

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Haresh Vijayananda

Heard on: Thursday, 15 April 2021

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

Committee: HH Graham White (Chair)
Ms Wanda Rossiter (Accountant)
Mr Geoffrey Baines (Lay)

Legal Adviser: Mr Alastair McFarlane (Legal Adviser)

Persons present

and capacity: Ms Michelle Terry (ACCA Case Presenter)
Mr Jonathan Lionel (Hearings Officer)
Mr Haresh Vijayananda (Member)
Mr Christopher Cope (on behalf of Mr Vijayananda)

Summary Removed from the student register

Costs: £5,000.

1. ACCA was represented by Ms Terry. Mr Vijayananda did attend and was represented by Mr Cope. The Committee had before it a bundle of papers, numbered pages 1 – 44, an additional bundle (1), numbered pages 1 – 29, an

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

additional bundle (2), numbered pages 1 – 3 and a service bundle, numbered pages 1-13.

2. At the outset of the hearing Ms Terry applied to amend the allegation under Regulation 10(5)(a). This was not opposed by Mr Cope. The Committee accepted the advice of the Legal Adviser and granted the application on the basis that it more accurately reflected ACCA's case, and did not cause any prejudice to Mr Vijayananda.

Allegations

Mr Haresh Vijayananda who is registered with ACCA as a student:

- a) On a date before 16 January 2020, submitted an examination result purporting to be from an ACCA to HTFT partnership knowing it to be false, so that he would be eligible to take the course again at no extra cost when he knew he was not eligible.
- b) His conduct as set out at 1(a) above was:
 - (i) Dishonest, in that Mr Vijayananda knew the examination result submitted by him was false and accordingly that he was not eligible for the discounted rate; in the alternative
 - (ii) Contrary to the Fundamental Principle of Integrity subsection 111 - of ACCA's Code of Ethics (2019) in that such conduct was not straightforward and honest;
- c) By reason of his conduct set out at 1(a) and/or 1(b) i and /or ii, above, he is guilty of;
 - (i) Misconduct pursuant to bye-law 8(a)(i) or
 - (ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii)

ADMISSIONS

3. Mr Vijayananda admitted Allegations 1(a) and 1(b)(i). Under Regulation 12(3)(c), the Committee found those allegations proved by virtue of Mr Vijayananda's admission. As Allegation 1(b)(ii) was an alternative to dishonesty in 1(b)(i), this was not proved. The Committee noted that Mr Vijayananda also accepted that his conduct amounted to misconduct as set out at Allegation 1(c)(i), but reminded itself that misconduct was a matter for its judgment alone and was not a question of proof.

PRIVATE

4. Having heard from ACCA and from Mr Cope, and having accepted the advice of the Legal Adviser, the Committee was satisfied under Regulation 11(1) that it was appropriate to hear part of the hearing in private when it concerned matters of Mr Vijayananda's health or the health of his family.

BACKGROUND

5. Mr Vijayananda became a student of ACCA on 05 October 2011.
6. On 16 January 2020, Provider 1 raised concerns with ACCA over information Mr Vijayananda has supplied to them, as it did not match ACCA's Results Service document. Mr Vijayananda had supplied Provider 1 with a failed score result of 48 for an exam he claimed to have sat on 05 December 2019. However, ACCA's Results Service document showed that Mr Vijayananda had not sat the exam.
7. ACCA sought Mr Vijayananda's comments regarding the validity of the certificate he submitted to Provider 1 and Mr Vijayananda responded that he had submitted a false certificate because he wanted the opportunity to repeat Provider 1's course without any extra charge.

ACCA's SUBMISSIONS

8. ACCA submitted that providing a false certificate which Mr Vijayananda knew to be false in order to give him the opportunity of repeating the course without an extra charge was dishonest conduct, and as such fell significantly short of what was expected of members of the profession and was also therefore misconduct.

MR VIJAYANANDA'S SUBMISSIONS

9. Mr Vijayananda referred to his witness statement dated 24 March 2021 [PRIVATE]. He ascribed these to the pressure of examination; work commitments; the financial pressure of supporting his family and being a full-time carer for his father [PRIVATE].
10. Before the ACCA exam in Strategic Business reporting that was due to take place on 05 December 2019, Mr Vijayananda had registered with Provider 1 who were providing him with tuition. [PRIVATE], he maintained he was unfit and incapable of attending the examination centre or sitting the exam. On 09 December 2019, he advised ACCA that he had missed the exam owing to medical reasons and submitted a medical certificate and asked that the fees he had paid for the exam should be credited as he wished to retake it in March 2020.
11. However, Mr Vijayananda sent an email to Provider 1 dated 13 January 2020 in which he stated: *"unfortunately I scored 48 marks. I was very close. I will have to resit this in March and hopefully I can try to get the pass mark"*. On 14 January 2020, Provider 1 requested that Mr Vijayananda send over the exam result and on 15 January 2021, Mr Vijayananda attached a screenshot, purportedly from ACCA, which he accepts was false and prepared by him. He stated that he believed that Provider 1 offered students a discounted fee for the revision course for those students who failed an examination and that to qualify the score had to be between 40 and 50 per cent. He stated that he wrongly believed that he would be ineligible to sit the examination again if medical reasons were why he had not sat it.

12. Mr Vijayananda stated that he believed he was [PRIVATE] when he contacted Provider 1 in January 2020. He maintained that he was now fully recovered, had been in probationary employment up until March 2021 and apologised for his conduct. He submitted various documents in support of his contentions, including a letter from his GP dated 10 November 2020.

DECISION ON ALLEGATIONS AND REASONS

13. The Committee accepted the advice of the Legal Adviser. The Committee found Allegation 1 (a) and 1 (b)(i) were proved by virtue of Mr Vijayananda's admissions under Regulation 10(3) CDR.

DECISION ON MISCONDUCT

14. The Committee noted the submissions of ACCA on the issue of misconduct and Mr Vijayananda's acceptance that his conduct did amount to misconduct. It accepted the advice of the Legal Adviser.
15. The Committee was satisfied that the dishonest preparation of a false certificate to enable a student to take a course again at no extra cost was deplorable conduct and was serious such that it reached the threshold to amount to misconduct.

SANCTIONS AND REASONS

16. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanction and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It considered the available sanctions in ascending order and applied the principle of proportionality. It accepted the advice of the Legal Adviser.
17. The Committee considered that the following were aggravating factors:

- The conduct involved dishonesty;
 - The conduct was deliberate and pre-planned;
 - It was for financial gain
 - The Committee considered that Mr Vijayananda's insight was not full and was particularly limited in relation to his understanding of the impact of such behaviour on the reputation and standing of the profession.
18. The Committee considered that the following were mitigating factors:
- Mr Vijayananda made early and full admissions;
 - He was of previous good character;
 - The Committee considered that the conduct was in [PRIVATE];
 - The Committee accepted that at the material time he was experiencing stress and anxiety with difficult professional and family pressures [PRIVATE];
 - There has been no recurrence of the behaviour since;
 - There were some testimonials, but most were not fully independent and while there was a positive historic reference from a former employer there was none from any more recent employers;
 - Mr Vijayananda had apologised and expressed genuine regret for his conduct.
19. The Committee was satisfied that the creation of a false document by a prospective member of a profession, which is relied upon by the public for its honesty, is serious. While it acknowledged the stresses and pressures Mr Vijayananda was under at the time, [PRIVATE].
20. Given the Committee's view of the seriousness of his conduct, it was satisfied that the sanctions of No Further Action, Admonishment, and Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct.

21. The Committee next considered the sanction of Severe Reprimand. While it noted that some of the factors supportive of this disposal were present, it noted that this was intentional dishonest conduct and was satisfied that in all the circumstances a Severe Reprimand was not a sufficient sanction to mark the gravity of this behaviour to the profession and the wider public.
22. The Committee had specific regard to Section E2 of the Guidance and the circumstances that applied at the time that Mr Vijayananda committed this conduct. It was not persuaded overall that his mitigation was so remarkable or exceptional that it warranted not removing him from the register for this instance of dishonesty. The Committee was satisfied that his behaviour was fundamentally incompatible with Mr Vijayananda remaining on the student register of ACCA and considered that the only appropriate and proportionate sanction was that he be removed from the student register.

COSTS AND REASONS

23. ACCA claimed costs of £6,598.50, and provided a detailed schedule. It noted Mr Vijayananda was a student and currently unemployed. It heard that he lived with his parents and had limited means, but did have £10,000 savings from previous employment. It had regard to ACCA's Guidance for Costs Orders. The Committee decided that it was appropriate to award costs in this case and that the costs claimed were reasonably incurred. Nonetheless, it determined that it was appropriate to reduce this sum given Mr Vijayananda's current means and employment status. It concluded that the sum of £5,000 was appropriate and proportionate. Accordingly, it ordered that Mr Vijayananda pay ACCA's costs in the amount of £5000.00.

EFFECTIVE DATE OF ORDER

24. This order shall take effect from the date of the expiry of the appeal period unless notice of appeal is given prior to the expiry of that period, in which case it shall become effective (if at all) as described in the Appeal Regulations. The Committee was not persuaded that the ground for imposing an immediate order

was made out given the facts of this case and that public protection is not involved.

HH Graham White
Chair
15 April 2021