

HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Paul Anthony Dixon
Heard on:	Thursday, 24 February 2022
Location:	Held remotely by video conference
Committee:	Mr Andrew Popat CBE (Chair) Mr David Horne (Accountant) Ms Yvonne Walsh (Lay)
Legal Adviser:	Mr David Marshall
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Mr Paul Anthony Dixon (the Member) Mr Mark Kelly QC (Counsel for Mr Dixon) Mr Ewan Wright (Solicitor, instructing Mr Kelly) Miss Nyero Abboh (Hearings Officer)
Observers:	James Walker (ACCA Appointments Board)
Summary:	Allegations (a), (b)(ii), (c) and (d)(ii) proved by admission. Allegations b(i) and d(i) not proved. Allegation (e)(i) (misconduct) established. Reprimand
Costs:	£7,000

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INTRODUCTION

1. The Committee heard an allegation of misconduct against Mr Dixon. Ms Terry appeared for ACCA. Mr Dixon was present and represented by Mr Kelly QC.
2. The Committee had a main bundle of papers containing 116 pages and a service bundle containing 15 pages.

ALLEGATIONS/BRIEF BACKGROUND

3. Mr Dixon has been a member of ACCA since 1994 and a Fellow since 1999. He has held a practising certificate continuously since 2000. He practises as a sole practitioner through the firm Dixon & Co Ltd.
4. In 2012, Mr Dixon's firm was served with a Production Order under the Proceeds of Crime Act 2002. This required the firm to produce to the police any accounting documents in its possession relating to certain named persons and businesses. At that stage, there was no suggestion that Mr Dixon or his firm was under investigation.
5. Five years later, on 24 August 2017, the police contacted Mr Dixon asking if he would attend for an interview under caution. He agreed and the interview took place on 06 September 2017. The interview was voluntary. Mr Dixon was not arrested. He was not charged. He was not put on bail. Two years passed without Mr Dixon hearing anything more from the police. Then on 15 October 2019, Mr Dixon was informed by the police that no further action would be taken against him.
6. Mr Dixon did not notify ACCA of the interview under caution and in the years 2017, 2018 and 2019 he renewed his practising certificate online, ticking the box to indicate that he had nothing adverse to declare. Mr Dixon faced the following allegations:

Allegations

Mr Paul Anthony Dixon, a member of the Association of Chartered Certified Accountants ('ACCA'):

- a) *On dates between 06 September 2017 and 10 December 2020, as the holder of a Practising Certificate ('PC'), failed to bring to the attention of ACCA that he was the subject of a police investigation, pursuant to Global Practising Regulations 2003 ('GPR') 12(2)(h)(v).*
- b) *Mr Dixon's conduct at Allegation 1(a) was:*
 - i. *Dishonest, in that he knew that he was the subject of a police investigation and that he was required to disclose the existence of the investigation to ACCA and/or that he sought to conceal the investigation from ACCA; or, in the alternative*
 - ii. *Contrary to the Fundamental Principle of Integrity (as applicable in 2017 to 2019)*
- c) *During the course of renewing his PC, incorrectly declared that he had not been subject to any criminal matters that within the terms of GPR 8 may have called into question his eligibility for a PC, on or about:*
 - i. *28 November 2017; and /or*
 - ii. *14 November 2018; and/or*
 - iii. *21 October 2019*
- d) *Mr Dixon's conduct at Allegation 1(c) was:*
 - i. *Dishonest, in that he knew that he was the subject of a police investigation and that he was required to disclose the existence of the investigation to ACCA and/or that he sought to mislead ACCA; or, in the alternative*
 - ii. *Contrary to the Fundamental Principle of Integrity (as applicable in 2017 to 2019).*
- e) *By reason of any or all of his conduct above, Mr Dixon is:*
 - i. *Guilty of misconduct pursuant to bye-law 8(a)(i); or, in the alternative*

- ii. *Liabile to disciplinary action pursuant to bye-law 8(a)(iii) in relation to Allegation 1(a).*

DECISION ON FACTS/ALLEGATIONS AND REASONS

7. At the start of the hearing, Mr Dixon admitted allegations (a), (b)(ii), (c) and (d)(ii) and the Chair announced that they had been found proved. Mr Dixon also admitted allegation (e)(i) but as misconduct was ultimately a matter for the Committee's judgement, the Committee deferred making a finding on that. Allegation (e)(ii) was in the alternative so it did not need to be decided.
8. The issues of fact remaining for the Committee to decide were whether Mr Dixon had acted dishonestly:
- (a) when he failed to bring to the attention of ACCA that he was the subject of a police investigation [allegation b(i)]; and/or
 - (b) when during the course of renewing his practising certificate, he incorrectly declared that he had not been subject to any criminal matters [allegation d(i)]
9. In addition to the documentary evidence, the Committee heard oral evidence from Mr Dixon, who was cross-examined by ACCA and questioned by the Committee.
10. Mr Dixon explained that he was in sole practice as what he described as a '*village accountant*'. He had about a hundred relatively small clients. That had been the position throughout his time as a sole practitioner. He said that he had no complaints or involvement with ACCA other than the normal interactions of a member. ACCA accepted this.
11. Mr Dixon explained that in and after 2012 he was assisting the police with their investigation of a client of his. He provided the documents requested and gave a witness statement for possible use by the prosecution at a trial. He said that he was told by the police not to disclose the Proceeds of Crime Production Order to anyone because it would be detrimental to the investigation. The Production Order itself stated that making a disclosure about it could be an offence punishable with up to 5 years in prison. ACCA did not dispute Mr

Dixon's account of events before 2017.

12. Mr Dixon said that in 2017, he was asked to provide another statement and he agreed to attend an interview. He initially thought he was going as a witness, as part of a continuing 'fact-finding mission' by the police to obtain information about their suspect, his client. He was convinced that it was nothing to do with him. It was about his client. However, he realised something had changed. He was asked by the Committee if the nature of the questioning had changed from the previous meetings. He said the questions were not very different. They all related to the client's accounts. He said that they (the police) *'made it sound like it was my fault but I was able to show it was not'*. He still thought it was essentially fact-finding but he also recognised that he was now *'in the picture'*. He had no recollection of being cautioned or being told that he was under investigation. He was not arrested at any point or put on bail. He was never charged with anything. In fact, he heard nothing more from the police for more than two years.
13. Mr Dixon said that he believed that he did not have to make a declaration to ACCA since he had not been charged with anything. In hindsight, he now knew that was wrong and he accepted that he should have checked the position but that was his genuine belief at the time. He failed to make a declaration because he believed he did not have to, not because he was trying to deceive anyone. The same applied to the annual practising certificate renewals. There was a box with reference to a lot of different regulations. Mr Dixon believed he had read it at some point earlier in his career, but it did not change from year to year, so he did not read it again. Since he knew that he had not been subject to any disciplinary or criminal proceedings he was happy to tick the box. Having taken his decision, he did not see any reason to reconsider it in subsequent years. *'I thought, I haven't done anything wrong. I haven't got a criminal record so I can sign. I realise now that I was wrong.'*
14. Ms Terry submitted that as an experienced professional with a hundred clients Mr Dixon would have known what he had to do in terms of disclosure. She submitted that his evidence had been inconsistent and that he must have known after the interview in 2017 that he was under investigation. She submitted that it was more likely than not that he was dishonest.

15. Mr Kelly reminded the Committee that Mr Dixon accepted with hindsight that he should have acted differently, but in relation to dishonesty it was his actual state of knowledge at the time that was in issue.
16. The Committee considered Mr Dixon's evidence carefully. It considered that the circumstances were unusual in that Mr Kelly had clearly been a prosecution witness at the outset. This was not disputed by ACCA. His contact with the police was spasmodic. They had not contacted him for long periods. If he had become a suspect under investigation, it would be understandable if he might not have fully appreciated the fact. This was particularly so since there was no action or contact with him after the interview under caution. The Committee accepted that he was confused about the nature of the interview and about what 'under caution' meant. The Committee accepted that he genuinely believed that since he had not been charged, he was not required to make a disclosure.
17. With regard to the annual renewal, Mr Dixon should have checked the position under the regulations and should have realised that he could not tick the box without qualification. However, the Committee accepted that he did not know at the time that he was not entitled to tick the box. The form contained a single tick box to cover a multitude of possible areas of disclosure. Although all members of ACCA should be aware of the detailed provisions of the regulations, the Committee accepted that Mr Dixon was not aware.
18. The Committee was not satisfied that ACCA had proved, on the balance of probabilities, that Mr Dixon deliberately deceived ACCA and was dishonest.
The Committee found allegations (b)(i) and (d)(i) not proved.
19. The Committee considered whether the facts admitted and found proved amounted to misconduct as alleged in allegation (e)(i). It was satisfied that there was misconduct. For an accountant to be guilty of a lack of integrity was a serious matter. The failure to disclose a possible police investigation was also serious, even though no action was ultimately taken. **The Committee found allegation (e)(i) proved.**

SANCTION AND REASONS

20. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions. Ms Terry told the Committee that ACCA was neutral as to the appropriate sanction. Mr Kelly submitted that the sanction of Reprimand would be sufficient.
21. The Committee first sought to identify mitigating and aggravating factors. The misconduct in this case was serious, involving a significant lack of care in complying with ACCA's regulations. It was aggravated by the fact that it was repeated and continued over three years.
22. There was significant mitigation. Mr Dixon had no disciplinary history with ACCA. He made a full admission within a few days of the matter being drawn to his attention and did so even before he had sought legal advice. This showed a very positive attitude. He had cooperated fully with the investigation. He had recognised and accepted the extent of his failings, which showed a level of insight. There was no risk to the public. The Committee accepted his evidence that he had been under significant stress over a long period.
23. The Committee was satisfied that in view of the seriousness of the misconduct, it was necessary to impose a sanction in this case. It considered the available sanctions in ascending order.
24. The lowest sanction is Admonishment. Most of the criteria in the Guidance for Disciplinary Sanctions were met in this case but the Committee did not consider that an Admonishment was sufficient to mark the seriousness of a finding of lack of integrity.
25. The Committee next considered the sanction of Reprimand. While the misconduct was not minor, there had been and would be no risk to the public from the matters alleged. Mr Dixon had shown good understanding of his failings and the Committee was satisfied that they would not be repeated. His conduct had not been in deliberate disregard of his professional obligations. There was early and genuine acceptance that misconduct had been committed. There had been and would be no adverse consequences. The Committee noted that ACCA had been aware of the police action since 25 July 2019 but

had not contacted Mr Dixon or started to investigate until 10 December 2020, over a year after the police had informed Mr Dixon that no further action would be taken against him.

26. The Committee concluded that in this case a Reprimand would be a sufficient sanction.

COSTS AND REASONS

27. Ms Terry applied for costs totalling £7,321. She stated that the costs estimate was based on a full day for the hearing whereas it was likely to conclude earlier.
28. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to a contribution to its costs. It noted that although the allegation of dishonesty had failed, the matter would still have come to a full hearing even if the allegation had not been made. It is not within ACCA's policy to dispose of an allegation of lack of integrity by a consent order.
29. The Committee made a reduction for the fact that the hearing would take less time than estimated. In all the circumstances, it assessed the costs at £7,000. Mr Kelly did not seek a reduction on the basis of Mr Dixon's means.

ORDER

30. The Committee **ordered** as follows:
 - (a) Mr Paul Anthony Dixon shall be reprimanded;
 - (b) Mr Dixon shall make a contribution to ACCA's costs in the sum of £7,000.

EFFECTIVE DATE OF ORDER

31. This order shall take effect at the expiry of the appeal period.

Mr Andrew Papat CBE
Chair
24 February 2022