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HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	**Mr Gregory Patrick Colclough**
Heard on:	**Wednesday 14 and Thursday 15 July 2021**
Location:	**Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU using Microsoft Teams**
Committee:	**Mr Maurice Cohen (Chair)** **Dr David Horne (Accountant)** **Mr Gerry McClay (Lay)**
Legal Adviser:	**Mr Richard Ferry-Swainson (Legal Adviser)**
Persons present and capacity:	**Mr Simon Walters (Case Presenter on behalf of ACCA)** **Mr Jonathan Lionel (Hearings Officer)** **Mr Gregory Colclough (Member)**
Observers:	**None**
Summary:	**Severe reprimand and costs ordered.** **Allegations 1(a), 1(b)(i) & (ii), 1(c), 1(d), 1(e), 2, 3(b) & (c), 5(b), 6(a) & (b) and 7(a) found proved.**
Costs:	**£7,500**

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INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee ("the Committee") convened to consider a number of Allegations against Mr Colclough. Mr Walters attended on behalf of ACCA. Mr Colclough attended and represented himself.

2. The papers before the Committee were in a bundle numbered 1 to 264. There was also an additional 74-page bundle containing Mr Colclough's responses to the allegations. In addition, there was a service bundle numbered 1 to 12. During the hearing, the Committee was provided with an unredacted copy of page 125 of the hearing bundle. The Committee was also provided with a detailed costs schedule and a simple costs schedule, each two pages long.

PRELIMINARY MATTERS

Application for part of the hearing to be in private

3. Mr Walters indicated that, from the written submissions provided by Mr Colclough, it was apparent that reference may be made to health matters, more likely in Stage 2, in the event that Stage 2 was reached. Mr Walters indicated that it would be appropriate for the hearing to go into private session as and when any such reference was made. Mr Colclough supported the application.

4. The Committee heard and accepted the advice of the Legal Adviser that whilst the normal position is that the hearing is conducted in public, the Regulations allowed for the hearing, or part of the hearing, to be heard in private session. Matters pertaining to the health of a member are most usually dealt with in private in order to protect the private life of a member and the Committee therefore directed that as and when references were made to Mr Colclough's health they would be heard in private session.

Admissions

5. At the outset of the hearing, Mr Colclough made admissions to Allegations 1(d)and 1(e) and the Chair therefore announced that those parts of the Allegation were proved.

ALLEGATIONS/BRIEF BACKGROUND

6. It is alleged that Mr Colclough is liable to disciplinary action on the basis of the following Allegations (as amended to correct some of the spelling of Mr Colclough's name):

1. It is alleged that Mr Gregory Patrick Colclough, a fellow member of ACCA:

   (a) Failed to comply with the decision of a Regulatory Assessor dated 20 August 2012 in that he signed any or all of the Reports in Schedule A without having had his files reviewed by a training company;

   (b) Signed the audit report referred to in Schedule B on behalf of CKA & Associates, Chartered Certified Accountants stating that CKA & Associates had conducted an audit when he and CKA & Associates had not done so:

      (i) sufficiently, or at all;

      (ii) in accordance with International Standards on Auditing.

   (c) Failed to disclose Client B in the list of his firm's audit clients provided to ACCA's Senior Compliance Officer on 11 September 2014;

   (d) Failed to disclose Client B in any or all of the Audit Client Information (Ireland) forms set out in Schedule C;

   (e) Did not deposit a statement with the Irish Auditing and Accounting Supervisory Authority in accordance with Section 161A of the Companies Act 1963 when CKA & Associates ceased to be auditor of Client B.

2. In light of the facts set out in Allegation 1(a), Mr Colclough's conduct was contrary to Global Practising Regulation 14(3) (2013-2014).

3. In light of the facts set out in Allegation 1(b), Mr Colclough's conduct was:

   (a) Dishonest, in that he knew that he and CKA & Associates had not conducted an audit sufficiently or at all and/or in accordance with International Standards on Auditing;

   (b) Contrary to the fundamental principle of integrity (2013);

   (c) Contrary to Global Practising Regulation (Annex 2) 16(1)(a) (2013).

4. In light of the facts set out in Allegation 1(c), Mr Colclough's conduct was:

   (a) Dishonest, in that he knowingly did not disclose Client B in the list provided to ACCA's Senior Compliance Officer;

   (b) Contrary to the fundamental principle of integrity (2014).

5. In light of the facts set out in Allegation 1(d), Mr Colclough's conduct was:

(a) Dishonest, in that he knowingly did not disclose Client B in the Audit Client Information (Ireland) forms;

(b) Contrary to the fundamental principle of integrity (2010-2013).

6. In light of the facts set out in Allegation 1(e), Mr Colclough's conduct was contrary to:

(a) Global Practising Regulation (Annex 2) 16(1)(c) (2013);

(b) The fundamental principle of professional behaviour (2013).

7. By reason of his conduct, Mr Colclough is:

(a) Guilty of misconduct in respect of any or all of Allegations 1 to 6, pursuant to byelaw 8(a)(i); and/or

(b) Liable to disciplinary action in respect of any or all of Allegations1(a), 1(b), 1(e), 2, 3(c), and/or 6, pursuant to byelaw 8(a)(iii).

7. Mr Colclough became a member of ACCA on 17 April 2001 and a Fellow on 17April 2006. Mr Colclough held a practising certificate and audit qualification (United Kingdom) with ACCA between 21 February 2008 and 08 December 2008. Mr Colclough held a practising certificate and audit qualification (Ireland)with ACCA between 01 February 2007 and 29 January 2015 and a practising certificate (Ireland) with ACCA from 04 March until 17 April 2019. He is a partner of CKA & Associates.

8. Mr Walters indicated to the Committee that there was no live evidence relied on by ACCA in this case because the Senior Compliance Officer, Person A, no longer worked for ACCA and no statement had been taken from him. Accordingly, ACCA relied on the documentary evidence provided.

Allegation 1(a)

9. On 20 August 2012, a Regulatory Assessor made an order pursuant to Authorisation Regulations 6(2)(f) and 6(3)(b) that Mr Colclough should be required to:

i. have all future audit work on four clients, selected by the Practice Monitoring Department, and all other work in respect of reports to any regulatory body, reviewed by a training company before reports are signed, such training company being subject to ACCA approval

ii. notify ACCA within six weeks of the date of written notification of this decision of

the identity of the training company referred to in i above.

iii. *be subject to an accelerated monitoring visit before 30th September 2014 at a cost to the firm of £900 and £250 for each additional audit qualified principal.*

iv. *note that failure to make the necessary improvements in the level of compliance with auditing standards and with the requirements of any regulators by that time will jeopardise his and his firm's continuing audit registration.'*

10. On 22 August 2012, ACCA wrote to Mr Colclough with the Regulatory Assessor's decision and ACCA's Guidance on 'hot' reviews. ACCA asked Mr Colclough to provide a list of his audit clients and the name of the training company he had appointed to carry out the 'hot' file reviews, within six weeks.

11. On 28 September 2012, Mr Colclough provided ACCA with a list of his audit clients and advised that he had engaged OmniPro to carry out 'hot' file reviews.

12. On 10 October 2012, ACCA informed Mr Colclough of the four audit clients selected for 'hot' review in accordance with the Regulatory Assessor's order. In this letter, ACCA stated, *'In addition, you are also required to have all other work in respect of reports to any regulatory body also subject to 'hot' reviews… It is extremely important that you comply in full with the order of the Assessor,as failure to do so is a disciplinary matter.'*

13. On 12 October 2012, Mr Colclough wrote to ACCA and provided some information in relation to one of the clients selected.

14. On 29 October 2012, ACCA wrote to Mr Colclough with an amended list of the four audit clients selected for 'hot' review. ACCA again noted *'In addition, you are also required to have all other work in respect of reports to any regulatory body also subject to 'hot' reviews.*

15. On 27 June 2013, Mr Colclough signed a Reporting Accountant's Report in respect of a solicitor client, Client A, for the year ended 31 December 2012 addressed to the Law Society of Ireland. The Law Society of Ireland is the regulatory body of the solicitors' profession in Ireland and therefore this file should have been 'hot' reviewed.

16. On 27 June 2014, Mr Colclough signed a Reporting Accountant's Report in respect of Client A for the year ended 31 December 2013 addressed to the Law Society of Ireland. Again, in accordance with the Regulatory Assessor's order this should have been 'hot' reviewed.

17. On 11 September 2014, Person A, who at the time was a Senior Compliance Officer in ACCA's Practice Monitoring department, carried out a monitoring visit to Mr Colclough's firm, CKA & Associates. Person A found that the file in respect of the Reporting Accountant's Report signed by Mr Colclough on 27 June 2014 had not been subject to 'hot' review.

18. On 04 November 2014, an ACCA Investigating Officer wrote to Mr Colclough and asked him to confirm what reports he had issued to the Law Society of Ireland in relation to Client A since being informed of the Regulatory Assessor's decision of 22 August 2012, and whether or not he had his file 'hot' reviewed.

19. On 26 November 2014, Mr Colclough replied and stated:

'…On reviewing the letter from the ACCA 22nd August 2012, I note the content of the letter was regulated bodies. As I conduct audits for Central Bank clients these were prepared and reviewed. I had overlooked the [Client A] *appointment as a regulated client when completing the audit client list in 2012, and I did included it (sic) on the 2013 list submitted to the ACCA.*

I should note I have extensive knowledge of the Law Society Regulations having completed many Solicitors files in my previous employments, and these files being satisfactory on ACCA and CPA monitoring visits.

[Client A] *practice did have a Law Society Audit during 2013, and the auditor reviewed the accounts for the client for all of 2012 and the period up to 30th June 2013, on his client accounts and completed similar tests that I completed while preparing his report. He was satisfied that* [the] *solicitor was maintaining the proper records.*

It was noted the client changed software providers during 2013, and the client was in credit in monies owed back to the office account. As the client did not transfer money in a timely fashion on the completion of work, the client was subject to a Law Society Regulation hearing that was satisfactory. Person A was advised of the Solicitors file at the start of the monitoring visit. He explained this should have been subject to Hot File review. I explained the recent nature of the Law Society Audit and the satisfactory outcome. I believed the clients file had been over audited in light of the Law Society Audit and my annual review. Person A reviewed the file and found it to be satisfactory.

While I accept the ACCA had requested this to be reviewed, I made the decision not to have it reviewed again for Hot File as the work complete (sic) was very comprehensive. The ACCA review confirmed same.

I apologise for not having this reviewed as a Hot File, and I will ensure this is maintained going forward.'

20. On 10 December 2014, ACCA's Investigating Officer wrote to Mr Colclough again seeking further clarification.

21. On 16 December 2014, Mr Colclough replied and informed ACCA's Investigating Officer that in respect of Client A he had completed accounts for the year ended 2011, 2012 and 2013. The 2011 file predated the ACCA requirement to have hot reviews. In respect of 2012 and 2013, Mr Colclough said:

"The 2012 file was completed by myself and returned to the Law Society in June 2013. The client had a Law Society audit in 2013, that lasted 4 days, and the auditor, an accountant himself complete (sic) the tests. The auditor also reviewed the accounts and reports for the 6 months to 30th June 2013, as the client had just completed a software changeover from Lex Software to CortBase Software, and he noted a few transcription errors between the software programs and the work being completed by the book keeper, these were primarily issues over changes in client matter codes. On final review the client was in credit with the client account but could not identify how a small debit balance remained unreconciled, as the software engineers posted this to the client ledger as a sundry client/suspense client.

I did not get the file Hot file reviewed as I felt there was a certain amount of overauditing done on this file by myself and also by Law Society. They also requested a review of the client ledger as at 31st December 2013, as the client was subject to a Law Society hearing on why is account (sic) was in credit, as this contravened the rules. The hearing was satisfactory. The client was advised to maintain his ledgers under the regulations and not allow large credits build up in the future.

The file for 2013 was selected by Person A for review for my ACCA monitoring visit. He found the file satisfactory and advised me of the need to have a hot file review completed in the future, and the file would be subject to a disciplinary review, as he would have to report this issue back to the ACCA. I take full responsibility for not having the file Hot File

reviewed, as I felt the standard on the files was exemplary and completed to a very high standard. This was confirmed by Person A.

I did not think at the time the file required a further review, and I apologise for not getting this completed as required."

22. On 17 December 2014, ACCA's Investigating Officer sought further clarification from Mr Colclough.

23. On 12 January 2015, Mr Colclough replied and advised:

"We focused on the listed files for Hot File reviews. Our primary focus in the practice was to update our knowledge and training on the transfer to our new audit manuals. As we have a large number of audit clients to migrate to the new manuals, this is where the main resources of the practice were focused … The Law Society reviewed the client's records in September 2013 and covered the periods from July 2012 to 30th June 2013.

The reason for not having the file Hot File reviewed was primarily an oversight brought about by the additional work required on the main audit files within the practice."

Allegation 1(b)

24. On 28 August 2013, Mr Colclough signed an audit report, for and on behalf of CKA & Associates, in respect of accounts of Client B for the year ended 31 May 2013.

25. The audit report stated:
"We have audited the financial statements of Client B for the year ended 31 May 2013…

Respective responsibilities of directors and auditors

…

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

…

Basis of audit opinion

We conducted our audit in accordance with international Standards on Auditing(UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the

directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion, we also evaluate the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements:

- give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the company's affairs as at 31 May 2013 and of its loss and cash flows for the year then ended; and

- have been properly prepared in accordance with the Companies Acts 1963 to 2012. We have obtained all the information and explanations, which we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account. In our opinion the information given in the directors' report is consistent with the financial statements. '

26. On 30 July 2014, when confirming Person A anticipated monitoring visit on 11 September 2014, an ACCA Administration Officer provided Mr Colclough with a document containing information about what the visit would entail and a list of practice records and documentation which he should have available for inspection. The document stated "*Monitoring visits are carried out pursuant to Regulation 18 of the Practising Regulations for the Republic of Ireland annexed to The Chartered Certified Accountants' Global Practising Regulations 2003. The visit will consist of discussions with the practitioner or partners and with senior staff principally concerned with auditing and investment business, together with an examination of records, books, documents and files. The information and documents listed below will be required.*

27. Included beneath the heading 'Audit related material' were the following:

"11. List of clients on which the firm has issued any form of audit report (or report to a regulator such as the Law Society of Ireland and the Central Bank of Ireland) within the 24 months prior to the monitoring visit, whether or not the firm still holds the appointment, detailing name, activities, turnover, fees and partner responsible.

…

15. Audit and other files (including permanent notes/correspondence) relating to audit and/or regulated clients on the list produced for item 11 should be available for inspection."

28. The list of audit clients provided to Person A by CKA & Associates did not include Client B. However, Person A was aware of this appointment having searched the firm's audit appointments at Companies Registration Officer, and at the visit on 11 September 2014 he therefore requested this audit file for review.

29. On providing the file to Person A, Mr Colclough explained that:

- he had not actually undertaken an audit although he had issued an audit report on the financial statements;

- he had come under pressure from the client as a result of a proposed merger with another football club; and

- the merger could not proceed until audited financial statements were made available.

30. It is not the practice of ACCA Compliance Officers to obtain and retain copies of files from monitoring visits and Person A did not, therefore, retain a copy of this file. Consequently, on 23 July 2018, ACCA's Investigating Officer requested the file from Mr Colclough. However, no response to this letter was received.

31. On 15 October 2014, Person A wrote to Mr Colclough with the outcome of his monitoring visit and, in relation to Client B, noted, *"… on one file you had issued an audit opinion without carrying our any audit procedures. (sic)"* He added, "*The firm had acted as auditor to this client and on 28 August 2013 issued an audit opinion on the financial statements for the year ended 31 May 2013. The firm had not complied with the ISAs or undertaken any audit work on these financial statements …"*

32. On 04 November 2014, ACCA's Investigating Officer wrote to Mr Colclough in relation to Person A referral to Professional Conduct and asked him to:

- confirm that he signed the audit report dated 28 August 2013;

- confirm that he did not undertake an audit of the relevant accounts, as he had told Person A at the monitoring visit;

- explain in greater detail why exactly he issued and signed the audit report of 28 August 2013 without having undertaken an audit.

33. On 26 November 2014, Mr Colclough replied and advised as follows:

"After my last monitoring visit in May 2012 which was unsuccessful the practice had a decision to make in relation to audit clients, the audit programs we used and the overall recovery of fees from clients.

We appointed Omnipro, as one of the recommend (sic) service providers by the ACCA. In 2013 we implemented the Omnipro audit manual. This double undertaking of improving our audit standards and also changing to a new audit program was imminence [sic]*. In hindsight we underestimated the deficiency in our audit files. In November 2013 we replaced two staff members, with two ACCA final year trainees to focus primarily on audit files.*

I have offered an explanation to reason why the audit file was not completed.

…

I had resigned from Client B this is the only reason it was not on the list.

…

Client B (A company limited by guarantee not having share capital) requires an audit by the virtue the legislation governing companies limited by guarantee. This has now changed in the Companies Act 2014 where they are exempt from audit.

The only reason the club had to incorporate was to hold the ownership of an all-weather pitch that was built a number of years ago, on land in a public park.This is a very non-public audit appointment. No third parties require the accounts for any purpose. (See appendix 1 for summary of Accounts).

Client B, its board and members have no relationship with our practice either through any family, client or staff member. They simply came to us as one of the members found us on a web search. We had no ambition to produce the accounts for 2013. The client type and fee expectation did not suit the practice review of audit clients. This is why we left it off our list and resigned in 2013.

The file normally presented to us gives us a list of club fundraising activities for income and a list of cheques for expenses. Hence, we verified 100% of the transactions on file. They are low volume low value transactions.

The file for Client B for 31st May 2013 was delivered into the office without appointment in July 2013 while I was on annual leave. My business partner was away from the office that afternoon. The staff member took it on her own initiative and prepared the bank reconciliations and prepared an accounts file.

We were in transition to the new Omnipro manual. She was unsure which manual to use, as she was not yet trained on the Omnipro manual. We did not lap over on return from holidays and did not see her for about three weeks. I was totally unaware the file was prepared and receipted into the office. If I had,I would have returned it immediately.

The treasurer just wanted the accounts for the meeting that night and was unaware of the audit procedures that would be required to complete same. He was impatient and just wanted the file for the meeting. As he had already prepared an income and expenditure account, he could not fathom the delay in the accounts file. I was embarrassed having to deal with such a situation when the file was in the office nearly 6 weeks and not complete. I reviewed the accounts information supplied, reviewed the disclosures on the accounts and verified the information in the accounts was accurate to the information supplied by the club. I finalised the accounts late that evening with the club treasurer. They did give a true and fair view. They were having a committee meeting that evening and required the accounts on demand.

This was the first year of the merger of two small football clubs. There was nothing conditional on the production of the audited accounts. They simply wished to complete the accounts and have them ready for the meeting. There was no preconditions or due diligence carried out in relation to the two club's merger (sic). The merger of the clubs was only communicated to me that evening, as I commented on the increase in memberships and gear expenditure. The other club from what I understand was not a

limited company,and the merger was based around the shared use of the all-weather pitch and some changing rooms.

I explained the fee recovery required on all audit appointments to him, and I wrote to the club secretary confirming same. They appointed a local accountant shortly afterwards.

In relation audit resignation and IAASA reports. I have not used tis (sic) reporting framework in the past. I have updated my office procedures to ensure this does not occur in the future.

Client B is not an audit appointment that would fit the normal profile of any appointment we have in the practice. We generally work closely and on a regular basis with clients and communicate frequently on matters that affect the organisation or businesses. We generally discuss bank letters, engagement assignments and other issues such as financial results and annual returns. Client B was in the past a very small entity with a small volume of low value transactions, that was omitted from my audit client list. I had no real established relationship with the club or client in general.

Our previous audit file were (sic) based on the PQA manuals, and in light of the work we are now completing for audit assignments there is a significant improvement in these assignments.

I acknowledged the absence of the correct audit file is not satisfactory, and is inexcusable, especially in the light to the hard work and costs incurred by the practice to improve audit assignments on far more complex and difficult assignment (sic) to a satisfactory standard.

I can only apologise for this lapse of judgement on this small file. It certainly will not happen again. These types of assignments in the future are now covered under the audit exemption rules from 2015.

…

Notwithstanding the breakdown in the audit assignment for Client B not being completed in 2013, in which I take full responsibility. The current work completed on other files is satisfactory and representative of the general practice ambitions and ethos. I would ask the committee to review the points I have responded too (sic) and accept my apologies

for a lapse of professional judgement on a small file."

Allegation 1(c)

34. On 30 July 2014, an ACCA Administration Officer confirmed Person A monitoring visit of 11 September 2014 to Mr Colclough and attached a document setting out what information was required. Included beneath the heading 'Audit related material' was the following:

    '11. List of clients on which the firm has issued any form of audit report (or report to a regulator such as the Law Society of Ireland and the Central Bank of Ireland) within the 24 months prior to the monitoring visit, whether or not the firm still holds the appointment, detailing name, activities, turnover, fees and partner responsible'.

35. In his referral to Professional Conduct, Person A noted that the list of audit clients provided to him by CKA & Associates did not include Client B.

36. This was notwithstanding the fact that on 28 August 2013 Mr Colclough had signed an audit report on behalf of CKA & Associates in respect of the accounts of Client B for the year ended 31 May 2013. The date on which Mr Colclough signed this audit report was within the 24 months prior to the monitoring visit of 11 September 2014.

37. On 04 November 2014, ACCA's Investigating Officer wrote to Mr Colclough and asked him to explain his personal involvement in the preparations of the list of audit clients given to Person A and why exactly the list provided to Person A did not include Client B.

38. On 26 November 2014, Mr Colclough replied and advised as follows:

    "The audit list shown to Person A was prepared by myself. It showed the current limited company audit engagements and the solicitors file we had as clients when he called. He advised then that he could look at any audit report filed in the last two years. As I had chosen to resign in 2013 from Client B, this is the reason it was not on the list … I had resigned from Client B this is the only reason it was not on the list. There was correspondence on file in relation to my resignation. I provided a copy of letters on the file to Person A for Client B and the appointment of the new accountants dating back to 2013."

Allegation 1(d)

39. As part of this investigation, ACCA's Investigating Officer obtained copies of Audit Client Information (Ireland) forms submitted to ACCA by Mr Colclough in respect of CKA &

Associates (see Schedule C). These forms are required to be submitted by members of ACCA annually in connection with their practising certificate renewals. Client B was not declared in any of the Audit Client Information (Ireland) forms of CKA & Associates, notwithstanding the fact that CKA & Associates appeared to have held appointment as auditor of that company throughout.

40. The forms covered the period 2011 to 2014. All of the forms contained a 'Confirmation' section which stated:

"On behalf of my firm I confirm that the information given in this form is true, accurate and complete to the best of my knowledge and belief after making all reasonable enquiries, I understand that a false declaration on this form may lead to disciplinary action being taken against me and/or my firm ... '

41. The forms submitted to ACCA in hard copy (for 2011 and 2012) were signed by Mr Colclough directly beneath the 'Confirmation'.

42. On 04 November 2014, ACCA's Investigating Officer wrote to Mr Colclough and asked what his personal involvement was in the preparation of these forms and why Client B did not appear.

43. On 26 November 2014, Mr Colclough replied, stating:

"I would be responsible for the production of the audit client list. In the past I have prepared this list primarily from memory and did not refer to a database. As Client B was a very small file with very little interaction with the practice I simply forgot to enter this on the list. I have been careless in the preparation the audit client list in this regard and any omissions is (sic) purely down to me trying to get the annual application competed within a busy office environment."

Allegation 1(e)

44. As set out above, Mr Colclough did not include Client B in the list of audit clients which he provided to Person A. Mr Colclough stated that the reason for this was that he *"had chosen to resign in 2013"* as auditor of Client B.

45. However, Person A noted in his memorandum to Professional Conduct that:

- the reappointment of CKA & Associates as auditors of Client B was confirmed in the director's report in the company's accounts for the year ended 31 May 2013, which was dated 27 August 2013;

- subsequently, the firm was asked to step down as auditor and another firm was appointed;

- these circumstances require an auditor to deposit a statement with the regulator in Ireland, the Irish Auditing and Accounting Supervisory Authority (IAASA);

- this requirement is also reflected in Practising Regulation 16(1)(c);

- CKA & Associates had not deposited the necessary statement with IAASA.

46. Section 185 of Companies Act 1990 stated:

'(1) An auditor of a company may, by a notice in writing that complies with subsection (2) served on the company and stating his intention to do so, resign from the office of auditor to the company; and the resignation shall take effect on the date on which the notice is so served or on such later date as may be specified in the notice.

(2) A notice under subsection (1) shall contain either-

(a) a statement to the effect that there are no circumstances connected with the resignation to which it relates that the auditor concerned considers should be brought to the notice of the members or creditors of the company, or

(b) a statement of any such circumstances as aforesaid…'

47. Section 161A of Companies Act 1963 stated:

'(1) Where, for any reason, during the period between the conclusion of the last annual general meeting and the conclusion of the next annual general meeting of a company, an auditor ceased to hold office either by virtue of section 160, or section 185 of the Act of 1990, the auditor shall-

(a) in such form and manner as the Supervisory Authority specifies, and

(b) within 1 month after the date of that cessation, notify the Supervisory Authority that the auditor has ceased to hold office.

(2) That notification shall be accompanied by:

(a) in the case of resignation of the auditor, the notice served under section 185(1) of the Act of 1990, or

(b) in the case of removal of the auditor at a general meeting pursuant to section 160(5), a copy of any representations in writing made to the company, pursuant to section 161(3), in relation to the intended resolution except where such representations were not sent out to the members of the company in consequence of an application to the court under section 161(4).

(3) Where, in the case of resignation, the notice served under section 185(1) of the Act of 1990 is to the effect that there are no circumstances connected with the resignation to which it relates that the auditor concerned considers should be brought to the notice of members or creditors of the company, the notification under subsection (1) shall also be accompanied by a statement of the reasons for the auditor's resignation….'

48. On 04 November 2014, ACCA's Investigating Officer wrote to Mr Colclough and asked him to confirm the date on which CKA & Associates ceased to act as auditor of Client B and that he had not deposited a statement with IAASA and, if not, to explain why.

49. On 26 November 2014, Mr Colclough replied, stating:

'In relation audit resignation and IAASA reports. I have not used this reporting framework in the past. I have updated my office procedures to ensure this does not occur in the future ... '

'I did not in the past communicate to IAASA my resignation of audit assignments. I have updated the procedures in the office to ensure these reports have been filed. In recent weeks I have filed 7 resignations with IAASA on old audit appointments.'

50. In his covering email of 03 December 2014, Mr Colclough wrote *"As advised I have sent*

letters of resignation to the CRO and IAASA, copies enclosed, I have back dated these to 2013." Mr Colclough enclosed:

- a copy of an Auditor Notification of Cessation of Office to IAASA in relation to the resignation of himself/CKA & Associates as auditor of Client B, signed by him and dated 27 November 2013;

- a copy of a notice of resignation of CKA & Associates as auditor of Client B to the company, signed by him and dated 27 November 2013.

51. It was ACCA's case that Mr Colclough's conduct had been dishonest and contrary to the principles and Regulations detailed in Allegations 2 to 6 above.

52. At the hearing, Mr Colclough provided detailed written submissions for the Committee to consider, which he adopted and expanded upon in the oral submissions he made to the Committee.

DECISION ON FACTS/ALLEGATION AND REASONS

53. The Committee considered with care all the evidence presented and the submissions made by Mr Walters and those provided by Mr Colclough, both written and oral. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

Allegation 1 (a) - proved

54. In his written submissions, Mr Colclough stated:

"I took the decisions of the regulatory assessor very seriously. I had 4 clients regulated by the Central Bank which required a statutory audit. All these files were peer reviewed and completed in line with the Regulatory Assessors order.All files are presented and passed as satisfactory to Person A 11/9/2014.

I was asked separately by Person A in September 2014 for all audit files, and I produced a list of audit clients. He then asked me separately did I have any Solicitors Files. I did confirm I had one. I produced the file for him to review. He mentioned he considered this an audit file. He also said there was no evidence of a peer review on the file. I mentioned

it was not a statutory audit file, as you do not have to hold an audit certificate to complete an Accountants Report for a solicitor in Ireland. He replied it was a UK requirement for Solicitors to have an audit. I replied that any accountant, non-auditor, in Ireland completes Solicitors Accountants Reports to the Law Society. The audit process in Ireland is governed by Irish Auditing and Accounting Supervisory Authority (IAASA), and these solicitors' files are not governed under this regulatory code.

I agreed with him the distinction between ACCA UK view auditing Solicitors was a UK legal requirement, but not so in Ireland.

I represent the file for review. Person A told me he worked in UK Solicitors regulation for several years and complemented me on the additional work I put into the file. He said he had not seen a comprehensive planning and completion work papers on the solicitors file before like the way I had prepared the file I am not dishonest, as I could have told Person A I had no solicitors. I had nothing to hide, my work was completed to a good professional standard.

He passed the file as satisfactory.

I accept the view that ACCA have on solicitors, but this was never communicated to me specifically."

55. The Committee noted that, by his own admission, Mr Colclough signed two Reporting Accountant's Reports addressed to the Law Society of Ireland, in respect of Client A, dated 27 June 2013 and 27 June 2014 without having first had his files 'hot' reviewed. The Committee was satisfied that in doing so, Mr Colclough had failed to comply with the Regulatory Assessor's decision of 20 August 2012 which ordered that all work in respect of reports to any regulatory body be reviewed by a training company before reports were signed.

56. The Committee was aware that the Regulatory Assessor's decision was made following an unsatisfactory monitoring visit by ACCA to Mr Colclough's firm, CKA & Associates. It was therefore important that Mr Colclough adhered to it, in order to ensure public protection and maintenance of public confidence in the accountancy profession.

57. The Committee noted that in relation to his failure to have the relevant files 'hot'reviewed, Mr Colclough had, together with the submissions above, provided a number of comments

and explanations to ACCA, including that:

- he has extensive knowledge of Law Society Regulations having completed many solicitors' files in his previous employments, and these files being satisfactory on ACCA monitoring visits;

- there was a Law Society audit of Client A's records in September 2013, which found that the solicitor was maintaining the proper records;

- he made the decision not to have the file reviewed again for 'hot' review as the work completed was very comprehensive;

- Person A reviewed the file (for the year ended 31 December 2013) at his monitoring visit on 11 September 2014 and found it to be satisfactory);

- there was an oversight brought about by additional work required on his firm's main audit files.

58. The Committee noted, however, that the Regulatory Assessor's decision was mandatory. Regardless of whether the relevant work undertaken by CKA & Associates was subsequently found to be satisfactory or not, Mr Colclough failed to comply with the Assessor's decision on two occasions. This was despite ACCA having specifically drawn Mr Colclough's attention, in writing, to the fact that he was required to have all other work in respect of reports to any regulatory body subject to 'hot' reviews.

59. Accordingly, the Committee found Allegation 1(a) proved.

Allegation 1(b)(i) - proved (on the basis of sufficiently)

60. On 28 August 2013, Mr Colclough signed an audit report which stated that CKA & Associates had audited the accounts of Client B for the year ended 31 May 2013. In particular, the audit report stated:

"Basis of audit opinion
We conducted our audit in accordance with International Standards on Auditing(UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It

also includes an assessment of the significant estimates and judgements made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion, we also evaluate the overall adequacy of the presentation of information in the financial statements."

61. However, Mr Colclough informed Person A at the monitoring visit on 11 September 2014 that he had not in fact done an audit, and explained that he had come under pressure from the client as a result of a proposed merger with another football club, which could not proceed until audited accounts were made available. In his outcome letter and report to Mr Colclough, Person A noted that Mr Colclough had issued an audit report without carrying out any audit procedures.

62. In the course of ACCA's subsequent investigation, Mr Colclough indicated that:

- a file was provided to CKA & Associates (either by or on behalf of Client B) without appointment in July 2013, while he was on annual leave and his business partner was away from the office;

- a member of CKA & Associates' staff prepared bank reconciliations and an accounts file on her own initiative;

- CKA & Associates was in transition to a new Omnipro manual and the relevant member of staff was unsure which manual to use because she was not trained yet on the Omnipro manual;

- they did not lap over on return from holidays and he did not see the staff member for about three weeks;

- he was totally unaware that the file was prepared and receipted into the office and would have returned it immediately had he known;

- the treasurer (of Client B) was impatient and wanted the accounts for a meeting on that night. They were having a Committee meeting that evening and required the accounts on demand;

- he felt embarrassed that the file had been in his office for nearly six weeks and had not been completed;

- he reviewed the accounts information supplied, reviewed the disclosures on the accounts and verified the information in the accounts was accurate to the information supplied by the club;

- as the information on the accounts they supplied and the firm's work reconciled, he finalised the accounts late that evening with the club treasurer;

- the accounts did give a true and fair view.

63. Accordingly, Mr Colclough was pressed by the client on 28 August 2013 (the date of his audit report) to sign the audit report for the purpose of a meeting that night. In his correspondence with ACCA, Mr Colclough acknowledged that the absence of 'the correct audit file' was not satisfactory and inexcusable, and he apologised.

64. In his written submissions for the hearing, Mr Colclough stated:

"I accept the lack of conventional audit work papers and documentation of audit risk is below the required standard.

I have enclosed a full copy of the accounting file in pdf format for your review. You will see the audit evidence is achieved by the nature of the production of the accounts. This is a small local football club. Accounts are produced on a bank receipts and bank payments basis. This constitutes 100% of the production of the accounts.

To comment that no audit work was not done is incorrect. While preparing the accounts we went through great efforts to prepare accurate and honest financial statements. That the accounts presented to directors and members, and the accounts lodged in CRO were

- *Complete*

- *Gave a true and fair view*

- *Free from material misstatement*

This is a file that is normally referred to as a micro entity, and a file that at the time was considered an audit by the virtue it was a "company limited by guarantee". In recent changes to legislation the need to audit these companies limited by guarantee has been removed.

There was a considerable effort required over the years from 2012 to 2014 to bring the audit files up to normal audit standard. Maybe the time period of 24 months was too short. These small companies would not have the resources to pay the audit fee required to completed full statutory audit. Hence the legislation was changed.

There was no profit motive as fee was only €500 for this file. I accept my actions of not completing more comprehensive audit work falls below the standard required of ACCA members. In this regard I can only apologize for this lack of professional work. This single file was not representative of the practice standards.

During the time period 2013 and 2014 we moved away from an old audit program SCAPS/PQA, a pre-defined pre-printed audit plan to a more modern and expensive integrated word and excel audit program. The cost of moving a small entity made the file very uneconomic for the practice. The practice had no relationship with the clients' members in any other capacity. So, we resigned.

65. The Committee was taken to the International Standards on Auditing (200), with particular attention drawn to the following extracts:

ISA 200

*'…**Requirements***

…

Conduct of an Audit in Accordance with ISAs (UK and Ireland)

Complying with ISAs (UK and Ireland) Relevant to the Audit

18. The auditor shall comply with all ISAs (UK and Ireland) relevant to the audit.An ISA

(UK and Ireland) is relevant to the audit when the ISA (UK and Ireland)is in effect and the circumstances addressed by the ISA (UK and Ireland) exist…

…

20. The auditor shall not represent compliance with ISAs (UK and Ireland) in the auditor's report unless the auditor has complied with the requirements of this ISA and all other ISAs (UK and Ireland) relevant to the audit…'

ISA 220

*'…**Requirements***

Leadership Responsibilities for Quality on Audits

'8. The engagement partner shall take responsibility for the overall quality on each audit engagement to which that partner is assigned.

…

Engagement Performance

Direction, Supervision and Performance

15. The engagement partner shall take responsibility for:

(a) The direction, supervision and performance of the audit engagement in compliance with professional standards and applicable legal and regulatory requirements; and
(b) The auditor's report being appropriate in the circumstances to be issued.'ISA 230

*'**Nature and Purposes of Audit Documentation***

2. Audit documentation that meets the requirements of this ISA (UK and Ireland) and the specific documentation requirements of other relevant ISAs (UK and Ireland) provides:

(a) Evidence of the auditor's basis for a conclusion about the achievement of the overall objectives of the auditor; and

(b) Evidence that the audit was planned and performed in accordance with ISAs (UK and Ireland) and applicable legal and regulatory requirements.

…

Requirements

…

Documentation of the Audit Procedures Performed and Audit Evidence Obtained

Form, Content and Extent of Audit Documentation

8. The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:

(a) The nature, timing and extent of the audit procedures performed to comply with the ISAs (UK and Ireland) and applicable legal and regulatory requirements;
(b) The results of the audit procedures performed, and the audit evidence obtained; and
(c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.

…

Assembly of the Final Audit File

14. The auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report…'

ISA 300

*'…**Requirements***

…

Planning Activities

7. The auditor shall establish an overall audit strategy that sets the scope, timing and direction of the audit, and that guides the development of the audit plan.

…

Documentation

12. The auditor shall include in the audit documentation:

(a) The overall audit strategy;
(b) The audit plan; and
(c) Any significant changes made during the audit engagement to the overall audit strategy or the audit plan, and the reasons for such changes…'

66. Mr Walters submitted that regardless of whether the accounts did or did not show a true and fair view, there was no evidence that Mr Colclough provided Person A with any audit documentation at the monitoring visit of 11 September 2014. He said Person A did not note any findings in relation to the audit of the relevant accounts other than that the audit report had been signed by Mr Colclough and issued by Mr Colclough and CKA & Associates, without any audit procedures having been carried out.

67. Mr Walters also said that by signing the audit report Mr Colclough was certifying that the statements contained within the report were true, that is to say, he had done all the work when, in fact, he had not.

68. In his oral submissions, expanding on his written submissions above, Mr Colclough said that the July 2018 request for the audit file arrived when he had been on 'gardening leave' from the practice and so *"not really engaged with what was going on."* He said that in recent weeks he came across the email and thought *"Oh my god, I did not respond to that."* He then dug out the file and sent it over to ACCA. He said it was wrong, therefore, to say no audit had been done at all, as was shown by the copy of the audit file he provided for the Committee to see.

69. The Committee noted Mr Colclough's candid admission in his written submissions that he accepted his *"actions of not completing more comprehensive audit work falls below*

the standard required of ACCA members." On that basis, and having had the benefit of actually seeing the audit file, the Committee found Allegation 1(b)(i) proved on the grounds that the audit had been signed when he, and CKA Associates, had not conducted an audit sufficiently, rather than not having conducted an audit at all.

Allegation 1(b)(ii) - proved

70. The International Standards on Auditing are set out above. Having found Allegation 1(b)(i) proved, it followed that Mr Colclough had not completed the audit in accordance with those standards.

71. The Committee therefore found Allegation 1(b)(ii) proved.

Allegation 1(c) - proved

72. On 26 November 2014, Mr Colclough stated:

"The audit list shown to Person A was prepared by myself. It showed the current limited company audit engagements and the solicitors file we had as clients when he called. He advised then that he could look at any audit report filed in the last two years. As I had chosen to resign in 2013 from Client B, this is the reason it was not on the list … I had resigned from Client B this is the only reason it was not on the list. There was correspondence on file in relation to my resignation. I provided a copy of letters on the file to Person A for Client B and the appointment of the new accountants dating back to 2013."

73. In his written submissions, Mr Colclough said:

"I was asked for current audit files at the time of the visit 11/9/2014.

I completed a list of current audit files I had in 2014. Both regulated and unregulated audit files.

Company B was not my client as I had resigned the previous year.

When asked for the file as an old client, I did produce the file and presented it (to) Person A. I did not hide it, say it was lost, or make any excuses. I presented it when requested."

74. Notwithstanding his quoted reason for not including Client B, by Mr Colclough's own admission Client B was not on the list he provided to Person A. The Committee therefore found Allegation 1(c) proved.

Allegation 1(d) - admitted and found proved

75. In his written submissions, Mr Colclough said:

"Company B was small micro entity that had very little interaction with the practice other than getting their annual accounts filed. All our other clients we normally have interaction with them month on month with payroll, VAT, Corporation tax and director's income tax return.

Company B has no employees, no VAT, no corporation tax and their directors are exempt from filing income tax returns.

The fee from the client was only €500, so please forgive me if when completing the return of client list in December that I forgot one client."

76. The Committee found this Allegation proved on the basis of Mr Colclough's admission.

Allegation 1(e) - admitted and found proved

77. In his written submissions, Mr Colclough said:

"As our practice was relatively young most of the clients were incoming. I cannot recall the loss of another audit clients during this time period, so my process of reporting to IAASA was not familiar with at the time.(sic)"

78. The Committee found this Allegation proved on the basis of Mr Colclough's admission.

Allegation 2 - proved

79. Mr Colclough was required by Global Practising Regulation 14(3) to co-operate with ACCA in its monitoring and enforcement of compliance with the Global Practising Regulations. GPR 14(3) states: "*Persons subject to these regulations shall, and shall ensure (insofar as they are able) that all persons associated with them shall, co-operate with the Association in its monitoring and enforcement of compliance with these*

regulations and with the bye-laws."

80. In light of its decision in relation to Allegation 1(a) that Mr Colclough failed to comply with the decision of the Regulatory Assessor, it followed that he was in breach of GPR 14(3). The Committee therefore found Allegation 2 proved.

Allegation 3(a) - not proved

81. Mr Walters submitted that in signing an audit report stating that an audit had been undertaken by CKA & Associates in accordance with the International Standards on Auditing, in the knowledge that this was not the case, Mr Colclough had acted dishonestly.

82. In his written submissions, Mr Colclough said:

"The use of terminology such as Dishonest and Guilty of Misconduct are terms and accusations that go to the core of my personality and professional standing amongst my clients, my staff and my peers. You could not use such insensitive and defamatory terminology about me, my professional character or the way I manage my clients, my staff and my business.

I have never had a complaint made against me by a client, never been reported to gardai, the revenue or ever had a case brought against me by a client or found in court to be negligent, miss lead (sic) a client, or falsified a revenue or legal document, or caused a wrong to third party, ever on my life (sic).

I will accept the short comings surrounding Client B. The practice was in a new development phase updating our audit standards, updating and training new ACCA trainees and expanding our total infrastructure. We fell short on one item, within a very complex and relentless business environment."

83. As detailed above, the Committee found proved that Mr Colclough signed the relevant audit report for Client B in the knowledge that an audit had not been carried out adequately. The Committee then had to decide whether such behaviour was dishonest. The Committee considered what it was that Mr Colclough had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. The Committee noted this was one, minor client of CKA Associates and that, according to Mr Colclough, he had many other audit clients with much more complex requirements, that

had been checked by Person A and found to be adequate. The Committee noted that Mr Colclough admitted he had fallen short of the standards required and he had apologised for that. He was adamant, however, that whilst he had been embarrassed to find the audit had not been done, after being in the office for six weeks, and to feeling under pressure to sign, because the client wanted the signed accounts that very evening, he had not acted with any dishonest intent.He said that he had nothing to gain from being dishonest and that Client B was a very small entity with a modest remuneration that was not profit making.

84. In all the circumstances, the Committee did not consider the ordinary decent person would find his actions to be dishonest. There was no element of profiteering and no personal gain. His actions were reckless and misleading, but not, on the balance of probabilities, dishonest. The Committee therefore found Allegation 3(a) not proved.

Allegation 3(b) - proved

85. Mr Walters submitted that the statement in the audit report that CKA & Associates had conducted an audit in accordance with International Standards on Auditing was misleading. He said that Mr Colclough knew that an audit in accordance with International Standards on Auditing had not been undertaken but, nevertheless, signed the audit report. On that basis, Mr Walters submitted Mr Colclough was associated with misleading information and accordingly breached the fundamental principle of integrity.

86. By his own admission, the audit was inadequate and completed at a time when he was under pressure to provide it quickly to the client and also feeling professionally embarrassed for not having done it sooner. In the Committee's view, Mr Colclough had been reckless in not ensuring the audit was carried out to the requisite standard and allowed his own professional embarrassment to cloud his judgment. The result was to sign an audit before it was ready to be signed. Such action was clearly misleading, albeit not deliberately so. The Committee did consider this to be contrary to the fundamental principle of integrity, which requires professional accountants to be straightforward in their business relationships.

87. Accordingly, the Committee found Allegation 3(b) proved.

Allegation 3(c) - proved

88. Allegation 3(c) alleged that Mr Colclough's failure to conduct an audit in accordance with

International Standards on Auditing amounted to a breach of Global Practising Regulation ("GPR") (Annex 2) 16(1)(a).

89. GPR 16(1)(a) states:

"In the conduct of audit work holders of an audit qualification and firms holding an audit qualification shall comply with all the applicable sections of the Association's Rulebook and in particular the Auditing Standards issued by the Auditing Practices Board, the International Standards on Auditing issued by the International Auditing and Assurance Standards Board and the Ethical Standards issued by the Auditing Practices Board."

90. The Committee had already found Allegation 1(b)(ii) proved. It therefore followed that Mr Colclough's actions were contrary to GPR 16(1)(a) in that he had not complied with the International Standards on Auditing, as required by GPR 16(1)(a).

91. The Committee therefore found Allegation 3(c) proved.

Allegation 4(a) - not proved

92. In his letter dated 26 November 2014, Mr Colclough stated:

"The audit list shown to Person A was prepared by myself. It showed the current limited company audit engagements and the solicitors file we had as clients when he called. He advised then that he could look at any audit report filed in the last two years. As I had chosen to resign in 2013 from Client B, this is the reason it was not on the list … I had resigned from Client B this is the only reason it was not on the list. There was correspondence on file in relation to my resignation. I provided a copy of letters on the file to Person A for Client B and the appointment of the new accountants dating back to 2013."

93. In the circumstances, the Committee was not persuaded that Mr Colclough had deliberately concealed the existence of Client B by not including it on the list provided to Person A. When it came up at the meeting, he immediately produced the file and showed it to Person A. The Committee did not consider this to be the actions of a dishonest man. A dishonest man would have been more likely to have kept the existence of the file to themselves, rather than provide the information, as Mr Colclough did. Thus, rather than a purposeful concealment, the Committee accepted Mr Colclough's submissions that he had left it off the list in an erroneous belief that because he had resigned from acting for

Client B a year earlier he did not need to include it on the list. The Committee was cognisant of the fact that the Regulatory Assessors order was clear, as were the two letters sent by ACCA making reference to any audit client within the preceding 24 months. However, the Committee considered this to be more a case of an oversight rather than anything more nefarious.

Allegation 4(b) - not proved

94. For the reasons given in relation to Allegation 4(a), the Committee also found Allegation 4(b) not proved. The Committee was satisfied that the failure to include Client B on the list provided to Person A on 11 September 2014 was more a case of oversight on the part of Mr Colclough and was not, therefore, contrary to the fundamental principle of integrity.

Allegation 5 (a) - not proved

95. There were four occasions when Mr Colclough failed to disclose Client B in the Audit Client Information (Ireland) forms for the years 2011 to 2014.

96. In his letter dated 26 November 2014, Mr Colclough said:

"I would be responsible for the production of the audit list. In the past I have prepared this list primarily from memory and did not refer to a database. As Client B was a very small file with very little interaction with the practice, I simply forgot to enter this on the list. I have been careless in the preparation of the audit client list in this regard and any omission is purely down to me trying to get the annual application completed within a busy office environment."

97. Having seen and heard from Mr Colclough and allowing for the fact that he made submissions rather than gave evidence, the Committee did not consider him to be an inherently dishonest person. Although it was known that the 2014 audit was deficient, there was no evidence to suggest the audits from 2011 to 2013 had been deficient also and therefore no obvious motive for him to have not disclosed Client B in the Audit Client Information (Ireland) forms for those years. It was certainly careless and misleading of him not to have disclosed Client B, but the Committee was not persuaded that he had done so deliberately or that he had acted with any dishonest intent.

98. Accordingly, the Committee found Allegation 5(a) not proved.

Allegation 5(b) – proved

99. Although the Committee was not persuaded that Mr Colclough had acted dishonestly when failing to disclose Client B in the Audit Client Information (Ireland) forms for the years 2011 to 2014, he had acted recklessly in relying on his memory rather than making the appropriate and necessary checks. The result was that his completed forms for those years were misleading, albeit not deliberately so. In the circumstances the Committee was satisfied, on the balance of probabilities, that his repeated conduct in this regard did not amount to acting in a straightforward way and was, therefore, contrary to the fundamental principle of integrity.

100. The Committee therefore found Allegation 5(b) proved.

Allegation 6(a) - proved

101. Mr Colclough admitted the facts as alleged in Allegation 1(e), namely that he did not deposit a statement with the Irish Auditing and Accounting Supervisory Authority ("IASSA") in accordance with Section 161A of the Companies Act 1963, when CKA & Associates ceased to be auditor of Client B. Allegation 6(a) was that this conduct was contrary to GPR (Annex 2) 16(1)(c) (2013).

102. GPR 16(1)(c) states:

*"In the Republic of Ireland, an auditor ceasing to hold office for any reason before the end of his term in office must notify IAASA. In each case the notice must inform the appropriate audit authority that he ceased to hold office and be accompanied by a copy of the statement deposited by him at the company's registered office in accordance with section 161A of the Companies Act, 1990*of the Republic of Ireland.*
*[*Should read 161A of Companies Act 1963]"*

103. In his oral submissions, Mr Colclough conceded that in relation to IAASA he *"should have been a bit sharper, but it was a technical point and I was not really au fait with it at the time."*

104. It was clear to the Committee that it must follow that a breach of Section 161A of the Companies Act must also be contrary to GPR (Annex 2) 16(1)(c), since they both require the accountant to do the same thing. Furthermore, it was apparent that Mr Colclough did

not really dispute this. Accordingly, the Committee found Allegation 6(a) proved.

Allegation 6(b) - proved

105. Mr Colclough admitted that he did not deposit a statement with IASSA in accordance with Section 161A of the Companies Act 1963, when CKA & Associates ceased to be the auditor of Client B. It was alleged that this put him in breach of the fundamental principle of professional behaviour (as applicable in 2013).

106. That Principle stated as follows:

"Members should comply with relevant laws and regulations and should avoid any action that discredits the profession."

107. Clearly Mr Colclough had not complied with the relevant law, Section 161A of the Companies Act 1963, or the relevant regulations, GPR 16(1)(c) and that alone meant he fell afoul of the fundamental principle of professional behaviour. Furthermore, the Committee was satisfied that such action brings discredit to the profession of professional accountants. The Committee therefore found Allegation 6(b) proved.

Allegation 7(a) - proved

108. Having found some of the matters proved in Allegations 1, 2, 3, 5 and 6, the Committee then considered whether they amounted to misconduct.

109. The Committee first considered Mr Colclough's actions in relation to Client A. Mr Colclough had failed to comply with the decision of the Regulatory Assessor and had signed the Reports in Schedule A without having had his files reviewed by a training company as required. A failure to comply with the decision of the Regulatory Assessor is without doubt a serious matter. By not complying Mr Colclough was undermining the integrity and very purpose of ACCA's monitoring and compliance regime and acting contrary to GPR 14(3) (2013- 2014).

110. The public have a right to expect that those regulated by ACCA to carry out audits, or signing reports for regulated professions, are able and capable to do so correctly and that, if they fail to meet the requisite standards, ACCA will step in and take action. A failure by a member to co-operate with that process brings, or is likely to bring, discredit to that

individual, his firm, to ACCA and to the accountancy profession.

111. The Committee was satisfied that such a failure would be viewed as deplorable by fellow members of the profession and amounts to misconduct, whether viewed in isolation or in conjunction with the matters found proved in relation to Client B.

112. In relation to Client B there was a catalogue of failures. Mr Colclough failed to disclose its existence in the Audit Client Information (Ireland) forms for four consecutive years. He failed to disclose its existence in the list of his firm's audit clients provide to ACCA's Senior Compliance Officer on 11 September 2014. He signed the 2014 audit report for Client B in the knowledge that it had not been carried out adequately and that it was therefore not done in accordance with International Standards on Auditing. And he failed to deposit a statement with IASSA in accordance with Section 161A of the Companies Act 1963 when CKA & Associates ceased to be auditor of Client B. The Committee found that these actions put him in breach of the fundamental principle of integrity and the fundamental principle of professional behaviour and were contrary to the GPRs at the relevant times.

113. The Committee considered Mr Colclough's conduct in relation to Client B, whilst not dishonest, was somewhat cavalier and demonstrated a reckless disregard for the relevant laws and regulations that must be complied with by those granted the privilege of an auditing certificate by ACCA. Such behaviour was serious and likely to bring discredit to him, his firm, to ACCA and to the accountancy profession.

114. As with his behaviour in relation to Client A, the Committee was satisfied that other members of the profession, and indeed the public, would find such conduct to be deplorable. Accordingly, whether considered in isolation, or in conjunction with the behaviour found proved in relation to Client A, the Committee was satisfied that it amounted to misconduct.

115. The Committee therefore found Allegation 7(a) proved in relation to those matters found proved in Allegation 1, 2, 3, 5 and 6.

Allegation 7(b) - not proved

116. Having found Allegation 7(a) proved, it was not necessary for the Committee to consider Allegation 7(b), which was in the alternative.

SANCTION AND REASONS

117. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Walters and those made by Mr Colclough, both written and oral. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Colclough, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.

118. In his written submissions in relation to sanction and costs, Mr Colclough said:

"ACCA own rule book (sic) says a punishment or sanction need not be punitive. The decision on 18 December 2014 to remove my audit certificate was the most punitive sanction that could have been imposed. The fall out form (sic) that decision was as follows.

I lost 6 years of audit relationship with clients in a young practice totalling over €80K in fees at least 30% of the practice.

Inability to grow the business in both audit and other specialist area.

Loss of 2 well trained audit juniors, who lived local to the office and enjoyed the working environment.

Inability to offer new employees the full range of experience they require as trainees.

[PRIVATE]

[PRIVATE]

My financial situation nose-dived at (a) time in my life I should be enjoying all the benefits of a successful business and family life. I was simply not able to function efficiently as I had before.

Now, after all my turmoil, my pain, my sheer embarrassment of losing my audit certificate ACCA want me to pay more, on top of the lost business, legal expenses, lost opportunity cost. I find the imposition of cost untenable and not merited considering my considerable financial and personal loss.

I am a trustworthy, honest individual, accountant and mentor to a broad range of clients. The sanction already imposed had been disproportioned for the shortcomings on one file. There was no acknowledgment for all the huge improvements, on the heavily regulated files, none. The loss of my audit certificate has changed my life.

On finalising the monitoring visit 11/9/2014, Person A said he had the power and authority to remove an audit certificate, but he said that was not merited in this case. The file reviews were satisfactory, but I had to be called to account on Client B. ACCA technical advisor advised me I would probably get a fine. Look at where I am now.

This issue is going on since 2014, now nearly 6½ years. This is an extraordinary length of time. My qualification is important to me. I am proud to be an ACCA member. I find the imposition and punishment dished out to date to be excessive.

I live a modest life; I have enclosed my payslip. I have a mortgage and 4 children to support. I simply cannot afford to pay over £11k in expenses considering what I have been through in recent years.

I am seeking a fair resolution to this matter."

119. In his oral submissions, Mr Colclough said he had high regard for his professional body and despaired to find himself in this position. He was clearly contrite and upset that he had allowed his professional standards to drop. He demonstrated insight into his failings and accepted where he had fallen short of the standards required, saying that he maybe had too many clients at the time and *"I need to work hard on that."*

120. Mr Colclough also spoke of the significant impact upon him, both financially and emotionally of having lost his audit qualification. In financial terms, he said it had meant the loss of approximately €80,000 a year to the practice for the last seven years.

121. On a personal level, Mr Colclough said it had impacted significantly upon his confidence. He had considered himself an absolute professional and it was therefore really hard when this qualification was removed. It affected how he felt about himself and how his peers viewed him. [PRIVATE] He said he took time off work and was much stronger now.

122. Mr Colclough concluded by saying that being part of ACCA was a very important part of his life and something that he valued highly. He said he was sorry that he had fallen short at the time, but that he had subsequently employed Omnipro and hired more staff to ensure his failings were not repeated. He emphasised that nothing he had done wrong had been for profit and that in all dealings with his clients he tries to do his best.

123. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.

124. The Committee considered the following aggravating features: repeated failures; conduct likely to undermine the integrity of ACCA's monitoring and compliance regime.

125. The Committee considered there to be the following mitigating factors: the absence of any previous disciplinary record with ACCA, although the Committee noted the decision made by the Admissions and Licensing Committee in 2014 to remove Mr Colclough's auditing certificate; the length of time taken to bring this matter to a resolution; insight and remorse; no evidence of actual harm or loss to any client; good insight; genuine expressions of regret and remorse.

126. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had failed to comply with the directions of the Regulatory Assessor, totted with all the failures in relation to Client B.

127. The Committee then considered whether to reprimand Mr Colclough. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not consider Mr Colclough's conduct to be of a minor nature although he had shown insight into his behaviour. The Committee noted that when addressing factors relevant to seriousness in specific case types, ACCA's Guidance indicates that a failure to co-operate with ACCA's monitoring process is considered to be very serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.

128. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be

applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered these criteria to be met. The guidance adds that this sanction may be appropriate where most of the following factors are present:

- the misconduct was not intentional and no longer continuing;
- evidence that the conduct would not have caused direct or indirect harm;
- insight into failings;
- genuine expression of regret/apologies;
- previous good record;
- no repetition of failure/conduct since the matters alleged;
- rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- relevant and appropriate references;
- co-operation during the investigation stage.

129. The Committee considered that many of these factors applied in this case and that accordingly a severe reprimand would adequately reflect the seriousness of Mr Colclough's behaviour. His misconduct was not intentional, he has demonstrated insight into his failings and made repeated apologies; he has no previous disciplinary record and the Committee had confidence that he would be unlikely to find himself in this position again. The Committee also took into account the fact that these matters occurred over seven years ago.

130. The Committee also considered that a severe reprimand would maintain public confidence in the profession and in ACCA as its regulator. The public need to know it can rely on the integrity, ability and professionalism of those who are members of ACCA. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour is unacceptable.

131. The Committee had considered whether to additionally fine Mr Colclough. However, it decided on balance not to do so given his limited means as referred to below on the question of costs.

132. The Committee therefore ordered that Mr Colclough be severely reprimanded.

COSTS AND REASONS

133. ACCA applied for costs in the sum of £11,028.00. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable.

134. Some reference has already been made above to Mr Colclough's written submissions on costs. In addition, in his oral submissions, Mr Colclough informed the Committee of the significant loss of income over the last seven years as a result of having lost his audit certificate. He also detailed significant costs incurred as a result of challenges he made to the decision by the Admissions and Licensing Committee to remove his audit qualification, in the sum of approximately €80,000. He said he was not destitute and had good clients, but he only earns €3,500 a month (he had provided evidence of this), had four dependent children and very much lived hand to mouth. He said he had no savings. He said he could manage to pay half and encouraged the Committee to make an order for less that the full amount.

135. The Committee had to balance Mr Colclough's interests with those of all other ACCA members who would have to in effect cover any costs not paid by him. It noted that the most serious allegations, those of dishonesty, had not been found proved, but considered ACCA had been perfectly justified on the evidence in pursuing such allegations. The Committee did not therefore consider this to be a reason to reduce the amount requested. The Committee did, however, consider it appropriate to reduce the amount to reflect MrColclough's financial position and limited means.

136. In light of its observations above, the Committee reduced the amount requested and made an order in the sum of £7,500.00.

EFFECTIVE DATE OF ORDER

137. This order will take effect at the expiry of the appeal period referred to in the Appeal Regulations.

Mr Maurice Cohen
Chair
15 July 2021