

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Solomon Wilson

Heard on: Thursday 30 April 2020

Location: The hearing was conducted remotely by Skype

Committee: Mr Ian Ridd (Chair)
Ms Fiona MacNamara (Accountant)
Mr Garrett O'Reilly (Lay Member)

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and capacity:** Mr Phillip Law (ACCA Case Presenter)
Miss Nkechi Onwuachi (Hearings Officer)
Miss Geraldine Murray (Hearings Officer assisting)

Observers: None

Summary: All facts found proved. Student removed from
register. Costs ordered.

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Mr Wilson, who did not attend and was not represented.
2. The papers before the Committee were in a bundle, numbered 1 to 54, two Additional bundles, numbered 1 to 3 and a costs schedule, numbered 1 to 5. There was a service bundle numbered 1 to 16.
3. Mr Law made an application to proceed in the absence of Mr Wilson.

PROCEEDING IN ABSENCE

4. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Mr Law on behalf of ACCA, and also took into account the advice of the Legal Adviser.
5. Included within the service bundle was the Notice of Hearing, dated 30 March 2020, thereby satisfying the 28 day notice requirement, which had been sent to Mr Wilson’s email address as it appears in the ACCA register. The Notice included details about the time, date and remote venue for the hearing and also Mr Wilson’s right to attend the hearing, by Skype telephone link or by telephone, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Mr Wilson’s absence, if considered appropriate. The Notice had indicated the hearing date was to be 29 April 2020 rather than 30 April 2020. Accordingly, an email correcting that was sent to Mr Wilson on 1 April 2020.
6. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which require ACCA to prove that the documents were sent, not that they were received. Having so determined, the Committee then

considered whether to proceed in Mr Wilson's absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Wilson, it should exercise that discretion with the utmost care and caution, particularly as Mr Wilson was unrepresented.

7. In a number of emails sent to Mr Wilson by the Hearings Officer, he was asked if he would be attending the hearing and, if not, whether he was content for the matter to proceed in his absence. Mr Wilson did not respond to any of those emails, nor did he respond to the Case Management Form sent to him, or the two emails about amending the Allegation.
8. The Committee noted that Mr Wilson faced serious allegations of dishonesty and that there was a clear public interest in the matter being dealt with expeditiously. The Committee considered an adjournment would serve no useful purpose, because it seemed unlikely that Mr Wilson would attend on any other occasion. In light of his complete lack of engagement throughout the investigation of this matter, the Committee concluded that Mr Wilson had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
9. In all the circumstances, the Committee decided that it was in the interests of justice that the matter should proceed, notwithstanding the absence of Mr Wilson. No adverse inference would be drawn from his non-attendance.

APPLICATION TO AMEND THE ALLEGATIONS

10. At the outset of the hearing Mr Law made an application to amend Allegations 1(a) - (c) and 2(b), in that both alleged misconduct *and* a liability to disciplinary action, when in fact they should be pleaded as alternatives. He therefore applied to replace the word "and" with "or" to indicate this. He informed the Committee that Mr Wilson had been sent an email on 28 April 2020 informing him of this application. Although, at that time, the intention had been to add "or" rather than replace the "and" with "or", the effect was the same. Mr Wilson had not responded or raised any objection to the proposed amendments.

11. Mr Law also applied to correct a typographical error in Allegation 1(a) which referred to Schedule A instead of Schedule 1.
12. The Committee heard and accepted the advice of the Legal Adviser, and decided it was in the interests of justice to allow the amendments. These had clearly been minor drafting errors which needed correcting, and which would not prejudice Mr Wilson in any way.

ALLEGATIONS/BRIEF BACKGROUND

13. It is alleged that Mr Wilson is liable to disciplinary action on the basis of the following Allegations (as amended):

Allegation 1

1. Solomon Wilson who is registered with ACCA (Association of Chartered Certified Accountants) as a student:
 - a. caused or permitted the submission to University A of one or more of the documents listed in Schedule 1, which purported to have been issued by ACCA when, in fact, they had not been.
 - b. his conduct as set out in paragraph 1a) above was:
 - i. Dishonest in that he knew he had submitted or caused to be submitted false documents as referred to in paragraph 1 a) above; and
 - 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 the conduct as set out in 1a) and/or 1b) i and/or ii, he is guilty of misconduct pursuant to Bye-law 8(a)(i) or liable to disciplinary action pursuant to Bye-law 8(a)(iii).

Allegation 2

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

- a. He failed to respond to ACCA's correspondence dated:

- (i) 11 September 2019; and / or
- (ii) 14 October 2019; and / or
- (iii) 29 October 2019.

- b. By reason of the conduct in respect of any or all of the matters set out at 2(a) above, he is guilty of misconduct, pursuant to bye-law 8(a)(i) or liable to disciplinary action, pursuant to bye-law 8(a)(iii).

Schedule 1

1. ACCA exam history transcript dated 18 September 2018
2. ACCA Professional Certificate, October 2017; and
3. ACCA membership certificate dated 17 October 2017.
14. Mr Wilson is an ACCA student, having been admitted to the student register on 5 November 2012.
15. On 27 August 2019, University A contacted ACCA Connect by telephone and enquired if ACCA ID: redacted Mr Solomon Wilson was an ACCA member.

16. University A added that Mr Wilson had applied for tuition from University A for a degree and had submitted ACCA professional stage and membership certificates in support of his application.
17. ACCA advised University A that Mr Wilson was not an ACCA qualified accountant and requested University A to share the ACCA documents Mr Wilson had submitted to them.
18. On 27 August 2019, University A emailed ACCA with copies of:
 - (a) ACCA exam history transcript dated 18 September 2018;
 - (b) ACCA Professional Certificate, October 2017; and
 - (c) ACCA membership certificate dated 17 October 2017.

And requested that the above listed documents be verified.

19. An ACCA Customer Operations Manager (“the Manager”) reviewed the documents. In a statement, dated 11 September 2019, he provided the following evidence:

As of 11 September 2019, Mr Solomon Wilson ACCA ID: redacted was a student. Mr Wilson initially became an ACCA student on 05 November 2012;

The ACCA’s exam history transcript provided, dated 18 September 2018, did not match/reflect Mr Wilson’s ACCA’s actual records;

The Manager produced a copy of Mr Wilson’s ACCA actual exam history, as of 11 September 2019, from Mr Wilson’s ACCA records;

The ACCA Professional Certificate, dated October 2017 was reviewed. The certificate asserted that Mr Wilson had passed P1, P2, P3 and P7 exams. The Manager stated that the certificate was

not produced by ACCA as Mr Wilson had not passed any of the P series exams;

The ACCA membership certificate dated 17 October 2017 was also reviewed and had not been produced by ACCA;

The Manager concluded that the three documents he had been asked to review were all false documents.

20. ACCA wrote to Mr Wilson at his registered email address for his comments in relation to the investigation on the dates set out in Allegation 2. The Investigations Officer confirmed the email address the correspondence was sent to matched Mr Wilson's registered email address as it appeared in ACCA's members' database on the relevant dates. No response was received to these emails.

DECISION ON FACTS/ALLEGATIONS AND REASONS

21. The Committee considered with care all the evidence presented and the submissions made by Mr Law. The Committee accepted the advice of the Legal Adviser.

Allegation 1

22. The Committee accepted the unchallenged evidence of the University that Mr Wilson, or someone on his behalf, included the documents in Schedule 1 when applying to become a student of University A. The Committee also accepted the unchallenged and cogent evidence, in the statement of the Manager, that the documents were not issued to Mr Wilson by ACCA and were false. The Committee noted that Mr Wilson had not, at any stage, challenged any of ACCA's evidence.
23. In the absence of any viable alternative explanation from Mr Wilson, the Committee was satisfied, on the balance of probabilities, that ACCA had not issued these documents to him. The only clear and obvious inference is that

they were in fact fake and, in the view of the Committee, sophisticated fakes of ACCA Certificates. This was particularly clear when comparing the exam transcript submitted to the University with Mr Wilson's actual exam results from ACCA. These showed that Mr Wilson's exam results had been substantially inflated in the false document provided by him to the University. The Committee was also satisfied that either Mr Wilson himself, or someone on his behalf since he was the only person likely to gain from it, submitted these documents to University A, and that he was aware of the fact that they were forgeries, since he would know that he was not a fully-fledged member of ACCA and that he had not passed or gained the particular marks in the exams the documents said he had. Again, Mr Wilson had not sought to challenge this. The Committee therefore found Allegation 1(a) proved.

24. The Committee then considered whether such behaviour was dishonest. The Committee considered what it was that Mr Wilson had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. Mr Wilson had provided, directly or indirectly, false documentation to University A. The only possible intention for submitting such documentation must have been to deceive University A into believing he was a fully-fledged member of ACCA, and that he had passed the P Series exams detailed within the exam history transcript. Mr Wilson must have known this to be the case. The Committee was in no doubt that the ordinary decent member of the public, in full possession of the facts of the case, would find that conduct to be dishonest. The Committee therefore found Allegation 1(b)(i) proved.
25. Having found Mr Wilson's conduct to have been dishonest, the Committee also found that he had breached the Fundamental Principle of Integrity because providing forged documents to deceive a University into allowing him to become a student and obtain tuition is neither straightforward nor honest. The Committee thus found Allegation 1(b)(ii) proved.
26. Having found the facts proved in Allegations 1(a) and (b), the Committee then considered whether they amounted to misconduct. The Committee was in no doubt that providing false documents to a University in the dishonest way

described would clearly be considered deplorable by fellow members of the profession and the public. It was behaviour which brought discredit upon Mr Wilson, the profession and ACCA, and amounted to misconduct. The Committee therefore found Allegation 1(c) proved. Having found the behaviour amounted to misconduct, it was not necessary to also consider whether Mr Wilson was liable to disciplinary action, which was alleged in the alternative.

Allegation 2

27. The Committee was advised by the Legal Adviser that the duty to co-operate with an ACCA investigation is absolute, that is to say every relevant person is under a duty to co-operate with any Investigating Officer and any Assessor in relation to the consideration and investigation of any complaint. A failure, or partial failure, to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of the regulations and may render the relevant person liable to disciplinary action. The Committee was satisfied that Mr Wilson had failed to respond to any of the correspondence sent to him by the Investigating Officer on the three dates specified in Allegation 2(a). The Committee noted that the correspondence was sent by email to the email address provided by Mr Wilson when registering with ACCA. The Committee therefore found Allegation 2(a)(i) to (iii) proved.

28. Having found the facts proved in Allegation 2(a), the Committee then considered whether they amounted to misconduct. The Committee was of the view that failing to co-operate at all with the investigation being carried out by his Regulator into his alleged misconduct is a serious matter. A student member should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a student member of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and brought discredit upon Mr Wilson, and also upon the profession and ACCA as Regulator. It therefore decided that Mr Wilson's behaviour in failing to co-operate amounted to misconduct and that Allegation 2(b) was proved.

29. Having found misconduct proved, it was not necessary for the Committee to consider whether Mr Wilson was also liable to disciplinary action, since this was alleged in the alternative.

SANCTION AND REASONS

30. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Law. Mr Wilson had neither attended nor had he provided any personal mitigation for the Committee to take into account. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Wilson, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
31. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
32. The Committee considered the following aggravating features: the degree of planning and sophistication in forging or obtaining the relevant forged documents; undermining of the integrity of ACCA's membership and exemptions process by attempting to subvert the professional exam system; conduct motivated by personal gain; complete absence of insight and/or remorse.
33. The Committee did not consider there to be any mitigating factors, and Mr Wilson had not provided any. The Committee noted that Mr Wilson had not been subject to any previous disciplinary action by ACCA, however, since he had not progressed beyond being a student, the Committee did not consider this to be mitigation.

34. The Committee considered all the options available, from the least serious upwards, and concluded that the only appropriate and proportionate sanction was removal from the student register. Providing false documents in order to gain entry to a university course is very serious, and fundamentally incompatible with being a student of ACCA. This blatant and deceptive, dishonest conduct was such a serious breach of bye-law 8 that no other sanction would adequately reflect the gravity of his offending behaviour.
35. The Association provides specific guidance on the approach to be taken in cases of dishonesty, which is always said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty, and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than striking off. The guidance also states that 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 brings.”

36. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Wilson's case that warranted anything other than removal from the student register. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction.
37. The Committee also considered that a failure to remove a student from the register who had submitted false documents in order to be accepted on a university course, would seriously undermine public confidence in the profession and in ACCA as its Regulator. In order to maintain public confidence and uphold proper standards in the profession, it was necessary

to send out a clear message that this sort of behaviour would not be tolerated. Mr Wilson's behaviour was compounded by his failure to co-operate with ACCA's investigation, and whilst such a failure to co-operate might not, on its own, warrant exclusion from membership of ACCA, when considered in conjunction with the dishonest behaviour found proved in this case, exclusion was inevitable.

38. The Committee therefore ordered that Mr Wilson be removed from the student register.

COSTS AND REASONS

39. ACCA applied for costs in the sum of £6,484. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable, except for the estimates for the Case Presenter and Hearings Officer for today's hearing which, in the event, took less than a full day. Mr Wilson did not provide any details of his means or provide any representations about the costs requested by ACCA, there was therefore no evidential basis upon which the Committee could make any reduction on that ground.
40. In light of its observations above, the Committee reduced the amount requested to reflect the actual costs more likely to have been incurred and made an order in the sum of £6,000.

EFFECTIVE DATE OF ORDER

41. This Order will take effect at the expiry of the appeal period or at the conclusion of an unsuccessful appeal, in the event that such an appeal is pursued.

Mr Ian Ridd
Chair
30 April 2020