

HEARING

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muhammad Umar

Heard on: Wednesday, 10 July 2019

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

Committee: Mr Maurice Cohen (Chairman)
Mr Robert Clarke (Accountant)
Mr Barry Picken (Lay)

Legal Adviser: Mrs Fiona Barnett (Legal Adviser)

Persons present

and capacity: Mr Benjamin Jowett (ACCA Case Presenter)
Miss Rachael Davis (Hearings Officer)
Mr Muhammad Umar (Member, attended via telephone)

Summary: **Application for Waiver of Requirements for Practising
Certificate with Audit Qualification granted.**

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APPLICATION

1. The Committee convened to consider Mr Umar's application for a waiver of the eligibility requirements for a practising certificate ("PC") for Zimbabwe.
2. To be eligible for a practising certificate under Global Practising Regulation (GPR) 7(1)(a), a member in Zimbabwe is required:
 - To have been a member of ACCA continuously for a period of not less than two years; and
 - To achieve three years of supervised experience in an ACCA approved employer that is registered under the practising certificate development stream, two years of which must be post-membership.

GPR 7(1)(b) states that the requirement to complete a Practising Certificate Training Record does not apply to a practising certificate limited to Zimbabwe.

3. Mr Umar was seeking to waive the requirement for him to have obtained at least two years of post-membership supervised experience in an ACCA approved employer.
4. Mr Umar was seeking a PC with audit qualification ("AQ").

BRIEF BACKGROUND

5. Mr Umar was employed by Company A in Zimbabwe between January 2010 and May 2015.
6. He was removed from the ACCA affiliate register between 26 July 2012 and 16 September 2013, for non-payment of subscription fees whilst an ACCA Affiliate member.

7. Mr Umar was admitted to membership of ACCA on 15 October 2013. He has been credited with the maximum of one-year pre-membership experience in an ACCA approved employer towards the award of a PC, but has been credited with only 19.5 months of post-membership experience, having left Company A on 30 May 2015. He consequently has a shortfall of 4.5 months of the post-membership experience required to obtain a PC.
8. The Committee was provided with a bundle of papers numbering pages 1 – 158, and additional bundle numbering pages 1 - 9.

MR UMAR'S SUBMISSIONS

9. Mr Umar explained (in his written submission) that he has registered a Firm in Zimbabwe which provides advisory services, and he intends that audit will be the mainstay of the Firm in future. He has a temporary arrangement with another audit firm that they both obtain audit clients, and Mr Umar will manage those clients with his team, whilst the other firm will provide oversight, supervision and review. He said this arrangement is not a long-term option as his Firm commits all the resources to the audits, yet commercial rationale is “undermined and eroded”. He said that loss of clients would be detrimental for the future of the Firm. Mr Umar said that the professional regulator in Zimbabwe, to which he paid the required fee in 2016, may only issue a local PC if ACCA has issued a PC.
10. Mr Umar explained that the ‘exceptional circumstances’ he relied upon to justify the waiver related to an error on the part of his former employer, Company A, in failing to pay his ACCA subscription fees. It was standard practice that the employer would pay the annual subscriptions for those in ACCA approved contracts, however, unbeknown to him, the fees were not paid, and he later discovered he had been “struck off” ACCA’s register. He made arrangements to settle the outstanding balance and inform his employer. Mr Umar explained that during the time he was removed from membership, he was an employee of Company A and was achieving relevant experience.

11. Mr Umar set out his experience in audit and assurance in his written submission, which he described as “vast and diverse”, dating back to 2005. He explained that, when he left Company A, he was an Audit Supervisor and was in charge of audits at a senior management level. Mr Umar assured the Committee that his Firm is open to any form of scrutiny and accountability to allay any concerns.

ACCA’S POSITION

12. Mr Jowett submitted that ACCA was “neutral” in respect of Mr Umar’s application for a waiver.

13. Mr Jowett told the Committee that if the Committee is minded to grant the waiver, then ACCA recommend that his application for an audit qualification be granted.

DECISION ON APPLICATION AND REASONS

14. The Committee accepted the advice of the Legal Assessor.

15. In reaching its decision, the Committee took account of ACCA’s document, *Guidance for Regulatory Orders - applications for waivers of regulations* updated February 2013, (“GRO”). It had regard to the documentary evidence provided and Mr Umar’s oral submissions. The documentary evidence included a statement from Mr 1, an ACCA Authorisation Policy Manager.

16. The Committee bore in mind that in determining what order to impose, if any, it must act proportionately, balancing Mr Umar’s interests against the purpose of regulatory orders.

17. The Committee first considered whether there were exceptional circumstances which would justify waiving the PC eligibility requirements. It

bore in mind that the onus is on Mr Umar to satisfy the Committee that he is eligible for the waiver.

18. The Committee had regard in particular, to paragraph 4.3.3 of the GRO. It was satisfied that a number of the factors set out in this paragraph in support of granting the waiver, were applicable to Mr Umar. These were as follows:

- The failure of Mr Umar's employers to renew his ACCA membership was an unforeseen event which was outside his control;
- Mr Umar has already obtained at least three years of supervised experience in an ACCA approved employer, but not the full two years of post-membership experience;
- He has provided good, recent references in support of the application, including references from qualified practising accountants who had confirmed the information he had supplied to the Committee;
- He has provided written confirmation that he will have access to technical and ethical support from another qualified practising accountant or firm of practising accountants;
- Mr Umar has provided a PCTR to cover the shortfall of 4.5 months in his post-membership experience, even though he was not required to do so. This confirms that he has already achieved the required competences for a practising certificate, and this has been signed off by an acceptable supervising principal;
- Not to grant the waiver would cause undue hardship to the staff and clients of Mr Umar's new firm;
- Mr Umar has provided recent CPD records showing that he is up to date on current public practice issues.

19. In the light of the above factors, the Committee was satisfied that the circumstances of Mr Umar's case were exceptional. Further, it was satisfied, having considered all of the documentation before it which included references from his supervisors at Company A, that he had obtained substantial post membership experience at a senior level.
20. The Committee reminded itself of the purpose of a regulatory order, which included protection of the public. Given Mr Umar's long history of audit and accountancy practice, and the positive references received about the high standard of his ethics and practice over a long period, the Committee was satisfied that if the waiver was granted, there was no identifiable risk to the public, and that the wider public interest would not be undermined.
21. The Committee therefore decided to grant the waiver without conditions.
22. In relation to the application for an audit qualification, Mr 1 confirmed in his written statement that, subject to the Committee agreeing to waive the 4.5 months experience shortfall, Mr Umar would also then meet the requirements to be issued with an audit qualification. The Committee accepted this evidence, and agreed that the audit qualification should also be granted.

ORDER

23. The Committee ordered that:

- Mr Umar's waiver application be granted; and
- Mr Umar should be issued with a Practising Certificate with audit qualification.

EFFECTIVE DATE OF ORDER

24. The Committee ordered that this order shall take effect immediately in in the interests of the public, in accordance with Regulation 9(2) of the Authorisation Regulations.

Mr Maurice Cohen
Chairman
10 July 2019