

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Peter John Hewett</b>
<b>Heard on:</b>	<b>Tuesday, 06 August 2024</b>
<b>Location:</b>	<b>Held Remotely via Microsoft Teams</b>
<b>Committee:</b>	<b>Mr Andrew Gell (Chair) Ms Wanda Rossiter (Accountant) Mr Nigel Pilkington (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Ashraf Khan</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Miss Nicole Boateng (Hearings Officer)</b>
<b>Summary</b>	<b>Exclusion from membership</b>
<b>Costs:</b>	<b>£7,819.00</b>

#### INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Peter John Hewett. Mr Hewett did not attend nor was he represented. ACCA was represented by Ms Michelle Terry.

#### ACCA



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2. The papers before the Committee consisted of a Service Bundle consisting of 21 pages and the Hearing Bundle consisting of 144 pages. This morning, the Committee received emails from Mr Hewett at 07.41 and 08.54.
3. During the course of the hearing, the Committee received legal advice, which it accepted.

## **ALLEGATIONS**

1. Mr Peter John Hewett, a member of the Association of Chartered Certified Accountants (“ACCA”)
  - a. On 18 September 2018 informed Company A that he would pay £8,000 towards their corporation tax liability for the year ending 30 November 2016 and to date no payment has been made
  - b. On unknown dates between 2016 and September 2019, failed to submit Company A’s annual accounts and corporation tax returns, for the years ending 30 November 2016 and 30 November 2017, to HMRC, contrary to the Fundamental Principle of Competence and Due Care (as applicable 2016 to 2019)
  - c. Failed to provide Company A’s new accountant with the requested transfer information promptly, contrary to Section 320.14 of ACCA’s Code of Ethics and Conduct (as applicable in 2019)
  - d. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Mr Hewett failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA’s correspondence sent on:
    - a. 21 August 2020
    - b. 14 September 2020
    - c. 29 September 2020
    - d. 14 October 2020
    - e. 1 December 2020
    - f. 24 December 2020
    - g. 8 January 2021

e. The conduct described at Allegation 1 (a) fails to demonstrate integrity

2. By reason of his conduct, Mr Peter John Hewett is:

a. Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the matters set out at 1 (a) to (e) above; or

b. Liable to disciplinary action pursuant to bye-law 8(a)(iii) in the alternative in respect of Allegations 1(a) and (e) above.

## **PRELIMINARY APPLICATIONS**

### **Service of Papers**

4. The Committee was informed that Mr Hewett had been served with a notice of today's hearing, together with the necessary papers via electronic mail on 08 July 2024.

5. The Committee was satisfied that notice had been sent to Mr Hewett's registered email address in accordance with regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee noted that the email had been delivered successfully and that Mr Hewett had contacted ACCA from that address in the past. CDR 22(8) stipulates that, when a notice has been sent by email, it is deemed to have been served on the day it was sent. Accordingly, the Committee was satisfied that Mr Hewett has been given 28 days' notice with the necessary information required in accordance with CDR 10.

6. The Committee decided that Mr Hewett had been properly served with Notice of Proceedings.

### **Proceeding in absence**

7. The Committee noted that on 29 July 2024, ACCA attempted to contact Mr Hewett by phone to ascertain whether he will attend the hearing. He did not answer and there was no opportunity to leave a voicemail. This was followed up with an email seeking the same information on the same date. Mr Hewett

answered the email on 31 July 2024 enquiring which postal address the notice had been sent to. The same day, ACCA advised Mr Hewett the notice was served via email.

8. On 02 August 2024, ACCA attempted to contact Mr Hewett via telephone to ascertain whether he would attend the hearing today. He did not answer the call. A voicemail was left asking him to confirm if he will be attending the hearing. This call was followed up with an email the same day informing him that ACCA have attempted to make telephone contact asking him to respond as soon as possible. No response was received.
9. On 05 August 2024, ACCA contacted Mr Hewett via email to provide him with the Microsoft Teams link for today's hearing and offered the opportunity to speak to the Legal Adviser and Case Presenter prior to the hearing. No response was received.
10. The Committee considered email correspondence from Mr Hewett sent this morning. He confirmed he would not be attending this morning.
11. The Committee considered that ACCA had taken reasonable steps to allow for Mr Hewett to attend the hearing. The Committee was satisfied that the emails had been sent to the email address on the ACCA's register and that there was a record of the emails having been delivered successfully. The Committee concluded, on the balance of probabilities, that Mr Hewett was aware of today's hearing and had voluntarily absented himself.
12. The Committee was also satisfied that taking the seriousness of the allegations into account, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made.

### **Application to adjourn**

13. In Mr Hewett's second email, he requested an adjournment. He did not state the grounds for requiring an adjournment or provide reasons but acknowledged it may not be possible.
14. ACCA submitted the application should be refused. ACCA submitted Mr Hewett had had 28 days to lodge an application to adjourn. ACCA submitted the

application was too late. ACCA also pointed to a pattern of lack of engagement by Mr Hewett and submitted an adjournment would not serve any useful purpose.

15. The Committee rejected the application. It appeared to the Committee this was very much a last-minute decision by Mr Hewett prompted by further communication with ACCA. The Committee reminded itself that Mr Hewett stated in his email he was not going to attend. He has not explained why he wanted the adjournment or for how long. Further, the Committee determined that given the age of the allegations, the public interest in proceeding outweighs Mr Hewett's interests in adjourning the case.

#### **Application to amend Allegation 2(b)**

16. ACCA made an application to amend Allegation 2(b) above to read as follows:

*liable to disciplinary action pursuant to bye-law 8(a)(iii) in the alternative in respect of the Allegations, above, save for, 1(a) and (e).*

17. ACCA stated the amendment was required to correct a defectively worded allegation. There was a typographical error. Mr Hewett was put on notice and he has not responded. ACCA submitted no prejudice would be caused to Mr Hewett.
18. The Committee decided this was a minor amendment which caused Mr Hewett no prejudice. Accordingly, pursuant to CDR 10 (5) (a), the Committee allowed the application to amend.

#### **BACKGROUND**

19. ACCA received a complaint from Company A's new accountants on 26 September 2019. The complaint was investigated in August 2020. The investigation has now been completed. As a result of the findings of that investigation ACCA, allege Mr Hewett is liable to disciplinary action for the following reasons.

#### **Allegation 1 (a)**

20. Mr Hewett is a member of ACCA and a director of Company B.

21. Company A was a client of Company B from 2013 onwards.
22. Mr Hewett and his wife were clients of Company A from May 2018 until September 2018. Together they instructed Company A to carry out building works at the home of Mrs Hewett's parents ("the property").
23. After works were carried out at the property, in August 2018 Mr and Mrs Hewett disputed the costs of the works completed at the property by Company A.
24. On 18 September 2018 a HMRC debt collector called at Company B's offices (and Company A's registered office address) in connection with corporation tax owed to HMRC by Company A.
25. At around 6 pm on 18 September 2018 Mr Hewett emailed Person 2 about HMRC and the unpaid corporation tax forwarding a CT600 (corporation tax return) form and tax computation, which Mr Hewett said had been "dealt with when Company B "signed off 2016".
26. Mr Hewett said that the corporation tax debt, excluding interest, related to the year ended 30 November 2016 and amounted to £23,827.60.
27. Mr Hewett said that "to satisfy the debt collector" he had agreed to pay £8,000 for Company A. He said that this amount could be "netted off" against the amount owed to Company A for the building work at the property.
28. Person 2 replied to Mr Hewett the next day expressing surprise but thanking Mr Hewett for paying £8,000 on behalf of Company A.
29. Person 2 said that Company A had now paid a further £8,804.92 to HMRC, leaving a balance of £7,022.68.
30. Person 2 said if Mr Hewett could pay the balance of £7,022.68 owed by Company A to HMRC it would clear the outstanding monies owed by Mr & Mrs Hewett to Company A for the work done at the property.
31. On 19 September 2018 Mr Hewett replied to Person 2 confirming his payment of £8,000 but went on to say that Mrs Hewett would be writing to Company A separately about monies owed by Mr & Mrs Hewett to Company A for the work

- done at the property. He also said that Company A also owed Company B fees for dealing with Company A's 2017 accounts, which he was "capping" at £2,100 + VAT.
32. On 20 September 2018, Mrs Hewett emailed Person 2 disputing Company A's costs. Mrs Hewett went on to propose a "full and final settlement" of Company A's outstanding charges on the basis of the £8,000 that Mr Hewett was to pay to HMRC's debt collector, on behalf of Company A, but with Company A paying Company B's accountancy charges of £2,000 + VAT .
  33. On 25 September 2018, Person 2 replied to Mrs Hewett stating that the situation had now become unnecessarily complex and that Company A had now paid all its corporation tax liability net of the £8,000 to be paid by Mr Hewett.
  34. At the end of October 2018, Company A received a letter from a firm of solicitors regarding Company A's costs for the work at the property.
  35. In January 2019 Company A instructed Company C.
  36. A subsequent investigation by Company C found that £8,000 was not paid to HMRC on 18 September 2018 in respect of Company A's corporation tax liability for the financial year ended 30 November 2016. No such payment could be seen on the breakdown of repayments/reallocations provided by HMRC on 25 June 2019. The same breakdown, however, shows the payment of £7,022.68 made by Company A as referred to by Person 2 in the email to Mr Hewett of 25 September 2018.
  37. Subsequently on 20 July 2020, Mrs Hewett sent Company A £10,283.24 in "full and final settlement" of the work undertaken by Company A at the property making no reference to an £8,000 having been paid by Mr Hewett on 18 September 2018.
  38. Despite requests, Mr Hewett has failed to provide evidence of £8,000 being made to HMRC's debt collector on 18 September 2018.

**Allegation (b)**

39. Company B was engaged to submit Company A's accounts and corporation tax returns to HMRC for the years ending 30 November 2016 and 30 November 2017.
40. Company A provided annual accounts and corporation tax returns assuming these would be submitted by Company B to HMRC.
41. A subsequent investigation by Company C established that Company A's full set of accounts together with the related corporation tax returns for both the years ended 30 November 2016 and 30 November 2017 were never submitted to HMRC by Company B.
42. HMRC's debt collector attending at Company B's offices on 18 September 2018 to levy distraint as referred to above and to Company A incurring substantial penalties and interest.

**Allegation (c)**

43. Section 320.14 of ACCA's Code of Ethics and Conduct (as applicable in 2019) provides that:

*In order to ensure continuity of treatment of a client's affairs, the former accountant shall promptly provide the new accountant with all reasonable transfer information that the new accountant requests, free of charge.*

44. Section 320.15 provides that:

*All reasonable transfer information shall be provided even where there are unpaid fees*

45. On 16 January 2019 Company C wrote to Mr Hewett requesting professional clearance and transfer information from Mr Hewett. Mr Hewett failed to respond.
46. On 18 March 2019 HMRC issued a notice of enforcement on Company A in the amount of £20,382.69 plus interest of £1161.94.
47. Some 63 days after Company C had requested professional clearance, Mr Hewett replied to Company C on 20 March 2019.



### **Allegation (d)**

48. Mr Hewett failed to respond substantively or at all to emails from an ACCA investigations officer dated 21 August 2020, 14 September 2020, 29 September 2020, and 14 October 2020, letters and emails from an investigations officer dated 1 December 2020, 24 December 2020, 8 January 2021.

### **ACCA Submissions**

49. ACCA submit that the allegations referred to above are capable of proof by reference to the evidence and the documents in the bundle of documents, as referenced in the evidence table.
50. ACCA submit that the conduct described in Allegation 1 (a) was contrary to the Fundamental Principle of integrity (as applicable in 2019) as it demonstrates a failure to be straightforward and honest.

### **ACCA submissions on Misconduct**

51. ACCA rely on *Roylance v. General Medical Council (No 2)* [2000] 1 AC 311.

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.”

52. ACCA agree Misconduct is a matter of judgment for a professional panel.
53. ACCA submit the conduct concerned in each of these allegations amounts to misconduct both individually and collectively.

### **Liability to disciplinary action**

54. ACCA submit that Mr Hewett is guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the matters set out in Allegations 1 (a) to (e).

55. In the alternative, if misconduct is not found, Mr Hewett's conduct gives rise to liability to disciplinary action pursuant to byelaw 8(a)(iii) in respect of all allegations, save for 1(a) and (e).

#### **Submissions by Mr Hewett**

56. Although Mr Hewett had not formally responded in relation to the issues raised by this complaint, he did provide an email document this morning stating as follows:

*Good morning*

*It would have been best to have sent the correspondence by hard copy post not email as my emails are not attended to by me generally as I have several businesses I own and control.*

*I do not intend to attend, and I have not taken legal representation. Had I opened the emails then I would have seen the content. I accept this is my issue but as I say, I do not know why something of this nature should not have been sent as a recorded delivery hard copy.*

*In respect of the allegations, we had already conversed with you with the background and again I shall summarise here.*

*On speaking to ACCA it was advised to me to terminate my engagement on a number of clients because at least one of the clients was involved in Money Laundering. As part of this process, I was also advised to write to HMRC to state that the returns I had submitted on behalf of those clients could not be relied on. I understand that HMRC then opened up enquiries on a number of those clients and raised assessments due to income not being recorded.*

*The client in question has been asked by an elderly family member to carry out a small extension. A quote of £20,000 was given and shortly after termination of my firm he claimed in excess of £40,000. Lawyers were instructed.*

*There seems to be some confusion caused by the £8,000. This was not monies that the client had placed in my firm. In fact the client still owes me for accounting services which I have not chased. This is in respect of monies owed by the elderly family member to which £8,000 was to be settled. The lawyers*

*held the £8,000 of funds set aside for this and this was dealt with by lawyers as part of the claim and counter claim.*

*I, therefore, refute this allegation.*

*In respect of the submission of the tax return we can only file upon receipt of the signed draft documentation. If the client returns it signed late, then the submissions will be late. Again, I refute this allegation.*

*We follow the ACCA guidelines on handover information to incumbents. All relevant information was passed to the incumbent except to the extent of the concerns regarding AML provisions. Again, I refute this allegation.*

*At the same time of the ex-client making the ACCA complaint the ex-client also made a claim on my Professional Indemnity Insurance. At that juncture, my insurers [sic] advised me that the ACCA "complaint" should be waved as it could prejudice the insurance claim. Correspondence was sent setting out this position to the ACCA. The insurance claim was closed with no award to the claimant.*

*I accept that technically I am, therefore, in breach of the ACCA guidelines but I refute all the allegations. The client made a vicious and spurious accusation borne out following my termination which was required following discussions with the ACCA.*

## **DECISION ON FACTS/ALLEGATIONS AND REASONS**

57. The Committee took into account ACCA's written representations which were supplemented by Ms Terry orally. No representations were received from Mr Hewett until this morning. These were taken into account.
58. The Committee considered Allegation 1(a). The Committee has seen communication from Mr Hewett that he would pay £8,000 towards Company A's corporation tax liability. On 18 September 2018, Mr Hewett emailed Person 2 and informed her that he had agreed to pay £8,000. He said that this amount could be "netted off" against the amount owed to Company A for the building work at the property.

59. On 19 September 2018 Mr Hewett emailed Person 2 confirming his payment of £8,000.
60. The Committee considered whether payment was made by Mr Hewett.
61. The Committee noted that investigation by the new Accountants, Company C, revealed that £8,000 was not paid on 18 September 2018 as stated by Mr Hewett and no such payment could be seen on the breakdown of repayments/reallocations provided by HMRC on 25 June 2019.
62. The Committee considered that Mr Hewett's submissions in his email did not address the £8,000 payment purportedly made to HMRC's debt collector on 18 September 2018.
63. The Committee also considered Mr Hewett's email of this morning in which he purports to address the issue relating to the payment of £8,000. He provided no evidence that the payment had been made. Instead, he stated that "*the lawyers held the £8,000 of funds set aside for this and this was dealt with by lawyers....*" The Committee inferred the payment had not been made and Mr Hewett was not being straightforward and transparent.
64. Accordingly, the Committee were satisfied on the balance of probabilities that Allegation 1 a was proved.
65. The Committee considered Allegation 1(b). The Committee determined Mr Hewett did have a duty to submit Company A's annual accounts. Based on the evidence before it, the Committee concluded Mr Hewett did not file accounts. Accordingly, the Committee found Allegation 1(b) proved on the balance of probabilities.
66. The Committee considered Allegation 1(c). The Committee determined Mr Hewett had a duty to transfer information promptly. The Committee noted it took Mr Hewett 63 days to respond to Company C's request to provide information. The Committee determined this was an unacceptable delay and therefore Allegation 1(c) is proved on the balance of probabilities.
67. The Committee considered Allegation 1(d). The Committee determined Mr Hewett had a duty to co-operate with the investigation. The Committee noted that Mr Hewett failed to respond to correspondence from ACCA dated 21

August 2020, 14 September 2020, 29 September 2020, 14 October 2020, 1 December 2020, 24 December 2020 and 8 January 2021. The Committee determined this was a failure on Mr Hewett's part to co-operate with his regulator in relation to the investigation of this matter. Accordingly, the Committee found Allegation 1(d) proved on the balance of probabilities.

68. The Committee considered Allegation 1(e). The Committee reminded itself that Allegation 1(a) is proved. The Committee determined that Mr Hewett provided Person 2 with false and misleading information that £8,000 had been paid. This is not the standard of behaviour that society or the profession expects of a professional Accountant. The Committee determined Mr Hewett lacked integrity. Accordingly, Allegation 1(e) is proved on the balance of probabilities.
69. The Committee considered Allegation 2a, whether any or all of the above conduct amounts to misconduct.
70. In the Committee's judgement, these failings, including the lack of integrity and failure to co-operate with the regulator, amounted to serious professional misconduct. These were serious failings short of what would be considered proper by the profession. Mr Hewett's conduct brings discredit to ACCA and himself. Accordingly, the Committee determined Mr Hewett was guilty of serious professional misconduct.
71. Given the Committee's finding on misconduct, it did not consider Allegation 2b, which was an alternative.

## **SANCTION AND REASONS**

72. The Committee considered the available sanctions starting with the least serious. In reaching a decision on sanction, the Committee took into account the public interest and Mr Hewett's own interests. It noted that the purpose of sanction was not punitive and that the purpose of any sanction 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 performance.
73. The Committee determined proved misconduct and failing to cooperate with an investigation were very serious.

74. The Committee considered whether any mitigating or aggravating factors featured in this case.
75. By way of mitigating features, the Committee accepted that there were no previous findings against Mr Hewett.
76. The Committee concluded there was no evidence of any other mitigating factors in this case. The Committee had not heard from Mr Hewett nor had it received any references or testimonials.
77. As for aggravating features, the Committee concluded there was no evidence of insight, remorse or reflection. The Committee also determined that there was adverse impact on Company A, as it became liable to pay penalties to HMRC. The pattern of misconduct was over a period of time.
78. For the reasons set out above, the Committee determined this is a serious matter and therefore taking no further action, admonishment, reprimand or a severe reprimand would be insufficient and inappropriate. The Committee was particularly mindful there was no early admission, no evidence of understanding or insight, reflection, remorse or apology from Mr Hewett. Given the serious nature of the misconduct, the Committee determined Mr Hewett's behaviour was a serious departure from relevant professional standards. The Committee determined the only appropriate and proportionate sanction available is to exclude Mr Hewett from ACCA membership.
79. The Committee noted that the default period of exclusion is 12 months. The Committee decided not to extend this period, given the Admissions and Licencing Committee would have to consider any application for readmission.

#### **EFFECTIVE DATE OF ORDER**

80. The Committee considered whether to make an immediate order. ACCA submitted that the risk to the public is sufficiently high to make such an application in the public interest.
81. The Committee noted the events in this matter took place some time ago and there has not been a repeat of the behaviour.
82. The Committee decided not to impose an immediate order.

## **COSTS AND REASON(S)**

83. The Committee has been provided with a Detailed Costs Schedule. Mr Hewett has made no representations as to costs or his ability to pay.
84. The Committee concluded that ACCA was entitled to be awarded costs against Mr Hewett.
85. ACCA applied for costs in the sum of £8,269.00. The Committee has decided it would be reasonable and proportionate to award ACCA costs in the sum of £7,819.00 given some time was saved during the hearing.

**Mr Andrew Gell**  
**Chair**  
**06 August 2024**