

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

- In the matter of:** Miss Sara Amjad
- 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:** **Miss Amjad'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.**
Miss Amjad pay costs of £4,400.00.

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PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to consider allegations made against Miss Sara Amjad.
2. The Committee had before it a bundle of papers, numbered pages A-H and 1-91, an additional bundle numbered pages 92-97, and a service bundle, numbered pages 1-12.
3. Mrs Emily Healy-Howell represented ACCA. Miss Amjad 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 Miss Amjad as an address for communications. She was provided with a Box link to access the bundle of documents. Miss Amjad had previously provided her consent for documents to be served by email. An email, dated 22 January 2019, confirmed that the email of 22 January 2019 had been collected.
5. The notice was sent by ACCA on 22 January 2019 and, 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.
6. The Committee accepted the advice of the Legal Adviser. It was satisfied that ACCA had sent the notice of hearing to Miss Amjad in accordance with Regulations 10 and 22 of the Regulations, and that service had been effected in accordance with the Regulations.
7. Mrs Healy-Howell submitted that Miss Amjad had waived her right to be present at the hearing by her failure to engage with ACCA. The notice of hearing had been sent to the electronic address provided by her on

registration. She submitted that as Miss Amjad had failed to engage with ACCA's investigation, it was highly unlikely that she 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 Miss Amjad'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 Miss Amjad's lack of engagement with ACCA, there was no evidence before the Committee to suggest that an adjournment would be likely to result in her attendance on a future occasion.
10. Having balanced the public interest with Miss Amjad's own interests, the Committee was of the view that Miss Amjad had voluntarily absented herself from the hearing. The Committee determined that it was fair, reasonable and in the public interest to proceed in the absence of Miss Amjad.

ALLEGATIONS

Allegation 1

- a. On or around 8 March 2017, Miss Sara Amjad 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. Miss Sara Amjad's conduct as set out in paragraph 1(a) above was:

- i. Dishonest in that Sara Amjad 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, Miss Sara Amjad 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 as set out in Schedule B.
- d. Between 7 November 2017 and 30 January 2018 Miss Sara Amjad failed to notify ACCA of an accurate registered address and/or of any change to her registered postal address, contrary to Membership Regulation 8(6).
- e. By reason of her conduct as set out in 1(a) and/or 1(b) and/or 1(c) and/or 1(d), Miss Amjad 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. Miss Sara Amjad applied to be a student member of ACCA on 8 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 Miss Amjad's name, by the University of Sydney. ACCA confirmed Miss Amjad's registration in a letter sent to her on 13 March 2017. On the basis of the documentation she had provided she was awarded exemptions from papers F1 to F9.
12. The documentation submitted by Miss Amjad 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 Miss Amjad with her online registration was fraudulent. The email stated that Miss Amjad had never been a student at the university, and the student number provided by her was not a valid number.
14. Mrs Healy-Howell submitted that there was evidence before the Committee upon which it could conclude that Miss Amjad had caused, or permitted, the submission of the Bachelor of Commerce Degree Transcript to ACCA. In particular she had provided a copy of her official identity card with her online registration. Further, she was the only person who would have gained from the application, as the exemptions from ACCA examinations related to her.
15. Mrs Healy-Howell further submitted that Miss Amjad must have known that the certificate was false and that, in the circumstances, her 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 Miss Amjad's 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 Miss Amjad by post to her registered address on 7 November 2017, 30 November 2017 and 24 January 2018. There had been no response to the letters from Miss Amjad. Mrs Healy-Howell submitted that Miss Amjad had, therefore, failed in her duty to cooperate fully with the ACCA investigation against her.
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. There were words written on the envelope in Urdu, which Mrs Healy-Howell informed the Committee had been translated into English by ACCA to read: 'no female under this name lives here'. Mrs Healy-Howell submitted that the Committee could infer from the letter being returned to ACCA, that Miss Amjad had not informed ACCA of a change to her registered postal address.

18. Mrs Healy-Howell submitted that the Committee should find that Miss Amjad's conduct in Allegations 1(a), (b); (c) and (d) amounted to misconduct.

DECISION AND REASONS

19. The Committee noted that Miss Amjad had not engaged with ACCA in relation to the allegations, and there was no response from her to the allegations made against her by ACCA.

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

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

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 Miss Amjad 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 Miss Amjad was not valid, and that there was no record of her 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 Miss Amjad had caused, or permitted, the submission of the false certificate to ACCA with her online application. The Committee, therefore, found Allegation 1(a) proved.

24. In relation to Allegations 1(b)(i) and (ii), the Committee considered that Miss Amjad'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 Miss Amjad'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". Miss Amjad was, therefore, under a duty to cooperate with ACCA's investigation against her.
26. On 7 November 2017, ACCA invited Miss Amjad to provide comments in relation to the complaint. On 30 November 2017, ACCA sent a further letter to Miss Amjad reminding her of her obligation to co-operate with ACCA's investigation, and requesting a response to its letter of 7 November 2017.
27. On 30 January 2018, ACCA wrote a further letter to Miss Amjad, outlining that if no response was received to its earlier correspondence then an allegation of failing to cooperate would be made against her.
28. The Committee noted that Miss Amjad had failed to respond to any of ACCA's communications concerning the allegations and, on the evidence before it, was satisfied that Miss Amjad had breached Regulation 3(1)(a) by failing to cooperate with ACCA's investigation. She had not responded substantively to the three letters, neither after the time of posting, nor after they were subsequently sent to her by email.
29. On 30 January 2018, ACCA's letter of 30 November 2017 was returned to ACCA. The envelope had been written on in Urdu, and this was translated into English by ACCA as 'no female under this name resides here'. In the circumstances, the Committee was satisfied that Miss Amjad had failed to notify ACCA of an accurate registered postal address, or a change to her registered postal address, as required by Membership Regulation 8. It found Allegation 1(d) proved.

30. Misconduct is a matter of judgment for the Committee. The Committee determined that Miss Amjad's dishonest conduct, in causing, or permitting, the submission of a false certificate 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 Miss Amjad had brought discredit on herself, ACCA and the accountancy profession.
31. In the Committee's determination, Miss Amjad's conduct in failing to cooperate with her regulatory body's investigation, and her failure to notify ACCA of an accurate and up-to-date postal address, also amounted to misconduct.
32. In relation to Allegation 1(e) the Committee, therefore, determined that Miss Amjad's conduct in relation to Allegations 1(a), 1(b)(i) and (ii), 1(c) and 1(d) amounted to misconduct.
33. 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

34. Mrs Healy-Howell informed the Committee that there were no previous disciplinary findings against Miss Amjad.
35. 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 Miss Amjad'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.
36. When considering the appropriate sanction, the Committee took into account the aggravating and mitigating features in this case. A potential

mitigating feature was that Miss Amjad had no previous disciplinary findings against her but, in the Committee's view however, this was perhaps not surprising, given that her dishonest misconduct occurred at the time she made her online application for student registration.

37. The Committee considered the following to be aggravating features of the case:

- i. This was deliberate dishonest misconduct on the part of Miss Amjad in order to gain an advantage for herself;
- ii. Miss Amjad had failed to engage with ACCA;
- iii. There was potential for serious harm to the public had Miss Amjad's misconduct not been detected.

38. Miss Amjad's dishonest misconduct; her breach of the Fundamental Principle of Integrity, her failure to cooperate in the investigation, and her failure to notify ACCA of her address, 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.

39. 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 Miss Amjad. 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.

40. 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 Miss Amjad's dishonest misconduct not been identified by ACCA at an early stage.

41. The Committee considered that Miss Amjad's actions, in causing, or permitting, a false document to be submitted to ACCA with her 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 her being a student of ACCA.
42. The Committee determined that the appropriate and proportionate sanction for Miss Amjad 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 regulator, and to adequately protect the public. The Committee was of the view that no other sanction would adequately reflect the gravity of Miss Amjad's dishonest misconduct and failure to cooperate. Honesty and integrity go to the heart of the accountancy profession.
43. The Committee also considered that any future application by Miss Amjad for admission as a student of ACCA should be referred to the Admissions and Licensing Committee for consideration.

ORDER

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

EFFECTIVE DATE OF ORDER

44. 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

45. Mrs Healy-Howell, on behalf of ACCA, applied for costs amounting to £7,445.66.

46. The Committee gave careful consideration as to what would be a reasonable sum to order Miss Amjad 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. Miss Amjad has not provided the Committee with any evidence as to her financial means. The Committee carefully considered the information before it, and determined that it was appropriate and proportionate to order Miss Amjad to pay ACCA costs in the sum of £4,400.

ORDER

- i. Miss Sara Amjad shall pay ACCA the sum of £4,400.

Mrs Kathryn Douglas
Chairman
25 February 2019