

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Anthony John Burrell

**Heard on:** Wednesday, 28 February 2024

**Location:** ACCA, The Adelphi, 1-11 John Adam Street, London,  
WC2N 6AU. Held Remotely by Microsoft Teams

**Committee:** Mr Andrew Gell (Chair)  
Ms Fiona MacNamara (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Ms Tope Adeyemi

#### Persons present

**and capacity:** Mr Anthony John Burrell (Member)  
Mr Ben Jowett (Case Presenter)  
Ms Anna Packowska (Hearings Officer)  
Ms Colette Lang (Chair, observing)  
Mr Bill Matthews (Chair of ACCA Appointments Board,  
observing)

**Summary:** Severe Reprimand

**Costs:** £5000

#### ACCA



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## INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Anthony John Burrell. Mr Burrell was present but not represented. ACCA was represented by Mr Ben Jowett. The papers before the Committee consisted of a main bundle numbered 1 - 129, a two page “Additional’s” bundle, a further “Additional’s” bundle numbered 1 – 44, a service bundle numbered 1 - 14 and a two-page memorandum and agenda.

## BACKGROUND

2. Mr Burrell became a member of ACCA on 15 October 2004 and a Fellow on 13 October 2009. He faces two allegations arising from his conduct whilst employed as a tax manager at Firm A (the “Firm”).
3. As part of his role at the Firm, Mr Burrell was responsible for the Firm’s continuing compliance with the Coronavirus Job Retention Scheme. In May 2001 ACCA received a complaint about Mr Burrell from Mr A, Director of the Firm. Mr A stated that Mr Burrell had provided him with a printed letter dated 21 July 2020 concerning furlough overpayments that he claimed had been sent to clients of the Firm. Mr A’s complaint was that while Mr Burrell told him he had sent the letter to clients of the Firm, in the terms set out in the letter printed, no such letter had been sent.
4. During the course of investigations into the concerns, ACCA, in a letter dated 28 September 2021, drew Mr Burrell’s attention to a passage of transcript from an interview he participated in with an HR Specialist contracted to the Firm. It was highlighted that the following was put to Mr Burrell: *“You provided Mr A with a document titled Email Template 21.07.docx informing him that you provided this to clients, in respect of their furlough payments, despite this not being the case, and the document only being created that day.”* The transcript showed that Mr A’s response to the assertion set out in the passage was *“Correct”*.
5. When asked about the passage of the transcript by ACCA, Mr Burrell stated: *“I confirm that the transcript is accurate. I very much regret the stance that I took,*

*and in hindsight I would have dealt with matters differently. I essentially panicked as had told me in a meeting shortly before that he was considering my position at the [Firm] ..... I think I was numb and in a state of shock. I was not thinking straight..."*

6. In a further letter to ACCA dated 28 November 2023 Mr Burrell stated *"I admit I wrote that letter, which I agree was dishonest. From earlier papers you will see that for me, this was a moment in which I was panicking and under severe pressure from [Mr A]. This was a letter just on blank paper and for internal use at the time. In view of the pressure, you must understand that this was totally out of character for me"*.
7. Mr Burrell also provided ACCA with information about his experiences at the Firm, which included that Mr A had been difficult to work with and had himself engaged in impropriety.

## **ALLEGATIONS**

8. Mr Burrell, faced the following allegations:

### Allegation 1

(a) On or about 31 March 2021, Anthony John Burrell claimed to his then employer (Firm A) that he had written to clients of Firm A in the terms of a template letter dated 21 July 2020.

(b) Mr Burrell's conduct in respect of 1(a) was:

(i) Dishonest, in that he knew he had not written to clients of Firm A in the terms of the template letter or in the alternative

(ii) Such conduct demonstrates a failure to act with integrity;

(iii) In the further alternative such conduct is in breach of the Fundamental Principle of Professional Behaviour, as applicable in 2021.

## Allegation 2

By reason of his conduct, Anthony John Burrell is:

(a) Guilty of misconduct pursuant to bye-law 8(a)(i)

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

9. The Committee considered all the evidence presented and the submissions made by Mr Burrell and Mr Jowett. Mr Burrell admitted allegations 1(a) and (b) (i), as a result these allegations were found proved by reason of admission. The Committee also accepted the advice of the Legal Adviser.

#### **Allegation 1 (a) - Proved**

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

#### **Allegation 1 (b) (i) - Proved**

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

#### **Allegations 1 (b) (ii) - N/A**

12. As allegation 1 (b) (i) was found proved, the Committee did not go on to consider allegation 1 (b) (ii) which was drafted in the alternative.

#### **Allegation 1 (b) (iii) – N/A**

13. As allegation 1 (b) (i) was found proved, the Committee did not go on to consider allegation 1 (b) (iii) which was drafted in the alternative.

#### **Allegation 2 (a) - Proved**

14. The Committee considered whether Mr Burrell's actions amounted to misconduct bearing in mind ACCA Bye – Law 8(a) (c) which details what misconduct may include and the guidance provided by the courts in *Roylance*

*v. General Medical Council (No.2) [2000] 1 AC 3 and Nandi v GMC [2004] EWHC 2317 (Admin).*

15. The Committee considered that Mr Burrell's dishonest conduct in fabricating a letter so as to purport to have done work that he did not do, represented a serious falling short of what was expected of a professional accountant. The Committee took into account Mr Burrell's explanation that he had panicked and was working in a stressful environment, however it considered that the issue of honesty is fundamental to the profession, with the public relying on accountants to act appropriately even when things are difficult.
16. In all the circumstances the Committee considered Mr Burrell's behaviour to be serious, discreditable to the accountancy profession and to amount to misconduct. It follows therefore that Allegation 2 (a) was found proved.

#### **SANCTION AND REASONS**

17. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Burrell and by Mr Jowett. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA effective from February 2024 and had in mind the fact that the purpose of sanctions was not to punish Mr Burrell but to protect the public. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.
18. In his submissions to the Committee, Mr Burrell elaborated on his experiences working at the Firm. He stated he felt unsupported and described the working environment as extremely stressful due to the boundaries and expectations of the role constantly changing. ACCA did not challenge Mr Burrell's account of his working experience and the Committee bore his account in mind when considering the issue of sanction. Additionally, it was noted that Mr Burrell appeared to have developed some insight into what he had done wrong.
19. The Committee turned first to consideration of the aggravating and mitigating features in this case. The Committee accepted that there were no previous

disciplinary findings against Mr Burrell. It also noted that Mr Burrell had co-operated with ACCA and with the Firm's investigation, had made early admissions to key allegations and had played a full part in the hearing. Additionally, he had apologised for his conduct. The Committee considered all these factors amounted to mitigation.

20. The committee noted a number of aggravating features in this case. Mr Burrell submitted that his conduct had been "*spur of the moment*", but it was mindful that the relevant letter appeared to have been created some hours he had confirmed orally that it existed. In the Committee's view, the intervening period following his comments about the letter should have provided Mr Burrell with time to reflect. Instead, Mr Burrell spent that time fabricating a letter. With this in mind, the Committee did not regard his actions to have occurred on the spur of the moment, rather it considered Mr Burrell had sustained his dishonesty for several hours on the day, which was a period that would have allowed for reflection.
21. It was the Committee's view that Mr Burrell's conduct amounted to a breach of trust. The fabrication of the letter had occurred during the course of his employment as a tax manager. Mr Burrell held a position of responsibility as a manager in the Firm and there was an expectation that he would have reported accurately on what he had and had not done. His conduct also appeared to have been for personal gain, as he had admitted that he feared losing his job at the relevant time and created the letter, panicked, in attempt to preserve his position.
22. The Committee did not think it was appropriate, or in the public interest to take no further action or order an admonishment in a case where a member had acted dishonestly during the course of his employment as a registered accountant.
23. The Committee then considered whether to reprimand Mr Burrell. The guidance indicates that a reprimand would be appropriate in cases where, amongst other factors, the misconduct is of a minor nature, not in deliberate disregard to professional obligations and there is sufficient evidence of an individual's

understanding and genuine insight into the conduct found proved. The Committee did not find those factors to be present in the current instance.

24. The Committee moved on to consider 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 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.
25. The Committee considered that Mr Burrell's unchallenged description of his difficult working environment, teamed with the difficulties linked to navigating the furlough scheme as an accountant during the pandemic, were remarkable. The Committee also bore in mind Mr Burrell's expressions of remorse, which it considered to be genuine and his continued work as an accountant in the years following his departure from the firm, during which there was no evidence of a repeat of the dishonest conduct. Therefore, the Committee determined that a severe reprimand was the appropriate and proportionate sanction in the specific circumstances of this case.

## **COSTS AND REASONS**

26. ACCA applied for costs in the sum of £9,964. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. A simplified breakdown was also provided. The Committee had from Mr Burrell a completed Statement of Financial Position. He also provided oral evidence in which he expressed his concerns around the amount sought in costs by ACCA.
27. The Committee was satisfied ACCA was entitled to claim its costs but considered it appropriate to make a deduction to the amount claimed. It was noted that the schedules of costs referred to work undertaken in respect of allegations that were not brought before the Committee. The Committee was also mindful that Mr Burrell had admitted the key allegations from the outset. In

the Committee's view both factors would have impacted the extent of the investigations and the costs incurred. The costs were also reduced as the hearing took less time than expected. With these points in mind the Committee ordered Mr Burrell to pay ACCA's costs in the sum of £5000.

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

28. In accordance with Regulation 20(1)(a) of the Regulations, the order relating to Mr Burrells' sanction of severe reprimand will take effect at the expiry of the appeal period.

**Mr Andrew Gell**  
**Chair**  
**28 February 2024**