

## HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF  
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

**In the matter of:** Mr Myron Lipson

**Heard on:** Tuesday, 12 November 2024

**Location:** Held remotely via Microsoft Teams

**Committee:** Ms Valerie Paterson (Chair)  
Mr Abdul Samad (Accountant)  
Mr Nigel Pilkington (Lay)

**Legal Adviser:** Mr Andrew Granville Stafford

**Persons present  
and capacity:** Mr Myron Lipson (Member)  
Mr Tim Grey (Counsel for Mr Lipson)  
Mr Matthew Kerruish-Jones (ACCA Case Presenter)  
Miss Sofia Tumburi (Hearings Officer)

**Observers:** None

**Outcome:** Allegations 1.1, 1.2, 2 and 3.1 proved  
Reprimand  
Costs of £6,970

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## **INTRODUCTION AND PRELIMINARY MATTERS**

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Myron Lipson.
2. The Committee had before it a Report and Bundle (148 pages), a Supplementary Bundle (18 pages), the decision of Chair dated 09 July 2024 granting Mr Lipson's application for an adjournment of the hearing originally listed for 31 July 2024 (6 pages), a Tabled Additional Bundles (53 pages) and a Service Bundle (23 pages).
3. Mr Grey applied for part of the hearing to be held in private and, having heard legal advice, the Committee agreed on the basis of Mr Lipson's right to privacy outweighed the public interest in hearing those parts of the case.

## **ALLEGATIONS**

4. The allegations faced by Mr Lipson were as follows.
  1. Mr Myron Lipson, a Fellow member of the Association of Chartered Certified Accountants,
    - 1.1 Failed to record a capital gain of £1,259,906 in the tax return of a client (described by HMRC as Mr B) for year ended 05 April 2021.
    - 1.2 Signed letters to HM Revenue & Customs on 28 October 2022 and/or on 17 November 2022, on letter-headed paper of his firm, which included reference to him being a director when he was not a director at that time.
  2. Mr Lipson's conduct in respect of the matters described in Allegation 1 above was contrary to the fundamental principle of professional competence and due care (2022).
  3. By reason of his conduct, Mr Lipson is:
    - 3.1 Guilty of misconduct pursuant to bye-law 8(a)(i); or

3.2 Liable to disciplinary action pursuant to bye-law 8(a)(iii).

### **ACCA'S CASE**

5. Mr Lipson was admitted as a member of ACCA in March 2002 and became a fellow in March 2007. He is the sole shareholder of Company B, a firm of accountants, and is the holder of an ACCA practising certificate.
6. The allegations in this case arise following a complaint made by HMRC in respect of Mr Lipson on 09 February 2023. The background to the complaint is as follows.
7. Company B ('the Firm') were at the relevant times tax agents for Company A and its director 'Mr B'. Mr B was sole shareholder of Company A.
8. Company A went into Members Voluntary Liquidation ('MVL') with effect from 27 October 2020. The liquidators filed an Annual Progress Report at Companies House on 12 November 2021. This stated that a distribution was made to Mr B on 26 November 2020, as shareholder of the company, in the sum of £1,259,906.
9. The Firm prepared Mr B's tax return for the year ended 05 April 2021. This was filed with HMRC on 31 January 2022. ACCA's case was that Mr Lipson wrongly failed to include the distribution of £1,259,906 in that return. The effect was that tax due from Mr B was under-declared by £149,251.
10. Mr Lipson has subsequently told ACCA that the liquidators' report was not reviewed by him at the time of preparing and submitting Mr B's tax return in January 2022.
11. In September 2022, HMRC opened a compliance check into Mr B's self-assessment for the relevant year. HMRC was concerned that a capital gain, namely that realised in respect of the distribution made following the MVL, should have been included in Mr B's 2020/21 tax return.

12. On 28 October 2022, Mr Lipson wrote to HMRC. He said that he had not previously dealt with a solvent company liquidation and was not aware of the point at which he was required to declare the capital distribution. He had made the assumption that it should be declared at the time the liquidation was completed. He now accepted, having checked the point with his tax advice line, that this was not correct. The tax point should have been at the time of the liquidation. He said:

*'Please note that the omission is totally my fault, as I was unaware of the reporting requirement, and ... relied on my firm to provide him with the best advice, which in this case, was incorrect...'*

13. Mr Lipson included with his letter a capital gain computation, showing tax due from Mr B in the sum of £149,521 in respect of the distribution made on the winding up of Company A.
14. On 01 November 2022, HMRC wrote to Mr Lipson advising that, due to the inaccuracy of the tax return, a penalty may be due from Mr B. HMRC sought clarification as to whether Mr B was aware of Mr Lipson's uncertainty in respect of the tax treatment of the distribution, and why Mr Lipson had not sought advice. A copy of this letter was sent to Mr B.
15. On 17 November 2022, Mr Lipson wrote to HMRC confirming that it was he himself who had recommended that Mr B should liquidate the company voluntarily on cessation as it 'would be more tax efficient.' Mr Lipson admitted that he failed to seek any advice from the tax advice line despite this being the first time he had dealt with a voluntary liquidation 'in a positive position'. He accepted he had made assumptions as to the correct tax treatment, which proved incorrect.
16. On 15 December 2022, HMRC sent Mr B a closure notice. Mr B's return was amended to include the gain from the distribution, which resulted in additional tax due of £149,521. In addition, he was required to pay interest.
17. HMRC did not charge an additional inaccuracy penalty on the basis that the omission of the capital distribution from the 2020/21 tax return was because of

Mr Lipson's lack of understanding of the issue and his failure to seek the proper advice and guidance.

18. ACCA's case was that, in failing to include the distribution on Mr B's tax return, Mr Lipson had failed to act in accordance with the fundamental principle of professional competence and due care. This requires ACCA members to act diligently and in accordance with applicable technical and professional standards. It explains that diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully and thoroughly.
19. The letters which Mr Lipson sent to HMRC on 28 October and 17 November 2022, referred to above, were written on the Firm's letterhead and signed by Mr Lipson. Below his signature the words 'DIRECTOR: M LIPSON FCCA' were printed on the letter footer.
20. However, Mr Lipson was not a director of the Firm at the time. He had been appointed a director in August 2004, at the time the Firm was incorporated, but had resigned his directorship on 26 August 2020.
21. He was subsequently re-appointed as a director of the Firm on 05 April 2023, but the letters were written in between these two periods, when he was not an office holder of the company.
22. Mr Lipson has told ACCA that he resigned as a director in 2020 as a result of going bankrupt. His wife, whose initial is also 'M', had taken over as director. Therefore, it was correct to give the director's name as 'M LIPSON' although it was wrong to include FCCA, as his wife is not a qualified accountant. This was, he said, an oversight, and was not done with the intention of misleading anyone.
23. Given the placement of the relevant wording, namely below where he signed the letters, ACCA submitted that Mr Lipson was not diligent and thereby breached the fundamental principle of professional competence and due care.
24. ACCA further submitted that these breaches, collectively or individually, amounted to misconduct.

## **MEMBER'S CASE**

25. At the outset of the hearing, Mr Lipson, through his advocate, admitted Allegations 1 and 2 in their entirety.
26. Mr Lipson provided the Committee with a witness statement dated 01 November 2024. Mr Lipson told the Committee that he started work as a trainee in 1999 and incorporated his own firm in 2004.
27. In respect of Allegation 1.1, Mr Lipson accepted that he had acted beyond the scope of his experience. He accepted that he should have checked more clearly how to deal with a capital gain for a solvent company liquidation. This was not something that he had dealt with frequently and he was aware he did not know what the answer was. He said that he had sought advice from a colleague, who is also a qualified accountant, and from two ACCA students who worked for him. However, on reflection, he accepted that there were further steps which he could have taken to get a more definitive answer, and which could have avoided this situation from happening.
28. Mr Lipson said in his statement that, on becoming aware of his mistake, Mr B paid the outstanding tax in the sum of £149,521. His firm paid the interest on the delayed tax in the sum of £6,415, meaning that there was no financial loss to the client.
29. In relation to Allegation 1.2, Mr Lipson said that, at the time he sent the letters in question, he was [PRIVATE]. He accepted that he did not give the documentation the correct level of concentration that was required. He maintained that he never intended to give the impression that he was the director of the company and said that it was an oversight on his behalf.
30. Mr Lipson referred in his witness statement to [PRIVATE].
31. Mr Lipson concluded his statement by apologising for the mistakes he had made. He provided the Committee with a number of character references, principally from clients, which spoke highly of his personal and professional attributes, and also a copy of his training record.
32. In his submissions to the Committee, Mr Grey pointed out, with reference to *Nandi v GMC* and *Spencer v GOSc*, that to amount to misconduct, the conduct

in question must be regarded as deplorable by fellow members of the profession and should be such as to attract moral opprobrium. He drew the Committee's attention to *Calhaem v GMC* and the principle that, for a single negligent act to amount to misconduct, it must be particularly grave.

## **DECISIONS ON ALLEGATIONS**

33. Pursuant to regulation 12(3) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations ('CDR'), the Committee found Allegations 1 and 2 proved by admission. Though Mr Lipson had admitted misconduct in his Case Management Form, it remained a matter for the Committee to determine whether Allegation 3.1, which alleged liability to disciplinary action on the grounds of misconduct, had been proved.
34. The Committee considered the documents before it, the submissions of both advocates, and the advice of the Legal Adviser which, it accepted. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.
35. The Committee was satisfied that the conduct in Allegations 1.1 and 1.2 amounted to misconduct.
36. It considered that Mr Lipson's failure to record the capital gain in Mr B's 2020/21 tax return was a serious falling short of the standards required of a professional accountant. Whilst the Committee noted that it was not alleged that this was done deliberately in order to mislead HMRC, it nonetheless considered Mr Lipson's decision to file the return without making any proper attempt to establish the tax position was, particularly in light of the sum involved, very poor practice.
37. The Committee also took into account that, though less serious, the admitted allegations included sending out two letters with objectively misleading references on them to being a director of the company.
38. The Committee was satisfied that these failings constituted conduct so far below the standards expected of a professional accountant as to justify a finding of professional misconduct.

39. Accordingly, the Committee found Allegation 3.1 proved. As Allegation 3.2 was in the alternative, there was no need for the Committee to consider it.

### **SANCTION AND REASONS**

40. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. It heard evidence in mitigation from Mr Lipson. It took into account the submissions of the parties and the advice of the Legal Adviser.
41. The Committee was informed that there was one previous disciplinary finding recorded against Mr Lipson, which was dealt with by a consent order on 27 January 2023. Mr Lipson had admitted three allegations of misconduct. Mr Lipson was severely reprimanded and ordered to pay costs.
42. The Committee considered the following to be mitigating factors. The misconduct did not result in any actual harm to the client, given that the Firm had paid the penalty interest. Mr Lipson had admitted the allegations and had, in the Committee's view, demonstrated insight and genuine remorse. He had co-operated with the investigation. It took into account his personal mitigation in relation to [PRIVATE]. He had taken remedial steps, both in terms of [PRIVATE] and engaging the services of a helpline to assist with any future tax queries. He had also done, the Committee noted, some targeted CPD.
43. The Committee considered the only aggravating factors to be the previous disciplinary finding in 2023. However, that was a significant matter in light of the seriousness of the allegations that were dealt with on that occasion. Although the Committee noted that the allegations in this case pre-dated the making of the consent order, nonetheless Mr Lipson has been disciplined on one occasion by his regulator in relation to findings of misconduct.
44. In light of the fact that Mr Lipson's actions in this case amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.



45. The Committee had regard to the guidance in section C2 of the GDS in relation to admonishment. Although the Committee considered that most of the factors listed were present in this case, it had to have regard to proportionality and the seriousness of the conduct in question. It did not consider that an admonishment was a sufficient sanction, particularly in light of the previous disciplinary finding.
46. The Committee considered a reprimand to be a more appropriate sanction. In reaching that view, it accepted that the misconduct in this case was not deliberate, that it had occurred over a relatively short period and that there has been little by way of adverse consequences. Based in particular on the seriousness of the conduct in question, and in light of the previous disciplinary history, it was satisfied that a reprimand was the proportionate sanction in this case.
47. The Committee considered that the more serious sanction of severe reprimand would be disproportionate in light of the mitigating factors identified above.
48. Therefore, pursuant to CDR 13.1(b), Mr Lipson is reprimanded.

#### **COSTS AND REASONS**

49. ACCA applied for costs in the sum of £6,970. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. The Committee heard submissions from both parties and heard the legal advice.
50. The Committee considered that in principle, in light of the fact the allegations had been proved, a costs order should be made in favour of ACCA.
51. Mr Lipson did not seek any reduction in costs based on financial means. However, Mr Grey submitted that there should be some reduction to reflect the fact that evidence in relation to the previous consent order had been included in the Committee's bundles without consultation with Mr Lipson's solicitors. The Committee did not agree. It was satisfied that the costs sought were reasonable in light of the work necessary to bring this case to a conclusion.

52. The Committee ordered Mr Lipson to pay ACCA's costs in the sum of £6,970.

**EFFECTIVE DATE OF ORDER**

53. Pursuant to CDR 20, the order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Mr Lipson gives notice of appeal in accordance with the Appeal Regulations prior to that.

**Valerie Paterson**  
**Chair**  
**12 November 2024**