

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: **Mr Giuseppe Sole**

Heard on: **Tuesday, 10 to Thursday, 12 August 2021 and
Thursday, 20 January 2022**

Location: **Remotely using Microsoft Teams**

Committee: **Ms Kathryn Douglas (Chair)
Ms Jo Royden-Turner (Accountant)
Mr Garrett O'Reilly (Lay)**

Legal Adviser: **Mr David Marshall**

Persons present

and capacity: **Ms Georgia Luscombe (ACCA Case Presenter)
Mr Giuseppe Sole (the Member)
Mr Christopher Cope (Counsel for Mr Sole)
Miss Nkechi Onwuachi (Hearings Officer) 10 to 12
August 2021
Miss Nikita Apostol (Hearings Officer) 20 January
2022**

Summary: **Allegations 2, 3, 7(c) and 8(b) found proved**
 Misconduct found in relation to all those allegations
 Sanction of Severe Reprimand imposed

Costs: **Mr Sole to pay £10,000 costs**

1. The Committee heard an allegation of misconduct against Mr Sole. Ms Luscombe appeared for ACCA. Mr Sole was present and represented by Mr Cope.
2. The Committee had a main bundle of papers containing 231 pages, an Additional Bundle [1] of 75 pages, an Additional Bundle 2 of 230 pages, an Additional Bundle 3 of 45 pages, an Additional Bundle 4 of 3 pages and an Additional Bundle 5 of 2 pages.

ALLEGATION(S)/BRIEF BACKGROUND

3. Mr Sole has been a Member of ACCA since 1997 and a Fellow since 2002. At all relevant times he practised through a firm called Sole Associates Accountants Ltd ('Sole Associates'). He was the sole partner but had a number of employees and subcontractors. Until 31 December 2017, the firm's work included conducting audits.
4. On 02 May 2017, Mr Sole signed audit reports on two associated companies, referred to at the hearing as Company 1 and Company 2. In about June 2018, ACCA arranged to conduct an audit monitoring visit starting on 06 August. At the visit, Mr Sole told ACCA's Senior Compliance Officer that he could not locate the audit files for Companies 1 and 2. After the visit, ACCA's Monitoring Department made further enquiries and then referred the matter to ACCA's Assessment Department. ACCA ultimately formed the view that Mr Sole's version of events concerning these audits was not true. He faced the following allegations:

ALLEGATIONS

It is alleged that:

1. Mr Sole signed either or both of the unqualified audit reports set out in

Schedule A as Senior Statutory Auditor on behalf of Sole Associates Accountants Ltd, when Mr Sole:

- (a) Had not reviewed the file(s) containing the audit work carried out by Person A in relation to those audits sufficiently or at all; or, alternatively,
 - (b) In circumstances where he was aware that the audit work undertaken and/or recorded as having been undertaken by Person A in relation to those audits was not sufficient to support the audit opinion.
- 2. Mr Sole failed to provide as requested the audit files relating to the unqualified audit reports set out in Schedule A to ACCA's Senior Compliance Officer at a monitoring visit to Sole Associates Accountants Ltd which took place on 06 to 07 August 2018.
- 3. In a letter incorrectly dated 15 May 2018, received by ACCA on 07 December 2018, Mr Sole informed ACCA's Investigating Officer that he had discovered that the audit files in respect of the audit reports set out in Schedule A which he had signed as Statutory Auditor on behalf of Sole Associates Accountants Ltd were missing on around 18 May 2017, when this was not the case.
- 4. In a letter dated 22 February 2019, Mr Sole informed ACCA's Investigating Officer contrary to his explanation referred to in allegation 3 above that the audit files in respect of the audit reports set out in Schedule A which he had signed as Statutory Auditor on behalf of Sole Associates Accountants Ltd were discovered to be missing in late July 2018, when this was not the case.
- 5. Mr Sole informed ACCA's Investigating Officer in respect of the audit reports set out in Schedule A:
 - (a) In a letter dated 07 January 2019, '*The audit files were reviewed and signed off on 2nd May 2017*' and
 - (b) In a letter dated 22 February 2019, '*I was the individual that*

reviewed and signed off the audit files on 2nd May 2017, when he had not reviewed the audit files before signing the audit reports on 02 May 2017.

6. In light of the facts set out in allegation 1, Mr Sole's conduct was:
 - (a) Dishonest, in that he knew when signing the audit report(s) that he had not reviewed the file(s) or, alternatively, that the files were deficient; and/or
 - (b) Contrary to the fundamental principle of integrity (2017); and/or
 - (c) Contrary to paragraph 17 of International Standard on Auditing (UK) 220; and/or
 - (d) Contrary to Global Practising Regulation (Annex 1) (Appendix 1) 13(1) (2017); and/or
 - (e) Contrary to the fundamental principle of professional competence and due care (2017).
7. In light of the facts set out in allegation 2, Mr Sole's conduct was:
 - (a) Dishonest, in that he had files in his possession, but failed to provide them; and/or
 - (b) Contrary to the fundamental principle of integrity (2018); or, alternatively,:
 - (c) Contrary to paragraph 5 of Section B6 of ACCA's Code of Ethics and Conduct (2018).
8. In light of the facts set out in allegations 3 and/or 4, Mr Sole's conduct was:
 - (a) Dishonest, in that he knew that he had not discovered that the audit files were missing on around 18 May 2017 and/or in late July 2018; and/or
 - (b) Contrary to the fundamental principle of integrity (2018-2019).

9. In light of the facts set out in allegation 5, Mr Sole's conduct was:
- (a) Dishonest, in that he knew that he had not reviewed the audit files in respect of the audit reports set out in Schedule A before signing the audit reports on 2 May 2017; and/or
 - (b) Contrary to the fundamental principle of integrity (2019).
10. In light of any or all of the facts set out in allegations 1 to 9, Mr Sole is guilty of misconduct contrary to bye-law 8(a)(i).
11. In light of any or all of the facts set out above in allegations 1, and/or 2, and/or 6(c), and/or 6(d), and/or 6(e) and/or 7(c), Mr Sole is liable to disciplinary action pursuant to bye-law 8(a)(iii).

Schedule A:

Name of client	Accounts period end date	Date of audit report
Company 1	31.12.2016	2.5.2017
Company 2	31.12.2016	2.5.2017

5. In the Schedule as served the Companies were described as Company A and Company B but for clarity the Committee has used Company 1 and Company 2, as used in the hearing.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

6. Two key people featured prominently in the events considered at the hearing in addition to Mr Sole. The first was referred to as Person A. ■■■ was at the time a member of the Institute of Chartered Accountants in England and Wales ('ICAEW') and an experienced auditor. ■■■ had worked for Mr Sole for about 12 years on a freelance basis and was a key member of his team until the spring of 2017. ■■■ carried out much of the audit work of the firm and was effectively the 'audit team' under the supervision of Mr Sole as the audit partner. ■■■ also practised to a limited extent on ■■■ own account. In March 2017, Mr Sole gave ■■■ notice that ■■■ services would no longer be required in future. Originally, it was envisaged that ■■■ would continue working for the firm until

early May 2017 when a replacement would take over. However, Mr Sole terminated [REDACTED] contract finally in early April 2017.

7. The other key person was a major client of Sole Associates and later of Person A's firm. He was a high powered businessman with multiple business interests both in the UK and abroad. He had a key role in relation to four UK companies relevant to this case, referred to as Companies 1 to 4. He is referred to as Person C.

THE KEY EVENTS

8. Some time before early March 2017, Sole Associates was instructed to perform audits on each of the four companies. Companies 1 and 2 were small companies and did not require statutory audits but Mr Sole understood that audits were required in connection with a proposed transaction. On the instructions of Mr Sole, Person A started work on the audits in early March 2017 and continued to work on them until about 30 March 2017 when [REDACTED] went on a week's holiday.
9. Person A cleared out all [REDACTED] personal belongings from the office by Thursday 30 or Friday 31 March. Mr Sole said that the following week he received two professional clearance letters from his clients saying they were moving their business to Person A. He formed the view that [REDACTED] had been soliciting his clients and emailed [REDACTED] on 06 April 2017 *'to formally confirm the termination of your services to Sole Associates with immediate effect'*. He terminated [REDACTED] access to Sole Associates data and e-mails. He said in evidence that ultimately, he lost 19 clients to Person A with recurring fees of about £46,000. Person A confirmed that [REDACTED] cleared out [REDACTED] belongings before [REDACTED] went on holiday although [REDACTED] did not accept other aspects of his version of events. From 06 April 2017 at the latest relations between Mr Sole and Person A became seriously acrimonious.
10. It is clear that by this time, early April, work had been done on the audit files for Companies 1 and 2 but the files were not complete. Person A has consistently maintained that [REDACTED] did no further work on the audit files after March 2017. The person Mr Sole had engaged to replace [REDACTED] Person B, did not start work until 01 or 02 May 2017, so she could not have done any work on the files. Mr Sole

did not himself complete the work on the audit files. (His involvement with audits was normally limited to reviewing work carried out by others.) Nevertheless, Mr Sole signed off both audits on 02 May 2017 and the accounts were subsequently filed with Companies House.

11. Mr Sole's case was that by that date he had been presented with two complete audit files which he reviewed and found to be satisfactory. He said that they were completed by Person A as a result of the intervention of Person C. Completed audit files have never been presented to ACCA or this Committee.
12. Person A said that on 12 April 2017 [REDACTED] was contacted at home by Person C. He asked [REDACTED] to work for him as a management accountant. This was completely unexpected ([REDACTED] said) but very welcome to replace the income [REDACTED] had lost from Sole Associates. [REDACTED] worked for him for over a year and said that [REDACTED] was described at one stage as the CFO for Companies 3 and 4. Mr Sole did not dispute this although he said that he was completely unaware of it at the time. This was not challenged.
13. The following day, 13 April 2017, Person C emailed Mr Sole:

I was rather shocked to learn ... last night that you had terminated [Person A] and that [REDACTED] was no longer working for you. ...

... I believe it is only right and sensible that [Person A] finishes the contracted audit work on [a list of companies including Companies 1 and 2]

14. Although there were differences in detail, the events set out above were broadly common ground between the parties. The central issues were whether or not Person A had completed the audit files by 02 May 2017 and why Mr Sole has not produced the audit files.

THE MAIN WITNESSES

15. The Committee heard live evidence from Person A, Mr Sole and Person D who was the Office Manager for Sole Associates. It received a witness statement from Person B.
16. The evidence of Person A and Mr Sole was directly contradictory on critical issues. The Committee had to consider whether there were any important

factors affecting their credibility.

17. With regard to Person A, the Committee was informed that on 05 July 2021 the Disciplinary Committee of ICAEW ordered that ■■■ be excluded from membership. The complaint that had been found proved was set out in the press release as follows:

Between 20 April 2017 and 10 May 2018, [Person A] ACA made telephone calls to 'A' Limited's helpline using a name and policy number relating to 'B'. This conduct was dishonest because ■■■ knew ■■■ was not entitled to use that helpline.

18. Mr Cope told the Committee that the helpline was a tax advice service subscribed to by Sole Associates and that the name used by Person A was the name of an employee of Sole Associates. Person A said that there was potentially some sort of legal challenge or appeal, but ■■■ accepted that at present the decision stood.
19. The Committee also formed the clear view that Person A was not an objective or unbiased witness where Mr Sole was concerned. ■■■ was very unhappy about the circumstances in which ■■■ engagement was terminated, even four years later. ■■■ described in evidence how angry ■■■ felt and still feels. ■■■ accepted that ■■■ had been 'stupid' in some of ■■■ subsequent actions with respect to Mr Sole. ■■■ had clearly been highly stressed by ■■■ dealings with Mr Sole over recent years. This was evident in the way ■■■ gave ■■■ evidence. ■■■ made no attempt to limit ■■■ evidence to the questions asked of ■■■. ■■■ seemed determined to tell ■■■ story as ■■■ saw it.
20. The Committee recognised that none of these matters necessarily meant that Person A's evidence was untrue, particularly when dealing with a matter as simple as whether or not ■■■ completed the audit files.
21. With regard to Mr Sole, his manner was more restrained and his animosity to Person A was expressed in more objective terms. Nevertheless, it was clear that he believed ■■■ had behaved very badly towards him. The quality of his evidence was unsatisfactory. It was vague and sometimes contradictory. He was often unable to give details even of quite basic matters. He claimed to have

had little involvement in the relevant events.

22. It is fair to say that both witnesses seem to have been very stressed both at the time and, apparently, ever since. This was due both to the events with which this case is concerned and also separate personal issues.

THE ALLEGATIONS

23. Allegations 1 and 6 were based on the case that the audit files for Companies 1 and 2 had not been completed by 02 May 2017. Therefore, they could not have justified the unqualified audit opinion that Mr Sole gave. He either signed the audit reports on the basis of inadequate evidence or did not review the work at all.
24. No significant distinctions were drawn between the status of the audits or audit files for Companies 1 and 2 throughout the hearing and the Committee considered them both together.
25. ACCA's case was based on Person A's clear and unshaken evidence that the files were incomplete at the end of March 2017 and that ■■■ did no work on them after March. Ms Luscombe described this as the key evidence and said that everything else was simply helpful background. She accepted that there were reasons to consider Person A's evidence with caution but made the point that this particular complaint was not initiated by Person A but by ACCA.
26. Ms Luscombe, and indeed Person A ■■■, relied on a number of matters in corroboration of ■■■ evidence. These included the following:
 - (a) There were emails in which Person A made it clear that ■■■ would not complete the audits. On 19 April 2017 in an email chasing payment of ■■■ March invoice, Person A set out some things still to be done on the audits. ■■■ said, *'I have no responsibility for these audits going forwards, but I am prepared to help [Person C] get all these accounts finished ...'*. An email from Person A dated 26 April 2017 referred to *'the lucky bunny who gets to write up all those audit files!!'*.
 - (b) Person A was working for Person C as a Management Accountant after 12 April so it would not have been permissible for ■■■ to work on an audit

of Person C's companies because of a conflict of interest.

- (c) Person A submitted an invoice to Sole Associates each month, but [REDACTED] did not invoice for any work after March 2017.
 - (d) Mr Sole sent an email to Person A on 18 May 2017 (after the audits had been signed off) which listed Companies 1 to 4 and stated '*I note your previous correspondence that the above audited financial statements are ready for sign off and filing with Companies House. However, the files relating to these audits are incomplete, and in some cases, no evidence of audit work is present on the files.*'
27. Mr Sole's evidence was that the files were complete on 02 May 2017, he reviewed them, and he found them satisfactory. He said that following Person C's email of 13 April 2017, he came to an agreement with Person A that [REDACTED] would complete the audits of Companies 1 and 2. He said this was agreed in a single phone call and was not recorded in writing. He said he tried as far as possible to avoid any communication with Person A because of the level of acrimony between them. Although he did not permit [REDACTED] access to his office or office IT facilities after 06 April 2017, he did authorise a member of his team to liaise with [REDACTED] and provide [REDACTED] with information [REDACTED] needed. Person A accepted that [REDACTED] did a lot of work for Person C from April 2017 but said that it was in relation to accounts, not audit work.
28. In January 2020, the defence disclosed to ACCA some further papers (62 pages) said to have been recently discovered at the offices of Company 2. They were said to be copies of some of the original papers in the audit file for Company 2. They included a number of audit schedules initialled by Mr Sole and Person A. For example, there was a 'Cash At Bank and in Hand Lead Schedule'. Person A accepted that [REDACTED] initials were next to 'Prepared by:'. Mr Sole's initials were next to 'Reviewed by:'. Alongside each initial was the date '24/4/17'. Other sheets similarly dated and initialled included 'Creditors – Within One Year Lead Schedule'. Person A claimed that [REDACTED] could not have prepared the schedules on 24 April 2017, giving details of [REDACTED] whereabouts throughout that day, but [REDACTED] acknowledged that [REDACTED] did sometimes prepare and initial audit schedules in advance.

29. Mr Sole said that he had not drafted the email dated 18 May 2017. He had asked the new member of the team, Person B, to complete the audits of Companies 3 and 4. She had not been able to find the files and had drafted the email. He said he had not considered the email as carefully as he should have done before sending it under his name. He did not know why it referred to Companies 1 and 2 because those audits had already been completed. Person B had only been in the office a couple of weeks and must have misunderstood.
30. Mr Cope relied on a number of points which he submitted undermined ACCA's case:
- (a) With regard to the emails, he accepted that at an early stage Person A had disclaimed responsibility for the audit, but he pointed out that Person C was a very important client for Person A and said there was a strong possibility that he persuaded [REDACTED] to do it. He submitted that there was considerable confusion between the four companies in the correspondence. The audits for Companies 3 and 4 were still outstanding in April 2017 and the 'lucky bunny' comment must have related to those companies.
 - (b) If Person C had persuaded Person A to complete the audits, he might have paid [REDACTED] himself since [REDACTED] was already on his payroll. This would explain the absence of an invoice.
 - (c) He questioned what motive Mr Sole would have had for signing off audits on the basis of incomplete files. He described it as an extremely high risk strategy, particularly with Person A '*snapping at his heels*'. He said there was no particular urgency about the audits and if they were not complete on 02 May 2017, Person B could have completed them within a relatively short time once she had settled into the office.
 - (d) In contrast to Person A, Mr Sole was of good character with no disciplinary findings against him in a career of about 24 years.
31. The Committee accepted that the documents discovered in 2020 were indeed extracts from one of the audit files. They showed that Mr Sole had carried out at least some review of the file. There was no reason to think that the other

audit file was any different. The Committee could not find on the balance of probabilities that Mr Sole had not reviewed the file at all.

32. There was no basis on which the Committee could find that Mr Sole's review was insufficient or that the contents of the files were not sufficient to support the audit opinion. There was no evidence as to the precise contents of the files other than Person A's assertion. In view of the doubts over the reliability of Person A's evidence, the Committee did not regard this as sufficient to establish any part of Allegation 1, even on the balance of probabilities. The Committee considered that Person C was a central figure. He was a client of great importance to both Person A and Mr Sole. Having heard from both of them, the Committee concluded that either of them would have done things at his request which they might not have done for other clients. He could well have procured that Person A complete the audit work, as he had suggested in his email dated 13 April 2017. If Person A had done the work, it is understandable that [REDACTED] would not have wanted to draw attention to it, given the obvious conflict of interest.
33. **The Committee concluded that Allegation 1 had not been proved on the balance of probabilities.** Allegation 6 therefore fell away.
34. Allegations 2 and 7 arise out of the fact that Mr Sole did not produce the two audit files at the monitoring visit and has never done so. Allegation 2 was admitted but on the basis that he did not produce them because he did not have them. His case is that they were found to be missing after a thorough search. The precise date is the subject of later allegations.
35. Mr Sole has suggested throughout that Person A may have taken the files. The Committee rejected this. It was satisfied from the evidence, including the evidence of the Office Manager, Person D, that Person A did not visit Mr Sole's offices after the end of March except on 06 July 2017 when [REDACTED] was allowed supervised access to inspect files (not relevant to this case) relating to clients that [REDACTED] had taken over.
36. Ms Luscombe suggested that Mr Sole had suppressed the files to conceal that they were inadequate but there was no evidence for this or any other deliberate wrongdoing by Mr Sole in this regard. The Committee was therefore not able

to find dishonesty or lack of integrity as alleged in allegations 7(a) and (b).

37. Allegation 7(c) was different. This referred to Paragraph 5, Section B6 of ACCA's Code of Ethics and conduct (applicable in 2018) which stated that audit working papers should be retained for a minimum of 7 years. Admittedly they were not retained. The Committee accepted that if the files had been lost without any fault whatever on Mr Sole's part, he might be able to escape liability for breach of this provision. However, he clearly had at the minimum a duty of care to secure these files for at least 7 years.

38. In a letter to ACCA dated 22 February 2019, he said:

'The audit files would have been stored in a cabinet on the 2nd floor of our offices where audit files are stored before being archived. The cabinet has a shutter but is not lockable. ...

We regularly take on young adults on work experience placements, normally for a week at a time, and the archiving is a time-consuming administrative task that is often given to them to carry out. ...

Between the period May 2017 and July 18 inclusive, we did take on work-experience students for the purpose of sorting out our archives. It is therefore, conceivable, that during that process the [Company 1 and 2] papers may have been destroyed. ...'

39. The Committee did not consider it acceptable to operate a system in which work experience students had the opportunity to cause the accidental destruction of files. The Committee concluded that Mr Sole had failed to discharge his duty to retain the papers for 7 years. **It found Allegation 7(c) proved.**

40. Allegations 3, 4 and 8 relate to two versions of events given by Mr Sole to ACCA regarding the loss of the audit files.

41. In a letter received by ACCA in December 2018 (wrongly dated 15 May 2018), Mr Sole said clearly that the files were found to be missing around 18 May 2017 and referred to his email to Person A on that date. He was asked about that email and replied on 07 January 2019, confirming that it was the files for

Companies 1 and 2 that were found to be missing on 18 May. He was asked further questions to which he replied on 22 February 2019. In this letter he stated that the date of 18 May previously given, on two separate occasions, was incorrect and that the files were actually found to be missing in July 2018 while preparing for the audit monitoring visit.

42. Mr Sole's explanation was that he didn't know exactly when the files were first found to be missing. He knew they were missing in July 2018 before the audit monitoring visit. He said when first answering he went through the emails and 'came across' the 18 May 2017 email which he stated was drafted by Person B. He said that he read the email in the same way that Ms Luscombe had in her submissions (see above), namely as indicating that the person who drafted the email knew they were missing on 18 May 2017. Although he was not aware of that, he thought he could be criticised later for saying the files had gone missing in July 2018 when this email existed. He accepted that he had misled ACCA.
43. Mr Sole admitted Allegation 3 which was found proved. With regard to Allegation 8, the Committee did not consider that there was any evidence to show that Mr Sole had been dishonest in providing the misleading information to ACCA. However, it did consider that he had been reckless in his answer and irresponsible in giving information which he did not know to be correct. He could and should have explained exactly what he did and did not know without regard to how that might look. If he was drawing an inference he should have said so. He was not forthright. The Committee was satisfied that his conduct did meet the threshold to be described as lacking in integrity. **The Committee found Allegation 8(b) proved in relation to Allegation 3.**
44. Allegation 4 was not admitted. Mr Sole's position was that he discovered the files to be missing in July 2018 while preparing for the monitoring visit. There was insufficient reliable evidence to show that that was not correct. **The Committee found Allegation 4 not proved.** Therefore Allegation 8 did not need to be considered in relation to Allegation 4.
45. Allegation 5 concerned Mr Sole's assertions that he did review the audit files on 02 May 2017. This has been his position throughout. Having found Allegation 1 not proved, the Committee could not criticise him for his

statements. **The Committee found Allegation 5 not proved.** Allegation 9 therefore fell away.

46. The Committee has found Allegations 2, 3, 7(c) and 8(b) proved.
47. With regard to Allegation 10 (misconduct), a finding that a professional accountant has acted contrary to the fundamental principle of integrity is a serious matter. The Committee had no doubt that a finding of misconduct was justified.
48. Allegations 2 and 7(c) relating to the retention of working papers reflected a significant departure from proper standards. If this had been the only matter proved against Mr Sole, it might not have been serious enough to justify a finding of misconduct. However, it did not stand alone. It was part of the same set of circumstances in which he failed to take sufficient care over his responsibilities to his regulator.
49. **The Committee found that Mr Sole was guilty of misconduct as a result of the matters proved in relation to Allegations 2, 3, 7(c) and 8(b).** As the Committee found misconduct it did not go on to consider Allegation 11.
50. The Committee convened to conclude the hearing on 20 January 2022 by considering what sanction(s), if any, to impose and whether to make any other orders. As before, Ms Luscombe appeared for ACCA. Mr Sole was present and represented by Mr Cope.
51. In addition to the papers from the previous hearing, the Committee had transcripts of the previous hearing, a further Service bundle of 23 pages and a Tabled Additional bundle of 30 pages.

DECISION ON SANCTION(S) AND REASONS

52. Ms Luscombe did not propose a particular sanction but drew the Committee's attention to a number of passages in ACCA's Guidance for Disciplinary Sanctions (2021). She referred to Section F of the Guidance which put failing to act with integrity into the 'Very serious' category.
53. Mr Cope submitted that because of the delay in listing this resumed hearing, his client had been under considerable stress for the last five months. He invited

the Committee to take that into account as part of his client's mitigation. He stated that Mr Sole had been a member for 24 years and had an unblemished career until the events which gave rise to this hearing. He referred to the stress Mr Sole had been under at the relevant time as described at the first stage of the hearing. He said this was the context in which his departures from good practice had occurred.

54. Mr Cope emphasised that while there were five factual allegations against Mr Sole, all involving dishonesty, only two factual allegations were proved, and no dishonesty had been found. He stated that his client apologised without reservation for the two matters that were proved. He submitted that allegation 2 did not merit a greater sanction than admonishment. In relation to allegation 3, he submitted that, ironically, the reason why Mr Sole had misled ACCA about the date when the files went missing was that he was keen not to mislead them. He was not aware that the files had been found to be missing at the earlier date but felt that he would be criticised for giving what he believed to be the true, later, date in the face of the apparent evidence in the files. He 'erred on the side of caution'.
55. Mr Sole had previously held an auditing qualification from ACCA. However, neither counsel considered that the Statutory Auditors and Third Country Auditors Regulations 2016 ('SATCAR') would have any impact on the decision at this stage.
56. In addition to the submissions, the Committee considered a bundle of defence documents which included financial information for Mr Sole and his main trading company and four testimonials from professional colleagues.
57. The Committee considered all the findings together since they all arose out of the same issue, namely that the audit files had not been produced. It first considered aggravating and mitigating factors.
58. Aggravating factors included the seriousness of the finding of lack of integrity, the finding of recklessness and the fact that Mr Sole repeated his misstatement about the date when the files were found to be missing on two occasions several weeks apart. It was several more weeks before he acknowledged his misstatements.

59. Mitigating factors included Mr Sole's previously unblemished career, the fact that he had made admissions, and the fact that he expressed genuine remorse and had shown insight. Mr Sole had taken remedial action. He explained to the Committee the steps he had taken to ensure that client files did not go missing again. Most were held digitally using a secure system. Paper files were all held in a single, locked filing cabinet. Only he could authorise access to them. The four references he provided were strong. They were all from professional accountants, at least three of whom were registered with ACCA or ICAEW. ACCA had verified the status of the authors. The referees were aware of the findings against Mr Sole. They spoke highly of his integrity and professional qualities. The Committee also took into account the personal stress he was under at the relevant time. It heard evidence about this at the first stage of the hearing and made a finding at paragraph 22 of the decision.
60. The Committee was quite satisfied that it was necessary to impose a sanction in this case given the seriousness of the misconduct. It considered the available sanctions in order of seriousness, on the basis that it would impose one sanction to address all the findings.
61. On this basis, the sanction of Admonishment was clearly inadequate. As the guidance states, the finding of lack of integrity was very serious.
62. The guidance states that the sanction of Reprimand '*would usually be applied in situations where the conduct is of a minor nature*'. Again, this was not misconduct of a minor nature.
63. The Committee next considered the sanction of Severe Reprimand. Most of the factors in the Guidance were present. The misconduct was not deliberate (although there was an element of recklessness). No direct or indirect harm was caused, although there was the potential for harm if circumstances had arisen where access to the audit files was essential. Mr Sole appeared to have a good level of insight. His expressions of regret seemed genuine, and he had a previous good record. The misconduct did not quite fit the description of an isolated incident since the misstatement was repeated over a substantial period, but it was not a persistent or ingrained pattern of behaviour. Remedial measures had been taken. There were strong references. Mr Sole co-operated in many respects with the investigation but of course the most serious finding

against him arose out of information provided during the investigation.

64. Before deciding whether this would be the appropriate sanction, the Committee looked at the guidance for the next sanction, Exclusion. It found that few of the suggested factors were present in this case and was satisfied that Exclusion would be disproportionate for this misconduct which did not involve dishonesty.
65. The Committee therefore determined to impose the sanction of Severe Reprimand. It did not consider it necessary to impose a fine in addition.

COSTS AND REASONS

66. Ms Luscombe applied for costs totalling £14,808. Mr Cope did not challenge the principle of an order for costs or the individual figures. However, he pointed out that ACCA had succeeded on only two of five factual allegations and submitted that ACCA should be awarded 40% of the sum claimed.
67. The Committee was satisfied that ACCA was entitled to costs in principle. ACCA was clearly justified in investigating these matters. However, it considered that there should be a reduction to reflect the fact that the outcome of the hearing fell significantly short of what ACCA had alleged. If the case had been restricted to the issues which succeeded, there would have been a saving in costs. There would also be an element of unfairness to Mr Sole in ordering him to pay for the full investigation of allegations which were not proved.
68. The Committee rejected the suggestion that it should award two fifths of the costs. It was appropriate for ACCA to investigate all issues initially. If they had later decided not to pursue the allegations that did not succeed, most of the costs would still have been incurred. The Committee exercised its judgment on the issues by assessing the contribution to costs at £10,000.
69. Having considered the financial information, the Committee was satisfied that Mr Sole could pay this amount without undue hardship.

EFFECTIVE DATE OF ORDER

70. This order will take effect at the expiry of the appeal period.

ORDER

71. The Committee made the following order:

- (a) Mr Giuseppe Sole shall be severely reprimanded.
- (b) Mr Sole shall make a contribution to ACCA's costs of £10,000.

Mrs Kathryn Douglas
Chair
20 January 2022