

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

- In the matter of:** Mr Muhammad Adeem
- Heard on:** Monday, 25 February 2019
- Location:** The Adelphi, 1-11 John Adam Street, London, WC2N 6AU
- Committee:** Mrs Kathryn Douglas (Chairman), Mr Peter Douglas (Accountant) and Mr Paul Moulder (Lay)
- Legal Adviser:** Miss Juliet Gibbon
- Persons present and capacity:** Mrs Emily Healy-Howell (ACCA Case Presenter)
Miss Rachael Davies (Hearings Officer)
- Observers:** None
- Outcome:** **Mr Adeem's name removed from ACCA's Student register and any future application for re-admission as a student to be referred to the Admissions and Licensing Committee for consideration.**
Mr Adeem pay costs of £4,300

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PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to consider allegations made against Mr Muhammad Adeem.
2. The Committee had before it a bundle of papers, numbered pages A-I and 1A-70, an additional bundle, numbered pages 71-75, and a service bundle, numbered pages 1-12.
3. Mrs Emily Healy-Howell represented ACCA. Mr Adeem did not attend the hearing and was not represented.

SERVICE AND PROCEEDING IN ABSENCE

4. Written notice of the hearing, dated 22 January 2019, was sent by electronic mail (“email”) only, to the email address provided to ACCA by Mr Adeem as an address for communications. By virtue of Regulation 22(8)(a) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended on 1 January 2019 (“the Regulations”), is deemed served on the day it was sent, ACCA has, therefore, given more than the 28 days notice required by Regulation 10(1)(a) of the Regulations.
5. The Committee accepted the advice of the Legal Adviser. It bore in mind that it is the sending of the notice that constitutes service. It was satisfied that ACCA had sent the notice of hearing to Mr Adeem in accordance with Regulations 10 and 22 of the Regulations, and that service had been effected in accordance with the Regulations.
6. Mrs Healy-Howell submitted that Mr Adeem had waived his right to be present at the hearing by his failure to engage with ACCA. The notice of hearing had been sent to the electronic address provided by him on registration. There was email confirmation before the Committee that showed Mr Adeem had not collected the documents within the 30 day holding period. She submitted that the documents had been delivered to his email address and had been available for him to collect.

7. Mrs Healy-Howell submitted that as Mr Adeem had completely failed to engage with ACCA's investigation, it was highly unlikely that he would attend on a future date if today's hearing were to be adjourned. Mrs Healy-Howell reminded the Committee of the overarching public interest in the expeditious disposal of disciplinary complaints.
8. The Committee considered whether it should proceed in Mr Adeem's absence. It accepted the advice of the Legal Adviser. The Committee bore in mind that, whilst it has a discretion to conduct proceedings in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee had regard to the factors set out by Lord Bingham in the case of *R v Jones 2002 UKHL 5*. It was also referred to the Court of Appeal case of the *General Medical Council v Adeogba and Visvardis 2016 EWCA Civ 162*, in which Sir Brian Leveson P referred to the responsibility of practitioners to engage with their regulator.
9. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. Given Mr Adeem's complete lack of engagement with ACCA, there was no evidence before the Committee to suggest that an adjournment would be likely to result in his attendance on a future occasion.
10. Having balanced the public interest with Mr Adeem's own interests, the Committee found, on the balance of probabilities, that Mr Adeem ought to have been aware of today's hearing. The Committee was satisfied that ACCA's email had been delivered to his registered email address, and that he had had the means of accessing the notice of hearing, but had deliberately chosen not to. In the circumstances the Committee determined that Mr Adeem had voluntarily absented himself from today's hearing and that it was fair, reasonable and in the public interest to proceed in his absence.

ALLEGATIONS

Allegation 1

- a. On or around 13 March 2017, Mr Muhammed Adeem caused or permitted the submission to ACCA of one or more of the documents listed in Schedule A, which purported to be issued by the University of Sydney when, in fact, they had not.
- b. Mr Muhammed Adeem's conduct as set out in paragraph 1(a) above was:
 - i. Dishonest in that Muhammed Adeem knew that one or more of the documents submitted at 1(a) above were false; and
 - ii. Contrary to the Fundamental Principle of Integrity.
- c. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Muhammed Adeem 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 as set out in Schedule B.
- d. Between 6 November 2017 and 24 January 2018 Mr Muhammed Adeem failed to notify ACCA of an accurate registered address and/or of any change to his registered postal address, contrary to Membership Regulation 8(6).
- e. By reason of his conduct as set out in 1(a) and/or 1(b) and/or 1(c) and/or 1(d), Mr Adeem 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) in respect of 1(c) and (d) only.

BRIEF BACKGROUND

11. Mr Muhammed Adeem applied to be a student member of ACCA on 13 March 2017, and submitted 3 supporting documents via the online registration process. One of the supporting documents received by ACCA was a Bachelor of Commerce Degree Transcript, purportedly issued in Mr Adeem's name, by the University of Sydney. ACCA confirmed Mr Adeem's registration to him in a letter sent to him on 15 March 2017. On the basis of the documentation he had provided, he was awarded exemptions from papers F1 to F9.
12. The documentation submitted by Mr Adeem was subsequently checked and found not to be authentic.

ACCA'S SUBMISSIONS

13. Mrs Healy-Howell, on behalf of ACCA, referred the Committee to an email from the Program Manager at the University of Sydney that, she submitted, proved that the certificate sent to ACCA by Mr Adeem with his online registration was fraudulent. The email stated that Mr Adeem had never been a student at the university, and the student number provided by him was not a valid number.
14. Mrs Healy-Howell submitted that there was evidence before the Committee, upon which it could conclude that Mr Adeem had caused, or permitted, the submission of the Bachelor of Commerce Degree Transcript to ACCA. In particular, he had provided a copy of his official identity card with his online registration. Further, he was the only person who would have gained from the application, as the exemptions from ACCA examinations related to him.
15. Mrs Healy-Howell further submitted that Mr Adeem must have known that the certificate was false, and that his conduct was dishonest according to the test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. She further submitted that his conduct was in breach of the Fundamental Principle of Integrity.

16. In relation to Allegation 1(c), Mrs Healy-Howell referred the Committee to the correspondence that had been sent to Mr Adeem initially by post, and subsequently by email to an email address provided by him to ACCA. There had been no response to any of the letters from Mr Adeem. Mrs Healy-Howell submitted that Mr Adeem had failed in his duty to fully cooperate with ACCA's investigation.
17. In relation to Allegation 1(d), Mrs Healy-Howell referred the Committee to ACCA's letter, dated 30 November 2017, that had been returned to ACCA on 26 February 2018. There was nothing written on the envelope to suggest why the letter had been returned. Mrs Healy-Howell submitted, however, that the Committee could infer from the letter being returned to ACCA, that Mr Adeem had not informed ACCA of a change to his registered postal address.
18. Mrs Healy-Howell submitted that the Committee should find that the Mr Adeem's conduct in Allegations 1(a) and (b); (c) and (d) amounted to misconduct.

DECISION AND REASONS

19. The Committee noted that Mr Adeem had not had any contact with ACCA since 23 September 2017, when there was evidence before it that he had accessed his ACCA account. It noted that there had been no response from Mr Adeem in relation to the allegations made against him by ACCA.

Allegations 1(a), 1(b)(i) and (ii) and 1(c) – Proved

Allegation 1(d) – Not Proved

Allegation 1(e)(i) – Misconduct found in relation to Allegations 1(a), 1(b)(i) and (ii), and 1(c)

20. The Committee carefully considered the evidence before it, and the submissions made by Mrs Healy-Howell. It accepted the advice of the Legal Adviser. The Committee bore in mind that the burden of proving a fact in dispute rested with ACCA, and that the standard of proof to be applied is the balance of probabilities.

21. In relation to Allegation 1(a) the Committee was satisfied, on the balance of probabilities, that Mr Adeem had caused, or permitted, the submission of a false certificate to ACCA, in an attempt to deceive ACCA into believing that it had been issued by the University of Sydney.
22. The Committee did not have a witness statement from her, but accepted what had been written by the Program Manager for the BCom program at the University of Sydney, in her email to ACCA. That confirmed that the ID number provided by Mr Adeem was not valid and that there was no record of him graduating from the university.
23. On the evidence before it, the Committee was satisfied, on the balance of probabilities, that the certificate, which purported to be issued by the University of Sydney, was false. The Committee was also satisfied, on the balance of probabilities, that Mr Adeem had caused, or permitted, the submission of the false certificate to ACCA with his online application. The Committee, therefore, found Allegation 1(a) proved.
24. In relation to Allegations 1(b)(i) and (ii), the Committee considered that Mr Adeem's conduct, in causing or permitting the submission of a false document to ACCA, in order to gain exemptions from examinations, was deliberate and dishonest, and clearly satisfied the test for dishonesty, as set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. The Committee also determined that Mr Adeem's conduct was clearly in breach of the Fundamental Principle of Integrity.
25. In relation to Allegation 1(c), Regulation 3(1)(a) of the Regulations provides that "Every relevant person [that includes a student of ACCA] is under a duty to cooperate with any investigating officer and any assessor in relation to the consideration and investigation of any complaint". Mr Adeem was, therefore, under a duty to cooperate with ACCA's investigation against him.
26. On 6 November 2017, ACCA invited Mr Adeem to provide comments in relation to the complaint. On 30 November 2017, ACCA sent a further letter to Mr Adeem reminding him of his obligation to cooperate with ACCA's investigation.

27. On 24 January 2018, ACCA wrote a further letter to Mr Adeem outlining that, if no response was received to its earlier correspondence, then an allegation of failing to cooperate would be made against him.
28. On 11 June 2018, ACCA forwarded all the letters to Mr Adeem by email. Again, there was no response from Mr Adeem.
29. The Committee noted that Mr Adeem had failed to respond to any of ACCA's communications concerning the allegations and, in the circumstances, it was satisfied that he had breached Regulation 3(1)(a) by failing to cooperate with ACCA's investigation. He had not responded substantively to the three letters, neither after the time of posting, nor after they had been forwarded to him by email.
30. There is evidence before the Committee that ACCA's letter of 30 November 2017 had been returned to ACCA. There was nothing on the envelope to suggest the reason why it had been returned to ACCA, nor were other letters from ACCA to the same address returned.
31. The Committee was not satisfied, on the available evidence, that Mr Adeem had failed to notify ACCA of an accurate registered address and/or of any change to his registered postal address, contrary to Membership Regulation 8(6), because the reason for the return of the letter had not been clarified by ACCA.
32. Misconduct is a matter of judgment for the Committee. The Committee determined that Mr Adeem's dishonest conduct, in causing, or permitting, the submission of a false document purporting to be from the University of Sydney, in a deliberate attempt to deceive ACCA and gain exemption from ACCA examinations, was serious misconduct. The Committee determined that Mr Adeem had brought discredit on himself, ACCA and the accountancy profession.
33. In the Committee's determination, Mr Adeem's conduct in failing to cooperate with his regulatory body's investigation also amounted to misconduct.

34. In relation to Allegation 1(e) the Committee determined that Mr Adeem's conduct in relation to Allegations 1(a), 1(b)(i) and (ii) and 1(c), amounted to misconduct.
35. Allegation 1(e)(ii) was drafted in the alternative to Allegation 1(e)(i), and so the Committee made no finding on this.

SANCTION AND REASONS

36. Mrs Healy-Howell informed the Committee that there were no previous disciplinary findings against Mr Adeem.
37. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(4) of the Regulations, and to ACCA's Guidance for Disciplinary Sanctions (effective from 1 January 2019). In considering what sanction, if any, to impose, the Committee bore in mind the principle of proportionality, and the need to balance the public interest against Mr Adeem's own interests. The purpose of any sanction was not to be punitive but to protect members of the public, maintain public confidence in the profession and ACCA, and to declare and uphold proper standards of conduct and behaviour.
38. When considering the appropriate sanction, the Committee took into account the aggravating and mitigating features in this case. A potential mitigating feature was that Mr Adeem had no previous disciplinary findings against him but, in the Committee's view however, this was perhaps not surprising, given that his dishonest misconduct occurred at the time he made his online application for student registration.
39. The Committee considered the following to be aggravating features of the case:
 - i. This was deliberate dishonest misconduct on the part of Mr Adeem in order to gain an advantage for himself;
 - ii. Mr Adeem had failed to engage with ACCA;

iii. There was potential for serious harm to the public had Mr Adeem's misconduct not been detected.

40. Mr Adeem's dishonest misconduct; his breach of the Fundamental Principle of Integrity, and his failure to cooperate in the investigation, were all very serious matters. The Committee determined that, in the circumstances, it would not be appropriate to take no action, as a sanction was clearly required.
41. The Committee considered the available sanctions from the least serious upwards. It paid due regard to the Guidance for Disciplinary Sanctions and, in particular Section E2, which provided guidance in cases of dishonesty. It carefully considered whether it would be appropriate and proportionate to impose an admonishment or a reprimand on Mr Adeem. The Committee, however, determined that to impose either of these sanctions would not adequately reflect the seriousness of the deliberate and dishonest misconduct in this case.
42. It further determined that there were no factors present to enable it to impose a sanction of severe reprimand. This was very serious misconduct in which there would have been potential harm to the public, had Mr Adeem's dishonest misconduct not been identified by ACCA at an early stage.
43. The Committee considered that Mr Adeem's actions, in causing or permitting a false document to be submitted to ACCA with his application for student registration, in a deliberate attempt to gain exemptions from ACCA examinations, was such a serious departure from the standards expected of an ACCA student, that it was fundamentally incompatible with him being a student of ACCA.
44. The Committee determined that the appropriate and proportionate sanction for Mr Adeem was removal from the student register. Such an order was necessary to mark the seriousness of the misconduct; to uphold professional standards, maintain confidence in the profession and ACCA as a regulator, and to adequately protect the public. The Committee was of the view that no other sanction would adequately reflect the gravity of Mr

Adeem's dishonest misconduct and failure to cooperate. Honesty and integrity go to the heart of the accountancy profession.

45. The Committee also considered that any future application by Mr Adeem for admission as a student of ACCA should be referred to the Admissions and Licensing Committee for consideration.

46. **ORDER**

- i. Mr Muhammed Adeem's name is removed from the ACCA student register;
- ii. Any future application by Mr Adeem to be re-admitted as a student of ACCA must be referred to the Admissions and Licensing Committee for consideration.

EFFECTIVE DATE OF ORDER

47. This order shall take effect from the date of the expiry of the appeal period referred to in the Appeal Regulations 2014, as amended.

COSTS

48. Mrs Healy-Howell, on behalf of ACCA, applied for costs amounting to £7,371.34. The Committee had no information before it as to Mr Adeem's financial situation.

49. The Committee gave careful consideration as to what would be a reasonable sum to order Mr Adeem to pay ACCA, by way of costs. It considered that the sum claimed by ACCA should be reduced to reflect the fact that the hearing had not taken a full day. The Committee determined that it would be appropriate and proportionate to order Mr Adeem to pay ACCA costs in the sum of £4,300.

ORDER

- i. Mr Muhammed Adeem shall pay ACCA the sum of £4,300.

**Mrs Kathryn Douglas
Chairman
25 February 2019**