

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

- In the matter of:** Mr Liaw Kok Feng
- Heard on:** Friday, 21 October 2022
- Location:** Held Remotely by Microsoft Teams via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
- Committee:** Mr Andrew Gell (Chair)
Ms Wanda Rossiter (Accountant)
Mr Nigel Pilkington (Lay)
- Legal Adviser:** Miss Judith Chrystie (Legal Adviser)
- Persons present
and capacity:** Ms Ariane Tadayyon (ACCA Case Presenter)
Mr Jonathan Lionel (Hearings Officer)
- Summary:** Exclusion from membership with immediate effect.
No order for costs.

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ALLEGATION

1. The Committee considered the following allegation:
 1. Pursuant to bye-law 8(a)(vi), Mr Liaw Kok Feng, a Fellow of the Association of Chartered and Certified Accountants, is liable to disciplinary action by virtue of the disciplinary finding against him on or around 14 September 2020 by the Disciplinary Committee of the Institute of Singapore Chartered Accountants (ISCA).
2. The Committee considered the following papers:
 - a. Disciplinary Committee report and bundle with page numbers 1-184
 - b. Supplementary bundle with page numbers 1-164
 - c. Case Management Form with page numbers 1-21
 - d. Service bundle with page numbers 1-12

BRIEF BACKGROUND

3. Mr Liaw Kok Feng became an ACCA member on 30 April 2006 and an ACCA Fellow on 30 April 2011.
4. ACCA submitted that owing to the disciplinary finding made against him by ISCA on 14 September 2020, Mr Feng was liable to disciplinary action pursuant to bye-law 8(a)(vi). In November 2020, ACCA became aware that, on 14 September 2020, the ISCA had made a disciplinary finding against Mr Feng regarding his performance as the Chief Financial Officer ('CFO') for a company that appeared to have been the subject of massive fraud.
5. The finding, contained on ISCA's website, stated:

UPON FINDING that Mr Liaw Kok Feng, CA (Singapore) had contravened Rule 64.1 read with Rule 65.1 of the Institute (Membership and Fees) Rules in that he was guilty of misconduct and/or that he had been represented to be guilty

of an act or omission likely to bring discredit to himself, the Institute or the accountancy profession and Rule 64.4 of the Institute (Membership and Fees) Rules read with Section 130.1(b) and 130.5 of the Code of Professional Conduct and Ethics under the Third Schedule of the Institute (Membership and Fees) Rules.

The Disciplinary Committee ordered:

- 1. That pursuant to Rule 137.1.1 of the Institute (Membership and Fees) Rule, he be removed from the register and that he shall cease to be a Member of the Institute with immediate effect.*
- 2. That pursuant to Rule 167 of the Institute (Membership and Fees) Rules, he shall pay to the Institute the sum of SGD6,078.80 (inclusive of 7% GST), being the costs and expenses of and incidental to the investigation and disciplinary proceedings undertaken against him.*
6. ISCA's rules prevented them from providing any additional information to ACCA.
7. ACCA relied on the reasons contained in a letter to Mr Feng from the Director, Corporate Services and Practice Monitoring at ISCA dated 05 October 2020, which stated that the key observations made by the Disciplinary Committee were that he:
 - a. lacked professional scepticism and had the tendency to take matters at face value.*
 - b. did not ensure that internal controls were in place, nor performed any checks on the effectiveness of the internal controls but instead... had relied solely on the internal auditor's reports.*
 - c. were not able to articulate details on how [he] had carried out ... oversight of the [Peoples Republic of China] subsidiaries. (sic)*

- d. *did not personally perform the verification of the existence of assets during the financial year, particularly cash balances, which is a significant component of the assets of the Group, and is almost entirely in the custody of the overseas operating subsidiaries.*
 - e. *were not detailed enough to raise certain red flags in the processes. (sic)*
8. Mr Feng, who attended and represented himself, provided written and oral submissions. In summary, he submitted that:
- a. ISCA's disciplinary proceedings relating to the discharge of his duties as Group Chief Financial Officer (CFO) between 22 July 2016 and to end of 2017.
 - b. On 22 January 2018, the company's external auditors informed him of investigation/disciplinary proceedings and related action that triggered an investigation which revealed massive fraud within the company group.
 - c. He helped with the fraud investigation and lodged the police report with the Commercial Affairs Department of the Singapore Police Force.
 - d. In late October 2018, he was asked to resign by the Executive Director of the company.
 - e. On 19 November 2018, the Executive Director filed a complaint with ISCA against him. He considered the Executive Director was in a position of conflict of interest and had raised the complaint to attempt to absolve himself of all his attendant responsibilities as the previous Chairman of the company's Audit Committee for about 6 years, from 2011 to 2018.
 - f. Because the matters referred to in the complaint were the subject of an investigation by the police and regulatory bodies and there were also legal proceedings, he was unsure how to respond to the complaint to ISCA and whether a reply to ISCA could affect or interfere with those investigations.

- g. In January 2019, he suggested to ISCA that their investigation into the complaint be deferred. This would have been in accordance with the ISCA's published policy on such a situation. In March 2019, ISCA advised that it would not defer the investigation. No reasons were given.
- h. He lodged a written submission with ISCA the day before their Disciplinary Committee hearing. He provided the submission at the last moment because he had been preparing a written response for another regulatory investigation being conducted by the Singapore Exchange (SGX-ST). This investigation could have had serious consequences for him and he needed to protect himself whereas he had been thinking about a career change and not focusing on the ISCA complaint. However, he decided that he could adapt the submission for the SGX for the ISCA hearing.
- i. The ISCA's Disciplinary Committee did not read the written submission prior to the hearing and did not allow him to read his submission to the Committee. He was allowed to go through a few key points. The ISCA Disciplinary Committee was hurried and concluded in about two hours.
- j. No reasons were given for the ISCA Disciplinary Committee's decision in their Order dated 14 September 2020. He sent emails to ISCA asking for the reasons on 15 September 2020, 01 October 2020 and 29 October 2020 without satisfactory replies.
- k. ISCA had not particularised the instances that he had failed to properly supervise the Finance Staff, nor the applicable technical and professional standards to which he failed to adhere. He did not know what he had not done well so he had not been able to identify what he needed to change.
- l. He had not appealed the ISCA's decision. He was not eligible to do so having not paid the fine imposed by ISCA's Disciplinary Committee – paying the fine was a condition of appeal under ISCA rules. SGX-ST decided to withdraw all charges against him and gave a Notice of Discontinuance.

DECISION ON FACTS AND REASONS

9. The Committee recognised that under bye-law 8(a)(iv) a member was liable to disciplinary action if he has been disciplined by another professional body.
10. There was no dispute that Mr Feng was disciplined by the ISCA, another professional body. Mr Feng admitted this fact. The Chair announced the factual aspect of the allegation to be proved in accordance with Regulation 12(3)(c) of the Complaint and Disciplinary Regulations 2014 ('the Regulations').

SANCTION AND REASONS

11. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
12. The Committee acknowledge that it could not seek to go behind the finding of ISCA in reaching its decision on the appropriate and proportionate sanction if any. It accepted ISCA's finding at face value and had close regard to the observations issued by its Director, Corporate Services and Practice Monitoring shortly following the hearing – as set out in paragraph 7 above. The Committee categorised ISCA's findings as relating to the manner in which Mr Feng performed his role as CFO and the level (or otherwise) of competence that he displayed in doing so. The Committee was mindful that it did not have sight of the evidence considered by ISCA's Disciplinary Committee – nor should it - but concluded that the observations provided by ISCA's Director revealed substantial failings and serious shortcomings on Mr Feng's part.
13. It acknowledged that ISCA must have concluded that Mr Feng's failings were so significant that the only appropriate sanction was to remove his name from their register. The Committee recognised that whilst the Guidance stated that it should take into account the sanction imposed by ISCA, it was not constrained to follow it.
14. The Committee considered the mitigation and aggravated features in the case: Mr Feng had no disciplinary history, had admitted the allegation from the outset

(in that he did not dispute that a finding had been made against him by ISCA), had cooperated and constructively engaged with ACCA's investigation and the disciplinary process. There were no aggravating features.

15. Given that a regulatory finding had been reached by ISCA resulting in Mr Feng's removal from their register, the Committee determined a sanction was required. Further, given the nature of the findings, the Committee concluded that it would be wholly inappropriate and insufficient to conclude this matter with an admonishment or a reprimand. It considered that such orders would not protect the public, would be inadequate in declaring appropriate standards of behaviour to the accountancy profession and could have a detrimental impact on the public's confidence in accountancy and the regulation of the profession.
16. Having carefully considered the specific terms of the Guidance, the Committee was further satisfied that a severe reprimand would not adequately reflect the gravity of the findings made by ISCA. Whilst the Committee was content that Mr Feng's failings were not intentional, were no longer continuing and had not been repeated, it considered that Mr Feng did not have insight into those failings. Further notwithstanding his view that he had insufficient detail to understand what he had done wrong, Mr Feng had not sought to take any corrective steps to offer the Committee reassurance and confidence that future errors would not occur. Finally, the finding of the ISCA's Committee identified that Mr Feng's conduct had caused direct or indirect harm.
17. The Committee, therefore, concluded that factors set out in the Guidance did not suggest that a severe reprimand would be an appropriate and proportionate sanction. Further, overall, the Committee was not satisfied that the particular circumstances of the case, or the mitigation advanced, demonstrated that there was no continued risk to the public – to the contrary, the Committee was concerned that, without evidence that Mr Feng understood and appreciated the ISCA's conclusions and the implications of its findings, there was a continued risk to the public.
18. In all these circumstances, the Committee considered that Mr Feng could not remain a member of ACCA and determined that the only appropriate and

proportionate sanction was exclusion from membership; such an order was necessary for the public interest.

COSTS AND REASONS

19. ACCA claimed costs in the sum of £7015.00. It acknowledged that some elements of the schedule could be reduced.
20. Mr Feng had provided a statement of financial position which set out that he had no income and was not currently employed. He also provided evidence about his health. Further, in oral submissions, he advised that he could not afford to pay any costs and that any order imposed on him would, in effect, be an order against his wife. He submitted that this would not be fair. The evidence of Mr Feng's financial circumstances or health was not disputed or challenged by ACCA.
21. The Committee determined that any order for costs would not be affordable and would lead to undue hardship. As a consequence, it made no order for costs.

EFFECTIVE DATE OF ORDER

22. The Committee considered whether the order should be made with immediate effect. It determined that it was in the interest of the public for Mr Feng's name to be excluded as swiftly as possible. The Committee considered that it would be against the public interest for Mr Feng to be able to continue to rely on his membership of ACCA to assure the public and potential employers. As a consequence, the Committee considered that the public should be protected with immediate effect.

Mr Andrew Gell
Chair
21 October 2022