

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Colin Stewart Watson

Heard on: Thursday, 19 September 2024

Location: Remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Mr Trevor Faulkner (Accountant)
Mrs Diane Meikle (Lay)

Legal Adviser: Ms Chloe Hudson

**Persons present
and capacity:** Mr James Halliday (Case Presenter on behalf of ACCA)
Miss Nicole Boateng (Hearings Officer)
Mr Colin Stewart Watson (Student)

Summary Admonishment

Costs: £1,000

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Colin Stewart Watson. ACCA was represented by Mr Halliday. Mr Watson attended throughout the hearing but was not represented. The Committee had before it a main Bundle of papers, numbered pages 1-236, an Additional Bundle, numbered pages 1-43, a Tabled Additional Bundle numbered pages 1-3 and a Service Bundle numbered pages 1-22.

2. The Committee had confirmed it was not aware of any conflicts of interest in relation to the case.

APPLICATION TO WITHDRAW ALLEGATIONS

3. At the start of the hearing Mr Halliday on behalf of ACCA applied to withdraw Allegation 2 and 3 under CDR 9(6)(a). Mr Watson supplied ACCA with information that indicated he had been complying with the money laundering regulations of 2007/2017. Mr Halliday submitted that ACCA accepted that Mr Watson had not failed to cooperate and emails sent by ACCA had gone to his junk folder. He had fully cooperated with the investigation since that time. Mr Watson did not oppose ACCA's application.
4. The Legal Adviser referred the Committee to Regulation 9 of the CDR which states at Regulation 6(b) that the application may not be granted unless there is no real prospect of a reasonable tribunal finding the allegation proved or it is no longer in the public interest for the case to be heard by a Disciplinary Committee.
5. The Committee accepted the advice of the Legal Adviser and decided that there was no reasonable prospect of either Allegation 2 or 3 being found proved and so they were withdrawn.

BACKGROUND

6. Mr Watson became a registered student of ACCA on 30 October 1982. He was referred for investigation following an email exchange between ACCA's customer service team 'Connect' and Metro Bank who were seeking verification of Mr Watson's membership status from Connect.
7. ACCA discovered as a result of the exchange that the student appeared to be holding himself out as available to carry out public practice.
8. The exchanges between Metro Bank and Mr Watson were provided to ACCA by Metro Bank. Metro Bank asked Mr Watson to confirm whether he was *'registered with any of the accountancy bodies such as the ACCA...'* and later

explained that this was *'because [as an ACCA member] you would have complete an (sic) Anti-Money Laundering, which in turn helps the bank feel more secure'*.

9. In response Mr Watson provided his student number and a 'Supervisor Membership No' and a letter to Metro Bank on letterhead paper which stated that *'We can confirm we act as accountants....'*
10. Mr Watson's email signature showed a firm name for 'C S Watson & Co/Accountants'.

ALLEGATION(S)/BRIEF BACKGROUND

1. Mr Colin Stewart Watson, a student of the Association of Chartered Certified Accountants ('ACCA'):
On dates between 22 July 2003 and 21 January 2021:
 - (a) Has been, or has held himself out to be, in public practice, contrary to Membership Regulation 8(2)(a)(ii).
 - (b) Has been a Director of C S Watson & Co Ltd where public practice was carried on in the name of that firm, contrary to Membership Regulation 8(2)(a)(iii).
 - (c) Has held rights in C S Watson & Co Ltd (namely majority shareholder) where public practice was carried on in the name of that firm which in effect put him in the position of a principal of the firm, contrary to Membership Regulation 8(2)(a)(iv).
2. Between June 2017 and 21 January 2021, Mr Watson failed to comply with the anti-money laundering regulations of 2007/2017, contrary to Regulation 8(2)(j) of the Membership Regulations (as amended).
3. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended) failed to cooperate with an investigation into a complaint in that he failed to respond to any or all of ACCA's correspondence dated:

- a) 16 March 2021
- b) 31 March 2021 and/or
- c) 26 April 2021.

4. By reason of his conduct Mr Colin Stewart Watson is:

- a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at allegations 1-3 above or in the alternative;
- b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of the matters set out at allegations 1 to 3 above.

ACCA'S SUBMISSIONS

- 11. ACCA submitted that the remaining allegations are capable of proof by the documentary evidence in the bundle.
- 12. ACCA submitted that Mr Watson had been holding himself out to be in public practice on his website, headed notepaper, email signature and within the Companies House directory, amongst other evidence.
- 13. The evidence from Companies House described Mr Watson as a Director and that he was the principal of the firm C S Watson & Co Ltd.
- 14. ACCA contended that the conduct reached the threshold for misconduct or in the alternative rendered him liable to disciplinary action. The reason the conduct reached the threshold for misconduct was that the Regulations had been breached over a significant period of time when he had been holding himself out to be a fully qualified accountant.

MR WATSON'S SUBMISSIONS

- 15. Mr Watson told the Committee that he had retained his student status by renewing his subscription with the intention of resuming his studies. He told the Committee he was not aware of the Regulations at the time but accepted that he should have been. Although he accepted that he had been acting in public

practice and was a Director of C S Watson & Co Ltd and was a principal of the firm, as a result of this investigation, he has accepted the responsibilities of being a registered student. He emphasised that he had never claimed to be a full member of ACCA, he had provided a student membership number to Metro Bank when they had asked and gave the Committee reasons why he had retained student membership. He accepted that he had made a mistake for which he received no financial gain.

16. Mr Watson apologised to the Committee for his oversight and emphasised that he had asked to be removed from student membership of ACCA when this matter had been brought to his attention two years ago. He also told the Committee that as soon as he became aware of the investigation he fully engaged and cooperated.

DECISION ON FACTS AND REASONS

17. The Committee considered all the evidence presented and the submissions made by Mr Halliday and Mr Watson. The Committee accepted the advice of the Legal Adviser that the burden of proving the allegations rested with the ACCA and that the standard of proof was the balance of probabilities.
18. The Committee heard that there had been no previous disciplinary findings against Mr Watson.
19. The Committee carefully considered all the documentary evidence it had received, including Mr Watson's responses as well as the submissions made on behalf of both parties.

Allegation 1 (a) - Proved

20. This allegation was found proved.

Allegation 1 (b) - Proved

21. This allegation was found proved.

Allegation 1 (c) – Proved

22. This allegation was found proved.

23. The Committee considered the documentary evidence submitted by the ACCA and the evidence of Mr Watson in which he accepted he had held himself out to be in public practice, was a Director of C S Watson & Co Ltd and was a majority shareholder in the position of principal in that firm. The Committee found the allegations proved.

Allegation 4 – Not Proved in respect of allegation 4a, Proved in respect of allegation 4b

By reason of his conduct Mr Colin Stewart Watson is:

- a) **Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at allegations 1-3 above or in the alternative;**

 - b) **Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of the matters set out at allegations 1 to 3 above.**
24. The Committee next asked itself whether the proven conduct amounted to misconduct bearing in mind ACCA Bye-law 8(a)(c) which details what misconduct may include and the guidance provided by the courts in *Roylance v General Medical Council (No. 2) [2000] 1 AC 3* and *Nandi v GMC [2004] EWHC 2317 (Admin)*. It is a matter for the Committee's professional judgment if the misconduct is serious.

 25. The Committee took into account Mr Watson's explanation and acknowledged that he had been unaware of the Regulations and that he had not made any financial gain from his conduct. ACCA have not suggested he ever benefitted financially from his conduct. Mr Watson had never sought to publicise his connections to ACCA. He became a student in 1982 and while he paid his annual fee he was not required to provide an annual confirmation of adherence

to the Regulations. In all the circumstances the Committee found that the threshold for misconduct was not reached.

26. In considering whether Mr Watson was liable to disciplinary action in respect of the proven conduct at Allegation 1, the Committee found that he was, by virtue of him being in breach of the Regulations by which he was bound as a student member.

SANCTION AND REASONS

27. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Halliday and Mr Watson. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanctions effective from February 2024 and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.
28. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour.
29. The Committee identified the following mitigating factors:
- Mr Watson took corrective steps once he became aware of the investigation, fully engaging with ACCA.
 - Mr Watson was not aware that the Regulations applied to him, although he now accepted he should have been cognisant of them.
 - There had been no financial gain to Mr Watson from his conduct.
 - He had played a full part in the hearing, thereby assisting the process.
 - He had apologised for his conduct and showed significant remorse.
 - There have been no previous disciplinary findings against him.

The Committee considered all these factors amounted to mitigation.

30. The Committee identified the following aggravating factors:
- The lengthy period of time over which the breaches of the Regulations occurred.

31. Given the Committee's view of Mr Watson's conduct it was satisfied that it was appropriate to impose a sanction. The Committee considered that No Further Action was insufficient given Mr Watson's lengthy failure to abide by the Regulations. Although the incident was isolated to one aspect of his professional practice, it had lasted a significant period of time.
32. The Committee next considered whether Admonishment was the appropriate response. The Committee noted that there was no evidence of any loss to the public, Mr Watson had significant insight into his failings which were not deliberate and that he had expressed genuine remorse for what had occurred.
33. In all the circumstances the Committee decided that an admonishment was the appropriate and proportionate response.

COSTS AND REASONS

34. ACCA claimed costs of £6,334.50 and provided a detailed schedule of costs. A simplified version was also provided. It noted that Mr Watson indicated he had the means to pay ACCA's costs. The Committee had regard to ACCA's Guidance for Costs Orders.
35. The Committee decided that ACCA was entitled to claim its costs but it was appropriate to make a deduction to the amount claimed. The costs in this case and the costs claimed were reasonably incurred but two thirds of the allegations had been withdrawn and the hearing was significantly shorter than had been anticipated because of the cooperation of Mr Watson. In taking into consideration Mr Watson's mitigation, the Committee concluded that the sum of £1,000 was appropriate and proportionate. Accordingly, it ordered that Mr Watson pay ACCA's costs in the amount of £1,000.

EFFECTIVE DATE OF ORDER

36. In accordance with Regulation 20(1)(a) of the Regulations, the order in relation to Mr Watson's sanction of an admonishment will take effect at the expiry of the appeal period. The Committee did not consider that the ground for imposing an immediate order was made out.

**Ms Ilana Tessler
Chair
19 September 2024**