

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Mohammed Rahman

Heard on: Wednesday, 30 October 2019

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

Committee: Mrs Judith Way (Chairman)
Ms Ruby Sukkersudha (Accountant)
Mr Barry Picken (Lay)

Legal Adviser: Mr Mark Ruffell (Legal Adviser)

Persons present

and capacity: Ms Sarah Cawley-Wilkinson (ACCA Case Presenter)
Miss Rachael Davies (Hearings Officer)
Mr Mohammed Rahman (Affiliate)

Observer: Mrs Diane Meikle (New Panel Member)

DECISION: **Allegation 1 proved.**
Allegation 2 proved.
**Allegation 3(a) proved in relation to Allegation 1 only and
not proved in relation to Allegation 2.**
Allegation 3(b) proved in relation to Allegation 2 only.
Sanction: Severe Reprimand.
Costs: £2,000.

PRELIMINARY MATTERS

1. The Committee had read the service bundle, pages 1-15, and the main case bundle, pages 1-60, and additional papers, pages 1-7, and tabled papers, pages 1-3. Mr Rahman attended but was not represented. Ms Cawley-Wilkinson on behalf of ACCA applied to amend Allegation 3 to add '(b)' which had been omitted as a typographical error. The amendment was allowed as no prejudice was caused to Mr Rahman.

ALLEGATIONS

Allegation 1

- 1) Pursuant to bye-law 8(a)(i) then in force in 2007, ACCA affiliate, Mr Mohammad Rahman, is guilty of misconduct in that he was convicted by his own admission of the following offences before Westminster Magistrates Court on 18 May 2007:

- a. On 03.03.2007 at Shadwell Docklands Light Railway Station stole one Travelcard (Zones 1-6) to the value of £6.70 belonging to DLR

Contrary to Sections 1(1) and 7 of the Theft Act 1968

- b. On 09.03.2007 at Shadwell Docklands Light Railway Station stole one Travelcard (Zones 1-6) to the value of £6.70 belonging to DLR

Contrary to Sections 1(1) and 7 of the Theft Act 1968

- c. On 14.03.2007 at Shadwell Docklands Light Railway Station stole one Travelcard (Zones 1-6) to the value of £6.70 belonging to DLR

Contrary to Sections 1(1) and 7 of the Theft Act 1968

- d. On 15.03.2007 at Shadwell Docklands Light Railway Station had in your possession or under your control an article, namely a cloned credit card for use in the course of or in connection with a fraud

Contrary to Sections 6 of the Fraud Act 2006

- e. On 15.03.2007 at Shadwell Docklands Light Railway Station had in your possession or under your control an article, namely a cloned credit card for use in the course of or in connection with a fraud

Contrary to Sections 6 of the Fraud Act 2006

- f. On 15.03.2007 at Shadwell Docklands Light Railway Station stole one Travelcard (Zones 1-6) to the value of £6.70 belonging to DLR

Contrary to Sections 1(1) and 7 of the Theft Act 1968

Allegation 2

- 2) Between 17 November 2008 and 28 January 2019 Mr Mohammad Rahman failed to bring to the attention of ACCA and therefore promptly that he may have become liable to disciplinary action by reason of having been convicted of the offences set out in allegation 1 above, in breach of bye-law (10)(b) then in force.

Allegation 3

- 3) By reason of his conduct at 1 and 2 above, Mr Mohammad Rahman is:
- (a) Guilty of misconduct pursuant to bye-law 8(a)(i); or
- (b) Liable to disciplinary action pursuant to bye-law 8 (a)(iii) in respect of allegation 2 only.

2. The Allegations were read to Mr Rahman. He admitted Allegation 1 in its entirety. He admitted Allegation 2. He denied Allegations 3(a) and 3(b).

BRIEF BACKGROUND

3. Mr Rahman was convicted of having two cloned credit cards and fraudulently purchasing 4 one-day travel cards over a 13 day period during March 2007. He pleaded guilty to all matters on 18 May 2007, and on 8 June 2007 he was sentenced to a community order for 12 months, with a condition that he carried out unpaid work for a period of 100 hours.
4. Mr Rahman was admitted into ACCA's register as a student on 1 December 2008. When he was admitted, he did not declare his criminal convictions from 18 May 2007.
5. Mr Rahman graduated on 1 February 2014, and became an affiliate of ACCA. Whilst preparing his submission to become an ACCA member, Mr Rahman was required to declare his previous convictions. He put his membership application on hold, and declared the convictions from 2007 to ACCA on 28 January 2019. He had actively assisted ACCA with its investigation. He explained in correspondence that his lack of declaration of the convictions in his membership application in 2008 was an innocent oversight. Mr Rahman provided professional and personal character references that attested to his current honesty and integrity.

EVIDENCE GIVEN BY Mr RAHMAN

6. Mr Rahman gave evidence and stated that he committed the offences when he had financial difficulties. He had changed his life since, and become law abiding. He stated that he did not read the declaration in his application to ACCA in 2008, and did not understand it correctly. He clarified, upon being questioned, that he could not remember whether he read the declaration and did not understand it, or whether he had not read it properly. He read the forms properly in 2019, when he applied for full membership. Mr

Rahman stated that he had not declared his convictions to his employer when he joined as they were spent, but he had subsequently told his employer.

SUBMISSIONS ON MISCONDUCT

7. Ms Cawley-Wilkinson submitted that the allegations brought discredit to ACCA, Mr Rahman and the profession. They amounted to misconduct. She submitted that whatever the reasons for not declaring the convictions in 2008, they ought to have been declared promptly. The omissions brought discredit to ACCA, as Members have to obey the byelaws in order for the public to be protected, and for the reputation of ACCA and the profession to be upheld.
8. Mr Rahman submitted that it was unfortunate that he did not declare the convictions in 2008. He had been law abiding thereafter and behaved entirely properly in his professional life. He had not intentionally, or wilfully, withheld information.

DECISION ON ALLEGATIONS AND REASONS

9. The Committee accepted the advice of the Legal Adviser. The Committee found Allegations 1 and 2 proved by way of admission by Mr Rahman.
10. The Committee considered Allegation 3(a) and whether Allegation 1 amounted to misconduct. The Committee noted that the offences were ones of theft and fraud, and were offences of dishonesty that resulted in criminal convictions. The Committee considered that they were serious matters and brought discredit upon Mr Rahman, ACCA and the profession. The Committee determined that Allegation 1 amounted to misconduct, and so Allegation 3(a) was proved in relation to Allegation 1.
11. The Committee considered Allegation 3(a) and whether Allegation 2 amounted to misconduct. The Committee noted that over a period of 11

years, Mr Rahman had not notified ACCA of his convictions. The Committee noted that Byelaw 10(b) states:

'Subject to any legislative or other legal obligation to the contrary, it shall be for every member and for any person to whom these byelaws relate to bring promptly to the attention of the Secretary any facts or matters indicating that a member or relevant firm or registered student may have become liable to disciplinary action (including any facts or matters relating to himself or itself); and in any such case the Secretary shall lay the facts and matters before the relevant committee of Council or individual if he or she is of the opinion that the complaint ought to be investigated by that committee or individual.'

12. The Committee considered Mr Rahman's explanations for not realising his obligation to declare the convictions. The Committee were not persuaded, on the balance of probabilities, that Mr Rahman had deliberately failed to notify ACCA of his convictions. As a consequence, the Committee accepted Mr Rahman's explanation that the failure to notify ACCA of his convictions was inadvertent. The Committee considered that this failure was not serious because it was inadvertent, and therefore it did not amount to misconduct. Therefore, the Committee determined that Allegation 3(a) was not proved in relation to Allegation 2.

13. The Committee went on to consider the alternative of Allegation 3(b) in relation to Allegation 2. The Committee considered that Mr Rahman had breached Byelaw 10(b) by failing to notify the Committee of his convictions, and that Mr Rahman was under a duty to know the byelaws and to adhere to them. Therefore, the Committee determined that Mr Rahman was liable to disciplinary action pursuant to Byelaw 8(a)(iii), and Allegation 3(b) in relation to Allegation 2 was proved.

SUBMISSIONS ON SANCTION

14. Ms Cawley-Wilkinson submitted that the Committee should have regard to the Sanctions Guidance. She stated that there were no previous disciplinary findings against Mr Rahman.
15. Mr Rahman stated that he had tried his best to lead a law abiding life since the offences. He fully regretted his actions in 2007. He was the eldest of his siblings and had responsibility for them. He was recognised within his profession. The offences were out of character, given his subsequent good behaviour. He relied upon what was said in the character references. He had co-operated fully with ACCA.

DECISION ON SANCTION

16. The Committee accepted the advice of the Legal Adviser. The Committee considered mitigating factors. It noted that Mr Rahman had a previous good history, with references that supported his honesty and integrity. Mr Rahman had demonstrated remorse. The offences took place 12 years ago. He self-referred and co-operated fully with ACCA. He did not intend to mislead ACCA by failing to report the offences earlier. He had also tried to learn from his experiences. He was much younger and naïve at the time. He had also admitted the substance of the allegations. The Committee did not consider that there were any aggravating factors.
17. The Committee considered that given the seriousness of Allegation 1, being offences of dishonesty, no further action, admonishment and reprimand were insufficient sanctions.
18. The Committee considered whether a severe reprimand was an appropriate sanction. The Committee considered that the misconduct was 12 years ago and had not been repeated. Mr Rahman had made genuine expressions of remorse, he had an otherwise previous good record. He had appropriate references and had fully co-operated with ACCA during the investigation process. The Committee considered that removal from the affiliate register

would be a disproportionate sanction. The Committee determined that a severe reprimand was the appropriate sanction.

COSTS AND REASONS

19. Ms Cawley-Wilkinson applied for costs in the sum of £5,715.50. She submitted that the case had been properly brought, and the costs sought were appropriate and proportionate.
20. Mr Rahman did not challenge ACCA's calculation of costs. Mr Rahman provided details of his means. He had credit card debts [REDACTED] which he was paying off [REDACTED] per month. He had limited savings and his ability to pay costs was limited.
21. The Committee accepted the advice of the Legal Adviser, and had regard to ACCA's Guidance on Costs. The Committee considered that it was right and proper for ACCA to apply for their costs, as they had been successful in bringing the case against Mr Rahman. The Committee considered that the amount applied for was reasonable. However, the Committee noted that Mr Rahman had limited finances. Accordingly, the Committee considered that a sum of £2,000 for costs was a proportionate sum to impose.

EFFECTIVE DATE OF ORDER

22. The Committee directed that the order should take effect at the expiry of the appeal period referred to in the Appeal regulations.

Mrs Judith Way
Chairman
30 October 2019