

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Ms Arfa Naeem

**Heard on:** Tuesday, 24 August 2021

**Location:** Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU using Microsoft Teams

**Committee:** Mr Martin Winter (Chair)  
Mr Peter Brown (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Mr Alastair McFarlane (Legal Adviser)

**Persons present  
and capacity:** Ms Michelle Terry (ACCA Case Presenter)  
Ms Nkechi Onwuachi (Hearings Officer)

**Observers:** None

**Summary** Removed from the student register

**Costs:** Student ordered to pay ACCA cost in the sum of £7,246.00

#### ACCA



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## **PRELIMINARY MATTERS**

1. ACCA was represented by Miss Terry. Miss Naeem did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1 – 121, and a service bundle numbered pages 1-14.

## **SERVICE**

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Miss Naeem in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).

## **PROCEEDING IN ABSENCE**

3. The Committee accepted the advice of the Legal Adviser.
4. The Committee reminded itself that the discretion to proceed in absence must be exercised with the utmost care and caution. It was mindful that despite attempts by the ACCA to contact Miss Naeem in relation to the substantive concerns and her attendance at this hearing, no reply has ever been received. There had been no engagement from Miss Naeem at all.
5. The Committee was mindful of the observations of Sir Brian Levenson in *Adeogba v. General Medical Council [2016] EWCA Civ 162* as to the burden on all professionals subject to a regulatory regime to engage with the regulator both in relation to the investigation and the ultimate resolution of allegations made against them. The Committee specifically considered the issue of fairness to Miss Naeem of proceeding in her absence, but also fairness to the ACCA and the wider public interest in the expeditious discharge of the Committee’s function. The Committee was satisfied that Miss Naeem has voluntarily disengaged from the process. The Committee was not persuaded when balancing Miss Naeem’s interests and the public interest, that any adjournment was likely to secure her attendance and would not outweigh the public interest in proceeding with this hearing today. The allegations were serious, involving dishonesty and a risk to the public and the Committee considered that Miss Naeem had had plenty of opportunity to respond to the investigation process. The Committee was satisfied that it was in the public

interest and in the interests of justice overall to proceed in the absence of Miss Naeem.

### **PRELIMINARY APPLICATION**

6. Miss Terry made an application pursuant to Regulation 10(5) to amend Allegation 5 to state "*Regulation*" in place of "Paragraph", which she said had been a typographical error.
7. The Committee, having accepted the advice of the Legal Adviser, granted the application, which was a typographical error and was satisfied this would not prejudice Miss Naeem in her defence.

### **ALLEGATION**

Ms Arfa Naeem, a registered student member of the Association of Chartered Certified Accountants ('ACCA'):

1. On dates between 02 April 2019 and 29 April 2019 was concerned in the production of a false BTEC Level 7 Extended Diploma and/or a Level 7 Transcript that purported to be issued by Education Body A to Student A.
2. Ms Naeem's conduct in respect of Allegation 1 was:
  - a. Dishonest, in that she knew the documents were not genuine and/or intended to use them to obtain exemptions for Student A which she knew he was not entitled to receive; or in the alternative
  - b. Contrary to the Fundamental Principle of Integrity (2019).
3. On dates between 29 April 2019 to 26 May 2019, was concerned in an arrangement to obtain one or more ACCA exemptions on behalf of Student A.
4. Ms Naeem's conduct in respect of Allegation 3 was:
  - a. Dishonest, in that she knew that Student A was not entitled to one or more of the exemptions sought; or in the alternative

- b. Contrary to the Fundamental Principle of Integrity (2019).
5. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, Ms Naeem failed to co-operate fully with the investigation of a complaint in that she failed to respond to ACCA's correspondence dated:
- a. 22 October 2020;
  - b. 14 December 2020;
  - c. 05 January 2021.
6. By reason of any or all of the above, Ms Naeem is:
- a. Guilty of misconduct pursuant to byelaw 8(a)(i) in relation to any or all of the conduct alleged at Allegations 1 to 5; or in the alternative
  - b. Liable to disciplinary action, pursuant to byelaw 8(a)(iii) in relation to any or all of the conduct alleged at Allegation 5.

## **BACKGROUND**

8. Miss Arfa Naeem registered as an ACCA student on 03 November 2008 and remains as an ACCA student.
9. Student A was removed from ACCA's student register by an ACCA Disciplinary Committee on 19 February 2020 for application for ACCA examination exemptions with a false certificate and transcript. Student A did not engage with the ACCA Disciplinary Committee proceedings and the case was proved in his absence.
10. Student A applied for permission to appeal against his removal from ACCA's student register and asserted that the application for ACCA exemptions with a false certificate and transcript was made on his behalf by Miss Arfa Naeem. To support his appeal, Student A supplied ACCA with a copy of an Education Body A certificate and transcript he asserted that he had received from Miss Naeem, as well as a bank transfer which showed a payment to Miss Naeem and Facebook messenger exchange between him and Miss Naeem. Student A's application for permission to appeal was refused.

11. An ACCA investigation file was then opened for Miss Naeem. In the Facebook Messenger exchange, a fee was agreed for Miss Arfa Naeem to apply for exemptions on Student A's behalf; a "Meezan" Bank account number was provided for Student A to send the fee to, and a screen capture of confirmation of the fee sent to Miss Arfa Naeem was shown.
12. Following the payment of the fee, on 29 April 2019, Miss Arfa Naeem supplied Student A with soft copies of Pearson Edexcel BTEC level 7 extended diploma in Financial Accounting certificate and transcript in Student A's name. In addition, Miss Arfa Naeem also confirmed to Student A that the exemptions would be applied for and she would notify him when the exemptions were successfully applied for. Student A's records show the exemptions were applied for with a University of South Africa certificate and transcripts for a Bachelor of Accounting Science in Student A's name. The University of South Africa confirmed the certificate and transcripts were forged. Further, the Investigations Officer sent the BTEC document and transcript to Education Body A to authenticate. The Education Body A Senior Assessment & Quality Analyst confirmed the documents were not genuine.
13. In a subsequent Facebook Messenger exchange, Student A informed Miss Arfa Naeem that he obtained more exemptions that he needed and asked her to remove some of them. Miss Arfa Naeem informed Student A how to remove the exemptions by completing and submitting an ACCA exemption waiver declaration form. Student A submitted a completed an ACCA exemption waiver declaration form to ACCA on 27 May 2019, which prompted ACCA to look into his exemption request further and open an investigation file for Student A, which led to his removal from ACCA's student register.
14. In the Facebook messenger exchange, Miss Arfa Naeem also told Student A to send his documents - educational documents, CNIC (Computerised National Identity Card, Pakistan) and photo - to [barbie.arfa@yahoo.com](mailto:barbie.arfa@yahoo.com) Miss Arfa Naeem's ACCA records showed that one of her previous registered email addresses was [barbie.arfa@yahoo.com](mailto:barbie.arfa@yahoo.com).
15. ACCA wrote to Miss Arfa Naeem at her registered email address to seek her comments in relation to the investigation but received no reply.

## **ACCA's SUBMISSIONS**

### **Allegation 1**

16. ACCA relied on the Facebook Messenger exchange between Student A and Miss Arfa Naeem where soft copies of the Education Body A certificate and transcripts were supplied to Student A, and the comments of the Education Body Assessment & Quality Analyst where he confirmed the documents are not genuine.

### **Allegation 3**

17. ACCA relied on the Facebook Messenger exchange between Student A and Miss Arfa Naeem, where Miss Arfa Naeem informed Student A exemptions would be applied for on his behalf and notified him when the exemptions were successfully applied for. ACCA also relies on Student A's records that shows the exemptions were applied for with a University of South Africa certificate and transcripts for a Bachelor of Accounting Science in Student A's name and University of South Africa confirmation that the certificate and transcripts were forged.

### **Allegations 2 and 4**

18. ACCA submitted that the conduct set out at Allegations 1 and 3 clearly amounted to dishonesty on the basis that Miss Arfa Naeem used documents that were false and were submitted with the intent to obtain a benefit, namely: a fee from Student A and to promise exemptions to Student A to which he is not entitled. ACCA further submitted such conduct would be regarded as dishonest by the ordinary standards of reasonable and honest people.
19. As an alternative, ACCA submitted that if the Committee does not make a finding of dishonesty against Miss Arfa Naeem, then her conduct would amount to a breach of the Fundamental Principle of Integrity.

### **Allegation 5 - Failure to co-operate fully with ACCA's Investigation**

20. ACCA contended that in failing to respond to the requests of the Investigations Officer, Miss Arfa Naeem has breached Complaints & Disciplinary Regulation 3(1). As an ACCA student, Miss Arfa Naeem is under a duty to co-operate and

therefore respond to the Investigations Officer's correspondence in which she was asked for an explanation of the allegations.

21. ACCA submitted that failing to co-operate fully with one's professional body was a serious matter, demonstrating a lack of professional responsibility and a disregard for ACCA's regulatory process. A failure to adequately respond to questions asked by ACCA during an investigation into one's conduct prevents ACCA from fully investigating and, if necessary, taking action upon what might be a serious matter.

### **Misconduct**

22. ACCA submitted that Miss Arfa Naeem's conduct was acting in a manner which brings discredit to herself, ACCA and to the accountancy profession, and amounts to misconduct pursuant to byelaw 8(a)(i). In the alternative, ACCA contended her conduct rendered her liable to disciplinary action.

### **The Student's Response**

23. There has been no response from Miss Arfa Naeem.

### **DECISION ON ALLEGATIONS AND REASONS**

24. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the allegations is on ACCA alone and that Miss Naeem's absence adds nothing to ACCA's case. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the 'balance of probabilities', but the Committee reminded itself of the need for cogent evidence given the seriousness of the allegations.
25. The Committee heard that there had been no previous findings against Miss Naeem and accepted that it was relevant to put her good character into the balance in her favour.

### **DECISION ON FACTS**

26. The Committee carefully considered all the documentary evidence it had received, as well as the submissions of Ms Terry on behalf of ACCA. It

reminded itself to exercise caution as it was working from documents alone and carefully considered the weight to attach to the evidence and submissions it had received. The Committee was satisfied that the Facebook communication was between Miss Naeem and Student A. The email used was linked to Miss Naeem and it concluded that on these facts, it was reasonable to infer that the person communicating with Student A was Miss Naeem.

### **Allegation 1**

27. The Committee was satisfied on the documents provided by Student A that Miss Naeem was “*concerned in the production*” of the BTEC Level 7 Extended Diploma and a Level 7 Transcript that purported to be issued by Education Body A to Student A. It was satisfied that it was reasonable to infer from the documents that her role must have at least been providing Student A’s details and was therefore “*concerned in its production*”. The Committee accepted the evidence from Education Body A’s Senior Assessment and Quality Analyst that the documents were not genuine. Therefore, the Committee was satisfied that Allegation 1 was proved.

### **Allegation 2**

28. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest.
29. The Committee considered, as far as it was able, what Miss Naeem’s belief was as to the facts. It was satisfied that Miss Naeem was “*concerned in the production*” of false documents. She therefore knew they were false. It was an objectively dishonest act to create a forged education document. It had no hesitation in determining that Miss Naeem’s belief at the time was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2(a) was proved and did not consider the alternative of Allegation 2(b).

### **Allegation 3**

30. The Committee was satisfied on the Facebook documentation that Miss Naeem confirmed to Student A that the exemptions would be applied for and that she would notify him when this had been done. It accepted from Student A’s records that exemptions were applied for with the University of South Africa certificate



and transcripts for a Bachelor of Accounting Science in Student A's name. The Committee noted that Miss Naeem subsequently advised Student A how to remove some of the exemptions, as he had more than he needed. Accordingly, Allegation 3 was proved.

#### **Allegation 4**

31. The Committee next asked itself whether the proven conduct in Allegation 3 was dishonest.
  
32. The Committee considered as far as it was able what Miss Naeem's belief was as to the facts. It was satisfied from the chain of events shown on the Facebook documentation that Miss Naeem used documents that she knew were false and that they were submitted with the intent for Student A to gain exemptions. It was a reasonable inference that Miss Naeem knew Student A was not entitled to those exemptions. It had no hesitation in determining that Miss Naeem's belief at the time was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 4(a) was proved and did not consider the alternative of Allegation 4(b).

#### **Allegation 5**

33. In relation to Allegation 5, the Committee was satisfied that under paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Miss Naeem to co-operate fully with ACCA in the investigation of any complaint. It was satisfied that Miss Naeem made no response to ACCA's correspondence requesting her co-operation on the 22 October 2020, 14 December 2020 and 05 January 2021. There was no evidence before the Committee in this case to amount to a defence to the obligation on professionals to co-operate with their regulator as expressed in Regulation 3(1). It was therefore satisfied that these non-responses amounted to failures as Miss Naeem had a duty to respond. Therefore, she breached the obligation under the Regulations and Allegation 5 was proved.

#### **Allegation 6 - Misconduct**

34. The Committee next asked itself whether the proven dishonest conduct in being concerned in the production of false documentation for Student A and being

- concerned to obtain exemptions on behalf of Student A which he was not entitled to, amounted to misconduct.
35. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Miss Naeem's actions brought discredit on her, the Association and the accountancy profession. It was satisfied that her conduct to gain a financial advantage dishonestly by assisting a student to gain exemptions to which he was not entitled reached the threshold for misconduct.
  36. The Committee was also satisfied that failing to co-operate with your regulator was deplorable and amounted to misconduct. In the light of its judgment on Allegation 6(a), no finding was needed upon Allegation 6(b).

### **SANCTIONS AND REASONS**

37. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
38. The Committee considered that the conduct in this case was very serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it. In addition, the failure to co-operate with her regulator is serious and undermines the opportunity for the regulator to discharge its regulatory function.
39. The Committee had no evidence of any insight or understanding into the seriousness of her behaviour. There were no mitigating factors before the Committee, other than her previous good character and it considered the planned, intentional and sophisticated nature of the dishonest conduct, which was for financial gain, and lack of any evidence of insight or understanding, to be aggravating factors.
40. Given the Committee's view of the seriousness of her conduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe

Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct.

41. The Committee determined that her behaviour was fundamentally incompatible with Miss Naeem remaining on the student register of ACCA and considered that the only appropriate and proportionate sanction was that she be removed from the student register.

#### **COSTS AND REASONS**

42. ACCA claimed costs of £7,471 and provided a detailed schedule of costs. It noted Miss Naeem was a student, but she had not provided a statement of means. The Committee decided that it was appropriate to award costs in this case but noted that the hearing time had taken less than estimated and therefore made a reduction to reflect this. It concluded that the sum of £7,246 was appropriate and proportionate. Accordingly, it ordered that Miss Naeem pay ACCA's costs in the amount of £7,246.00.

#### **EFFECTIVE DATE OF ORDER**

43. This order shall take effect with immediate effect as the Committee was satisfied, given the gravity of the conduct and the consequent risks to the public and its effect on the standing of the profession, that it was in the interests of the public to impose an immediate order.

**Mr Martin Winter**  
**Chair**  
**24 August 2021**