

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Peter McDonnell

**Heard on:** Monday, 24 July 2023 and Tuesday 25 July 2023

**Location:** Held remotely via Microsoft Teams

**Committee:** Mr Maurice Cohen (Chair)  
Ms Wanda Rossiter (Accountant)  
Mr Nigel Pilkington (Lay)

**Legal Adviser:** Ms Tope Adeyemi

**Persons present  
and capacity:**

Mr Peter McDonnell (Member)  
Mr Ivan Toner (Member's Representative, Counsel)  
Mr Denis O'Mahoney (Member's Representative, Solicitor)  
Mr Alex Mills (ACCA Case Presenter)  
Mr Liam Grant (Witness, Forensic Accountant)  
Ms Geraldine Murray (Hearings Officer)  
Ms Naomi Blaney (Observer, ACCA staff member)

**Summary:** Reprimand

**Costs:** Costs awarded in the sum of £5,000.00

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

## **INTRODUCTION**

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Peter McDonnell. Mr McDonnell was present and represented by Mr Ivan Toner. ACCA was represented by Mr Alex Mills. The papers before the Committee at the outset of the hearing consisted of a main bundle numbered 1 – 190, a tabled additional bundle numbered 1 -159, a service bundle numbered 1 - 21 and a two-page memorandum and agenda.

## **PRELIMINARY MATTERS**

2. An application was made by ACCA to amend allegation 1 to remove the word “company”. Mr Mills submitted that the amendment was intended to correct a simple error, was not contested and would cause no prejudice to Mr McDonnell.
3. Regulation 10(5) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014 (‘CDR’) allows the Committee at any stage, upon the application of either party or on its own motion, to amend the allegations provided the relevant person is not prejudiced in the conduct of their defence.
4. The Committee was satisfied that the proposed amendments did not cause prejudice or unfairness to Mr McDonnell, and it was therefore content to accede to the application.

## **BACKGROUND**

5. Mr McDonnell has been a member of ACCA since November 1985 and a fellow since November 1990. He is the sole proprietor of Firm B and holds a practising certificate and Audit Qualification (Ireland) with ACCA. On 10 January 2020, ACCA received a referral regarding Mr McDonnell’s signing of a number of Audit Reports. Following an investigation into the matter, ACCA alleged that Mr McDonnell had over a period of 4 years signed to confirm that the financial statements of Client A had been audited when they had not . ACCA considered the alleged conduct to be dishonest.

6. Mr McDonnell provided ACCA with responses to the allegations. He denied dishonesty and asserted that an error had occurred which was linked to the accounting software he was using at the time.

## **ALLEGATIONS**

7. The allegations faced by Mr McDonnell, as amended, are set out below:
  1. Mr Peter McDonnell, a Fellow of the Association of Chartered Certified Accountants (ACCA), signed documents titled 'Auditors' Report' on behalf of Firm B which stated that the financial statements of Client A had been audited when they had not, on:
    - a. 13 March 2012; and/or
    - b. 07 March 2013; and/or
    - c. 05 March 2014; and/or
    - d. 04 March 2015.
  2. Mr McDonnell's conduct in respect of any or all of allegation 1 was:
    - a. Dishonest in that when he signed the reports on behalf of Firm B, he knew an audit of the financial statements had not been carried out; or in the alternative
    - b. Contrary to the fundamental principle of integrity, in that such conduct demonstrates a failure to be straightforward and honest (applicable 2012 -2015); and
    - c. Contrary to S130 of the Code of Ethics and Conduct (professional competence and due care applicable 2012 and 2015).
  3. Mr McDonnell, as the responsible individual of Firm B, between 2012 and 2015 (dates as at allegation 1) did not ensure that an engagement letter

was signed by Client A in accordance with paragraph 5 of sB9 of the ACCA's Rulebook (applicable 2012-2015).

4. By virtue of any or all of his conduct set out in allegations 1 and/or 2 and/or 3, Mr McDonnell is:
  - a. Guilty of misconduct pursuant to byelaw 8(a)(i); and/or
  - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii) in respect of allegations 2(c) and/or 3

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

8. The charges were read out at the start of the hearing and admissions were made on Mr McDonnell's behalf to allegations 3 and 4(b). The Committee therefore found charges 3 and 4(b) proved by reason of admission. Mr McDonnell provided oral evidence and called one witness, Mr Liam Grant of Grant Sugrue, Forensic Accountants and Registered Auditors. ACCA called no witnesses. The Committee went on to consider with care, all the evidence presented and the submissions made by Mr Toner and 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**

9. The Committee were provided with copies of documents titled "*Auditors' Report*". The documents had been signed by Mr McDonnell. It was evident from the content of the documents that they were not Auditors' Reports, yet Mr McDonnell's signature appeared on the reports confirming they were. Further, Mr McDonnell accepted during the course of his evidence that he had signed the documents titled Auditors' Reports even though they were not in fact Auditor's Reports. Taking the evidence together, the Committee was satisfied that this allegation was found proved.

#### **Allegation 2 (a) – Not proved**

10. In evidence Mr McDonnell stated that he believed he was signing Accountant's Reports and that the title "*Auditors' Report*" had been generated in error by the accounting software he was using. It was also pointed out in submissions made on Mr McDonnell's behalf that the cover letter to Client A made no reference to an audit and that the invoices sent to Client A did not contain a charge for carrying out an audit. The Committee came to no view concerning the accounting software issue, but it did accept the points made on Mr McDonnell's behalf regarding his explanation around the circumstances of signing the reports. It follows that the Committee did not find that Mr McDonnell intended to deceive anyone or act dishonestly. This allegation was therefore not found proved.

**Allegation 2 (b) – Not proved**

11. The Committee was mindful of the wording of this allegation which states that Mr McDonnell's conduct was contrary to the fundamental principle of integrity, in that it demonstrates a failure to be "*straightforward and honest*". As the Committee did not conclude Mr McDonnell acted dishonestly in signing the reports, it did not find this allegation to be proved.

**Allegation 2 (c) – Proved**

12. Section 130.1(b) of the Code of Ethics and Conduct was considered to be particularly relevant in the determination of this allegation. Section 130.1 (b) sets out the principle of professional competence and due care imposes an obligation on all professional accountants to "*act diligently in accordance with the applicable technical and professional standards when providing professional services*". The Committee considered that Mr McDonnell did not act diligently when he signed documents erroneously titled Auditors' Reports over four consecutive years. He also appears not to have detected the issue when letters were produced, which he had dictated, also included reference to an Auditors' Report.
13. The Committee noted that Section 130.4 of the code of ethics sets out that "*Diligence encompasses the responsibility to act in accordance with the*

*requirements of an assignment, carefully, thoroughly and on a timely basis.”* Submissions were made by Mr Toner in which it was suggested that as Mr McDonnell’s assignment had been to complete an accountant’s report, which he did, he could therefore be described as acting diligently. The Committee did not accept this argument. It was of the view that completing an accounting report and signing it as an Auditors Report did not amount to completing the assignment diligently. Overall, the Committee was satisfied that this allegation was proved.

### **Allegation 3 – Proved**

14. This allegation was found proved by reason of admission.

### **Allegation 4 (a) – Not proved**

15. The Committee considered that while Mr McDonnell’s behaviour fell short of what was expected, it did not fall so far short as to amount to misconduct. This was especially the case bearing in mind the Committee’s finding that he had not acted dishonestly.

### **Allegation 4 (b) – Proved**

16. This allegation was found proved by reason of admission.

## **SANCTION AND REASONS**

17. Following the announcement of its determination on the facts, the Committee were informed that Mr McDonnell had been subject to a previous ACCA disciplinary investigation and that the matter had been resolved by way of a Consent Order dated 22 February 2021. A copy of the Consent Order was provided to the Committee.
18. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Mills on behalf of ACCA and Mr Toner on behalf of Mr McDonnell. The Committee referred to the Guidance for Disciplinary

Sanctions issued by ACCA and had in mind the fact that the purpose of a sanction was not to punish Mr McDonnell, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. Furthermore, any sanction must be proportionate.

19. It was noted that Mr McDonnell qualified and practices in Ireland. The sanctions guidance makes reference to legislation that conveys specific duties to statutory auditors practising and/ or operating in Ireland. The Committee was satisfied the sanction guidance remained relevant as the wording used within in it indicated its intended applicability to all ACCA Auditors and Accountants. 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 the case. The Committee considered the repetition of the conduct, namely through signing the reports over four consecutive years, amounted to an aggravating factor. It did not consider that the disciplinary findings, resolved by consent in February 2021, to be an aggravating feature. This was due to the fact that the matters currently being considered pre-date the issues dealt with by consent and therefore occurred before Mr McDonnell had likely been aware of his wrongdoing.
21. The Committee found that Mr McDonnell had demonstrated a degree of insight and that there was no evidence of client harm. These factors were considered to be mitigating features.
22. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had failed to comply with ACCA's codes and regulations and where the behaviour was repeated. It was also noted that no testimonials had been provided.
23. The Committee turned next to consider the propriety of a reprimand. The Committee bore in mind that the conduct appeared to have been careless but not deliberate. There was also no evidence of client harm or other adverse consequences arising. Further, the Committee had not found the behaviour serious enough to amount to misconduct. Therefore, in all the circumstances,

the Committee was satisfied that a reprimand was the most appropriate and proportionate sanction.

### **COSTS AND REASONS**

24. ACCA applied for costs in the sum of £7,248.50. The application was supported by two schedules (detailed and simple) providing a breakdown of the costs incurred by ACCA in connection with the hearing. The Committee were also provided with information on Mr McDonnells' finances in the form of a document titled "*Statement of Financial Position*".
  
25. The Committee was satisfied that ACCA was entitled to claim its costs. It did not however consider that directing payment of the full costs claimed to be proportionate. The Committee took into account that a significant amount of time spent at the hearing and most likely in preparation, centred around the issue of dishonesty, which was a matter that was not found proved. The remaining charges, bar one, were found proven by admission. The costs were assessed at a time when the hearing was due to take place over one day. In the event, it was listed to be heard over the course of two days. Whilst it was acknowledged that the hearing went short, there were nonetheless some fixed costs arising therefrom. Given this, the Committee considered that £5,000.00 was the reasonable and proportionate amount to award as a contribution to the costs incurred by ACCA.

### **EFFECTIVE DATE OF ORDER**

26. This Order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

**Mr Maurice Cohen**  
**Chair**  
**25 July 2023**