

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Barend Roos
Heard on:	Tuesday, 16 February 2021
Location:	Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
Committee:	Mr Andrew Gell (Chair) Mr Jonathan Beckerlegge (Accountant) Mr Garrett O'Reilly (Lay)
Legal Adviser:	Mr Robin Havard (Legal Adviser)
Persons present and capacity:	Mr Phillip Law (ACCA Case Presenter) Mr Theo Brooke (Hearings Officer)
Observers:	Mr Anthony Townsend
Summary	Removed from the student register
Costs:	£750

ACCA



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PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 72) and a service bundle (pages 1 to 15).
2. The Committee had read the letter dated 19 January 2021, sent by ACCA by email to Mr Roos, and had noted the emails of the same date sent to Mr Roos with the necessary link and password to enable Mr Roos to gain access to documents relating to this hearing. The Committee was satisfied that such emails had been sent to his registered email address in accordance with regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee had noted that the emails had been delivered successfully.
3. The emails and the documents to which Mr Roos had access also contained the necessary information in accordance with CDR10. Consequently, the Committee decided that Mr Roos had been properly served with notice of proceedings.

PROCEEDING IN ABSENCE

4. On 26 January 2021, Mr Roos sent an email to ACCA to which was attached some additional documentation. Mr Roos confirmed that he did not intend to attend the hearing, stating that he would not be able to take leave from his work as he had only recently started in a new position. He had also confirmed in the Case Management Form that he did not intend to attend.
5. The Committee was satisfied that Mr Roos was aware of the date of hearing and he had been informed that he would be able to join the hearing via skype or telephone.
6. The Committee concluded that Mr Roos had voluntarily absented himself from the hearing which he could have joined by telephone or video. He had, therefore, waived his right to attend.

7. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made.
8. Finally, the Committee considered that it was in a position to reach proper findings of fact on the written evidence presented to it by ACCA and the written responses and the admissions provided by Mr Roos.
9. The Committee ordered that the hearing should proceed in the absence of Mr Roos.

APPLICATION TO AMEND

10. Mr Law applied to the Committee to amend the allegations by withdrawing Allegation 1(d)(ii). The reason for the application was that byelaw 8(a)(iii) related to circumstances in which it is alleged that there had been a breach of the byelaws or any regulations made under them. The other allegations did not make any reference to byelaws or regulations and, therefore, byelaw 8(a)(iii) did not apply.
11. Whilst Mr Roos had not been forewarned of the application, the Committee decided that there was no prospect of Mr Roos being prejudiced by such an application and it was, therefore, granted.

ALLEGATIONS/BRIEF BACKGROUND

1. Mr Barend Roos, a student member of the Association of Chartered Certified Accountants:
 - (a) On or before 08 November 2019, created or caused to be created, a payslip purporting to be from Company A dated 30 September 2019 (the "Payslip");

- (b) On or about 8 November 2019, submitted to Agency B:
 - (i) A curriculum vitae which inaccurately stated that Mr Roos was currently employed by Company A;
 - (ii) The Payslip.

- (c) Any and all of Mr Roos' conduct in respect of 1(a) and 1(b) above was:
 - (i) Dishonest in that:
 - (1) He knew that the Payslip was not a genuine payslip;
 - (2) He knew that he was not a current employee of Company A and/or an employee of Company A on 30 September 2019;
 - (3) He knew that the curriculum vitae included false and/or inaccurate information;
 - (4) He sought to mislead Agency B and in doing so, increase his prospects of gaining employment;
 - (ii) Or, in the alternative, contrary to the Fundamental Principle of Integrity, as applicable in 2019.

- (d) Mr Barend Roos is:
 - (i) Guilty of misconduct pursuant to byelaw 8(a)(i).

12. On 31 May 2018, Mr Roos registered with ACCA as a student.

13. On 29 November 2019, ACCA received a complaint from Company A regarding the conduct of Mr Roos. An investigation followed, leading to disciplinary proceedings being brought against Mr Roos.

DECISION ON FACTS, ALLEGATIONS AND REASONS

Allegations 1(a) and (b)

14. The facts of Allegations 1(a) and (b) were admitted by Mr Roos and the Committee found them proved.
15. Company A confirmed that Mr Roos was employed by the company between 11 September 2017 and 05 July 2018.
16. In November 2019, Person B of Agency B contacted Mr Roos *“because I was recruiting for a Financial Administrative Assistant role and I thought that this would be suited to his experience”*.
17. On 08 November 2019, following a request from Person B, Mr Roos sent her by email a copy of his CV and what he held out to be his most recent payslip. The CV confirmed that his current role was at Company A; the payslip was dated 30 September 2019 and it appeared to have been issued from Company A.
18. Person B contacted Mr Roos’ employer listed on his CV, namely Person A of Company A. Person A, *“confirmed that Mr Roos was not employed with Company A and that his employment with this firm had been terminated on 22 June 2018.”*
19. Person B had concerns about the legitimacy of the payslip that Mr Roos had forwarded to her as it purported to have been issued by Company A. She had similar concerns with regard to the accuracy of his CV.
20. Person B attempted to contact Mr Roos on several occasions after she had contacted Company A but without success.
21. On 29 November 2019, Company A sent an email to ACCA confirming that Mr Roos had provided a fraudulent payslip with Company A's details and had also

stated in his CV that he was still employed by Company A when this was not the case.

Allegation 1(c)(i)

22. This Allegation and its particulars were admitted by Mr Roos.
23. In an email dated 23 December 2019 from Mr Roos to ACCA, he included the following paragraph:

"It embarrasses me but I have to admit to the complaints brought against me and I realise that it was a highly irresponsible, unethical and dishonest action taken by me in a very uncertain and desperate time in my life, which I know is not an excuse for this kind of behaviour, thus I already updated my CV."
24. Whilst the Committee had considered the submissions of Mr Roos in his email dated 07 March 2020, the Committee was satisfied that Mr Roos knew he was constructing a fraudulent document in the form of a payslip and, at the time that he did so, he knew the purpose to which it was going to be put.
25. The Committee also found that Mr Roos consciously included in his CV information he knew to be false. The Committee found that his motivation in doing so was in order to mislead and to gain an advantage in seeking employment.
26. The Committee was satisfied that Mr Roos:
 - (1) Knew that the Payslip was not a genuine payslip;
 - (2) Knew that he was not a current employee of Company A nor an employee of that company on 30 September 2019;
 - (3) Knew that the CV included false information;
 - (4) Sought to mislead Agency B and, in doing so, increase his prospects of gaining employment.

27. The Committee was also satisfied that, by the standards of ordinary decent people, such conduct would be considered to be dishonest.
28. Consequently, the Committee found Allegation 1(c)(i) proved.

Allegation 1(c)(ii)

29. 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.

Allegation 1(d)(i)

30. Taking account of its findings that Mr Roos 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 Roos, the Association and the accountancy profession. Honesty is at the heart of the profession. It is also essential that members of ACCA, including students, are entirely truthful when completing documentation which sets out their history. This is to ensure that prospective employers can place weight on such documents when assessing the suitability of an individual who is seeking employment.
31. The Committee, therefore, found Allegation 1(d)(i) proved.

SANCTION AND REASONS

32. 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.
33. 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.

34. 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.
35. The Committee considered whether any mitigating or aggravating factors featured in this case.
36. With regard to mitigating circumstances, the Committee accepted that there were no previous findings against Mr Roos.
37. It was also prepared to accept that there was no evidence to suggest that this was anything other than an isolated incident.
38. The Committee noted that, whilst Mr Roos had decided not to participate at the hearing, he had engaged fully and immediately with ACCA and responded promptly to the correspondence which had been sent to him in the course of ACCA's investigation.
39. Mr Roos had admitted his conduct from the outset and had apologised. To that extent, the Committee was satisfied that Mr Roos had shown insight in that he understood the seriousness of his actions. He had also shown remorse. In such circumstances, the Committee considered that the risk of Mr Roos repeating such behaviour was low.
40. As for aggravating features, on the basis of the findings, it had been established that Mr Roos's behaviour had been dishonest. The steps Mr Roos had taken involved a level of planning and premeditation. The Committee was satisfied that his behaviour would seriously undermine the reputation of ACCA and the profession, and that this represented a serious departure from the standards expected of a student member of ACCA and the profession as a whole.

41. The Committee concluded that neither an admonishment nor a reprimand would adequately reflect the seriousness of the Committee's findings.
42. 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.
43. Mr Roos 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 in seeking employment. This could have led to him achieving a level of success to which he was not entitled, and which was not merited. In this way, he could also present a risk to the public. It was conduct which was fundamentally incompatible with being a student member of ACCA.
44. 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 Roos from the student register but could find none.
45. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Roos shall be removed from the student register.

COSTS AND REASONS

46. The Committee had been provided with a bundle relating to ACCA's claim for costs (pages 1 to 4). It had also been provided with a Finance Bundle (pages 1 to 33) which included information and documentation relating to Mr Roos's means.
47. The Committee concluded that ACCA was entitled to be awarded costs against Mr Roos as all allegations, including dishonesty, had been found proved. The amount of costs for which ACCA applied was £6,109.50.

48. Having examined the breakdown, the Committee considered that the claim in respect of the investigation appeared high. Mr Law had also said very fairly that six hours had been included to reflect his time today, whereas the time spent would be considerably less.
49. Mr Roos had provided the Committee with full details of his financial circumstances and it was clear that they were currently very limited.
50. 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 £750.00.

EFFECTIVE DATE OF ORDER

51. Taking account of its findings, the Committee decided that it was in the interests of the public for this order to take immediate effect.

Mr Andrew Gell
Chair
16 February 2021

SCHEDULE OF PSEUDONYMISATION

Company A	Stein Registered Auditors
Person A	Mandi Katzenstein
Person B	Lesley Synman
Agency B	Lesley Synman Associates