

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Aaron Breckell

Heard on: Tuesday, 15 April 2025

Location: Held Remotely by Microsoft Teams

Committee: Ms Carolyn Tetlow (Chair)
Mr George Wood (Accountant)
Dr Louise Wallace (Lay)

Legal Adviser: Ms Tope Adeyemi

Persons present

and capacity: Mr Mazharul Mustafa (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)

Summary: Exclusion from membership with immediate effect

Costs: £7,500

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Aaron Breckell (Mr Breckell). Mr Breckell was not present or represented. ACCA

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was represented by Mr Mazharul Mustafa. The papers before the Committee consisted of a Main Bundle numbered 1 – 170, a Case Management Form numbered 1 – 12, an Additional Bundles numbered 1 – 5 and a Service Bundle numbered 1 -16.

SERVICE OF PAPERS

2. The Committee first considered whether the appropriate documents had been served on Mr Breckell in accordance with the Complaints and Disciplinary Regulations 2014 (“the Regulations”). The Committee took into account the submissions made by Mr Mustafa on behalf of ACCA and it also took into account the advice of the Legal Adviser.
3. Included within the Service Bundle was the Notice of Hearing dated 17 March 2025 (thereby satisfying the 28-day notice requirement) which had been sent to Mr Breckell’s email address as it appears on ACCA’s register. The Notice included the correct date, time and remote venue for the hearing and also Mr Breckell’s right to attend the hearing by telephone or video link, to be represented and to request an adjournment if he wished. The service bundle also included an email from Mr Breckell dated 10 April 2025 in which he acknowledged that correspondence had been sent to him regarding an upcoming disciplinary hearing.
4. Having considered the relevant documents, the Committee was satisfied that Notice had been served in accordance with the Regulations.

PROCEEDING IN ABSENCE

5. Having concluded that proper notice had been served in accordance with the Regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Mr Breckell. The Committee took into account that Mr Breckell sent a letter to ACCA dated the day before the hearing confirming that he would not be attending the hearing for personal reasons.

Within the email Mr Breckell provided comments for the Committee's consideration in respect of the financial information that he had provided and other personal matters.

6. The Committee was of the view that Mr Breckell's attendance was unlikely to be secured if the matter was held on a different date. It noted in particular that Mr Breckell had not requested an adjournment and had indicated through the representations made in correspondence that he had an expectation that the hearing would proceed in his absence. Further, the allegations were serious, concerning conduct that occurred approximately a year ago.
7. Balancing the interests of Mr Breckell against the public interest in the expeditious disposal of this matter and the interests of ACCA, the Committee concluded that it was in the interests of justice that the matter proceed, notwithstanding the absence of Mr Breckell.

BACKGROUND

8. Mr Breckell became a member of ACCA on 14 August 2015 and an ACCA Fellow on 14 August 2020. On 10 August 2023 ACCA received a complaint about Mr Breckell via the New Zealand Institute of Chartered Accountants (NZICA), which referred the matter to ACCA stating:

"The New Zealand Institute of Chartered Accountants ("NZICA") regulates the conduct of members of Chartered Accountants Australia and New Zealand ("CA ANZ") who reside or practise in New Zealand."

"Mr Breckell became a member of CA ANZ and NZICA on 5 August 2021 through special admission by virtue of his membership of Association of Chartered Certified Accountants ("ACCA") and the reciprocal membership agreement between CA ANZ and ACCA."

"Subsequent to the Professional Conduct Committee commencing its

investigation of the complaint, it came to their attention that there was a jurisdictional issue in that Mr Breckell was not a member of NZICA/CA ANZ during the relevant time the conduct occurred which was between approximately June 2019 until January 2021”.

9. A complaint was originally raised to the NZICA by Person A, a former client of Mr Breckell. Person A was one of two Directors of Company A and was also a 50% Shareholder in that firm during the period of the alleged concerns. The other Director and shareholder was Person B.
10. Mr Breckell was employed by Company B who were engaged to carry out the accountancy services for Company A.
11. Mr Breckell is said by Person A to have provided services to the Company A in his personal capacity and is also alleged to have failed to act with integrity in his role as the Accountant for Company A. ACCA commenced an investigation into concerns around Mr Breckell’s independence and potential conflicts of interest arising due to the services he provided to Company A. The allegations before the Committee do not include the underlying concerns raised by Person A. ACCA asserts that it was not able to complete its investigation of the substantive issues due to Mr Breckell’s failure to co-operate. As a result, it submits that Mr Breckell is liable to disciplinary action in respect of a failure to co-operate.

ALLEGATIONS

12. Mr Breckell faces the following allegations:

Allegation 1

Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Aaron Breckell failed to co-operate fully with the investigation of a complaint, in that he whether through his appointed Solicitors or otherwise failed to respond to any or all of ACCA’s correspondence sent to him or them on:

- a) 13 February 2024
- b) 15 March 2024
- c) 27 March 2024
- d) 17 April 2024.

Allegation 2

By reason of any or all of his conduct as described at Allegations 1, Mr Breckell is:

- a. Guilty of misconduct pursuant to bye-law 8(a)(i); or
- b. Liable to disciplinary action pursuant to bye-law 8(a)(iii)

DECISION ON FACTS AND REASONS

- 13. The Committee considered all the evidence presented together with the written submissions made by Mr Breckell and the written and oral submissions made by ACCA. 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(a) – (d) – Proved

- 14. Copies of letters sent by email to Mr Breckell following the referral of the underlying matter to ACCA's investigation team were provided. The letters dated 13 February 2024, 15 March 2024, 27 March 2024 and 17 April 2024 contained information about the nature of the concerns and requested that he respond to questions regarding his conduct by specific dates.
- 15. Responses to the letters sent on 13 February 2024, 15 March 2024 and 27 March 2024 were received from Mr Breckell's Solicitors on his behalf. A response to the letter dated 17 April 2024 was received some months later from Mr Breckell.

None of the responses provided any of the substantive information requested by ACCA, instead it was made clear on behalf of Mr Breckell that he did not wish to participate in the investigation. His Solicitors stated on 12 March 2024 that *“Mr. Breckell has asked us to convey his decision not to continue to practice as a Chartered Accountant at this stage. Meaning, he has respectfully chosen not to engage in the ACCA’s Investigation”*. In an email dated 26 March 2024 it was stated that Mr Breckell *“will not be engaging with the investigation. Mr Breckell is aware of the implications of this”*

16. The Committee was of the view that while replies to ACCA’s correspondence had been received, those replies did not satisfy Mr Breckell’s obligation to co-operate fully with ACCA as they did not address any of the questions raised. There was a duty on Mr Breckell to co-operate fully and by not doing so he failed in that duty. It followed therefore that Allegations 1 (a) – (d) were found proved.

Allegation 2a - Proved

17. The Committee determined that Mr Breckell’s failure to co-operate with the investigation of his conduct fell far short of what was expected of a member of ACCA. His behaviour was serious in that by failing to co-operate, Mr Breckell frustrated ACCA’s ability to undertake an investigation into his conduct. Added to that, the underlying allegations related to serious concerns. In all the circumstances the Committee was satisfied that Mr Breckell was guilty of misconduct. It follows therefore that Allegation 2a is found proved.

Allegation 2b – Not proved

18. Allegation 2b was pleaded in the alternative and therefore does not need to be considered as Allegation 2a was found proved.

SANCTION AND REASONS

19. In reaching its decision on sanction, the Committee took into account all the submissions it received. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind that the purpose of sanctions was not to punish Mr Breckell but to protect the public. 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 this case. The Committee was made aware that Mr Breckell had not been subject to any previous disciplinary findings, and this was to his credit. The Committee noted references made by Mr Breckell to experiencing difficult personal circumstances, however those matters appear to have arisen after the period relevant to his failure to co-operate with ACCA. The Committee therefore attached limited weight to the information in considering what if any sanction to impose.
21. The Committee noted a number of aggravating features in this case. Mr Breckell's conduct in failing to co-operate represented a breach of the regulations and was sustained over a period of time. It was also deliberate and persistent behaviour for which he expressed no remorse and into which he provided no insight.
22. Set against those mitigating and aggravating factors and taking into account all the circumstances of the case, the Committee did not think it was appropriate, nor in the public interest, to take no further action. Neither did it consider it would be appropriate to order an admonishment in a case where (as here) a member had failed to co-operate with their Regulator and expressed no remorse or insight into their actions.
23. The Committee then considered whether to reprimand Mr Breckell. The guidance indicates that a reprimand would be appropriate in cases where the conduct is

of a minor nature, and there is sufficient evidence of an individual's understanding and genuine insight into the conduct found proved. The guidance goes on to state that a reprimand may be appropriate where the conduct was not in deliberate disregard of professional obligations and the period of misconduct was stopped as soon as possible. The Committee did not find those factors to be present in the current instance. Mr Breckell had demonstrated no insight and had failed to co-operate with his regulator. His conduct was also not considered to be minor in nature.

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 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 that corrective steps had been taken to cure the conduct and ensure such behaviour was not repeated. The Committee was not provided with evidence to show these criteria to be met. No evidence had been provided of any rehabilitative steps that had been taken by Mr Breckell to ensure the behaviour would not re-occur and overall, the conduct was considered too serious for a severe reprimand.

25. The Committee went on to consider the guidance relating to exclusion from membership. Mr Breckell's conduct in not co-operating had hampered ACCA's ability to fulfil its regulatory objectives. Such conduct was not only considered to be serious but fundamentally incompatible with membership. In all the circumstances the Committee considered exclusion from membership to be the most appropriate and proportionate sanction. The Committee noted that Mr Breckell had expressed a desire to no longer be an ACCA member, but it also noted that in subsequent correspondence he stated that he wished to continue practising as an accountant. With these points in mind his expressed desire to no longer be a member of ACCA was not a factor in the Committee's decision to exclude him from membership.

COSTS AND REASONS

26. ACCA applied for costs in the sum of £8,444.50. The application was supported by a Schedule providing a detailed breakdown of the costs incurred by ACCA in connection with the hearing. A simplified breakdown was also provided. The Committee had from Mr Breckell a document setting out his income and expenditure along with other information related to his financial circumstances. The Committee took into account all the information provided by Mr Breckell regarding his financial circumstances but was unable to place much weight on the content as no supporting evidence had been provided.
27. The Committee took into account ACCA's Guidance on costs and was satisfied ACCA was entitled to claim its costs. The costs reflected the amount of work that had been conducted and appeared reasonable. The Committee considered that a reduction to the amount sought was justified to reflect the shortened hearing length and Mr Breckell's personal circumstances as described by him. Therefore, in its discretion the Committee directed that costs in the amount of £7,500 be awarded to ACCA, with the sum considered to be a suitable and proportionate amount in the circumstances.

EFFECTIVE DATE OF ORDER

28. The Committee determined that in the interests of the public the sanction of exclusion from membership should take effect immediately in accordance with Regulation 20(1)(b) of the Regulations.

Ms Carolyn Tetlow
Chair
15 April 2025