June 2006, the Compliance Officer informed the firm of serious deficiencies in audit work which had resulted in audit opinions not being adequately supported by the work performed and recorded.
13. At the second review on 21 September 2010, the Compliance Officer still considered that there were serious deficiencies in the firm's audit work, which had resulted in audit opinions not being adequately supported by the work performed and recorded. The firm was referred to the Regulatory Assessor who imposed a hot file review order and directed that an accelerated follow up visit should be carried out at the firm's cost.
14. At that follow-up visit, on 27 June 2013, the firm was found to have achieved a satisfactory standard of audit work which supported the audit opinions issued. No further action was taken at that time.
15. A satisfactory standard of work was found to have been maintained at the fourth review on 24 June 2015.
16. The fifth and latest review was carried out on 30 July 2021 and was conducted by Ms A, an ACCA Senior Compliance Officer.
17. Ms A concluded that the firm had not maintained the standard of its audit work.

Its procedures were not adequate to ensure that it conducts all audits in accordance with the International Standards on Auditing ('ISA').

18. Ms A reviewed three audit files. She found that the firm was using a standard audit programme on all audits, but it was not tailoring this to ensure that it met the needs of the audit of each client. As a result, on all three files the audit opinion was not adequately supported by the work performed and recorded. An 'unsatisfactory' outcome was recorded in respect of each file.
19. Ms A considered that the firm had failed to conduct the audits in accordance with ISA 230, ISA 500, ISA 210, ISA 315, ISA 300, ISA 240, ISA 250, ISA 510, ISA 402, ISA 520, ISA 560, ISA 570, ISA 330.24, ISA 710, ISA 450, ISA 260, ISA 265, ISA 700, ISA 705 and ISA 706.
20. ACCA's case was that this amounted to a material breach of PR 13(1) which requires a registered auditor to conduct their audit work in accordance with the ISA.
21. A draft copy of Ms A's report was provided to Mr Laskier. He wrote to Ms A on 15 September 2021 saying:

'In general, I am very disappointed with your review which I feel is unnecessarily hard on myself and the firm. Your review was a big shock.

You have made no allowance for lockdown, which was particularly savage when I was working on the three companies April – July 2020.

You have concentrated on minor matters where I must admit there are many failings. You have omitted to look at the big picture as a whole.'
22. Ms A replied, saying that the Financial Reporting Council ('FRC') had issued guidance stating that, in challenging times, the auditor must always obtain sufficient, appropriate evidence.
23. Mr Laskier gave a detailed response to Ms A's report by email on 07 October 2021. Although he accepted some of the criticisms made in the report, he disagreed with a large number of Ms A's opinion as to breaches of the ISA.
24. There was further correspondence between Ms A and Mr Laskier debating her conclusions. Mr Laskier maintained his position that, though he accepted there were some deficiencies in the audits in question, he disagreed with a number of Ms A's conclusion. He concluded, in an email to ACCA dated 19 November

2021:

'I worked hard on those three audits and despite technical deficiencies I stand by my assertions. For the last four years I have had three audit checks which accounted for 3% of my income. In 2020 I had an extra two audit clients for one year only. I am now resigning from two audits which leaves me one audit client only which I would like to keep.'

25. Mr Laskier explained that the one remaining audit was not a trading company, and he was prepared to give an undertaking that he would not take on any new clients.
26. In light of the outcome of the latest monitoring visit, and the fact that three out of the five monitoring visits in total resulted in an unsatisfactory outcome, ACCA submitted that to allow Mr Laskier to retain his audit certificate would not be in the public interest.

DECISION AND REASONS

27. The Committee took into account all the documents before it, the submissions of Ms Terry on behalf of ACCA and evidence and submissions of Mr Laskier on his own behalf. It took advice from the Legal Adviser. The Committee bore in mind that the burden of proving any matter in dispute rests on ACCA and the standard it applies is proof on the balance of probabilities. The Committee had regard to the guidance contained in the GRO.
28. ACCA relied on the evidence of Ms A in her monitoring visit report and her correspondence with Mr Laskier. It did not call Ms A to give evidence. Ms Terry submitted that, though Ms A's evidence was hearsay, it was admissible because reports of this nature were invariably relied on in proceedings before this Committee without the maker being called to give oral evidence. She referred the Committee to paragraph 11.4 of the Regulatory Board's Policy Statement which says that the Committee is entitled to rely on the findings of the monitoring visit in the absence of credible and reliable evidence to the contrary.
29. Mr Laskier told the Committee that he had assumed Ms A would be attending. He did not object to ACCA relying on her written report although, accepting that she had found technical deficiencies in his audit work, he said he stood by the work he had done.
30. The Committee firstly had to consider, taking into account the guidance in

paragraphs 60 and 61 of ACCA's Guidance for Admissions and Licensing Committee, whether Ms A's hearsay evidence was admissible. It was satisfied that it was, principally on the ground that Mr Laskier did not object to its admissibility.

31. The Committee also considered that it would be fair to allow ACCA to rely on Ms A's written evidence. Mr Laskier had been aware of the contents of Ms A's report since August 2021 and had had the opportunity to challenge her conclusions. Indeed, he had done so in detail in correspondence. The Committee had the benefit of being provided with a copy of that correspondence, which includes agreement about at least some aspects of Ms A's findings. The Committee did not consider that the attendance of Ms A as a witness would appreciably add to its understanding of the issues in the case.
32. Therefore, the Committee was satisfied it was proper to admit Ms A's evidence in written form and to give it weight when considering the issues raised by this application.
33. Mr Laskier gave oral evidence to the Committee. He accepted Ms A was a competent and thorough Compliance Officer, but he said that he disagreed with her on a number of points. He told the Committee her report concentrated on minor issues. Whilst he accepted there were deficiencies, he did not consider them sufficient to justify the withdrawal of his firm's audit certificate. He pointed out that, as well as the unfavourable monitoring reviews, his firm had had three favourable reviews. He also told the Committee that the companies he had audited had not had any problems.
34. Ms Terry did not challenge any of Mr Laskier's evidence. However, she maintained that the evidence showed Mr Laskier's auditing was far below the standard expected of a registered auditor and that the appropriate order was to withdraw his audit certificate and impose a requirement for re-training before he may make any application for re-registration.
35. In the Committee's view, this was a case of one person's opinion versus another's. It was satisfied, however, that Ms A's report was robust and that it could place reliance on it. In short there was, in the Committee's view, no credible or reliable evidence to challenge it.
36. The report demonstrated that there were a lot of basic failings in Mr Laskier's audit practice. Whilst none of them individually were unresolvable, their cumulative effect was to cause the Committee to conclude it would be unsafe

to continue to allow him to carry out statutory audits. The Committee detected that a theme running through Mr Laskier's response to the monitoring report was that he had done the work but not necessarily recorded it. The Committee noted that paragraph 11.4 of the Regulatory Board's Policy Statement enjoins a Committee when considering non-compliance to proceed on the principle that *'if it is not written down it has not happened'*.

37. The Committee was unfortunately left with the overall impression that Mr Laskier's audit skills were outdated. Whilst it accepted there was some force in the suggestion that Ms A applied the rules with a degree of rigour, in the Committee's view that is what is required in the modern world to ensure that the public is protected. It appeared to the Committee that Mr Laskier had not fully appreciated that.
38. The Committee was therefore satisfied that ACCA had established a material breach of Mr Laskier's obligations with regard to auditing sufficient to require it to make an order under AR 5(2). It therefore went on to consider the available orders, as set out in AR 6(16).
39. It noted that this was Mr Laskier's second referral, as a previous referral had been made to the Assessor following the unsatisfactory outcome to the 2010 monitoring visit. The GRO makes it clear that a second referral should be regarded by the Committee very seriously. There was an established history of Mr Laskier's audit work not consistently being up to standard.
40. In those circumstances, the Committee determined that it would not be appropriate to impose conditions on his audit registration. The Committee could have no confidence that such a course would result in any meaningful and lasting improvement. Further it was difficult to see how conditions would be workable given that Mr Laskier showed limited insight into, or indeed acceptance of, his failings.
41. For essentially the same reasons, the Committee did not consider that suspending Mr Laskier's audit registration for a period would adequately protect the public. It could not have any confidence that, at the conclusion of the suspension, the position would be any different.
42. The Committee concluded that the only reasonable and proportionate step to take was to withdraw Mr Laskier's auditing certificate and that of his firm. It further imposed a condition that any application for re-registration should only be considered after appropriate training had been undergone.

ORDER

43. The Committee ordered pursuant to Authorisation Regulations 5(2)(f) that:
- i. Mr Paul Laskier's practising certificate with audit qualification and the firm of Fenlon & Co's auditing certificate be withdrawn and he be issued with a practising certificate; and
 - ii. Any future re-application for audit registration by Mr Paul Laskier, 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 Laskier 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 paper P7 (or the equivalent advanced level audit paper) of ACCA's professional qualification.

EFFECTIVE DATE OF ORDER

44. The Committee directed, pursuant to AR 9(2)(b), that this order should have immediate effect. Whilst it noted that no Interim Order had been imposed on Mr Laskier pending this hearing, the Committee had now made a finding that it was not in the public interest to allow him to continue auditing. The Committee was concerned as Mr Laskier indicated that, if the order were not immediate, he would continue auditing until the order did become effective. In those circumstances, the Committee was satisfied that there was a clear public interest in directing that the withdrawal of his practising certificate take effect forthwith.

PUBLICITY

45. AR 6(14)(c)(i) states that all orders relating to the certificate of a member made by the Committee shall be published, together with the reasons for the Committee's decisions and the name of the relevant person, as soon as practicable. The Committee was reminded that this provision should be read in the light of the Statutory Auditors and Third Country Auditors Regulations 2016 ('SATCAR'). Regulation 6(3) of SATCAR provides that the auditor should not be identified if it would be disproportionate to do so or if disproportionate damage would be caused by doing so.
46. Mr Laskier submitted that it would be disproportionate on the basis that this decision might be discoverable by prospective clients of his firm and therefore

would affect his business.

47. The Committee did not consider that this was a sufficient reason to rebut the normal presumption that the member is identified when decisions of this nature are published. The Committee considered that any hardship suffered by Mr Laskier's business would be no more than suffered by anyone else in his position. In those circumstances, the high threshold of disproportionality was not met.
48. The Committee therefore directed that publication of this decision should include Mr Laskier's name.

HH Suzan Matthews QC
Chair
02 December 2021