

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

- In the matter of:** Mr Arsalan Shoukat
- 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 Shoukat'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..**

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Mr Shoukat pay costs of £3,500.00.

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to consider allegations made against Mr Arsalan Shoukat.
2. The Committee had before it a bundle of papers, numbered pages A-I and 1-75; two additional bundles, numbered pages 76-77 and 78-83, and unredacted copies of pages 8-10 of the bundle, together with a service bundle, numbered pages 1-14.
3. Mrs Emily Healy-Howell represented ACCA. Mr Shoukat 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 Shoukat as an address for communications. He was provided with a Box link to access the bundle of documents. Mr Shoukat had previously provided his consent for documents to be served by email in an email to ACCA, dated 6 November 2017. An email, dated 31 January 2019, confirms that the email of 22 January 2019 had been collected. 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.
5. The Committee accepted the advice of the Legal Adviser. It was satisfied that ACCA had sent the notice of hearing to Mr Shoukat 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 Shoukat 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. She submitted that, as Mr Shoukat 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.

7. The Committee considered whether it should proceed in Mr Shoukat'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.
8. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. Given Mr Shoukat'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.
9. Having balanced the public interest with Mr Shoukat's own interests, the Committee found, on the balance of probabilities, that Mr Shoukat was or ought to have been aware of today's hearing, and was of the view that Mr Shoukat had voluntarily absented himself from the hearing. The Committee determined that it was fair, reasonable, and in the public interest to proceed in the absence of Mr Shoukat.

ALLEGATIONS

Allegation 1

- a. On or around 17 May 2017, Mr Arsalan Shoukat 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 Arsalan Shoukat's conduct as set out in paragraph 1a) above was:
 - i. Dishonest in that Arsalan Shoukat 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 Arsalan Shoukat 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 29 January 2018 Mr Arsalan Shoukat 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 1a) and/or 1b) and/or 1c) and/or 1d), Mr Shoukat 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

10. Mr Arsalan Shoukat applied to be a student member of ACCA on 17 May 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 Shoukat's name by the University of Sydney. ACCA confirmed Mr Shoukat's registration to him, in a letter sent to him, on 23 May 2017. On the basis of

the documentation he had provided he was awarded exemptions from papers F1 to F9.

11. The documentation submitted by Mr Shoukat was subsequently checked, and found not to be authentic.

ACCA'S SUBMISSIONS

12. 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 Shoukat with his online registration was fraudulent. The email stated that Mr Shoukat had never been a student at the university, and the student number provided by him was not a valid number.
13. Mrs Healy-Howell submitted that there was evidence before the Committee upon which it could conclude that Mr Shoukat 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.
14. Mrs Healey-Howell further submitted that Mr Shoukat 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.
15. In relation to Allegation 1(c) Mrs Healy-Howell referred the Committee to the correspondence that had been sent to Mr Shoukat, initially by post and subsequently by email to an email address provided by him, on 15 November 2017. There had been no response to the letters from Mr Shoukat. Mrs Healy-Howell submitted that Mr Shoukat had failed in his duty to fully cooperate with the ACCA investigation against him.
16. 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 a foreign language, but Mrs

Healy-Howell informed the Committee that there had been no translation of these words. She submitted, however, that the Committee could infer from the letter being returned to ACCA, that Mr Shoukat had not informed ACCA of a change to his registered postal address.

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

DECISION AND REASONS

18. The Committee noted that Mr Shoukat had not engaged with ACCA since 15 November 2017, and that it had no response from him 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)

19. 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.
20. In relation to Allegation 1(a) the Committee was satisfied, on the balance of probabilities, that Mr Shoukat 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.
21. 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 Shoukat was not valid, and that there was no record of him graduating from the university.

22. 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 Shoukat had caused, or permitted, the submission of the false certificate to ACCA with his online application. The Committee, therefore, found Allegation 1(a) proved.
23. In relation to Allegations 1b)(i) and (ii), the Committee considered that Mr Shoukat'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 Shoukat's conduct was clearly in breach of the Fundamental Principle of Integrity.
24. 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 Shoukat was, therefore, under a duty to cooperate with ACCA's investigation against him.
25. On 6 November 2017, ACCA invited Mr Shoukat to provide comments in relation to the complaint. On 30 November 2017, ACCA sent a further letter to Mr Shoukat reminding him of his obligation to co-operate with ACCA's investigation and requesting a response to its letter of 6 November 2017.
26. On 29 January 2018, ACCA wrote a further letter to Mr Shoukat outlining that, if no response was received to its earlier correspondence, then an allegation of failing to co-operate would be made against him.
27. On 16 March 2018, ACCA's letter of 30 November 2017 was returned to ACCA. This raises the inference that Mr Shoukat failed to notify ACCA of an accurate registered postal address, or a change to his registered postal address.
28. On 15 November 2017, Mr Shoukat emailed ACCA requesting that all correspondence to him be sent to his registered email address. Copies of all

the letters that had been sent to him were sent to Mr Shoukat's email address on 26 April 2018.

29. The Committee noted that Mr Shoukat had failed to respond to any of ACCA's communications concerning the allegations and, in the circumstances, it was satisfied that Mr Shoukat 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 were forwarded to him, by email, on 26 April 2018.
30. There is evidence before the Committee that ACCA's letter of 30 November 2017 had been returned to ACCA. ACCA, however, had not translated the writing on the envelope that was in a foreign language.
31. The Committee was not satisfied that Mr Shoukat 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.
32. Misconduct is a matter of judgment for the Committee. The Committee determined that Mr Shoukat'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 exemptions from ACCA examinations, was serious misconduct. The Committee determined that Mr Shoukat had brought discredit on himself, ACCA and the accountancy profession.
33. In the Committee's determination, Mr Shoukat'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 Shoukat'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 Shoukat.
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 Shoukat'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 Shoukat 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 Shoukat in order to gain an advantage for himself;
 - ii. Mr Shoukat had failed to engage with ACCA;
 - iii. There was potential for serious harm to the public had Mr Shoukat's misconduct not been detected.
40. Mr Shoukat'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 Shoukat. 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 Shoukat's dishonest misconduct not been identified by ACCA at an early stage.
43. The Committee considered that Mr Shoukat'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 Shoukat 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 Shoukat'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 Shoukat for admission as a student of ACCA should be referred to the Admissions and Licensing Committee for consideration.

ORDER

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

EFFECTIVE DATE OF ORDER

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

46. Mrs Healy-Howell, on behalf of ACCA, applied for costs amounting to £4,216.96. The Committee was informed that ACCA had inadvertently not claimed the cost of the hearing but, in fairness to Mr Shoukat, it was not applying for the same today.
47. The Committee gave careful consideration as to what would be a reasonable sum to order Mr Shoukat to pay ACCA, by way of costs. It considered that the sum claimed by ACCA should be reduced slightly to reflect the fact that the hearing had not taken a full day. Mr Shoukat has not provided the Committee with any evidence as to his financial means. The Committee carefully considered the information before it, and determined that it was appropriate and proportionate to order Mr Shoukat to pay ACCA costs in the sum of £3,500.

ORDER

- i. Mr Arsalan Shoukat shall pay ACCA the sum of £3,500.

Mrs Kathryn Douglas
Chairman
25 February 2019