

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Anthony Kwan

Heard on: Tuesday, 11 October 2022

Location: Remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Mr George Wood (Accountant)
Mr Andrew Skelton (Lay)

Legal Adviser: Mr Iain Ross

**Persons present
and capacity:** Mr Steve Roberts (Member's Legal Representative)
Ms Afshan Ali (Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: Exclusion from membership
Costs awarded to ACCA in the sum of £2,250.00

1. The Committee met to hear allegations against Mr Kwan. The hearing was conducted remotely through Microsoft Teams. Ms Ali appeared for ACCA. Mr Kwan was present by telephone and was represented by Mr Roberts.
2. The Committee had a main bundle of papers numbered pages 1 to 75, an additional bundle numbered pages 1 to 4 and a service bundle numbered pages 1 to 16.

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Allegations

1. On 02 September 2021 ACCA fellow, Mr Anthony Tsz Pan Kwan was convicted of:
 - (a) Four (4) counts of indecent assault on a girl under 16 between 01 January 2000 to 26 February 2002, and
 - (b) Four (4) counts of indecent assault on a woman (16 or over) under 16 between 26 February 2002 to 30 April 2004;at Bristol Crown Court which is discreditable to the Association or the accountancy profession.
2. By reason of his conduct at 1 above, Mr Kwan is liable to disciplinary action pursuant to bye-law 8(a)(ix).

Brief Background

1. Mr Kwan became an ACCA member on 14 March 1991 and a Fellow on 14 March 1996. On 28 September 2021, Mr Kwan telephoned and emailed ACCA disclosing that he had been convicted of criminal offences and was awaiting sentence.
2. Following investigation, during which ACCA obtained the Certificate of Conviction from Bristol Crown Court, it transpired that Mr Kwan had been tried and convicted on indictment of the offences set out in the allegations on 02 September 2021 at Bristol Crown Court.
3. On 30 September 2021, Mr Kwan was sentenced to 7 years imprisonment. He is currently a serving prisoner.

Decision on Allegations

4. At the outset of the hearing, Mr Kwan admitted each of the allegations which were found proved by virtue of his admissions.

Sanction

5. The Committee considered what sanction if any to impose in respect of the admitted allegations. The Committee had regard to the Guidance for Indicative Sanctions and to the submissions made by Ms Ali and Mr Roberts.
6. The Committee considered that it would not be in the public interest to take no action, given the seriousness of the matters for which Mr Kwan had been convicted. Nor, in the Committee's view, would an admonishment be appropriate.
7. The Committee considered that the aggravating factors were restricted to the seriousness and nature of the matters for which Mr Kwan was convicted, which involved the sexual abuse of a child with whom Mr Kwan was in a position of trust.
8. The Committee also considered that there were mitigating factors in this case. Mr Kwan had self-referred to ACCA. Although he continues to deny that he is guilty of the criminal offences, he has acknowledged the fact of his convictions and the detrimental effect that has on public confidence in the profession. He also demonstrated insight in his acceptance of the likelihood that he would be removed from membership and had attempted to remove himself, which was not possible after an investigation had begun. The Committee also noted the positive testimonials provided by Mr Kwan and to his professional/career achievements as an accountant.
9. In considering whether a reprimand or a severe reprimand was the appropriate sanction, the Committee noted that as set out in the sanction's guidance, a reprimand would usually be applied in situations where the conduct is of a minor nature and there appears to be no continuing risk to the public. Whilst the

Committee was satisfied that there is no continuing risk to the public while he is in prison, the facts giving rise to Mr Kwan's convictions, were not of a minor nature.

10. Similarly, the Committee noted that a serious reprimand would usually be applied where the conduct is of a serious nature but there are particular circumstances of the case or mitigation which satisfied the Committee that there is no continuing risk to the public and where there is evidence of the individual's understanding and appreciation of the conduct found proved, which is not applicable in this case.
11. Given the very serious nature of the matters for which Mr Kwan was convicted as demonstrated by the length of imprisonment imposed, the Committee concluded that the only appropriate and proportionate sanction was exclusion from membership.

Costs

12. ACCA applied for costs in the sum of £5,257.26 which was supported by a schedule of costs incurred.
13. The Committee took into account that all of the allegations had been admitted and that the hearing lasted only half a day.
14. The Committee was provided with a Statement of Means from Mr Kwan and heard submissions from Mr Roberts as to Mr Kwan's inability to pay any costs given his current and anticipated future circumstances. Taking into account Mr Kwan's ability to pay costs, the Committee determined that Mr Kwan should pay a contribution to ACCA's costs in the sum of £2,250.00.

Immediate Order

21. The Committee did not deem it necessary to make any immediate orders.

Ms Ilana Tessler
Chair
11 October 2022