

HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

- In the matter of:** Mr Miraz Hossan
- Heard on:** Tuesday, 16 June 2020
- Location:** Remotely by Skype Link via ACCA Offices, The Adelphi, 1-11
John Adam Street, London WC2N 6AU
- Committee:** Mrs Helen Carter-Shaw (Chair),
Mr Jonathan Beckerlegge (Accountant) and
Ms Samantha Lipkowska (Lay)
- Legal Adviser:** Mr Sanjay Lal
- Persons present
and capacity:** Ms Michelle Terry (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)
Mr Jonathan Lionel (Hearings Officer)
- Observers:** Mr Antony Townsend, ACCA Appointments Board

ACCA



+44 (0)20 7059 5000



info@accaglobal.com

www.accaglobal.com

The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

PRELIMINARY MATTERS

1. The Committee had before it a Main Bundle, pages 1-58 and a Service Bundle, pages 1-16.
2. The Committee noted that Mr Hossan had not attended remotely, and no communication had been received from him in respect of the hearing. The Committee also noted that the Hearings Officer had attempted to call Mr Hossan a few days before the hearing to find out if he wished to attend and the telephone number which was shown on his student record did not connect.
3. The Committee was satisfied that Notice of this hearing has been given in accordance with Rules 10 and 22 of the Complaints and Disciplinary Regulations (the “Regulations”) on 15 May 2020. This was in the form of an email that had been sent to his registered email address.
4. Ms Terry applied to the Committee to proceed in the absence of Mr Hossan. She submitted there had been no indication from Mr Hossan that he was seeking an adjournment or that he would engage on a future date.
5. The Committee went on to consider whether it would be in the interests of justice to proceed in the absence of Mr Hossan.
6. The Committee determined Mr Hossan was not engaging with ACCA in respect of this hearing. He had not applied for the matter to be adjourned and the Committee was satisfied he had waived his right to attend. There is a strong public interest in the expeditious disposal of the matter in light of the serious nature of the allegations, and in the circumstances, the Committee determined that it is in the interests of justice to hear the matter in the absence of Mr Hossan in accordance with Regulation 10(7).

ALLEGATION(S)/BRIEF BACKGROUND

7. *1. On 25 November 2019, Md Miraz Hossan, 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 Anglia Ruskin University when, in fact, they had not;*

2. *Md Miraz Hossan's conduct in respect of 1 was:*

2.1. Dishonest, in that he knew the documents he 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

2.2. 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, Md Miraz Hossan is guilty of misconduct pursuant to byelaw 8(a)(i).*

Schedule A

- Certificate Bachelor of Arts in Applied Accounting dated 15 February 2013- Anglia Ruskin University; and

- Anglia Ruskin University transcript dated 19 February 2013.

8. Mr Hossan applied to become an ACCA student on 01 March 2013 and was admitted to ACCA's student register on 10 March 2013.

9. A False Certificate Referral Form completed by ACCA's Customer Operations Team Manager confirmed that the documents referred to in Schedule A, purportedly issued by Anglia Ruskin University, were submitted to ACCA by Mr Hossan on 25 November 2019 for the purpose the purpose of gaining exemption from ACCA exam F8.

10. The Investigations Officer reviewed Mr Hossan's exam ACCA records.

11. Mr Hossan had received exemptions and /or passed the following exams:

F1 / AB (exemption) F2 / MA (exemption)

F3 / FA (exemption) F4 / LW (exemption)

F5 / PM (exemption) F6 / TX (exemption)

F7 / FR (passed) F9 / FM (passed)

HEARING

12. In addition, Mr Hossan failed the F8/AA exams on the following dates:

Result date	Result
01/08/2014	17
13/01/2016	24
10/01/2018	41
11/04/2018	24
08/01/2019	29

13. On 25 November 2019, Mr Hossan contacted ACCA and supplied a certificate and transcript purportedly issued by Anglia Ruskin University, he stated: *'i want to claim ACCA F8 module exemption on the basis of my qualifications'*.
14. ACCA supplied the documents to Anglia Ruskin University to authenticate. Anglia Ruskin University responded and confirmed that the certificate and transcript Mr Hossan supplied to ACCA were not authentic and they have no record of Mr Hossan in their database.
15. On 11 December 2019, ACCA wrote to Mr Hossan to seek his comments in relation to the investigation at Mr Hossan's registered email address. On 13 January 2020, ACCA received two identical e-mails from the registered e-mail of Mr Hossan at 07:41 am and 07:42 am. Mr Hossan asserted the exemption request was made in error by a third party who he had hired to pay his ACCA subscription fees and the F8 / AA exemption request should be disregarded.
16. The Investigations Officer in his response on 14 January 2020 requested further information from Mr Hossan to substantiate his assertions.
17. On 19 January 2020, ACCA received an e-mail from the registered e-mail of Mr Hossan. The contents of the e-mail were identical to Mr Hossan's previous e-mails of 13 January 2020 and did not provide the further information requested by the Investigations Officer.
18. The Investigations Officer sent a final chaser on 03 February 2020 and gave Mr Hossan a final opportunity to substantiate his assertions by 06 February 2020.

HEARING

19. On 18 February 2020, the Investigations Officer wrote to Mr Hossan and notified him this matter will be referred to the Independent Assessor and Mr Hossan was invited to provide his response/observation to the assessor by 06 March 2020.
20. This notification was sent to Mr Hossan's registered e-mail address as it appeared on ACCA's member's database on 18 February 2020.
21. On 18 February 2020, ACCA received an e-mail from Mr Hossan where he stated he was unable to open the e-mail ACCA sent him on 18 February 2020
22. Accordingly, the Investigations Officer resent the e-mail to Mr Hossan on 19 February 2020.
23. ACCA database records shows the Investigation Officer's e-mail of 19 February 2020 to Mr Hossan was opened on 20 February 2020 at 03:57 (GMT).
24. Ms Terry made clear that although Allegation 1 above referred to "exemptions" in the plural, ACCA in fact alleged a claim for only one exemption in respect of F8, namely the exam he had repeatedly failed in the past. She highlighted the exemption application was supported by a copy of Mr Hossan's passport. She submitted he would be the only person who would benefit from the submission of the false document.

DECISION ON ALLEGATIONS AND REASONS

25. ACCA brought this case and, therefore, the burden of proving the case rests throughout on ACCA to the civil standard of a balance of probabilities.
26. Misconduct is a matter of judgment for the Committee.
27. Having had regard to the papers before it and having taken account of the submissions made, the Committee satisfied itself that Mr Hossan caused or permitted documents set out in Schedule A containing untrue information to be supplied to ACCA. In the Committee's view this was done in order to gain an exemption from an ACCA module, specifically the F8 paper, which he had repeatedly failed in the past.

HEARING

28. The Committee had regard to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* and the approach to the issue of assessing dishonesty. The Committee was satisfied that the request for exemptions based on documents that were false clearly amounted to dishonest conduct in that Mr Hossan would have known he had not passed the relevant examinations. The Committee, therefore, found Allegation 1 and 2 (2.1) proved.
29. The Committee finds his motive in doing so was to gain an exemption in respect of the F8 module that he had failed on five separate occasions in the past. The Committee accepted that by his actions, Mr Hossan has been dishonest by the ordinary standards of ordinary decent people.
30. The Committee was in no doubt that such actions amount to misconduct and that they would be readily regarded as deplorable by members of the public and the profession. Therefore, the Committee found Allegation 3 proved.
31. In the light of its finding in respect of Allegation 1 (a) and 2 (2.1) the Committee did not go on to consider Allegation 2 (2.2) as this was charged in the alternative.

SANCTION

32. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted his advice that any sanction must be proportionate, and it should consider the least restrictive sanction first and move upwards only if it would be proportionate to do so. The Committee had balanced Mr Hossan's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance.
33. The issue of sanction was for the Committee exercising its own professional judgement.
34. Ms Terry informed the Committee that there were no previous disciplinary matters known to ACCA.
35. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee noted that there were no references or testimonial

HEARING

evidence in support and no expressions of remorse or apology. The Committee considered the following to be aggravating features:

- The serious nature of the dishonest conduct;
- Done for his own personal benefit;
- Deliberate attempt to mislead the Regulator.

36. In terms of mitigating factors, the Committee took into account the following factors:

- No previous regulatory or disciplinary matters.

37. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of Mr Hossan's misconduct and would undermine confidence in the profession and in ACCA as regulator.

38. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.

39. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment or Reprimand, but the Committee decided that the misconduct found was too serious and that public confidence in the profession and in the regulator would be undermined if any such orders were made.

40. The Committee then went on to consider whether a Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Severe Reprimand would not be the proportionate sanction because it was misconduct of a particularly serious nature with a lack of insight into the consequences of his actions. Honesty in respect of professional qualifications is fundamental to professional regulation. Members of the public would expect nothing less from those that are registered with professional bodies.

41. In the circumstances, the Committee determined that the only appropriate and proportionate sanction would be one of Removal from the Student Register. The dishonesty was serious. The dishonest conduct was fundamentally incompatible with continued membership of the Student Register. The Committee was in no doubt that any lesser sanction would undermine public

HEARING

confidence in the profession and in ACCA as its regulator. The Committee determined that removal from the Student Register for the standard minimum period of 12 months was the only proportionate response in the circumstances of this case.

42. The Committee further decided that were Mr Hossan to reapply for ACCA student membership after the expiration of the 12-month period, his case be referred to the Admissions and Licensing Committee.

COSTS AND REASONS

43. ACCA claimed costs of £5677.50 which comprised the costs of the investigation and the matters as highlighted by Ms Terry in respect of the history of the matter. These cover the costs of investigation, the presentation of the case as well as the costs of the Committee Officer and of today's hearing. The Committee noted that the Costs Schedule was sent to Mr Hossan in advance of the hearing. Ms Terry accepted that some reduction might be justified because the hearing had concluded in less than the time allowed.
44. The Committee noted Mr Hossan had not prepared a Statement of Financial Position. The Committee decided that it was appropriate to award costs in the sum of £5000 to reflect the fact the hearing had taken less time than originally anticipated.

EFFECTIVE DATE OF ORDER

45. The Committee decided that the order would be effective at the end of the expiry of the appeal period referred to in the Regulations.

Mrs Helen Carter-Shaw
Chair
16 June 2020