

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Imrankhan Pathan

Heard on: Monday, 16 & Tuesday, 17 December 2024

Location: Remotely via Microsoft Teams

Committee: Mr Martin Winter (Chair)
Mr Trevor Faulkner (Accountant)
Mr Roger Woods (Lay)

Legal Adviser: Mr Robin Havard

Persons present

and capacity: Mr Matthew Kerruish-Jones (ACCA Case Presenter)
Ms Nicole Boateng (Hearings Officer)
Mr Imrankhan Pathan (Member)
Mr Tim Grey, Counsel (Mr Pathan's Legal Representative)
Mr Yashlal Hindocha (Witness on behalf of Mr Pathan)

Summary Allegations 1, 2 and 4.1 proved.
Sanction – Admonishment

Costs: £8,500

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PRELIMINARY APPLICATION

Application to amend

1. At the outset of the hearing, Mr Kerruish-Jones applied to amend Allegations 2, 3.1 and 3.3 by deleting reference to the year 2017. The reason for doing so was because, out of fairness to Mr Pathan, the Case Assessor had not included reference to 2017 in the original referral.
2. Mr Grey did not oppose the application.
3. On the basis that the proposed amendment did not cause any prejudice to Mr Pathan, the Committee allowed Mr Kerruish-Jones's application.

ALLEGATIONS (as amended)

1. Mr Imrankhan Pathan, a Fellow of ACCA, breached the Global Practising Regulations 2003 as amended and then in force with regard to any or all of the following:
 - 1.1 Between 01 April 2017 and 02 February 2021, was in public practice contrary to Regulation 3(1)(a) of the Global Practising Regulations (2017 - 2021)
 - 1.2 Was a Director of 'Firm A' between 01 April 2017 and 02 January 2019 and or of 'Firm B' between 06 April 2018 and 02 February 2021, firms where in respect of either or both, public practice was carried on, contrary to Regulation 3(2)(a) of the Global Practising Regulations (2017 - 2021).
 - 1.3 Between 06 April 2018 and 02 January 2019, was the sole shareholder and therefore held rights in 'Firm B' which in effect put him in the position of its principal and where public practice was carried on in the name of that firm contrary to Regulation 3(2)(b) of

the Global Practising Regulations (2018 - 2021).

2. Mr Imrankhan Pathan submitted CPD Declarations to ACCA for 2018, 2019, 2020 in which he declared in respect of all or any of those years that he had not engaged in public practice activities without holding an ACCA practising certificate in the previous 12 months and when at all material times he was undertaking public practice without an ACCA practising certificate.
3. Mr Imrankhan Pathan's conduct referred to at paragraph 2:
 - 3.1 Was dishonest in that he knew, the declarations he gave in all or any of the 2018, 2019, 2020 CPD returns that he had not engaged in public practice without holding a practising certificate were not true; in the alternative,
 - 3.2 Demonstrated a lack of Integrity,
 - 3.3 In the further alternative, was reckless in that Mr Imrankhan Pathan failed to have any or any proper regard as to whether the declarations he gave in all or any of the 2018, 2019, 2020 CPD returns that he had not engaged in public practice without holding a practising certificate were true.
4. By reason of his conduct, Mr Imrankhan Pathan is:
 - 4.1 Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations 1 to 3 above; or in the alternative,
 - 4.2 In respect of Allegation 1 only, liable to disciplinary action pursuant to bye-law 8(a)(iii).

DECISION ON FACTS, ALLEGATIONS AND REASONS

4. In reaching its decisions with regard to the allegations, the Committee had been provided with the following documents: a Disciplinary Committee Report and Bundle (pages 1 to 209); a Supplementary Bundle (pages 1 to 120); a Statement from Mr Pathan dated 24 June 2024 (pages 1 to 13), and a Service Bundle (pages 1 to 22).
5. The Committee had listened carefully to the oral submissions of Mr Kerruish-Jones made on behalf of ACCA in opening. It had then heard preliminary opening submissions from Mr Grey, followed by the oral evidence of Mr Pathan and Mr Hindocha. Finally, the Committee received oral closing submissions from Mr Kerruish-Jones and Mr Grey. The Committee had also considered legal advice, which it had accepted.
6. At the outset, Mr Pathan admitted the facts of Allegations 1 and 2. Based on such admissions, the Committee found them proved.

Allegation 1

7. Mr Pathan admitted the facts of particulars 1.1, 1.2, and 1.3 of Allegation 1. He further admitted that such facts amounted to breaches of the Global Practising Regulations 2003. On the basis of those admitted facts, and as stated, the Committee found Allegation 1 proved.
8. In order to understand the background to this allegation, the Committee made the following findings of facts.
9. Mr Pathan became a member of ACCA on 10 July 2009. He has never held an ACCA Practising Certificate ("PC").
10. At the beginning of October 2016, Mr Pathan had applied for a Practising Certificate and Audit Qualification ("PCA").

11. On 5 October 2016, ACCA wrote to Mr Pathan to inform him that he had not met ACCA's requirements to qualify for a PCA. The email set out what he would be required to do in order to satisfy the requirements, to include completion of three years' relevant experience with an ACCA Approved Employer and that he would have to pass Paper F4 Corporate and Business Law (ENG/SCT) and Paper F6 Taxation (UK). Mr Pathan was also advised that he was not entitled to engage in public practice without holding a valid ACCA practising certificate.
12. On 2 March 2017, ACCA visited Hindocha and Co Limited ("HCL") and, in a letter dated 17 March 2017, ACCA gave Mr Hindocha detailed feedback on what ACCA would require to enable Mr Pathan and one other employee to obtain an ACCA PC. In an Appendix to the letter, the Compliance Officer gave detailed feedback to Mr Pathan regarding what he needed to achieve in order to become eligible for a PC, having concluded that, at the time of the visit, Mr Pathan's records were not of a satisfactory standard.
13. On 24 September 2019, ACCA's Authorisations department received from Mr Pathan a second application for an ACCA PCA. It was as a result of this application that ACCA discovered that Mr Pathan had been a director of Hindocha and Co Limited ("HCL"), a firm at which public practice was carried on.
14. On 8 October 2019, ACCA informed Mr Pathan he was in breach of ACCA's Global Practising Regulations (GPRs) as he had not been issued with an ACCA PC. The Authorisations department asked him to complete an application to the Admissions and Licensing Committee who would consider his fitness to practice before his PCA could be issued. This application is on hold pending the outcome of these proceedings.
15. Based on the documentation, the Committee found that, even though he did not have an ACCA PC, Mr Pathan had been a Director of two companies where public practice was carried on.
16. The following documents illustrated the following:

- a) Companies House records:
- i) Mr Pathan had been a director at HCL between 1 April 2017 and 2 January 2019;
 - ii) Mr Pathan was also a Director and sole shareholder of Firm B from 6 April 2018 to 2 January 2019;
 - iii) The nature of both HCL and Firm B's businesses were registered as "accounting and auditing activities", which are public practice activities;
 - iv) Firm B had been registered with the word 'Accountant' in its name;
 - v) Mr Pathan had held himself out as an 'Accountant' in Companies House records for Firm B and as 'Certified Accountant' in records for HCL;
- b) Google searches for Firm B returned results which appeared to confirm public practice was being carried on;
- c) An advertisement for Firm B on www.192.com appeared to confirm public practice was being carried on, the advert referring to the company providing 'Accounting Activities in The Hyde';
- d) HCL's website described itself as a firm of 'Chartered Accountants' which was 'Registered to carry on audit work' by ICAEW. It stated they 'specialise in audit and accountancy services, taxation...financial advice....our aim is to provide a hand holding service by taking over your accounting, taxation....'
- e) Searches on the Register of Statutory Auditors ("RSA") showed HCL and its Director, Mr Yashlal Hindocha, were registered by ICAEW as a firm authorised to carry out audit work;

- f) Searches on the Financial Database FAME found Mr Hindocha had prepared and/or audited accounts for 7 companies, thereby confirming both he and HCL were in public practice;
 - g) Mr Pathan's LinkedIn profile referred to ACCA having 'Issued' him with a Licence/Certification from August 2008 and that he was an FCCA since August 2008.
17. In a letter dated 23 January 2021, ACCA wrote at length to Mr Pathan to inform him of the investigation and requesting information from him. It set out ACCA's understanding of the position based on the information it had obtained, including the details provided by Mr Pathan himself. It also set out a series of options available to Mr Pathan in order to regularise his position, particularly with regard to Firm B. One option was for Firm B to change its name and to restrict its activities to bookkeeping.
18. In a letter to ACCA dated 5 February 2021, Mr Pathan admitted to having signed off accountant reports for his clients at Firm B and indicated that Firm B had a turnover of between £11,000 and £14,000 per annum. He accepted that he and Firm B were in public practice. In adopting Option 3 proposed in ACCA's letter of 23 January 2021, in February 2021, Mr Pathan changed the name of the company to Firm B & Co Bookkeeper Ltd, and offered only book-keeping services to clients.
19. Turning to the particulars of Allegation 1, the Committee made the following findings.

Particular 1.1

20. Regulation 3(1)(a) of the GPRs prohibits Mr Pathan from being in public practice or holding out to be in public practice, without holding an ACCA practising certificate.

21. Mr Pathan had been holding himself out to be in public practice by referring to himself as an 'Accountant' and 'Certified Accountant' on Companies House, and admitting he had signed off accountant reports on behalf of clients for Firm B.
22. For those reasons, Mr Pathan admitted, and the Committee found, that he had breached GPR 3(1)(a) (2017 – 2021).

Particular 1.2

23. Regulation 3(2)(a) of the GPRs prohibits Mr Pathan from being a director of a firm where public practice is carried on in the name of the firm, or otherwise in the course of the firm's business, unless he holds an ACCA practising certificate.
24. Companies House records confirmed, and Mr Pathan admitted, that, at all material times, he was a director of HCL and/or Firm B, both companies having carried out public practice.
25. For the reasons stated above, Mr Pathan admitted, and the Committee found, that he had breached Regulation 3(2)(a) of the GPRs.

Particular 1.3

26. Regulation 3(2)(b) of the GPRs prohibits Mr Pathan from holding rights in a firm where public practice is carried on in the name of the firm, or otherwise in the course of the firm's business which in effect put him in the position of its principal.
27. Companies House records confirmed Mr Pathan was the sole shareholder of Firm B. This put him in the position of its principal. Whilst Mr Pathan indicated that the work that he undertook for his clients was for family and friends and related to very small businesses, he did accept that he was undertaking work which amounted to public practice.

28. For these reasons, Mr Pathan admitted, and the Committee found, that he had breached Regulation 3(2)(b) of the GPRs.

Allegation 2

29. Mr Pathan admitted the facts of Allegation 2 and, based on that admission, the Committee found Allegation 2 proved.
30. The Committee relied on its findings of fact under Allegation 1 above regarding Mr Pathan's involvement in public practice and made the following additional findings of fact.
31. Mr Pathan submitted annual CPD declarations to ACCA for the years 2018 to 2020.
32. In 2018, the declaration stated:

"I have not engaged in public practice activities (as defined by the Chartered Certified Accountants' Global Practising Regulations 3 and 4), without holding an ACCA practising certificate;

I have read and understood the instructions and guidance".

33. The declarations contained in the forms for 2019 and 2020 were drafted in slightly different terms but were materially the same.
34. The associated guidance notes for the declaration gave the following information:

"Engaging in public practice activities

Director, partner, LLP member or principal?

To ensure that you are not in breach of ACCA's rules about holding a practising certificate, if you are a director, partner, LLP member or principal in an accountancy practice you must check your position against ACCA's Global Practising Regulations and the factsheet Am I in public practice?nups://www.accaglobal.con/vcontent/dami ACCA_Global/Members/Doc/Am I in Public Practice.pdf

ACCA's definition of public practice extends beyond audit to incorporate all types of work generally associated with an accountancy practice, such as producing accounts, tax returns, but excluding book-keeping services.

If you engage in public practice activities or hold yourself out, as defined by Global Practising Regulations 3 and 4, you are required to hold an ACCA practising certificate or arrange to be placed on ACCA's register of practitioners."

35. A screenshot from ACCA's database showed that the annual declarations for 2018, 2019 and 2020 were submitted on 31 December 2018, 22 December 2019 and 26 December 2020 respectively.

Allegation 3.1

36. It was alleged by ACCA that, in submitting annual declarations to ACCA for three years as outlined under Allegation 2, Mr Pathan had acted dishonestly.
37. It was submitted by Mr Kerruish-Jones that Mr Pathan had admitted that he had been a director of HCL and/or Firm B throughout the material time covered by Allegation 2. He had been a director of HCL which carried out public practice, and/or he had been the director and sole shareholder or principal of Firm B and he himself was conducting public practice activities.
38. Mr Kerruish-Jones referred to the declarations in the annual CPD returns in which Mr Pathan had confirmed that he had not engaged in public practice without holding an ACCA PC, when in fact, by his own admission, he had, both as a director of HCL and as a director and principal of Firm B.

39. Furthermore, Mr Pathan had confirmed when giving evidence that he had read the GPRs and accessed the guidance using the links in the CPD declarations he completed and submitted to ACCA.
40. It was therefore alleged that, at the time he submitted the annual CPD declarations to ACCA, he knew he was a director of HCL and/or he was a director of Firm B carrying out public practice activities and he knew that he did not possess an ACCA PC entitling him to hold such positions or carry out such work. He therefore knew he was conducting himself in breach of the GPRs.
41. By the standards of ordinary decent people, Mr Kerruish-Jones invited the Committee to find that this would amount to dishonest conduct.
42. In response, Mr Pathan had provided a witness statement and gave oral evidence. His account, which was quite properly tested by Mr Kerruish-Jones, was that this was not a deliberate course of conduct designed to mislead ACCA. There was no conscious decision to carry out work or hold positions in HCL and Firm B when he knew he was not entitled to do so due to the lack of an ACCA PC. He maintained that the breaches of the GPRs, and the inaccuracies in the annual declarations submitted to ACCA in 2018, 2019 and 2020 occurred because of a genuine misunderstanding and mistake. In maintaining that he had at no stage acted dishonestly, Mr Pathan provided some background to him becoming a director of HCL and the creation of Firm B.
43. Between August 2006 and August 2008, Mr Pathan passed all of his ACCA exams. On 10 July 2009, he became a member of ACCA and on 10 July 2014, he became a Fellow.
44. On 18 December 2015, Mr Pathan had become a member of, and was granted a PC by, the Association of International Accountants ("AIA"). In an email from AIA to ACCA dated 22 January 2021, AIA had confirmed that this was so. They stated that they had supervised Mr Pathan since that time in his role as sole director and beneficial owner of Firm B, and that Mr Pathan had confirmed on

annual renewal documents to AIA that he did not hold a PC with another professional body.

45. With regard to HCL, Mr Pathan stated that he had been asked by Mr Hindocha to become a director of the firm as Mr Hindocha was considering issues of succession and the future of his firm. At no stage did Mr Pathan engage with any work relating to public practice to the extent that all documents relating to such work would be signed or authorised by Mr Hindocha. In those circumstances, he believed, mistakenly, that he did not require an ACCA PC.
46. When the Institute of Chartered Accountants in England and Wales (“ICAEW”) discovered that Mr Pathan was co-director of HCL, it indicated that if that situation continued, it would not be possible for Mr Hindocha to hold out his firm as a firm of chartered accountants. Mr Pathan immediately resigned his directorship.
47. As for Firm B, Mr Pathan indicated that, due to him holding a PC from AIA, he was entitled to operate as sole director and beneficial owner. He was also able to carry out the work that he was doing. He accepted that this amounted to public practice, but he maintained that when he returned the annual CPD declarations to ACCA, he honestly believed that he could complete them as he did because he never held himself out as an ACCA member. Everything to do with Firm B was on the basis of his PC with AIA. He now readily accepted that this was wrong, but it was not deliberate conduct on his part.
48. The Committee had listened carefully to Mr Pathan giving his evidence. It had also listened to Mr Hindocha who readily accepted that he was as much at fault as Mr Pathan for the errors that had been made and for the misunderstanding of the regulatory position.
49. The Committee had also taken into consideration the evidence of Mr Pathan’s good character in considering whether it could accept his account.

50. The Committee concluded that Mr Pathan and, indeed, Mr Hindocha presented as credible witnesses. They had answered questions without hesitation and had provided a consistent account, not only in the course of their oral evidence and as between themselves, but also in the written accounts they had provided in the course of the investigation, with which they had cooperated fully. The Committee found Mr Pathan's explanation, and his reliance on the PC from AIA, as credible.
51. Consequently, and applying the test for dishonesty set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67, the Committee found that Mr Pathan had acted mistakenly and in error, rather than deliberately, in submitting inaccurate annual CPD declarations in 2018, 2019 and 2020.
52. The Committee concluded that ACCA had not proved, on the balance of probabilities, that Mr Pathan had acted dishonestly.
53. It therefore found Allegation 3.1 not proved.

Allegation 3.2

54. For the same reasons, the Committee found that Mr Pathan had not acted with a lack of integrity. Whilst he had not adhered to the professional standards of a member of ACCA, this was as a consequence of a mistake and misunderstanding. It may be the case that, in researching the GPRs, Mr Pathan should have become aware of the regulatory requirements to which he must adhere, but this was not deliberate conduct on the part of Mr Pathan and he did not knowingly submit false documents to his regulator.
55. Consequently, the Committee found that ACCA had not established, on the balance of probabilities, that Mr Pathan had demonstrated a lack of integrity.
56. It therefore found Allegation 3.2 not proved.

Allegation 3.3

57. The Committee relied on its findings in respect of Allegations 3.1 and 3.2 regarding Mr Pathan's genuine belief that he was entitled to rely on his PC from AIA in acting in the way that he did. Whilst he now recognises that he had fallen into error, and that he required a PC from ACCA to enable him to hold the positions that he did in HCL and Firm B, the Committee was satisfied that, at the time he fell into error, he did not identify a risk that what he may be doing was wrong but nevertheless went on and took that risk.
58. For these reasons, ACCA had not established, on the balance of probabilities, that Mr Pathan had acted recklessly.
59. The Committee therefore found Allegation 3.3 not proved.

Allegation 4.1

60. The Committee had accepted that Mr Pathan found himself facing disciplinary proceedings as a consequence of mistakes, misunderstandings and errors on his part which amounted to negligence. The Committee was concerned that his failure to meet his regulatory responsibilities related to his roles at two separate companies and extended over a period of years. In respect of the submission of the CPD declarations, Mr Pathan's failures were repeated each year in 2018, 2019 and 2020.
61. Consequently, the Committee was satisfied that Mr Pathan was guilty of misconduct. In the Committee's judgement, the failures to meet the regulatory requirements of ACCA brought discredit to Mr Pathan, the Association and the accountancy profession.
62. The Committee found Allegation 4.1 proved.

Allegation 4.2

63. As the Committee had found Allegation 4.1 proved, it made no finding in respect of Allegation 4.2.

SANCTION AND REASONS

64. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had listened to submissions from Mr Kerruish-Jones and Mr Grey, and to legal advice from the Legal Adviser, which it accepted.
65. The Committee considered the available sanctions in increasing order of severity. Taking account of its findings, to include a finding of misconduct, the Committee decided that it would be inappropriate to conclude the case with no order.
66. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
67. The Committee considered whether any mitigating or aggravating factors featured in this case.
68. The Committee found the following mitigating factors existed.
69. The Committee acknowledged that there were no previous findings against Mr Pathan. The Committee took into account the written testimonials which Mr Pathan had provided which the Committee found to be both relevant and supportive.
70. The Committee was satisfied that Mr Pathan had shown genuine insight into his failings and his apology offered through Mr Grey was also considered to be genuine.

71. The Committee noted that Mr Pathan had fully engaged with the process, had cooperated with ACCA's investigation throughout, and admitted certain of the allegations from the outset. He had also rectified his failings immediately they were brought to his attention, as illustrated by his resignation from HCL and the action he took in respect of Firm B. There was no suggestion that members of the public had been put at risk as a result of what had happened.
72. As for aggravating factors, on the basis of the Committee's findings, it had been very fairly accepted by Mr Kerruish-Jones that he had not identified any such features, and the Committee agreed.
73. The Committee considered the seriousness of the findings against Mr Pathan. Whilst any finding of misconduct must be considered as serious, the Committee found that this case lay at the lower end of seriousness.
74. In determining whether an admonishment was a suitable and proportionate sanction, the Committee had regard to ACCA's Guidance. It found that all the factors which may suggest an admonishment being appropriate and proportionate were present in this case.
75. There was no evidence of any loss or adverse impact on a client or member of the public. Mr Pathan had made early admissions and as stated, he had shown insight into his failings which he had corrected as soon as possible. He had expressed regret for his failings and the Committee had found his conduct was not deliberate. Whilst the mistakes had been repeated, they stemmed from a mistaken belief regarding the need for an ACCA PC, taking account of the PC he held with AIA.
76. There had been no evidence to suggest that his work since the investigation commenced had been anything other than satisfactory.
77. The Committee had also taken into account, by way of mitigation, the length of time it had taken for ACCA to bring this matter to a hearing. It was as long ago

as 8 October 2019 that ACCA had written to Mr Pathan alleging that he had breached the GPRs. Whilst ACCA could not be criticised for the delay between May and December 2024 which was caused by Mr Pathan changing his legal representation, it still meant that more than five years had elapsed since ACCA had identified potential breaches which would justify disciplinary proceedings.

78. Even taking all these matters into account, the Committee still took a step back and considered whether an admonishment would properly reflect the seriousness of its findings. Having done so, the Committee remained satisfied that an admonishment was a suitable, appropriate and proportionate sanction and this was the order it imposed.
79. Mr Grey had anticipated that the Committee may have in mind the imposition of a fine as well as a non-financial sanction. However, taking account of all the circumstances, the Committee decided that a fine was neither necessary nor proportionate.

COSTS AND REASONS

80. The Committee had been provided with a Simple Cost Schedule (pages 1 and 2) and a Detailed Cost Schedule (pages 1 and 2). An addendum exhibit bundle had also been provided by Mr Grey on behalf of Mr Pathan (pages 1 to 42). It had taken account of the document entitled Guidance for Costs Orders 2023.
81. The Committee concluded that ACCA was entitled to be awarded costs against Mr Pathan in respect of those allegations that had been admitted. The amount of costs for which ACCA applied was £14,081.50.
82. The schedule of costs included the cost of a third day which would not now be necessary. Whilst the Committee would continue its deliberations and finalising its decision on the afternoon of the second day, it also meant that the involvement of the Case Presenter and Hearings Officer on the afternoon of the second day was no longer required. Taking both those matters into account, this led to the claim for costs being reduced to £10,486.50.

83. The Committee had also concluded that the delay in bringing this matter to a full hearing would have inevitably led to an increase in costs. The Committee considered it was reasonable to take that into account when exercising its discretion.
84. Mr Pathan had provided the Committee with details of his means. The figures provided in the schedule suggested that Mr Pathan was in receipt of an income and some assets, but the Committee also heard of his financial commitment to his wider family.
85. Mr Grey had made lengthy submissions regarding the failure on the part of ACCA in considering whether this case could have been resolved by consent without the need for a hearing. However, the Committee was not persuaded that this was a valid submission as it called for a level of speculation on the part of the Committee which was inappropriate.
86. Taking all the circumstances into account, and in exercising its discretion, the Committee determined that it was fair and proportionate to order Mr Pathan to pay £8,500 towards ACCA's costs.

EFFECTIVE DATE OF ORDER

87. This order will take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

Mr Martin Winter
Chair
17 December 2024