

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Mr Martin Collier

**Heard on:** Tuesday, 06 July 2021

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

**Committee:** Mrs Helen Carter Shaw (Chair),  
Mrs Jo Royden-Turner (Accountant) and  
Mrs Jackie Alexander (Lay)

**Legal Adviser:** Mr Alastair McFarlane

**Persons present**

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

**Summary:** Excluded from membership  
Cost to ACCA £7000

1. ACCA was represented by Miss Terry. Mr Collier did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1-523, and three service bundles, numbered pages 1-13, 1-3 and 1-3.

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## **SERVICE/ PROCEEDING IN ABSENCE**

2. Having considered the service bundle and the Notice of Hearing, the Committee was satisfied that notice of the hearing was served on Mr Collier in accordance with the Complaints and Disciplinary Regulations 2014 (amended 01 January 2020) (“CDR”).
3. The Committee next considered whether it was in the interests of justice to proceed in the absence of Mr Collier. 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.
4. The Committee noted that ACCA’s notice dated 08 June 2021 to Mr Collier’s email address, offered him the opportunity of attending via video or telephone link. Mr Collier did not respond to the Notice of Hearing and ACCA sent a further email to him dated on 02 July 2021 asking him if he could confirm whether he was attending the hearing. Mr Collier replied to ACCA by an email also dated 02 July 2021 in which he stated, *‘I will not be attending.’* The Hearings Officer sent a further email to Mr Collier dated 05 July 2021 asking him if he could confirm whether he was content for the hearing to proceed in his absence. Mr Collier replied to ACCA by an email also dated 05 July 2021 in which he stated, *‘No problem’*. The Committee was satisfied that all reasonable attempts have been made to secure Mr Collier’s attendance/participation at the hearing. The Committee was satisfied that Mr Collier had voluntarily waived his right to attend and was not persuaded that any adjournment would increase the chance of Mr Collier attending or participating further in the case. 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. The Committee reminded itself that his absence added nothing to ACCA’s case, and no inference should be drawn from his non-attendance.

## **ALLEGATIONS**

### Allegation 1

Martin Collier, a member of the Association of Chartered Certified Accountants (ACCA):

- (a) On 16 August 2019, signed the audit report contained in the annual accounts of Company A for the year ending 30 September 2018 certifying that the audit had been conducted in accordance with the International Standards on Auditing (Ireland) when it had not (see Schedule A).
- (b) Martin Collier's conduct set out at 1(a) above was:
  - (i) Dishonest, in that he knew the audit of Company A for the year ending 30 September 2018 had not been conducted in accordance with the International Standards on Auditing (Ireland) but signed an audit report to certify that it had been conducted in accordance with these standards (see Schedule A); or in the alternative
  - (ii) Contrary to R111.1 and/or R111.2 (the Fundamental Principle of Integrity) (as applicable in 2019); or in the alternative and/or in further alternative
  - (iii) Contrary to Regulation 13(1)(a) of Annex 2, Appendix 1 of the Chartered Certified Accountants' Global Practising Regulations 2003.

### Allegation 2

By reason of his conduct, Martin Collier is:

- (a) Guilty of misconduct in respect of any or all the matters set out at 1 above, pursuant to byelaw 8(a)(i); or in the alternative

- (b) Liable to disciplinary action in respect of any or all of the matters set out at 1(b)(iii), pursuant to byelaw 8(a)(iii).

## **BACKGROUND**

5. On 31 December 2018, Mr Collier became a Member of ACCA.
6. On 10 January 2019, Mr Collier was issued with a Practising Certificate with Audit qualification (Ireland) and his firm (CMM 'the firm') was issued with a Firm Auditing Certificate.
7. On 16 August 2019, Mr Collier signed (electronically) the audit report contained in the annual accounts of Company A for the year-end 30 September 2018 ('The Audit Report'). The report confirmed '*We conducted in our audit in accordance with International Standards on Auditing (Ireland)... and applicable law..*'
8. On 11 October 2019, ACCA sent an email to Mr Collier to confirm a monitoring visit at his firm for 08 and 09 January 2020. On 24 December 2019, Mr Collier sent an email to ACCA attaching a schedule of audit and regulatory clients, which included Company A. The monitoring visit took place as planned in January 2020. On 08 January 2020, Mr Collier initially told the ACCA Senior Compliance Officer ('SCO') that there was no audit file for Company A. The SCO then sent an email to Mr Collier requesting documentation in respect of his audit of the annual accounts of Company A for the year ending 30 September 2018. Mr Collier responded that the file relating to his audit of Company A's annual accounts had been left with the SCO for review.
9. On 21 May 2020, Mr Collier ceased holding a Practising Certificate Audit Qualification (Ireland) and on 17 June 2020 he was issued with a Practising Certificate (Ireland).

## **ACCA's SUBMISSIONS**

### **Allegation 1(a) – Audit Report**

10. ACCA submitted that by signing the Audit report, Mr Collier certified that the audit had been conducted in accordance with the International Standards on Auditing (Ireland). ACCA relied upon the witness statement of its SCO and submitted the Mr Collier did not conduct company A's audit for the year ending 30 September 2018 in accordance with those standards.

**Allegation 1(b)(i) – Dishonesty**

11. ACCA submitted that the conduct set out in Allegation 1 (a) clearly amounted to dishonesty on the basis that Mr Collier knew that the audit had not been conducted in accordance with the International Standards on Auditing (Ireland) yet still signed the report which contained the express declaration that it did comply with those standards. ACCA submitted that Mr Collier's conduct would be regarded as dishonest according to the standards of ordinary decent people.

**Allegation 1(b)(ii) – Integrity**

12. ACCA submitted as an alternative to dishonesty that the conduct amounted to a lack of integrity.

**Allegation 1(b)(iii) – Global Practising Regulations**

13. Regulation 13 (1) of the Global Practising Regulations (Annex 2, Appendix 1) required Mr Collier to comply with ACCA's Rules and Regulations including the International Standards on Auditing (Ireland). ACCA submitted that the SCO's witness statement established that Mr Collier had breached this regulation by not complying with those standards. This was further alternative to Allegations 1(b)(i) and 1(b)(ii).

**Allegation 2**

14. ACCA submitted that Mr Collier's conduct brought discredit upon him, ACCA and the accountancy profession as it was vital to have accurate audit reports contained within the financial statements of a company and maintained that

whichever of the alternative allegations were established the conduct was sufficiently serious to reach the threshold for misconduct. Its secondary submission in the alternative was that the conduct rendered Mr Collier liable to disciplinary action.

### **MR COLLIER'S SUBMISSIONS**

15. Mr Collier's only response was contained in two emails. The first to the SCO dated 08 January 2020 indicated that it had '*not been possible time wise*' to complete the files to the 'normal standard'. The second to ACCA dated 17 August 2020 when asked if he had any further response stated, '*I've said what I said*'.

### **DECISION ON ALLEGATIONS AND REASONS**

16. The Committee accepted the advice of the Legal Adviser. It reminded itself to exercise caution as it was working from documents alone and that the burden of proving the allegations was on ACCA alone. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the balance of probabilities.
17. The Committee heard that there had been no previous findings against Mr Collier and accepted that it was relevant to put his good character into the balance in his favour.

### **DECISION ON FACTS**

18. The Committee carefully considered all the documentary evidence it had received, as well as the submissions of Ms Terry on behalf of ACCA and the contents of the two emails from Mr Collier.

### **Allegation 1a**

19. The Committee accepted the evidence of SCO, the Senior Compliance Officer, who undertook the monitoring visit, as clear, compelling and credible. It noted

that the file that Mr Collier gave to the SCO in relation to the auditor's special report within the annual accounts of Company A that was electronically signed by Mr Collier consisted only of a trial balance, an engagement letter and a letter of representation.

20. The Committee accepted SCO's conclusions, as set out in their report, in full. These included that the firm had not '*designed and performed audit procedures*' to show it had obtained sufficient and appropriate audit evidence to draw reasonable conclusions on which to base its audit opinion; that there were no recorded audit procedures confirming completeness of other income; that there were no recorded audit procedures verifying the ownership and existence and valuation of fixed assets and that there were no recorded audit procedures verifying the validity and completeness of creditors falling due after more than one year. The Committee accepted that the audit opinion was not supported by the actual work that had been performed and recorded, that there was no work recorded showing that Mr Collier had carried out appropriate procedures regarding the acceptance and continuance of client relationship and audit engagement (in breach of ISA 220/260). Further, the Committee accepted that there had been no recording of the objective and results of the audit procedures that had been performed and that there was a lack of documentation to support the audit opinion and show that it had been carried out in accordance with the ISAs (Audit Documentation ISA 230). There was no information to show that audit procedures had been designed and performed to address the risk of fraud (ISA 240) and there was no information to show the firm's general understanding of the legal and regulatory framework applicable to the entity (ISA 250A). Further, the responsibility of the auditors had not been communicated to those charged with the governance of the company and there was no evidence of any overview of the planned scope and timing of the audit (ISA 260) there was no recorded evidence of any planning of the audit (ISA 300) and there was no performance of preliminary and final analytical review procedures (ISA 315/520). Materiality for the financial statements had not been determined (ISA 320) and audit procedures to detect material misstatements had not been designed (ISA 330). Procedures to identify the company's related parties and recognise any fraud risk factors had not been performed or recorded (ISA 550), audit procedures designed to obtain sufficient audit

evidence that all events between the date of the financial statements and the date of the auditor's report that required adjustment of the financial statements had not been identified or performed (ISA 560), and there was no performance or recording of an evaluation of the management's assessment of the company's ability to continue as a going concern.

21. Given the manifest and widespread nature of the deficiencies, the Committee accepted SCO's conclusion that there had been '*no genuine attempt by Mr Collier to carry out and document an audit in accordance with the ISAs*'.
22. The Committee was satisfied on the face of the documents provided that Mr Collier had signed the audit report for Company A and had declared that the audit had been conducted in accordance with the ISAs. The Committee was further satisfied on the basis of the SCO's report that the audit had not been conducted in accordance with the ISAs. Accordingly, Allegation 1a was proved.

#### **Allegation 1b – Dishonesty**

23. The Committee specifically considered Mr Collier's state of knowledge as to the facts. It noted that he had recently qualified as an auditor and concluded that this fact supported its view that he should have known what would comprise an appropriate audit file. The Committee was satisfied that the deficiencies in the audit file for Company A were extensive and widespread and that the file could be categorised as manifestly deficient. The Committee considered that signing an audit report is a fundamental part of being an auditor and considered it reasonable to infer that, given the extent of the deficiencies, it was implausible that Mr Collier could have signed the declaration that he did and genuinely believed that the audit opinion was supported by the work done, and that the audit complied with the ISAs. The Committee also concluded that when Mr Collier indicated he had had insufficient time to complete the file to the 'normal standard' at the time of the inspection, this meant he knew that the audit was not in compliance with the ISAs. The Committee rejected as implausible any possible conclusion that the conduct was as a result of, for example, carelessness. The Committee was therefore satisfied that the declaration Mr Collier signed was false as he knew he had not done the work to justify signing



that declaration. The Committee next considered whether this conduct was dishonest by the standards of ordinary decent people and was satisfied that knowingly signing an important public document when he knew it did not comply with the ISAs would be held to be dishonest by the standards of ordinary decent people. Accordingly, Allegation 1b(i) was proved. The Committee therefore did not need to consider the alternatives under 1b(ii) and 1b(iii).

24. The Committee next asked itself whether, having been dishonest, Mr Collier was guilty of misconduct.
25. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Mr Collier's actions brought discredit on him, the Association and the accountancy profession. It was satisfied that signing this declaration knowing it was false was deplorable conduct and reached the threshold for misconduct.
26. In the light of its judgment on Allegation 2(a), no finding was needed upon Allegation 2 (b).

## **SANCTIONS AND REASONS**

27. The Committee noted its powers on sanction were those set out in Regulation 12(3). It had regard to ACCA's Guidance for Disciplinary Sanction and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It considered the available sanctions in ascending order and applied the principle of proportionality. It accepted the advice of the Legal Adviser.
28. The Committee considered the proved dishonesty to be serious. It undermined the reputation of ACCA and the profession, and the public expect to be able to rely on an auditor's report. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.

29. The Committee considered that the following were aggravating factors:
- There was only very limited evidence of insight from Mr Collier, who had given up his audit certificate, and no understanding shown of the impact of such conduct on the reputation of the profession;
  - The conduct had the potential to cause harm to the public relying on the audit report.
30. The Committee considered that the only mitigating factor in the information before it was Mr Collier's good character and lack of any previous disciplinary record.
31. Given the Committee's view of the seriousness of his conduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct.
32. The Committee determined that his behaviour was fundamentally incompatible with Mr Collier remaining as a member of ACCA and considered that the only appropriate and proportionate sanction was that he be excluded from membership. The Committee noted the factors listed at C5 of the Guidance for Disciplinary Sanctions and considered that the conduct amounted to a serious departure from relevant professional standards, had the potential to effect adversely members of the public and involved dishonesty. It did not consider that there was any mitigation before it that was so remarkable or exceptional as to warrant anything other than exclusion from membership.

### **COSTS AND REASONS**

33. ACCA claimed costs of £7,263 and provided a detailed schedule of costs. The Committee noted Mr Collier had not provided any statement of means. It had regard to ACCA's Guidance for Costs Orders. The Committee decided that it was appropriate to award costs in this case but noted that the hearing had taken

less time than estimated and therefore made a reduction to reflect this. It concluded that the sum of £7,000 was appropriate and proportionate. Accordingly, it ordered that Mr Collier pay ACCA's costs in the amount of £7000.00.

#### **EFFECTIVE DATE OF ORDER**

34. This order shall take effect from the date of the expiry of the appeal period unless notice of appeal is given prior to the expiry of that period, in which case it shall become effective (if at all) as described in the Appeal Regulations. The Committee was not persuaded that the ground for imposing an immediate order was made out given the facts of this case.
  
35. The Committee had regard to the Statutory Auditors and Third Country Auditors Regulations 2016 (SATCAR) and in particular the provisions in relation to publicity and found no basis in them to depart from ACCA's ordinary position on publicity.

**Mrs Helen Carter Shaw**  
**Chair**  
**06 July 2021**