

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mrs Mehnaz Abdool Rassool
Heard on:	Monday, 01 March 2021
Location:	Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
Committee:	HH Suzan Matthews QC (Chair) Mr Trevor Faulkner (Accountant) Mr Nigel Pilkington (Lay)
Legal Adviser:	Mr Alastair McFarlane
Persons present and capacity:	Mr Phillip Law (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)
Observers:	Mr Anthony Townsend (Panel Appointments Board) Mr Bill Matthews (Panel Appointments Board)
Summary	Removed from the student register
Costs:	£4,250.00.

ACCA



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1. ACCA was represented by Mr Law. Mrs Rassool did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1- 56, a service bundle numbered page 1-17.

SERVICE/ PROCEEDING IN ABSENCE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mrs Rassool in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).
3. The Committee next considered whether it was in the interests of justice to proceed in the absence of Mrs Rassool. The Committee accepted the advice of the Legal Adviser. The Committee was mindful that Mrs Rassool had a right to attend the hearing and to participate and that the discretion to proceed in her absence must be exercised with the utmost care and caution.
4.
 - a. The Committee noted that ACCA’s notice dated 29 January 2021 to Mrs Rassool’s registered email address, offered her the opportunity of attending via video or telephone link, with the costs being met by ACCA. Mrs Rassool had not availed herself of this opportunity or made any communication with ACCA about attending the hearing.
 - b. The Committee has also noted that the Hearings Officer sent an email at 12.28 on 23 February 2021 to Mrs Rassool’s email address (which was the same address that ACCA had previously received confirmation that earlier emails were delivered) seeking confirmation of her attendance and offering the services of an interpreter, which ACCA would fund. There was one response to this, at 12.53 by an email dated 23 February 2021, which stated, “*Yes please proceed*” and then a second at 12.37 when she confirmed that she would not be attending.
 - c. The Committee was satisfied that all reasonable attempts have been made to secure Mrs Rassool’s attendance/participation at the hearing.

The Committee was satisfied that Mrs Rassool had voluntarily disengaged from the process and was not persuaded that any adjournment would increase the chance of Mrs Rassool attending or participating further in the case. On the information before it and bearing in mind its duty to ensure the expeditious conduct of its business and the wider public interest, the Committee was satisfied that it was in the interests of justice to proceed in the absence of Mrs Rassool. The Committee reminded itself that her absence added nothing to ACCA's case and was not indicative of guilt.

ALLEGATIONS

Mehnaz Abdool Rassool, a registered student member of the Association of Chartered Certified Accountants ("ACCA"):

1. On an unknown date produced or caused the production of a false reference (*"the Reference"*) dated 21 January 2020.
2. On an unknown date in January 2020, submitted the Reference to Company B, knowing it to be a false document.
3. The conduct in respect of Allegations 1 and/or 2 was:
 - a. Dishonest, in that Mrs. Rassool:
 - i. Knew the Reference was false; and/or
 - ii. Sought to misrepresent the Reference as genuine and/or
 - iii. Sought to improve her prospects of retaining her employment at Company B; or in the alternative;
 - b. Contrary to the Fundamental Principle of Integrity, as applicable in 2020.

4. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, failed to co-operate fully with the investigation of a complaint in that Mrs Rassool failed to respond at all to ACCA's correspondence dated:
 - a. 20 April 2020;
 - b. 26 May 2020;
 - c. 12 June 2020.

5. Of any or all of her conduct, Mrs Rassool is:
 - a. Guilty of misconduct, pursuant to byelaw 8(a)(i) in relation to Allegations 1, 2, 3 and/or 4; or in the alternative;
 - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii) in relation to Allegation 4.

BACKGROUND

5. Mrs Rassool registered as an ACCA student on 06 January 2009.

6. This complaint was brought to the attention of ACCA in January 2020 by Witness B, the Managing Director at Company B. He explained that Mrs Rassool was offered the position of Money Laundering Regulation Officer (MLRO) at Company B and it had been agreed that she would start this role on 06 January 2020.

7. Company B had requested numerous documents from Mrs Rassool, one of which was a reference letter from Witness A, Executive Director at her previous employer, Company A. After several requests from Human Resources, Mrs Rassool provided this document. Concerns were initially raised that this document was not genuine, and following contact with Witness A, confirmation was received that he had neither signed, nor issued, this reference letter.

8. A subsequent meeting was arranged between Company B and Mrs Rassool, following which, she submitted her resignation from Company B with immediate effect.
9. ACCA relied upon the witness statements of Witness A, an Executive Director at Company A and Witness B, the Managing Director at Company B. Witness A confirms in his witness statement that Mrs Rassool was employed by Company A from 01 October 2019 until January 2020 as MLRO/Compliance Officer. Witness A stated that

“It was brought to my attention in January 2020 that Mehnaz had submitted a reference letter to her new employer (Company B) which purported to have been issued from the Company. Management at Company B contacted me and having had sight of this reference letter, I confirmed that I had not signed this letter for Mehnaz and it had not been issued by me. I sent an email to Witness B (Managing Director at Company B) on 23 January 2020 to confirm that I had not issued the document in question.” Witness A says: *“For the purposes of ACCA’s investigation, I would like to confirm that I did not sign the reference letter that Mehnaz had submitted to Company B, nor was I responsible for its issue.”*
10. A witness statement had also been obtained from Witness B (Managing Director of Company B). Witness B confirms in his witness statement that following successful interviews with Company B, Mrs Rassool was offered the position of MLRO. She accepted the offer of employment and was given a start date of 06 January 2020.
11. Witness B confirms that after several requests from HR, Mrs Rassool submitted a copy of a reference letter from her previous employer (Company A). Witness B stated: *“The HR team brought to the attention of the Management team at the firm that this document did not appear to be genuine and appeared to have been tampered with. HR pointed out that the signature of the Executive Director of Company A seemed have been pasted on the document as they could click and move this signature.”*

12. Witness B confirmed that a meeting took place between himself and Witness A where Witness A confirmed that he had not signed the reference or issued it.
13. Witness B also confirmed that: *"In a meeting with Mehnaz on 23 January 2020, she admitted that she had not actually resigned from her post at Company A until earlier that day, in breach of her employment contract with Company B, and to having produced a false reference letter from Witness A at Company A. After her admission, Mehnaz confirmed that she felt it would be in her best interests to resign with immediate effect from her post as MLRO at the firm."*
14. ACCA wrote to Mrs Rassool on 20 April 2020. This letter asked for the student's response to this complaint and informed her of her duty to fully co-operate in the investigation. A deadline was given to Mrs Rassool in which to respond to ACCA's letter of 11 May 2020. A response was not received from Mrs Rassool within the above deadline and, therefore, ACCA sent a second reminder letter to her on 26 May 2020. Mrs Rassool was reminded of her duty to fully co-operate with ACCA in the investigation and a further deadline of 09 June 2020 was given to her in which to respond to ACCA's requests for information. It is noted that whilst a response was awaited from Mrs Rassool, ACCA attempted to contact her using the registered telephone note held for her on file. As no response was received from Mrs Rassool, ACCA sent her a further letter on 12 June 2020. This letter informed the student that unless a satisfactory response was received from her by 26 June 2020, an allegation of failing to fully cooperate under Complaints and Disciplinary Regulation 3(1) would be raised against her. A response has not been received from Mrs Rassool.

ACCA'S SUBMISSIONS

ALLEGATIONS 1 and 2

15. ACCA relies on the witness statements of both Witness A and Witness B, each of whom have confirmed that the employer reference submitted by Mrs Rassool was false. It is also ACCA's submission that it is reasonable to infer that Mrs Rassool submitted the employer reference in question knowing that it was not

a genuine document, that it was false, and that she had submitted it to Company B in the knowledge that it had not been issued by Company A, and that it would improve her prospects of retaining her employment at Company B (as Company B had requested the reference on numerous occasions before the start of her agreed employment date.)

ALLEGATION 3

DISHONESTY

16. ACCA submitted that the conduct set out at Allegations 1 and 2 amounted to dishonesty on the basis that Mrs Rassool knew, or ought to have known, that the employer reference she submitted to Company B, which purported to have been issued from Company A, was false, that she had sought to misrepresent the reference as genuine, and that she had submitted this document on the basis that it would improve her prospects of retaining her employment at Company B (the reference from her previous employer was required prior to her starting employment at Company B – it was one of the documents requested by Company B). It is, therefore, further submitted that such conduct would be regarded as dishonest by the ordinary standards of reasonable and honest people.

INTEGRITY

17. ACCA submitted that if the Committee did not find dishonesty, Mrs Rassool's conduct was in breach of the Fundamental Principle of Integrity.

ALLEGATION 4

18. ACCA contended that in failing to respond to the requests of the Investigating Officer, Mrs Rassool has breached Complaints and Disciplinary Regulation 3(1). The student was under a duty to co-operate and respond to the Investigating Officer's correspondence and requests for information, in which she was asked for an explanation of the allegations raised against her. ACCA submitted that failure to co-operate fully with one's professional body is 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 otherwise be a serious matter.

MRS RASSOOL'S SUBMISSIONS

19. There were no submissions from Mrs Rassool, but the Committee noted her letter to Company B, dated 23 January 2020 in which she confirmed that she had not resigned from her previous employment '*until this afternoon*' and that this was in breach of her employment contract with Company B.

DECISION ON ALLEGATIONS AND REASONS

20. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the allegations was on ACCA alone on the balance of probability, and that Mrs Rassool's absence added nothing to ACCA's case.
21. The Committee heard that there had been no previous findings against Mrs Rassool and accepted that it was relevant to put her good character into the balance in her favour.

DECISION ON FACTS

22. The Committee carefully considered all the documentary evidence it had received, as well as the submissions of Mr Law on behalf of ACCA. It reminded itself to exercise caution as it was working from documents alone.

ALLEGATIONS 1 and 2

23. The Committee accepted the evidence of Witness A and Witness B as clear, and credible. The Committee was satisfied, on the evidence of Witness A, that the reference which purported to be from him in relation to Mrs Rassool was a

false reference and that she had produced or caused it to be produced. Further, on the evidence of Witness B it was satisfied that this reference was submitted to Company B by Mrs Rassool, and that she knew it to be a false reference. The Committee noted that Witness B's evidence confirmed that Mrs Rassool accepted this position in his subsequent interview with her. The Committee noted Mrs Rassool's admission to Company B that she was still employed by Company A in her letter of 23 January 2020 and, therefore, concluded that she must have known that the reference she submitted was false. Accordingly, the Committee was satisfied that Allegations 1 and 2 were proved.

ALLEGATION 3a

24. The Committee next asked itself whether the proven conduct in Allegations 1 and 2 was dishonest.
25. The Committee had no evidence from Mrs Rassool as to what Mrs Rassool's belief was as to the facts. However, it was satisfied that knowingly submitting a false reference to an employer were facts on which the Committee could reasonably infer that Mrs Rassool knew to be conduct that was wrong. The Committee was satisfied that the false reference was not because of an oversight, typing malfunction, mistake or accident and, therefore, had to be intentionally false. The Committee considered that Mrs Rassool's conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 3(a) was proved. It did not, therefore, consider the alternative of breach of the Fundamental Principle of Integrity as in Allegation 3b.

ALLEGATION 4

26. In relation to Allegation 4, the Committee was satisfied that under paragraph 3(1) of the Complaints and Disciplinary Regulations 2014 there was an obligation on Mrs Rassool to cooperate fully with ACCA in the investigation of any complaint. It was satisfied that Mrs Rassool made no response to ACCA's correspondence requesting her cooperation on 20 April 2020, 26 May 2020, and 12 June 2020. It was further satisfied that these non-responses amounted

to failures, as Mrs Rassool had a duty to respond and that, therefore, she breached the obligation under the Regulations and that Allegation 4 was proved.

MISCONDUCT

27. The Committee next asked itself whether, having dishonestly submitted a false reference and by failing to co-operate fully with her regulator, Mrs Rassool was guilty of misconduct.
28. 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 Mrs Rassool's actions brought discredit on her, the Association, and the accountancy profession. It was satisfied that dishonestly submitting a false reference designed to improve her chances of retaining her employment was deplorable conduct and reached the threshold for misconduct.
29. Further, the Committee was satisfied that the duty on professionals to cooperate with their regulator is an important one, both to enable the regulator to discharge its regulatory function properly and fairly and to uphold public confidence in the regulatory system. For these reasons, the Committee was satisfied that Mrs Rassool's failure to cooperate was sufficiently serious to amount to misconduct. Given the failure amounted to misconduct, the Committee did not need to consider the alternative of liability to disciplinary action.

SANCTIONS AND REASONS

30. The Committee noted its powers on sanction were those set out in Regulation 12(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.
31. The Committee considered that the dishonest conduct here was serious. The Committee had 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.

32. The mitigating factors before the Committee were:

- Mrs Rassool's previous good character;
- She had cooperated with Company B by resigning.

33. The aggravating factors the Committee identified were:

- That Mrs Rassool's actions were deliberate and planned;
- The conduct was dishonest;
- The conduct was for her personal benefit;
- The position of MLRO that she had sought to retain necessitated the highest integrity.

34. The Committee was mindful that not every case of dishonesty must result in the most serious sanction and that each case is fact specific. Nonetheless, it accepted that a finding of dishonesty ordinarily lies at the top of the spectrum of misconduct.

35. Further, the Committee considered that the non-cooperation to be serious. Sir Brian Levenson said in *Adeogba v General Medical Council [2016] EWCA Civ 162*: *"there is a burden on...all professionals subject to a regulatory regime, to engage with the regulator, both in relation to the investigation and ultimate resolution of allegations made against them. That is part of the responsibility to which they sign up when being admitted to the profession."* The Committee had regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Not engaging with your professional body can frustrate the regulator's central duty to regulate the profession and so undermines its reputation and public confidence in it.

36. Given the Committee's view of the seriousness of her conduct, including dishonesty and its detrimental effect upon the reputation of the profession, 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 conduct, considering the factors set out in the Guidance for each of the sanctions. The Committee noted that most of the factors for a Severe Reprimand set out in the Guidance were not present.
37. The Committee determined that Mrs Rassool's behaviour was fundamentally incompatible with her remaining on the student register of ACCA. The conduct was dishonest and is a serious departure from professional standards. The Committee was satisfied that the only appropriate and proportionate sanction was that she be removed from the student register. The Committee directed that any application for readmission should be referred to the Admissions & Licencing Committee.

COSTS AND REASONS

38. ACCA initially claimed costs of £4,441 and supplied a schedule of these costs, which had been sent to Mrs Rassool. Mr Law indicated that there had been an oversight in omitting £2,350 of hearing costs and requested that these be added. The Committee rejected this application as it did not consider it fair to Mrs Rassool, who was unaware of these additional costs.
39. Mrs Rassool has not provided any statement of her means. The Committee decided that it was appropriate to award costs in this case, as it was properly brought, and was persuaded that the costs claimed by ACCA were justified. The Committee discounted the sum claimed, as the Case Presenter was not engaged for the 6 hours claimed in the schedule as the case concluded earlier than anticipated. It was satisfied, in these circumstances, that the sum of £4,250 was appropriate and proportionate. Accordingly, it ordered that Mrs Rassool pay ACCA's costs in the amount of £4,250.

EFFECTIVE DATE OF ORDER

40. 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 as described in the Appeal Regulations. The Committee determined it was not necessary to impose an immediate order.

HH Suzan Matthews QC
Chair
01 March 2021