

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Bilal Khaled Al Hasan</b>
<b>Heard on:</b>	<b>Thursday, 01 and Friday, 02 December 2022</b>
<b>Location:</b>	<b>Held remotely via MS Teams</b>
<b>Committee:</b>	<b>Mr Neil Dalton (Chair), Ms Andrea White (Accountant) Ms Sue Heads (Lay Member)</b>
<b>Legal Adviser:</b>	<b>Mr Richard Ferry-Swainson</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (Case Presenter) Ms Anna Packowska (Hearings Officer)</b>
<b>Summary:</b>	<b>All facts and misconduct found proved. Member excluded from membership. Costs of £8.400 ordered.</b>

#### INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of allegations against Mr Al Hasan. Mr Al Hasan did not participate in the hearing, nor was he represented.

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2. The papers before the Committee were in a bundle numbered 1 to 436, together with a tabled additional bundle numbered 1 to 5 and a further additional bundle of 3 pages. There was also a service bundle numbered 1 to 15 and a costs bundle.

### **PROCEEDING IN ABSENCE**

3. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Ms Terry on behalf of ACCA and also took into account the advice of the Legal Adviser.
4. Included within the service bundle was the Notice of Hearing dated 3 November 2022, thereby satisfying the 28-day notice requirement, which had been sent to Mr Al Hasan’s email address as it appears in the ACCA Register. The Notice included details about the time, date and remote venue for the hearing and also Mr Al Hasan’s right to attend the hearing, by telephone or video link, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Mr Al Hasan’s absence, if considered appropriate. There was a receipt confirming the email had been delivered to Mr Al Hasan’s registered email address.
5. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which require ACCA to prove that the documents were sent, not that they were received. Having so determined, the Committee then considered whether to proceed in Mr Al Hasan’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Al Hasan, it should exercise that discretion with the utmost care and caution, particularly as Mr Al Hasan was unrepresented.
6. In a letter dated 28 August 2022, Mr Al Hasan responded to the Disciplinary Committee Case Management Questionnaire. With reference to his attendance at the hearing he said: *“I do not intend to attend the hearing-unfair advantage of AML officers have over me. It is like a client of mine arguing a legal point with*

*a QC-totally unfair. My representative will not attend either. He is too expensive for me and I could not afford his services. I consent to the hearing without me.”*

7. On 22 November 2022, the Hearings Officer telephoned Mr Al Hasan and asked him if he would be attending the hearing. Mr Al Hasan said he would not be attending as he found the whole process “*degrading and insulting.*”
8. In an email, dated 22 November 2022, sent to Mr Al Hasan by the Hearings Officer, he was again asked if he would be attending the hearing. Mr Al Hasan responded in an email dated 23 November 2022, saying:

*“Thank you for your email and follow up call.*

*I believe that the whole process of a disciplinary action is not warranted.*

*I think that the whole process is quite degrading and insulting.*

*Therefore, i have decided to decline to attend, telephone, or video link with my total respect to the disciplinary committee.” (sic)*

9. In a further email, dated 29 November 2022, Mr Al Hasan made it clear that he would not be participating in this hearing.
10. The Committee noted that Mr Al Hasan faced serious allegations and that there was a clear public interest in the matter being dealt with expeditiously. The Committee considered an adjournment would serve no useful purpose because it seemed unlikely that Mr Al Hasan would attend on any other occasion, and he had not applied for one. In light of his clear indication, given on a number of occasions, that he would not be attending this hearing and that he consented to the hearing going ahead without him, the Committee concluded that Mr Al Hasan had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
11. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Mr Al Hasan. No adverse inference would be drawn from his

non-attendance and the Committee would take into account the written representations he had provided, particularly those dated 28 August 2022.

## **ALLEGATIONS/BRIEF BACKGROUND**

12. It is alleged that Mr Al Hasan is liable to disciplinary action on the basis of the following Allegations:

Mr Bilal Khaled Al Hasan, a member of ACCA and Director of Ashmere & Co (“the firm”):

1. Failed to fully cooperate with the investigation of a complaint, contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, in that he failed to provide any or all of the information requested by a Senior Investigations Officer in any or all of the correspondence dated:
  - (a) 14 July 2021;
  - (b) 24 August 2021;
  - (c) 25 August 2021;
  - (d) 02 September 2021;
  - (e) 20 September 2021;
  - (f) 05 October 2021.
  
2. On dates between 26 June 2017 and 2 December 2021, failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the regulations”) in relation to the accountancy services offered by the firm, in that he:
  - (a) Had not conducted and/or documented a firm-wide risk assessment, contrary to Regulation 18 of the regulations;
  
  - (b) Did not put in place adequate steps to ensure the firm had in place a dedicated policies and procedures document outlining the firm’s anti-money laundering systems and controls, contrary to Regulation 19 of the regulations;

(c) Did not take appropriate measures as the Money-Laundering Reporting Officer (“MLRO”) of the firm to ensure he completed regular training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing and/ or retain a record of such training, contrary to Regulation 24 of the regulations.

(d) Did not take adequate steps to ensure the firm had in place appropriate systems and procedures in relation to customer due diligence measures, and/or apply the same in accordance with Regulations 27 and 28 of the regulations.

3. In respect of allegation 2 above, his conduct was further:

(a) Not in accordance with Section B2 of ACCA’s Code of Ethics and Conduct (Anti-money laundering) [as applicable between 2017 and 2020] and/or;

(b) Contrary to Subsection 113 of ACCA’s Code of Ethics and Conduct (the Fundamental Principle of Professional Competence and Due Care) [as applicable between 2017 and 2021] and/or

(c) Contrary to Subsection 115 of ACCA’s Code of Ethics and Conduct (the Fundamental Principle of Professional Behaviour) [as applicable between 2017 and 2021].

4. By reason of any or all of his conduct set out at allegations 1 – 3 above, he is:

(a) Guilty of misconduct pursuant to bye-law 8(a)(i); or, in the alternative,

(b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) (in respect of allegations 1 and 3).

13. Mr Al Hasan became an ACCA Member on 14 May 1981. He became an ACCA Fellow on 14 May 1986. He is the Sole Practitioner and Director of Ashmere & Co (“the firm”) and the firm’s Money Laundering Reporting Officer (“MLRO”).
14. On 21 May 2021, a referral was made by Mr Steven Armstrong, a Senior Supervision Officer in the Anti Money Laundering (“AML”) Team at ACCA, regarding Mr Al Hasan’s alleged breaches of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“MLRs”). The concerns had come to light during a routine desk-based monitoring review of the firm on 18 May 2021, in which Mr Al Hasan had admitted a failure to conduct and document a firm-wide risk assessment (“FWRA”) and also to have documented AML policies and procedures (“AML P&Ps”) in place in the firm.
15. This matter was referred for investigation, pursuant to Rule 4(1)(b) of ACCA’s Complaints and Disciplinary Regulations 2014. During the investigation, a witness statement (dated 6 January 2022) was obtained from Mr Armstrong. The AML Team is responsible for conducting monitoring reviews to ensure that ACCA members are complying with laws and regulations. The AML reviews (of ACCA firms) that take place are designed to protect the public interest by ensuring that they are putting the right systems and controls in place to comply with money laundering regulations.
16. In his statement, Mr Armstrong explained the following:
  - The requirement for all ACCA firms to have a FWRA in place is set out in Section 18 of the MLRs;
  - The requirement for all ACCA firms to have AML P&Ps in place is set out in Section 19 of the MLRs;
  - The requirement for all ACCA firms to have the relevant training in relation to AML is set out in Section 24 of the MLRs;
  - The requirement for all ACCA firms to conduct Customer Due Diligence (“CDD”) is set out in Sections 27 and 28 of the MLRs.

17. Mr Armstrong confirmed that his statement was made in connection with Mr Al Hasan – the sole director and the MLRO of the firm. Mr Al Hasan holds an ACCA Practising Certificate, and as such, there is a mandatory requirement for the firm to be monitored by ACCA to assess compliance with the MLRs. This mandatory requirement applies to all firms regulated by ACCA, irrespective of the size of the firm or the number of people employed.
18. Mr Armstrong confirmed that he carried out a routine desk-based monitoring review of the firm on 18 May 2021. This was the first review of the firm and its purpose was to monitor the firm’s compliance with the MLRs, which came into force on 26 June 2017.
19. Mr Armstrong provided details about the telephone interview that occurred between himself and Mr Al Hasan and explained about the introduction that took place. Mr Armstrong said that his first question to Mr Al Hasan was to ask whether he had completed a FWRA: Mr Al Hasan answered “No” to this question.
20. Mr Armstrong then said that he had asked Mr Al Hasan whether he had documented AML policies and procedures in place. Mr Al Hasan answered “*Except for the terms and conditions, not really no.*” Mr Al Hasan then went on to say that he has a small practice looking after very small clients, so he said he did not know whether AML policies and procedures were needed. Mr Armstrong then asked Mr Al Hasan whether his procedures were documented. Mr Al Hasan replied that he “*did not have his procedures documented.*”
21. In his witness statement, Mr Armstrong spoke about the questions asked of Mr Al Hasan in relation to AML training: “*I then asked Mr Al Hasan whether he had completed any specific anti-money laundering training. Mr Al Hasan answered that he might have completed a couple of training sessions (such as webinars or seminars), but that this was some time ago. I asked Mr Al Hasan when he had last completed some anti-money laundering training and Mr Al Hasan said that it had been about three or four years ago. I asked Mr Al Hasan whether he completes a training record or log to show what training he has received and when. Mr Al Hasan said that this was only done in Professional Educational*

*which he subscribes to every year and he said that he reports all his training to ACCA.”*

22. Mr Armstrong went on to detail the questions he asked of Mr Al Hasan in relation to the way he conducts customer due diligence on his clients. *“Mr Al Hasan replied by saying he does not have a website and that all his clients come to him through referrals... I asked Mr Al Hasan whether he completes any new client forms for each client about what services they provide. Mr Al Hasan said that he doesn’t – he said he makes enquiries about the client with whoever referred the client to him and that he would only take the client on if he felt comfortable. I asked Mr Al Hasan whether he uses any electronic verification as part of his onboarding process and Mr Al Hasan replied that he doesn’t.”*
23. In relation to Mr Al Hasan’s risk assessment of his clients, Mr Armstrong said that he asked him whether he risk assesses his clients and he confirmed that he has *“an informal process in place.”*
24. Mr Armstrong then asked Mr Al Hasan whether he had an Enhanced Due Diligence Process. Mr Al Hasan said that he did not have an Enhanced Due Diligence Process and that all his clients go through the same process. Mr Al Hasan repeated his assertion that his clients are ‘very small’ and that ‘nothing is of substance’ and that he *“doesn’t feel any of his clients are a major risk for money laundering.”*
25. In his witness statement, Mr Armstrong said that at the end of the call, he asked Mr Al Hasan whether he had any questions for him. Mr Al Hasan replied that he *“is not an auditor,”* and that he had *“dropped his auditing certificate”,* as he *“did not want to go through this exercise for every client.”* Mr Al Hasan said that he *“had a feeling that digging into his client’s affairs would lead me to nowhere.”* Mr Al Hasan mentioned his load of work and that he *“believed the anti-money laundering procedures would make his clients leave, and that he has not encountered any problems with his previous clients.”*
26. Mr Armstrong confirmed that his findings of the AML review were as follows:



- The firm had not conducted and documented a FWRA.
  - The firm does not have AML P&Ps.
  - The MLRO does not complete periodic AML training.
  - Inconsistencies and anomalies were found when reviewing CDD files and the firm does not have a formal documented process to identify those clients posing higher risk.
27. Mr Armstrong said that he sent an internal memo to ACCA's Assessment Department on 21 May 2021 regarding Mr Al Hasan's apparent breaches of the MLRs, and that this in turn was transferred to the Investigations team and allocated to a Senior Investigations Officer to investigate.
28. Mr Armstrong confirmed that on 7 September 2021, Mr Al Hasan responded to the actions set out in the AML report and that he subsequently reviewed the documents provided by Mr Al Hasan. Mr Armstrong said that: *"it was my assessment that Mr Al Hasan had not sufficiently addressed the required actions."* Mr Armstrong provided details as to why he believed Mr Al Hasan was still in breach of the MLRs. Mr Al Hasan had not satisfied the AML Team that:
- He had completed a FWRA.
  - The firm has AML P&Ps in place.
  - The MLRO had completed the MLRO assessment.
  - In relation to CDD, the firm had sufficiently addressed the required actions listed in the AML report.
29. Mr Armstrong said that another email was received from Mr Al Hasan on 18 October 2021, and that he was asked by the Senior Investigations Officer to review the further documents he had provided and confirm whether Mr Al Hasan had satisfactorily remedied the outstanding breaches.
30. Mr Armstrong confirmed he reviewed the further documents provided by Mr Al Hasan and on 25 October 2021, concluded that he had still not sufficiently addressed the actions required.

31. Mr Armstrong said that he drafted a letter dated 25 October 2021, *“which sets out in detail the AML Team’s assessment that the firm is not compliant with the MLRs 2017 and AMLGAS.”* (Anti-Money Laundering Guidance for the Accountancy Sector) Mr Armstrong set out the actions still not sufficiently addressed by Mr Al Hasan. These outstanding actions and alleged breaches remained the same as previously identified.
32. ACCA first wrote to Mr Al Hasan on 14 July 2021 to inform him of the referral made by the AML Team. Mr Al Hasan was sent the AML report and asked the following:
- To ensure that he action the outstanding controls as outlined in the report and to provide documentary evidence of those actions having been completed.
  - Confirmation that he is aware of the importance of his firm adhering to the MLRs and to AMLGAS.
  - Confirmation of the actions he will take to ensure that his firm will ensure continued compliance with the MLRs.
  - A written undertaking that his firm will continue to display satisfactory AML controls going forward and that the situation arising out of this referral will not happen again.
33. Mr Al Hasan responded on the same date and asked for an extension of the deadline given to him, saying, *“I have already started with some exercise, but meeting your requirements is hard and time consuming.”* ACCA therefore granted him an extension of his deadline until 23 August 2021.
34. ACCA did not receive a response by the above deadline of 23 August 2021, and therefore wrote to Mr Al Hasan on 24 August 2021, reminding him of his duty to fully cooperate in this investigation. Mr Al Hasan responded on the same date, to say that he had sent his response to Mr Armstrong in the AML Team. He said in his email to the Senior Investigations Officer: *“This has caused me a lot of stress and anxiety, and I have spent a lot of time trying to adhere to*

*ACCA requirements. Are you doing this to every practitioner or only the ones caught out?"*

35. In his email to Mr Armstrong in the AML Team, which had been forwarded to the Senior Investigations Officer, Mr Al Hasan said the following:

*"I have reviewed a lot of AML policies including those set up by Law Society, and I believe they were all too comprehensive for a sole practitioner like me. I work for myself and I do not have employees. My son is a chartered accountant, and he found such policy as set by ICAEW for small operators like me. I now have a policy tailored for my practice."*

36. Mr Al Hasan said that he *"refer(s) to AML in my terms and conditions when I engage with new clients."* He said that he is contacting all his clients with a new engagement letter *"as recommended by ACCA."* He said that he is *"looking for seminars that would enhance my understanding of AML and other related crimes."* Finally, Mr Al Hasan said in his email to Mr Armstrong: *"I have indicated previously that all my clients are of low or no risk, which you did not agree with, and even there is always cash transactions, I have never found an irregular transaction in the last 20 years. I am aware that I must be compliant with ACCA, and other authorities, and I believe I have done my bit."*

37. The Senior Investigations Officer then wrote to Mr Al Hasan on 25 August 2021. It was made clear to Mr Al Hasan that a referral had been made by the AML team to the Investigations team, and that ACCA's jurisdiction over its members is regulatory and disciplinary in nature. Mr Al Hasan was informed that ACCA will take disciplinary action against its members where there is evidence of a serious departure from the standards of conduct to be expected of professional accountants. Mr Al Hasan was again reminded that all members have a duty to cooperate with an investigating officer in relation to the consideration and investigation of a complaint.

38. The questions that were put to Mr Al Hasan in the initial letter sent to him on 14 July 2021 were again put to him in this letter; it was explained that his email to Mr Armstrong did not satisfy the outstanding actions as outlined in the AML

report. With this letter, Mr Al Hasan was also provided with AMLGAS and was advised to read the document carefully as it is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency, or trust and company services in the United Kingdom (and has been approved and adopted by the UK accountancy AML supervisory bodies).

39. On 02 September 2021, a telephone call took place between the Senior Investigations Officer and Mr Al Hasan. Following this telephone call, a letter was sent to Mr Al Hasan on the same date, providing him with a further deadline in which to respond in full to the investigation, and providing him with advice about contacting ACCA's Technical Advisory Department, if he did not understand what he needed to do to ensure full compliance with the MLRs.
40. Mr Al Hasan responded on 07 September 2021 and provided the following information:
  - The firm's risk wide assessment;
  - The firm's AML policies and procedures;
  - Booking for a training course in relation to AML training;
  - Evidence of CDD.
41. In this response Mr Al Hasan said: *"I am confident that the majority of my clients are so small that they do not pose any risk and hence I have rated them as low, or very low risk. I have been in practice for 21 years, and I have never encountered a substantial move of funds, sudden wealth, or unexplained presence of funds. I am aware that our professional body would require further scrutiny of new clients which I will pursue with open eyes and mind."*
42. On 20 September 2021, the Senior Investigations Officer wrote to Mr Al Hasan and confirmed to him that it was the AML's team assessment that he had not sufficiently addressed the required actions. Enclosed was a 'further actions' letter, which outlined the findings of the review of the documents made by the AML team and the further actions he needed to take. A further two weeks were given to Mr Al Hasan in which to put in place the outstanding actions.

43. A further email was received from Mr Al Hasan on 01 October 2021. He said:  
*“It is very discouraging, and I felt, despite the long hours of stress and anxiety, and spending money, I am back to square 0. I am sure not all the practitioners go through this grilling.”* Mr Al Hasan asked for a further extension of the deadline and said: *“I believe I have to re-address all the issues with a clearer mind, and definitely with the assistance of specialists... It is agonising.”*
44. A letter was subsequently sent to Mr Al Hasan on 05 October 2021 by the Senior Investigations Officer. A further ten days was given to him in which to provide ACCA with satisfactory evidence of the outstanding actions having been taken.
45. An email was sent by Mr Al Hasan on 18 October 2021, with new attachments including his FWRA and his firm’s AML P&Ps.
46. A final letter was sent to Mr Al Hasan on 03 November 2021 by the Senior Investigations Officer stating that that the AML team was still not satisfied with the actions he had taken. It was explained to Mr Al Hasan that from the documents he had provided, it appeared that he had purchased a manual from a third party and that he had yet to explain what he was actually doing to address the findings. The Senior Investigations Officer enclosed once again the further actions letter from the AML team on 25 October 2021, which outlined what was required, and which also provided links to the ACCA factsheets, which provided all the information required for him to implement the necessary actions. It was explained to Mr Al Hasan that a Report of Disciplinary Allegations would therefore be prepared, given he had not provided a satisfactory response, and he had been given notice of this.
47. A final email response was received from Mr Al Hasan on 11 November 2021, in which he said:

*“I have suggested before that I need a specialist to assist me with your AML requirements. I guess I was mistaken.”*

*What I hate most in my life is being on the defensive, and your decision to report me to the disciplinary committee is really harsh, and in this instance after all the hours I have spent to attend to AML requirements I will not defend myself because I knew from your second email where it is heading.*

*Whatever I did was not enough, although a fellow certified accountant, a chartered accountant, and a lawyer said it was good enough. I AM A SMALL OPERATOR. I have nothing to add to my policies and procedures, firm-wide risk assessment, and cdd. I am not your model AML operator...*

*Do you subject EVERY ACCA practitioner with these requirements? I really doubt that."*

48. In a letter dated 28 August 2022, Mr Al Hasan responded to the ACCA Disciplinary Committee Case Management Questionnaire as follows:

*Dear Sirs/Madams,*

*Let me apologise for the delay in responding to you, but every time I start writing I feel rather unwell. This reply was started more than two months ago.*

*Let me apologise for my frankness and being candid too.*

*Let me also say that I acknowledge that ACCA is aiming to be the top professional body, but in this pursuit, it has defeated the purpose.*

*I have advised ACCA that I am a lone practitioner, and that what they require of me by way AML compliance is far-fetched and totally unreasonable. ACCA has not devised policies that are suitable for different practices size but has thrown on me everything they expect from multi-national, multi partner, multi hundred employee practices.*

*I have always indicated in my replies that all my clients are either of low or very low risk. ACCA would not accept this fact and threw on me loads and loads of*

*regulations, subsections, paragraphs that would remotely, if at all, apply to my practice.*

*I should not be in this position to defend myself and to be in front of a disciplinary committee, because I have attended to all of what ACCA was requesting of me, I have to be compliant. I am confident that it is all about "ticking the box". Putting AML procedures in practice is another matter.*

*I have attended several webinars, one of which, was very specific, that ACCA is aiming to punish those practices that do not have full fledged AML policies and practices. I am one of those practices. I bet you that 95% of practices do not have policies that are remotely agreeable to ACCA.*

*I have raised the question of protection of informers. ACCA and all lecturers, either pretended that they did not understand my point, or answered in a totally irrelevant way.*

*In some areas of the world, an informer carries the death penalty all his life, but yes we live in UK, and the law ought to protect us. Personally, I do not believe protection by law or police is adequate enough these days, and one has to remember that we have dear relatives and property in UK and abroad. Any of these could be targeted. A very expensive price for informers. One might inform on someone, and make a mess of his life, then it turns out that he is totally innocent.*

*ACCA has requested that I should have AML policies and procedures which were prepared and presented, and have been marked down as insufficient or weak. I have improved on these and I reproduced ones that I believe were acceptable. Now I have a question to ACCA, who are these policies and procedures for? What do I do with them going forward?"*

49. Mr Al Hasan went on to make various qualified admissions, arguing that whilst the matters alleged were "right at the beginning they were completely rectified as I did my best in the circumstances." He said that he delivered on all that ACCA asked for and that although his approach was "not in line with ACCA

*guidelines it was adequate.” He also said, “I have kept required documentation. Proof of adequacy was that non my clients for the past 21 years was sanctioned under The Money Laundering Terrorist Financing and Transfer of Funds Act. I have maintained that all my clients are of low risk indeed. ACCA does not accept. I have acted professionally and diligently throughout my career.” He added, “I simply do not have the time, the money, or the ability to attend to a role that will only be suitable for much bigger practices.”*

50. In relation to misconduct, Mr Al Hasan said:

*“There was no misconduct intended. ACCA, by virtue of their initial findings, concluded misconduct. I am very busy, and I admit that I cannot spend too much time reading emails and other literature (a downfall of mine), but there was no misconduct especially that prospective clients are vetted before I take them on. Any doubt of their behaviour and/or conduct, I refuse to add them to my list of clients, and hence a clean sheet. I have subscribed to Smart Search for additional vetting.*

*Please note that ALL my clients are introduced to me through word of mouth. I do not advertise my services, and I do not have a website. I find this approach would minimise future headaches... Please note that any client who may show any form of mis doing, even if it is minor or unintended, I simply withdraw my services. This, fortunately, was very rare indeed.*

*I am sure ACCA will provide their officers, who know AML regulations by heart (and backwards) as witnesses. This is the reason I am not attending the hearing. I will not provide any, although that my lawyer, my ACCA friend and practitioner, my ICAEW friend and practitioner, my son who is ICAEW can all witness the hours and the effort I have put into this case. ACCA has not accepted them as inadequate. What hurts is that ACCA never encouraged me when I updated my policies. As a matter of fact, they did not provide help when I cried for it. They did not even bother to reply to me.” (sic)*

51. In conclusion, Mr Al Hasan said:



*“I have attended to all feasible requirements of ACCA and beyond. I may differ in opinion, but I abided by their recommendations. ACCA should devise varied policies suitable for different practices. (courses for horses). You simply do not expect land locked countries to produce submarines.”*

## **DECISION ON FACTS/ALLEGATION AND REASONS**

52. The Committee considered with care all the evidence presented and the submissions made, both oral and written. 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 - proved

1. Failed to fully cooperate with the investigation of a complaint, contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, in that he failed to provide any or all of the information requested by a Senior Investigations Officer in any or all of the correspondence dated:
- (a) 14 July 2021;
  - (b) 24 August 2021;
  - (c) 25 August 2021;
  - (d) 02 September 2021;
  - (e) 20 September 2021;
  - (f) 05 October 2021.
53. The Committee considered the evidence in relation to Allegation 1 and approached each date referred to separately. The Committee noted that, according to Mr Armstrong and the AML team at ACCA, Mr Al Hasan had repeatedly failed to adequately answer the specific questions that were put to him in the initial letter sent to him on 14 July 2021, as well as failing to adequately address the breaches of the MLRs which were first brought to his attention on 21 May 2021. The questions put to Mr Al Hasan on 14 July 2021 were as follows:

- *“Please can you ensure that you action the outstanding controls as outlined in that (the AML) report. Please provide documentary evidence of these actions having been completed.*
- *Please confirm whether you are aware of the importance of your firm adhering to the MLRs and to AMLGAS?*
- *Please confirm what actions you will take to ensure that your firm will ensure continued compliance with the MLRs?*
- *Please can you provide a written undertaking that your firm will continue to display satisfactory AML controls going forward and that the situation arising out of this referral will not arise again.”*

54. The Committee acknowledged that Mr Al Hasan had provided various responses to ACCA’s Senior Investigation Officer. However, in some instances he had not provided what was asked for and in other instances what he provided was deemed inadequate by ACCA. The Committee noted that on various occasions Mr Al Hasan asked for extensions of time in which to reply and these were granted. However, even having been given more time to respond and then responding, Mr Al Hasan did not answer adequately the specific questions referred to above and this was the case for each of the six dates.

55. Regulation 3(1) states:

- (a) Every relevant person is under a duty to co-operate with any investigating officer and any assessor in relation to the consideration and investigation of any complaint.
- (b) The duty to co-operate includes providing promptly such information, books, papers or records as the investigating officer or assessor may from time to time require.
- (c) A failure or partial failure to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of these regulations and may render the relevant person liable to disciplinary action.

56. The Committee was satisfied that Mr Al Hasan was, as a member of ACCA, under a duty to co-operate with the requests made by the investigating officer. By not providing all of the information answering the specific questions asked in the 14 July 2021 letter in any of the correspondence on the dates listed above, Mr Al Hasan had not, the Committee concluded, co-operated fully with the investigation.
57. The Committee was advised by the Legal Adviser that the duty to co-operate with an ACCA investigation is absolute, that is to say every relevant person is under a duty to co-operate with any investigating officer and any assessor in relation to the consideration and investigation of any complaint. A failure, or partial failure, to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of the regulations and may render the relevant person liable to disciplinary action. Mr Al Hasan failed to respond fully to any of the correspondence sent to him by the Senior Investigating Officer on the six dates specified in Allegation 1, a fact he appeared to accept initially although he believed he had completely rectified the matters asked of him thereafter. Mr Al Hasan was warned that a failure to deal with the specific questions posed in the 14 July 2021 letter might result in an allegation of failure to cooperate with ACCA.
58. On the evidence provided by Mr Armstrong about Mr Al Hasan's failure to adequately answer the questions that had been posed on 14 July 2021, the Committee was satisfied, on the balance of probabilities, that Mr Al Hasan had failed to co-operate fully as alleged and found Allegation 1(a) to (f) in its entirety, proved.

#### Allegation 2 - proved

2. On dates between 26 June 2017 and 2 December 2021, failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the regulations") in relation to the accountancy services offered by the firm, in that he:

- (a) Had not conducted and/or documented a firm-wide risk assessment, contrary to Regulation 18 of the regulations;
- (b) Did not put in place adequate steps to ensure the firm had in place a dedicated policies and procedures document outlining the firm's anti-money laundering systems and controls, contrary to Regulation 19 of the regulations;
- (c) Did not take appropriate measures as the Money-Laundering Reporting Officer ("MLRO") of the firm to ensure he completed regular training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing and/ or retain a record of such training, contrary to Regulation 24 of the regulations.
- (d) Did not take adequate steps to ensure the firm had in place appropriate systems and procedures in relation to customer due diligence measures, and/or apply the same in accordance with Regulations 27 and 28 of the regulations.

59. The Committee noted that at no stage in his correspondence did Mr Al Hasan dispute the findings made by Mr Armstrong, but rather he seemed to consider they did not really apply to him as a small firm and that in any event he considered he had rectified the position.

60. In response to the ACCA Disciplinary Committee Case Management Questionnaire, Mr Al Hasan said, in relation to Allegation 2: *"I agree, but they were rectified, and all that ACCA has asked for, I delivered."* In relation to 2(d), Mr Al Hasan said, *"My approach, although were not in line with ACCA guidelines, was adequate. I have kept required documentation. Proof of adequacy was that non my clients for the past 21 years was sanctioned under The Money Laundering Terrorist Financing and Transfer of Funds Act. I have maintained that all my clients are of low risk indeed. ACCA does not accept. I have acted professionally and diligently throughout my career."* (sic)

61. Dealing with each specific sub-particular, the Committee noted the following.

62. In relation to 2(a), the Committee took into account the evidence of Mr Armstrong that on 18 May 2021 he had asked Mr Al Hasan whether he had completed a firm-wide risk assessment and Mr Al Hasan had answered “No”.
63. In relation to 2(b), Mr Armstrong said that he had asked Mr Al Hasan whether he had documented anti-money laundering policies and procedures in place. Mr Al Hasan had answered “*Except for the terms and conditions, not really no.*” He then went on to say that he has a small practice looking after very small clients, so he said he “*did not know whether AML policies and procedures are needed.*” Mr Armstrong said asked Mr Al Hasan whether his procedures were documented. Mr Al Hasan replied that he did not have his procedures documented.
64. In relation to 2(c) Mr Armstrong asked questions of Mr Al Hasan in relation to AML training. He said he asked him whether he had completed any specific anti-money laundering training. Mr Al Hasan answered that he “*might have completed a couple of training sessions (such as webinars or seminars), but that this was some time ago.*” Mr Armstrong asked Mr Al Hasan when he had last completed some anti-money laundering training and Mr Al Hasan said that it had been “*about three or four years ago.*” Mr Armstrong asked Mr Al Hasan whether he completed a training record or log to show what training he had received and when. Mr Al Hasan said that “*this was only done in Professional Educational*” which he subscribes to every year and he said that he “*reports all his training to ACCA.*”
65. In relation to 2(d) Mr Armstrong asked questions of Mr Al Hasan in relation to the way he conducts customer due diligence on his clients. Mr Al Hasan replied by saying he does not have a website and that all his clients come to him through referrals. Mr Armstrong asked Mr Al Hasan whether he completes any new client forms for each client about what services they provide. Mr Al Hasan said that he did not, but said he “*makes enquiries about the client with whoever referred the client to him*” and that he “*would only take the client on if he felt comfortable.*” Mr Armstrong asked Mr Al Hasan whether he uses any electronic verification as part of his onboarding process and Mr Al Hasan replied that he did not. In relation to Mr Al Hasan’s risk assessment of his clients, Mr Armstrong

said that he asked him whether he risk assesses his clients and Mr Al Hasan confirmed that he has “*an informal process in place.*” Mr Armstrong also asked Mr Al Hasan whether he had an Enhanced Due Diligence Process. Mr Al Hasan said that he did not have an Enhanced Due Diligence Process and that all his clients go through the same process. Mr Al Hasan repeated his assertion that his clients are “*very small*” and that “*nothing is of substance*” and that he did not feel any of his clients were a “*major risk for money laundering.*”

66. In light of the questions asked by Mr Armstrong and the responses given by Mr Al Hasan, together with the subsequent lack of challenge by Mr Al Hasan to the contents of Mr Armstrong’s statement, the Committee was satisfied that 2(a) to (d) inclusive were all, on the balance of probabilities, proved.

Allegation 3 - proved

3. In respect of allegation 2 above, his conduct was further:

- (a) Not in accordance with Section B2 of ACCA’s Code of Ethics and Conduct (Anti-money laundering) [as applicable between 2017 and 2020] and/or;
- (b) Contrary to Subsection 113 of ACCA’s Code of Ethics and Conduct (the Fundamental Principle of Professional Competence and Due Care) [as applicable between 2017 and 2021] and/or
- (c) Contrary to Subsection 115 of ACCA’s Code of Ethics and Conduct (the Fundamental Principle of Professional Behaviour) [as applicable between 2017 and 2021].

67. Mr Al Hasan is the firms MLRO and, at least since 21 May 2021, was aware of his responsibilities in that role. However, he effectively admitted that he chose not to comply with them because he felt they were too onerous for a firm of his size. It was not a valid decision for him to decide unilaterally not to comply with important regulations designed to prevent and/or restrict criminals’ abilities to launder the proceeds of their crimes. Although Mr Al Hasan may not have been fully aware of his responsibilities before the contact by Mr Armstrong, he certainly was thereafter. Furthermore, it was incumbent upon him to have

ensured he was fully aware of his responsibilities and to have complied with the regulations from the time that they came into force on 26 June 2017.

68. Section B2 of ACCA's Code of Ethics and Conduct deals with anti-money laundering provisions and highlights the requirement for professional accountants to familiarise themselves with the law and to work within the law. Detailed guidance is given about the internal controls and policies that an accountant must ensure are in place, such as regular training, client identification, record keeping, recognition of suspicious circumstances and reporting suspicious transactions.

69. Subsection 113 of ACCA's Code of Ethics and Conduct states:

*Subsection 113 – Professional Competence and Due Care*

*R113.1 A professional accountant shall comply with the principle of professional competence and due care, which requires an accountant to:*

- (a) Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent professional service, based on current technical and professional standards and relevant legislation; and*
- (b) Act diligently and in accordance with applicable technical and professional standards.*

70. Subsection 115 of ACCA's Code of Ethics and Conduct states:

*Subsection 115 – Professional Behaviour*

*R115.1 A professional accountant shall comply with the principle of professional behaviour, which requires an accountant to comply with relevant laws and regulations and avoid any conduct that the accountant knows or should know might discredit the profession. A professional accountant shall not knowingly engage in any business, occupation or activity that impairs or might impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the fundamental principles.*

*115.1 A1 Conduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.*

71. By failing in the ways detailed in Allegation 2, Mr Al Hasan clearly fell foul of Section B2 and the requirements detailed therein. He also acted contrary to subsection 113 in relation to professional competence and due care, by not attaining and maintaining the necessary knowledge and skills to comply with the MLRs. He also acted contrary to subsection 115 by not complying with relevant regulations and thereby avoiding conduct that was likely to bring discredit to the profession.
72. Accordingly, the Committee found allegation 3(a) to (c) proved.

Allegation 4(a) - proved

4. By reason of any or all of his conduct set out at allegations 1 – 3 above, he is:
  - (a) Guilty of misconduct pursuant to bye-law 8(a)(i); or, in the alternative,
  - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) (in respect of allegations 1 and 3).
73. The Committee is of the view that failing to co-operate fully with an investigation being carried out by his regulator into his alleged misconduct is a serious matter. A member should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a member of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and brought discredit upon Mr Al Hasan and also upon the profession and ACCA as regulator. It therefore decided that Mr Al Hasan's behaviour in failing to co-operate amounted to misconduct.



74. The Committee was also in no doubt that a failure to comply with MLRs represented a serious falling short of the standard required of a professional accountant and member of ACCA. Money laundering is a global phenomenon that affects all countries to varying degrees. It is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activity, often with the unwitting assistance of professionals such as accountants and lawyers. If undertaken successfully, it allows them to maintain control over the proceeds and, ultimately, to provide a legitimate cover for their sources of income. Money laundering also encompasses the process by which terrorists attempt to conceal the destination and ultimate purpose of funds (legitimate or otherwise) which are likely to be used for the purposes of terrorism. It is for these reasons that the MLRs were brought into force.
75. As MLRO, Mr Al Hasan had specific responsibilities to ensure that his firm was compliant with the MLRs. This he singularly failed to do, even after it was made very clear to him what he was required to do by Mr Armstrong. Between 26 June 2017 and 2 December 2021, he failed to: conduct a firm-wide risk assessment contrary to Regulation 18; he did not put in place adequate steps to ensure the firm had in place a dedicated policies and procedures document outlining the firm's anti- money laundering systems and controls, contrary to Regulation 19; he did not take appropriate measures as the MLRO of the firm to ensure he completed regular training in how to recognise and deal with transactions and other activities or situations which may be related to money laundering or terrorist financing and/ or retain a record of such training, contrary to Regulation 24; and he did not take adequate steps to ensure the firm had in place appropriate systems and procedures in relation to customer due diligence measures, and/or apply the same in accordance with Regulations 27 and 28.
76. Such failures meant he was in breach of: section B2 of ACCA's Code of Ethics and Conduct (Anti-money laundering); subsection 113 of ACCA's Code of Ethics and Conduct (the Fundamental Principle of Professional Competence and Due Care); and subsection 115 of ACCA's Code of Ethics and Conduct (the Fundamental Principle of Professional Behaviour). The Committee was satisfied that such behaviour brought discredit upon Mr Al Hasan, his firm, the profession and ACCA as regulator and thereby amounted to misconduct.

77. The Committee thus found Allegation 4(a) proved both in relation to the failure to cooperate and the failure to comply with the MLRs.
78. Having found Allegation 4(a) proved it was not necessary for the Committee to consider Allegation 4(b), which was alleged in the alternative.

### **SANCTION AND REASONS**

79. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry. 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 Al Hasan, 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.
80. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
81. The Committee found the following aggravating features:
- a complete lack of insight and understanding of the standard required of him as a Chartered Accountant and member of ACCA
  - a resistance to the idea that the MLRs applied to him
  - blaming ACCA for having what he considers to be unreasonable processes for ensuring members comply with the MLRs
  - a failure to ensure he was aware of his responsibilities as MLRO
  - a failure to accept his responsibilities even after it was made clear what those responsibilities are
  - no evidence to show he has fully rectified the position or is willing to do so
  - a sustained period of misconduct over many years
  - a risk that he and his firm could be vulnerable to money laundering in the future due to insufficient controls being in place to prevent such activity

- a pattern of failing to fully co-operate with an investigation into his conduct by his Regulator.
82. The Committee found the following mitigating factors:
- no previous disciplinary findings in a long career as an Accountant
  - some, albeit inadequate, attempts made to meet the standards required in order to comply with the MLRs.
83. 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 repeatedly failed to fully cooperate with his Regulator and had failed to comply with anti-money laundering regulations.
84. The Committee then considered whether to reprimand Mr Al Hasan. 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 Al Hasan's conduct to be of a minor nature and he had shown no 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 and breaching regulations are considered to be very serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.
85. 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 none of 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.*

86. The Committee considered that almost none of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Mr Al Hasan's behaviour, particularly his attitude towards ACCA's attempt to ensure compliance with the MLRs and his complete lack of insight. His misconduct was intentional, at least from the time of the contact from Mr Armstrong, he has not demonstrated any insight into his failings nor made any apology; he does have a previous good record; however, his behaviour was repeated; there has been little evidence of effective rehabilitate steps; no references; and the misconduct itself included a lack of co-operation during the investigation stage.

87. The Committee thus moved on to consider exclusion from membership. The guidance states that this sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a member. This is the most serious sanction that can be imposed on a member. Exclusion may be appropriate when the conduct involves any or all of the following circumstances (this list is not exhaustive):

- (a) *Serious departure from relevant professional standards, such as repeated defective work;*

- (b) Actual loss or adverse impact on client and/or members of the public;*
- (c) Abuse of trust/position;*
- (d) Dishonesty;*
- (e) Lack of understanding and insight into the seriousness of the acts/omissions and the consequences thereof;*
- (f) Conduct continued over a period of time;*
- (g) Affected or had the potential to affect a substantial number of clients/ members of the public;*
- (h) Attempted to cover up the misconduct;*
- (i) Persistent denial misconduct;*
- (j) Breach of regulatory order;*
- (k) Convictions or cautions involving any of the conduct set out above;*
- (l) Collusion to cover up conduct.*

88. The Committee considered (a), (e), (f), (g) and (i) to all be engaged in this case and noted that the guidance indicates exclusion may be appropriate when the conduct involve any of these factors. There was no doubting this was a serious departure from the relevant professional standards. The money laundering regulations are statutory requirements that must be followed by all accountants and part of ACCA's role is to ensure that its members are complying with the MLRs. Mr Al Hasan appears to believe that because he has a small firm he should not have to comply to the letter with these regulations. He is wrong about that, but by taking such a stance he is demonstrating a significant lack of understanding and insight into the seriousness of his omissions. His conduct continued over a number of years and whilst he may not have been fully aware (although he should have been) of his responsibilities as MLRO from the time the Act came into being in 2017, he was certainly made aware after Mr Armstrong's contact on 21 May 2021. He was then given ample opportunity to regularise his position and yet failed to do so. His conduct thus had, and continues to have, a potential affect on clients and/or members of the public, since if he continues to fail to comply with the anti money laundering requirements then there is the very real risk that criminals could exploit that position and use him as a conduit for the proceeds of crime, providing a cloak of respectability. Mr Al Hasan denies that his behaviour amounts to misconduct

and his continuing lack of insight leaves the Committee with very real concerns that he will not regularise his position going forward.

89. Accordingly, the Committee decided that the only appropriate and proportionate sanction was exclusion from membership. Not being prepared to comply with such important regulations is, in the Committee's view, a very serious departure from the standards expected of a member of ACCA. Such behaviour was exacerbated by Mr Al Hasan's failure to co-operate fully with an investigation being carried out by his regulator into his alleged misconduct. This too is a very serious matter. A member should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a member of ACCA brings with it a duty to co-operate, both in relation to compliance with the regulations and into the investigation of a complaint. The Committee was satisfied that overall, such behaviour represented a serious falling short of professional standards and was fundamentally incompatible with membership of ACCA.
90. The Committee acknowledged the impact this decision would have on Mr Al Hasan after a long and unblemished career. However, this intentional conduct was such a serious breach of bye-law 8 and the almost complete lack of insight, and the concern that he would continue to flout the regulations, meant that no other sanction would adequately reflect the gravity of his offending behaviour. The Committee considered that a failure to exclude a member who was prepared to disregard money laundering regulations designed to prevent criminals from laundering the proceeds of crime and who had then persistently failed to provide the information requested by his Regulator, would seriously undermine public confidence in the profession and in ACCA as its regulator. 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 would not be tolerated.
91. The Committee therefore ordered that Mr Al Hasan be excluded from membership of ACCA.

## **COSTS AND REASONS**

92. ACCA applied for costs in the sum of £9593.50. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. The case had been listed for two days and that time was needed for the Committee to complete the hearing and its written determination. However, the Case Presenter was not required beyond the first day and therefore a reduction would be made to reflect this.
93. Mr Al Hasan did not provide any details of his means or provide any representations about the costs requested by ACCA. There was, therefore, no evidential basis upon which the Committee could make any reduction on that ground.
94. In light of its observations above, the Committee reduced the amount requested to reflect the actual costs more likely to have been incurred and made an order in the sum of £8400.

## **EFFECTIVE DATE OF ORDER**

95. This order will have effect at the expiry of the appeal period, or at the conclusion of any appeal if one is made.

**Mr Neil Dalton**  
**Chair**  
**01 and 02 December 2022**