

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Laurence Graham

Heard on: Friday, 20 January 2023

Location: Microsoft Teams

Committee: HH Graham White (Chair)
Ms Jo Royden-Turner (Accountant)
Ms Diane Meikle (Lay)

Legal Adviser: Mr Sanjay Lal

**Persons present
and capacity:** Ms Afshan Ali (ACCA Case Presenter)
Ms Nikita Apostol (Hearings Officer)

PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Committee had before it a Main Bundle pages 1-74, a Case Management Form, a Service Bundle pages 1-17 and subsequently a Costs Schedule.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

2. Ms Ali applied for the matter to proceed in the absence of Mr Graham, and she addressed the Committee on service and the factors the Committee should consider in respect of proceeding in absence.
3. The Committee was satisfied that Mr Graham was served with notice of this hearing to his registered email address on 23 December 2022 in accordance with Regulations 10 and 22 of the Complaints and Disciplinary Regulations 2020.
4. The Committee then turned to whether to proceed in the absence of Mr Graham. It noted no communication has been received from Mr Graham in respect of this hearing. There was no application from him and/or any representative to adjourn the matter. The Committee was satisfied that all reasonable efforts have been made to try and engage Mr Graham. He has not engaged with ACCA since 30 August 2022 when he stated he had given all the necessary information. The Committee noted he had not returned a completed Case Management Form in respect of this hearing.
5. The Committee noted the public interest in this matter being heard and, in the circumstances, determined to exercise its discretion to proceed in the absence of Mr Graham in accordance with Regulation 10(7).

ALLEGATION(S)/BRIEF BACKGROUND

6. The Committee convened to consider the following Allegations:
 1. Mr Laurence Graham ('Mr Graham'), an ACCA Member:
 - (a) On 12 October 2021 was convicted of one offence of Theft contrary to Section 9(1)(b) (Bailiwick of Guernsey) Law, 1983 as amended AND on the same date Mr Graham was also convicted of an offence of Theft contrary to Section 1 of The Theft (Bailiwick of Guernsey) Law, 1983, as amended at the Magistrate's Court of Guernsey, (being an offence(s) discreditable to ACCA and or the accountancy profession).
 - (b) By reason of the conduct referred to at paragraph 1(a) above, Mr Graham is liable to disciplinary action pursuant to bye-law 8(a)(ix).

7. Ms Ali stated that Mr Graham became an ACCA member on 12 April 2017.
8. Ms Ali submitted that Mr Graham was convicted on 12 October 2021 of the offences as set out in the Allegations. He was sentenced on 17 November 2021 to six months imprisonment on the first theft matter (“the burglary”) suspended for a period of two years and one month’s concurrent imprisonment for the second theft matter also suspended for a period of two years.
9. Ms Ali submitted that the nature of the offences were by their nature discreditable to ACCA and the accountancy profession. In fairness to Mr Graham, she directed the Committee to the written responses received from him which are set out below.

The Member’s Case

10. Mr Graham has made the following points in his written responses to ACCA:
 - a) He explained that the police came to investigate the matter following a complaint from [Person A], which revolved around [their] belief that he had taken some personal items from [their] house.
 - b) Mr Graham explained, *“I answered the police’s questions in interview in relation to the burglary they were investigating & the only reason the theft charge was added was through my voluntary admissions.”*
 - c) Mr Graham provided the following chronology of events and details of the offences, *“The burglary was on 23/1/21 and the theft on 20/1/21. I was arrested on 24/1/21 & appeared in Court on 25/1/21 when I was bailed pending a trial in Guernsey’s Magistrates Court. The trial took place on 12/10/21 & I plead guilty to theft & not guilty to burglary. I was found guilty of burglary & bailed until 17/11/21 for sentencing. I don’t have any copies of the police interviews etc.”*
 - d) When asked if he had complied with all the requirements of the sentence imposed, he explained, *“There aren’t really any requirements to the sentence imposed other than not doing anything to activate the suspended sentence. I have complied with this.”*

- e) In relation to his appeal of the conviction for the burglary conviction, Mr Graham explained, *“My appeal of the burglary conviction has been dismissed so the conviction stands.”*
- f) Mr Graham was asked to provide an explanation of his actions. Mr Graham explained, *[PRIVATE]. “I found this whole time incredibly stressful [PRIVATE]. This forms the basis of the theft conviction which I admitted to police as they were unaware of this. When the police came to my house to arrest me on 24/1/21 they searched my house looking for items [PRIVATE] had accused me of taking on 23/1/21. These items were not found at my house & to my knowledge have never been found. The police did find the contents of the paper recycling bag I had taken & assumed this was from the burglary on 23/1/21 which was why I admitted to the theft on 20/1/21 to explain them. Despite this the police continued to pursue the burglary charge & I was found guilty of it but I still maintain my innocence. The appeal was based on mobile phone data that showed I only had a 3-minute window to park my car, make my way to [their] house, break-in & search [their] house, take various items & make my way back to my car without being seen in broad daylight. To add some further detail to this, 23/1/21 was the start of a Covid lockdown period in Guernsey & there was a press conference announcing it at 12pm so the shops & roads were very busy that morning with people preparing for the lockdown. We thought we had a strong case for overturning the conviction based on the timescale outlined above being virtually impossible but for reasons I don't fully understand the appeal was dismissed & the conviction stands. [PRIVATE]. This is still being fought out through the Guernsey Court system. Despite the stress of the whole situation, I continued to do my job to a high standard & my manager commented that most people at work were unaware of what I was going through. I'd worked for Company A since I left school in 1995 & was very good at my job. The company stood by me during the case & allowed me to continue working throughout the time I was on bail right up until my conviction. Unfortunately, as a [PRIVATE] this was a red line so I lost my job. I'm currently still looking for another job. I'm a very good accountant who had loyally worked for the same company for 26 years who went through a very stressful [PRIVATE] who has already been punished by the courts with a conviction [PRIVATE] so I feel it would be unnecessary further punishment to lose my ACCA membership as well. I appreciate I've made a mistake, but I also feel I've been punished enough for this without it*

being further added to. The only reason I didn't advise ACCA sooner of the conviction was that it was the last thing on my mind at the time - my focus was on trying to keep my job [PRIVATE]. As soon as I got round to the renewal process I immediately notified you of the conviction. Let me know if you need any further information or clarification on anything mentioned above.” (sic).

- g) Mr Graham further explained, *“The appeal was dismissed because, to succeed, I had to show that the Judge’s decision was perverse, and not a decision that another competent Judge would have come to, with the same evidence. The Appellant Court deemed the grounds of appeal to be matters of fact and based on the Judge’s evaluation of the evidence at the time of the trial. The Appellant Court found that the Judge directed himself correctly on the incidence and burden of proof and came to a decision that cannot in any way be questioned on appeal and is in no way perverse.” (sic).*
- h) Mr Graham confirmed that his appeal against his first theft matter (the burglary conviction) was dismissed by the Royal Court on 8 March 2022.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

11. The Committee accepted the advice from the Legal Adviser. The Committee was reminded that the burden of proving the disputed facts rests on the ACCA and the burden is the civil standard of the balance of probabilities.
12. Having adopted the above approach, the Committee found the following:
1. Mr Laurence Graham ('Mr Graham'), an ACCA Member:
 - (a) On 12 October 2021 was convicted of one offence of Theft contrary to Section 9(1)(b) (Bailiwick of Guernsey) Law, 1983 as amended AND on the same date Mr Graham was also convicted of an offence of Theft contrary to Section 1 of The Theft (Bailiwick of Guernsey) Law, 1983, as amended at the Magistrate’s Court of Guernsey, (being an offence(s) discreditable to ACCA and or the accountancy profession). **FOUND PROVED.**

- (b) By reason of the conduct referred to at paragraph 1(a) above, Mr Graham is liable to disciplinary action pursuant to bye-law 8(a)(ix).

FOUND PROVED.

13. The Committee accepted that it was not disputed that the Magistrates' Court of Guernsey recorded that Mr Graham was convicted of the offences of two counts of Theft on 12 October 2021 and was subsequently sentenced on 17 November 2021 and therefore Allegation 1(a) is found proved on the basis of the certificate of conviction. Turning to whether the convictions are discreditable to ACCA or the accountancy profession the Committee was satisfied that the convictions related to offences of dishonesty and would be by their very nature be discreditable to ACCA and the accountancy profession. In light of the above, the Committee found Allegation 1(b) proved as the ground under bye-law 8(a)(ix) is made out by the production of the certificate of conviction.

SANCTION

14. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted his advice that any sanction must be proportionate, and it should consider that restrictive sanction first and move upwards only if it would be proportionate to do so.
15. The Committee balanced Mr Graham's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance. The issue of sanction was for the Committee exercising its own professional judgement.
16. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee considered the following to be aggravating features:
- Offences that relate to dishonesty
17. In terms of mitigating factors, the Committee considered the following factors:
- No previous regulatory or disciplinary matters;
 - Engagement with the ACCA investigations officer;

- Insight into the nature of the convictions;
 - Difficult personal circumstances at the time of the offences.
18. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of Mr Graham's convictions and would undermine confidence in the profession and in ACCA as regulator.
 19. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.
 20. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment or Reprimand. The Committee noted Mr Graham has not engaged in this hearing and there was no evidence of a genuine expression of remorse or apology to this Committee although it accepted he had made full disclosure during the investigation stage. The Committee decided that the convictions were too serious and that public confidence in the profession and in the regulator would be undermined if either such orders were made.
 21. The Committee then went on to consider whether a Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Severe Reprimand would not be the proportionate sanction because it would not acknowledge that the convictions were of a serious nature that undermined ACCA and the accountancy profession. A severe reprimand would not send the appropriate message to the profession that conduct of this type would not be tolerated.
 22. The Committee determined that the only appropriate sanction in this matter would be one of exclusion. Anything less than this would undermine public confidence in ACCA and the accountancy profession as the convictions relate to offences of dishonesty. The Committee determined that Mr Graham may not apply for readmission until a minimum period of 12 months after the effective date of exclusion has expired.

COSTS AND REASONS

23. ACCA claimed costs of £5,934 which cover the costs of investigation, preparation and the presentation of the case as well as the costs of the Committee Officer and of today's hearing. The Committee noted the Costs Schedule was sent to Mr Graham in advance of the hearing but he has not responded with a statement of financial means. Ms Ali highlighted that it appears Mr Graham may not be currently working. The Committee had regard to the Guidance of Costs document.

24. The Committee decided that it was appropriate to reduce costs to the sum of £5,000 to reflect the fact that hearing concluded in less time than anticipated.

EFFECTIVE DATE OF ORDER

25. The Committee decided that the order would come into effect at the expiry of the usual appeal period.

HH Graham White
Chair
20 January 2023