

**PERMISSION TO APPEAL COMMITTEE OF THE
ASSOCIATION OF CHARTERED CERTIFIED
ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Miss Zainab Zia

Heard on: Tuesday, 16 April 2019 and Wednesday, 17 April 2019

Location: ACCA, The Adelphi, 1-11 John Adam Street, London,
WC2N 6AU

Committee: Mr Andrew Popat CBE (Chairman)
Mr Robert Clarke (Accountant)
Mr Barry Picken (Lay)

Legal Adviser: Mr David Marshall

Persons present and capacity: Mrs Emily Healy-Howell (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: Permission to appeal refused

Costs: No order for costs

1. The Committee heard an application by Miss Zia for reconsideration of her application for permission to appeal a decision of the Disciplinary Committee on 29 August 2018, removing her from the student register. Her initial application for permission to appeal was refused by a Chairman on 5 November 2018. She applied for reconsideration of that decision. On 30 December 2018 another chairman referred that application to the Appeal

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Committee under the provisions of The Chartered Certified Accountants' Appeal Regulations 2014, as they were in 2018 ('the Appeal Regulations').

2. Miss Zia attended by audio link from Pakistan, and represented herself. Mrs Healy-Howell appeared for ACCA. On the first day fixed for the hearing, Miss Zia asked if the proceedings could be conducted in Urdu because she did not understand spoken English adequately. ACCA had no record that she had previously asked for an interpreter, but was nevertheless able to arrange an interpreter to attend on the second day, when the application was heard.

APPLICATION/BRIEF BACKGROUND

3. According to ACCA's records, Miss Zia became a student of ACCA on 23 March 2017. The application to join the student register was made online and documents in support were submitted. At the Disciplinary Committee hearing on 29 August 2018, Miss Zia faced the following allegation in relation to those documents:

Allegation 1

a) On or around 22 March 2017, Miss Zainab Zia caused or permitted one or more of the documents set out in Schedule A to be submitted to The Association of Chartered Certified Accountants ("ACCA"), which purported to have been issued by Middlesex University when, in fact, they had not.

b) Ms Zainab Zia's conduct in respect of 1(a) was:

(i) Dishonest; and

(ii) Contrary to the Fundamental Principle of Integrity;

c) Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Miss Zainab Zia has failed to co-operate fully with the investigation of a complaint in that [she] failed to respond to any or all of ACCA's correspondence dated:

(i) 18 August 2017;

(ii) 11 September 2017;

(iii) 03 October 2017.

d) *By reason of [her] conduct at 1(a) and/or 1(b) and/or 1(c) above, Ms Zainab Zia is:*

(i) *Guilty of misconduct pursuant to bye-law 8(a)(i); or*

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

Schedule A

A certificate dated 23 June 2016, certifying Ms Zainab Zia had been awarded a degree of Bachelor of Arts in Accounting and Finance at Middlesex University

A "Transcript and Certificate of Credit" outlining the credits and grades achieved for the modules undertaken in the above degree.

4. Miss Zia did not attend that hearing but she had sent an email on 29 July 2018, in which she stated that had not sent 'any documents or information for ... admission'. She said that her identity documents [PRIVET] had been lost and that she was 'sure someone has [misused those] documents to harm us'. She said she had not applied for admission to ACCA.
5. The Disciplinary Committee found the facts alleged in Allegations 1(a), (b) and (c) proved, and found that they amounted to misconduct. It imposed the sanction of removal from the student register. It ordered that Miss Zia pay ACCA's costs assessed at £3,000.

DECISION ON APPLICATION AND REASONS

6. Miss Zia made an application for permission to appeal, using ACCA's standard form, on 5 October 2018. She had previously outlined her proposed appeal in an email sent on 25 September 2018. The Committee took into account the submissions made in both documents as well as her oral submissions. At the hearing she said that she wanted justice. She repeated to the Committee that she had not submitted any documents to ACCA. The false documents and the stolen identity documents must have been submitted to ACCA by someone else. She wanted ACCA to investigate

and find out who it was. ACCA had the resources to do this while she did not. She submitted that ACCA could not prove it was her who submitted them and it was wrong to blame her. She repeated that she had lost her identity documents, and now had new ones. She submitted that the identity documents uploaded to ACCA had been 'edited' which showed that someone else had submitted them. In answer to questions from the Committee, she said that the copy identity card she had sent was a photocopy of the one she had lost. The address registered with ACCA was her residential address but she said she was not aware of the earlier letters from ACCA. She told the Committee that she had applied to other institutes to study, but they were computer courses, not accountancy.

7. Miss Zia appealed all the findings and orders made by the Disciplinary Committee. She relied on the following grounds of appeal under the Appeal Regulations.

a) the Committee made an error of fact or law, which would have altered one or more of the findings or orders made in the case

8. In support of this ground, Miss Zia said that she did not apply to ACCA, she was not interested in ACCA, she did not get any benefit from the application. She said that the Disciplinary Committee had failed to take into account that someone had conspired against her to harm her. It did not take into account that she would not have submitted fake documents because she would have known that they would be checked. She would not have put her reputation at risk.
9. This Committee considered that there was clear evidence before the Disciplinary Committee that the documents listed in Schedule A were false, and that the person who submitted them must have been dishonest. Miss Zia did not suggest the contrary. The crucial issue was whether Miss Zia was that person. In its reasons the Disciplinary Committee stated:

'26. The Committee specifically considered Ms Zia's assertions contained in her emails of 29 July 2018, and 14 August 2018, that she was, in effect, a victim of identity theft and that someone else, without her knowledge, must have uploaded her identification documents and the documents from

Middlesex University. The Committee noted that Ms Zia registered as a student on 23 March 2017, and that the documents uploaded with the application included her National Identity Card and her school examination certificates. Ms Zia claimed she had “lost” some documents including her identity card at her institute, but the Committee found it hard to believe that a third party would use these documents fraudulently but yet continue to use Ms Zia’s name and address. Furthermore, the Committee considered Ms Zia’s assertion was implausible as it could not see any credible reason why a third party would use Ms Zia’s documents in support of an application to ACCA and upload them without her knowledge or involvement as she was the only person who could derive benefit from this.’

10. This Committee was satisfied that the Disciplinary Committee had carefully considered Miss Zia’s defence in relation to the false documents, and had rejected it on rational grounds. ACCA’s evidence was that an application was made in Miss Zia’s name, using her correct address, and supported by her identity documents. It was a reasonable inference that it was made by her or on her behalf. There was no evidence to support Miss Zia’s defence. It was based solely on her assertions. She had not suggested any motive for someone to seek to harm, her or identified any person who might have had a reason to act in such a way. The Committee could find no error of fact or law in the Disciplinary Committee’s decision.
11. In her email of 25 September 2018, Miss Zia sought to appeal against the finding that she had failed to cooperate with the investigation, on the basis, that she had responded as soon as she received a couriered document from ACCA. At the hearing she said she had not received any of the previous communications from ACCA. However, the point had not been raised in her email to ACCA on 29 July 2018. There was no reason for the Disciplinary Committee to question the evidence concerning the various communications sent to Miss Zia by ACCA.
12. This Committee also considered that if the Disciplinary Committee had found Allegation 1(c) not proved, that would not have made a significant difference to the outcome. As stated below, this Committee considered that the sanction imposed was justified by the findings under Allegations 1(a) and

(b) alone. **The Committee concluded that there was no real prospect of success on this ground.**

(c) the Committee failed to take into account certain relevant evidence, which would have altered one or more of the Committee's findings or orders;

13. Miss Zia's submissions under this heading were to the effect that ACCA had failed to conduct a proper investigation. These submissions were considered underground (f) below.

(d) there is new evidence not previously available, which would have altered one or more of the Committee's findings or orders;

14. The evidence Miss Zia relied on was copies of what she said were her genuine identity documents which, she said, showed that the identity documents uploaded in March 2018 were false. One of her criticisms was that her date of birth was missing from the copy of the identity card contained in the hearing bundle. This criticism was misconceived. It was obvious that the date (and other information) had been redacted for reasons of data protection. There did appear to be a difference between the two copies in the way Miss Zia's name was shown: on one it was 'Zainab Zia' on the other it was just 'Zainab'.

15. There were at least two problems with this ground of appeal. Firstly, in no sense was the evidence 'new evidence not previously available'. Miss Zia could, and should have, submitted her evidence before the hearing. Secondly, there was no reason to think that it 'would have altered one or more of the [Disciplinary] Committee's findings or orders'. Miss Zia's case was that her identity documents had been lost, and that those documents had been used by a malicious third party. Her original case was, therefore, that the copies submitted to ACCA had been genuine, but used without her consent. What she says now seems to be inconsistent with that. It is not clear how the identity documents now relied on would have made her defence more credible. **The Committee concluded that there was no real prospect of success on this ground.**

(e) one or more of the Committee's orders is disproportionate and/or

unreasonable in light of its findings;

16. Miss Zia appealed the orders for costs and publicity, 'because Committee's all decision and allegations against me are wrong and baseless' [sic]. Her submission was in effect that the Disciplinary Committee's **findings** were disproportionate. This was simply a restatement of her submission that the Disciplinary Committee had come to the wrong decision. However, this ground of appeal is concerned with orders, not findings. This Committee considered that, having found that Miss Zia had dishonestly submitted false documents to ACCA, the sanction imposed was proportionate and, indeed, inevitable since there was no mitigation. As to costs, the Disciplinary Committee had considered the matter and awarded only about half of what was claimed by ACCA. This Committee did not consider that the costs order was disproportionate or unreasonable. As to publicity, no order was made because, as the Legal Adviser advised, under the relevant regulations ACCA was required to publish all findings and orders of the Disciplinary Committee, together with the reasons. **The Committee concluded that there was no real prospect of success on this ground.**

(f) one or more of the Committee's findings and/or orders are unjust because of a serious procedural irregularity in the proceedings.

17. In substance, Miss Zia's submissions under this ground of appeal, and ground (c), were that ACCA had not conducted a proper investigation. Her position was that since she had raised the defence that a malicious third party was responsible, ACCA should have conducted a forensic IT investigation. It should, for example, have investigated the IP address from which the documents were submitted, the bank from which the registration fee was paid, the email account used, and so on.
18. This Committee considered that it was open to Miss Zia to ask ACCA for information about the alleged registration application during the course of the investigation. However she had not done so. In the absence of any such request, there was no reason for ACCA to have investigated the matters now raised. ACCA did not know what Miss Zia's defence was until the email of 29 July 2018. That was after the case had been referred to the Disciplinary Committee, and only a month before the hearing. In that email,

Miss Zia did not request any further information to assist her defence. This Committee did not find any procedural irregularity in the way the investigation was conducted, or in any other respect. **The Committee concluded that there was no real prospect of success on this ground.**

19. For the reasons given, the Committee concluded that an appeal would not have a real prospect of success on any of the grounds set out in Miss Zia's application notice. **The Committee refused permission to appeal.**

COSTS AND REASONS

20. ACCA applied for costs amounting to £10,321.25. Miss Zia said that it was a very large sum and that she had no resources. She was not working, and had never worked. She said she was 'not allowed' to work. She said that her family would not help her to pay an order for costs.
21. The Committee noted that Miss Zia had made this application, had chosen to have it dealt with at a hearing, rather than on paper, and had been unsuccessful. It decided that, in principle, ACCA was entitled to a contribution to its costs.
22. As to the amount, the sum incurred by ACCA seemed excessive given the nature of the proposed appeal. However, the Committee was of the view that it would be impossible for Miss Zia to pay any sum. It took into account that she was already under an order of the Disciplinary Committee to pay £3,000 towards the costs of that hearing. The Committee accepted what she said about her means.
23. The Committee decided that in this case it would not be fair to order that Miss Zia should make any contribution to ACCA's costs of the appeal hearing. **The Committee made no order as to costs for this hearing. The previous costs order stands.**

Mr Andrew Popat CBE
Chairman
17 April 2019