

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Qaiser Jamal

Heard on: Wednesday, 19 February 2020

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

Committee: Mr Andrew Popat, CBE (Chair)
Mr Martin Davis (Accountant)
Mrs Jackie Alexander (Lay)

Legal Adviser: Mr Richard Ferry-Swainson (Legal Adviser)

**Persons present
and capacity:** Mr Benjamin Jowett (ACCA Case Presenter)
Ms Geraldine Murray (Hearings Officer)

Observers: Mr Phillip Law (ACCA Case Presenter)

Summary: Facts and misconduct found proved, student removed
from the Register, costs ordered.

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PRELIMINARY APPLICATIONS

1. The Disciplinary Committee (“the Committee”) convened to consider an Allegation against Mr Jamal, who was not present or represented.
2. The papers before the Committee were in a bundle numbered 1 to 54, and a costs schedule numbered 1 to 4. The Committee was also provided with a Service Bundle numbered 1 to 17.
3. Mr Jowett made an application to proceed in the absence of Mr Jamal.

SERVICE AND 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 Jowett 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 10 January 2020, thereby satisfying the 28 day notice requirement, which had been sent to Mr Jamal’s email address as it appears in the ACCA register. The Notice included details about the time, date and venue for the hearing, and also Mr Jamal’s right to attend the hearing, in person 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 Jamal’s absence, if considered appropriate.
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 Jamal’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Jamal, it should exercise that discretion with the utmost care and caution, particularly as Mr Jamal was unrepresented. There was evidence to show that emails sent to Mr Jamal during the investigation had been opened, even though he had not responded to them. The Committee was thus satisfied that Mr Jamal was, or should be, aware of today’s hearing.

7. In a number of emails sent to Mr Jamal 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 Jamal did not respond to any of those emails. The Hearings Officer also attempted to contact Mr Jamal by telephone, however the number called was engaged.
8. The Committee noted that Mr Jamal 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 Jamal 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 Jamal 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 Jamal. No adverse inference would be drawn from his non-attendance.

APPLICATION TO AMEND

10. Mr Jowett made an application to amend the Allegation to remove the word “an” from (b)(i). It currently reads “... to gain an exemptions ...” when it should read “... to gain exemptions ...” Mr Jowett submitted that this was a typographical error, and to allow the amendment would not change the nature or seriousness of the matters alleged.
11. The Committee heard and accepted the advice of the Legal Adviser that it could amend the Allegation, provided the relevant person is not prejudiced in the conduct of his defence. Since this was clearly just a typographical error, and did not alter the substance of the offence, the Committee could see no prejudice in granting the application. Accordingly, the Allegation was amended as requested.

ALLEGATION/BRIEF BACKGROUND

12. Mr Jamal faced the following Allegation (as amended):
 - (a) On 15 May 2019, Mr Qaiser Jamal, 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 University of South Africa when, in fact, they had not;

(b) Mr Jamal’s conduct in respect of 1(a) was:

(i) Dishonest, in that he knew the documents he caused or permitted to be submitted to ACCA described in schedule A are false and he submitted them to gain 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;

(c) By reason of his conduct in respect of any or all of the matters set out at 1(a) and/or 1(b) above, Mr Jamal is guilty of misconduct pursuant to by-law 8(a)(i).

13. Mr Jamal applied to become an ACCA student on 08 June 2017 and was admitted to ACCA’s student register on 09 June 2017.
14. On or around 28 June 2019, ACCA’s Investigations Department received a referral from ACCA’s Exemptions Team, stating that the University of South Africa documents Mr Qaiser Jamal submitted to ACCA, which purported to have been issued by the University of South Africa, were false.
15. A False Certificate Referral Form, completed by ACCA’s Exemptions Specialist, confirmed that the documents referred to in Schedule A were submitted to ACCA by Mr Jamal on 15 May 2019, for the purpose of gaining F5 and F8 exemptions.
16. For completeness, the Investigations Officer reviewed Mr Jamal’s ACCA records. Following Mr Jamal’s request for exemption on 15 May 2019, ACCA notified Mr Jamal on 26 May 2019 that, based on the certificate and transcript he had submitted on 15 May 2019, he was eligible to be awarded the following exemptions: F4, F5, F6, F7 and F8. From September 2018, ACCA changed the exam codes, so that now F4 = LW, F5 = PM, F6 = TX, F7 = FR and F8 = AA.

17. On 27 May 2019, Mr Jamal contacted ACCA and stated he only required F5/PM and F8/AA exemptions, and that he did not require F4/LW, F6/TX and F7/FR. He thus requested these exemptions, which he had been awarded, to be waived. Mr Jamal also submitted a completed and signed ACCA Qualification exemption waiver form for the F4/LW, F6/TX and F7/FR to be waived.
18. A manager at the University of South Africa responded to ACCA on 05 June 2019. He confirmed that the documents Mr Jamal submitted to ACCA purporting to be issued by the University of South Africa were forged, as he could not find any student by the name of Qaiser Jamal ever enrolled at the University of South Africa.
19. On 24 July 2019, ACCA sent an email to Mr Jamal's email address, as registered with ACCA, seeking his comments in relation to the investigation. He was invited to respond by 07 August 2019. No response was received.
20. Chaser correspondence was sent to Mr Jamal on 08 August 2019, again to his registered email address. Mr Jamal was also warned that an additional allegation of failure to co-operate may be brought against him if he did not respond to this chaser by 15 August 2019. No response was received.
21. A final chaser email was sent to Mr Jamal on 16 August 2019, to his registered email address. Mr Jamal was again warned that an additional allegation of failure to co-operate may be brought against him if he did not respond to this chaser by 30 August 2019. No response was received.
22. Notwithstanding his lack of responses, ACCA decided not to pursue an allegation of failing to co-operate. This was because, in ACCA's view, the gravamen of the case relates to the submissions of false documents, and it would add little to add an allegation of failing to co-operate.
23. Mr Jamal did not attend the hearing, nor did he provide any written representations for the Committee to consider.

DECISION ON FACTS/ALLEGATION AND REASONS

24. The Committee considered with care all the evidence presented and the submissions made by Mr Jowett. The Committee accepted the advice of the Legal Adviser, and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

25. The Committee accepted the unchallenged and cogent evidence that the Certificate Bachelor of Accounting Science dated 17 October 2013, issued by the University of South Africa, and the University of South Africa transcript dated 20 August 2013, were forgeries, and had not been issued by the University of South Africa.
26. The Committee was satisfied that either Mr Jamal himself, or someone on his behalf, submitted these documents to ACCA and that he was aware of the fact that they were forgeries, which were being submitted to ACCA for the purpose of gaining exemptions from ACCA's examinations. He would have known he was not entitled to the exemptions that he subsequently gained, as he had not gained a degree from the University of South Africa. Furthermore, it was difficult for the Committee to see how anyone other than Mr Jamal would benefit from the submission of these false documents. The Committee considered it to be a reasonable inference that Mr Jamal must have either created these documents himself, or paid someone else to do so. In all the circumstances, the Committee found Allegation 1(a) proved.
27. The Committee then considered whether such behaviour was dishonest. The Committee considered what it was that Mr Jamal had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. Mr Jamal, whether himself directly or through a third person, had provided false documentation to ACCA, as a result of which he gained exemptions from some of ACCA's examinations. The only possible intention for submitting such documentation must have been to deceive ACCA into believing he had a Bachelor of Accounting Science degree from the University of South Africa, and was thereby eligible to be awarded exemptions by ACCA. Mr Jamal must have known this to be the case and he would have known he had not completed such a degree, and equally would have known he was not entitled to the exemptions he subsequently received from ACCA. The Committee was in no doubt that an 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.
28. Having found Allegation 1(b)(i) proved, it was not necessary for the Committee to consider Allegation 1(b)(ii) which was alleged in the alternative.
29. Having found the facts proved in Allegations 1(a) and 1(b)(i), the Committee then considered whether they amounted to misconduct. The Committee was in no doubt that providing false documents to ACCA, 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 Jamal, the profession and ACCA. It, therefore, decided that Mr Jamal's behaviour in dishonestly submitting false documents amounted to misconduct, and that Allegation 1(c) was proved in respect of 1(a) and 1(b)(i).

SANCTION AND REASONS

30. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Jowett. Mr Jamal had not 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 Jamal, 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 process, conduct motivated by personal gain, potential for harm to the public by his obtaining examination exemptions, which meant he would not have been properly qualified had he evaded detection, and a complete absence of insight and remorse.
33. The Committee did not consider there to be any mitigating factors, and Mr Jamal had not suggested any. The Committee noted that he had no previous disciplinary record with ACCA, but this carried little weight, because he had acted dishonestly early in his association with ACCA.
34. The Committee considered all the options available from the least serious upwards. It noted that the Association provides specific Guidance on the approach to be taken in cases of dishonesty. In Part E2 of the Guidance it states that dishonesty is 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.”*

35. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Jamal'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, and concluded that the only appropriate and proportionate sanction was removal from the student register. Providing false documents in order to gain examination exemptions is very serious, fundamentally incompatible with being a student of ACCA and undermines the integrity of ACCA's membership process. ACCA's self-certification process relies on the honesty and integrity of the individuals applying. 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.
36. The Committee also considered that a failure to remove a student from the register, who had gained examination exemptions by submitting false documents, would seriously undermine public confidence in the profession and in ACCA as its regulator. The public need to know it can rely on the integrity, ability and professionalism of those who are members of ACCA. 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.
37. The Committee therefore ordered that Mr Jamal be removed from the student register.

COSTS AND REASONS

38. ACCA applied for costs in the sum of £6,871.50. 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. In addition, Mr Jowett indicated that as two cases had been listed today, the hearing costs could be halved to reflect this, and the

Committee agreed. Mr Jamal 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.

39. 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 £4,300.

EFFECTIVE DATE OF ORDER

40. This order will have effect at the expiry of the appeal period, or at the conclusion of any appeal if one is made.

Mr Andrew Popat, CBE
Chair
19 February 2020