

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Sikandar Nisar
Heard on:	Thursday, 29 April 2021
Location:	Remotely via Microsoft Teams
Committee:	Mr Michael Cann (Chair) Ms Andrea White (Accountant) Ms Rachel O'Connell (Lay)
Legal Adviser:	Mr Robin Havard (Legal Adviser)
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Anna Packowska (Hearings Officer) Mr Sikandar Nisar (Student Member) Ms Zarqa Shaikh (Interpreter)
Summary	Removed from the student register
Costs:	£1,000

PRELIMINARY APPLICATIONS

APPLICATION TO AMEND ALLEGATIONS

1. On 31 March 2021, ACCA sent an email to Mr Nisar informing him of its intention to apply to amend allegation 1a. by the inclusion of the words, "*On a date before the 29th July 2020.....*". It was submitted that the addition of the

words did not prejudice Mr Nisar in any way in preparing a defence of the allegation and made the allegation more defined. The underlying evidence supporting the allegation remained the same.

2. On 27 April 2021, ACCA sent an email to Mr Nisar informing him of an intention to apply for an amendment to Allegation 2. The application was to substitute the dates of the correspondence specified at Allegation 2(b)(i) to (iii) from 11 September 2019, 14 October 2019 and 29 October 2019 to 24 August 2020, 08 September 2020 and 15 September 2020 respectively.
3. Mr Nisar did not object to the applications.
4. Having taken advice and exercising its discretion under CDR (10)(5), the Committee was satisfied that it was appropriate to allow the amendments. It did not lead to any addition to the evidence on which ACCA relied in substantiating the allegations which effectively remained the same. The Committee was satisfied that Mr Nisar would not be prejudiced in the conduct of his defence.

ALLEGATIONS

Allegation 1 (as amended)

1. Sikandar Nisar, who is registered with ACCA as a student:
 - a. On a date before the 29th July 2020, caused or permitted the submission to Person A of one or more of the documents listed in Schedule 1, which is purported to have been issued by ACCA when, in fact, they had not.
 - 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 1a) above; or in the alternative

- ii. Contrary to the Fundamental Principle of Integrity, as applicable in 2020 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:
 - i. Guilty of misconduct pursuant to byelaw 8(a)(i); or
 - ii. Liable to disciplinary action pursuant to byelaw 8(a)(iii).

Allegation 2

- 2. Contrary to regulation 3(1) of the Complaints and Disciplinary Regulations 2014, Sikander Nisar 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. 24 August 2020; and/ or
 - ii. 08 September 2020; and/or
 - iii. 15 September 2020.
 - b. By reason of the conduct in respect of any or all of the matters set out at 2 (a) above, he is:
 - i. Guilty of misconduct, pursuant to byelaw 8(a)(i) or #
 - ii. Liable to disciplinary action, pursuant to byelaw 8(a)(iii).

Schedule 1

1. ACCA Certificate of achievement, 24 March 2020; and
2. ACCA membership certificate dated 18 April 2020.

DECISION ON FACTS/ALLEGATIONS AND REASONS

Allegation 1(a)

5. This allegation was denied by Mr Nisar.
6. On 04 November 2018, Mr Nisar was admitted into ACCA's register as an ACCA Foundation Student. On 12 February 2020, he became an ACCA Student and he remains on the register.
7. On 29 July 2020, Person A contacted ACCA Connect by e-mail stating that they were considering employing Mr Nisar. Person A asked ACCA to verify the authenticity of three ACCA certificates Mr Nisar had supplied in support of an application for employment, namely:
 - (i) The Provisional results Notification for ACCA Computer Based Exam for FMA – Management Accounting dated 11 February 2020;
 - (ii) An ACCA Certificate of Achievement dated 24 March 2020;
 - (iii) An ACCA membership certificate dated 18 April 2020.
8. On 31 July 2020, Person B of ACCA Connect replied to Person A's email, requesting Person A to complete a Third-Party Status Check Form to verify / authenticate the certificates in Mr Nisar's name. However, Person A did not respond or contact ACCA further.

9. The reason for Person B making such a request was that he was concerned as to the authenticity of the certificates as they appeared to be "*photoshopped*". Person B referred this matter to ACCA Investigations.
10. The certificates ACCA Connect received from Person A were supplied to Person C, Customers Operations team Manager at ACCA. Person C was asked to review the documents.
11. Person C checked the information contained in the documents and compared it with the data held by ACCA. He made the following findings:
 - a) As of 10 September 2020, Mr Sikandar Nisar ACCA ID: 4430005 was a student. As stated above, he was admitted into ACCA's register as an ACCA Foundation Student on 04 November 2018 and he became an ACCA Student on 12 February 2020;
 - b) The Provisional results Notification for ACCA Computer Based Exams for FMA – Management Accounting dated 11 February 2020 was reviewed against Mr Nisar's records and they match; therefore, this document was assessed to be issued by ACCA.
 - c) Person C then produced a copy of Mr Nisar's ACCA exam history as of 05 August 2020 from Mr Nisar's ACCA records;
 - d) The ACCA Certificate of Achievement dated 24 March 2020 was reviewed. The certificate asserted that Mr Nisar had passed F1 to F9 exams and P4, P5, P6 and P7 exams, Person C stated that the certificate did not reflect Mr Nisar's ACCA exam results as it appeared in his ACCA records and accordingly, this document was not produced by ACCA;
 - e) The ACCA membership certificate dated 18 April 2020 was also reviewed and the certificate was not produced by ACCA; and

- f) The certificates described as DOC 2 and 3 at paragraph 6, and also at paragraph 16, of his statement were assessed to be false.
- 12. For completeness, the Investigations officer attempted to engage Person A but Person A did not respond.
- 13. ACCA alleged that Mr Nisar had either submitted the documents himself or had someone else submit the documents on his behalf in support of an application for employment. It was alleged that he knew that the information was false, and he intended Person A to rely on such false information. He was the only person who would have benefited from the deception.

Mr Nisar's Case

- 14. Whilst Mr Nisar had not provided any response to the allegations in advance of the hearing, he attended the hearing via telephone, and he gave the following account.
- 15. Mr Nisar had decided not to give evidence and preferred to rely on submissions only. The difference between giving evidence and making submissions had been explained to him. He had been informed that if he decided to make submissions, as opposed to giving evidence, this meant that his account could not be challenged by Ms Terry. This may have the consequence of the Committee placing less weight on his account.
- 16. Mr Nisar stated that the photograph of The Provisional results Notification for ACCA Computer Based Exams for FMA – Management Accounting was taken from his phone. He took this photograph because, after the result, he was very excited at having passed. He was excited because before the exam he had sat the F1 exam which he had failed.
- 17. Mr Nisar posted this photograph on his Instagram and WhatsApp status. As for the other two documents, he had seen them for the first time in these proceedings and he did not know who had submitted those documents.

18. Mr Nisar was not in employment as he was currently studying for his ACCA exams. He sat his first ACCA exam in January 2019. He did not think he had applied for any jobs. He later confirmed that he had not applied.
19. When asked for an explanation for the existence of the two false documents, he could only think that one of his classmates may have tried to get him in trouble or played a joke on him. He could not think of any other explanation.
20. Mr Nisar also stated that his name had been misspelt on the Certificate of Achievement at page 37 of the bundle.
21. He was not aware of the person who had submitted the documents.

The Committee's Findings

22. The Committee accepted the evidence of Person C and found that the documents entitled ACCA Certificate of Achievement dated 24 March 2020, and ACCA membership certificate dated 18 April 2020 were not issued by ACCA and that they were false documents. Indeed, that was not challenged by Mr Nisar.
23. The Committee found that those documents, together with the Provisional results Notification for ACCA Computer Based Exams for FMA – Management Accounting dated 11 February 2020, were submitted to Person A in support of an application for employment.
24. The Committee was satisfied that it was Mr Nisar who caused or permitted the false documents to be submitted to Person A in support of his application for employment.
25. In reaching its decision, the Committee concluded that it was only Mr Nisar who stood to benefit from the deception.

26. Furthermore, the Committee found Mr Nisar's explanation of how the false documents had come into existence to be implausible. The Committee also took account of the fact that Mr Nisar had declined to give evidence.
27. Mr Nisar said that he had placed a photograph of the document entitled Provisional results Notification for ACCA Computer Based Exams for FMA – Management Accounting dated 11 February 2020 on his Instagram and his WhatsApp account. He did so because he was excited at having passed the exam. He suggested that the only explanation he could put forward was that one of his classmates had then constructed the false documents on the basis that he or she may have been playing a joke or trying to get Mr Nisar into trouble.
28. However, the preparation of the false documents was clearly a determined act. The person would have needed to be in possession of an ACCA Certificate of Achievement and an ACCA membership certificate, both of which were then manipulated to appear as if they related to Mr Nisar. This was not the act of someone who was simply trying to get Mr Nisar into trouble, and it was even less likely that such conduct was designed as a joke. There was also no proper explanation why someone would submit those documents to Person A either as a joke or to make trouble for Mr Nisar.
29. As for the suggestion that Mr Nisar could not have prepared the documents as his name was misspelt in the Certificate of Achievement, the Committee did not consider that this assisted Mr Nisar. His name is spelled correctly at the top of the document and the most likely explanation is that it was a typographical error.
30. Finally, the Mr Nisar's evidence regarding whether he had applied for any jobs was unconvincing. He initially indicated that he did not think that he had applied for any jobs and it was only later that he said that he had not applied for any jobs.

31. On the basis of its findings of fact, the Committee found the facts of Allegation 1(a) proved.

Allegation 1(b)(i)

32. The Committee relied upon its findings of fact under Allegation 1(a). above.
33. The Committee was satisfied that Mr Nisar had deliberately constructed two false documents with the aim of misleading a potential employer into employing him by suggesting that he was more qualified than he actually was. This was premeditated conduct in order to gain an unfair advantage.
34. The Committee was also satisfied that, by the standards of ordinary decent people, such conduct would be considered to be dishonest.
35. Consequently, the Committee found Allegation 1(b)(i). proved.

Allegation 1(b)(ii)

36. On the basis that this allegation was pleaded in the alternative to Allegation 1(b)(i), the Committee made no finding in respect of it.

Allegation 1(c)(i)

37. Taking account of its findings that Mr Nisar had acted dishonestly, the Committee was satisfied that he was guilty of misconduct in that such conduct could properly be described as deplorable. In the Committee's judgement, it brought discredit to Mr Nisar, the Association and the accountancy profession. Honesty is at the heart of the profession.
38. The Committee found Allegation 1(c)(i) proved.

Allegation 1(c)(ii)

39. On the basis that this allegation was pleaded in the alternative to Allegation 1(c)(i), the Committee made no finding in respect of it.

Allegations 2(a)(i) – (iii)

ACCA's Case

40. On 24 August 2020, and 08 and 15 September 2020, ACCA wrote to Mr Nisar at his registered email address to seek his comments in relation to the investigation. The Investigations Officer can confirm the e-mail address to which the correspondence was sent matched Mr Nisar's registered e-mail addresses as it appeared in ACCA's member's databases on the dates the correspondences were sent (pages 66 and 69).
41. Indeed, it was the email address used by Mr Nisar to ACCA dated 07 December 2020. It was also the same email address used by Mr Nisar on 16, 19 and 22 April 2021 to communicate with ACCA in relation to service of proceedings as contained in the Service Bundle.

Mr Nisar's Case

42. Whilst Mr Nisar had not provided any response to the allegations in advance of the hearing, he attended the hearing via telephone and he gave the following account.
43. He did not reply to the emails in August and September 2020 because he was studying for exams and he was not checking his emails. Sometimes he checked emails but not always. He was not aware of the allegations and did not know what the emails were about.

44. Mr Nisar found out about the emails when he heard of the allegations. He repeated that he had not checked. He confirmed that he would check his ACCA account online.
45. Mr Nisar did not operate any other email account.

The Committee's Findings

46. The Committee was satisfied that Mr Nisar had failed to respond to the three emails sent to him by ACCA. The emails were sent to the correct email address. Indeed, Mr Nisar had been corresponding with ACCA using that email address and the Committee had not found Mr Nisar's explanation to be plausible or credible, namely that he simply did not check his emails.
47. The Committee found that, in failing to respond to the emails of 24 August 2020, 08 September 2020 and 15 September 2020, Mr Nisar had failed to cooperate fully with ACCA's investigation.
48. Therefore, the Committee found Allegation 2(a) proved.

Allegation 2(b)(i)

The Committee considered that it was particularly important that any member of ACCA, to include a student member, cooperate with ACCA in the conduct of its investigation. In the absence of such cooperation, ACCA is significantly impeded in ensuring that the interests of its members and the public are protected. There is also a clear duty on the part of Mr Nisar, as a student member, to cooperate with his regulatory authority.

49. The Committee had found that not only had Mr Nisar failed to respond to the emails from ACCA but also that he had failed to cooperate with its investigation.
50. The Committee was satisfied that this passed the threshold and amounted to misconduct in that it brought discredit to Mr Nisar and ACCA.

51. The Committee therefore found Allegation 2(b)(i) proved.

Allegation 2(b)(ii)

52. On the basis that this allegation was pleaded in the alternative to Allegation 2(b)(i), the Committee made no finding in respect of it.

SANCTIONS AND REASONS

53. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had also listened to legal advice from the Legal Adviser which it accepted.

54. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.

55. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.

56. The Committee considered whether any mitigating or aggravating factors featured in this case.

57. The Committee accepted that there were no previous findings against Mr Nisar.

58. However, this was the extent of any material available to the Committee by way of mitigation, save that the allegations related to an isolated incident. The Committee had no information regarding the personal circumstances of Mr Nisar nor had it been provided with any testimonials or references as to Mr Nisar's character.

59. As for aggravating features, based on its findings, it had been established that Mr Nisar's behaviour had been dishonest. The steps Mr Nisar would have had to take involved a level of planning and premeditation. The Committee was satisfied that his behaviour would undermine the reputation of ACCA and the profession.
60. The Committee concluded that neither an admonishment nor a reprimand would adequately reflect the seriousness of the Committee's findings.
61. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
62. Mr Nisar had been found to have acted dishonestly in his conduct and that, based on its findings, the objective of his dishonest conduct was to gain an unfair advantage over others who may have applied for a position of employment in an honest way. Therefore, he may have secured a position of employment when neither qualified nor competent to fulfil the role. This could have led to him undertaking work on behalf of clients for which he did not have the necessary level of competence. In this way, he could present a risk to the public. It was conduct which was fundamentally incompatible with being a student member of ACCA.
63. Taking account of the finding of dishonest conduct, the Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Mr Nisar from the student register but could find none.
64. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Nisar shall be removed from the student register.

COSTS AND REASONS

65. The Committee had been provided with a bundle relating to ACCA's claim for costs (pages 1 to 4).
66. The Committee concluded that ACCA was entitled to be awarded costs against Mr Nisar, all allegations, including dishonesty, having been found proved. The amount of costs for which ACCA applied was £7,045.50. Having examined the breakdown, the Committee did not consider that the claim was unreasonable.
67. Mr Nisar had not provided ACCA with any details of his means in advance of the hearing. In the correspondence sent to him prior to the hearing, Mr Nisar would have been warned of the importance of providing details of his means.
68. However, he indicated to the Committee that his sole source of income was rental income from a property that amounted to 45,000 rupees per month and that, whilst not married, he had responsibility for supporting other members of his family. Furthermore, he confirmed that he had no savings.
69. In all the circumstances, and in exercising its discretion, the Committee considered that it was reasonable and proportionate to award costs to ACCA in the reduced sum of £1,000.

EFFECTIVE DATE OF ORDER

70. The Committee decided that this order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

Mr Michael Cann
Chair
29 April 2021