

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Luqman

Heard on: Thursday, 24 October 2019

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

Committee: Mrs Helen Carter-Shaw (Chairman)
Mr Trevor Salmon (Accountant)
Dr Pamela Ormerod (Lay)

Legal Adviser: Mr Andrew Granville Stafford

**Persons present
and capacity:**

Mr Benjamin Jowett (ACCA Case Presenter)
Mr Jonathon Lionel (Hearings Officer)

Observers: None

Summary: Allegations (1), (2)(a) and (3) found proved
Removed from the student register; any application for re-
admission be referred to A&L
Costs £1,000

PRELIMINARY

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Luqman.
2. The Committee had before it a bundle of papers (pages 1 to 58), two tabled additional bundles (pages 1 to 5 and 1 to 6) and a service bundle (pages 1 to 13).
3. Mr Luqman did not attend the hearing and was not represented.

PROCEEDING IN ABSENCE

4. The Committee considered the service bundle which contains a notice of hearing dated 16 September 2016. The notice was sent by email to Mr Luqman's registered email address. A delivery receipt shows the email was delivered on 16 September 2019.
5. On 20 September 2019 Mr Luqman telephoned ACCA and spoke to the Hearings Officer who had sent out the notice of hearing. He claimed that someone else had been using his name and his email address. He asked whether the disciplinary hearing could be cancelled but Mr Luqman was told this was not possible.
6. The Committee was satisfied that the requirements of regulations 10(1) and 22 of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') as to service had been complied with.
7. The Committee went on consider whether to proceed in the absence of Mr Luqman. The Committee bore in mind that the discretion to do so must be exercised with care, and in light of the public interest in dealing with matters such as this fairly, economically and expeditiously.
8. Mr Luqman is clearly aware of the hearing. He has neither applied for an adjournment nor indicated a willingness to participate. He had been informed, in the notice of hearing, that he could attend the hearing remotely, by telephone or videolink but had not taken up either option. The Committee considered that he had, therefore, made a conscious decision not to take part in the hearing today. The Committee noted that he had set out his case in the conversation with the Hearings Officer on 20

September 2019. The Committee considered that no useful purpose would be served by adjourning this hearing. The Committee determined that, in the interests of justice, the hearing should proceed in Mr Luqman's absence.

ALLEGATIONS AND BRIEF BACKGROUND

9. The allegations against Mr Luqman are as follows:

(1) On 04 April 2019, Mr Luqman, an ACCA student:

- a) asked ACCA to change his MA2 – Managing Cost and Finance result from 64% to 94%; and
- b) submitted an ACCA MA2 – Managing Cost and Finance result sheet to ACCA in which the result had been altered from 64% to 94% to support his request described in allegation 1a);

(2) Mr Luqman's conduct in respect of allegation 1 was:

- a) Dishonest, in that Mr Luqman knew that the document described in allegation 1b) was false and had been altered and submitted by him to ACCA in order to gain a result he knew he did not obtain; or in the alternative
- b) Contrary to the Fundamental Principle of Integrity (as applicable in 2019) in that such conduct demonstrates a failure to be straightforward and honest.

(3) By reason of his conduct in respect of any or all of the matters set out at allegation 1 and/or 2 above, Mr Luqman is guilty of misconduct pursuant to bye-law 8(a)(i).

10. Mr Luqman is a student member of ACCA, having been admitted to student membership on 6 September 2018. He has passed the following ACCA exams: FA1 (mark 64/100), MA1 (mark 62/100), FA2 (mark 60/100) and MA2 (mark 64/100).

11. ACCA's case is on 4 April 2019 Mr Luqman contacted ACCA Connect and asked for his MA2 exam result to be changed from 64% to 94%. The online conversation that Mr Luqman had with an ACCA Connect advisor on that day was recorded, and includes the following.

'Luqman: Are you able to change my result my acca exam status

Luqman: I was supposed to be 94 but its 64 there

[ACCA Connect]: Can I have your registration number so I can access your account?

Luqman: [Number given]

[ACCA Connect]: For security purposes, please confirm your full name, date of birth and your registered email address.

Luqman: [Surname, date of birth and email address given]

[ACCA Connect]: Thank you, I'll just be a few moments while I access your details.

Luqman: Are you able to change my result marks on it

[ACCA Connect]: Can you provide proof of your mark?

Luqman: Now you can see it

[ACCA Connect]: Please provide the full certificate, parts of the certificate are missing

Luqman: Full certificate is not with me

[ACCA Connect]: We would require the full result in order to update our records

Luqman: You dont have my result in your record

[ACCA Connect]: The result that has been recorded is 64%

Luqman: But in real it is 94

Luqman: That might be some typing mistake

[ACCA Connect]: I will pass your details over to the relevant department to investigate further'.

12. The certificate which Mr Luqman submitted during the conversation was issued by an accountancy school in Pakistan, and purported to show that Mr Luqman had achieved a 94% pass in the MA2 Managing Costs and Finance computer based exam. ACCA's case was that the certificate had been doctored by pasting a '9' over the '6' so that it read '94% - Pass' when the true mark was '64% - Pass'.
13. An ACCA Investigations Officer emailed Mr Luqman on 18 April 2019, 7 May 2019, 13 May 2019 and 16 May 2019 asking for an explanation.
14. Mr Luqman replied on 20 May 2019 saying:

'Sir kindly close this request I dont want any kind of change in my result i feel proud to get passed i dont want any kind of amendment please close it'.
15. In a further email later the same day Mr Luqman said:

'Sir I know sir this is wrong but sir i was wrong and i had wrong picture supporting document for my exam please kindly i dont want any amendment in my result please sir Kindly close the case kindly . I will be glad to know you have close my case please sir please'.
16. In a further web chat with ACCA Connect on 21 May 2019, he sought to withdraw his request for the mark to be changed.
17. Also on 21 May 2019, the Investigations Officer emailed Mr Luqman asking why he attempted to change his mark. He replied the following day saying:

'I admit that i have altered 64% to 94% For MA-2 Exam. Sir, I know that i have 64% but sir i feel very sorry for myself and very shameful that i altered my exam result . Sir I want to request this was for the first and the last time by me that i have done amendment yo [sic] my result , i ensure that this will not be repeated next time in future'.

18. On 23 May 2019, the Investigations Officer received a call from Mr Luqman. The attendance note of the call reads as follows:

'Luqman called to admit he altered his MA2 – Managing Cost and Finance result from 64% to 94%. Luqman explained his "mind was not working at the time" and admits he was wrong to alter his MA2 result and submit it to ACCA to change it. He added that thought that 64% is low score.

Luqman admits what he did was wrong and offers assurance that he will never do it again. He also feels ashamed and guilty of his actions. . .

Luqman repeatedly pleaded to the Investigations Officer to exercise discretion and close this case.'

19. The Investigations Officer informed Mr Luqman that the matter would be referred for consideration by the independent assessor. In an email addressed to the assessor the same day, Mr Luqman said:

'Sir i know that i have done a wrong action against ACCA and i am very shameful for this act and feeling guilty for my act

Sir i ensure that it will not happen in future again, you can take my emails as a prove that if this happens in future again after this you can take strict action.'

20. There was no further contact from Mr Luqman until after the notice of hearing was sent out on 16 September 2019.

21. On 20 September 2019, Mr Luqman had a further webchat with ACCA Connect. He said that someone had got access to his email and his ACCA account and was misusing his details. He was told he would have to contact the Hearings Officer.

22. Later the same day, he spoke to the Hearings Officer (which conversation is referred to in paragraph 5 above). The Hearings Officer who took the call prepared a note of the conversation, which includes the following:

'Mr Luqman advised me that he wanted to state what the reality of the situation was.

In reality someone was using his name, and using his email address, and using his identity to blame his name.

He does not know how that person got access to his account and was able to use it.

Mr Luqman stated he very rarely looks at his account and has not done so for 5-6 months, and happened to see my email on this occasion servicing the documents for the hearing.

He did not know what was happening to his name, however he believes that person may have been part of an ACCA Whatsapp group or other social media that he belonged to, although Mr Luqman stated there were a number of groups he was in. He believes that someone obtained his details through one of these groups.

Mr Luqman stated he did not know who it was that was using his name, or any idea whom it may be, but if he did he would tell ACCA.

Mr Luqman stated he would be willing to take the oath to provide this information.

Mr Luqman made it clear he did not wish his student account cancelled, as he wished to continue with his studies.

He re-emphasised that someone else is using his account and it was not him. Mr Luqman did not wish his student account to be blocked.

Mr Luqman stated he did not want to get involved in the case, and that he would be changing his email address as someone else had been using it'.

23. The Committee noted Mr Luqman's explanation given in the webchat, and subsequent telephone call on 20 September 2019, to the effect that he had circulated a picture of his certificate on social media, and he thought someone had used that and hacked into his email account to make false representations.
24. ACCA's case was that this account was fanciful, and that all the above communications had come from Mr Luqman. Mr Jowett submitted that could demonstrated by asking the following questions:
 - Why would anyone else do this? The only person who would benefit from having the mark upgraded was Mr Luqman;
 - How would they know his details (student registration number, date of birth and email address) which were required in order to get through the ACCA Connect security procedures? They would have also had to know his email password to use his email account. Mr Jowett pointed out that Mr Luqman did not claim, in his conversations with ACCA on 20 September 2019, that he had provided any of these details to anyone else;
 - Further, if Mr Luqman is correct, the impersonator would not only have had to make the 4 April request, but then would have to have further communications with ACCA by email, webchat and telephone in May 2019. If there was an impersonator who was doing this in order to get Mr Luqman into trouble, why on earth would they then try to persuade ACCA to drop the case?
 - How did Mr Luqman fail to see a series of emails from ACCA over a period of months regarding the investigation? His explanation to the Hearings Officer that he had not accessed his email account since around March 2019 is simply not credible. Mr Jowett pointed out that the notice of hearing was only sent to Mr Luqman by email, and he had responded to that within a few days of it being sent.

DECISIONS ON ALLEGATIONS AND REASONS

25. The Committee considered the documents before it, the submissions of Mr Jowett on behalf of ACCA, and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA, and the standard to be applied is proof on the balance of probabilities.

Allegation (1)

26. The Committee had sight of the record of the webchat with ACCA Connect on 4 April 2019. It is quite clear from that record that someone contacted ACCA on that date requesting it to change the mark of Mr Luqman's MA2 exam from 64%, which was the correct mark, to 94%. It is also clear that a doctored certificate was submitted to support of his request.
27. The issue the Committee had to be satisfied about was whether that person was Mr Luqman.
28. Whilst the Committee considered it was not impossible that someone had obtained Mr Luqman's email address and date of birth, it was much less likely that someone would know his ACCA student registration number. Furthermore it is difficult to see how the impersonator would have been able to obtain Mr Luqman's MA2 certificate, which they would have to have done in order to change it and submit it to ACCA.
29. The Committee accepted it might have been possible for an impersonator to hack Mr Luqman's email account. However, it seemed implausible to the Committee that anyone would do all of these things simply to get Mr Luqman into trouble. The Committee felt there was force in Mr Jowett's point that the impersonator would not have anything to gain, once the deception had been uncovered, from trying to persuade ACCA to drop the investigation.
30. Further, there was a consistency between the representations made by Mr Luqman on 20 September 2019, and those made in his name in May 2019. The Committee was satisfied that it was more likely than not that all the communications with ACCA in this case had been made by Mr Luqman himself.

31. The Committee found, on the balance of probabilities, that it was Mr Luqman who contacted ACCA Connect on 4 April 2019, and therefore found Allegation (1)(a) and 1(b) proved.

Allegation (2)

32. The Committee considered Allegation 2(a). It did so against the background that it had found that Mr Luqman had contacted ACCA on 4 April 2019, requesting a change of mark and submitting a false certificate.
33. Mr Luqman clearly knew what mark he had actually achieved and that, therefore, the certificate he was submitting had been altered. There was no doubt in the Committee's view that this was conduct which was dishonest and would be regarded by ordinary and decent people as such.
34. Accordingly it found Allegation (2)(a) proved, and there was no need for it to consider the alternative in Allegation (2)(b).

Allegation (3)

35. Dishonestly submitting a false exam certificate to his regulatory body clearly brings discredit to Mr Luqman and the profession of accountancy. The Committee was in no doubt that this amounted to misconduct. Allegation (3) was found proved.

SANCTION AND REASONS

36. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive, but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. Having found that Mr Luqman's dishonest actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.

37. The Committee took into account that no previous findings had been made against Mr Luqman. He had, however, denied the misconduct and sought to blame others for his actions. He had therefore demonstrated neither insight nor remorse.
38. Mr Luqman's actions were not only a very serious departure from proper and acceptable standards, but were deliberate. Furthermore, his actions were dishonest. It would be inappropriate, given the nature of the behaviour in question, to admonish, reprimand or severely reprimand Mr Luqman. Any of these sanctions would fail to mark the seriousness of the offending, which strikes at the integrity of the examination system.
39. The Committee concluded that Mr Luqman's actions in this case were fundamentally incompatible with being a student member of a professional association. They constituted a serious departure from relevant standards. The Committee did not feel that any order which allowed Mr Luqman to retain his student membership of ACCA could possibly be justified.
40. Therefore the Committee made an order under CDR 13(4)(c) of the Disciplinary Regulations removing Mr Luqman from the student register.
41. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(4)(c) restricting Mr Luqman's right to apply for readmission beyond the normal minimum period. However, it directed, pursuant to CDR 13(10), that any future application for student membership of the Association by Mr Luqman be referred for consideration by the Admissions & Licensing Committee.

COSTS AND REASONS

42. ACCA applied for costs against Mr Luqman in the sum of £6,860. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
43. The Committee found that there was no reason, in principle, not to make an order for costs in ACCA's favour. Mr Jowett accepted some reduction may be appropriate, as the hearing had not lasted a full day.

44. The Committee did not have any detailed information about Mr Luqman's financial circumstances. However, it appears from his conversation with the Hearings Officer that he was dependent on his family, and its income was extremely modest.
45. In the circumstances, and particularly in light of his limited means, the Committee ordered Mr Luqman to pay ACCA's costs in the sum of £1,000.

EFFECTIVE DATE OF ORDER

46. The order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Mr Luqman gives notice of appeal in accordance with the Appeal Regulations prior to that.

Mrs Helen Carter-Shaw
Chairman
24 October 2019