

HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION
OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Wellington Gada

Heard on: Wednesday 04 September 2024

Location: Remotely by MS Teams

Committee: Ms Colette Lang (Chair)
Ms Andrea White (Accountant)
Ms Alison Sansome (Lay)

Legal Adviser: Mr Alastair McFarlane

Persons present

and capacity: Mr Matthew Kerruish-Jones (ACCA Case Presenter)
Mr Wellington Gada
Ms Lauren Clayton (Hearings Officer)

Outcome: Severe Reprimand and costs awarded to ACCA of £6,500.00

1. ACCA was represented by Mr Kerruish-Jones. Mr Gada attended but was not represented. The Committee had before it a bundle of papers, numbered pages 1–112, and a tabled additional bundle, numbered pages 1–23 and a service bundle numbered pages 1–24.

SERVICE

2. Having considered the service bundle, the Committee was satisfied that notice

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

of the hearing was served on Mr Gada in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).

ALLEGATIONS

Allegation 1

- a) [PRIVATE]
- b) [PRIVATE]
- c) By reason of any or all the above, Mr Wellington Gada is liable to disciplinary action pursuant to bye-law 8(a)(i) or in the alternative and in respect of allegation 1 (b), is
- d) Liable to disciplinary action pursuant to bye-law 8(a)(iii)

BACKGROUND

- 3. Mr Wellington Gada (“Mr Gada”) became a student of ACCA on 09 December 2015 and graduated as an affiliate of ACCA on 18 July 2022.
- 4. On 26 January 2023 Mr Gada submitted his application for membership and disclosed to ACCA details [PRIVATE].
- 5. [PRIVATE]
- 6. [PRIVATE] This was a breach of the obligation to bring such matters promptly to ACCA’s attention.

ACCA SUBMISSIONS

Allegation 1 a

[PRIVATE]

- 7. ACCA submitted that [PRIVATE]

Allegation 1 b)

[PRIVATE]

8. Mr Gada became a student of ACCA on 09 December 2015. In order to do so he had to submit an online application. ACCA submitted that he would not have been able to submit his application to the ACCA without first agreeing to the terms and conditions [PRIVATE].
9. Mr Gada submitted an ACCA Agent, who came to enrol several students from his cohort, did not ask about [PRIVATE].
10. ACCA contended that Mr Gada, at the time of his student registration, had an obligation to disclose [PRIVATE].

DISCREDITABLE TO THE ASSOCIATION OR THE ACCOUNTANCY PROFESSION

11. ACCA submitted [PRIVATE].
12. Further ACCA contended [PRIVATE] the public's trust in the profession might reasonably be undermined in light of this conduct, and as such Mr Gada is liable to disciplinary action under bye-law 8(a)(i).
13. ACCA contended that [PRIVATE], is serious conduct which reaches the threshold for misconduct.

MR GADA'S SUBMISSIONS

14. Mr Gada admitted Allegation 1a) [PRIVATE]. He denied allegation 1b).
15. When ACCA asked Mr Gada to explain the background [PRIVATE], he responded on 29 December 2023 as follows:

[PRIVATE]

The whole affair was tragically stupid of me since all I had to do was [PRIVATE].

[PRIVATE].

16. In answer to ACCA's question why [PRIVATE] Mr Gada stated:

Towards the [PRIVATE] I was registered by an ACCA Agent who came to enrol several students from my cohort. I answered all the questions that were presented to me, [PRIVATE].

I am surprised that the Agent did not liaise with [PRIVATE]. Had this specific question been presented to me at the time [PRIVATE].

[PRIVATE].

17. In his oral evidence to the Committee Mr Gada stated that he did not remember filling in any declaration on his application for student membership in 2015. Whilst it is possible that he may have missed it and he did [PRIVATE], he did not think he had missed it. In cross examination he accepted that [PRIVATE].

DECISION ON ALLEGATIONS AND REASONS

18. The Committee accepted the advice of the Legal Adviser.
19. The Committee considered the documentary evidence together with Mr Gada's oral evidence and Mr Gada's submissions, and the submissions of Mr Kerruish-Jones on behalf of ACCA

Allegation 1 a)

[PRIVATE]

20. The Committee noted Mr Gada's admissions to Allegation 1 a) and found those facts proved by virtue of his admissions under Complaints and Disciplinary Regulations 12(3). [PRIVATE]. Accordingly, it was satisfied that [PRIVATE] set out under Allegation 1 a) was proved.

DISCREDITABLE TO THE ASSOCIATION AND PROFESSION

21. The Committee then considered whether [PRIVATE] were discreditable to the Association and the accountancy profession. It noted the submissions of Mr Kerruish-Jones for ACCA and of Mr Gada and his acceptance that it was discreditable.
22. The Committee was satisfied that [PRIVATE] were discreditable to the Association and the accountancy profession. [PRIVATE] would undermine the standing of the profession in the eyes of the public and was therefore discreditable to the accountancy profession.
23. The Committee paid specific regard to [PRIVATE].
24. The Committee reminded itself of Sir Thomas Bingham MR (as he then was) observations in Bolton v Law Society [1994] 1 WLR 512, as to the reputation of the profession this was “part of the price” of being a member of a profession. The Committee was satisfied that Mr Gada’s conduct amounted to a serious falling short of that expected of members of the profession.

Allegation 1 b)

[PRIVATE]

25. In relation to allegation 1 b), the Committee was satisfied that Mr Gada had a duty under bye-law 10 (b) (applicable between 2015–2023) to bring promptly to the attention of ACCA

“any facts or matters indicating that a member or relevant firm or registered student may have become liable to disciplinary action...”

26. The Committee was satisfied that Mr Gada did not [PRIVATE] to ACCA when his online application to become a student in December 2015 was submitted. [PRIVATE] were not reported to ACCA until January 2023 when Mr Gada submitted his application for membership. A period of over seven years elapsed from when Mr Gada first had a duty to report [PRIVATE] and therefore in the Committee’s judgment Mr Gada did fail to bring [PRIVATE] promptly to the

attention of ACCA. Accordingly, the Committee was satisfied that the [PRIVATE] set out under Allegation 1 a) was proved.

Allegation 1 c)

By reason of any or all the above, Mr Wellington Gada is liable to disciplinary action pursuant to bye-law 8(a)(i)

27. Under bye-law 8(a)(i) a member is liable to disciplinary action if he has been guilty of misconduct. Under bye-law 8(c) misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual, or to the relevant firm, or to the Association or to the accountancy profession. [PRIVATE].
28. Having determined that [PRIVATE] were discreditable to Mr Gada and derogatory to the Association and the profession, the Committee was satisfied that [PRIVATE] amounted to misconduct by virtue of [PRIVATE]. Further, and in any event, it was satisfied that these [PRIVATE] constituted deplorable conduct and reached the threshold for misconduct.
29. The Committee also considered whether Mr Gada's failure [PRIVATE] to ACCA was serious enough to amount to misconduct. The Committee specifically considered the evidence it received from Mr Gada. It accepted that it was plausible that he was not aware of his obligation to [PRIVATE] in 2015. It accepted that he did not recall ticking the box and noted that at the time students were given assistance by an ACCA agent in relation to submitting the form. In weighing up his evidence, the Committee took into account that when he was asked by his education provider [PRIVATE] or by ACCA when submitting his application for membership he [PRIVATE]. It noted that in 2015 there were [PRIVATE]. In these specific circumstances and, given its acceptance of Mr Gada's explanation, the Committee did not consider that the failure reached the threshold for misconduct.

d) liable to disciplinary action pursuant to bye-law 8(a)(iii)

30. Accordingly, it went on to consider the alternative of liability to disciplinary action for a breach of the regulations in relation to 1(d) and was satisfied that the

breach of bye-law 10 (b) rendered him liable for disciplinary action in relation to his failure to declare.

SANCTIONS AND REASONS

31. The Committee noted its powers on sanction were those set out in CDR Regulation 13(5). It had regard to ACCA's Guidance for Disciplinary Sanctions (the "Guidance") and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
32. The Committee reminded itself that it was not its function to punish a member [PRIVATE] and that whilst noting the Guidance, its function was to determine the appropriate and proportionate sanction on the merits of the individual case.
33. The Committee reminded itself that each case was to be judged on its own facts, and that the appropriate and proportionate sanction was a matter of this Committee's sole judgment.
34. The Committee considered Mr Gada's conduct [PRIVATE] to be very serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour and maintain the reputation of the profession. The Committee paid due regard to the [PRIVATE].
35. In relation to the non-disclosure, given the Committee's findings, it considered that the culpability of this was at the lower end of the scale.
36. It considered the following to be aggravating factors:

[PRIVATE]
37. The Committee considered the following to be mitigating factors:
 - Mr Gada [PRIVATE].
 - He has fully engaged and co-operated openly with ACCA and the Committee

- [PRIVATE]
 - There is no evidence of repetition
 - Mr Gada has undertaken significant [PRIVATE] and demonstrated understanding of the impact [PRIVATE]
 - He has expressed genuine remorse and insight and has relevant and appropriate testimonials
38. Given the Committee's view of the seriousness of his conduct and the need to uphold the reputation of the profession, it was satisfied that it was not appropriate or sufficient to conclude this case with No Further Action.
39. The Committee noted that while some of the factors listed in the Guidance for an Admonishment and Reprimand were present, it was sequentially not satisfied that either of these sanctions were sufficient to highlight to the profession and the public, the gravity of [PRIVATE].
40. The Committee next considered the sanction of Severe Reprimand. It noted that a majority of the factors in favour of this sanction were present including insight, genuine expressions of regret, no repetition, [PRIVATE] and remedial steps undertaken, appropriate references provided and cooperation with ACCA's investigation. The Committee is satisfied in these circumstances that a severe reprimand was the appropriate and proportionate sanction and was sufficient to declare and uphold proper standards of conduct and behaviour and maintain the reputation of the profession. It did have regard to the Guidance on removal but in the circumstances of this case considered that such a sanction would be disproportionate given the mitigating factors listed above.

COSTS AND REASONS

41. ACCA submitted cost bundles claiming costs of £30,502.00 The Committee analysed the hearing costs and found that these were not detailed or fully explained. They seemed to excessive and much higher than the "usual" figure for such cases. In the circumstances, the Committee made an assessment that £8,000.00 is a reasonable figure based on an assessment of what work this case had involved. It made a further reduction of £500.00 as the hearing today had taken less time than estimated and a further reduction of £1,000.00 given

what Mr Gada said [PRIVATE]. Accordingly, it ordered that Mr Gada pay ACCA's costs in the sum of £6,500.00.

Colette Lang
Chairman
04 September 2024