

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr David Russell Brandish

Heard on: Friday, 23 May 2025

Location: Virtual hearing via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Mr Roger Woods (Lay)
Mr Ryan Moore (Accountant)

Legal Adviser: Ms Jane Kilgannon

Persons present

and capacity: Mr David Russell Brandish (ACCA Member)
Mr James Halliday (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: Allegations 1(a), 1(b), 1(c), 2, 3(a) and 4(a) proved
Severe reprimand

Costs: Mr Brandish to pay £7,750.00 towards ACCA's costs

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1. The Disciplinary Committee (the Committee) convened to consider the case of Mr David Russell Brandish (Mr Brandish).
2. Mr James Halliday (Mr Halliday) represented the Association of Chartered Certified Accountants (ACCA). Mr Brandish attended the hearing and was not represented.
3. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
4. In accordance with Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
5. The hearing was conducted remotely through Microsoft Teams.
6. The Committee had considered in advance the following documents:
 - a. a Hearing bundle (pages 1 to 137); and
 - b. a Service bundle (pages 1 to 23).

BACKGROUND

7. Mr Brandish became a member of ACCA on 5 June 1997 and was admitted as a Fellow on the same day.
8. On 28 May 2021 Mr Brandish submitted an application to ACCA's Admissions and Licensing Committee using the form "*Eligibility for a practising certificate – fitness and propriety*". In the section titled "*Reason for application*" Mr Brandish stated the following:

"I am applying for a practising certificate in order to remain a director of [Company A], which trades as an accountancy services provider. I would also like to be able to become a director of [Company B], the ACCA registered firm

that I am currently employed by, in the future. [...] I take my ACCA membership very seriously and do not seek to minimise or excuse my conduct in anyway. I recognise and understand the gravity of practising without the necessary practising certificate and can only apologise for my poor judgment in doing so. I hope that the standard of my work to date, along with my transparency at this stage and my action to regularise my position demonstrate my commitment to ACCA and the accountancy profession in general”.

9. In January 2022 ACCA opened an investigation into this matter and notified Mr Brandish of the investigation on 28 May 2022. On 11 June 2022 Mr Brandish responded, admitting to having carried on public practice without a practising certificate. He added that:

“I accept that I was aware I was in breach of the regulations. When I first started carrying out work for clients this was on a bookkeeping basis while I had full time employment in industry. At that time, I did not expect the workload to grow and expand as it did. I subsequently left my employment due to a change in ownership and pursued this new line of work taking on a number of clients from a small retiring practitioner that I had previously assisted. I realise that at this moment I should have resigned from the ACCA as I did not have a PC, I had not acquired a PC previously as this was not my planned career path. Naivety and the isolation of working alone from home meant I did not give this the full consideration I should have [...] To regularise my position I submitted my application for a Practising Certificate in October 2020 and [...] the Authorisations Officer confirmed she did not need anything further regarding my PCTR. She then asked me to complete a PC Application along with a Fitness and Propriety Form which I did and returned this on 28th May 2021”.

10. In response to an ACCA question about why he signed CPD declarations which stated that he had not engaged in public practice activities, Mr Brandish stated on 17 August 2022 that:

“I signed the declarations without fully considering the implications and consequences as I found myself in a position where my livelihood was dependent on my continuing to practice. I realise that this was an unacceptable

course of action but at the time I felt I had no other choice other than to resign my membership from ACCA. This would obviously have been the correct course of action especially as I have never promoted or held out the Company as being an ACCA approved practice. However, I was reluctant to do this as I was not sure that this was really my desired career path. Without any active promoting, the practice has grown beyond my expectations and any thoughts I had of ceasing and doing something else were put aside and I belatedly started working towards regularising my situation. I am embarrassed and unhappy with the situation I have created and regret that I did not take appropriate action much sooner”.

11. On 4 September 2023 ACCA asked Mr Brandish what steps he had taken to regularise his position and the referral of new clients to Company B, where he was working as an employee. On 13 September 2023 Mr Brandish responses, stating:

“I stopped taking on or even considering new clients in March 2021. From this point the only new work I have taken on is related to another payroll I deal with. Since this date, and in a number of cases earlier, any potential new clients have been directed to [Company B]. I have also started the process of encouraging my existing younger and more dynamic clients to move their affairs to [Company B]. The older ones that like myself are closer to retirement I have continued to deal with. I have also ceased to act for my largest client and now deal with their bookkeeping and management affairs as an employee”.

12. On 13 May 2024 ACCA asked Mr Brandish about the status of his work and whether he was still providing accountancy services. On 4 June 2024 Mr Brandish replied confirming that he was continuing to provide these services to a number of “*older clients*”.

ALLEGATIONS

Allegation 1

Mr David Russell Brandish, an ACCA member breached the Global Practising Regulations (applicable from 2011 – 2024) by virtue of the following:

- a) On dates between 25 October 2011 – 08 April 2024, carried on public practice contrary to regulation 3(1)(a).***

- b) On dates between 25 October 2011 – 08 April 2024, was director of [FIRM A], a firm which was holding out and/or carrying out public practice, without holding a valid ACCA practising certificate, contrary to regulation 3(2)(a).***

- c) On dates between 25 October 2011 – 08 April 2024, held rights in [FIRM A] which in effect put him in a position of principal of the firm which was holding out and/or carrying on public practice, without holding a valid ACCA practising certificate, contrary to regulation 3(2)(b).***

Allegation 2

On dates between, December 2014 – December 2021, Mr Brandish submitted online annual CPD returns to ACCA as detailed in Schedule 1, in which he declared that he had not engaged in public practice without holding an ACCA Practising certificate when he had.

Allegation 3

Mr Brandish's conduct in respect of allegation 2 above,

- a) Was dishonest in that he knew he had been carrying on public practice without a practising certificate but declared that he had not; or***

- b) Demonstrates a lack of integrity or in the further alternative***

c) Was reckless in that he failed to have any or sufficient regard to the declaration he signed when he wrongly stated that he had not engaged in public practice activities without holding a practising certificate.

Allegation 4

a) In respect of any or all of the facts set out at allegations 1 to 3 above, Mr Brandish is guilty of misconduct pursuant to bye-law 8(a)(i) or in the alternative;

b) In respect of allegation 1, liable to disciplinary action contrary to bye-law 8(a)(iii)

<i>Schedule 1</i>	
<i>CPD return – public practice declaration</i>	<i>Date of submission</i>
<i>2014</i>	<i>31 December 2014</i>
<i>2015</i>	<i>31 December 2015</i>
<i>2016</i>	<i>23 December 2016</i>
<i>2017</i>	<i>29 December 2017</i>
<i>2018</i>	<i>01 January 2019</i>
<i>2019</i>	<i>28 December 2019</i>
<i>2020</i>	<i>26 December 2020</i>
<i>2021</i>	<i>29 December 2021</i>

DECISION ON FACTS AND REASONS

Admissions

13. The Committee noted that Mr Brandish had returned a Case Management Form signed and dated 12 June 2024 in which he had ticked a box to indicate that he admitted “*Allegations 1 – 4*”. The Committee asked Mr Brandish to confirm his position in relation to any admissions, particularly drawing to his attention that some of the allegations had been put in the alternative.

14. Mr Brandish made clear, unqualified, and unequivocal admissions to Allegations 1(a), 1(b), 1(c) and 2. Therefore, in accordance with Regulation 12(3)(c) of the Regulations, it was announced that Allegations 1(a), 1(b), 1(c), 2 and 3(a) had been admitted and found proved.
15. As there were no further formal admissions, the Committee required ACCA to prove the remainder of the allegations.

Evidence of ACCA

16. Mr Halliday provided the Committee with a description of the background of the case and took the Committee to documents within the hearing bundle that were relevant to the allegations still in dispute.

Evidence of Mr Brandish

17. Mr Brandish gave oral evidence to the Committee.
18. Mr Brandish stated that:
 - a. The situation originally arose when he was working from home in a relatively isolated working environment;
 - b. That had led to poor judgement on his part and a failure to see the “*bigger picture*”;
 - c. He accepted that he had made the CPD declarations each year, confirming that he was not carrying on public practice;
 - d. In hindsight, he understands that it is not a course he should have taken and he would do things very differently;
 - e. His action was not malicious or with an intention to seek a benefit for himself. Rather, he acted in a naïve way, justifying his action to himself by reference to the fact that he wasn’t actively holding himself out to clients and potential clients as being an ACCA member;
 - f. He is not proud of his actions, he regrets them;
 - g. He wishes that he had resigned his ACCA membership at the time rather than allowing the irregular situation to continue;

- h. The service that he has provided to his clients over the relevant time period has been good, with most of those clients staying with him. He has never received any complaints or concerns from his clients in relation to the quality of his work. He has never had any conflict with any clients, Companies House or the “*Inland Revenue*”; and
 - i. He tried to rectify and regularise his position by applying for a practising certificate in 2020 and by transferring his clients to another company.
- 19. Under cross examination, Mr Brandish accepted that:
 - a. He was aware that he needed a practising certificate in order to be in public practice;
 - b. When he submitted his CPD declarations, he understood that he was declaring that he was not undertaking any public practice despite that not being true; and
 - c. His conduct, in that regard, was dishonest.
- 20. In response to questions from the Committee, Mr Brandish added that:
 - a. He understood that clients and other members of the public may well have assumed that he held a practising certificate if he was providing accountancy services to them;
 - b. [PRIVATE];
 - c. He has transferred all of his clients to that firm or other firms;
 - d. Company A no longer practises any accountancy and he no longer practises any accountancy in his own name;
 - e. He realised that he was in a situation that was a problem waiting to happen, so in 2020 he applied for a practising certificate as a way of seeking to regularise his position; and
 - f. He values his ACCA membership.

Submissions of ACCA

- 21. In relation to Allegations 3(a), 3(b) and 3(c), Mr Halliday submitted that when Mr Brandish submitted the relevant online annual CPD returns, he was fully

aware that they contained false information and yet he chose to submit that false information to his regulator. Mr Halliday stressed that this was not a one-off but a repeated pattern of behaviour by Mr Brandish over a number of years. Mr Halliday submitted that an ordinary decent member of the public would find that conduct to be dishonest. In the alternative, he submitted that the conduct lacked integrity or was reckless.

22. In relation to Allegations 4(a) and 4(b), Mr Halliday submitted that Mr Brandish's conduct was serious enough to amount to professional misconduct or, in the alternative, was nevertheless a breach of ACCA professional regulations such that he was liable to disciplinary action.

Submissions of Mr Brandish

23. Mr Brandish submitted that he feels foolish when he looks back at his conduct. He accepts that he has fallen short of the standards expected of him. However, he submitted that his actions were not malicious but rather naïve, and he did not act with any intent to make an unfair gain from his membership of ACCA. Having said that, he stated that in hindsight, he would definitely have done things differently.

Decision and reasons

24. The Committee took into account all of the evidence that had been provided, including the oral evidence of Mr Brandish. It also took into account the submissions of Mr Halliday and Mr Brandish.
25. The Committee accepted the advice of the Legal Adviser. The Committee bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

Allegation 3(a) - Proved

26. The Committee considered whether Mr Brandish had acted dishonestly when submitting online annual CPD returns to ACCA between 2014 and 2021.

27. The Committee noted that Allegations 1 and 2 had been proven by admission. Therefore, it reminded itself that it had found that, between 2011 and 2024, Mr Brandish had carried on public practice and had not held the required practising certificate to do so. Furthermore, it reminded itself that, between 2014 and 2021, Mr Brandish had submitted online annual CPD returns to ACCA declaring that he had not engaged in public practice without holding a practising certificate when, in fact, he had engaged in public practice without holding a practising certificate.
28. Applying the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67, the Committee first considered what Mr Brandish's subjective state of mind was at the relevant times – that is, when he submitted the online annual CPD returns to ACCA. The Committee noted that Mr Brandish was of previous good character and took this into account.
29. The Committee noted that Mr Brandish had acknowledged that, at the relevant times, he knew that the declaration that he was making was false. The Committee considered that Mr Brandish would therefore have been aware at the relevant times that the false information could mislead ACCA into believing that he was not engaged in public practice without a practising certificate when, in fact, he was engaged in public practice without a practising certificate.
30. Applying the second stage of the test for dishonesty, the Committee considered whether an ordinary decent member of the public would find Mr Brandish's conduct to be dishonest by objective standards. The Committee noted that Mr Brandish had accepted in his oral evidence that his conduct was dishonest. The Committee considered that the public expected members of the accountancy profession to be truthful in all of their conduct, in particular in the course of their professional communications. The Committee also took into account that Mr Brandish's conduct was not a one-off but a repeated action over a number of years. For those reasons, the Committee found that Mr Brandish's conduct, in knowingly providing his regulator with misleading information, was objectively dishonest.
31. Accordingly, Allegation 3(a) was found proved.

32. Given the Committee's finding in relation to Allegation 3(a), it was not necessary for it to consider the matters alleged in the alternative, namely Allegations 3(b) and 3(c).

Allegation 4(a) – Proved

33. Taking into account the matters found proved at Allegations 1(a), 1(b), 1(c), 2 and 3(a), the Committee considered that Mr Brandish had departed significantly from what was proper in the circumstances, falling far below the standards expected of professional accountants. He had failed to ensure the compliance of himself and Company A with important regulatory requirements over an extended period of time. His conduct had been dishonest in that he knew that he was engaged in public practice without a practising certificate but he had repeatedly provided misleading declarations to ACCA representing that he was not engaged in public practice without a practising certificate.
34. In making the misleading declarations, Mr Brandish had been able to carry on public practice in accountancy without being subject to the increased monitoring and regulation that comes with being the holder of a practising certificate. As such, Mr Brandish's conduct had put the public, and in particular his own clients, at risk of harm.
35. The Committee also considered that such a lack of professionalism on the part of Mr Brandish had the potential to undermine the public's confidence in the ACCA and the accountancy profession. It brought discredit to Mr Brandish, the ACCA and the accountancy profession as a whole.
36. For those reasons, the Committee concluded that the matters found proved at Allegations 1(a), 1(b), 1(c), 2 and 3 – taken together – were serious enough to amount to misconduct. Accordingly, the Committee found Allegation 4(a) proved.
37. Given its finding in relation to Allegation 4(a), it was not necessary for the Committee to consider the alternative matter set out at Allegation 4(b).

DECISION ON SANCTION AND REASONS

38. In reaching its decision on sanction, the Committee took into account all of the documentation before it, and the submissions made by Mr Halliday and Mr Brandish. The Committee also referred to the ACCA document 'Guidance for Disciplinary Sanctions' (14 February 2024).
39. The Committee accepted the advice of the Legal Adviser including the following principles:
 - a. The purpose of a sanction is not to punish, but to protect the public, maintain public confidence in the profession and to maintain proper standards of conduct;
 - b. Any sanction must be proportionate, so the Committee must balance the interests of the member with the interests of wider ACCA membership and the public; and
 - c. The Committee must consider the sanctions in order of severity, starting with the least severe first.
40. When deciding on the appropriate sanction, the Committee carefully considered whether there were any aggravating and mitigating features in this case.
41. The Committee identified the following aggravating features:
 - a. The misconduct had been repeated / continued over an extended period of time (a number of years);
 - b. Mr Brandish had derived a personal benefit from his dishonest conduct (he was able to engage in public practice without the increased monitoring and regulation that comes with being the holder of a practising certificate);
 - c. The misconduct had the potential to cause harm to the public and to clients, since he was able to engage in public practice without the required level of monitoring and regulation; and

- d. The misconduct amounted to a breach of the trust that the public have in the accountancy profession and it caused damage to the reputation of the profession.
42. The Committee identified the following mitigating features:
- a. No previous regulatory findings;
 - b. Early admissions and openness with ACCA from around 2020/2021 onwards, in that the misconduct came to light as a result of Mr Brandish attempting to regularise his position by applying for a practising certificate;
 - c. Full cooperation and engagement with the investigation and the disciplinary processes, including attending the hearing today;
 - d. Demonstration of genuine remorse and regret;
 - e. Demonstration of insight, in that Mr Brandish had accepted responsibility for his wrongdoing and understood the impact of his misconduct on his clients, the profession and the wider public;
 - f. Demonstration of corrective steps taken by Mr Brandish, including applying for a practising certificate, ceasing to undertake public practice and transferring clients to other providers of accountancy services;
 - g. Mr Brandish appears to have kept his CPD up to date and there is no evidence of any complaints or concerns raised by clients or other members of the public; and
 - h. No evidence of actual loss to clients or the public.
43. The Committee assessed the misconduct as very serious. It included dishonest conduct, repeated over a number of years, putting the public at risk and undoubtedly causing harm to the reputation of the profession of accountancy. However, taking into account the extensive mitigation, the Committee found

that there was no more than a very low risk of repetition of the misconduct. Mr Brandish had taken corrective steps and engaged with the regulator since 2020/2021 onwards and there had been no repetition of the misconduct in the four/five years that had elapsed since then.

44. The Committee considered the available sanctions in increasing order of severity.
45. The Committee considered taking no action against Mr Brandish. However, given the seriousness of the conduct, the Committee considered that it would be inappropriate to take no action.
46. The Committee considered imposing an admonishment on Mr Brandish. The Committee noted that the guidance indicated that an admonishment would be appropriate in cases where most of the following are present: evidence of no loss or adverse effect on client / members of the public; early admission of the facts alleged; insight into failings; isolated incident; not deliberate; genuine expression of remorse/apology; corrective steps have been taken promptly; subsequent work satisfactory; and relevant and appropriate testimonials and references. The Committee considered that, whilst some of those factors were present, this was not a case where most of the factors were present. Importantly, this was not an isolated incident but, rather, misconduct that had persisted over a number of years. Furthermore, the misconduct had not been unwitting but, rather, it had been deliberate dishonest misconduct. Taking these matters into account, together with the seriousness of the misconduct found proved, the Committee concluded that an admonishment would be an inappropriate response.
47. The Committee considered imposing a reprimand on Mr Brandish. The Committee noted that the guidance indicated that a reprimand would be appropriate in cases where the conduct is of a minor nature and there appears to be no continuing risk to the public. Although the Committee had found that there was no continuing risk to the public, it considered that the conduct was of a very serious nature. Therefore, it concluded that an admonishment would be an inappropriate response. It would not adequately address the wider public

interest in terms of upholding standard of conduct and performance and maintaining public confidence in the profession.

48. The Committee considered imposing a severe reprimand. The Committee noted that the guidance indicated that a severe reprimand would be appropriate in cases where the conduct is of a serious nature but where the circumstances of the case or mitigation advanced satisfies the Committee that there is no continuing risk to the public. The Committee noted paragraph C4.1 of the guidance and found that most of the factors listed as indicating that a severe reprimand may be appropriate were present in this case, namely:
- a. The misconduct was no longer continuing;
 - b. Insight into failings;
 - c. Genuine expression of regret/apologies;
 - d. Previous good record;
 - e. Rehabilitative / corrective steps taken to cure the conduct and ensure future errors do not occur;
 - f. Co-operations during the investigations stage.
49. The Committee therefore considered that this was a case where conduct was of a serious nature but where the circumstances of the case or mitigation advanced satisfied the Committee that there was no continuing risk to the public. On that basis, the Committee concluded that a severe reprimand would be appropriate because there it adequately address public confidence and the need to maintain proper professional standards.
50. In order to check its reasoning, the Committee also considered the next sanction up in terms of severity – exclusion from membership. The Committee acknowledged that some of the factors listed at paragraph C5.1 (which indicates that exclusion from membership may be appropriate) were present in this case, namely: serious departure from relevant professional standards; abuse of trust; dishonesty; and conduct continued over a period of time. The Committee also noted the guidance in relation to cases involving dishonest conduct, including paragraph E2.3 which stated that the Committee should consider whether “*any mitigation presented by the member is so remarkable or*

exceptional that it warrants anything other than exclusion from membership". Taking into account the extensive mitigation in this case – the genuine remorse, the demonstration of insight and corrective steps, the early admissions and high level of engagement and cooperation, and the associated low risk of repetition – the Committee considered that this was a case where the mitigation was exceptional and warranted taking action other than exclusion from membership.

51. Accordingly, the Committee decided that the appropriate and proportionate sanction to impose was a severe reprimand.
52. The Committee considered whether to also impose a fine on Mr Brandish. However, referring to the guidance on fines and the factors listed at paragraph C6.3, the Committee considered that this was not a case which required a fine in order to adequately address the wider public interest.

DECISION ON COSTS AND REASONS

53. Mr Halliday, on behalf of ACCA, applied for Mr Brandish to make a contribution to the costs of ACCA in bringing this case. Mr Halliday applied for costs in the sum of £8,220.00. The application was supported by a schedule breaking down the costs incurred by ACCA in connection with the investigation and the hearing.
54. Mr Brandish had provided the Committee with a completed Statement of Financial Position and confirmed that he would be able to pay a costs order if it were to be imposed.
55. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (September 2023).
56. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. Having reviewed the

schedule, the Committee considered that the costs claimed appeared to have been reasonably and proportionately incurred.

57. The Committee noted Mr Brandish's completed Statement of Financial Position and found no basis for reducing any costs to be awarded on the basis of Mr Brandish's ability to pay.
58. The Committee did make a reduction to the costs to be awarded on the basis that the hearing today was slightly shorter than the time estimated in the costs schedule.
59. Taking all of these circumstances into account, the Committee decided that Mr Brandish should be ordered to make a contribution to the costs of ACCA in the sum of £7,750.00.

INTERIM ORDER

60. Pursuant to Regulation 12(5)(b) of the Regulations, the Committee decided to rescind the interim order that had been originally imposed on Mr Brandish by the Interim Orders Committee on 4 July 2024 in relation to these allegations.

ORDER

61. The Committee made the following order:
 - a. Mr Brandish is severely reprimanded;
 - b. Mr Brandish shall make a contribution to ACCA's costs in the sum of £7,750.00; and
 - c. The interim order imposed on Mr Brandish on 04 July 2024 is rescinded.

EFFECTIVE DATE OF ORDER

62. In accordance with Regulation 20(1)(a) of the Regulations, the order relating to severe reprimand shall take effect at the expiry of the appeal period.
63. In accordance with Regulation 20(2) of the Regulations, the orders relating to costs and rescission of the interim order shall take effect immediately.

Ms Ilana Tessler
Chair
23 May 2025