

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muhammad Saad Mirza

Heard on: Monday, 25 March 2019

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

Committee: HH Graham White (Chairman)
Ms Wanda Rossiter (Accountant)
Mrs Suzanna McCarthy (Lay)

Legal Adviser: Mr Leighton Hughes

Persons present

and capacity: Mrs Emily Healy-Howell, ACCA Case Presenter
Miss Rachael Davies, Hearings Officer
Ms Amatul Wadood, Urdu Interpreter.

Observers: None

Summary: Allegations 1(a), 1(b)(i), 1(b)(ii), 1(c) and 1(d)(i) proved.
Removal from the student register, any application for re-admission to the student register must be referred to the Admissions and Licensing Committee and no such

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application may be considered until the expiry of two years from today's date.

Costs payable to ACCA in the sum of £10,000.

Effective date of order: Immediate

1. The Committee had before it a hearing bundle paginated A-J and 1-85, an additional bundle paginated 1-10, and service bundles paginated 1-63 and 1-19. The Committee was also provided with costs schedules, at the conclusion of the fact-finding stage, paginated 1-6.
2. ACCA was represented by Mrs Emily Healy-Howell. Mr Mirza was neither present nor represented. He had previously indicated that he would participate in the hearing by telephone link, with the assistance of an Urdu Interpreter.

SERVICE AND PROCEEDING IN ABSENCE

3. The Committee's attention was drawn to the service bundle which established that Mr Mirza had been given notice of the hearing in accordance with rules 10 and 22(5)(c) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ("the Regulations"). The formal notice, dated 25 January 2019, was sent to Mr Mirza's registered email address that same day.
4. Mrs Healy-Howell told the Committee that this is the third occasion upon which this hearing has been scheduled. On 22 August 2018, the hearing was adjourned upon Mr Mirza's application, after engagement with the regulatory process at a very late stage. The second listing, on 14 November 2018, was adjourned upon Mr Mirza claiming serious ill health. The Committee directed that Mr Mirza must provide ACCA with supporting medical evidence by no later than 30 November 2018, but Mr Mirza has provided no such evidence. The full hearing bundle was sent to Mr Mirza on 12 July 2018 and again, electronically, on 13 March 2019.
5. Mrs Healy-Howell told the Committee that the Hearings Officer had also spoken to Mr Mirza by telephone on 11 and 12 March 2019, and that he was aware of the hearing. An arrangement had been made that the Hearings Officer would telephone Mr Mirza at 9.30am today, in preparation for the hearing commencing at 10.00 am. Mr Mirza had not answered any of the 3 calls made by the

Hearings Officer between 9.25am, 9.35am and 9.45am, each being diverted to a voicemail service. Mrs Healy-Howell submitted that, there having been compliance with the regulations, the Committee had the power to proceed in the absence of Mr Mirza.

6. The Hearings Officer confirmed that Mr Mirza had not contacted ACCA by email or telephone today.
7. The Committee was satisfied that Mr Mirza had been given notice of today's hearing in accordance with the Regulations. It next considered whether it was appropriate to hear the allegations faced by Mr Mirza in his absence. It bore in mind its discretion to do so, in accordance with Regulation 10(7). The Committee noted that it should approach the exercise of its discretion with the utmost care and caution. It had regard to all the information before it in order to determine the nature and circumstances of Mr Mirza's absence, and in particular, whether he had voluntarily absented himself from participating in today's proceedings, and so waived the right to be present.
8. The Committee requested that Mr Mirza to be telephoned twice further at the outset of the hearing, which was shortly after 11.00am. The first call was unanswered, and the second was diverted to a voicemail service, as confirmed by the Urdu interpreter. The Committee had regard to the history of this matter, as set out by Mrs Healy-Howell. In all the circumstances, it was satisfied that Mr Mirza had decided not to participate in this hearing. The Committee considered that, in the circumstances, an adjournment would be unlikely to secure his attendance at a future date, or serve any useful purpose.
9. The Committee had regard to the general public interest in the expeditious disposal of a hearing, without unnecessary delay. It determined that Mr Mirza had voluntarily absented himself and waived his right to participate in the hearing, and that in all the circumstances it would be fair and reasonable to proceed in his absence. To do otherwise would fly in the face of the efficient despatch of these regulatory proceedings. The Committee reminded itself that Mr Mirza's absence would add nothing to ACCA's case, and was not indicative of guilt.

THE ALLEGATIONS

Allegation 1

(a) On or around 18 May 2017, Mr Muhammad Saad Mirza 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 Middlesex University when, in fact, they had not.

(b) Mr Muhammad Saad Mirza’s conduct in respect of 1(a) was:

- (i) Dishonest; and
- (ii) Contrary to the Fundamental Principle of Integrity;

(c) Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Muhammad Saad Mirza 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 dated:

- i) 25 August 2017;
- ii) 25 September 2017;
- iii) 17 October 2017.

(d) By reason of his conduct at 1(a) and/or 1(b) and/or 1(c) above, Mr Muhammad Saad Mirza 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).

THE BACKGROUND AND ACCA'S CASE

10. Mr Mirza is a student member of ACCA, having been registered as a student on 23 May 2017.
11. ACCA's case was that, on or around 18 May 2017, Mr Mirza caused or permitted the submission of false education documents to ACCA in support of his application for student membership, and a concurrent application for

exemptions from ACCA professional examinations. The documents purported to evidence that Mr Mirza had been awarded a degree of Bachelor of Arts in Accounting and Finance at Middlesex University, and the marks that he had attained. However, Mr Mirza had not studied at Middlesex University, and the documents were bogus.

12. ACCA alleged that, by virtue of his actions, Mr Mirza was guilty of misconduct and also was dishonest, and in breach of ACCA's Fundamental Principle of Integrity. ACCA's case was, further, that once informed of the investigation into the matter, Mr Mirza had failed to co-operate with the investigation. That was alleged, also, to amount to misconduct or, in the alternative, was at least sufficiently serious as to render Mr Mirza liable to disciplinary action.
13. ACCA relied upon the witness statements of Ms 1, a Student Registrations Team Manager at ACCA. Ms 1 set out the procedure for becoming a student member of the Association, and the online process for seeking exemption from ACCA professional examinations by virtue of previously gained qualifications. Ms 1 confirmed that, on 18 May 2018, Mr Mirza had submitted the documents in Schedule A in support of his applications, together with his Pakistan National Identity Card, and a certificate of intermediate and secondary education. On 24 May 2018, in reliance upon the authenticity of the documents in Schedule A, ACCA confirmed Mr Mirza's exemption from all nine of ACCA's Fundamental examination papers.
14. ACCA also relied upon the witness statement of Ms 2, a Conferment and Assessment Manager at Middlesex University. She confirmed, on behalf of the university, that Mr Mirza had not previously been, and was not currently, a registered student of Middlesex University. She reviewed the Schedule A documents, and further confirmed that they had not been issued by the university.
15. On 25 August 2017, ACCA's Investigations department wrote to Mr Mirza by letter, to his registered postal address, to seek his comments in relation to the investigation. An email was also sent to his registered email address, and a previous registered email address, to ascertain if he was willing to receive correspondence from ACCA at that or those email address. Mr Mirza did not reply to that letter or the emails.

16. On 25 September 2017, ACCA wrote a further letter to Mr Mirza, reminding him of his obligation to co-operate with ACCA's investigation, and requesting a response to ACCA's earlier correspondence. No response was received by post or email, and no post was returned.
17. On 17 October 2017, ACCA wrote a further letter to Mr Mirza, outlining that if no response was received to ACCA's earlier correspondence, an allegation would be raised against him under Complaints and Disciplinary Regulation 3(1). No response was received by post or email, and no post was returned.
18. On 07 November 2017, ACCA wrote to Mr Mirza to notify him that a report of disciplinary allegations was being drafted. All correspondence that had previously been sent to Mr Mirza's registered postal address was also sent in a password protected format to his registered email address. In order to open the correspondence, Mr Mirza was required to request the password from ACCA. No response was received by post or email, and no post was returned.

MR MIRZA'S CASE

19. Mr Mirza set out his case in two emails sent to ACCA on 18 October 2018. He stated that that he had been fraudulently misled by two men who were the respectively Director and Proprietor of an educational establishment in Pakistan:

"In most probably May 2015 I joined an institute named as [name provided] in Multan Pakistan with the following Address [address provided] for CAT(Certified Accountant Technician)...after studying two months my teachers [named] advised me to discontinue CAT and join our another program MCMBT after completing this you will get exemptions in ACCA till paper F9. I said okay because I was student and I followed their instructions as they were the most seniors in the institute. they started me MCMBT Tution for one year and given exams of this course after completing this they said me now you are eligible for exemptions till paper F9 but you need a new registration and they provided me ACCA Registration #4035759 in June 2017. I checked my ACCA account and that were operational and they charged me 800000 PKR (some receipts attached). after that I moved to Islamabad for work. In August 2018 I have conversation with you and I knew this all and I received your mails and

studied all the case, whatever communicated to you with the emails addresses mentioned in case book was not from my end. This all fraud committed the above mentioned people. I have also taken legal action against them in Pakistan judiciary."

20. In relation to Allegation 1(c), Mr Mirza advanced no explanation for not responding to any of the correspondence from the ACCA investigating office.

ACCA SUBMISSIONS

21. Mrs Healy-Howell submitted, in short, that the evidence adduced by ACCA provided cogent evidential support for the factual allegations. She told the Committee that ACCA had taken steps to investigate the allegations made by Mr Mirza, but their contact with the educational establishment had been unhelpful and unproductive. Mrs Healy-Howell rejected the account provided by Mr Mirza in his emails, and stated that the entire arrangement that he described was highly unusual, and at least should have raised great suspicion on his part as to what was going on. Furthermore, she argued that, even if his account was accurate, Mr Mirza could not have avoided seeing the fraudulent documents that had been submitted, on the occasions upon which he had accessed his ACCA online account subsequent to May 2017.
22. Mrs Healy-Howell submitted that deliberately acting as Mr Mirza did, as set out in Allegation 1(a), was dishonest by the standards of ordinary, decent people, and contrary to ACCA's Fundamental Principle of Integrity.
23. Mrs Healy-Howell further submitted that, in failing to respond to the requests of the ACCA Investigations Officer, Mr Mirza had breached the duty to co-operate provided for by Regulation 3 of ACCA's Complaints and Disciplinary Regulations 2014 ("the Regulations").
24. In conclusion, Mrs Healy-Howell submitted that Mr Mirza's actions, as alleged in Allegations 1(a), 1(b) and 1(c) individually and/or cumulatively, amounted to misconduct or, at least, rendered him liable to disciplinary action.

THE COMMITTEE'S DECISION ON THE ALLEGATIONS

25. The Committee bore in mind that ACCA had brought these allegations, and the burden remained upon ACCA to prove its case. Mr Mirza did not have to prove anything. The standard of proof was the balance of probabilities, but the Committee was mindful that it had to look for cogent evidence when considering an allegation of dishonesty. The Committee did not treat Mr Mirza's absence as any support for ACCA's case, however it did mean that it had been presented with no oral evidence that undermined or contradicted the case presented by ACCA.
26. In making its findings of fact, the Committee carefully considered all of the evidence in the hearing bundles, weighing all of the evidence dispassionately, and determining, using its experience, expertise and common sense, which evidence it accepted and which evidence that it rejected. It preferred the evidence adduced by the ACCA to the account proffered by Mr Mirza, in his emails of 18 October 2018, finding it to be inherently implausible and unreliable.
27. The Committee found, as facts, that the Schedule A documents were not genuine, had not been issued by Middlesex University, and that Mr Mirza had not passed the examinations set out therein. It had not been presented with any evidence that undermined that adduced on behalf of ACCA.
28. The Committee was similarly satisfied that Mr Mirza had caused or permitted the Schedule A documents to be submitted to ACCA, on or around 18 May 2018, in support of his application for exemptions. It found the evidence relied upon by ACCA presented a clear and compelling case that supported the factual basis of the allegation. It rejected the explanation proffered by Mr Mirza, finding that he had simply chosen to pay a very significant sum for false documents that would enable him to obtain exemptions from ACCA professional examinations. Moreover, the Committee was satisfied that Mr Mirza could not have avoided seeing the fraudulent documents that had been submitted, on the occasions upon which he had accessed his ACCA online account subsequent to May 2017. He knew he had been granted exemptions from ACCA professional examinations, and he would similarly have known that he had not gained a qualification that would have led to legitimate exemption.

29. The Committee found that the fraudulent documents were intended to deceive ACCA, and was a deliberate attempt to secure exemption from key professional examinations. No-one other than Mr Mirza stood to benefit from the deception.
30. Having found the facts giving rise to Allegation 1(a) proved, the Committee was satisfied that Mr Mirza had been acting dishonestly. It was in no doubt that reasonable and honest people would consider that to deliberately submit false qualification documents, in order to be granted exemptions from ACCA examinations, was thoroughly dishonest. Furthermore, the Committee was in no doubt that he had acted in clear breach of ACCA's Fundamental Principle of Integrity, in that he was being neither straightforward nor honest. Accordingly, the Committee found Allegations 1(b)(i) and (ii) proved.
31. In relation to Allegation 1(c), The Committee also found that Mr Mirza had failed to respond to ACCA's Investigations Officer's correspondence, by both emails and letters, on 25 August 2017, 25 September 2017 and 17 October 2017. The Committee had been provided with no explanation for these failures. Moreover, the Committee had no reason to doubt that the correspondence sent to Mr Mirza's registered postal address reached him, and Mr Mirza had not contended that any other ACCA correspondence had failed to do so. No documents had been returned to ACCA. The Committee found Mr Mirza's failure to cooperate with the Investigations Officer to be consistent with his sporadic engagement with the entire regulatory process.
32. The Committee was satisfied that both Mr Mirza's dishonest behaviour, and his subsequent failure to cooperate with the ACCA investigation into a very serious allegation, was morally culpable, and discreditable to Mr Mirza, ACCA and the Accountancy Profession. The Committee considered the overall conduct to be a significant departure from the high standards expected of an ACCA student, and conduct that brought ACCA and the profession into disrepute. Accordingly, the Committee was in no doubt that the behaviour found proved amounted to misconduct. To characterise it as other than misconduct would fail to uphold proper professional standards, and would undermine public confidence in the profession and in the regulatory function of ACCA.
33. Having therefore found Allegation 1(d)(i) proved, the Committee did not need to consider Allegation 1(d)(ii).

34. Accordingly, the Committee found Allegations 1(a),1(b)(i), 1(b)(ii), 1(c) and 1(d)(i) proved. Allegation 1(d)(ii) had been pleaded as an alternative, and so the Committee did not need to consider it.

SANCTION AND REASONS

35. The Committee had regard to ACCA's Guidance for Disciplinary Sanctions. It had, at the forefront of its consideration, the public interest, which included not only the protection of members of the public, but also the maintenance of public confidence in the profession and in ACCA, and the declaring and upholding of proper standards of conduct and behaviour. The Committee recognised that the purpose of sanctions was not to be punitive, although a sanction may have a punitive effect.
36. Mr Mirza had not provided any references or testimonials. There were no previous disciplinary findings recorded against Mr Mirza, but the Committee bore in mind that Mr Mirza's dishonesty had taken place at the very outset of his student membership.
37. The Committee considered that there were no aggravating features, other than the very serious misconduct itself.
38. The Committee first considered taking no further action in this case. It was in no doubt that to do so would fail, properly, to mark the misconduct of Mr Mirza, and would undermine confidence in ACCA as a regulator.
39. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.
40. The Committee first considered whether the appropriate sanction would be the Admonishment of Mr Mirza. The misconduct arose from a deliberate attempt to deceive ACCA with the aim of personal advancement and, thereafter, a refusal by Mr Mirza to engage with his regulator in the investigation of his wrongdoing. The Committee determined that an Admonishment would not adequately reflect

the nature of the misconduct in this case, and would undermine public confidence in the regulatory process.

41. For the same reason, the Committee determined that neither a Reprimand nor a Severe Reprimand was appropriate by way of sanction, and that to impose either of these sanctions would not publicly mark the nature and seriousness of the misconduct in this case, nor would it suitably declare and uphold proper standards of conduct.
42. The Committee considered that Mr Mirza's misconduct, in particular his dishonesty, represented fundamental departures from the standards expected of a student member of ACCA. The Committee was satisfied that such dishonesty was fundamentally incompatible with being a student member of ACCA, and that no sanction short of Removal from the student register was appropriate in his case. The Committee considered that a failure to remove a dishonest student from the register would fail, properly, to uphold proper standards of professional behaviour, and would seriously undermine public confidence in the profession and in ACCA as its regulator. Accordingly the Committee ordered that Mr Mirza be removed from the student register.
43. In light of the gravity of the matters found proved, the Committee further directed that no application for re-admission may be considered until the expiry of two years from today's date.

COSTS

44. ACCA claimed costs in the sum of £13,669.20. The Committee decided that it was appropriate to award costs, and that the sum claimed was fair and reasonable in principle. Mr Mirza had not provided any details of his financial circumstances, and the Committee noted, from a recent telephone attendance note of March 2019, that Mr Mirza is currently in employment. Accordingly, the Committee had no evidential basis for reducing the sum claimed on grounds of his inability to pay. However, in light of the chequered history of these proceedings, the Committee ordered that Mr Mirza should pay £10,000 to ACCA by way of costs.

EFFECTIVE DATE OF ORDER

45. In light of the Committee's findings, it was satisfied that it is in the public interest that this order shall have immediate effect. To direct otherwise would be inconsistent with its reasons hitherto.

HH Graham White
Chairman
25 March 2019