

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Usama Bin Zubair</b>
<b>Heard on:</b>	<b>Wednesday, 27 October 2021</b>
<b>Location:</b>	<b>Held remotely by video conference</b>
<b>Committee:</b>	<b>Mrs Helen Carter-Shaw (Chair) Dr David Horne (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) Miss Geraldine Murray and Miss Nkechi Onwuachi (Hearings Officers)</b>
<b>Observers:</b>	<b>None</b>
<b>Outcome:</b>	<b>Allegations 1(a), 1(b), 2(a), 2(b) and 4 were found proved. Excluded from membership. Costs of £6,512.50</b>

#### ACCA



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## **INTRODUCTION**

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Usama Bin Zubair.
2. The Committee had before it the report to the Disciplinary Committee and accompanying documents (227 pages), a service bundle for the hearing listed on 11 August 2021 (17 pages), the decision on an application to adjourn dated 10 August 2021 (4 pages), a service bundle for the Case Management meeting on 08 September 2021 (19 pages), the decision from the Case Management meeting (6 pages), a service bundle for this hearing (37 pages), a schedule of pseudonymisation (3 pages) and a copy of the Case Management form (23 pages).

## **PROCEEDING IN ABSENCE**

3. Mr Zubair did not attend the hearing and was not represented.
4. The allegations against Mr Zubair were previously listed for a hearing before the Disciplinary Committee on 11 August 2021. Notice for the hearing on 11 August 2021 was sent on 13 July 2021 by email to the email address Mr Zubair had notified to ACCA. The day before that hearing was due to take place, on 10 August 2021, a Chair of the Disciplinary Committee granted an application by Mr Zubair for an adjournment.
5. The matter was listed for a Case Management meeting on 08 September 2021. Following that meeting, in accordance with the direction of the Chair, the case papers were re-served in hard copy form to Mr Zubair at his registered address.
6. Notice of today's hearing was sent by email and airmail to Mr Zubair on 29 September 2021. On 13 and 20 October 2021, ACCA wrote to Mr Zubair, by email and airmail, asking him to confirm whether he intended to attend this hearing. There has been no response to any of these communications from Mr Zubair.
7. On 26 October 2021, the Hearings Officer made two attempts to speak to Mr Zubair on the telephone. On both occasions there was no reply and no option to leave a message.

8. 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.
9. 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 Zubair. The Committee considered that ACCA had made considerable efforts to inform Mr Zubair of today's hearing. Mr Zubair had clearly stopped engaging with the hearing process. Mr Zubair knew that he could apply for an adjournment (as he had for the hearing scheduled for 11 August 2021) and had been advised in writing that should he wish to apply for a further adjournment he should do so by 13 October 2021. He had not done so. In the circumstances, the Committee considered that no useful purpose would be served by an adjournment. Given the nature and seriousness of the allegations, there was a clear public interest in proceeding to hear this case.
10. The Committee, therefore, determined to proceed in the absence of Mr Zubair.

## **ALLEGATIONS AND BRIEF BACKGROUND**

11. The allegations faced by Mr Zubair were as follows.

### **Allegations**

Mr Usama Bin Zubair, at all material times an ACCA affiliate:

1. Submitted, or caused to be submitted to ACCA, on or about 24 March 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 01 February 2014 to 11 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 3: Strategy and innovation;

- Performance Objective 4: Governance, risk and control
- Performance Objective 8: Prepare external financial reports; and
- Performance Objective 16: Tax computations and verification

2. Mr Bin Zubair's conduct in respect of the matters described in Allegation 1 above was:
    - a. In respect of Allegation 1a, dishonest, in that Mr Bin Zubair 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 Bin Zubair knew he had not achieved the performance objectives referred to in Allegation 1b 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 Allegation 1 above demonstrates a failure to be straightforward and honest and accordingly is contrary to the Fundamental Principle of Integrity.
  3. In the further alternative to Allegations 2a and or 2b above, such conduct was reckless in that it was in wilful disregard of ACCA's Guidance to ensure:
    - a. His Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee; and /or
    - b. that the statements relating to the performance objectives referred to in Allegation 1b above accurately set out how the corresponding had been met.
  4. By reason of his conduct, Mr Bin Zubair is guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.
12. Mr Zubair became an ACCA affiliate on 01 February 2013 and was admitted as a member of ACCA on 21 April 2017.

13. 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, who has worked closely with the trainee and knows their work.
14. They must also complete a number of Performance Objectives (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. 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 POs.
15. In support of his application for membership, sent to ACCA on or around 24 March 2017, Mr Zubair submitted a Performance Experience Requirement (PER) record. ACCA's case was that Mr Zubair had falsely claimed he had completed certain practice experience requirements when he had not. ACCA further alleged that Mr A, who was named as Mr Zubair's PER supervisor, either did not actually supervise Mr Zubair or could not have properly done so.
16. In his PER record, Mr Zubair claimed 38 months of workplace experience with Company G from 01 February 2014 to 11 April 2017. This was approved by his line manager, Mr B, on 11 April 2017. Mr B, however, was not an IFAC qualified accountant and could not, therefore, act as Mr Zubair's PER Supervisor.
17. Mr Zubair's PER record showed that he submitted his nine PO statements for approval to Mr A on 24 March 2017 and these were approved by Mr A the following day. Mr Zubair claimed, in subsequent correspondence with ACCA, that Mr A was someone he was familiar with and that he arranged for Mr A to speak to Mr B to confirm the work he had completed.
18. However, Mr A did not become an ACCA member until 23 September 2016 and there was no evidence that he was a member of any other IFAC body. He could not, therefore, have been Mr Zubair's PER Supervisor for the majority of his practical experience training.
19. Further, Mr Zubair was one of 52 trainees who submitted applications for membership to ACCA claiming that Mr A had been their PER supervisor for some or all of their practical experience training. Four of the PO statements

submitted by Mr Zubair, namely PO3, PO4, PO8 and PO16, were identical to those of other trainees for whom Mr A acted as PER Supervisor.

20. ACCA's Investigations department wrote to Mr Zubair on 27 January 2020, informing him that his conduct in relation to the submission of his PER was being investigated. Mr Zubair was asked to answer the following questions.

- '1. Please explain why and how you came to register [Mr A] as your practical experience requirement (PER) supervisor and whether he was also your line manager as well as your PER supervisor.*
- 3. Please provide me with a detailed explanation as to how [Mr A] supervised you.*
- 4. Please provide me with all the documentary evidence you have in relation to [Mr A's] supervision of you. If you do not provide me with any documentary evidence e.g. copies of emails, letters, reports I will assume that you do not have any such documentation.*
- 5. Please provide me with documentary evidence of your employment as referred to in your PER logbook e.g. a copy of your contract of employment or terms and conditions, copies of wage slips, copies of emails and or letters regarding your employment.*
- 6. Please explain the process you followed in submitting your performance objective statements through ACCA's My Experience tool.*
- 7. Please confirm whether you wrote each of the performance objective statements set out in your PER logbook in your own words?*
- 8. Please confirm if anyone provided you with assistance in writing any or all the performance objective statements as set out in your PER logbook?*
- 9. Please confirm if anyone provided you with assistance in submitting your performance objective statements to [Mr A].*
- 10. Please confirm if you paid any third parties to help you write your performance objective statements as set out in your PER logbook? If you did, please tell me who you paid, the amount or amounts you paid and the dates of the payments you made.'*

21. Mr Zubair replied by email on 15 February 2020, giving the following answers.

- ‘1. *[Mr A] was my senior ACCA fellow and i remember that i have took his assistance couple of times in preparation of exams and than we meet couple of times in cafeterias and their we had very productive conversation on different topics like tax system, politics and sports. (sic) My Line Manager at [Company G] was [Mr B] from Syria and he was not an IFAC member So when i came to Pakistan on my annual vacations, i contact again with [Mr A] to ask for his assistance in submission of my PER.*
2. *I was working under my Line Manager [Mr B], who was not IFac member, so i made arrangement to have conversation between [Mr B] and [Mr A]. [Mr B] elaborate my job description to him and my learning.*  
  
*Than [Mr A] also sent me some screenshots to assist me in taking general idea to write each objective.(sic)*
3. *Sir, as i mentioned earlier that [Mr A] assist me through conversations and only share some screenshots through whats-app messages to take general idea to write objective*
4. *Please find attached my Experience Certificate from [Company G].*
5. *I have written it in word file and update it and then accordingly in myacca (my experience record) and claimed for sign off.*
6. *Yes i have written my performance objective statements by myself but sure i have taken general idea about how should i summarize my observations.*
7. *Yes i confirm that [Mr A] gave me assistance to summarize my understandings, observations or experience.’*
8. *I have got performance objectives templates/Screenshots from [Mr A].*
9. *No i have not paid to anyone.’ (sic)*

22. Enclosed with this reply was a letter dated 01 September 2018, on Company G notepaper, written in the name of the HR Director, Mr C. The letter stated

that Mr Zubair had worked with Company G as a permanent full-time employee from 01 February 2014 to 31 August 2018.

23. On 12 March 2021, ACCA's investigation department wrote to Mr Zubair again attaching copies of POs 3, 4, 8 and 16 that he had submitted and asking why they were identical to those submitted by other trainees that Mr A had purportedly supervised. Mr Zubair did not reply.
24. 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 Zubair, 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 Zubair, in accordance with ACCA's PER;
  - c) improperly assisted 52 ACCA trainees, including Mr Zubair, 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.

## **DECISIONS ON ALLEGATIONS AND REASONS**

25. 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**

26. The papers before the Committee included a copy of the Mr Zubair's PER. The date on which his POs were submitted to Mr A for approval was 24 March 2017 and the date on which they were approved is given as 25 March 2017.
27. The Committee were satisfied that the fact this record was in ACCA's possession and had resulted in Mr Zubair being granted membership of the Association showed that Mr Zubair had submitted or caused this record to be submitted, and furthermore that this was done on or about 24 March 2017.
28. The Committee went on to consider, as alleged in Allegation 1(a), whether Mr A either did not or could not have supervised Mr Zubair's practical experience training in accordance with ACCA's requirements, as set out in ACCA's PER Guidance.
29. In the Committee's view, the following factors were significant.
30. Mr A had only become an ACCA member in September 2016, which was close to the end of Mr Zubair's training cycle. There was no evidence that either of them had ever worked together. Indeed, Mr A told the Disciplinary Committee at his hearing in January that he was not employed in the same firm as any of the 52 trainees whose POs he had approved. Mr Zubair also accepted in his email to ACCA sent on 15 February 2020 that they had never worked together. The guidance makes it clear that supervisors, though they do not need to work at the same company as the trainee, need to be involved from the outset of training and discuss, agree and review POs on an ongoing basis.
31. The Committee noted in particular answers 1, 2 and 3 given by Mr Zubair in that email to ACCA (which are reproduced in paragraph 21 of this decision above). Mr Zubair accepted that his personal contact with Mr A was limited to a couple of meetings in cafeterias where they discussed '*tax, politics and sport*'.
32. Further, Mr A had been found by a panel of this Committee in January 2021 to have falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Zubair.
33. The Committee was satisfied, on the basis of the evidence referred to above, that Mr A both did not act as Mr Zubair's PER Supervisor and that he could not have done so.

34. The Committee therefore found Allegation 1(a) proved.
35. Allegation 1(b) alleged that Mr Zubair, in submitting his PER, purported to confirm that he had achieved PO3, PO4, PO8 and PO16. The Committee were taken to all four of these POs, which were part of Mr Zubair's PER.
36. The Committee was satisfied, on the evidence before it, that Mr Zubair purported to confirm he had completed those POs. It therefore found Allegation 1(b) proved.

## **Allegation 2**

37. The Committee had found, in respect of Allegation 1(a), that Mr A did not act and could not have acted as Mr Zubair's supervisor to supervise his practical experience training. Given the PER guidance that was available to Mr Zubair, he knew that Mr A was not an appropriate PER Supervisor for the purposes of his application for membership of ACCA.
38. Therefore, the Committee found, as alleged in Allegation 2(a), that Mr Zubair had sought to confirm to ACCA that Mr Zubair was his PER Supervisor when he knew that to be untrue.
39. The Committee was further satisfied that, by doing so, Mr Zubair's actions were dishonest by the standards of ordinary and decent people. It therefore found Allegation 2(a) proved.
40. The Committee went on to consider whether Mr Zubair had submitted POs 3, 4, 8 and 16 to ACCA knowing that he had not achieved the performance objectives in question.
41. The Committee considered the written decision of the Disciplinary Committee in Mr A's case. It was satisfied that, whilst the record is not binding on this Committee, it was a formal record of disciplinary proceedings and therefore it was appropriate to give weight to its contents. It also noted that the account given by Mr A to the Disciplinary Committee in January 2021 accorded in key respects with the account given by Mr Zubair to ACCA in his email of 15 February 2020. In particular, both agreed that Mr A had provided a template to assist in the completion of the PO statements.

42. The Committee also noted that the decision of the Disciplinary Committee in January 2021 included the following summary of the evidence given to it by Mr A:

*'Mr A said that he accepted that he had acted negligently in helping ACCA trainees whose line managers would not assist them in completing their PER. He stressed that the trainees were not able to find anyone who would support their work experience and PO statements. He said that he had advised the trainees that they needed to write their own statements and he had given them copies of his templates of his statements as examples. He said if they had not written the statements on their own then that showed a lack of motivation on their part.'*

*'Mr A said that he had provided the trainees with a 'template' that he had written in relation to his own work experience and had told them to write the statement in their own words and according to their own work experience. He said he now realised that he should not have given them the template. Mr A also accepted that he should not have approved the trainees' POs but said that was the only option for the trainees to get ACCA membership.'*

43. Of significance, in the Committee's view, was the fact that Mr Zubair had submitted POs which were identical to those submitted by other trainees whose PER Supervisor had been Mr A. Mr Zubair's PO3, PO4 and PO8 were each identical to one other person's submission. His PO16 was identical to one submitted by three other trainees. It is clear that each PO should be unique to the trainee in question. The Committee accepted ACCA's submission that there can be no innocent explanation for these similarities.
44. The Committee was satisfied that Mr Zubair had not achieved POs 3, 4, 8 and 16 and, furthermore, that he clearly knew he had not done so when he submitted his PER to ACCA. Given that these were submitted in order to obtain ACCA membership, his conduct would be regarded as dishonest by ordinary and decent people. The Committee therefore found Allegation 2(b) proved.
45. Having found Allegations 2(a) and 2(b) proved, there was no need for the Committee to consider the alternative Allegation 2(c).

### **Allegation 3**

46. Having found Allegations 2(a) and 2(b) proved, there was no need for the Committee to consider the alternative Allegation 3.

### **Allegation 4**

47. The Committee was satisfied that dishonestly claiming that Mr A was his PER Supervisor and submitting false POs to ACCA in order to gain membership of the Association amounted to misconduct. It would be considered deplorable by fellow members of the profession and the public alike, and it brought discredit to Mr Zubair, to ACCA and to the accountancy profession.
48. The Committee therefore found Allegation 4 proved.

### **SANCTION AND REASONS**

49. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions 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.
50. The Committee took into account that no previous disciplinary findings had been made against Mr Zubair. It accepted that there had been some engagement from Mr Zubair, in particular that he had provided an undertaking to ACCA not to hold himself out as a member. The Committee were not able to identify any other mitigating factors.
51. The Committee considered that a factor aggravating Mr Zubair's misconduct was that it was done in order to gain membership of ACCA. This had the potential to cause harm in that Mr Zubair obtained a professional accreditation that he was not entitled to. Further, in the Committee's view, this was calculated and deliberate dishonesty, and was motivated by personal gain.
52. Having found that Mr Zubair'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.

53. 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 an admonishment or a reprimand would adequately mark the seriousness of Mr Zubair's conduct. The Committee did not consider that a fine would be an appropriate penalty in the circumstances of the case.
54. Given the reputational harm that conduct of this nature causes, the Committee considered that Mr Zubair's behaviour was fundamentally incompatible with continued membership of ACCA. A severe reprimand would not adequately protect the public, given the clear risk of harm when a student or trainee obtains membership of a professional association without obtaining the appropriate qualifications. An exclusion was, in the Committee's view, the only appropriate and proportionate sanction.
55. Therefore, pursuant to CDR 13.1(c), Mr Zubair is excluded from membership of ACCA.

#### **COSTS AND REASONS**

56. ACCA applied for costs in the sum of £7,074.50. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
57. The Committee considered that in principle a costs order should be made in favour of ACCA. Mr Zubair had been given more than one opportunity to provide details of his financial circumstances but had not done so. The Committee therefore had not information justifying any reduction in costs on the grounds of hardship.
58. The Committee did however consider that some reduction should be made to reflect the fact that the hearing had not lasted a full day. Apart from that, the Committee considered the costs claimed were proportionate and had been reasonably incurred.
59. The Committee ordered Mr Zubair pay ACCA's costs in the sum of £6,512.50

## **EFFECTIVE DATE OF ORDER**

60. The Committee determined that it would be in the interests of the public for the order of exclusion to take immediate effect. Without the order in place he could hold himself out as a member of ACCA which means there is an ongoing risk to the public because he has not satisfied the training and experience requirements to be a member. Therefore, pursuant to CDR 20, the order excluding Mr Zubair from membership will take effect immediately.
61. Pursuant to CDR 20, the order for costs takes effect immediately.
62. Pursuant to CDR 12(5)(b), the Interim Order imposed on Mr Zubair is hereby rescinded.

**Mrs Helen Carter-Shaw**  
**Chair**  
**27 October 2021**