

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Jahanzeb Memon</b>
<b>Heard on:</b>	<b>Thursday, 04 November 2021</b>
<b>Location:</b>	<b>Held remotely by video conference</b>
<b>Committee:</b>	<b>Mr Andrew Gell (Chair) Mr Ryan Moore (Accountant) Mr Colin Childs (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Andrew Granville Stafford</b>
<b>Persons present and capacity:</b>	<b>Mr Benjamin Jowett (Case Presenter) Mr Jonathan Lionel (Hearings Officers)</b>
<b>Outcome:</b>	<b>Allegations 1(a), 1(b), 2, 3(a), 3(b), and 5 found proved Excluded from membership  Ordered to pay costs of £5,500</b>

#### INTRODUCTION

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Jahanzeb Memon.
2. The Committee had been provided with the report to the Disciplinary Committee and accompanying documents (238 pages) and a service bundle (13 pages).

#### ACCA



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## **PROCEEDING IN ABSENCE**

3. Mr Memon did not attend the hearing and was not represented.
4. Notice of today's hearing was sent by email to Mr Memon's registered email address on 07 October 2021. Further, on 02 November 2021, the Hearings Officer wrote to Mr Memon by email asking him to confirm whether he intended to attend the hearing.
5. There has been no response from Mr Memon either to the notice of hearing or the 02 November 2021 email.
6. The Committee was satisfied that the requirements of Regulations 10 and 22 of the Chartered Certified Accountants' Complaints and Disciplinary Regulations ('CDR') as to service had been complied with.
7. Having satisfied itself that service had been effected in accordance with the regulations, the Committee went on to consider whether to proceed in the absence of Mr Memon.
8. The Committee noted that the email address to which the notice of hearing had been sent was not only Mr Memon's registered email address but also an address he himself had used to communicate with ACCA. In the circumstances, it was satisfied that he was aware of the hearing and had therefore made a conscious decision not to take part in it. In the circumstances, the Committee considered that no useful purpose would be served by an adjournment.
9. Given the nature and seriousness of the allegations, there was a clear public interest in proceeding to hear this case. Further, Mr Memon had, in an email to ACCA on 20 March 2020, provided his account in relation to the allegations in this case. The Committee was satisfied that, in all the circumstances, it could conduct a fair hearing.
10. The Committee therefore determined to proceed in the absence of Mr Memon.

## **ADDITIONAL EVIDENCE**

11. Under CDR 10(1)(b), ACCA should serve the evidence it relies on at least 28 days prior to the hearing.

12. Mr Jowett, on behalf of ACCA, applied at the start of the hearing to adduce a tabled additional bundle (6 pages) and an anonymity schedule (3 pages). The additional bundle contained a further witness statement from Mr B, an ACCA Professional Development Team Manager.
13. The Committee considered that the new evidence covered the same or similar ground as that which had been served on Mr Memon. It was, therefore, in the nature of evidence clarifying the case that he already faced rather than advancing any new allegation. In those circumstances, the Committee considered that Mr Memon would not be prejudiced by the reception of this evidence and that it would be fair to admit it. The Committee did so, on the basis that it would consider when considering its findings on facts, what weight to give this additional evidence, bearing in mind that Mr Memon had had no opportunity to challenge it.

#### **APPLICATION TO AMEND**

14. Mr Jowett on behalf of ACCA applied to amend the allegation to substitute the word 'trainee' for the word 'member' in the preamble to the allegation. Mr Jowett said that, although Mr Memon is now a member of the association, at the relevant time he was an ACCA trainee. Therefore, the amendment would simply reflect the reality of the position.
15. CDR 10(5) allows the Committee, at any stage, to amend the allegation provided that the relevant person is not prejudiced in the conduct of his defence. The Committee was satisfied that this was in the nature of a minor and editorial change, and that allowing the application would cause no prejudice to Mr Memon. The Committee was satisfied it was fair to allow the amendment.

#### **ALLEGATIONS AND BRIEF BACKGROUND**

16. The allegations faced by Mr Memon, as amended, were as follows.

##### **Allegations**

Mr Jahanzeb Memon at all material times an ACCA trainee

1. Submitted or caused to be submitted to ACCA on or about 12 October 2017 an ACCA Practical Experience training record which purported to confirm:-
  - a. his Practical Experience Supervisor in respect of his practical experience training in the period between 20 April 2014 to 25 April 2017 was Mr A when Mr A did not and or could not supervise his practical experience training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance (the Guidance).
  - b. he had achieved Performance Objective 1: Ethics and Professionalism and or Performance Objective 6: Record and process transactions and events.
  
2. Contrary to Complaints and Disciplinary Regulation 3(1), failed to cooperate with an Investigating Officer in relation to the investigation of a complaint, in that he failed to provide adequate and/or any response to correspondence dated:
  - a. 09 September 2020
  - b. 19 February 2021
  - c. 10 March 2021
  - d. 25 March 2021
  - e. 09 April 2021
  
3. Mr Memon's conduct in respect of the matters described in Allegation 1 above was:-
  - a) In respect of Allegation 1a, dishonest, in that Mr Memon sought to confirm his supervisor did and could supervise his practical experience training in accordance with ACCA's requirements which he knew to be untrue.
  - b) In respect of Allegation 1b dishonest, in that Mr Memon knew he had not achieved the performance objectives referred to in paragraph 1 b above as described in the corresponding performance objective statements or at all.

- c) In the alternative, any or all of the conduct referred to in paragraph 1 above demonstrates a failure to be straightforward and honest and accordingly is contrary to the Fundamental Principle of Integrity, as applicable 2018.
- 4. In the further alternative to Allegations 3a and or 3b above, such conduct was reckless in that it was in wilful disregard of ACCA's Guidance to ensure
  - (i) A Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee and/or
  - (ii) That the performance objective statements relating to the performance objectives referred to in paragraph 1b above accurately set out how the corresponding objective had been met.
- 5. By reason of his conduct, Mr Memon is guilty of misconduct pursuant to byelaw 8(a)(i) in respect of any or all of the matters set out at 1 to 4 above.
- 6. In respect of Allegation 2 only, liable in the alternative to disciplinary action under byelaw 8(a)(iii).
- 17. Mr Memon was admitted as a member of ACCA on 20 October 2017.
- 18. A trainee cannot become a member of ACCA until they have completed three years of approved work experience (Regulation 3 of the Membership Regulations). Their training must be supervised by a PER Supervisor who is a qualified accountant, namely a member of an International Federation of Accountants (IFAC) member body such as ACCA, who has worked closely with the trainee and knows their work. Normally this will be the trainee's line manager. However, if a trainee's line manager is not a qualified accountant they can sign-off or approve the trainee's 'time' in the relevant role, but the trainee must nominate a qualified supervisor to sign-off their Performance Objectives (POs). This must be someone who is sufficiently closely connected with the trainee's work that they are able to verify that the trainee has achieved those performance objectives.

19. The trainee must complete nine POs, which describe the type of activities they have been undertaking as a trainee. The statement must be personal to them and reflect their own unique experiences.
20. In support of his application for membership, sent to ACCA on or about 12 October 2017, Mr Memon submitted a Performance Experience Requirement (PER) record. ACCA's case was that Mr Memon had falsely claimed he had completed certain practice experience requirements when he had not, and that Mr A had been his Supervisor in respect of his POs when he was not.
21. In his PER record, Mr Memon claimed 36 months of workplace experience at 'Company A' from 20 April 2014 to 25 April 2017. ACCA relied on a statement from Mr B, who is employed by ACCA as a Professional Development Team Manager. Mr B said he had been informed by his colleagues in the Professional Development Team and ACCA Pakistan that they had been unable to find any trace of a company by the name of 'Company A'.
22. In accordance with ACCA's training requirements, Mr Memon submitted nine PO statements. These had been approved by Mr A on 12 October 2017.
23. Mr Memon's PO1 statement bore some similarities to the PO1 statement of other trainees who had also had those statements approved by Mr A. Further, Mr Memon's PO6 statement bore similarities to the one Mr A himself had submitted to gain ACCA membership. Given that a PO statement should be unique to the applicant, ACCA relied on this as evidence that Mr Memon had not properly completed the performance requirements of his training.
24. Further, ACCA's case was that Mr A could not have been Mr Memon's PER supervisor because he did not himself become an ACCA member until 23 September 2016, which was after most of Mr Memon's training had been completed.
25. Mr A appeared before an ACCA Disciplinary Committee in January 2021 to answer allegations of misconduct in respect of supervision of PER trainees. The Committee at that hearing found that Mr A had:
  - a) approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Memon, when he had no reasonable basis for believing they had been achieved and/or were true;

- b) falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Memon, in accordance with ACCA's PER;
  - c) improperly assisted 52 ACCA trainees, including Mr Memon, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; and
  - d) improperly participated in, or been otherwise connected with, an arrangement to assist 52 ACCA trainees to draft and/or approve their supporting statements as evidence of their achievement of their ACCA Practical Experience performance objectives, when those trainees were unable or unwilling to properly obtain verification from a supervisor that they had met ACCA's Practical Experience Requirements.
26. ACCA wrote to Mr Memon at his registered address on 28 January 2020, informing him that an investigation had been commenced in relation to his PER submission. He was asked to answer a number of questions regarding his employment, his supervision by Mr A, and the completion of his PO statements.
27. No response was received, so a further letter was sent by ACCA to Mr Memon on 19 February 2020. Mr Memon replied on 20 March 2020. He said as follows.

*'This is reply to the investigation initiated into my professional conduct. My conduct, to my best of knowledge, is professional, honest and is in compliance with the Fundamental Principles of Integrity. I have not been involved in any unprofessional practices. Further, following are the replies to the questions:*

1. *We, I and [Mr A], came into professional contact during my assignment at a client, Rural Community Development Society (RCDS). I was on the audit assigned by my employer, [Company A]. During the task, [Mr A] was also working under supervision of the client. While on the audit job on the client, we had discussion about my practical experience requirement (PER). He, having the experience, informed that he could help me and supervise me in signing my performance objectives."*
2. *[Mr A] thoroughly reviewed my work during my task at the client. After the completion of my assignment at the client, I introduced him to my*

*immediate supervisor. [Mr A] remained in contact with my direct supervisor for feedback of past and later jobs on other clients from my line manager and direct supervisor. Moreover, [Mr A], on regular basis, asked about the objectives*

3. *[Mr A], as stated in reply to question no. one, was neither my line manager nor direct supervisor. He remained in contact with me during assignment on the client . . . . After the client, I introduced him to my direct supervisor and line manager to get feedback of audit and other assignments. Therefore, I do not have any documentary correspondence with [Mr A].*
4. *I was hired by the employer on temporary basis, owing to restriction imposed by Institute of Chartered Accountants of Pakistan (ICAP). Because of the tussle between the national accountancy body, i.e. ICAP and foreign prestigious professional bodies, such as ACCA, many ACCA students and affiliates received training in the audit and financial firms on ad-hoc or temporary basis and got merely a single experience certificate at the end of completion of period. Despite the temporary employment, I worked on regular basis as per instructions of my employer. On official basis, the audit firm protected itself by employing me on temporary basis, i.e. internship, and extended my term every three months on verbal basis. Therefore, I do not have any payslip and employment contract. However, after persistence efforts of three months, I received an experience letter from my employer, [Company A]. (Annexure -1)*
5. *I followed the guidelines, which are available on ACCA website, and procedures which are provided by PER guides of ACCA. I submitted only those objectives upon which I worked and achieved. To avoid any issues in performance objectives, I sought guidance from my ACCA colleagues.*
6. *I wrote the draft of each performance objective in my own words. However, after completion of the drafts of performance objectives, my senior ACCA members reviewed and helped me in improving the drafted statements. Moreover, I also went through ACCA articles for ACCA membership and experience of members on YouTube and other websites. . .*
7. *I wrote the drafts myself. However, [Mr A] as well as a senior ACCA member assisted in improving the drafts' language. As mentioned in reply*



*no. 06, my senior members, who had gone through membership process, reviewed my draft performance objectives before submission.*

8. *After going through ACCA official site and aforementioned links, I myself submitted the performance objectives to Mr Ahmed. Therefore, I did not get assistance for the submission of performance objectives.*
9. *No, I did not pay any third parties to help me write my performance objectives.'*
28. ACCA also submitted that Mr Memon's response to the questions that had been put to him was scant on detail and that he was apparently unable to provide any evidence to verify his claim to having gained 36 months' work experience at 'Company A'.
29. Mr Memon submitted with this response a letter dated 09 May 2017 on 'Company A' headed notepaper. It stated that Mr Memon had 'served' the firm as an audit trainee from 01 April 2014 to 15 April 2017. ACCA's case was that this letter did not have the appearance or detail of a genuine letter from an employer. Further, the dates given differed from those Mr Memon had put in his PER record.
30. ACCA sent further emails to Mr Memon on 09 September 2020, 19 February 2021, 10 March 2021, 25 March 2021 and 9 April 2021 to which there was no reply.
31. ACCA alleged the failure to reply to these emails amounted to a breach of CDR 3(1) which states:
  - (a) *Every relevant person is under a duty to co-operate with any Investigating Officer and any assessor in relation to the consideration and investigation of any complaint.*
  - (b) *The duty to co-operate includes providing promptly such information, books, papers or records as the Investigating Officer or assessor may from time to time require.*
  - (c) *A failure or partial failure to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of these regulations and may render the relevant person liable to disciplinary action.*

## **DECISIONS ON ALLEGATIONS AND REASONS**

32. The Committee considered the documents before it, the submissions of Mr Jowett on behalf of ACCA and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.

### **Allegation 1**

33. The papers before the Committee included a copy of the Mr Memon's PER record, which contains the date 12 October 2017 a number of times within it. The Committee was satisfied that the stem of Allegation 1, namely that Mr Memon had submitted his PER record to ACCA on or about 12 October 2017, was proved.
34. The Committee went on to consider, as alleged in Allegation 1(a), whether Mr A either did not or could not have supervised Mr Memon's practical experience training in accordance with ACCA's training requirements.
35. The Committee noted that Mr A is named on Mr Memon's PER record as his 'Supervisor' to 'Approve objectives'. This relates to Mr Memon's period of employment with 'Company A', the dates of which were given as 20 April 2014 to 25 April 2017. However, Mr A did not become a member of ACCA until September 2016, and therefore could not have been Mr Memon's Supervisor for at least two-thirds of his practical training.
36. The Committee was therefore satisfied that Mr A either did not or could not have supervised Mr Memon's practical training and, accordingly, it found Allegation 1(a) proved.
37. Allegation 1(b) alleged that Mr Memon, in submitting his PER, purported to confirm that he had achieved PO1 and PO6.
38. The PO statements in question were contained within Mr Memon's PER record which, the Committee had already found, he had submitted to ACCA on or around 12 October 2017. Therefore, the Committee was satisfied that Mr Memon purported to confirm he had completed those POs. Accordingly, it found Allegation 1(b) proved.

## **Allegation 2**

39. The Committee had sight of the five pieces of correspondence from ACCA to Mr Memon, namely emails or letters dated 09 September 2020, 19 February 2021, 10 March 2021, 25 March 2021 and 09 April 2021, which were referred to in Allegation 2.
40. The Committee was satisfied that, in respect of each of these emails or letters, Mr Memon was under a duty to engage with ACCA and to respond to the questions or requests made in them. There was no reply to any of them from Mr Memon and, in the circumstances, the Committee was satisfied that this amounted to a breach of CDR 3(1).
41. Therefore, the Committee found Allegation 2 proved.

## **Allegation 3**

42. The Committee had found, in respect of Allegation 1(a), that Mr A did not act and could not have acted as Mr Memon's supervisor to supervise his practical experience training. The Committee had to consider, as alleged in Allegation 3(a), whether Mr Memon had acted dishonestly by representing to ACCA that Mr Memon was his supervisor when he knew that to be untrue.
43. The Committee noted that, in his email to ACCA of 20 March 2020, Mr Memon confirmed that he was aware of ACCA's guidelines in respect of the PER element of membership training. It was clear to the Committee that Mr Memon understood that his Supervisor must not only be a qualified accountant but also someone who, even if not working in the same firm as him, was able to exert an element of supervision over his work.
44. It was equally clear to the Committee that Mr Memon appreciated that Mr A could not be his PER Supervisor for the reasons set out in relation to Allegation 1(a) above. Thus, he had sought to confirm to ACCA something which he knew to be untrue.
45. There is no doubt that this would be regarded as dishonest by ordinary decent people. Therefore, the Committee found Allegation 3(a) proved.

46. The Committee went on to consider whether Mr Memon had submitted his PO1 and PO6 statements to ACCA knowing that he had not achieved the performance objectives in question.
47. The Committee noted that Mr Memon's PO1 statement was almost identical to that submitted to ACCA by five other ACCA trainees. Further his PO6 statement was strikingly similar to the one that Mr A had submitted to ACCA in or around September 2016 when he applied for membership.
48. It was clear, therefore, that these PO statements had been copied and could not possibly reflect Mr Memon's own personal training experiences. Mr Memon must therefore have submitted the PO1 and PO6 statements to ACCA knowing that they were false and that he had not achieved the performance objectives in question.
49. The Committee was satisfied that this conduct would be regarded as dishonest by ordinary decent people. The Committee therefore found Allegation 3(b) proved.
50. Having found Allegations 3(a) and 3(b) proved, there was no need for the Committee to consider the alternative in Allegation 3(c).

#### **Allegation 4**

51. Having found Allegations 3(a) and 3(b) proved, there was no need for the Committee to consider the alternative in Allegation 4.

#### **Allegation 5**

52. The Committee was satisfied that making a dishonest application for membership (as set out in Allegations 3(a) and 3(b)) and failing to co-operate with an investigation carried out by his regulator (as set out in Allegation 2) amounted to misconduct. These were actions which not only brought discredit on Mr Memon but tended to damage the reputation both of the accountancy profession and of ACCA as a regulator.
53. The Committee therefore found Allegation 5 proved.

## **Allegation 6**

54. As Allegation 6 was an alternative to Allegation 5, which the Committee had found proved, there was no need to consider it.

## **SANCTION AND REASONS**

55. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. It took into account the submissions of the parties and the advice of the Legal Adviser.
56. The Committee took into account, as a mitigating factor, that no previous disciplinary findings had been made against Mr Memon.
57. The Committee considered the following were aggravating factors. The allegations proved against Mr Memon included serious and deliberate dishonesty. His engagement with the investigation had been almost non-existent. Further, there is an obvious danger of reputational harm to the profession and the regulator when someone obtains membership of a professional organisation by dishonest means.
58. Having found that Mr Memon's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
59. As the GDS makes clear, sanctions of admonishment, reprimand and severe reprimand may be appropriate where the misconduct is at the lower end of the scale or the member shows insight, regret and has taken rehabilitative steps. None of those factors was present here.
60. Further, as it had found that he acted dishonestly in relation to his application for membership of ACCA, the Committee was of the view that neither admonishment, a reprimand or a severe reprimand would adequately mark the seriousness of Mr Memon's conduct.
61. The GDS indicates that the sanction of expulsion is appropriate in cases where there has been a serious departure from professional standards and where the

conduct in question was dishonest. The Committee had found that Mr Memon's conduct was intentionally dishonest and that it created a real risk of harm to the public, because he had obtained a qualification to which he was not entitled.

62. In the Committee's view, public confidence in the profession and in ACCA would be seriously undermined if Mr Memon were not excluded from membership. It considered that there was no other sanction which, in the circumstances of the case, would be appropriate and proportionate.
63. Therefore, pursuant to CDR 13.1(c), Mr Memon is excluded from membership of ACCA.
64. The Committee did not consider it necessary to additionally direct a minimum period, beyond the normal 12-month period, before an application for re-admission could be made. The Committee was mindful of the fact that any future application for membership by Mr Memon would be considered by the Admissions & Licensing Committee in light of this decision and of his suitability to be an accountant.

#### **COSTS AND REASONS**

65. ACCA applied for costs in the sum of £6,916. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the investigation. These included estimated costs for the hearing which, Mr Jowett accepted, it would be appropriate to reduce to reflect the actual length of time taken by hearing.
66. Mr Memon had not submitted any information about his financial circumstances.
67. The Committee considered that in principle a costs order should be made in favour of ACCA. The Committee considered the costs claimed were reasonable, subject to making a deduction to reflect the fact that the hearing had not lasted a full day.
68. The Committee ordered Mr Memon pay ACCA's costs in the sum of £5,500.

## **EFFECTIVE DATE OF ORDER**

69. The Committee determined that it would be in the interests of the public for the order of exclusion to take immediate effect. The Committee considered that there is a risk to the public if Mr Memon were able to continue practising as a member of ACCA pending any possible appeal. Therefore, pursuant to CDR 20, the order excluding Mr Memon from membership will take effect immediately.
70. Pursuant to CDR 20, the order for costs takes effect immediately.
71. Pursuant to CDR 12(5)(b), the Interim Order imposed on Mr Memon is hereby rescinded.

**Mr Andrew Gell**  
**Chair**  
**04 November 2021**