

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

In the matter of:	Mr Hans Chung Han Hung
Heard on:	Monday, 06 February 2023
Location:	Online via Microsoft Teams
Committee:	Mr Maurice Cohen (Chair) Dr Beth Picton (Accountant) Ms Victoria Smith (Lay)
Legal Adviser:	Miss Juliet Gibbon
Persons present and capacity:	Mr Hans Chung Han Hung (Member) Mr Ben Jowett (ACCA Case Presenter) Ms Nikita Apostol (Hearings Officer)
Outcome:	Allegations 1.1 and 1.2, 2, 3, 4, 5.1, 5.2, 5.4, 5.5, 6.1, 7.1 (dishonesty) and 8.1 (misconduct) - proved by way of admission. Allegation 5.3 - not proved.
Sanction:	Exclusion from membership of ACCA from date of the expiry of the appeal period.
Costs:	Contribution to ACCA's costs in the sum of £6,000.

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Hans Chung Han Hung. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 262, a service bundle, numbered pages 1 to 8, and an additional bundle, numbered pages 1 to 8. The Committee was also provided with a detailed and a simple cost schedule.
2. Mr Ben Jowett represented ACCA. Mr Hung attended the hearing but was not represented.

PRIVATE

3. The Committee heard an application made by Mr Jowett that part of the hearing should be heard in private as Mr Hung would be referring to health matters.
4. The Committee accepted the advice of the Legal Adviser. It determined that the hearing should be held in private when matters of health or other personal issues were referred to by Mr Hung.

ALLEGATIONS

Allegations

1. Mr Hans Chung Han Hung, an ACCA member, between 26 June 2017 and 09 April 2021 failed on behalf of his firm to comply with the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, namely:
 - 1.1 Regulations 18 (risk assessment by relevant persons) and or;
 - 1.2 Regulation 24 (training).

2. Mr Hans Chung Han Hung, on or about 23 October 2020 falsely represented to ACCA's AML Supervision Office that his firm's anti-money laundering policy and procedures document had been created in October 2018.
3. Mr Hans Chung Han Hung, between 01 September 2020 and 09 April 2021 failed to supply ACCA with all the information necessary to enable it to complete its monitoring process efficiently, contrary to Regulation 14(2) of ACCA's Global Practising Regulations (as applicable from 2020 to 2021).
4. Mr Hans Chung Han Hung between 01 September 2020 and 09 April 2021 failed to co-operate with ACCA in its monitoring and enforcement of compliance with these regulations, contrary to Regulation 14(3) of ACCA's Global Practising Regulations (as applicable from 2020 to 2021),
5. Mr Hans Chung Han Hung failed to co-operate fully with ACCA in the investigation of a complaint in that he failed to provide any or all of the information requested by an investigation officer in the correspondence dated below, contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014:
 - 5.1 04 February 2021;
 - 5.2 18 February 2021;
 - 5.2 09 March 2021;
 - 5.3 24 March 2021;
6. Mr Hans Chung Han Hung in respect of allegation 1 above:
 - 6.1 Failed to comply with Section B2 (Anti-Money Laundering) of ACCA's Code of Ethics and Conduct (as applicable from 2017 to 2020).
7. Mr Hans Chung Han Hung in respect of allegation 2 above:

- 7.1 Dishonest in that he knew that his firm's anti-money laundering policy and procedures document had not been created in October 2018, or in the alternative;
 - 7.2 Such conduct demonstrates a failure to act with integrity.
8. By reason of his conduct Mr Hans Chung Han Hung is:
 - 8.1 Guilty of misconduct pursuant to bye-law 8(a)(i); in respect of any or all of the matters set out at 1 to 7 above; or
 - 8.2 Liable to disciplinary action pursuant to bye-law 8(a)(iii) in the alternative in respect of allegations 3-6 above.

ADMISSIONS

5. The allegations were read to Mr Hung and he made admissions to all the allegations save for Allegation 5.3 because he stated that he had not received the letter from ACCA, dated 24 March 2021.
6. In accordance with Regulation 12(3)(c) of the Complaints and Disciplinary Regulations 2014, as amended ("the Regulations"), the Chair announced Allegations 1.1; 1.2; 2; 3, 4, 5.1, 5.2, 5.2 (sic) and 7.1 proved by way of Mr Hung's admissions. The Committee noted that Mr Hung also admitted that his conduct amounted to misconduct, but misconduct is always a matter for the judgement of the Committee.

BACKGROUND

7. Mr Hung is a member of the ACCA and holds an ACCA Practising Certificate. He is a Director of Hans Hung & Co ("the firm") and is the firm's Money Laundering Reporting Officer ("MLRO") and/or the Money Laundering Compliance Principal ("MLCP"). Mr Hung was referred for investigation on 29 October 2020 following a desk-based monitoring review undertaken by a Compliance Officer ("CO") within ACCA's Anti-Money Laundering ("AML")

Team to monitor the firm's compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the MLRs").

8. The MLRs came into force on 26 June 2017 and apply to anyone providing accountancy services to other persons by way of business in the UK. ACCA is a professional body supervisor and is required to effectively monitor its supervised firms' compliance with the MLRs. AML monitoring reviews of ACCA registered firms in the UK are carried out by a dedicated AML Team within ACCA's Governance directorate.
9. ACCA supervised firms are required to monitor and manage their own compliance with the MLRs and make sure that they are aware of the requirements of the regulations to ensure continuing compliance. The MLRs require firms to have anti-money laundering systems and controls in place that meet the requirements of the UK anti-money laundering regime.
10. By virtue of Regulation 18 of the MLRs, ACCA supervised firms must conduct and document a firm-wide risk assessment of money laundering risks faced by the firm. Regulation 24 of the MLRs provides that the firm must establish, maintain, and update anti-money laundering policies and procedures specific to the firm that have been informed by the firm-wide risk assessment and train all relevant employees to identify money laundering risks, red-flag indicators, and suspicious activities.
11. The Consultative Committee of Accountancy Bodies ("the CCAB"), which includes ACCA, has issued guidance to the accountancy sector and ACCA members are expected to be familiar with this guidance as well as the requirements of the MLRs.
12. An AML monitoring review is intended to test the design, implementation and operating effectiveness of the supervised firm's AML policies, procedures and controls. The review tests AML controls such as:
 - a. Checking the supervised firm's firm-wide risk assessment;
 - b. Reviewing documented money laundering and terrorist financing (MLTF) policies and procedures;

- c. Checking staff awareness (including evidence of their understanding of money laundering regulations and how to recognise red-flag indicators and deal with suspicious activities/transactions) and AML training records and materials to ensure that they are up-to-date and cover appropriate topics.
13. ACCA began an AML monitoring review of the firm in August 2020. On 17 August 2020, the CO wrote to Mr Hung to explain that [he] intended to complete the review within 15 working days and that he should respond to him with a convenient time for a telephone interview to take place. Mr Hung had not responded by 02 September 2023 and the CO therefore sent another email to him, asking him to respond as soon as possible with a convenient time for the review to take place. By 11 September 2020, Mr Hung had still not responded and so the CO telephoned the firm and spoke to an employee who said that Mr Hung was not available but that [she] would pass a message on to Mr Hung to contact the CO.
14. The CO had not received a response from Mr Hung by 14 September 2020 and so [he] telephoned the firm again. The phone was not answered and so the CO sent another email to Mr Hung, reiterating his obligation as an MLRO with regards to the review. Mr Hung replied by email on 14 September 2020. He stated that he had not been in the office regularly and that he would go through his emails. He said that he would be available for the review to take place on 18 September 2020. Mr Hung had not yet provided the necessary documents to the CO and so the date of the review was to be rescheduled for the week commencing 21 September 2020 in order for Mr Hung to send the documents. The CO had not received them by 21 September 2020 and so [he] telephoned Mr Hung again. The CO again spoke to the employee that [he] had spoken to on 11 September 2020. [She] informed [him] that Mr Hung was not available but that she would pass on a message. The CO was informed that Mr Hung had received the previous message and that Mr Hung wanted to reply to his emails but was too busy to do so. The CO received an email from Mr Hung on 29 September 2020 attaching some documents and confirming that he would be available for a telephone review interview on 02 October 2020.
15. A telephone review interview took place on 02 October 2020. Mr Hung informed the CO that a firm-wide risk assessment had not been conducted. After the interview, the CO emailed Mr Hung to ask him to provide further documents by 05 October 2020. [He] had not had a

response from Mr Hung by 07 October 2020 and so [he] sent a further email to him, giving him until 09 October 2020 to provide the documents that [he] had previously requested. On 09 October 2020, the CO received some documents from Mr Hung, including the firm's AML policy and procedures document.

16. On 22 October 2020, the CO emailed Mr Hung requesting him to provide a copy of the original version of the firm's AML policy and procedures document, as referred to in the "Version Control" section of the document. This would have been the original document created in October 2018 and updated in February 2020. The CO also asked Mr Hung to outline what updates had been made to the February 2020 document and when the procedures had been updated.
17. On 23 October 2020, the CO received an email from Mr Hung stating that the February 2020 version of the policy document was the same as the original version created in October 2018 and that he had reviewed the firm's AML policy and procedures document in February 2020 and concluded that there was no need to make any changes to it.
18. The CO reviewed the documents that he had received from Mr Hung carefully. [His] observations were as follows:
 - a. There was no evidence to show that the firm had conducted and documented a firm-wide risk assessment;
 - b. There was no evidence to show that the firm had provided AML training to relevant staff on a periodic basis and Mr Hung had confirmed this to be the case during the telephone review interview;
 - c. There was no evidence to show that the firm had adopted a sufficient risk-based approach;
 - d. There was no evidence to show that the firm's criteria for different risk ratings, articulated in the firm's AML policy and procedures document, had been applied when risk categorising clients. Some of the firm's clients had been assessed by the firm as "medium risk" when they did not satisfy such criteria. Some clients of the firm had

been assessed as “medium risk” when they possessed one or more of the high-risk factors listed in the firm’s AML policy and procedures document.

- e. The firm’s AML policy and procedures document, which Mr Hung informed the CO had been created in October 2018, was in the form of ACCA’s *Technical factsheet “anti-money laundering (AML) policy and procedures”*, which had only been published in February 2020.
19. On 26 October 2020, the CO sent Mr Hung a report of [his] review requesting that he complete the actions outlined in the report and provide [him] with a description of the action taken and relevant supporting evidence by 25 January 2021. Mr Hung was informed that the matter had been referred to ACCA’s assessment team for possible disciplinary action and he was informed that failure to comply with the actions and deadline would result in disciplinary action.
 20. Mr Hung emailed the CO on 26 January 2021 requesting more time to deal with the action points. The CO gave Mr Hung an extension to 26 February 2021. On 26 February 2021, the CO received some further documents from Mr Hung by email. The documents lacked detail about the approach and rationale of the firm’s findings in relation to the firm-wide risk assessment. The template used by the firm required yes/no answers to set questions, but no further comments had been added to provide an assessment of the risks the firm faced or to articulate the actions taken to mitigate such risks. Further, the AML policy and procedures template used was not tailored to the firm’s AML process appropriately; did not describe in detail the firm’s day-to-day processes and included processes that were not relevant to the firm. Sections requiring the firm to input data, for example, the Nominated Officer of the firm, had not been completed. No details had been provided about the topics covered in the staff AML training and there was no evidence provided to evidence that all relevant staff had received the required AML training.
 21. The CO emailed Mr Hung on 02 March 2021 informing him what should be actioned by the firm by 01 April 2021. Mr Hung replied stating that he would look at the report again and deal with the deficiencies accordingly. The CO, however, had heard nothing further from Mr Hung by 06 April 2021. [He] therefore emailed Mr Hung to inform him that the deadline to complete the action points had passed and no response had been received. The CO gave

Mr Hung a further extension until 09 April 2021 to respond to [him] and reminded him that, in accordance with Regulation 14(2) and (3) of the Global Practising Regulations, he was under an obligation to supply ACCA with all the information necessary to enable ACCA to complete its monitoring process efficiently. Mr Hung did not respond to this email and the CO heard nothing further from him.

ACCA'S SUBMISSIONS

22. Mr Jowett took the Committee through the background to the case and referred it to relevant documents in the bundle. In respect of Allegation 5.3, Mr Jowett informed the Committee that the correspondence from ACCA on 24 March 2021 had been sent to the same email address as the previous correspondence, which Mr Hung had received.
23. In respect of misconduct, Mr Jowett referred the Committee to the written submissions set out in the report. He also referred it to the Consultative Committee of Accountancy Bodies publication 'Anti-Money Laundering Guidance for the Accountancy Sector' which states: *'Accountants are key gatekeepers for the financial system, facilitating vital transactions that underpin the UK economy. As such, they have a significant role to play in ensuring their services are not used to further a criminal purpose. As professionals, accountants must act with integrity and uphold the law, and they must not engage in criminal activity'*.
24. In respect of Allegation 2, Mr Jowett informed the Committee that the AML policy and procedures document that Mr Hung sent to the CO could not have been created in October 2018, as claimed by Mr Hung, and reviewed in February 2020 because it was in the form of ACCA's Technical factsheet "*anti-money laundering (AML) policy and procedures*", which had only been published by ACCA in February 2020. Mr Jowett informed the Committee that Mr Hung now accepted that he had acted dishonestly in claiming that the AML policy and procedures document had been in place since October 2018.
25. In respect of misconduct, Mr Jowett referred the Committee to the written submissions set out in the report. He also referred it to the CCAB publication 'Anti-Money Laundering Guidance for the Accountancy Sector' which states: *'Accountants are key gatekeepers for the financial system, facilitating vital transactions that underpin the UK economy. As such,*

they have a significant role to play in ensuring their services are not used to further a criminal purpose. As professionals, accountants must act with integrity and uphold the law, and they must not engage in criminal activity’.

26. Mr Jowett submitted that Mr Hung’s dishonest conduct, in producing a false document that wrongly set out that the AML policy and procedures for the firm had been in existence since October 2018, clearly amounted to misconduct. He also submitted that Mr Hung’s failure to co-operate with his professional body was a very serious matter, demonstrating a lack of professional responsibility and a complete disregard for ACCA’s monitoring and regulatory processes.

MR HUNG’S EVIDENCE

27. Mr Hung gave evidence to the Committee. He informed it that his clients were mainly Chinese take-aways and restaurants. He said that he had been working in the accountancy profession for 40 years and was proud to be an ACCA member. He said that he had always tried to uphold the standards of the profession and so the dishonesty issue had hit him very hard.
28. **[PRIVATE]**
29. In response to a question from the Chair, Mr Hung accepted that he had not been honest when he submitted the document that falsely stated the policy and procedures had been in place since October 2018. Mr Hung said that he felt really ashamed of himself.

DECISION AND REASONS

30. The Committee carefully considered the documentary evidence before it, the oral submissions made by Mr Jowett and Mr Hung’s oral evidence. The Committee accepted the advice of the Legal Adviser.
31. The Committee bore in mind that the burden of proving a factual allegation in dispute rests on ACCA and the standard of proof is the balance of probabilities.

ALLEGATION 5.3 - NOT PROVED

32. Mr Hung gave evidence to the Committee that he had not received an email from ACCA on 24 March 2021, nor any subsequent emails. The Committee noted that ACCA had sent the email to Mr Hung's registered email address but there was no confirmation of delivery. In the circumstances, the Committee could not be satisfied, on the balance of probabilities, that the email had been seen by Mr Hung. It, therefore, found Allegation 5.3 not proved.

ALLEGATION 8.1 - MISCONDUCT FOUND

33. The Committee noted that Mr Hung's dishonest conduct in deliberately creating a document that falsely set out that the AML policy and procedures had been in existence since October 2018 when they had not, was extremely serious.
34. The Committee also considered that Mr Hung's conduct in failing to comply with Regulations 18 and 24 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 was serious. The Regulations are put in place to prevent money laundering and Mr Hung had failed to put policy and procedures in place to prevent this and had failed to train his staff to identify instances of potential money laundering.
35. The Committee also determined that the requirement for members to engage and co-operate with their regulator during AML reviews and disciplinary investigations was fundamental. A failure by members to do so would mean that ACCA's ability to regulate its members, in order to ensure proper standards of conduct and to maintain its reputation as a regulator, could be seriously compromised.
36. The Committee determined that Mr Hung's dishonest conduct; his breaches of the AML Regulations and his failure to co-operate with his regulator in both the monitoring and compliance process and the investigation against him was conduct that fell far below the standards expected of an ACCA member and clearly amounted to misconduct. In the Committee's determination, Mr Hung's conduct showed a disregard for his regulator;

undermined the integrity of ACCA's review and investigatory processes and had brought discredit to him, the Association and the accountancy profession.

37. Having found misconduct, the Committee did not go on and consider Allegation 8.2, which was in the alternative.

SANCTION AND REASONS

38. Mr Jowett informed the Committee that there were no previous disciplinary findings against Mr Hung.
39. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(1) of the Regulations and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Hung's own interests. The purpose of any sanction was not meant to be punitive but was to protect members of the public, maintain public confidence in the profession and ACCA and to declare and uphold proper standards of conduct and behaviour.
40. When considering the appropriate sanction, the Committee considered the mitigating and the aggravating features of the case. The Committee accepted that there were no previous findings against Mr Hung in his forty-year career as an accountant. It also took into account Mr Hung's difficult personal circumstances at the time of the disciplinary investigation.
41. The Committee considered the aggravating features to be that Mr Hung had deliberately lied and attempted to mislead his regulator.
42. The Committee considered the guidance provided by ACCA in the Guidance for Disciplinary Sanctions and, in particular, that in Section F (*'factors relevant to seriousness in specific case types'*) a failure to co-operate with a disciplinary investigation was considered to be very serious.

43. The Committee had not been provided with any testimonials or references in respect of Mr Hung.
44. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the misconduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the gravity of the matters proved, and would not protect the public interest.
45. The Committee carefully considered whether a severe reprimand would be a sufficient and proportionate sanction, or whether exclusion from membership of ACCA was required. It paid careful regard to the factors applicable to each of these sanctions as set out in the Guidance for Disciplinary Sanctions. The Committee considered that most of the factors applicable to a severe reprimand did not apply in this case. This was a case where there had been pre-meditated and deliberate dishonest conduct on the part of Mr Hung in an attempt to mislead his regulator. Further, there had only been limited engagement by Mr Hung in relation to the AML monitoring review and the disciplinary investigation. The Committee concluded that a severe reprimand would not be appropriate or sufficient to protect the public interest in this case.
46. The Committee was mindful that the sanction of exclusion from membership was the most serious sanction that could be imposed. The Committee took into account the guidance that this sanction was likely to be appropriate when the behaviour of the member was fundamentally incompatible with being a member of ACCA. The Committee was satisfied that Mr Hung's dishonesty; his conduct in breaching the MLRs and his failure to co-operate in the AML review and ACCA's subsequent disciplinary investigation had reached that high threshold.
47. For the above reasons, the Committee concluded that the appropriate and proportionate sanction was for Mr Hung to be excluded from membership of ACCA.
48. The Committee did not deem it necessary to impose a specified period before which Mr Hung can make an application for readmission as a member of ACCA.

EFFECTIVE DATE

49. The Committee determined that the order shall take effect from the date of the expiry of the appeal period referred to in the Appeal Regulations.

DECISION ON COSTS AND REASONS

50. ACCA applied for costs in the sum of £9,055.50. The Committee had been provided with a detailed and a simple schedule of costs. Mr Hung had not sent ACCA a completed Statement of Financial Position. He informed the Committee, however, that it would take him a while to pay the costs claimed but he was prepared to pay for his mistake.
51. The Committee took into account Mr Hung's submissions on costs and also that the hearing had finished earlier than anticipated. The Committee, therefore, reduced the costs claimed by ACCA. The Committee determined that the sum of £6,000 would be the appropriate, reasonable and proportionate sum for Mr Hung to pay by way of costs.

ORDER

1. Mr Hung is excluded from membership of ACCA.
2. Mr Hung shall pay a contribution to ACCA's costs in the sum of £6,000.

Mr Maurice Cohen
Chair
06 February 2023