

HEARING

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

In the matter of: Mr Kwesi Asare Mireku and Mr Louis Koranteng Mireku

Heard on: Tuesday, 29 and Wednesday, 30 October 2024

Location: Virtual hearing using Microsoft Teams.

Committee: HH Suzan Matthews KC (Chair)
Mr Abdul Samad (Accountant)
Dr Louise Wallace (Lay)

Legal Adviser: Mr Charles Apthorp (Legal Adviser)

Persons present

and Capacity: Mr James Halliday (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)
Mr Kwesi Asare Mireku (Member)
Mr Louis Koranteng Mireku (Member), represented by Mr
Humphrey Omaboe

Summary: Mr Kwesi Mireku:
Allegations 1a, 1b, 2a, 2b and 3 not proved.

Mr Louis Mireku:
Allegations 1a, 1b, 2a, 2b, 4a not proved.
Allegations 3a, b, c and 4b proved.
Sanction: Reprimand.

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SERVICE OF PAPERS

1. Mr Kwesi Asare Mireku, ("Mr Kwesi Mireku") was present and unrepresented.
2. Mr Louis Koranteng Mireku, ("Mr Louis Mireku") was present and represented by Mr Omaboe.
3. The Committee was provided with the following bundles in the Mr Kwesi Mireku hearing: hearing bundle (1-81), case management (1-20), tabled additional bundle (1-8), a service bundle (1-18) and an admission note.
4. The Committee was provided with the following bundles in the Mr Louis Mireku hearing: hearing bundle (1-110), case management (1-20), tabled additional bundle (1-3), a service bundle (1-18) and an admission note.
5. At a Case Management Meeting held on 17 April 2024, the Chair, HH Suzan Matthews KC, on an application by ACCA directed that the hearing of the allegations brought against Mr Kwesi Mireku and Mr Louis Mireku be joined and heard together.
6. Mr Kwesi Mireku faced the following allegations:

ALLEGATIONS

- 1) Mr Kwesi Mireku, while he was an ACCA Affiliate, impersonated Louis Mireku in that he sat ACCA exams on his behalf on:
 - a) 03 December 2012, P7 Advanced Audit and Assurance (International); and
 - b) 04 June 2013, P4 Advanced Financial Management.
- 2) Mr Kwesi Mireku's conduct in respect of allegation 1(a) and/or 1(b above):

- a) Was dishonest, in that he impersonated Louis Mireku when he sat the exams on his behalf in order for him to gain an unfair advantage; or in the alternative
 - b) Demonstrates a failure to act with integrity
 - 3) By reason of his conduct in respect of allegations 1(a), 1 (b) and/or 2 above, Mr Kwesi Mireku is guilty of misconduct pursuant to bye-law 8(a)(i).
7. Mr Louis Mireku faced the following allegations:
- 1) Mr Louis Mireku, while he was an ACCA student, caused or permitted Mr Kwesi Mireku to impersonate him for the purpose of sitting exams:
 - a. On 03 December 2012, P7 Advanced Audit and Assurance (International); and
 - b. On 04 June 2013, P4 Advanced Financial Management.
 - 2) Mr Louis Mireku's conduct in respect of allegation 1:
 - a. Was dishonest, in that he caused or permitted Mr Kwesi Mireku to sit exams on his behalf in order for him to gain an unfair advantage; or in the alternative
 - b. Demonstrates a failure to act with integrity.
 - 3) Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Louis Mireku has failed to co-operate fully with the investigation of a complaint in that he failed to respond to any or all of ACCA's correspondence dated:
 - a. 14 July 2022
 - b. 01 August 2022

c. 09 August 2022

- 4) By reason of his conduct in respect of allegations 1 and/or 2 above, Mr Louis Mireku is:
- a. Guilty of misconduct pursuant to bye-law 8(a)(i) or
 - b. In respect of allegation 3 only, liable to disciplinary action, pursuant to bye-law 8(a)(iii).
8. Mr Omaboe on behalf of Mr Louis Mireku applied to cross examine Mr Kwesi Mireku. The Committee heard submissions from Mr Halliday and received legal advice. It determined, having taken into account Regulation 12(5) of the Disciplinary Regulations that there was no power to require Mr Kwesi Mireku to submit to cross examination and therefore rejected the application.

BRIEF BACKGROUND

9. ACCA received a self-referral from Mr Kwesi Mireku on 27 October 2021, where he admitted he impersonated Mr Louis Mireku and sat two exams in Mr Louis Kwesi's place. Mr Kwesi Mireku provided details of the exams he sat and the approximate dates. As it occurred nearly ten years ago, he could not provide any further information to support his self-referral.
10. ACCA investigated the self-referral and invited Mr Kwesi Mireku to explain how he impersonated Mr Louis Mireku in the two exams and his motivation. In response Mr Kwesi Mireku stated that the exams dockets did not have Mr Louis Mireku's picture, and he faked an ID with his picture with Mr Louis Mireku's name. He also added he did not remember if the examination invigilators demanded or inspected his identification documents during the period he sat the exams.
11. Mr Kwesi Mireku maintained that Mr Louis Mireku did not ask him to sit the exams for him and it was his personal decision to sit the exams. He stated that it was his decision and eventually Mr Louis Mireku agreed to his proposal.

12. ACCA Exam Operations was contacted, and three exam dockets of Mr Louis Mireku from that time period were recovered. The two relevant exam dockets are: the 03 December 2012 P7 Advanced Audit and Assurance [International] and 04 June 2013, P4 Advanced Financial Management.
13. ACCA Exam Operations explained the checking in process for paper ACCA exams in 2012 to 2013 worldwide was the candidate upon arrival shows their exam docket and their official identification. An invigilator has to make sure the picture on the official identification matches the candidate sitting the exam before they enter the exam hall. Approximately an hour into the exam, candidates' identification is checked again while dockets are being collected.
14. Mr Louis Mireku in his case management form denied the allegation he had allowed Mr Kwesi Mireku to impersonate him and that he had missed the emails from ACCA. He stated that he had problems with his email address and his failure to respond was not deliberate. He also denied that his failure to respond to ACCA's investigators was deliberate.

DECISION ON FACTS/ALLEGATION(S) AND REASONS: MR LOUIS MIREKU

15. The Committee determined it was appropriate to consider the evidence in relation to Mr Louis Mireku first before considering the admissions of Mr Kwesi Mireku. In reaching its findings of fact in respect of allegations 1 and 2, the Committee relied on the email correspondence and documents contained in ACCA's bundle. The Committee had taken account of the submissions of Mr Halliday, the oral evidence and cross examination of Mr Louis Mireku and submissions of Mr Omaboe. The Committee also listened to legal advice, which included advice on the burden and standard of proof, which it accepted.

Allegations 1a and 1b

16. The Committee finds Allegations 1a and 1b not proved.
17. The Committee had regard to the bundles filed and the oral evidence of Mr Louis

Mireku. It noted that the evidence in this matter related to examination taken in 2012 and 2013, the case was old and memories of events were likely to be affected by the passage of time. In reaching its decision the Committee noted that there was inadequate corroboration of what the Committee considered to be serious allegations of dishonesty. It also noted that Mr Louis Mireku had no previous regulatory or disciplinary findings made against him. It therefore attached significant weight to contemporaneous documentary evidence as was likely to be the most reliable evidence.

18. The Committee took account of the evidence provided by ACCA Exam Operations, the three examination docketts of Mr Louis Mireku:

Date	Examination	Photo/Signature	Result
11 June 2012	P7	Both	Fail
03 / 04 December 2012	P7	Both	Pass
	P4	Both	Fail
04 June 2013	P4	No Photo, only signature	Pass

19. It noted that Mr Louis Mireku had in oral evidence identified that the two photographs and two signatures on the two docketts dated 11 June 2012 (Photo attached) and 03 / 04 December 2012 (Photo attached) were of him. The Committee accepted this evidence and concluded that he had also sat the P7 examination on 11 June 2012, which he failed. The Committee in addition determined that the signature on the docket dated 03 December 2012 appeared to be the same as the one attached to the 11 June docket. It therefore found that there was good evidence that the same person had sat both examinations that he then passed, and that person was Mr Louis Mireku, despite the assertion of Mr Kwesi Mireku.
20. The consequence of this finding was that the Committee rejected the account of Mr Kwesi Mireku that he had sat the P7 examination on 03 December 2012 impersonating Mr Louis Mireku. The Committee therefore rejected Mr Kwesi Mireku's evidence that he sat the P4 examination for Mr Louis Mireku on 04 June 2013 as his account, given the finding it made in respect of the P7

examination was, in its view, unreliable.

Allegation 2

21. Given the finding on allegation 1a and 1b the Committee found Allegation 2 not proved.

Allegation 3a, 3b and 3c

22. The Committee noted the correspondence sent to Mr Louis Mireku on 14 July 2022, 01 August 2022 and 09 August 2022 and the obligation of an ACCA student or member to cooperate with an investigation. It was satisfied that Mr Mireku had received and opened two of the emails sent by ACCA and as a result was aware of the allegations. It was satisfied that Mr Mireku had not responded to the emails and therefore found Allegation 3a, 3b and 3c proved.

MISCONDUCT AND LIABILITY TO DISCIPLINARY ACTION

23. The Committee considered Allegation 3a, 3b and 3c and whether there was a breach of bye-law 8(a)(i). The Committee had regard to the obligation of a member of ACCA to co-operate promptly with any investigating officer and a failure to partially or fully to co-operate shall constitute a breach of the Complaints and Disciplinary Regulations. It noted that the email address of Mr Louis Mireku had remained the same and it concluded he had access to the email address at the relevant times. It was in the Committee's view a clear breach of his obligations and found he was liable to disciplinary action by reason of his breach of the regulations.

DECISION ON FACTS/ALLEGATION(S) AND REASONS: MR KWESI MIREKU

24. In reaching its findings of fact in respect of allegations 1 and 2, the Committee relied on the email correspondence and documents contained in ACCA's bundle. The Committee had taken account of the submissions of Mr Halliday and the admissions made by Mr Kwesi Mireku. The Committee also listened to

legal advice, which it accepted.

Allegation 1a and 1b

25. The Committee find allegations 1a and 1b not proved.
26. The Committee were very concerned as to the quality and lack of supporting evidence in several areas and the conflict with the evidence of Mr Louis Mireku. In addition, the evidence of the examination dockets, which in the Committee's view was the most reliable evidence, did not support Mr Kwesi Mireku's admissions. The Committee determined that Mr Kwesi Mireku's admissions were unreliable as he could not, in its view, have sat the P7 examination on 03 December 2012.
27. The Committee therefore rejected his account that he sat the examinations on 03 December 2012 and 04 June 2013 for Mr Louis Mireku.

SANCTION AND REASONS: MR LOUIS MIREKU

28. Mr Halliday made submissions on the appropriate and proportionate sanction. The Committee received advice from the Legal Adviser and in determining the appropriate and proportionate sanction considered the least restrictive sanctions first before moving onto the more serious ones.
29. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2024). It first sought to determine the seriousness of the conduct and then identify aggravating and mitigating factors.
30. The Committee considered that the conduct was serious but not at the higher end of the range of conduct. It noted that this was breach of a bye-law and not a finding of misconduct.
31. Mr Louis Mireku had no previous disciplinary findings against him. That was a mitigating factor given he had practised as an accountant without complaint

since 2013. It also took account of it being an isolated incident, his apology during the joinder hearing in April 2024 and his oral evidence in this hearing, and his previous good character. In the Committee's view there was some limited mitigation.

32. The Committee next considered whether there were any aggravating factors and concluded that there were none beyond there had been a failure to cooperate with the investigation.
33. The Committee considered that it would be wholly insufficient to take no further action or impose an admonishment. Neither of those sanctions would reflect the seriousness of the conduct in failing to cooperate with an investigation. It noted that there was no evidence of insight or an understanding of the seriousness of the conduct or on the impact of the conduct on the reputation of the profession.
34. The Committee considered that a reprimand was sufficient to mark the conduct. The Committee concluded he was aware of the investigation and only cooperated shortly before the joinder application. It considered it was a proportionate sanction to the potential harm caused by the failure to cooperate with the investigation.

COSTS AND REASONS: MR LOUIS MIREKU

35. Mr Halliday applied for costs totalling £10,915. He acknowledged that this was based on an estimated hearing time of two full days whereas the actual time was less. He invited the Committee to make an appropriate reduction.
36. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. The Committee also recognised that it needed to consider the principle that the majority of those paying ACCA's fees should not be required to subsidise the minority who, through their own misconduct, have found themselves subject to disciplinary proceedings. The Committee also noted that the most serious allegations brought against Mr Louis Mireku had not been found proved.

37. The Committee considered that the time spent on the limited aspect of the case found proved. It determined that the sums claimed in respect of the correspondence which was not responded to were reasonable. The Committee concluded that the reasonable costs incurred in respect of the allegations found proved were £261.00.
38. There was information before the Committee about Mr Louis Mireku's financial means. The Committee determined that there was a proper basis, taking into account his means, to depart from the standard position that the reasonable costs of the ACCA should be paid by the member. The Committee directed that Mr Louis Mireku pay £60.00 towards ACCA's costs.

COSTS AND REASONS: MR KWESI MIREKU

39. ACCA did not apply for costs against Mr Kwesi Mireku in light of the decision to dismiss the allegations brought against him. Mr Kwesi Mireku was asked if he wished to make any application for costs against the ACCA but declined to do so.

IMMEDIATE ORDER

40. The Committee considered whether it was necessary to impose an immediate order, but concluded there was no identified risk to the public and determined it was not necessary to impose an immediate order.

ORDER

41. The Committee ordered as follows:
- (a) Mr Louis Mireku shall be reprimanded.
 - (b) Mr Louis Mireku shall make a contribution to ACCA's costs of £60.00.

HH Suzan Matthews KC
Chair
30 October 2024