

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mrs Valerie Culley

**Heard on:** Tuesday 18 to Thursday 20 January 2022

**Location:** Remotely via Microsoft Teams

**Committee:** Mr Martin Winter (Chair)  
Ms Wanda Rossiter (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Mr Alastair McFarlane

**Persons present  
and capacity:** Mrs Valerie Culley (Member)  
Mr Simon Walters (Counsel on behalf of ACCA)  
Mr Jonathan Lionel (Hearings Officer)

**Outcome:** Excluded from Membership with immediate effect

1. ACCA was represented by Mr Walters. Mrs Culley attended in person and was not represented. The Committee had before it a bundle of papers for Case 1, numbered pages 1-85, a "Documents and Evidence" bundle numbered pages 1-155, a bundle of papers for Case 2, numbered pages 1-123, and a service bundle, numbered pages 1-7.

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## **SERVICE**

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing had been served on Mrs Culley in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).

## **ALLEGATION(S)/BRIEF BACKGROUND**

### **The Allegations**

#### **Case 1: UF6211352 – “The Loan Statement Case”**

### **Allegation**

Mrs Valerie Culley, an ACCA member and at the relevant time sole director of Culley Lifford Hall Chartered Certified Accountants:

1. On or about 13 February 2020, in relation to an Assets and Liabilities Statement (“the Statement”) for a personal loan application, signed, or caused to be signed, a declaration in the name of Mrs A and submitted the Statement, or caused it to be submitted, to Company B and in doing so falsely represented to Company B that the financial information contained in the Statement had been verified as true by Mrs A;
2. That her conduct in relation to Allegation 1 above was:
  - 2.1 Dishonest in that Mrs Culley knew Mrs A had not signed the declaration and the signature in the declaration was not Mrs A’s; or in the alternative,
  - 2.2 Contrary to the Fundamental Principle of Integrity, as applicable in 2020, in that such conduct demonstrates a failure to be straightforward and honest.

3. In light of any or all of the facts set out above, Mrs Culley is guilty of misconduct pursuant to byelaw 8(a)(i).

### **Case 2: UF7311048 – “The Bankruptcy Restrictions Case”**

#### **Allegation**

Mrs Valerie Culley, an ACCA member and former sole director of Culley Lifford, Hall, a former firm of Chartered Certified Accountants:

- 1) Accepted bankruptcy restrictions for a period of five years in respect of admissions set out in a schedule of unfit conduct to a Bankruptcy Restrictions Undertaking given by her dated 05 May 2021.
- 2) In light of the facts set out at 1) above, Mrs Culley is guilty of misconduct, pursuant to byelaw 8(a)(i).

#### **BACKGROUND**

3. Mrs Culley has been an ACCA member since 1978 and a Fellow of the Association since 1983.

### **Case 1 “The Loan Statement Case”**

4. At all material times Mrs Culley was the sole director of Culley Lifford Hall Accountants. On 03 February 2020, Mrs Culley approached Mrs A, who was a long-standing employee and produced to her an ‘Asset and Liabilities Statement’ (‘the Statement’) to support a loan application for Mrs Culley and her husband. Mrs Culley asked if Mrs A would sign the ‘Accountant Confirmation’ within the Statement. Mrs A advised Mrs Culley she would not sign this ‘Accountant Confirmation’ as she had not seen any of the documentary evidence to support the valuations. About two weeks later, on 18 February 2020, Mrs A came across a copy of the Statement saved on the firm’s scanner. However, she noticed the Accountant Confirmation section now contained not only Mrs Culley’s signature but also a signature purporting to be Mrs A’s.

### **ACCA SUBMISSIONS**

5. ACCA's case is that Mrs Culley falsely represented to a financial broker (Company B) that the financial information contained in the Statement had been verified as true by Mrs A when it had not. ACCA assert her conduct was dishonest.

### **MRS CULLEY'S SUBMISSIONS**

6. Mrs Culley has denied any wrongdoing, or that her conduct was dishonest.

### **Case 2 – “The Bankruptcy Restrictions Case”**

7. On 13 August 2020, Mrs Culley was made bankrupt. Mrs Culley notified ACCA of her bankruptcy on the day of the order. In May 2021, Mrs Culley signed a Bankruptcy Restrictions Undertaking (“BRU”) whereby she accepted bankruptcy restrictions for a period of five years. This was in respect of admissions by her to a schedule of “unfit conduct” to the BRU. The unfit conduct was particularized as follows: *“On 6 January 2020, whilst insolvent and after the presentation of a statutory demand, I transferred my shareholding in a limited company, worth an estimated £26,179 I to an associate [who was her son]. Furthermore, on 6 April 2020, after the presentation of a bankruptcy petition and in adjourned bankruptcy order hearing, I transferred my shareholding in another limited company, worth an estimated £118,770 to the same associate. Both these transactions were to the detriment of my creditors who remained outstanding upon bankruptcy.”(sic)*

### **ACCA SUBMISSIONS**

8. ACCA's case is that by reason of those facts Mrs Culley was guilty of misconduct.

### **MRS CULLEY'S SUBMISSIONS**

9. Mrs Culley admitted the facts as set out in Allegation 1 of Case 2 but denied that she had acted to the detriment of her creditors. She contended that the

shares transferred did not have any value as the shares were held by her as part of a family agreement as there were loans both to her son, and from one of the companies, to Mrs Culley and her husband. She denied misconduct.

## **DECISION ON ALLEGATIONS AND REASONS**

10. Case 1 and Case 2 had been joined with the agreement of Mrs Culley to be dealt with at one hearing pursuant to previous Direction of the Disciplinary Committee at a Case Management Meeting on 23 September 2021. The Committee reminded itself to consider each case and the evidence on each case separately.
11. The Committee accepted the advice of the Legal Adviser. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the ‘balance of probabilities. It reminded itself of Collins J’s observations in Lawrance v. GMC [2015] EWHC 586 (Admin) to the effect that in serious cases, such as those of dishonesty, cogent evidence was required to reach the civil standard of proof.
12. The Committee heard that there had been no previous findings against Mrs Culley and accepted that it was relevant to put her good character into the balance in her favour. It also took account of the two written witness testimonials supporting her good character that she had supplied.

## **DECISION ON FACTS**

### **Case 1 “The Loan Statement Case”**

13. The Committee carefully considered the oral evidence of Mrs A and Mrs C for the ACCA, and of Mrs Culley, as well as the documentary evidence it had received, and also the submissions of Mr Walters on behalf of ACCA and Mrs Culley on her own behalf. It reminded itself of the approach to the assessment of evidence commended by Warby J (as he then was) in Dutta v. The General Medical Council [2020] EWHC 1974 (Admin) of the importance of contemporaneous documents and inferences that can be

drawn from them as a primary aid in determining facts before assessing the oral evidence of witnesses.

### **Allegation 1**

14. The Committee had specific regard to the "Asset and Liabilities Statement" in the bundle, which Mrs Culley accepted had been completed by her, and signed by her as both the "Client" (or applicant for the loan) and as "Accountant" in the "Accountant Confirmation" section (where an accountant was to sign to "*confirm and declare by my signature below that: we have obtained details of the business/client above, their bank accounts, kept, maintained or operated by the business. That having examined the businesses' bookkeeping system and that adequate records are kept of all transactions relating to business activities. That our client is solvent and trading and able to pay their debts within the meaning of the Insolvent Act 1986. That there are no material issues that may affect the sustainability of the income being declared for business or client detailed above. To the best of my knowledge and belief the information contained within this document is true and accurate.*" (sic). The document shows that Mrs Culley's signature in both roles was dated 03 February 2020 and Mrs Culley accepted that this is when she had signed the document in both positions.
15. Further, the document shows on its face in the "Accountant Confirmation" section that the words "Mrs A" had been written underneath Mrs Culley's signature and that "Mrs A FCCA" had been written above Mrs Culley's signature. The date written corresponding to these is 13 February 2020.
16. Mrs A gave evidence to the Committee that Mrs Culley had invited her to sign this document on 03 February 2020 as the confirming accountant to confirm that the figures given were true and correct. Mrs A stated that she declined to do this as she had not seen the supporting documentation to verify the figures. She said that she did not subsequently sign the document on 13 February 2020 and that the writing on the document bearing her name was not hers. The Committee found her evidence to be credible. The Committee also heard evidence from Mrs C, another employee of the firm, who gave

- confirming evidence as to the meeting that Mrs A had with Mrs Culley on 18 February 2020. The Committee also found her evidence to be credible.
17. The Committee noted that at "Note 36" in the document compiled by Mrs Culley and sent to ACCA during the investigation of the case Mrs Culley stated "*the confirmation statement did include her name but not a signature. I merely printed her name...*". Further, in a letter to ACCA's investigation officer, dated 28 August 2020, Mrs Culley stated (at point 5) "[Mrs A] *name was added to this statement, not her signature. She has been an employee for 33 years and I know what her signature looks like, no attempt was made to copy a signature. I merely added her name not her signature. I don't accept this was her signature.*" The Committee noted that Mrs Culley accepted in cross-examination that she wrote both the printed name "Mrs A" and "Mrs A FCCA" (in the signature space) on the form on 13 February 2020. The Committee considered in the light of her acceptance that her earlier correspondence was therefore untrue at worst or misleading at best and adversely affected the view it took of her credibility. The Committee also noted that Mrs Culley accepted in cross examination that by printing and signing the name Mrs A, it gave the impression that Mrs A had signed it herself.
  18. The Committee also noted the document entitled "*index of information requested – forwarded 13.2.20*" being a form submitted to Company B by Mrs Culley in support of her application, which states at point 4 that the Assets and Liabilities statement was "*signed by Mrs A FCCA*". This was not correct, as Mrs Culley accepted in evidence she was aware that Mrs A had refused to sign the document on 03 February 2020.
  19. The Committee noted that Mrs Culley referred to another "*Index of information requested – forwarded 13.2.20*" in the documents where the relevant point 4 had been changed to "*to be signed by Mrs A FCCA*". Mrs Culley maintained that she had sent this version to Company B because she was sure that Mrs A would sign the documentation when she had seen the supporting evidence.

20. The Committee found this evidence from Mrs Culley to be implausible and illogical. There was no good reason for her to have sent the index document marked "*to be signed by [Mrs A]*" when the statement itself bore "*Mrs A FCCA 13.2.2020*" which Mrs Culley accepted in her evidence would reasonably be interpreted as Mrs A' signature on that day. There was no evidence before it to suggest the second index document was sent on 13 February 2020 and the Committee was satisfied that it was more likely than not that the first index document was the one sent to Mr D (the broker and contact for Company B) and that the second one was not sent.
21. The Committee further noted that Mr D had emailed Mrs A indicating his belief that the statement had been signed by her on 13 February 2020. It also found Mr D's earlier email to Mrs Culley, dated 11 February 2020, where he said "*We note the statement has been certified by Mrs Culley in her professional capacity is there another accountant at the firm that could certify please?*" The Committee accepted that he was seeking someone other than Mrs Culley to confirm the statement. It rejected Mrs Culley's evidence that Mr D was looking for someone other than Mrs A – because on any account Mrs A had not signed the document by 11 February 2020.
22. In her evidence to the Committee Mrs Culley explained that when she had written "*Mrs A FCCA*" on the signature line and printed "*Mrs A*" below, she had made a mistake and had intended to write "pp", which she said she knew meant "on behalf of". When questioned on the basis that the usual use of "pp" would be to sign her name and then "pp" above the name of the person she was signing on behalf of, rather than the same name, Mrs Culley stated that she was unfamiliar with the system and used it only very rarely.
23. The Committee rejected Mrs Culley's explanation of a mistake or of a misunderstanding of how to sign "pp" on behalf of somebody else. It was satisfied that as an experienced accountant of many years practice, it was more likely than not that on 13 February 2020 she was aware of what she was doing, added Mrs A's name and what she intended to be taken as her signature by the loan company. Whether she thought that Mrs A might sign the document in future if she had been provided with all the confirming



evidence is, in the Committee's judgment, immaterial to her actions at the time.

24. Accordingly, the Committee was satisfied that by signing the declaration in the name of Mrs A and submitting it to Company B Mrs Culley did falsely represent to them that the financial information contained in the statement had been verified as true by Mrs A. Accordingly, the Committee was satisfied that Allegation 1 was proved.

### **Allegation 2 - Dishonesty**

25. The Committee next asked itself whether ACCA had proved that the conduct in Allegation 1 was dishonest.
26. The Committee considered what Mrs Culley's belief was as to the facts. It was satisfied that on her own acceptance that she knew on 13 February 2020 that Mrs A had not signed the document. Whether Mrs Culley hoped that that situation might alter does not change her understanding of the facts at the time. The Committee was satisfied that Mrs Culley knew that the form lied about itself. It rejected Mrs Culley's assertion that she thought the form was unimportant and is satisfied that on 13 February 2020 she knew she was falsifying a form.
27. The Committee was satisfied that this conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2.1 was proved and did not consider the alternative of Allegation 2.2.

### **Allegation 3 - Misconduct**

28. The Committee next asked itself whether by dishonestly representing to Company B that financial information contained in the statement had been verified as true by Mrs A, Mrs Culley was guilty of misconduct.
29. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. It was satisfied that

Mrs Culley's actions brought discredit on her, the Association and the accountancy profession. It was satisfied that her conduct was deplorable and reached the threshold for misconduct.

### **Case 2 – “The Bankruptcy Restrictions Case”**

30. Mrs Culley admitted the facts of Allegation 1 and accordingly was it was proved by virtue of her admission.

### **Misconduct**

31. However, Mrs Culley denied that the facts meant she was guilty of misconduct and contended that whilst she admitted Allegation 1 as drafted, she was not guilty of the unfit conduct set out in the Bankruptcy Restrictions Undertaking. She stated that she had been advised by an insolvency practitioner that whatever she said as to why she had affected the transfers of shares in two companies to her son either as to the reasons for it or the real value of the transfers, would make no difference and an order would be made against her. She stated she realizes now she should have challenged it and that she was not guilty of misconduct and that the transfer had been done pursuant to family agreements and was not to the detriment of her creditors.
32. The Committee had regard to the *“Form of Bankruptcy Restrictions Undertaking”* included in the documents. It noted that this was a County Court document with a case number and headed *“In the County Court at Derby”* and was preceded with the following warning: *“This is an important legal document. If you are in any doubt about signing you should take legal professional advice”*. It further noted that Mrs Culley admitted the particularised "Unfit Conduct" of transferring her shareholding in a limited company, worth an estimated £26,179 to her son on 06 January 2020 *“whilst insolvent and after the presentation of a statutory demand”* and that on 06 April 2020 after the presentation of a bankruptcy petition and an adjourned bankruptcy order hearing that she transferred the shareholding in another company worth £118,770 to her son. The document specifically says that *“both these transactions where to the detriment of my creditors who remained outstanding upon my bankruptcy”*. It

further noted that Mrs Culley had added a manuscript addition to the effect that the shareholdings had reverted to her trustees in bankruptcy. Further, when specifically questioned by the Insolvency Service, Mrs Culley confirmed that the manuscript addition was not disputing misconduct but was rather placed in mitigation.

33. The Committee noted Mrs Culley has raised the argument that the shares had no value and that no one was disadvantaged. It noted that she also contended that she had added additional sheets to the court documents, where she made further representations along these lines to the undertaking. Such documentary evidence has not been produced to the Committee. The Committee's view was that if the shares were of no value there was no reason for Mrs Culley to have accepted the schedule of unfit conduct, yet she did so.
34. The Committee rejected Mrs Culley's assertions. It noted she was a very experienced accountant of some 40 years standing. It was satisfied that when she signed the undertaking, she was accepting the schedule of unfit conduct as true. There was no evidence before the Committee or in Mrs Culley's contentions to suggest that there was any reason to go behind her admissions set out in the Bankruptcy Restrictions Undertaking.
35. The Committee next asked itself whether, by virtue of unfit conduct in the schedule to the Bankruptcy Restrictions Undertaking, Mrs Culley was guilty of misconduct.
36. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Mrs Culley's actions brought discredit on her, the Association and the accountancy profession. It was satisfied that her conduct was deplorable and reached the threshold for misconduct.

## **SANCTIONS AND REASONS**

37. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore

in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.

38. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The dishonest behaviour in Case 1 was serious. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it. The misconduct in Case 2 was also serious and undermined the reputation of the profession. The public would be appalled by a member of the profession acting as Mrs Culley did. Bankruptcy itself is a serious matter for any accountant.

39. The aggravating factors the Committee identified were:

- The Case 1 behaviour involved dishonesty and was deliberate;
- The dishonest conduct was undertaken for personal gain and involved falsely using the identity of an employee and a fellow member of ACCA;
- The dishonest conduct therefore involved a breach of a position of trust;
- There was a potential for loss or adverse impact from Case 2 for creditors;
- The conduct was not isolated as there were two cases with the conduct occurring over the early months of 2020;
- The serious potential impact on the reputation of the profession;
- There was no evidence of insight into the seriousness of the conduct or its effect on the standing of the profession. The Committee considered it significant to Mrs Culley's lack of insight that she continued to maintain that the completion of the form was not important;
- The dishonest conduct had an adverse impact on the working environment for her employees who appeared before the Committee and caused them stress;
- There were no expressions of regret or apology.

40. The mitigating factors the Committee identified were:

- A long career and membership of the profession reaching fellow status with service to ACCA's committees;
  - Previous good character with no disciplinary record and two testimonials;
  - The conduct in both cases was committed [PRIVATE].
41. Given the Committee's view of the seriousness of her conduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct.
42. The Committee reminded itself that it was dealing with a case of dishonesty and had specific regard to Section E2 of the Guidance in relation to dishonesty and was mindful of the case law to the effect that dishonesty lies at the top of the spectrum of misconduct. The Committee was satisfied that many of the factors listed under "C5 Exclusion" in the Guidance for Disciplinary Sanctions are present in the case including a serious departure from relevant professional standards; potential loss and adverse impact on members of the public; abuse of trust/position; dishonesty; lack of insight; and persistent denial of misconduct. The Committee was satisfied that her behaviour was fundamentally incompatible with Mrs Culley remaining a member of ACCA and considered that the only appropriate and proportionate sanction was that she be excluded from membership.

#### **COSTS AND REASONS**

43. ACCA claimed a total of costs for both cases of £16,792.50 (£13,508 (Case 2) £3,284.50 (Case 1)) and provided a detailed schedule of costs. The Committee noted Mrs Culley has provided a statement of means and told the Committee that [PRIVATE]. Whilst the Committee considered the sum claimed by ACCA was a reasonable one in relation to the work undertaken, nonetheless, the Committee bore in mind her bankruptcy, minimal limited disposable income, lack of assets and considered it appropriate to discount the costs claimed

completely in the light of that. Accordingly, the Committee made no award of costs.

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

44. This order shall take effect immediately pursuant to Regulation 20 as opposed to from the date of the expiry of the appeal period as it was in the interests of the public to do, given the seriousness of the conduct and potential risk to the public, for the reasons expressed above.

**Mr Martin Winter**  
**Chair**  
**20 January 2022**