

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Ibrahim Fazal Rabbi
Heard on:	Wednesday, 19 August 2020
Location:	Remotely via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU
Committee:	Mr Neil Dalton (Chair) Mr Martin Davis (Accountant) Mr Andrew Skelton (Lay)
Legal Adviser:	Miss Juliet Gibbon (Legal Adviser)
Persons present and capacity:	Mr Phillip Law (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)
Observers:	Ms Nora Nanayakkara (ACCA Appointments Board) A member of the public
Summary	Removal from the student register. Any application for readmission to membership of ACCA shall be referred to the Admissions and Licensing Committee.
Costs:	£5,500.00

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PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Ibrahim Fazal Rabbi. The hearing was conducted remotely through Skype for Business in order to comply with the current COVID 19 Regulations. The Committee had a bundle of papers numbered pages 1 to 75; two detailed costs schedules and a separate service bundle, numbered pages 1 to 14.
2. Mr Phillip Law represented ACCA. Mr Rabbi did not attend the hearing and was not represented.

SERVICE

3. Written notice of the hearing was sent by electronic mail (“email”) only to Mr Rabbi’s registered email address on 22 July 2020. The Committee had sight of the delivery notification. By virtue of Regulation 22(8)(b) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (“the CDR”) the notice would have been deemed served on the same day. ACCA has, therefore, given the requisite 28 days’ notice required under Regulation 10(1)(a) of the CDR.
4. The Committee noted that the email address on the register differed from the email address that Mr Rabbi had previously used when communicating with ACCA. It noted, however, that Mr Rabbi’s address and email address appeared to have been amended on 20 May 2020. Mr Law informed the Committee that any changes to a member’s details have to be made by the member himself. The Committee was, therefore, satisfied that the notice had gone to Mr Rabbi’s registered email address.
5. The Committee accepted the advice of the Legal Adviser. It was satisfied that service had been effected in accordance with Regulations 10 and 22 of the CDR.

APPLICATION TO PROCEED IN ABSENCE

6. Mr Law made an application to proceed in the absence of Mr Rabbi.
7. The Committee considered whether it should proceed in Mr Rabbi's absence. It accepted the advice of the Legal Adviser. The Committee bore in mind that whilst it had a discretion to conduct a hearing in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee paid due regard to the factors set out in the cases of *Hayward & Others* [2001] 3 WLR 125 and *R v Jones* [2002] UKHL 5.
8. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that Mr Rabbi had only partially engaged with ACCA's investigation but had not been in communication with ACCA since 20 August 2019. Given his non-engagement the Committee was of the view that there was no evidence before it to suggest that an adjournment of today's hearing would result in Mr Rabbi's attendance on a future date.
9. Having balanced the public interest with Mr Rabbi's own interests, the Committee determined that it was fair, reasonable and in the public interest to proceed in the absence of Mr Rabbi.

ALLEGATIONS

1. On 12 February 2019, Mr Ibrahim Fazal Rabbi, an ACCA student, caused or permitted one or more of the documents set out in Schedule A to be submitted to The Association of Chartered Certified Accountants ("ACCA"), which purported to have been issued by the University of Central Punjab when, in fact, they had not;
2. Mr Ibrahim Fazal Rabbi's conduct in respect of 1 was:
 - i. Dishonest, in that he knew that one or more of the document/documents set out in Schedule A were false and submitted them to gain exam exemptions he was not entitled to; 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.
3. By reason of his conduct in respect of any or all of the matters set out at 1 and/or 2 above, Mr Rabbi is guilty of misconduct pursuant to bye-law 8(a)(i).

Schedule A

1. Certificate – University of Central Punjab – Bachelor of Science in Accounting and Finance dated 05 December 2018; and
2. Transcript – University of Central Punjab – Bachelor of Science in Accounting and Finance dated 29 October 2018.

BACKGROUND

10. Mr Rabbi registered as a student with ACCA on 02 November 2016. He has passed four ACCA examinations: LW Corporate and Business Law; FMA Management Accounting; FFA Financial Accounting and FAB Accountant in Business.
11. On 12 February 2019, ACCA received an email from Mr Rabbi in which he applied for exemptions. He wrote: *'I am a registered student of ACCA ... As I have completed by BS Hons in Accounting and Finance from University of Central Punjab (Pakistan) now therefore you are kindly requested to award me the exemptions I am eligible for ...'*
12. Mr Rabbi attached a certificate and a transcript to his email, both purporting to have been issued from the University of Central Punjab showing that Mr Rabbi had completed the degree of Bachelor of Science in Accounting and Finance (Honours). The transcript was purportedly issued on 29 October 2018 and the certificate was dated 05 December 2018.

13. The certificate and transcript were sent to the University of Central Punjab for verification. Professor A at the university confirmed that Mr Rabbi was not listed as a student at the university and the documents were not genuine.
14. ACCA's Investigations Department received a referral from ACCA's Exemptions Team stating that documents purported to have been issued by University of Central Punjab could not have been issued by them as Mr Rabbi was not a student with University of Central Punjab. 2. As a result, this matter was referred for investigation.
15. In September 2018, Mr Rabbi had sat and failed the PM Performance Management examination and in December 2018 he had sat and failed the AA Audit and Assurance examination.
16. On 02 July 2020, ACCA wrote to Mr Rabbi at his registered email address to seek his comments in relation to the investigation and sent a first chaser to him on 17 July 2020.
17. A second chaser email was sent on 01 August 2019 which Mr Rabbi replied to on 07 August 2020. Mr Rabbi stated:

'... I have completed my BS in accounting and finance from an institute affiliated (sic) with University of Punjab. One of the possible reasons due to which university may not be able to verify my details may be is the difference in my name as according to my Pakistani national identity card my name is "Ibrahim Fazal E Rabbi". On the other hand, in my passport, visa and ACCA account it is "Ibrahim Fazal Rabbi" but in my BS transcript and degree it is different from both as it is mentioned as Ibrahim Fazl Rabbi" there.

A similar error in the spellings of my father's name is also there as according to his identity documents his name is "Fazal E Rabbi" while in my transcript it is mentioned as "Fazl E Rabbi".

“Therefore, it is kindly requested to grant me reasonable time to get the above errors adjusted in my identity and educational documents and to reapply for my exemptions with corrected details and documents. Till the submission of documents with the corrected information you may cancel my exemptions”.

18. The Investigations Officer responded to Mr Rabbi’s email on 08 August 2019 asking him to provide evidence that he was enrolled at the University of Central Punjab. Mr Rabbi did not respond, and a chaser email was sent on 19 August 2019. Mr Rabbi replied by email on 20 August 2019.

‘I have completed my BS in accounting and finance from “School of Accounting and Finance”. (sic)

“But as requested earlier I would like to request to give me a reasonable period of time to get my name and father’s name corrected in my identity and educational documents so that I don’t have to face any issues again in future”.

19. The Investigations Officer wrote to Mr Rabbi again on 23 September 2019 asking him to provide evidence that he was enrolled at the University of Central Punjab and evidence that he had contacted the university. Mr Rabbi did not respond. A final chaser email was sent to Mr Rabbi on 29 October 2019, but he did not respond and there has been no further contact from him.
20. ACCA attempted to verify Mr Rabbi’s assertions in his response of 07 August 2019 with the University of Central Punjab but despite writing to the university on 26 August 2019, 30 September 2019 and 11 February 2020, there has been no response.

SUBMISSIONS

21. Mr Law made the following oral submissions to the Committee:

- a. Mr Rabbi is a registered student with ACCA and is, therefore, bound by the bye- laws and regulations.
- b. The documents sent to ACCA are plainly false. They bear the hallmarks of photo editing and contain information that is incorrect (including, according to Mr Rabbi, the institution that he attended).
- c. Mr Rabbi's documents were clearly intended to mislead ACCA.
- d. Each document contains personal information about Mr Rabbi and, on that basis, it can be inferred that he either created the documents or provided the information to another person to create them on his behalf.
- e. Mr Rabbi almost certainly sent the documents by email, or in the alternative, arranged or participated in them being sent to ACCA. The purpose in so doing, was to misrepresent his qualifications and gain exemptions to which he was not entitled.
- f. Mr Rabbi plainly knew that the documents were false (i) they contained information about a degree from an institution he did not attend and (ii) he has not remedied the 'error' that he said occurred in relation to his name (despite his character and student registration being at risk).

22. Mr Law further submitted that:

- a. Mr Rabbi's conduct was plainly dishonest in accordance with the test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
- b. Mr Rabbi had submitted false documents in order to gain exemptions from ACCA examinations.
- c. Mr Rabbi's actions undermined the examination process and ACCA's reputation as provider of examinations.

- d. The reputation of the profession, the regulator and the individual are much discredited if individuals simply disregard the rules by which they are bound. The public, including those taking the examinations fairly and in accord with the regulations, can have little confidence in the effectiveness of regulation if individuals simply ignore the rules that they are bound by.
- e. Mr Rabbi's dishonest conduct fell far short of the conduct expected of professional accountants and those training to become accountants and that misconduct, as defined by bye-law 8(c) and the case of *Roylance v GMC (No 2)* [2000] 1 AC 311, was clearly made out.

DECISION AND REASONS

- 23. The Committee carefully considered the documentary evidence before it and the oral submissions made by Mr Law. The Committee accepted the advice of the Legal Adviser.
- 24. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard of proof is the balance of probabilities.

ALLEGATION 1 - PROVED

- 25. The Committee noted the evidence from Professor A that Mr Rabbi had not been a student at the University of Central Punjab and would not, therefore, have been awarded a degree by the university. The Committee also noted that Mr Rabbi had suggested that this was due to the wrong spelling of his name but despite ACCA having asked him to provide evidence of this, he had failed to do so and he had ceased communicating with the Investigations Officer on 20 August 2020. The Committee noted that the University of Central Punjab had failed to respond to ACCA's subsequent queries but it was satisfied, on the balance of probabilities, on the basis of Professor A's two responses to ACCA, that the transcript and the certificate in Schedule A were false documents.

26. The Committee noted that Mr Law had asked it to consider what appeared to be typographical errors and other errors that he submitted could be seen on the documents. The Committee, however, did not consider that it needed to do so as it had found the documents to be false on the evidence provided by Professor A that Mr Rabbi had not been a student at the university.
27. The Committee was also satisfied that Mr Rabbi had sent (or caused to be sent) the false documents to ACCA in order to gain exemptions from ACCA examinations that he was not entitled to. The false transcript and the certificate purported to prove to ACCA that he had completed the prescribed studies and satisfied the requirements for the degree of Bachelor of Science in Accounting and Science (Honours).
28. The Committee determined that Mr Rabbi knew that the two documents were false and misleading when they were sent to ACCA in an attempt for him to gain exemptions from ACCA examinations that he was not entitled to. The Committee found Allegation 1 proved.

ALLEGATION 2.1 - PROVED

29. The Committee went on to consider whether Mr Rabbi's conduct had been dishonest. On the basis of the findings already made, the Committee was satisfied that Mr Rabbi had sent, or caused to be sent, false documents to ACCA in a deliberate attempt to gain exemptions from ACCA examinations. It was quite satisfied that Mr Rabbi had been aware that the documents were false and misleading when he sent them to ACCA and, applying the standards of ordinary decent people, it was also satisfied that Mr Rabbi's conduct was, on the balance of probabilities, dishonest. Accordingly, the Committee found Allegation 2.1 proved and did not, therefore, go on to consider the alternative charge set out in Allegation 2.2.

ALLEGATION 3 - PROVED

30. The Committee was satisfied that Mr Rabbi's premeditated and dishonest conduct, in submitting false documents to ACCA in order to gain exemptions

that he was not entitled to, fell far below the standards expected of an ACCA student. Mr Rabbi's conduct also had the potential to undermine public confidence in the profession and ACCA as the regulator. The Committee considered that there was the potential, had ACCA not discovered the documents to be false, for reputational damage to ACCA and the profession and future financial loss to members of the public. In the Committee's determination, Mr Rabbi's dishonest conduct was serious and amounted to misconduct. The Committee found Allegation 3, misconduct, proved.

SANCTION AND REASONS

31. Mr Law informed the Committee that there were no previous disciplinary findings against Mr Rabbi. He referred the Committee to what he considered to be the aggravating and mitigating features of the case.
32. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(4) of the CDR and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Rabbi's own interests. The purpose of any sanction was not meant to be punitive but was 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.
33. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee considered the following to be mitigating features:
 - a. Mr Rabbi had no previous disciplinary findings against him.
 - b. Mr Rabbi had initially engaged with ACCA.
34. The Committee considered the following to be aggravating features:

- a. This was deliberate and premeditated dishonest conduct on the part of Mr Rabbi in order to gain exemptions from ACCA examinations.
 - b. Mr Rabbi's conduct undermined the ACCA examination process and had the potential to damage the reputation of the ACCA qualification.
 - c. Mr Rabbi's conduct had the potential for financial harm to members of the public;
 - d. There is no evidence of any insight or remorse.
35. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the dishonest conduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the gravity of the matters proved, and would not protect the public interest.
36. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from the Student Register was required. It had careful regard to the factors applicable to each of these sanctions as set out in the Sanctions Guidance. The Committee considered that most of the factors applicable to a severe reprimand were not applicable in this case. The Committee concluded that a severe reprimand would not be appropriate or sufficient to protect the public interest.
37. The Committee had regard to paragraph E 2.2 of the Guidance for Disciplinary Sanctions which states:

"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".

38. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that can be imposed. The Committee took into account the guidance that this sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a member. The Committee was satisfied that Mr Rabbi's dishonest conduct had reached that high threshold.
39. For the above reasons, the Committee concluded that the only appropriate and proportionate sanction was removal from the student register.
40. The Committee did not deem it necessary to impose any minimum period before which Mr Rabbi cannot re-apply for admission as a student member, but it considered that any future application for membership by Mr Rabbi should be referred to the Admissions and Licensing Committee.

DECISION ON COSTS AND REASONS

41. The Committee was provided with two detailed costs schedules. ACCA had applied for costs in the sum of £7,506 but Mr Law informed the Committee that there was an error in the amount claimed for the hearing costs and the amount claimed should, therefore, be reduced by £900 to £6,606. He also invited the Committee to consider whether there should be a further reduction as the hearing would not take the six hours claimed.
42. The Committee was satisfied that the costs claimed by ACCA in the sum of £6,606 were appropriate and reasonable but that there should be some reduction. The Committee noted that Mr Rabbi had not provided any details of his financial means or provided the Committee with any written representations in relation to the costs claimed by ACCA.
43. The Committee determined that it would be fair and proportionate to order Mr Rabbi to pay a contribution to ACCA's costs in the sum of £5,500.

ORDER

- I. Mr Ibrahim Fazal Rabbi shall be removed from ACCA's student register.
- II. Any future application for membership by Mr Ibrahim Fazal Rabbi shall be referred to the Admissions and Licensing Committee.
- III. Mr Ibrahim Fazal Rabbi shall pay a contribution to ACCA's costs in the sum of £5,500.

EFFECTIVE DATE OF ORDER

44. The Committee determined that it was in the interest of the public that the order should have immediate effect subject to the order being varied or rescinded on appeal as described in the Appeal Regulations.

Mr Neil Dalton
Chair
19 August 2020