

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Hasan Talal

Heard on: Thursday, 02 May 2019

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

Committee: HH Suzan Matthews QC (Chairman)
Ms Joanne Royden-Turner (Accountant)
Ms Lynne Jones (Lay)

Legal Adviser: Mrs Fiona Barnett

Persons present

and capacity: Mr Ben Jowett – ACCA Case Presenter
Ms Anna Packowska – ACCA Hearings Officer

OUTCOME: All Allegations found proved.
Removal from the student register. Costs to ACCA £5,035.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

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SERVICE OF PAPERS

1. Mr Talal 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 27 March 2019, and accompanying documentation was sent to Mr Talal by email on that date to the email address shown on ACCA's register.
3. There was however, an error within the Notice of Hearing. The service letter made reference to the date of the hearing as "Tuesday 02 May 2019", when in fact, the hearing was taking place on Thursday 02 May 2019. Mr Talal was notified of this error by ACCA in email correspondence sent on 29 April 2019. In the Committee's view, this was not a material error, as the notice of hearing did inform Mr Talal of the correct date of the hearing i.e. 2 May 2019. The reference to "Tuesday 2 May", could, at its worst, have led him to believe that the hearing might have taken place slightly earlier than its scheduled date. ACCA had also taken steps to correct this error, but in the Committee's view, it had complied with Regulation 10(1)(b) of ACCA's Complaints and Disciplinary Regulations 2019, ("CDR"), which required ACCA, amongst other matters, to notify Mr Talal of the time, date and place of the hearing.
4. The Committee was therefore satisfied that proper notice had been given, and that service had been effected in accordance with Regulations 10 and 22 "CDR".

PROCEEDING IN ABSENCE

5. Mr Jowett submitted that the Committee should proceed in Mr Talal's absence. He said that Mr Talal was aware of the hearing and had waived his right to attend. Further, he had not asked for an adjournment and adjourning would not secure his attendance at a later date. Mr Jowett submitted that given the seriousness of the allegations, there was a public interest in the expeditious disposal of the case.

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6. 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*.
7. Mr Talal had communicated with ACCA during the investigation, however there had been no response from him to the notice of hearing, or to the follow-up email sent to him by ACCA on 29 April 2019 asking if he intended to attend the hearing.
8. The Committee was satisfied that Mr Talal knows, or should know of the hearing. In the Committee's view, it was reasonable to infer, from his lack of response to the hearing notice, that he had waived his right to attend. There was no information before the Committee to persuade it that adjourning this hearing would serve any useful purpose. Mr Talal failed to respond to the hearing notice, and the follow up email, sent by ACCA on 29 April 2019, in which he was given an opportunity to attend by video link or telephone.
9. In the Committee's view, the matters before it were serious, involving allegations of dishonesty, and there was a pressing public interest in ensuring that they were concluded expeditiously.
10. The Committee acknowledged that if it proceeded in the absence of Mr Talal there may be some prejudice to him. However, it was mindful that Mr Talal engaged with ACCA during the investigation stage and provided written responses to the allegations at that stage. The Committee would be in a position to consider these during its deliberations which would limit any prejudice to him to some extent.
11. In the Committee's view, having borne in mind the factors set out above, and the public interest in concluding regulatory matters expeditiously, the

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Committee was satisfied that the factors in favour of proceeding outweighed any consequential prejudice to Mr Talal.

12. The Committee decided that in the circumstances, it was fair and reasonable to proceed in the absence of Mr Talal. The Committee would ensure that it took appropriate steps to ensure the hearing was fair, and would draw no adverse inference from Mr Talal's absence.
13. The Committee also noticed that within the hearing bundle, Mr Talal had been referred to in one place (page 74) as "Talal Ahmed", which was not his correct name. However, the correspondence in which he was incorrectly named made reference to the correct ACCA identification number for Mr Talal. The Committee was therefore satisfied that the documentation at page 74 related to Mr Talal, and that the reference to the name "Talal Ahmed" was a typographical error.

ALLEGATIONS

1. Mr Hasan Talal who is registered with ACCA (Association of Chartered Certified Accountants) as a student:
 - a. In March 2015, Hasan Talal caused or permitted the submission to ACCA of one or more of the documents listed in Schedule A, which purported to have been issued by the University of Lahore when, in fact, they had not been.
 - b. Hasan Talal's conduct as set out in paragraph 1a) above was:
 - i. Dishonest in that he knew that one or more of the documents set out in Schedule A were false;
 - ii. Contrary to the Fundamental Principle of Integrity.

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- c. By reason of his conduct as set out in any or all of the matters at 1a) and/or 1b) i and 1(b) ii, Hasan Talal is:
 - i. Guilty of misconduct pursuant to Bye-law 8(a)(i); and
 - ii. Liable to disciplinary action pursuant to bye-law 8(a)(iii).

Schedule A

1. Certificate from the University of Lahore dated 10 September 2013 in Bachelor of Science in Accounting and Finance; and
2. Transcript for Bachelor of Science in Accounting and Finance from the University of Lahore dated 16 August 2012

BRIEF BACKGROUND

14. In March 2015, ACCA granted exemptions for examinations F7, F8 and F9 to Mr Hasan Talal.
15. On 7 June 2018, ACCA received an email from Mr Talal requesting that his exemptions for F1 to F9 be waived.
16. ACCA made further enquiries with the University of Lahore, which revealed that the documents provided with the 2015 application for exemptions in Mr Talal's name were false. ACCA commenced an investigation into this matter.
17. In its consideration of this matter, the Committee had before it a bundle of papers numbering pages A to K and 1 to 75.

DECISION ON ALLEGATIONS AND REASONS

18. 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

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that the standard of proof is the civil standard, which is the balance of probabilities.

Allegation 1(a) – found proved

19. The Committee accepted the evidence of Mr 1, ACCA exemptions specialist, who stated that sometime in March 2015, ACCA received a request from Mr Talal, or someone on his behalf, for F7, F8 and F9 exemptions. Mr 1 also said that on 16 March 2015, a certificate and transcript purporting to be from the University of Lahore were added to Mr Talal's ACCA account.
20. The Committee also received a document entitled, "Confirmation of false documents", which was signed by a representative of the University of Lahore on 26 July 2018. The representative confirmed that the documents provided, (which, the Committee noted, were the same documents provided to ACCA to support the application for exemptions made for Mr Talal in 2015), were not issued by the University of Lahore and also confirmed that Mr Talal had not been a student there. The Committee accepted this evidence, which was not disputed by Mr Talal. It was satisfied that false documents were submitted to ACCA in March 2015 in support of an application for exemptions in Mr Talal's ACCA account.
21. In deciding whether Mr Talal "caused or permitted" the submission to ACCA of the documents in Schedule A, the Committee had regard to Mr Talal's explanation.
22. Mr Talal said in his written responses to ACCA during the investigation that he had been a student at Acute College, ("the College") in Lahore which closed their campuses in Pakistan in 2015. He said he had studied for a Level 7 extended diploma in accounting and paid his fees to the college. He said the College told him they would process his exemptions, and that they had applied to ACCA for these on his behalf. He did not know how the College had paid ACCA or obtained his exemptions. Mr Talal said he had never seen the certificate and transcript before.

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23. The Committee was satisfied, on the balance of probabilities, that Mr Talal caused or permitted false documents to be submitted to ACCA. The Committee rejected his assertion that he did not know how the College had obtained the exemptions. It was clear, from Mr Talal's own account and from the documents before the Committee that Mr Talal had paid the College the exemption fees in June 2013 (£435), and June 2015 (£270). Furthermore, if Mr Talal's account was correct, he must have given the College his ACCA account details so that they could apply for the exemptions on his behalf. Consequently, the Committee was satisfied that he had caused or permitted the documents to be submitted to ACCA on his behalf, and that the documents were false in that they were not issued by the University of Lahore.

24. The Committee therefore found this allegation proved.

Allegation 1(b)(i) – found proved

25. The Committee then considered whether Mr Talal's actions 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.

26. In deciding the actual state of Mr Talal's knowledge or belief as to the facts, the Committee carefully considered the evidence adduced by ACCA, and Mr Talal's responses and explanations.

27. Mr Talal maintained that he had no knowledge that false documents had been submitted to ACCA on his behalf. He said that he had paid fees to the College in cash, and he provided ACCA with two invoices which were date

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stamped 4 May 2015, and 7 June 2013, purporting to be issued by the College, for £270 and £435 respectively.

28. Mr Talal said that the College was applying for the exemptions on his behalf. He also produced a letter dated 22 June 2018 purporting to be from the Finance Manager of Acute College, confirming that Mr Talal was a student of the College from February 2012 to November 2015. Mr Talal also told ACCA that he had not received his diploma from the College, and sought from ACCA a refund of monies held by ACCA, which he asked to be paid into the account of a third party.
29. Mr Talal told ACCA that although the College had closed in 2015, one of its teachers had started a new institute with the same name.
30. ACCA made attempts to contact the College. The College responded to emails but the phone number supplied did not connect. They informed ACCA that this was because the land line was not working properly during the monsoon season. They confirmed that Mr Talal was a student in the previous institute. ACCA asked for details about financial transactions concerning exemption fees paid to ACCA by the College on behalf of Mr Talal, but no specific response was received in relation to this query.
31. The Committee did not accept Mr Talal's account that he had no knowledge that false documents were provided to ACCA. Mr Talal had applied to ACCA to waive his exemptions so he must have known that he had received these exemptions. These were clearly shown in his ACCA account. He did not suggest he was entitled to exemptions on any other basis.
32. Further, it was inherently improbable to suggest that the College would submit false documents to ACCA without Mr Talal's knowledge, because Mr Talal was the only person who would benefit from this; the submission of those documents ensured that he received a number of ACCA exam exemptions, to which he was not entitled, and to which he must have known he was not entitled. When he applied to waive the exemptions, he gave a

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reason of wanting to re-study, not that they were obtained fraudulently by a third party.

33. ACCA also wrote to Mr Talal by email on 16 March 2015, confirming receipt of his “education documents”, so it was clearly drawn to his attention that documents had been received by ACCA. Mr Talal raised no query about those documents. He also accepted in his correspondence with ACCA, that he had not been a student of Lahore University, so he must have known that the “education documents” provided to ACCA in support of the exemption application were false.

34. In the Committee’s view, the only reasonable inference that could be drawn from the facts was that Mr Talal knew that the College would be submitting a false document or documents to obtain the exemptions.

35. The Committee was satisfied that, given his knowledge that he was not entitled to the exemptions, and by allowing the College to submit false documents on his behalf, Mr Talal acted dishonestly according to the standards of ordinary decent people.

36. The Committee therefore found this Allegation proved.

Allegation 1(b)(ii) – found proved

37. The Committee was satisfied that Mr Talal’s actions, in obtaining exemptions by allowing the submission of false documents, was contrary to the fundamental Principle of Integrity. Mr Talal had been neither truthful nor straightforward in his dealings with ACCA.

Allegation 1(c)(i) – misconduct found

38. The Committee was also in no doubt that Mr Talal’s actions amounted to misconduct. His conduct, in allowing the submission of false documents to obtain exemptions to which he was not entitled, fell seriously short of the

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standards expected of an ACCA student, and was sufficiently serious so as to amount to misconduct.

Allegation 1(c)(ii) - not considered

39. In view of the Committee's decision in Allegation 1(c)(i), the Committee did not consider this allegation.

SANCTIONS AND REASONS

40. The Committee accepted the advice of the Legal Adviser who referred the Committee to ACCA's current Guidance on Disciplinary Sanctions ("DSG"). 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.

41. The Committee first considered the seriousness of the conduct found proved, before deciding upon any sanction (in accordance with paragraph F of the DSG). It took account of its finding that Mr Talal had acted dishonestly, and that he had deliberately misled the Regulator with a view to making a gain for himself. It found that these were significant aggravating factors which rendered his conduct very serious.

42. Mr Jowett told the Committee that Mr Talal had no previous disciplinary findings against him, and the Committee accepted that this was a mitigating factor. It also bore in mind Mr Talal's submissions that this investigation had taken its toll on his health, and the Committee also treated this as a mitigating factor.

43. 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.

44. The Committee next considered, in ascending order, whether an Admonishment or Reprimand would be an appropriate and proportionate

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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 DSG which would support the imposition of an Admonishment or Reprimand were applicable in this case.

45. 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.

46. Mr Talal had co-operated during the investigations stage, and had no previous disciplinary record. However, his misconduct was deliberate, and having disengaged from the regulatory process, there was no evidence of any insight, remorse or remediation which would persuade the Committee that Mr Talal did not present an on-going risk to the public.

47. The Committee then considered Removal from the Student register and considered the factors set out at paragraph C5 and E2 of the DSG. The Committee reminded itself of paragraphs E2.1 and 2.2 of the DSG, 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”.

48. Mr Talal had acted dishonestly, and persistently denied his misconduct. He had acted without integrity and 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

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limited, and carried little weight when weighed against the seriousness of the misconduct and the aggravating factors.

49. Taking into account the seriousness of the case and balancing the interests of Mr Talal, the interests of ACCA and the public interest, the Committee concluded that this 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.

50. The Committee ordered that Mr Talal's name be removed from the student register.

COSTS AND REASONS

51. Mr Jowett, on behalf of ACCA, applied for costs in the sum of £7,432.13, and provided the Committee with costs schedules at pages 76 to 79.

52. In reaching its decision on costs, the Committee bore in mind that all of the facts had been found proved. However, it deducted from the total costs claimed, Case Presenter time, Hearings Officer time, and it halved the hearing costs given that the hearing had been half a day, and not a full day.

53. The Committee decided that £5,035 was an appropriate sum, and ordered that Mr Talal pay this amount to ACCA in costs.

EFFECTIVE DATE OF ORDER

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

HH Suzan Matthews QC
Chairman
02 May 2019