

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Muhammad Waseem
Heard on:	Thursday, 25 July 2019
Location:	The Adelphi, 1-11 John Adam Street, London, WC2N 6AU
Committee:	Mr Ian Ridd (Chairman), Mr William Hay, (Accountant) and Dr Pamela Ormerod (Lay)
Legal Adviser:	Mrs Fiona Barnett
Persons present and capacity:	Mr Mohammed Ismail (ACCA Case Presenter) and Miss Rachael Davies (ACCA Hearings Officer)
OUTCOME:	All allegations proved Removal from Student register Costs £4,500 Order to come into effect at the end of the appeal period

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SERVICE OF PAPERS

1. Mr Waseem was neither present nor represented.
2. The Committee had before it a service bundle, numbering pages 1 to 12. The documents in the bundle showed that the Notice of Hearing dated 24 June 2019, and accompanying documentation was sent to Mr Waseem, by email, on that date to the email address shown on ACCA's register.
3. The Committee was therefore satisfied that proper notice had been given and that service had been effected in accordance with Regulations 10 and 22 Complaints and Disciplinary Regulations 2019, ("CDR").

PROCEEDING IN ABSENCE

4. Mr Ismail submitted that the Committee should proceed in Mr Waseem's absence because he has never engaged with the disciplinary process, and has voluntarily absented himself. He said that the matters alleged against Mr Waseem were serious, and that there was a public interest in proceeding.
5. In reaching its decision, the Committee accepted the advice of the Legal Adviser. It bore in mind that whilst it has a discretion to commence and conduct proceedings in the absence of the member, 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*, and the case of *General Medical Council v Adeogba and Visvardis 2016 EWCA Civ 162*.
6. ACCA served the Hearing Notice upon Mr Waseem in accordance with the CDR's, and he should therefore be aware of the hearing. The onus was on him to maintain an effective registered address. In the Committee's view, it was reasonable to infer, from his lack of response to the hearing notice and his non-engagement during the investigation, that he has disengaged with

the regulatory process and waived his right to attend the hearing. There was no information before the Committee to persuade it that adjourning this hearing would serve any useful purpose.

7. In the Committee's view, the matters before it were serious, involving an allegation of dishonesty, and there was a pressing public interest in ensuring that they were concluded expeditiously.
8. The Committee acknowledged that if it proceeded in the absence of Mr Waseem, there may be some prejudice to him. However, having borne in mind the factors set out above, and the public interest in concluding regulatory matters expeditiously, the Committee was satisfied that the factors in favour of proceeding outweighed any consequential prejudice to Mr Waseem.
9. The Committee decided that in the circumstances, it was fair and reasonable to proceed in the absence of Mr Waseem. The Committee reminded itself that it must take appropriate steps to ensure the hearing is fair, and would draw no adverse inference from Mr Waseem's absence.

ALLEGATIONS

Allegation 1

- (a) On or around 08 August 2018, Mr Muhammad Waseem 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 Manchester Metropolitan University when, in fact, they had not;
- (b) Mr Muhammad Waseem conduct in respect of 1(a) was:
 - i. Dishonest, in that Mr Muhammad Waseem knew or did not care that one or more of the document/documents set out in Schedule A were false;

- ii. Contrary to the Fundamental Principle of Integrity (as applicable in 2018)
- (c) By reason of his conduct in respect of any or all of the matters set out at 1(a) and/or 1(b) above, Mr Muhammad Waseem is guilty of misconduct pursuant to bye-law 8(a)(i).

Allegation 2

(a) Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Muhammad Waseem 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. 30 October 2018;
- ii. 03 December 2018; and/ or
- iii. 07 January 2019

(b) By reason of his/her conduct in respect of any or all of the matters set out at 2(a) above, Mr Muhammad Waseem 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).

BRIEF BACKGROUND

10. Mr Waseem was admitted as a student member of ACCA on 19 January 2019.
11. On 8 August 2018, ACCA received a customer email from a person purporting to be Muhammed Waseem. The email quoted Mr Waseem's ACCA registration number, and attached a number of documents.
12. Manchester Metropolitan University ("the University") subsequently confirmed that Mr Waseem had never been registered as a student with

them, and that the documents provided to them for inspection had not been issued by them.

13. ACCA commenced an investigation into this matter. Correspondence was sent to Mr Waseem's registered postal and email addresses; no response was received.

14. In its consideration of this matter, the Committee had before it a bundle of papers, numbering pages 1 to 56.

DECISION ON ALLEGATIONS AND REASONS

15. The Committee accepted the advice of the Legal Adviser. In reaching its decisions, it reminded itself that the burden of proof rests with ACCA, and that the standard of proof is the civil standard, which is the balance of probabilities.

Allegation 1(a) – found proved

16. The Committee had before it an email to ACCA, dated 8 August 2018, from a person stating that he was Muhammad Waseem, providing a date of birth, and ACCA registration number, and attaching a number of documents. The Committee was satisfied from the evidence before it, that the documents attached to the email were those set out in Schedule A, because the documents in Schedule A were in the name of Muhammad Waseem. The Committee was also satisfied that Mr Waseem caused them to be submitted to ACCA, given that the email came from his ACCA registered email address, and quoted his membership number.

17. The Committee also received unchallenged evidence, from a representative of the University, that the documents set out in Schedule A were false, and that Mr Waseem had never been a student at the University. It accepted this evidence.

18. In the light of the above, the Committee found Allegation 1(a) proved.

Allegation 1(b)(i) – found proved

19. The Committee then decided whether Mr Waseem's actions in Allegation 1(a) were dishonest. In deciding this, the Committee reminded itself, as advised, of the test set out by Lord Hughes at paragraph 74 of *Ivey v Genting Casinos 2017 UKSC 67*. The Committee must first ascertain, subjectively, the actual state of the individual's knowledge or belief as to the facts. Then, once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder, by applying the (objective) standards of ordinary decent people.
20. Mr Waseem submitted false documents to ACCA; these purported to be from Manchester Metropolitan University, where he had never been a student. There had been no response or explanation from Mr Waseem at any time during the investigation, however, Mr Waseem must inevitably have known that he had not been student at the University, and had not legitimately obtained the qualifications when he submitted the documents to ACCA. The Committee concluded that he knew the documents were false when he caused them to be submitted to ACCA.
21. In the Committee's view, the submission of false documents by Mr Waseem to his regulatory body was dishonest by the standards of ordinary decent people. The Committee therefore found that Mr Waseem's actions in Allegation 1(a) were dishonest.

Allegation 1(b)(ii) - breach of the Fundamental Principle of Integrity

22. The Committee was satisfied that Mr Waseem's actions breached the Fundamental Principle of Integrity. Mr Waseem had been neither truthful nor straightforward in his dealings with ACCA.

Allegation 1(c) – misconduct found

23. The Committee was also in no doubt that Mr Waseem's actions amounted to misconduct. His conduct, in submitting false documents to his regulator, fell seriously short of the standards expected of an ACCA student, and was sufficiently serious to amount to misconduct.

Allegation 2(a) – found proved

24. The Committee had sight of the three letters referred to in Allegations 2(a)(i), (ii) and (iii). It was self-evident, from the wording of the letters, that Mr Waseem had not replied to any of them. The letters all provided a deadline date for a response, and the second and third letters made it clear in the wording that no response had been provided to previous letters.

25. Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 imposed a duty on every relevant person to co-operate with any investigating officer and any assessor, in relation to the consideration and investigation of any complaint. The Committee was satisfied that, in the absence of a response from Mr Waseem to the letters dated 30 October 2018, 3 December 2018 and 7 January 2019, he had failed to co-operate with that duty. It therefore found Allegation 2(a) proved.

Allegation 2(b)(i) – misconduct found

26. The Committee decided that Mr Waseem's failure to cooperate with ACCA'S investigation amounted to misconduct. It is a fundamental basis of regulatory enforcement that members of the regulatory body co-operate with the regulator during an investigation. Mr Waseem's failure to do so fell seriously short of the standards expected of an ACCA student.

Allegation 2(b)(ii) - liability to disciplinary action

27. In the light of the Committee's findings in Allegation 2(b)(i) above, the Committee did not go on to consider Allegation 2(b)(ii).

SANCTIONS AND REASONS

28. The Committee accepted the advice of the Legal Adviser who referred the Committee to ACCA's current Guidance on Disciplinary Sanctions, ("GDS"). It bore in mind that it must act proportionately at this stage, balancing the member's interests against the public interest, and that any sanction imposed must be no more than necessary to meet the purpose of a disciplinary sanction.
29. The Committee first considered the seriousness of the conduct found proved, before deciding upon any sanction. It took account of its finding that Mr Waseem had acted dishonestly, and persistently ignored his regulator, which it found to be aggravating factors which rendered his conduct very serious.
30. Mr Ismail told the Committee that Mr Waseem had no previous disciplinary findings against him. The Committee accepted that this was a mitigating factor, but decided that it carried little weight, given Mr Waseem's relatively short history as a student member.
31. The Committee first considered whether to conclude this case without taking further action, but decided that to do so would not uphold the public interest.
32. The Committee next considered, in ascending order, whether an Admonishment or Reprimand would be an appropriate and proportionate sanction in this case. It decided that neither of these sanctions would be sufficient to uphold the public interest, given the serious nature of the matters found proved. None of the factors set out in the GDS, which would support the imposition of an Admonishment or Reprimand, were applicable in this case.
33. The Committee next considered whether a Severe Reprimand would be an appropriate and proportionate sanction. In so doing, it had regard to the factors set out at paragraph C4 of the Guidance. The Committee decided that a Severe Reprimand would not be appropriate or sufficient. Mr

Waseem's misconduct was deliberate, and having disengaged completely from the regulatory process, there was no evidence of any insight, remorse or remediation which would persuade the Committee that Mr Waseem did not present an on-going risk to the public.

34. The Committee then considered Removal from the student register, and considered the factors set out at paragraph C5 and E2 of the GDS. The Committee reminded itself of paragraphs E2.1 and 2.2 of the GDS, which state:

“Dishonesty, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere undermines trust and confidence in the profession....The public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. It is a cornerstone of the public value which an accountant bring”.

35. Mr Waseem acted dishonestly, and persistently ignored his regulatory body during the investigation. He had acted without integrity, and consequently damaged the trust which the public place the accountancy profession. In the Committee's view, his conduct was fundamentally incompatible with continued membership. The mitigation was very limited, and carried little weight when weighed against the seriousness of the misconduct and the aggravating factors.
36. Taking into account the seriousness of the case, and balancing the interests of Mr Waseem, the interests of ACCA and the public interest, the Committee concluded that Removal from the student register would be the proportionate sanction in the circumstances of this case. Its view was that any sanction other than Removal would be insufficient to protect the public, maintain confidence in the profession, and uphold proper standards of conduct.

37. The Committee ordered that Mr Waseem's name be Removed from the student register.

COSTS AND REASONS

38. Mr Ismail applied for costs in the sum of £7,024.05. He suggested that the Committee may wish to reduce the costs to reflect the fact that the hearing had taken a relatively short period of time.

39. The Committee's view was that ACCA was entitled to claim its costs. It was obliged to investigate this matter, and succeeded in proving the allegations made against Mr Waseem.

40. The Committee took account of the fact that this hearing had taken less than half a day, and that 2 cases had been listed today. It decided that £4,500 would be a fair costs figure to reflect this. The Committee found no basis to reduce the costs further, in the absence of any response from Mr Waseem about his means.

41. The Committee therefore made a costs order of £4,500.

EFFECTIVE DATE OF ORDER

42. This Order shall take effect on the date of expiry of the appeal period referred to in the Appeal Regulations.

**Mr Ian Ridd
Chairman
25 July 2019**