

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Ms Fatima Zia

Heard on: Wednesday, 03 April 2019
Thursday, 04 April 2019

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

Committee: Mr Ian Ridd (Chairman)
Mrs Susan Gallone (Accountant)
Mr Gerard McClay (Lay)

Legal Adviser: Mr Leighton Hughes (Legal Adviser)

Persons present

and capacity: Mrs Emily Healy-Howell (ACCA Case Presenter)
Mr Christopher Bando (Hearings Officer)
Mrs Zarqa Shaikh, Urdu Interpreter.

Observers:

Summary: (i) All Allegations found proved;
(ii) Removal from the student register;
(iii) Ms Zia pay ACCA's costs in the amount of £500;
(iv) Effective date of order: at the expiry of the appeal period.

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PRELIMINARY APPLICATIONS/SERVICE OF PAPERS [if applicable]

1. The Committee had before it a hearing bundle paginated A-I and 1-87, additional bundles paginated 88-90, 119-129 and 130-132. It also had a service bundle paginated 1-17. The Committee was also provided with costs schedules, at the conclusion of the fact-finding stage, paginated 133-137. The Committee was informed that pages 91-118, which were not before the Committee, were not relevant to the hearing as they related to an earlier adjournment application.
2. ACCA was represented by Mrs Emily Healy-Howell. Miss Zia participated in the hearing by Skype link, with the assistance of an Urdu Interpreter. She declined to use the video facility, saying she did not want to reveal her face, and so only the audio facility of Skype was used.

APPLICATION TO AMEND THE ALLEGATION

3. At the outset of the hearing Mrs Healy-Howell applied to amend the allegations of which Ms Zia had been given notice by replacing the reference to Allegation "2(a)" in Allegation 1(d) with "1(a), 1(b) and 1(c)"
4. Mrs Healy-Howell's application was made pursuant to Regulation 10(5)(a) of the Regulations. She submitted that the proposed amendment was to correct typographical error.
5. The Committee granted the application, having been satisfied that the amendment could be made without prejudice to Ms Zia. In the following allegation deleted words are scored through and in bold and additional words are underlined and in bold.

ALLEGATIONS

ALLEGATION 1

- (a) On or around 23 March 2017, Ms Fatima 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 Fatima Zia’s conduct in respect of allegation 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, Ms Fatima Zia has failed to co-operate fully with the investigation of a complaint in that he failed to respond fully or at all to any or all of ACCA’s correspondence dated:

- (i) 22 August 2017;
- (ii) 13 September 2017;
- (iii) 05 October 2017.

(d) By reason of her conduct at 1(a) and/or 1(b) and/or 1(c) above, Ms Fatima 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).

6. Ms Zia denied the allegations.

BACKGROUND AND ACCA'S CASE

7. Ms Zia became a student of ACCA on 24 March 2017. On 07 August 2017, ACCA Investigations Department received a referral from ACCA’s Exemptions Team Manager. The referral alleged that certificates submitted by Ms Zia to ACCA, in order to secure exemption from a number of ACCA professional examinations, were fraudulent, in that they purported to have been issued by Middlesex University when, in fact, they had not been. ACCA's case was that in so doing she was dishonest, in breach of ACCA's Fundamental Principle of Integrity, and guilty of misconduct.

8. ACCA relied upon the witness statements of three witnesses. Person A, ACCA's Student Registration Team Manager, who had outlined ACCA's initial registration process for 2017, and provided details of Ms Zia's specific registration. Person B, Conferment and Assessment Manager of Middlesex University, who confirmed that the documents set out in Schedule A were not issued by Middlesex University. Further, Person C, ACCA's Connect Team Manager, who had detailed any interaction between Ms Zia and ACCA since her registration.
9. On 22 August 2017, ACCA wrote to Ms Zia to seek her comments in relation to the complaint. An email was also sent to Ms Zia's registered email address to seek her consent for correspondence to be sent by email also. No response was received by post or email and no post was returned.
10. On 13 September 2017, ACCA wrote a further letter to Ms Zia reminding her of her obligation to co-operate with ACCA's investigation and requesting a response to ACCA's earlier correspondence. No response was received by post or email and no post was returned.
11. On 5 October 2017, ACCA wrote a further letter to Ms Zia's registered postal address outlining that if no response was received to ACCA's earlier correspondence, an allegation would be raised against her under Complaints and Disciplinary Regulation 3(1). No response was received by post or email and no post was returned.
12. On 30 October 2017, ACCA wrote to Ms Zia to notify her that a report of disciplinary allegations against her was being drafted. All correspondence that had been sent to Ms Zia's registered postal address was also sent in a password protected format to her registered email address. In order to open the correspondence, Ms Zia was required to request the password from ACCA. No response was received by post or email and no post was returned.
13. On 19 December 2017, ACCA reviewed its procedures and provided Ms Zia with the password in order to access all correspondence previously sent to her. No response was received by post or email and no post was returned.

MS ZIA'S RESPONSE

14. Ms Zia's first written response to the allegation was at page 88, being an email sent by her to ACCA on 28 July 2018. In that email she set out, in essence, that she had not applied to be a member of ACCA and that a third party, unknown to her, must have submitted these fraudulent documents. She stated that at some, unspecified, time she had lost copies of her documents and her identity card on the way to her place of study.
15. In subsequent emails dated 19 August 2018 and 27 August 2018, Ms Zia reiterated that she had not applied for membership of ACCA, and stated that she had not received any of the correspondence that now forms the basis of Allegation 1(c). She also posed a number of questions, including asking *"Has any fee been paid to ACCA on the basis of these documents? If yes, kindly investigate my case keeping in view certain details e.g. date, mode of payment, bank name and account, depositor name, city, country etc."*
16. Mrs Healy-Howell told the Committee that a £32 registration fee was paid to ACCA on 23 March 2017, by way of a Barclays Bank credit card, but that no details were available of the cardholder. Ms Zia said that she had not made that payment. She stated that neither she nor any of her family had a credit card.
17. Ms Zia gave evidence to the Committee. She said that she had nothing to do with ACCA, and had not submitted any documents to ACCA. She wanted ACCA to find the true culprit and that, having considered the hearing bundle, it *"looked like a joke"* to her. She said that her name had been *"edited"*, in that her full, family name *"Mughal"* had not been on the false documents and the name *"Zia"* did appear. She said she studied at Punjab University and some small institutes in Pakistan, and had submitted documents to them. Ms Zia suggested that that may have been how her documents came to be used by someone else. She said that she was struggling to pay her study fees, and queried why she would then want to pay any ACCA fees. Ms Zia maintained that her identity documents had been lost.
18. In response to questions from the Committee, Ms Zia said she did not know who had submitted the false documents in her name, but speculated that someone from

one of the institutes to which she had sent copies of her identity documents may have done so, or perhaps someone who had found her lost documents. She could not think of any reason why someone would go to the trouble and expense of making the application to ACCA on her behalf. Ms Zia said that she had lost the identity card that was used in the application, at some time in the past three years.

19. Cross-examined by Mrs Healy-Howell, Ms Zia said that she had lost not only her national identity card but also some previous qualification certificates. She reported the loss of her card to the police at the time, but had no documentary proof of this. She said she had been provided with a new card and would send a photograph of it to the Committee. She said that she was not aware of her documents having been used in a similar way anywhere else. She said that she did not want to be a member of ACCA, but was participating in the hearing as she wanted the person who had submitted the documents to be found. Ms Zia maintained that she contacted ACCA when she received the hearing bundle in July 2018, as she thought it was a "joke", but provided no explanation for not responding to any of the previous letters sent to her home on 22 August 2017, 13 September 2017 and 5 October 2017.
20. During Ms Zia's evidence, at approximately 12:15 pm the Skype connection was lost. This had already happened on a number of occasions during the hearing and on each occasion the Hearings Officer had successfully corresponded with Ms Zia by email, and the connection was reinstated. However, this time Ms Zia did not respond to repeated emails from the Hearings Officer. She had previously refused to provide ACCA with her telephone number, and the number provided on the application for student membership repeatedly went to the voicemail system.
21. Giving Ms Zia the benefit of any doubt as to her continued engagement, the Committee adjourned the hearing until the following day.
22. Ms Zia re-engaged with the proceedings on the second day of the hearing. Overnight she had sent a copy of another identity card to ACCA, with the same issue date as the one submitted in support of her application to join ACCA. This second card was in the name of "Fatima" and not "Fatima Zia."

23. In resumed cross examination by Mrs Healy-Howell, Ms Zia confirmed that she had received a courier letter from ACCA dated 16 July 2018. She had received it at her home postal address.
24. Ms Zia confirmed her home address as being that registered with ACCA. None of the documents submitted to ACCA with the application for student membership had her home address on them. Ms Zia said she did not know how an unknown person submitting those documents to ACCA could have known her home address.
25. In answer to questions from the Committee, Ms Zia said she was travelling to a place of study to submit her documents to that institute, when she lost her documents. She did not know where they were lost. She said that she had never used the email address that had been given to ACCA in the registration process.
26. Ms Zia said that in March 2017 she had in her possession an Identity Card with the name Fatima. She said she had not used the name Fatima Zia, and that both of the Lahore school examination documents submitted to ACCA were genuine but had been edited so as to show her name as Fatima Zia.

ACCA SUBMISSIONS

Allegations 1(a) and 1(b):

27. ACCA relied on the unchallenged evidence of Person A, (ACCA Student Registration Team Manager) and Person B, (the Conferment and Assessment Manager of Middlesex University) to demonstrate that forged documents, purporting to be from Middlesex University, were submitted in support of an application for student membership made by an individual named Ms Zia. The key outstanding issue was whether Ms Zia caused or permitted the submission of those documents, or whether they had been sent without her knowledge and consent by an unknown third party.
28. Mrs Healy-Howell submitted that the account provided by Ms Zia was not credible. The documents submitted to ACCA alongside the fake, Schedule A, documents were documents that were in her control. The identity card provided overnight has the same date of issue and was the same in all regards save for the name. She submitted that

Ms Zia must always have been in possession of these documents, and that the only person to gain from the application to ACCA was Ms Zia. No third person could have stood to benefit. She also submitted it was significant that the postal address provided to ACCA was correct, and that it would make no sense whatsoever for a third person to use that address if they intended to use the account for their own means. There was nothing to corroborate the loss of the documents, such as a report to the police of the loss, or a letter that came with the new documents that she applied for. Furthermore, that Ms Zia is contesting this matter is perhaps strange, given her account that she has no wish to be an ACCA member.

29. Mrs Healy-Howell submitted that the conduct set out at Allegation 1(a) clearly amounted to dishonesty on the basis that:

- (a) Ms Zia would have known that the documents submitted as part of her registration with ACCA were false;
- (b) They were submitted with a view to gaining exemptions from ACCA's required exams, which Ms Zia knew she was not entitled to; and;
- (c) Such conduct would clearly be regarded as dishonest according to the standards of ordinary decent people.

30. Mrs Healy-Howell submitted that if a finding of dishonesty was made, it would follow that Ms Zia had also breached ACCA's Fundamental Principle of Integrity.

Allegation 1(c):

31. ACCA contended that in failing to respond to the requests of the Investigating Officer, Ms Zia had breached Complaints & Disciplinary Regulation 3(1). Ms Zia was under a duty to co-operate and therefore respond to the Investigating Officer's correspondence in which she was asked for a response to the allegations raised against her. ACCA submitted that failure to co-operate fully with one's professional body into the investigation of a complaint was a serious matter, demonstrating a lack of professional responsibility and a disregard for ACCA's regulatory process. A failure to adequately respond to questions asked by ACCA during an investigation

into one's conduct prevented ACCA from fully investigating and, if necessary, taking action upon, what might be a serious matter.

Allegation 1(d):

32. ACCA's case was that if any or all of the facts set out at Allegations 1(a) to 1(c) were found proved, Ms Zia had acted in a manner which brought discredit to her, and to the accountancy profession, and her conduct amounted to misconduct.

MS ZIA'S SUBMISSIONS

33. Ms Zia reminded the Committee of her case and rehearsed some of the evidence that she had given. In response to Mrs Healy-Howell's submission that there would be no benefit to a third person from the application, she suggested that perhaps the person who submitted the documents to ACCA was trying to do harm to her.

DECISION ON ALLEGATIONS AND REASONS

34. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the Allegations was on ACCA alone, and that Ms Zia had to prove nothing. The standard of proof to be applied was the ordinary civil standard of proof, namely the 'balance of probabilities'.
35. The Committee carefully considered all the oral and documentary evidence it had received, as well as the submissions made by Mrs Healy-Howell on behalf of ACCA.
36. The Committee acknowledged that Ms Zia did not dispute that the documents submitted to ACCA were false, but the primary issue that it needed to resolve was whether it was Ms Zia who submitted, or caused to be submitted, the false documents in Schedule. In short, had ACCA established on the balance of probabilities that Ms Zia's case, as set out in her email of 28 July 2018, was not true.

Allegation 1(a):

37. The Committee was satisfied that the documents in Schedule A purported to confirm that Ms Zia had been awarded a Bachelor of Arts in Accounting and Finance from Middlesex University, and gave details of her grades and credits. These had been submitted to ACCA in support of an application to become an ACCA student. The Committee accepted the unchallenged evidence of Person A as credible and reliable. This confirmed that the documents had been submitted as part of the registration process. On the basis of those documents ACCA had admitted Ms Zia as a student, and awarded her exemptions from ACCA's F1-F9 exams. The Committee was satisfied on Person B's unchallenged evidence that the documents had not been issued by Middlesex University, the University had no knowledge of Ms Zia and she had never been a student there.
38. The Committee carefully considered Ms Zia's email accounts of July and August 2018, and her oral evidence. On balance it found Ms Zia to lack credibility when giving evidence, having particular regard her unconvincing and un-detailed accounts as to when she alleged she had lost documents. The Committee found it significant that none of the documents allegedly lost by Ms Zia, and then used without her knowledge, bore her home address. Ms Zia offered no explanation for how the unknown person could have known her correct home address when making the application for membership, and exemption from the professional examinations. Moreover, that person would then have no control over ACCA correspondence sent to an address other than their own. It was hard in these circumstances to see how such a person could derive any benefit from making the application in Ms Zia's name.
39. The Committee rejected Ms Zia's account as contrived and inherently implausible. There was no reason whatsoever for a third person to seek membership of ACCA in her name, and her exemption for a large number of professional examinations, or incur the cost of doing so. The Committee rejected her suggestion that someone may have wanted to do her harm as being without foundation.
40. Accordingly, for all of the above reasons Allegation 1(a) was found proved.

Allegation 1(b):

41. Having found Allegation 1(a) proved, the Committee next considered Allegation 1(b)(i), and whether Ms Zia's conduct in respect of 1(a) was dishonest.
42. The Committee applied the test as set out by the Supreme Court in *Ivey v Genting Casinos Limited*. It specifically considered as far as it could on the information before it, what Ms Zia's belief was as to the facts. The Committee was satisfied that the documents sent to ACCA were false. It was satisfied that as Ms Zia had not attended Middlesex University, and had not passed these exams, and therefore that she knew the documents were false. The Committee was satisfied that the clear intention on her part was to secure exemptions to which she knew he was not entitled. The Committee could find no other possible innocent basis for these documents to have been submitted (for example by mistake, by carelessness or otherwise in error) had been suggested. The Committee bore in mind the nature of these documents; that they related to Ms Zia and they resulted in an exemption from exams being granted to which she was not entitled. It was therefore satisfied that Ms Zia's conduct was dishonest. It was satisfied that she had intended to use the documents to gain exemptions from exams to which she was not entitled. It had no hesitation in concluding that Ms Zia's conduct was dishonest according to the standards of ordinary decent people. Allegation 1(b)(i) was found proved.
43. Having found Allegations 1(a) and 1(b)(i) proved the Committee next considered Allegation 1(b)(ii), and whether Ms Zia's conduct in respect of 1(a) was contrary to the Fundamental Principle of Integrity. This imposed "an obligation on all professional accountants to be straightforward and honest in all professional and business relationships." It also implied "fair dealing and truthfulness".
44. The Committee concluded that intending to gain exemptions from ACCA exams to which a student was not entitled, was not being straightforward and honest, and was a clear breach of the Fundamental Principle of Integrity. The Committee found Allegation 1(b)(ii) was proved.

Allegation 1(c):

45. The Committee was satisfied that the correspondence from ACCA to Ms Zia dated 22 August 2017, 13 September 2017 and 5 October 2017, was sent to Ms Zia's registered address and to her registered email address. None was returned undelivered and Ms Zia confirmed that ACCA's letter dated 16 July 2018, successfully reached her at the same address used for all of the earlier letters. The Committee was further satisfied that Ms Zia did not respond to any of that correspondence, which included detailed questions in relation to Allegation 1(a). Considering Ms Zia's lack of response, and particularly bearing in mind the serious nature of the allegation being investigated, The Committee was satisfied that Ms Zia did not cooperate fully with ACCA's investigation of the complaint. Therefore that Allegation 1(c) was found proved.

Allegation 1(d):

46. The Committee next asked itself whether, Ms Zia was guilty of misconduct on the basis of Allegations 1(a) and (b) and (c) having been proved. It considered this in relation to each proved allegation individually and cumulatively.

47. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Ms Zia's actions proved in 1(a) and 1(b) brought discredit on her, the Association and the accountancy profession. It was satisfied that submitting false documents with a view to gaining exemptions from exams to which Ms Zia was not entitled, was deplorable conduct, and reached the threshold for misconduct. It considered that breaching the fundamental principle of integrity was also misconduct but added nothing on the facts of this case to the finding of dishonesty.

48. The Committee also considered whether this failure proved in 1(c) alone amounted to misconduct. Every professional had an obligation to co-operate fully with their professional body, and to engage with it when any complaints were raised against the individual. Such cooperation was fundamental to the regulator being able to discharge its obligations of ensuring protection of the public and upholding the

reputation of the profession. The Committee was satisfied that Ms Zia's failures were sufficiently serious to reach the threshold of misconduct.

49. Accordingly the Committee was satisfied that Allegation 1(d)(i) was proved. It did not therefore need to consider the alternative of liability to disciplinary action in relation to Allegation 1(c) as set out in Allegation 1(d)(ii).

SANCTION AND REASONS

50. Ms Zia criticised the Tribunal for its decisions, maintaining her innocence. She said that she was neither working nor studying at present; she was supported by her family and had no money of her own.

51. The Committee noted its powers on sanction were set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanctions, 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.

52. The Committee considered that the submission of false documents in an attempt to gain exemptions from ACCA's exams was very serious. The Committee had specific regard to the public interest and the necessity to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. Trust and honesty were fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermined its reputation and public confidence in it.

53. The Committee further considered that Ms Zia's misconduct in not co-operating fully with ACCA was also serious, undermining its opportunity to regulate the profession properly. It was particularly serious as she had failed to respond to an allegation involving dishonesty.

54. The Committee had seen no evidence from Ms Zia of insight or understanding into the seriousness of his misconduct. The only potentially mitigating factor before the Committee was her previous good character, but it bore in mind that the misconduct took place at the very outset of her membership.

55. The aggravating factors the Committee identified were:

- Ms Zia's actions were deliberate, and involved a degree of pre-planning, and the obtaining of false documents;
- She had sought to gain an advantage over other students who were required to pass examinations, by dishonestly holding herself out as having a qualification that she did not possess.

56. The Committee was satisfied in view of the seriousness of Ms Zia's conduct, which included dishonesty, that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to protect the public and maintain public confidence in the profession. Nor would they uphold proper standards of conduct.

57. The Committee determined that Ms Zia's behaviour was fundamentally incompatible with her remaining on the student register of ACCA, and considered that the appropriate and proportionate sanction was that she be removed from the student register.

COSTS AND REASONS

58. The Committee received tabled additional bundles, numbered pages 133-135, relating to the cost schedule in which ACCA claimed costs of £10,211.52. The Committee considered that the sum claimed was fair in principle, and represented work properly undertaken. Having regard to what Ms Zia had told the Committee of her financial position, namely that she had no employment, no money of her own and was living with and dependant for support upon her family, the Committee considered a proportionate, reasonable and appropriate approach would be to award costs in this case in the token sum of £500.

59. Accordingly, the Committee ordered that Ms Zia pay ACCA's costs in the amount of £500.

EFFECTIVE DATE OF ORDER

60. This order shall take effect from the date of the expiry of the appeal period unless notice of appeal is given prior to the expiry of that period, in which case it shall become effective (if at all) as described in the Appeal Regulations. The Committee was not persuaded that the ground for imposing an immediate order was made out.

Mr Ian Ridd
Chairman
4 April 2019