

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Kingsley Nortei A Oku Aryee

Considered on: Tuesday, 10 January 2023

Chair: Mr Martin Winter

Legal Adviser: Mr Alastair McFarlane

Outcome: Consent Order Granted

BEFORE THE CHAIR

1. The Chair received a bundle of papers, including a signed draft Consent order, numbered pages 1-205, including a signed Consent Order.

ALLEGATIONS

1. Mr Kingsley Nortei A Oku Aryee, ('Mr Aryee') a Fellow of the Association of Chartered Certified Accountants (FCCA):
 - a) Between 30 January 2018 and 30 September 2021, carried on public practice without holding a valid ACCA practising certificate, contrary to Regulation 3(1)(a) of the Global Practising Regulations (2018 – 2021);
 - b) Between 30 January 2018 and 30 September 2021, was a director of Oku-Aryee & Co Limited, a firm where public practice was carried on in the course of the Firm's business, contrary to

Regulation 3(2)(a) of the Global Practising Regulations (2018 - 2021);

c) Between 30 January 2018 and 13 October 2021, held rights in Oku-Aryee & Co Limited, which in effect put him in the position of principal of the Firm, where public practice was carried on in the course of the Firm's business, contrary to Regulation 3(2)(b) of the Global Practising Regulations (2018 - 2021).

2. Mr Aryee submitted annual CPD declarations for the years 2017, 2018, 2019, incorrectly confirming in one or more of the declarations that he had not engaged in public practice activities without holding an ACCA practising certificate in the previous 12 months.

3. By reason of the conduct referred to in allegation 2 above, Mr Aryee has failed to comply with Section 110.2 of the Code of Ethics and Conduct (as applicable from 2018 -2020).

4. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Aryee has failed to cooperate with the investigation of a complaint in that he failed to respond fully to ACCA's correspondence dated:

- a) 25 August 2021;
- b) 09 September 2021;
- c) 14 September 2021;

5. By reason of the conduct referred to, Mr Aryee is:

- a) In the light of matter is set out in Allegation 1, Mr Aryee is guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any and all of the matters set out at allegations 1–4; or in the alternative
- b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect to any and all of the matter is set out at allegations 1–4

BACKGROUND

2. Mr Aryee became a registered ACCA member on 15 March 2002. He was suspended from ACCA's membership register for failing to pay CPD fees from 05 June 2013 until he was reinstated on 30 January 2018; the allegations have accordingly omitted this period of suspension. Mr Aryee has never held an ACCA Practising Certificate (PC).
3. On 13 November 2020, ACCA received an anonymous complaint raising concerns that the member was in/holding out as available to public practice at 'OKU-ARYEE & CO LIMITED' (the firm), without holding an ACCA PC.
4. A Google search performed by the Investigating Officer returned results which provided links to websites where the Firm was advertising itself as a firm in public practice. The firm's website stated it was in/holding out as available to undertake public practice activities. A search on the internet archive of the 'Wayback machine' showed the firm's website had held it out as '*a firm of Chartered Accountants*' and displayed the ACCA logo from around 03 September 2018. Companies House records showed that: (i) The member was appointed the firm's Director and became its sole shareholder from incorporation on 20 February 2017 and (ii) The member had recorded his occupation as 'Chartered Certified Accountant' (sic) when he was not authorised to do so.
5. Searches by ACCA on 25 November 2021 found the member had resigned as Director on 30 September 2021 and ceased holding rights which placed him in the position of the firm's principal on 13 October 2021.
6. Mr Ayree's online declarations to ACCA for the years 2017, 2018 and 2019 stated: "*I have not engaged in public practice activities (as defined by the Chartered Certified Accountants' Global Practising Regulations 3 and 4), without holding an ACCA practising certificate...*"
7. Further between August and September 2021 Mr Ayree failed to cooperate by responding to ACCA's correspondence.

ACCA's Submissions

Allegation 1(a)(i)

8. GPR 3(1)(a) prohibits Mr Aryee from being in public practice or holding out to be in public practice, as he had never held an ACCA practising certificate. Mr Aryee has been in or holding himself out to be in public practice. has breached GPR 3(1)(a) for the relevant years.

Allegation 1(a)(ii)

9. GPR 3(2)(a) prohibits Mr Aryee from being a director of a firm where public practice is carried on in the name of the firm, or otherwise in the course of the firm's business, unless he holds an ACCA practising certificate. Mr Aryee was at all material times a Director of the 'OKU-ARYEE & CO LIMITED'. Mr Aryee has by his own admission undertaken public practice in the name of the firm and has therefore breached GPR 3(2)(a) for the relevant years.

Allegation 1(a) (iii)

10. GPR 3(2)(b) prohibits Mr Aryee from holding rights in a firm where public practice is carried on in the name of the firm, or otherwise in the course of the firm's business which in effect put him in the position of its principal. Companies House records confirm Mr Aryee is the sole shareholder of 'OKUARYEE & CO LIMITED' which in effect puts him in the position of principal. Therefore, Mr Aryee has breached GPR 3(2)(b).

Allegations 2 and 3

11. Mr Aryee's CPD declarations over successive years expressly referred to possession of an ACCA practising certificate and by not checking whether he required an ACCA PC in circumstances where he already held one from AAT, the confirmation he was providing was 'furnished recklessly'. By not disclosing to ACCA his public practice activities, Mr Aryee avoided ACCA's oversight of his and his firms' public practice activities, regardless of his oversight by AAT. He also saved payment of ACCA's annual PC fee.

Providing inaccurate or untrue declarations to your regulatory body is a serious matter. Accordingly Mr Aryee's conduct has failed to comply with Section 110.2 of the Code of Ethics and Conduct for the relevant years.

Allegation 4

12. By failing to respond to the requests of the Investigating Officer, Mr Aryee has breached Complaints & Disciplinary Regulation 3(1).

The Member's Response

13. Mr Aryee's email to ACCA on 03 November 2022 stated the following:

"I have been under investigation for practicing without a certificate. As I was practicing with AAT practicing certificate which I acquired when I was not a member of ACCA.

The Investigation Officer made me understand that since became an ACCA member I am in violation of the regulations even though I was practicing with AAT practicing Certificate.

Furthermore, in my CPD declaration, I confirm that I am not in public practice on the understanding I am practicing with AAT practicing certificate. The Investigation Officer pointed out it also violates ACCA regulations as my interpretation of the regulations is incorrect.

I accepted his finding and followed his suggested redress.

Presently I have shut the down company, ceased doing any public work under AAT, resigned from my regular job in an AAT practicing firm that help me acquire their certificate, and have not renewed the AAT MEMBERSHIP.

Also in my new job as a client Accountant, I mentioned the ACCA investigation in one of the probational review meetings and consequentially lose the job immediately In January 2022.

Currently, I have done all that was asked of me to the point of becoming jobless and having no income.

I am therefore by this email pleading with you to tell me my punishment (as I have already accepted the findings) given the actions I have already taken to redress the situation, I cannot financially afford and psychologically go through disciplinary hearings.” (sic).

CHAIR’S DECISION

8. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, the Chair must determine whether, based on the evidence before them, the draft Consent Order should be approved or rejected. The Chair had regard to the Consent Orders Guidance.
9. The Chair noted that under Regulation 8(12) they shall only reject the signed Consent Order if they are of the view that the admitted breaches would, more likely than not, result in exclusion from membership. The Chair accepted that a proper investigation had been conducted by ACCA.
10. The Chair considered the seriousness of the breaches as set out and the public interest, which includes the protection of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance. They balanced this against Mr Aryee’s interests and the accepted fact that he has closed down his firm in order to regularise his status and that he has apologised and shown insight and that Mr Aryee has no disciplinary history and has been a member of ACCA since 2003.
11. The Chair noted the list of aggravating and mitigating factors advanced in paragraphs 40 and 41 of the draft Consent Order bundle. Whilst the failure was serious, the Chair noted and accepted ACCA’s position that the behaviour was unlikely to be repeated and that there was no likely continuing risk to the public.
12. The Chair had regard to ACCA’s Guidance for Disciplinary Sanctions. They were satisfied that there had been early and genuine acceptance of the

conduct and that the risk to the public and profession from Mr Aryee continuing as a member was low.

13. For the reasons set out above, the Chair was satisfied that the admitted breaches would be unlikely to result in exclusion from membership, and therefore there was no basis for them to reject the Consent Order under Regulation 8(12). The Chair noted the proposed Consent Order, and considering all the information before them, was satisfied that a reprimand was an appropriate and proportionate disposal of this case.

ORDER

14. The Chair, pursuant to their powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Aryee be reprimanded, and pay ACCA's costs of £2000.

Mr Martin Winter
Chair
10 January 2023