

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Ms Sneha Khastoori

Heard on: Tuesday, 08 October 2019

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

Committee: Mr Maurice Cohen (Chairman)
Ms Joanne Royden-Turner (Accountant)
Mr Garrett O'Reilly (Lay)

Legal Adviser: Mr Conor Heaney

Persons present

and capacity: Mr Mohammed Ismail (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: **Allegation 1(a), 1(b)(i), 1(b)(ii), 1(c), 2(a)(i), 2(a)(ii), 2(b)(i) proved. The alternative Allegation 2(b)(ii) was not required to be considered. Removal from the student register with immediate effect.**

Cost to ACCA: £5,750

1. The Committee heard misconduct allegations against Ms Sneha Kastoori, a student of ACCA.

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2. ACCA was represented by Mr Ismail. Ms Khastoori was not present, nor was she represented. The Committee had a hearing bundle, numbering pages 1-82, and a service bundle, numbering pages 1-19.

SERVICE OF PAPERS / PROCEEDING IN ABSENCE

3. The Committee first considered whether the appropriate documents had been served on Ms Khastoori in accordance with Regulations 10 and 22 of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, amended on 1 January 2019s ('the Regulations'). The Committee took into account the submissions made by Mr Ismail, on behalf of ACCA, and it accepted the advice of the Legal Adviser.
4. The notice of the hearing, containing all the information required under Regulation 10(1) of the Regulations, was sent to Ms Khastoori on 02 September 2019 to her registered email address. The Committee was satisfied that service of the notice of hearing had been effected in accordance with Regulations 10 and 22 of the Regulations.
5. Having determined that Ms Khastoori had been properly served with notice of the hearing, the Committee went on to consider whether to proceed in her absence. The Committee accepted the advice of the Legal Adviser. It bore in mind that whilst it had the discretion to proceed in Ms Khastoori's absence, that discretion should be exercised with the utmost care and caution.
6. The Committee noted that there had been no communication from Ms Khastoori since being served with notice of the hearing. On 23 September 2018, Ms Khastoori was emailed by ACCA to confirm whether she wished to attend the hearing, or otherwise participate in it by telephone or video link. An enquiry, in similar terms, was sent by ACCA to Ms Khastoori in an email dated 7 October 2019. There was no response by Ms Khastoori to these approaches. On 7 October 2019, ACCA made a call to a telephone number held for Ms Khastoori. After a few rings, the call eventually disconnected.

The Committee was satisfied that the papers disclosed extensive efforts had been made by ACCA to contact Ms Khastoori to ascertain her wishes about attending or participating at the hearing by telephone or video link. The Committee considered that, in light of the efforts that had been made, there was no reason to suppose that Ms Khastoori would attend a future hearing if the proceedings were to be adjourned. The Committee determined that Ms Khastoori had chosen not to attend the hearing, and had thereby waived her right to be present. In addition, the Committee determined that there was a necessity for the case being dealt with expeditiously and that, in light of the serious nature of the Allegations, there was also a strong public interest to proceed in Ms Khastoori's absence.

ALLEGATION

Allegation 1

- 1) Miss Sneha Khastoori who is registered with ACCA (Association of Chartered Certified Accountants) as a student:
 - a. On or about 07 January 2019, Miss Khastoori 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 ACCA when, in fact, they had not been.
 - b. Miss Khastoori's conduct as set out in paragraph 1a) above was:
 - i. Dishonest in that she knew she had submitted or caused to be submitted false documents as referred to in paragraph 1 a) above; or in the alternative
 - ii. Contrary to the Fundamental Principle of Integrity, as applicable in 2019 in that such conduct demonstrates a failure to be straightforward and honest;

- c. By reason of her conduct as set out in 1a) and/or 1b) i and ii, Sneha Khastoori is: Guilty of misconduct pursuant to Bye-law 8(a)(i).

Allegation 2

2) Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Miss Sneha Khastoori has failed to co-operate fully with the investigation of a complaint in that:

a. She failed to respond to ACCA's correspondence dated:

(i) 13 March 2019; and or

(ii) 8 March 2019;

b. By reason of her conduct in respect of any or all of the matters set out at 2(a) above, Miss Sneha Khastoori is:

(i) Guilty of misconduct, pursuant to bye-law 8(a)(i);

(ii) Liable to disciplinary action, pursuant to bye-law 8(a)(iii)

BRIEF BACKGROUND

7. Ms Khastoori was admitted as an ACCA student on 29 January 2018.
8. On 7 January 2019, Ms Khastoori, from her registered email account, uploaded exam certificates and requested that they be added to her My ACCA account. ACCA's Computer Based Exam ('CBE') Delivery Team reviewed the certificates, and confirmed that Ms Khastoori had not attempted any of the exams detailed on the certificates submitted. Further the CBE Team had no records to show that Ms Khastoori had registered at the Karachi Technologies and Testing Services exam centre, which was a prerequisite for attempting CBE exams.

9. On 10 January 2019, Person A, ACCA CBE Delivery Team, referred Ms Khastoori to ACCA Investigations. He stated:

'Having checked the account and the CBE system we can confirm the student has not attempted any of the exams detailed in the certificates submitted, in addition the student is not registered in the Karachi Technologies & Testing Services (KTTS) exam centre which is a prerequisite for attempting on demand CBE exams. In all cases the "results sheets" attached do not match the format of a standard provisional result notification and there is absolutely no evidence of the student attempting any exams at any location.'

10. On 14 January 2019, ACCA wrote to Ms Khastoori for her comments on the referral, and she was given until 04 February 2019 to respond. No reply was received by ACCA and so, on 12 February 2019, a reminder was sent to Ms Khastoori in which she was pressed for a response to the referral. Ms Khastoori was reminded that a failure to cooperate could form an additional allegation. She was given until 05 March 2019 to reply.

11. On 3 March 2019, ACCA received an email response from Ms Khastoori. She stated:

'Sorry for non response earlier! As a matter of fact, the previously query was submitted to you from my brother for confirmation of results whether I have attempted the papers or not. In this regard, I have submitted him the provisional result sheets of my Mock exams conducted by Chams college Karachi Pakistan. Further, for your clarity those result sheets have not any concerns to myACCA portal result update which I have clarified him now. As you can confirm the same from him by contacting: email: [Person A's email address] or call him ... Sorry for inconvenience cause to you and apologies for you time consumed.' (sic)

12. ACCA could find no record to support Ms Khastoori's claim that she had sat practice test/mock exams. An ACCA Investigations Officer accordingly

wrote to Ms Khastoori on 13 March 2019, and requested that she produce evidence to support her assertion that she had sat practice test/mock exams with Chams College. Ms Khastoori was asked to respond by 27 March 2019. No response was received. On 28 March 2019, Ms Khastoori was written to again by ACCA for the requested information. She was warned that an additional allegation of failure to cooperate might be raised against her if she did not respond by 11 April 2019. There was no response to this letter.

13. The Person A referred to by Ms Khastoori was also contacted by ACCA as part of the investigation. No response was received by ACCA to its letter to Person A, dated 13 March 2019. An Investigation Officer did manage to speak to Person A on the telephone on 21 March 2019. Person A was recorded in a file note as having said:

[Person A] asked Sneha to provide him with updates regarding her ACCA education and Sneha supplied him with the certificates. He attempted to contact ACCA education and Sneha supplied him with the certificates. He attempted to contact ACCA himself by telephone and e-mail to authenticate the documents his sister supplied but was told ACCA only will discuss this with Sneha only. He was unable to confirm when he called and e-mailed ACCA from his own e-mail address and telephone number...

[Person A] further confirmed he obtained the access to Sneha's registered e-mail by Sneha and confirmed he sent the e-mail to ACCA with the certificates in Sneha's name and in her place in an attempt to authenticate the documents.

[ACCA Investigations Officer] questioned why he sent the e-mail written in the first person, so it appears to be sent by Sneha and the wording of the e-mail was not seeking to authenticate the certificates.

[Person A] maintained he was seeking to authenticate the documents Sneha supplied to him.'

SUBMISSIONS ON BEHALF OF ACCA

14. Mr Ismail set out the background to the referral of Ms Khastoori to the Committee.
15. Mr Ismail submitted that, in respect of Allegation 1(b)(i) and 1(b)(ii), Ms Khastoori's conduct was both dishonest and contrary to the Fundamental Principle of Integrity. He submitted that Ms Khastoori's dishonest conduct had brought discredit to him, the Association, the profession, and was so serious that it amounted to misconduct. With regard to Allegation 2, Mr Ismail submitted that the correspondence made clear that Ms Khastoori had been written to, and had failed to cooperate with reasonable requests for information that had been made of her. This failure, in Mr Ismail's submission, was serious and amounted to misconduct.

DECISION ON ALLEGATION AND REASONS

16. The Committee took into account the submissions made by Mr Ismail and accepted the advice of the Legal Adviser.

Allegation 1(a) – proved

17. The Committee accepted the evidence of Person A of ACCA's Delivery Team, who reviewed the documents submitted by Ms Khastoori. His evidence was that the documents did not match the format of a standard provisional result notification. Further, there was no evidence of Ms Khastoori having sat any of the exams purportedly passed at any exam location. The Committee noted, in an email dated 07 January 2019, a request from Ms Khastoori's registered email account for the exam results to be uploaded to her My ACCA account. The Committee inferred from the evidence that either Ms Khastoori had submitted the request herself, or that she had allowed someone else to use her registered email address to make the request in her name, on her behalf. In either event, Ms Khastoori had caused or permitted the submission of documents which purported to be

from ACCA when, in fact, they were not. Accordingly, the Committee found Allegation 1(a) proved.

Allegation 1(b)(i) and 1(b)(ii) – proved

18. The Committee was satisfied that Ms Khastoori's conduct was dishonest. It did not accept as credible her explanation that the documents were provisional results and that her brother had submitted them for the purposes of authentication. No evidence had been produced to show that Ms Khastoori had sat any ACCA practice test or mock exam. Ms Khastoori's intention in submitting the documents (or causing or permitting someone else to do so) was to obtain ACCA qualifications to which she was not entitled. Ms Khastoori knew that the documents submitted were false. The Committee concluded that Ms Khastoori would have been aware that acting in this manner was dishonest, and it was also satisfied that her conduct would be considered as dishonest according to the standards of ordinary decent people. The Committee was also satisfied that Ms Khastoori's conduct was not '*straightforward or honest*' and determined, therefore, that she had also breached the Fundamental Principle of Integrity (as applicable in 2019). Accordingly, the Committee found Allegation 1(b)(i) and 1(b)(ii) proved.

Allegation 1(c) - proved

19. The Committee found Allegation 1(c) proved. The Committee determined that Ms Khastoori's dishonest conduct in attempting to obtain professional qualifications to which she was not entitled, had brought discredit to her, the Association and the Accountancy Profession, and that her conduct was so serious as to amount to misconduct.

Allegation 2(a)(i) and 2(a)(ii) – proved

20. Ms Khastoori was written to by ACCA on 13 March 2019. The email sought evidence to support Ms Khastoori's assertion contained in her email dated 03 March 2019, that she had sat ACCA practice tests/mock exams at

Chams College, and sought her comments on the false documents having been submitted to ACCA on 07 January 2019 from her registered email address. Ms Khastoori was invited to respond by 27 March 2019. She was told that a failure to respond could raise an additional complaint against her of failing to cooperate with ACCA's investigation.

21. On 28 March 2019, in an email to Ms Khastoori headed 'FINAL CHASER – ACTION REQUIRED', ACCA enclosed the email dated 13 March 2019, and requested the outstanding information by 11 April 2019. Ms Khastoori was advised that a failure to cooperate would raise a separate allegation of misconduct against her.

22. There was no response to either email sent by ACCA to Ms Khastoori. The Committee, upon reviewing the emails which she had been sent, and which set out unambiguously what was required of her, was satisfied that Ms Khastoori had failed to cooperate fully with the ACCA investigation. Accordingly, the Committee found Allegation 2(a)(i) and 2(a)(ii) proved.

Allegation 2(b)(i) – proved

23. The complaint raised in respect of Ms Khastoori's conduct was, to the Committee's mind, very serious. The Committee considered that failing to cooperate with her regulatory body despite two requests in plain language was a serious omission, which demonstrated a lack of professional responsibility on Ms Khastoori's part and a clear disregard for ACCA's regulatory process. The Committee concluded that Ms Khastoori's failure to cooperate with ACCA's investigation constituted misconduct and not merely a breach of the relevant Regulations.

24. In light of its determination in respect of Allegation 2(b)(i), the Committee did not further consider the lesser alternative, Allegation 2(b)(ii).

SANCTION AND REASONS

25. Mr Ismail informed the Committee that there were no previous disciplinary findings against Ms Khastoori. He left the question of sanction to the independent judgement of the Committee.
26. 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, with effect from 1 January 2019 ('the Guidance'). In particular he referred the Committee to Section C, which gives guidance on the sanctions available, and Section E2, which gives specific guidance in relation to cases of dishonesty.
27. In considering what, if any, sanction to impose, the Committee bore in mind the principle of proportionality, and the need to balance the public interest against Ms Khastoori's own interests. The Committee reminded itself that 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.
28. The Committee considered the following to be the aggravating features of the case:
- a. Ms Khastoori had acted dishonestly and had attempted to obtain qualifications to which she was not entitled;
 - b. Ms Khastoori had compounded her dishonest actions in her subsequent contact with ACCA when she tried to justify her actions;
 - c. Ms Khastoori had shown no insight or remorse for her actions.
29. The Committee considered the following to be the mitigating factors of the case:

- a. Ms Khastoori had no previous history. The Committee attached little weight to this as it noted that she had been registered as a student of ACCA for a very short period.

30. The Committee had regard to Section F of the Guidance. Ms Khastoori's actions, in dishonestly attempting to gain ACCA qualifications to which she was not entitled and her failure to cooperate with her regulatory body, were viewed by the Committee as extremely serious. The misconduct identified in this case was reprehensible and had the potential to undermine public confidence in the Accountancy profession and ACCA as a regulatory body.

31. Given the seriousness of the misconduct, the dishonesty and the breach of the Fundamental Principle of Integrity, the Committee determined that it would be inappropriate to take no further action, and that the public interest required the imposition of a sanction.

32. The Committee considered the available sanctions from the least serious upwards. It considered whether the appropriate and proportionate sanction to impose upon Ms Khastoori was an Admonishment or a Reprimand. The Committee, however, determined that to impose either of these sanctions would not adequately reflect the seriousness of the misconduct, nor would it adequately protect the public.

33. The Committee went on to consider the sanction of a Severe Reprimand. It noted, however, that none of the factors for consideration set out in the Guidance, save for previous good record, were present in this case.

34. The Committee determined that, in submitting false documents for uploading to her My ACCA account with the intention of gaining qualifications to which she was not entitled, was a grave departure from the standards expected of an ACCA student. Ms Khastoori's subsequent failure to cooperate with ACCA was of the utmost seriousness. The Committee concluded that Ms Khastoori's conduct was fundamentally incompatible with her remaining a student of ACCA.

35. The Committee determined that the only appropriate and proportionate sanction was removal from the student register. The Committee concluded that no other sanction would adequately reflect the gravity of the offending behaviour, nor adequately protect the public. Honesty and integrity go to the heart of the Accountancy Profession. In the clear view of the Committee, Ms Khastoori's conduct in submitting the false documents fell far below the standards expected of an ACCA student, and called for the imposition of the most severe sanction.

36. The Committee directed that it was in the interests of the public for the order to have immediate effect.

ORDER

- i. Ms Sneha Khastoori is Removed from ACCA's student register with immediate effect.

COSTS AND REASONS

37. Mr Ismail applied for costs in the sum of £7,063.79. He provided the Committee with a Tabled Additional bundle, numbering pages 1-3. Mr Ismail submitted that whilst the costs were appropriate and reasonable, the Committee might wish to consider some reduction in the amount of costs to be paid by Ms Khastoori, to reflect the fact that the hearing had not taken a full day as anticipated.

38. The Committee had not been provided with any information by Ms Khastoori relating to her ability, or otherwise, to pay costs to ACCA.

39. The Committee determined that the amount applied for by ACCA was fair and reasonable, but should be reduced to reflect the earlier finishing time of the hearing.

40. Accordingly, the Committee determined that it was fair and reasonable to order Ms Khastoori to pay ACCA costs in the sum of £5,750.

ORDER

- i. Ms Sneha Khastoori shall pay the sum of £5,750 to ACCA by way of costs.

**Mr Maurice Cohen
Chairman
08 October 2019**