



HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED
CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Dion George Staple

Heard on: Monday, 30 October 2023

Location: The hearing was conducted remotely by Microsoft Teams via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU

Committee: Mr Michael Cann (Chair)
Ms Andrea White (Accountant)
Ms Sue Heads (Lay)

Legal Adviser: Miss Juliet Gibbon

**Persons present
and capacity:** Mr Alex Mills (ACCA Case Presenter)
Ms Lauren Clayton (Hearings Officer)

Outcome: Allegations 1, 2 and 3(a) (misconduct) proved
Sanction: Severe Reprimand

Costs: Order to pay a contribution to ACCA's costs in the sum of
£5,500

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear a number of allegations of misconduct against Mr Dion George Staple. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 386, a supplementary bundle, numbered pages 1-86, and a service bundle, numbered pages 1 to 17. The Committee also received two schedules of costs during the course of the hearing.
2. Mr Alex Mills represented ACCA. Mr Staple did not attend the hearing and was not represented.

PRELIMINARY ISSUE – MEMBERSHIP OF ACCA

3. Mr Mills invited the Committee to consider, as a preliminary issue, whether it had jurisdiction to hear the allegations made against Mr Staple, who argued that he was not a member of ACCA as he had resigned his membership.
4. Mr Mills submitted that Mr Staple continued to be a member of ACCA as Membership Regulation 10(3) provides that an individual’s notice of resignation or notice seeking removal from the member register shall not be accepted, and the individual shall accordingly not cease to be a member where a complaint in respect of the individual has been received by the Association, or where disciplinary proceedings of the Association are otherwise pending against the individual, until such time as the matter has been finally disposed of and the amount of any fine or costs specified in the disciplinary order made in respect of the individual has been paid in full.
5. Mr Mills referred the Committee to a message sent to ACCA by Mr Staple on 12 November 2021 indicating that he had decided to resign from ACCA. Mr Mills submitted that, at that time, the complaint had been received from the Public Accountancy Board of Jamaica (‘the PAB’) and, therefore, Mr Staple could not resign given the provisions of Membership Regulation 10(3).

DECISION ON MEMBERSHIP OF ACCA

6. The Committee accepted the advice of the Legal Adviser. It was satisfied that Mr Staple was a member of ACCA when the findings were made by the PAB and he was, therefore, bound by ACCA's Charter, Byelaws and the applicable Regulations that were in force at that time. It noted that Mr Staple had requested to resign his membership of ACCA after the PAB had notified ACCA of the findings made against him, but the Committee was satisfied that Membership Regulation 10(3) prevented Mr Staple from resigning his membership in such circumstances.
7. The Committee, therefore, was satisfied that Mr Staple remained a member of ACCA and that it had jurisdiction to determine the allegations made against him.

ALLEGATIONS

Mr Dion George Staple, a member of the Association of Chartered Certified Accountants ('ACCA'):

1. Pursuant to ACCA byelaw 8(a)(vi), is liable to disciplinary action by virtue of the disciplinary finding against him on 30 March 2021 by the Public Accountancy Board of Jamaica ('the Finding').
2. Pursuant to byelaw 10(b), failed to bring promptly to the attention of ACCA that he may have become liable to disciplinary action by reason of the Finding.
3. By reason of the conduct described in Allegation 2, Mr Staple is:
 - a. Guilty of misconduct pursuant to byelaw 8(a)(i); or in the alternative
 - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii).

BACKGROUND

8. Mr Staple became an ACCA member on 15 February 2001, and he became a fellow on 15 February 2006.

9. On 20 March 2021 the PAB made the following findings against Mr Staple:
 - a. Mr Staple did not act diligently in accordance with the requisite technical and professional standards when performing professional activities for Company A and Company B. The PAB found this was evidenced from the absence of the requisite engagement letters for the period under review and there was no evidence of reconciliation of the client's payments when made.

 - b. Mr Staple did not behave in a professional manner. The PAB found in particular in relation to this matter that Mr Staple's work was not of the highest standards of professionalism, nor the highest level of performance nor did it meet the public interest requirement. In addition, there was clearly a lack of adequate supervision in overseeing the provision of the required services.

 - c. Mr Staple did not account to his client for Person A's assets – cheques given to his employees, and which should have been lodged to the TAJ for the benefit of Person A were lodged to the account of another taxpayer altogether. Mr Staple provided Person A with a table that outlined how the cheques had in fact been paid and a review of the same showed that some payments were credited to the account of a taxpayer other than Person A's companies. The default therefore was the lack of appropriate action by Mr Staple in trying to remedy this glaring error with the Tax Authorities, save for the preparation of initial letters from the client to the Tax Authorities. A reasonable person would have required more from Mr Staple in this regard, with a view to reconciling the client's accounts with the Tax Authorities, in particular in circumstances where an inaccurate TRN was recorded on the cheques of the client, which was not recorded by Person A. In addition, there was no evidence

that the original tax receipts or copies thereof were sent by Mr Staple to the client in respect of cheques paid to the Collector of Taxes.

- d. The PAB found there were discrepancy between cheques delivered by the client and the eventual payments made by Mr Staple to the Tax Authorities with the wrong TRNs recorded thereon, should have provoked Mr Staple to have acted more resolutely to rectify the error with the Tax Authorities.
 - e. Mr Staple did not resolve the dispute with Company A and Company B regarding the settlement of the Tax liabilities. This is so despite the firm's admission of its liability as evidenced in the emails over the period June 24 and July 18 2018 from Person B, (an employee of DGS, Mr Staple's company) to Mr Staple.
10. The PAB found Mr Staple guilty of the charge that in the performance of his professional duties, he was guilty of such actions, default and conduct discreditable to the accountancy profession.
 11. The PAB determined, having regard to the provisions of Section 13 of the Public Accountancy Act of Jamaica, to impose the following sanctions:
 - a. The registration of Mr Staple to be suspended for a period of 12 months effective from 31 March 2021.
 - b. Mr Staple to pay to the PAB a sum of two million five hundred thousand Jamaican dollars (\$2.5 million – approximately £13,060.00) in respect of costs and expenses incidental to the enquiry.
 - c. Mr Staple to be notified of his right of appeal of the decision of the board under section 14 of the Public Accountancy Act of Jamaica.
 12. Mr Staple's ACCA records were reviewed and there was no record of him notifying ACCA of the PAB's disciplinary findings made against him.

13. ACCA contacted Mr Staple on 26 July 2021 and invited him to provide his comments and observations regarding the PAB notification and his failure to notify ACCA of the PAB's disciplinary findings against him.
14. In his initial response to ACCA, Mr Staple enquired if the PAB is a body recognised by ACCA and whether ACCA would review the PAB evidence case against him.
15. The Investigations Officer "(the IO)" confirmed that the PAB is recognised by ACCA on the basis that it is a Jamaican accountancy regulatory body, created by the Public Accountancy Act 1968 of Jamaica. Accordingly, therefore, pursuant to ACCA byelaw 8(a)(vi), Mr Staple is liable to ACCA disciplinary action by virtue of the disciplinary findings made against him on 30 March 2021 by the PAB.
16. The IO also informed Mr Staple that ACCA's complaints and disciplinary procedure is not a forum for a re-trial or an appeal process of the matters considered by the PAB. Mr Staple was advised that if he wished to appeal or retry the matters before the PAB which resulted in his suspension, then he should seek independent legal advice.
17. In his full response to ACCA, Mr Staple disputed the legitimacy of the PAB findings and the sanction imposed. Mr Staple stated that he had instructed his attorney to request his reinstatement to the PAB register. He also provided documents in support of his dispute to the PAB disciplinary findings against him. The PAB confirmed, however, that as of 20 May 2023, Mr Staple had not appealed against the PAB disciplinary findings made against him. The PAB also confirmed that Mr Staple had not paid the costs and expenses of \$2.5 million and had not been reinstated to the PAB register.
18. ACCA records show Mr Staple submitted his 2020 CPD on 20 April 2021. To complete the 2020 CPD, Mr Staple was required to electronically sign declarations which included the following: "... *I have not been subject to any disciplinary or other matters which may engage bye-law 8 (liability to disciplinary action - see guidance overleaf for information on bye-law 8) that have not already been brought to the attention of ACCA's Assessment or Investigations Departments ...*".

19. Regarding his failure to notify ACCA of the PAB disciplinary findings against him, Mr Staple stated: *"I admit that it was an oversight on my part not to communicate PAB's corruption action to the ACCA as I was not readily familiar with that aspect of the [ACCA] bye-laws at the time when I was preparing my [ACCA annual CPD declaration] submission in April 2021."*

20. The IO contacted Mr Staple again on 08 October 2021 to notify him that the matter would be referred to the Independent Assessor and invited him to provide his response by 28 October 2021. Mr Staple responded on 25 October 2021. He continued to dispute the PAB finding made against him. In addition, Mr Staple enquired about resigning his ACCA membership. An ACCA member cannot, however, resign from ACCA's register while they are the subject of a disciplinary investigation under ACCA Membership Regulation 10(3):
 - (3) *Outstanding disciplinary matter. An individual's notice of resignation or notice seeking removal from the member, affiliate or student register shall not be accepted, and the individual shall accordingly not cease to be a member or, as the case may be, an affiliate or a registered student, where a complaint in respect of the individual or of a relevant firm in relation to which the individual is a specified person has been received by the Association, or where disciplinary proceedings of the Association are otherwise pending against the individual or such relevant firm until such time as the matter has been finally disposed of and the amount of any fine or costs specified in a disciplinary order made in respect of the individual or such relevant firm has been paid in full.*

21. The IO informed Mr Staple that he was not able to resign his membership of ACCA whilst there were disciplinary proceedings pending and he responded on 12 November 2023 indicating that he did not consider that he had sufficient information to provide a response to the Independent Assessor. Mr Staple also contacted ACCA's Membership Department on 12 November 2021 and requested to resign his membership.

22. The IO contacted Mr Staple and reminded him that he could not resign whilst he was the subject of an ACCA investigation. The IO also informed Mr Staple that ACCA's case was set out in the report and case bundle sent to him on 8 October 2021 and that he had been

given a number of opportunities to provide his response to the Independent Assessor. He was given a final deadline of 19 November 2021 to supply his response. Mr Staple responded on 18 November 2021. Mr Staple continued to dispute the PAB finding against him and demanded that his resignation as a member of ACCA be accepted. He returned his ACCA certificates electronically. The IO again contacted Mr Staple and informed him that his resignation request had not been granted and the matter had been referred to the Independent Assessor.

ACCA SUBMISSIONS

23. In respect of Allegation 1, Mr Mills submitted that the PAB is clearly a professional or a regulatory body for accountants in Jamaica and, therefore, Mr Staple is liable to ACCA disciplinary action, pursuant to ACCA byelaw 8(a)(vi), by virtue of the findings made against him by the PAB on 30 March 2021. Mr Mills informed the Committee that whilst Mr Staple had indicated to ACCA that he disputed the findings made against him by the PAB, he had not appealed the PAB's findings or sanction. In respect of the facts underlying the findings made by the PAB, Mr Mills submitted that whilst byelaw 8 was silent as to how the Committee should treat such finding, the Committee may consider byelaws 8(f) and 8(g) to be relevant. He conceded that the main argument against that was that byelaw 8 made no specific reference as to how the findings of a professional or regulatory body should be considered. He submitted that the alternative way to proceed was for the Committee to take the view that it should only go behind the findings of a professional or regulatory body in exceptional circumstances. Mr Mills invited the Committee to conclude that it is not appropriate to go behind the findings of the PAB, particularly as Mr Staple had not appealed the findings locally in Jamaica.

24. In respect of Allegation 2, Mr Mills informed the Committee that it is not disputed that Mr Staple failed to notify ACCA of the PAB disciplinary findings made against him. He submitted that, as a member of ACCA, Mr Staple had an obligation under Membership Regulation 10(3) to promptly bring to the attention of ACCA that he may have become liable to disciplinary action by reason of the disciplinary findings made against him by the PAB. Mr Mills submitted that whilst Mr Staple had informed ACCA that he was not aware of the

obligation under Membership Regulation 10(3), that this should have been apparent to Mr Staple when he completed his annual CPD declaration in April 2021.

25. In respect of Allegation 3a, Mr Mills submitted that Mr Staple's conduct in failing to inform ACCA of the disciplinary finding made against him by the PAB, fell far short of the standards of conduct and behaviour expected of an ACCA member and brought discredit on Mr Staple, ACCA and the accountancy profession. Mr Mills submitted that misconduct, as defined by byelaw 8(c), was clearly made out in respect of Mr Staple's conduct as set out in Allegation 2.

DECISION ON FACTS

26. The Committee considered all of the documentary evidence presented by ACCA. It also considered the submissions made by Mr Mills. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove each of the allegations made against Mr Staple and that the standard of proof to be applied was the balance of probabilities.

Allegation 1 - proved

27. The Committee was satisfied that at all material times Mr Staple was a Fellow of ACCA and, accordingly, he was bound by ACCA's Byelaws and Regulations.
28. The Committee noted the content of the letter to ACCA from the Registrar of the PAB, dated 12 May 2021. The letter set out the findings made against Mr Staple by the PAB, pursuant to section 13 of the Public Accountancy Act, following a disciplinary enquiry that was held between January and March 2021. The Committee also noted that on 30 March 2021 Mr Staple was suspended from the PAB for a period of 12 months. The Committee also took into account that as of 20 May 2023 Mr Staple had not paid the costs and expenses order made against him by the PAB and had not applied to be reinstated to the PAB register.
29. The Committee did not consider that there were exceptional circumstances for it to go behind the findings made by the PAB, which is a properly constituted professional,

regulatory body for accountants in Jamaica. It did note, however, that since the findings were made Mr Staple has provided ACCA with a copy of an engagement letter with his client which is relevant to the PAB findings against him.

30. The Committee considered byelaw 8(a)(iv), which provides that a member shall be liable to disciplinary action if he has been disciplined by another professional or regulatory body.
31. The Committee was satisfied that the PAB was a professional, regulatory body for accountants in Jamaica and that Mr Staple had been disciplined by it. Accordingly, it found that Mr Staple was in breach of byelaw 8(a)(vi) and was, therefore, liable to disciplinary action.
32. Accordingly, the Committee found Allegation 1 proved.

Allegation 2 - proved

33. The Committee noted that Mr Staple had an obligation under byelaw 10(b) to 'bring promptly to the attention of the Secretary any facts or matters indicating that a member may have become liable to disciplinary action'. It is not in dispute that Mr Staple failed to inform ACCA of the disciplinary findings made against him by the PAB. Mr Staple, however, has indicated that he was not aware of this obligation. The Committee determined, however, that as a member of ACCA Mr Staple is bound by its Byelaws and Regulations and should have been aware of his obligation under byelaw 10(b) to inform ACCA of the findings made by the PAB. The Committee found that Mr Staple was in breach of byelaw 10(b) in failing to inform ACCA of the findings made by the PAB.
34. The Committee therefore found Allegation 2 proved.

Allegation 3(a) – misconduct found

35. Having found Allegation 2 proved, the Committee then considered whether the facts found proved amounted to misconduct.

36. In the Committee's view, Mr Staple's conduct demonstrated a clear disregard for ACCA's disciplinary process. The Committee considered that such conduct had the potential to undermine the integrity of the disciplinary process and the good standing of ACCA.
37. The Committee determined that Mr Staple's conduct had brought discredit to him, the accountancy profession and ACCA. The Committee determined that Mr Staple's conduct in breaching byelaw 10(b) was serious and amounted to misconduct.
38. Accordingly, the Committee found that Mr Staple's conduct as set out in Allegation 2 amounted to misconduct.
39. Having found Allegation 3(a) proved, the Committee did not go on to consider Allegation 3(b), which was drafted in the alternative.

SUBMISSIONS ON SANCTION

40. Mr Mills referred the Committee to ACCA's 'Guidance for Disciplinary Sanctions' and, in particular, sections B, C and E. He also referred the Committee to section F. Mr Mills submitted that a mitigating factor was that Mr Staple had no previous disciplinary findings against him. He submitted that the Committee may consider that an aggravating factor is that there is no evidence of insight or understanding on the part of Mr Staple as does not accept that the findings of the PAB should have been made against him.
41. In respect of costs, Mr Mills referred the Committee to the two costs schedules. He submitted that the £6,018.50 costs claimed by ACCA had been reasonably incurred. He accepted that the costs may need to be reduced to reflect that the hearing had not taken a full day.

SANCTION AND REASONS

42. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Mills. 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 Staple,

but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.

43. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
44. The Committee considered the following to be mitigating features: Mr Staple had been admitted as a member of ACCA on 15 February 2001 and became a fellow on 15 February 2006. It noted that Mr Staple had no previous disciplinary findings against him in the 22 years that he had been a member/Fellow of ACCA.
45. The Committee considered that the misconduct involved the following aggravating features: a lack of insight into his conduct that led to the PAB findings and no evidence of regret or remorse on the part of Mr Staple.
46. 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 disregarded ACCA's Byelaws.
47. The Committee then considered whether to reprimand Mr Staple. 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 misconduct found proved. The Committee did not consider Mr Staple's misconduct to be of a minor nature and there was no evidence of any insight into his behaviour or the impact thereof on the reputation of the profession and ACCA. The Committee noted that when addressing factors relevant to seriousness in specific case types, ACCA's Guidance indicates that a breach of byelaw 10(b) is considered as serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.
48. The Committee then considered 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 guidance suggests that this sanction may be appropriate where most of the following factors are present:

- a. The misconduct was not intentional and no longer continuing;
- b. Evidence that the conduct would not have caused direct or indirect harm;
- c. Insight into failings;
- d. Genuine expression of regret/apologies;
- e. Previous good record;
- f. No repetition of failure/conduct since the matters alleged;
- g. Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- h. Relevant and appropriate references;
- i. Co-operation during the investigation stage.

49. The Committee considered that the following factors were relevant in this case:

- a. The conduct that led to the PAB findings was not intentional and no longer continuing;
- b. The conduct that led to Allegation 2 being found proved and a finding of misconduct had been an oversight on Mr Staple's part;
- c. Mr Staple had a previous good record over a long period of time as a member of ACCA;
- d. There is no evidence of any repetition or similar conduct;
- e. Mr Staple had co-operated with ACCA during the investigation stage.

50. The Committee went on to consider whether Mr Staple should be excluded from membership of ACCA. Whilst some of the factors that should be taken into consideration were relevant, it concluded that exclusion from membership would not be a proportionate sanction given the following:

- a. There was no suggestion of dishonesty or gross negligence on the part of Mr Staple in the findings made by the PAB;

- b. The PAB had already suspended Mr Staple from the register for a period of twelve months;
 - c. The misconduct in relation to Allegation 2 had not been intentional on the part of Mr Staple.
51. Accordingly, the Committee determined that a severe reprimand was the appropriate and proportionate sanction to reflect the seriousness of Mr Staple's behaviour that led to the PAB's findings and his misconduct.
52. The Committee therefore ordered that Mr Staple be severely reprimanded.

DECISION ON COSTS AND REASONS

53. The Committee was provided with two schedules of costs. ACCA applied for costs in the sum of £6,018.50 in respect of the hearing.
54. The Committee was satisfied that the costs sought by ACCA were appropriate and reasonably incurred.
55. Mr Staple had not provided ACCA with a Statement of Financial Position and the Committee, therefore, did not have any information about his current financial circumstances.
56. The Committee determined that the costs applied for should be reduced slightly to reflect the fact that the hearing had not taken a full day. The Committee concluded that it would be fair and proportionate to order Mr Staple to pay a contribution to ACCA's costs in the sum of £5,500.

ORDER

- i. Mr Dion George Staple shall be severely reprimanded.
- ii. Mr Dion George Staple shall pay a contribution to ACCA's costs in the sum of £5,500.

EFFECTIVE DATE OF ORDER

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

Mr Michael Cann
Chair
30 October 2023