

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Henok Yemane FCCA

**Heard on:** Tuesday, 08 August 2023

**Location:** Held remotely via Microsoft Teams

**Committee:** Ms Kathryn Douglas (Chair)  
Ms Jo Royden Turner (Accountant)  
Ms Victoria Smith (Lay)

**Legal Adviser:** Ms Tope Adeyemi

#### Persons present

**and capacity:** Mr Alex Mills (ACCA Case Presenter)  
Miss Geraldine Murray (Hearings Officer)

**Summary:** Exclusion from membership

**Costs:** Costs awarded in the sum of £6,300.00

#### INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Henok Yemane (“Mr Yemane”). Mr Yemane was not present or represented.

#### ACCA



+44 (0)20 7059 5000



info@accaglobal.com



[www.accaglobal.com](http://www.accaglobal.com)



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

The papers before the Committee consisted of a main bundle (Pgs.1 – 130) and a service bundle (Pgs. 1 - 18).

## **PRELIMINARY MATTERS**

### **Service of papers**

2. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Mr Mills on behalf of ACCA and it also took into account the advice of the Legal Adviser.
3. Included within the bundle was the Notice of Hearing dated 11 July 2023, thereby satisfying the 28-day notice requirement, which had been sent to Mr Yemane’s email address as it appears on the ACCA register. The Notice included correct details about the time, date and remote venue of the hearing, it also notified Mr Yemane of the option to attend the hearing by telephone or video link and to be represented if he wished. Additionally, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in his absence if considered appropriate. A delivery receipt dated 11 July 2023, confirming delivery of the Notice, was also provided.
4. The Committee also had sight of 3 emails dated 17 July 2023, 04 August 2023 and 07 August 2023. The emails were sent to Mr Yemane’s email address and advised him again of the date and time of the hearing. The Committee did note that there was no phone number recorded for Mr Yemane on the screenshots available from ACCA’s database and were made aware by ACCA that this was the reason no attempts had been made to call him.
5. The Committee, having considered the relevant documents, was satisfied that Notice had been served in accordance with the Regulations.

### **Proceeding in absence**

6. Having concluded that proper notice had been served in accordance with the Regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Mr Yemane. The Committee took into account that Mr Yemane had been sent a number of emails by ACCA's Hearings Officer asking if he would be attending the hearing, with no response being received. There was also evidence in the form of receipts that those messages had been delivered.
7. The Committee was of the view that Mr Yemane's attendance was unlikely to be secured through an adjournment as he had not engaged at all and appeared to have voluntarily absented himself. In balancing the interests of Mr Yemane against the public interest and the interests of ACCA, the Committee concluded that it was in the interests of justice that the matter proceed expeditiously notwithstanding the absence of Mr Yemane.

## **BACKGROUND**

8. Mr Yemane was admitted as a member of ACCA in September 2005 and became a fellow in 2010. Up until October 2021 he was the Financial Controller of Firm A.
9. On 17 December 2021, ACCA received a referral from Mr B, the Group Financial Director of Firm A. Mr B reported that following suspicions raised by a member of Firm A's accounts team, it had been identified that a series of fraudulent payments had been made from Firm A by Mr Yemane to various recipients. According to Mr B It also appeared that Mr Yemane had stolen two televisions costing £4000 that he had ordered on the Firm's credit card and that he had taken 25 laptops that were intended for a children's charity in East Africa. Mr B stated that when Mr Yemane was confronted about the concerns, he admitted to stealing in excess of £500,000 from Firm A.
10. Firm A went on to instruct a third-party firm to conduct an independent investigation into the matter and produce a report. A complaint was also made to the police. Mr Yemane resigned from his position of Financial Controller of Firm A on 11 October 2021, entering into a settlement agreement with Firm A on 18 March 2022 to repay the money. Within the agreement, Mr Yemane

admitted that he had fraudulently misappropriated £513,102.74 belonging to Firm A and that his actions were dishonest. Mr B has confirmed to ACCA that Mr Yemane has paid back the £513,102.74 in full.

11. ACCA commenced its own investigation into the matter and contacted Mr Yemane in June 2022, notifying him that he was under investigation and inviting him to comment. Mr Yemane is said not to have responded.

### **ALLEGATIONS**

12. The allegations faced by Mr Yemane are set out below.

Mr Henok YEMANE ('Mr Yemane'), a Fellow of the Association of Chartered Certified Accountants:

1. Between 10 September 2010 and 27 September 2021, misappropriated £513,102.74 from his employer (Firm A) for non-business related purposes;
2. Mr Yemane's conduct in respect of any or all of the matters set out at Allegation 1 above:
  - a. Was dishonest, in that he misappropriated money from his employer which did not belong to him for personal financial advantage; or in the alternative
  - b. Demonstrates a failure to act with integrity.
3. By reason of his conduct in respect of any or all of the matters set out at Allegations 1 and 2 above, Mr Yemane is guilty of misconduct pursuant to byelaw 8(a)(i).

### **DECISION ON FACTS AND REASONS**

13. The Committee considered with care all the evidence presented and the submissions made by Mr Mills. It also accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

#### **Allegation 1 – Proved**

14. The Committee were invited by ACCA to rely on the evidence of Mr B alongside the investigation report commissioned by Firm A and the settlement agreement dated 18 March 2022. The Committee considered the information within those documents to be consistent with the facts set out in the allegation 1, namely that between 10 September 2010 and 27 September 2021, Mr Yemane misappropriated £513,102.74 from Firm A for non-business related purposes.
15. The Committee took into account that the evidence was unchallenged. Particular weight was placed on the settlement agreement in which Mr Yemane is recorded to have signed to confirm that he had misappropriated a total of £513,102.74 belonging to Firm A by arranging payments to third parties of which none were for the benefit of Firm A. The Committee found no reason to doubt the terms of the settlement agreement or that Mr Yemane entered into it. In addition, the Committee noted that the email for Mr Yemane that was included in the witness statement of Mr B (i.e. the email address used by Mr Yemane to submit his resignation) was the same as the email address for Mr Yemane per the ACCA's membership database. Taking the information available together, the Committee was satisfied there was clear evidence to find the facts of allegation 1 proved.

#### **Allegation 2 (a) – Proved**

16. The Committee moved on to consider whether Mr Yemane acted dishonestly in misappropriating the money from his then employer, Firm A. Mr Mills submitted that Mr Yemane's previous good character should be considered in that it may suggest a lack of propensity for dishonesty. The Committee took this submission into account and also noted that in its very nature the alleged misconduct of dishonesty in breach of trust, could only occur where there was

such a perceived lack of propensity for dishonesty. It was noted that Mr Yemane had signed the settlement agreement in which he admitted he had fraudulently misappropriated Firm A's funds, that none of the payments were for the benefit of Firm A and that "*his actions were dishonest*". Further, Mr B in his statement, set out that when confronted, Mr Yemane had admitted to him that the payments made to fraudulent payees had ultimately gone to him. The Committee considered that given Mr Yemane had been a member of ACCA for 20 years and was Firm A's financial controller, he would have clearly understood that the money did not belong to him and that he had no right to use it for his own purposes. It was in no doubt that ordinary decent people would consider his conduct to have been dishonest. In all the circumstances the Committee was satisfied that Mr Yemane's conduct was dishonest. The allegation was therefore found proved.

#### **Allegation 2 (b) – N/A**

17. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour demonstrated a failure to act with integrity, since this was alleged in the alternative.

#### **Allegation 3 – Proved**

18. The Committee was satisfied that Mr Yemane's conduct in misappropriating funds from Firm A for his own personal use whilst employed as Financial Controller of Firm A amounted to misconduct. Mr Yemane's behaviour, which the Committee had found to be dishonest, was perpetrated over an extended period of time and was extremely serious. It represented a significant abuse of position, falling far below what was expected of a registered member and was of a nature that fellow members of the profession would regard as deplorable. This allegation was therefore found proved.

#### **SANCTION AND REASONS**

19. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Mills on behalf of ACCA. The Committee referred to

the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Yemane, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.

20. The Committee turned first to consideration of the aggravating and mitigating features in this case. It found that Mr Yemane had made numerous fraudulent transactions over a long period of time and that this constituted an aggravating factor. There was also clear evidence the conduct was pre-meditated, with extensive arrangements being made to cover it up. As Financial Controller, Mr Yemane was directly responsible for Firm A's finances. This was an elevated position of trust which he breached. The Committee found all these factors to amount to aggravation.
21. The Committee was aware of Mr Yemane's previous good character and whilst this mitigated to a degree, the Committee could not attach much weight to this given the serious nature of the conduct and the breach of trust.
22. The Committee noted that Mr Yemane had repaid the £513,102.74 and that when he was first confronted by Mr B in September 2021 about suspicious payments, he admitted the money had gone to him. The Committee found these points to be mitigating factors.
23. The Committee did not think it was appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had acted dishonestly.
24. The Committee then considered whether to reprimand Mr Yemane. The guidance indicates that a reprimand would be appropriate in cases where the misconduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not find those factors to be present in the current instance.

25. The Committee moved on to consider whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered none of these criteria to be met.
26. The Committee went on to consider the guidance relating to exclusion from membership. Having done so, it was of the view that Mr Yemane's conduct was fundamentally incompatible with his continued membership. Whilst in a position of trust, Mr Yemane had misappropriated money from this employer over approximately 11 years. It was acknowledged that the funds had been repaid thereby reducing the harm caused, however the Committee considered that there remained an element of harm as Firm A had been deprived of its money over a period of time. In all the circumstances the Committee considered exclusion to be the most appropriate and proportionate sanction. The exclusion should be for a minimum of 5 years, this being the maximum penalty the Committee can impose.

### **COSTS AND REASONS**

27. ACCA applied for £6,617.00 in respect of ACCA's costs. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. A simplified schedule was also provided. No information was available regarding Mr Yemane's current means.
28. The Committee was satisfied that ACCA was entitled to claim its costs. The costs appeared to have been reasonably and proportionately incurred. A small reduction in the amount sought was considered appropriate however as the hearing, which was set down for the whole day, concluded earlier than predicated. The Committee therefore decided to award ACCA costs of £6,300.00.



**EFFECTIVE DATE OF ORDER**

29. The Committee decided that the order shall take effect immediately. Immediate imposition was considered appropriate to protect the public.

**Ms Kathryn Douglas**  
**Chair**  
**08 August 2023**