



HEARING

**ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Mr Cornelius Breen

Heard on: Thursday, 20 June 2024

Location: Remotely via MS Teams

Committee: Ms Valerie Paterson (Chairman)
Mr Ryan Moore (Accountant)
Mr Geoff Baines (Lay)

Legal Adviser: Mr Alastair McFarlane

**Persons present
and capacity:** Mr Matthew Kerruish-Jones (ACCA Case Presenter)
Ms Sofia Tumburi (Hearings Officer)
Ms Lauren Clayton (Observer)

Outcome:

1. The Committee had before it a main bundle numbered pages 1-45, an additional bundle numbered pages 1-7, and a service bundle numbered pages 1-14.

2. ACCA was represented by Mr Kerruish-Jones. Mr Breen did not attend and was not represented.

SERVICE/PROCEEDING IN ABSENCE

3. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mr Breen on 23 May 2024 to his registered e-mail address with adequate notice in accordance with the Regulations.
4. The Committee then considered whether Mr Breen's application should continue in the absence of Mr Breen.
5. The Committee accepted the advice of the Legal Adviser.
6. The Committee noted that following the service of the Notice of Hearing on 23 May 2024, Mr Breen stated in an email of the same date to the Hearings Officer as follows:

"I do not wish to attend any hearing on my application.

I have provided Vivienne with a reference from my previous work, which was also uploaded with my original application. A decision needs to be made based on my original application alone. I am probably 0.01% of applicants who have disclosed an unwanted conviction as part of my application but feel that I am being discriminated against.

I have lost way too much time with this process and my plans to complete exams have been eroded. I have had to look at other opportunities available to me as I wasn't going to just sit back and wait"

7. The Committee also noted that in a further email dated 24 May 2024, the Hearings Officer advised Mr Breen of his right to apply for an adjournment if he could not attend going to matters "out of [his] control" and of his opportunity to provide written evidence or submissions to the Committee. Mr Breen responded in an email dated 26 May 2024 when he stated:

"I not understand this. My trial was deception on behalf of somebody else, it was provoked, it was lies and deception and should have never happened. The trial is over, the [PRIVATE].

What you are doing here is secondary punishment and you are denying an applicant admission as a student by discriminating.

I do not understand what the actual problem is and I will not be paying anything further than the application fee that I have already paid.

I may have to consider seeking legal advise on this matter.

I willn't be attending any hearing" (sic).

8. The Committee was satisfied that it was appropriate and just to proceed with Mr Breen's application in his absence. It was satisfied that he had clearly waived his right to attend. He has not requested an adjournment. He was advised of the importance of attending and has chosen not to. Therefore, the Committee exercised its power to proceed in the absence of Mr Breen.

BACKGROUND

9. ACCA has received an application by Mr Cornelius Breen ('Mr Breen') to be admitted to ACCA student membership following a disclosure of a criminal conviction. ACCA opposes the application.
10. Under Regulation 7 of the Membership Regulations an individual shall be eligible to be registered as an ACCA student if the individual satisfies the Admissions and Licensing Committee as to the individual's "general character and suitability". Under Regulation 9(1)(a) of the Membership Regulations it is for the applicant to satisfy the Committee that he is eligible in accordance with these regulations to become a registered student.
11. On 28 May 2019, in [PRIVATE], Mr Breen was found guilty of [PRIVATE].
12. Subsequently, on 17 July 2019, Mr Breen received a [PRIVATE].

13. In January 2024, Mr Breen submitted an application to join ACCA's student register.

14. When ACCA asked Mr Breen to detail the underlying facts and surrounding circumstances which led to the disclosed conviction, he stated:

'...It involved a retired member of the Gardai as complainant [sic]. I was the defendant in the case and received all the blame. [PRIVATE]. There was a search warrant involved with the case. The outcome was never appealed as I didn't want further hassle.'

15. Mr Breen confirmed that he pleaded not guilty to the offences and expressed his attitude toward the conviction at the time and now, stating:

[PRIVATE].

16. When asked why he should be admitted as an ACCA student, Mr Breen stated:

'I should be admitted because I am actually a person of very good character contrary to a once off [sic] matter that lead [sic] to a court conviction. There was an element of intending to reduce my previous excellent character by the complainant in the case. It was a very unusual case. Being admitted as a registered student will allow me to study for and complete the remainder of the ACCA exams. The qualification will assist me in having international career also'

17. [PRIVATE]. Previously, from May 2015 to March 2023, Mr Breen was employed by Company A as a 'Fund Accountant/Senior Fund Accountant.' He notes the nature of business as 'Hedge Fund Services'.

18. On 28 February 2024, ACCA wrote to Mr Breen requesting additional information in support of his application. Mr Breen was asked to provide references and evidence confirming that any costs/fines/penalties associated with his conviction have been settled.

19. On the same date, Mr Breen responded to ACCA's request stating:

'...Unfortunately, I cannot provide professional references as required. Nobody knows about my conviction apart from my former employer and I do not wish to disclose it any further. [PRIVATE]

[PRIVATE] I asked them to contact the state solicitor if necessary to obtain proof but unfortunately they never replied...'

20. Further in his responses to ACCA's request, Mr Breen stated:

'... I unfortunately cannot provide any reference or confirmation [PRIVATE]

You will have to base your decision on my application and if you wish to exclude me from becoming a student member of ACCA then please just let me know. I really shouldn't have to provide character references where I have to disclose a distasteful event, it really is an insult to my intelligence and excellent character. [PRIVATE]

21. On 08 May 2024, ACCA wrote to Mr Breen again requesting professional and personal character references to support ACCA's assessment of his character and suitability to be admitted to ACCA's student register in accordance with Membership Regulation 9.
22. Mr Breen was advised that in the absence of the information, ACCA would be opposing his application for admission and would subsequently refer his application to the Admissions and Licensing Committee for consideration.
23. Mr Breen informed ACCA that he previously submitted an employment reference from his former employer Company A. A copy of this was provided to ACCA on 09 May 2024. This is a standard reference confirming Mr Breen's employment.

ACCA'S SUBMISSIONS

24. Mr Breen was convicted of [PRIVATE] in July 2019 by a jury at [PRIVATE] and [PRIVATE]. Although the offending behaviour [PRIVATE] it has been 4 years since the conviction was received. ACCA submitted that Mr Breen has provided little information, reflection and/or insight into the events surrounding his

conviction. Similarly, he has offered little commentary or explanation on how he would avoid committing a similar offence in the future.

25. ACCA submitted that Mr Breen appears to dispute the conviction but confirms that the outcome was never appealed. Despite his assertions regarding [PRIVATE] and the '*complainant himself [now being] under investigation,*' no information to substantiate these allegations has been provided. Mr Breen maintains that he is of '*very good character,*' but has declined to provide ACCA with sufficient references, professional or otherwise, to support his this. In the absence of this information, ACCA are unable to make a determination on Mr Breen's suitability or character for admission.
26. Therefore, it is ACCA's position that Mr Breen has not demonstrated that he has been sufficiently rehabilitated to no longer be considered a risk to the public and uphold the integrity of the accounting profession if he was to become an ACCA student. The burden is on Mr Breen to establish he meets the eligibility requirements for membership in accordance with regulation 9 of the Membership Regulations, which requires an individual to "[satisfy]...the Admissions and Licensing Committee as to his general character and suitability".
27. ACCA contended that Mr Breen has not discharged the burden on him to meet the eligibility requirements. Therefore, ACCA opposes the application for Mr Breen's admission to ACCA student membership.

MR BREEN'S SUBMISSIONS

28. The Committee considered Mr Breen's handwritten application for membership in the papers as well as his e-mails to ACCA, summarised above. It noted that he indicated that this was a "once off" (sic) matter and that he is of "very good character". It had regard to the one employment reference from a former employer.

DECISION ON FACTS

29. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of establishing that Mr Breen meets the eligibility

requirements for student membership is on Mr Breen. It had regard to ACCA's "Guidance to the Admissions and Licensing Committee".

30. The Committee was not satisfied that Mr Breen discharged the burden upon him to meet those eligibility requirements and in particular, that he had shown that he had the "general character and suitability" to be admitted as a student member of ACCA. Its reasons are as follows:
31. Mr Breen's conviction for [PRIVATE] which is undoubtedly [PRIVATE]. The conviction related [PRIVATE] and could not in the Committee's judgment be described as "one off". It was [PRIVATE]. The Committee did acknowledge the most recent conduct relating to the conviction was nine years ago and that the sentence was passed some 4 years ago and that he brought the matter to ACCA's attention. Nonetheless, it appears to the Committee that Mr Breen appears to dispute the conviction. The certificate of conviction is conclusive proof of it and Mr Breen did not appeal the conviction. His apparent lack of acknowledgement of responsibility for it undermines any potential for rehabilitation. He has not demonstrated any insight into the seriousness of the conviction or into the impact of such a conviction on public confidence in the integrity of the profession. The Committee was unable to agree in those circumstances with Mr Breen's own assessment of his character as "excellent". The employment reference was purely an administrative one and did not provide the Committee with evidence of his character and suitability for student membership. There is no evidence of any apology or regret for the conduct before the Committee. Further, the Committee considered it significant that as this was Mr Breen's application, and despite being reminded of the importance of attending to support that application, he has chosen not to do so. This has significantly limited the information before the Committee. There was a dearth of relevant information that it would expect to see from an applicant to establish his general character and suitability for membership. The employment reference was purely an administrative one and did not provide the Committee with evidence of his character and suitability for student membership. His job title on the reference was "Fund Administrator" which is significantly different from the one of "Senior Fund Accountant" Mr Breen placed on his application. The Committee considered it highly significant there was no appropriate professional and personal character references, who are aware of the conviction, to support

its assessment of his character and suitability. This was because Mr Breen had chosen not to inform people of his conviction. Again, this indicates a lack of insight and understanding into the significance of the conviction in relation to an application for membership of this professional body.

32. For these reasons Mr Breen's application for student membership is dismissed.

Ms Valerie Paterson
Chair
20 June 2024