

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Habib Ullah</b>
<b>Heard on:</b>	<b>Wednesday, 10 November 2021</b>
<b>Location:</b>	<b>Held Remotely by Microsoft Teams via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU</b>
<b>Committee:</b>	<b>Mrs Valerie Paterson (Chair) Mr Ryan Moore (Accountant) Mr Damian Kearney (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Richard Ferry-Swainson (Legal Adviser)</b>
<b>Persons present and capacity:</b>	<b>Mr Benjamin Jowett (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)</b>
<b>Observers:</b>	<b>None</b>
<b>Summary</b>	<b>Exclusion from membership</b>
<b>Costs:</b>	<b>Allegations 1(a), 1(b), 2(a), 2(b), 2(c), 3(a), 3(b) and 5 found proved. The member is to pay cost to ACCA in the sum of £5,900.00</b>

#### ACCA



+44 (0)20 7059 5000



info@accaglobal.com



[www.accaglobal.com](http://www.accaglobal.com)



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

## INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (*“the Committee”*) convened to consider a number of Allegations against Mr Ullah. Mr Ullah did not attend, nor was he represented.
2. The papers before the Committee were in a main bundle numbered 1 to 328. There was also a Pseudonymisation key of three pages, and three additional bundles, numbered 1 to 5, 1 to 5 and 1 to 3 respectively. The Committee was also provided with a 15-page service bundle and a costs bundle running to six pages.
3. Given the absence of Mr Ullah, Mr Jowett made an application to proceed in his absence.
4. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (*“the Regulations”*). The Committee took into account the submissions made by Mr Jowett on behalf of ACCA and also took into account the advice of the Legal Adviser.
5. Included within the service bundle was the Notice of Hearing dated 13 October 2021, thereby satisfying the 28-day notice requirement, which had been sent to Mr Ullah’s email address as it appears in the ACCA register. The Notice included details about the time, date and remote venue for the hearing and also Mr Ullah’s right to attend the hearing, by telephone or video link, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Mr Ullah’s absence, if considered appropriate. There was a receipt confirming the email had been delivered to Mr Ullah’s registered email address.

## PROCEEDING IN ABSENCE

6. The Committee received and accepted legal advice on the principles to apply in deciding whether to proceed with the hearing in Mr Ullah's absence. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which requires ACCA to prove that the documents were sent, not that they were received. Having so determined, the Committee then considered whether to proceed in Mr Ullah's absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Ullah it should exercise that discretion with the utmost care and caution.
7. Mr Ullah responded to the Notice of hearing on 15 October 2021, stating,  
  
*"Yes, I want to attend that hearing on that time and date, and I need an interpreter for a language Urdu."* However, on 09 November 2021, Mr Ullah sent an email to ACCA stating, *"As I am out of the country, therefore I will be unavailable to attend the meeting. So, you can take a decision on my behalf without my absence. And I am sorry for not attending the meeting."*
8. The Committee noted that Mr Ullah faced serious allegations, including an allegation of dishonesty, and that there was a clear public interest in the matter being dealt with expeditiously. The Committee noted that Mr Ullah had been told he could apply for an adjournment and had chosen not to do so. In light of the clear indication given in the email of 09 November 2021, the Committee concluded that Mr Ullah had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
9. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Mr Ullah. No adverse inference would be drawn from his non-attendance and the Committee would take into account his various written responses to the matters alleged.

## **APPLICATION TO AMEND**

10. Mr Jowett made an application to amend the Allegation by correcting the date of the first piece of correspondence, referred to in Allegation 2(a), which should read '*17 March 2021*' and not '*15 March 2021*'. He submitted that this was a typographical error and that it was clear from the papers what the correct date should be. He further submitted that allowing the amendment would not prejudice Mr Ullah in his defence.
11. The Committee accepted the advice of the Legal Adviser, that it could amend the Allegation provided Mr Ullah would not be prejudiced. The incorrect date was clearly a typographical error and the correct date could be seen by reference to the papers provided. The Committee was satisfied that allowing the amendment would not prejudice Mr Ullah since it did not materially change anything. The Committee also noted that subsequent correspondence clearly referred to the correct date, namely 17 March 2021. Accordingly, the Committee allowed the application.

## **ALLEGATIONS/BRIEF BACKGROUND**

12. It is alleged that Mr Ullah is liable to disciplinary action on the basis of the following Allegations (as amended):

Mr Ullah:

1. Submitted or caused to be submitted to ACCA on or about 07 June 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 02 April 2015 to 15 August 2016 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 the Performance Objective 2: Stakeholder relationship management, Performance Objective 3: Strategy and innovation, Performance Objective 4: Governance, risk and control, Performance Objective 5: Leadership and management, Performance Objective 9: Evaluate investment and financing decisions, Performance Objective 18: Prepare for and plan the audit and assurance process.
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. 17 March 2021
  - b. 09 April 2021
  - c. 07 June 2021
3. Mr Ullah's conduct in respect of the matters described in Allegation 1 above was:-
  1. In respect of Allegation 1a, dishonest, in that Mr Ullah 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.
  2. In respect of Allegation 1b dishonest, in that Mr Ullah knew he had not achieved the performance objectives referred to in paragraph 1 b as described in corresponding performance objective statements or at all.
  3. 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 in 2018.

4. In the further alternative to Allegations 3a and 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 referred to in paragraph 1b accurately set out how the corresponding objective had been met.
5. By reason of his conduct, Mr Ullah is guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all 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).
13. Mr Ullah became a member of ACCA on 16 June 2017.
14. Regulation 3(a) of ACCA's Membership Regulations provides that an ACCA trainee cannot become a member of ACCA until they have completed three years of approved work experience, in accordance with ACCA's Practical Experience Requirement ("*PER*").
15. ACCA's PER is based on the International Federation of Accountants ("*IFAC*") International Education Standard 5, PER. ACCA's PER develops the professional knowledge and values, ethics and behaviours needed to become a professionally qualified accountant.
16. ACCA's PER has three components. The achievement of "*Essential*" and "*Technical*" Performance Objectives ("*PO*") by gaining the experience required to achieve the necessary elements for each PO, evidenced by a personal statement for each PO signed off by the trainee's Practical Experience Supervisor ("*PES*"). Secondly, 36 months' work experience in one or more

accounting or finance-related roles, which is verified by a PES. And thirdly, regularly recording PER progress in the online “*MyExperience*” recording tool, which is accessed via ACCA’s online portal “*myACCA*”.

17. ACCA trainees’ personal statements for each PO must be a 200 to 500-word concise explanation of how they have achieved the PO. Trainees must provide examples of tasks they have been involved with to illustrate their personal statement. Trainees’ statements must be unique to their own work experience.
18. ACCA trainees are responsible for finding a PES who must be a qualified accountant recognised by law in the trainee’s country and or a member of an IFAC body with knowledge of the trainee’s work. A PES will therefore usually be a trainee’s line manager, or the person to whom the trainee reports on projects or activities. A PES cannot sign off experience that a trainee has not been able to demonstrate to them in the workplace. If a PES is not a trainee’s line manager, then the PES may consult with the trainee’s line manager to validate their experience.
19. Trainees must enter the PES’s details into the “*MyExperience*” recording tool and send their PES an invitation to register as their PES. Trainees cannot submit anything to their PES until the PES is registered. Guidance about ACCA’s PER including trainees’ responsibilities, PESs and their role, is published on ACCA’s website.
20. Mr Ullah’s PER record shows he claimed 16 months of workplace experience at [Redacted] from 02 April 2015 to 15 August 2016. This claimed period of employment was submitted to Mr A by Mr Ullah and approved on or about 07 June 2017.
21. Mr Ullah’s PER record confirms he submitted nine PO statements for approval to Mr A on 07 June 2017. The PO statements were approved by Mr A on the same date.
22. In his response to ACCA, received by ACCA on 01 March 2020, Mr Ullah stated the following:

*“I met Mr. [A] during my one of my assignment. I was on an audit related assignment given by my employer where I worked. During my assignment I met many time to Mr. [A] and came to know that he was a research work in NGO. Mr. [A] as an ACCA Member and having much experience in this field can understand my work, I just request him for some assistance and as I told u that he is also [A] and we are from same cast then he offered to assist me as a supervisor to sign my PER objectives which is natural. Most of the time I requested him to met me after his office timing. He provided me a draft of PER and I read it and took help from those drafts. hen i wrote the performance objectives, I requested to review my work and I assigned him as my PER supervisor to review my PER achievements and to approve my PER objectives. The reason behind this is that my firm was not approving my PER objectives due to the reasons mentioned above. My purpose to get my PER on regular basis and can achieve ACCA Membership to went to an university name Carleton in Ottawa Canada. ACCA membership is their requirement as I did not have Oxford Brookes Degree in Applied Accounting.” (sic)*

23. Mr Ullah also explained how he came to select the PO statements he submitted to Mr A for approval:

*“I think the process to follow is simple, common and straight, I followed the procedure as provided in the PER guides issued by ACCA. I identified the performance objectives that i had achieved in that critical situation and drafted the performance objective statements. To submit these performance objectives statements in ACCA My Experience tool, I used to login to MYACCA account from [www.accaglobal.com](http://www.accaglobal.com), used my account ID and password and submit my statements for review and approval.*

*I have drafted the statements for performance objectives I took the help of my fellow ACCA Affiliates and Colleagues. A lot of helpful materials and articles available online which I read to understand how to wrote. I took advice from Mr. [A] as well. I copied the common statements which were circulating that time among the Trainers.*



*... I took assistance from Mr. [A], that gave me some drafts of performance objectives, from fellow ACCAs Trainers as well as copied some common and sample statements.*

*I assured that no one provided any assistance in submitting my performance objectives to Mr. [A].*

*In this profession, every professional can assist each other without any greed, I did not make any payment to any third party.” (sic)*

24. Mr Ullah was one of fifty-two ACCA trainees who submitted or caused to be submitted to ACCA that some or all of their practical experience training had been supervised by Mr A, including at times when Mr A was not qualified, and in doing so submitted one or more PO statements that were identical, or near identical, to one or more of those of Mr A's other purported trainees.
25. Mr Ullah's PO2 statement was identical to four other Trainees whose PO2 statements were approved by Mr A. Mr Ullah's PO3 statement was identical to five other Trainees whose PO3 statements were approved by Mr A. Mr Ullah's PO4 statement was identical to three other Trainees whose PO4 statements were approved by Mr A. Mr Ullah's PO5 statement was identical to five other Trainees whose PO5 statements were approved by Mr A. Mr Ullah's PO9 statement was identical to one other Trainee whose PO9 statement was approved by Mr A. Mr Ullah's PO18 statement was identical to eight other Trainees whose PO18 statement was approved by Mr A. Mr Ullah's PO2, PO3, PO4 and PO5 statements were nearly the same as Mr A's PO2, PO3, PO4 and PO5 statements and were approved by Mr A.
26. An ACCA Investigations Officer wrote to Mr Ullah on 17 March 2021 detailing the findings referred to above and indicating that it was ACCA's view that he had not gained the relevant experience he had claimed. Mr Ullah was asked to provide evidence of his work experience and informed that a failure, or partial failure, to co-operate fully with the investigation may render him liable to disciplinary action.

27. On 31 March 2021, Mr Ullah responded saying that he had read ACCA's email and attachments (containing the POs referred to above), but he did not understand what ACCA was asking about. He added, "*As previously I have faced the same problem and also consequences of it, due to the person name [A].*"
28. On 09 April 2021 the Investigations Officer wrote again to Mr Ullah, the email being headed '*Failure to Co-Op Final Chaser*'. The Officer explained how the 17 March 2021 email detailed the PO statements that Mr Ullah had written in his PER logbook and the similarities they had with other trainees, which led ACCA to believe he had not gained the work experience he claimed to have done. That was why ACCA needed Mr Ullah to provide evidence of his work experience from his employer or other person who could personally verify the accuracy of his record. Mr Ullah did not respond to this email.
29. On 29 January 2021 ACCA's Disciplinary Committee found that Mr A had:
- Approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Ullah, when Mr A had no reasonable basis for believing they had been achieved and/or were true;
  - Falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Ullah, in accordance with ACCA's PER;
  - Improperly assisted 52 ACCA trainees, including Mr Ullah, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives;
  - 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.

30. Mr A's conduct was found to have been dishonest and he was excluded from membership of ACCA.
31. Following further investigation, it was noted that Mr Ullah's PO2, PO3, PO4 and PO5 statements were nearly the same to Mr A's PO2, PO3, PO4 and PO5 statements. Accordingly, ACCA wrote to Mr Ullah on 07 June 2021, notifying him that ACCA believed this established further evidence that Mr Ullah had not completed the POs he claimed and requesting his response. No response was received.
32. On 19 August 2021, Mr Ullah was sent the ACCA Assessor's decision, detailing the Allegation ACCA would be pursuing and enclosing a Case Management Form for Mr Ullah to complete. No response was received from Mr Ullah.
33. On 11 October 2021, a Case Progression Officer at ACCA wrote to Mr Ullah informing him that the case had been referred to Adjudication and asking him to return the Case Management Form sent on 19 August 2021. No response was received from Mr Ullah.
34. Mr Ullah did not provide any further written representations for the Committee to consider.

#### **DECISION ON FACTS/ALLEGATION AND REASONS**

35. The Committee considered with care all the evidence presented and the submissions made by Mr Jowett. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities. The Committee also took into account the various written submissions provided by Mr Ullah during the course of the investigation.

### **Allegation 1 (a) - proved**

36. The Committee considered there was ample evidence to prove that Mr Ullah had submitted or caused to be submitted to ACCA, on or about 07 June 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 02 April 2015 to 15 August 2016 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).
37. Mr Ullah did not appear to dispute this, although he claimed Mr A did no more than assist him and he did the work experience recorded.
38. The Committee was provided with a copy of Mr Ullah's PER training record, which was submitted on 07 June 2017. It recorded Mr A as his PES for the period 02 April 2015 to 15 August 2016. On the evidence relating to Mr A the Committee was satisfied that Mr A did not supervise, and could not have supervised, Mr Ullah during this period, not least because Mr A did not become a member of ACCA until 23 September 2016 and therefore was not eligible to act as a supervisor during the relevant period. Mr A did not meet the requirements of the PES guidance in that he was not in a role of responsibility or able to supervise Mr Ullah in order to be able to sign off his PER.
39. Accordingly, the Committee found Allegation 1(a) proved.

### **Allegation 1(b) - proved**

40. Mr Ullah's training record confirmed he had achieved the POs stated when, at the very least, he cannot have achieved them in the way recorded since they were apparently fictitious accounts provided by Mr A and not his own. There was no evidence provided by Mr Ullah to show that he had legitimately achieved the performance objectives claimed in his training record. The Committee noted that:

- a) Mr Ullah's PO2 statement was identical to four other Trainees whose PO2 statements were approved by Mr A;
- b) Mr Ullah's PO3 statement was identical to five other Trainees whose PO3 statements were approved by Mr A;
- c) Mr Ullah's PO4 statement was identical to three other Trainees whose PO4 statements were approved by Mr A;
- d) Mr Ullah's PO5 statement was identical to five other Trainees whose PO5 statements were approved by Mr A;
- e) Mr Ullah's PO9 statement was identical to one other Trainee whose PO9 statement was approved by Mr A;
- f) Mr Ullah's PO18 statement was identical to eight other Trainees whose PO18 statement was approved by Mr A;
- g) Mr Ullah's PO2, PO3, PO4 and PO5 statements were nearly the same to Mr A's PO2, PO3, PO4 and PO5 statements and were approved by Mr A.

41. Furthermore, the Committee took into account the findings of the ACCA Disciplinary Committee which found Mr A had:

- Approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Ullah, when Mr A had no reasonable basis for believing they had been achieved and/or were true;
- Improperly assisted 52 ACCA trainees, including Mr Ullah, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; and
- 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.

42. The Committee noted that in his written representations, Mr Ullah said:

*"I think the process to follow is simple, common and straight. I followed the procedure as provided in the PER guides issues by ACCA. I identified the performance objectives that i had achieved in that critical situation and drafted the performance objective statements. To submit these performance objective statements in ACCA My Experience tool, I used to login to MYACCA account from www.accaglobal.com, used my account ID and password and submit my statements for review and approval."*

43. Given the identical nature of many of the statements to other trainees and the similarities of others approved by Mr A, and even in some instances to Mr A's own POs, the Committee found Mr Ullah's evidence that Mr A did no more than assist him by providing drafts and then by reviewing what he, Mr Ullah, had written, to be entirely implausible.

44. On the basis of this evidence the Committee found Allegation 1(b) proved.

**Allegation 2(a), (b) and (c) - proved**

45. In relation to Allegation 2, the Committee noted that, initially, Mr Ullah engaged and responded to the Investigations Officer and provided his responses relating to his PER record. However, Mr Ullah subsequently did not provide an adequate response to the Investigations Officer's email dated 17 March 2021. The Officer asked Mr Ullah to provide evidence of the training he had claimed he had done, together with evidence from a person eligible to be his supervisor.

46. Mr Ullah responded saying that he had read ACCA's email and attachments (containing the POs referred to), but he did not understand what ACCA was

asking about. He added, *“As previously I have faced the same problem and also consequences of it, due to the person name [A].”*

47. The Committee was satisfied that this was not an adequate response to the reasonable request made by the Investigations Officer. The Committee noted that Mr Ullah was quite able to respond in detail when he wanted to, as shown by his response received by ACCA on 01 March 2021. The request made in the email sent to him on 17 March 2021 was clear and yet Mr Ullah claimed to not know what ACCA was requesting. The Committee also noted the email warned Mr Ullah about the need to cooperate fully and the potential liability to disciplinary action if he failed to do so.
48. With reference to the emails sent by ACCA on 09 April 2021 and 07 June 2021, there had been no response at all from Mr Ullah.
49. The Committee was advised by the Legal Adviser that the duty to co-operate with an ACCA investigation is absolute, that is to say every relevant person is under a duty to co-operate with any Investigations Officer and any Assessor in relation to the consideration and investigation of any complaint. A failure, or partial failure, to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of the regulations and may render the relevant person liable to disciplinary action. The Committee was satisfied that Mr Ullah had failed to respond adequately to the first of these three emails and had not responded at all to the second and third emails on the dates specified in Allegation 2. The Committee noted that the correspondence was sent by email to the email address provided by Mr Ullah when registering with ACCA and was the same email address that Mr Ullah had used when sending emails to ACCA.
50. The Committee therefore found Allegation 2(a), (b) and (c) proved.

**Allegation 3(a) and 3(b) – proved**

51. The Committee then considered whether the behaviour found proved in Allegation 1(a) and 1(b) was dishonest. The Committee considered what it was that Mr Ullah had done, what his intentions were and whether the ordinary

decent person would find that conduct dishonest. According to Mr Ullah he believed Mr A was allowed to be his supervisor and he provided him, Mr Ullah, with a draft of a PER to assist him. Mr Ullah then wrote his own POs and got Mr A to review them. For this account to be true, the Committee would have to accept that it was entirely coincidental that six of Mr Ullah's POs were identical to countless other trainees connected to Mr A and that four of Mr Ullah's POs were almost the same as other trainees purportedly supervised by Mr A. This stretched credulity beyond the plausible and the only realistic explanation was that Mr A had provided Mr Ullah with stock responses, which he used for many other students, and Mr Ullah relied on them and pretended they were his own in order to deceive ACCA into believing he had the relevant experience shown in those POs and thereby to allow him to become a member of ACCA.

52. On the evidence, therefore, the Committee was satisfied, on the balance of probabilities, that Mr Ullah knew Mr A could not legitimately be his PES and so he could not legitimately rely on him to sign off his POs and furthermore that the POs Mr Ullah submitted were not genuine and did not reflect the work experience he had completed, but rather were stock answers provided by Mr A.
53. In addition, the Committee could not ignore the fact that Mr A had been found guilty of the dishonest conduct described in paragraph 41 above. This had included: improperly participating in, or being otherwise connected with, an arrangement to assist 52 ACCA trainees (including Mr Ullah) 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.
54. The Committee could not know the precise mechanics of how the PO statements were completed. Whatever process was followed, however, the only reasonable inference to be drawn was that Mr Ullah was complicit in, and entirely aware of, Mr A's provision of false POs so that he, Mr Ullah, could add those to his PER and subsequently illegitimately qualify as an ACCA member.



When the question was raised by ACCA about the identical or very similar nature of many of his POs to other trainees, Mr Ullah must have known he had effectively cut and pasted them from the material provided to him by Mr A. He thus knew they did not in fact reflect what he had done, and this may well explain his reticence to respond adequately to ACCA's requests.

55. Mr Ullah must have known that Mr A had not and could not supervise his work and or act as his supervisor at the material time in accordance with the necessary requirements. In addition, Mr Ullah did not achieve at least some of the performance objectives he claimed, in the manner he claimed or at all, but rather relied on stock answers provided by Mr A. The Committee was in no doubt that an ordinary decent member of the public, in full possession of the facts of the case, would find the entirety of this conduct to be dishonest. The Committee therefore found Allegation 3(a) and 3(b), on the balance of probabilities, proved.
56. Having found Allegation 3(a) and 3(b) proved it was not necessary for the Committee to consider Allegations 3(c) or 4, which were alleged in the alternative.

#### **Allegation 5 – proved**

57. Having found the facts proved in Allegations 1(a), 1(b), 2(a), 2(b), 2(c), 3(a) and 3(b), the Committee then considered whether they amounted to misconduct. The Committee considered there to be sufficient evidence to show that Mr Ullah sought the assistance of Mr A to provide false POs and to act as his PES in order to allow him, Mr Ullah, to, illegitimately, qualify as a member of ACCA. This dishonest behaviour demonstrated a disregard for ACCA's membership process and allowed Mr Ullah to become a member of ACCA when not qualified to be so. Such behaviour undermines the integrity of the membership process and the standing of ACCA. It brings discredit upon Mr Ullah, the profession and ACCA. The Committee considered this behaviour to be very serious and was in no doubt it amounted to misconduct.

58. In addition, the Committee was of the view that failing to co-operate fully or, in two instances, at all with the investigation being carried out by his Regulator into his alleged misconduct is a serious matter. A member should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a member of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and brought discredit upon Mr Ullah and also upon the profession and ACCA as Regulator. It therefore decided that Mr Ullah's behaviour in failing to fully co-operate amounted to misconduct.
59. The Committee therefore found Allegation 5 proved.
60. Having found Allegation 5 proved in relation to Allegation 2, the Committee did not have to consider Allegation 6, which was alleged in the alternative.

### **SANCTION AND REASONS**

61. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Jowett. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Ullah, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
62. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
63. The Committee considered the misconduct involved the following aggravating features: an element of premeditation and planning; a course of conduct over a period of time, involving repeated acts of deceit; collusion with Mr A; undermining the integrity, and thereby undermining public confidence, in ACCA's membership process; becoming a member of ACCA when not qualified to be so; the significant period during which Mr Ullah continued to hold himself

out as a member when aware that he had relied on false POs prepared by Mr A in order to do so; a lack of insight into his dishonest behaviour; no evidence of regret or remorse; a repeated failure to fully cooperate with his Regulatory body.

64. The Committee considered there to be one mitigating factor, namely the absence of any previous disciplinary history with ACCA.
65. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had disregarded the membership requirements and acted dishonestly when submitting information in connection with his PER and had also failed to cooperate with ACCA.
66. The Committee then considered whether to reprimand Mr Ullah. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not consider Mr Ullah's conduct to be of a minor nature and he had shown no insight into his dishonest behaviour. The Committee noted that when addressing factors relevant to seriousness in specific case types, ACCA's Guidance indicates that misleading ACCA is considered to be very serious. The same is true of failing to cooperate with ACCA. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.
67. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered none of these criteria to be

met. The guidance adds that this sanction may be appropriate where most of the following factors are present:

- The misconduct was not intentional and no longer continuing;
- Evidence that the conduct would not have caused direct or indirect harm;
- Insight into failings;
- Genuine expression of regret/apologies;
- Previous good record;
- No repetition of failure/conduct since the matters alleged;
- Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- Relevant and appropriate references;
- Co-operation during the investigation stage.

68. The Committee considered that virtually none of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Mr Ullah's behaviour. His misconduct was intentional, and he has not demonstrated any insight into his dishonest behaviour. He has offered no expression of regret or apology. He does have a previous good record, but there has been no evidence of rehabilitative steps and no references. Mr Ullah did not co-operate fully during the investigation stage.

69. The Committee noted that the Association provides specific guidance on the approach to be taken in cases of dishonesty, which is said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than striking off. The guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member

to do the right thing in difficult circumstances. *“It is a cornerstone of the public value which an accountant brings.”*

70. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Ullah’s case that warranted anything other than exclusion from membership. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was exclusion. The Committee was cognisant of the severity of this conclusion. However, seeking out or making contact with a third party to provide false POs in order to satisfy one’s PER represents behaviour fundamentally incompatible with being a member of ACCA and undermines the integrity of ACCA’s membership process. The PER procedure is an important part of ACCA’s membership process, and the requirements must be strictly adhered to by those aspiring to become members. In the Committee’s view, Mr Ullah’s dishonest conduct was such a serious breach of bye-law 8 that no other sanction would adequately reflect the gravity of his offending behaviour. In addition, it was not known if Mr Ullah had the relevant practical experience to have ever become a member in light of the way he went about securing his membership. This dishonest behaviour was subsequently compounded by Mr Ullah’s failure to properly cooperate with ACCA during the investigation into his conduct.
71. The Committee also considered that a failure to exclude a member from the register who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its regulator. The public needs to know it can rely on the integrity, ability and professionalism of those who are members of ACCA. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour is unacceptable.
72. The Committee therefore ordered that Mr Ullah be excluded from membership.

## **COSTS AND REASONS**

73. ACCA applied for costs in the sum of £6,213.00 to cover the costs of the Interim Order application in this case together with the main hearing. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the costs were based on the hearing lasting a whole day when, in the event, it did not take quite that long. Accordingly, the Committee made a small reduction to reflect the time actually taken. Despite being given the opportunity to do so, Mr Ullah did not provide any details of his means or provide any representations about the costs requested by ACCA. There was, therefore, no evidential basis upon which the Committee could make any reduction on that ground.
74. Accordingly, the Committee made an order for costs in the sum of £5,928.00.

## **EFFECTIVE DATE OF ORDER**

75. In light of its decision to exclude Mr Ullah from ACCA and the seriousness of his misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect.
76. The Committee rescinded the current Interim Order.

**Mrs Valerie Paterson**  
**Chair**  
**10 November 2021**