

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: **Mr Buti Zambezi**

Heard on: Thursday, 28 October 2021

Location: Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU

Committee: Ms Carolyn Tetlow (Chair)
Ms Sue Gallone (Accountant)
Ms Catherine Brown (Lay Member)

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and capacity:** Mr Benjamin Jowett (Case Presenter)
Mr Jonathan Lionel (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a) and 2(b) and misconduct found proved. Member excluded from Register and costs ordered.

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Mr Zambezi. Mr Zambezi did not participate in the hearing.

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2. The papers before the Committee were in a bundle numbered 1 to 233 pages. There was also a Pseudonymisation key of two pages, an additional bundle of 5 pages, a 17-page service bundle and a costs bundle running to four pages.
3. Given the absence of Mr Zambezi, 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 30 September 2021, thereby satisfying the 28-day notice requirement, which had been sent to Mr Zambezi’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 Zambezi’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 Zambezi’s absence, if considered appropriate. There was a receipt confirming the email had been sent to Mr Zambezi’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 Zambezi’s absence. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which require 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 Zambezi’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Zambezi, it should exercise that discretion with the utmost care and caution.

7. On 05 July 2021, Mr Zambezi completed and signed an ACCA Disciplinary Committee Case Management Form. In that form, he indicated he would not be attending the hearing, nor would a representative be attending on his behalf. He also indicated that he gave his consent for the hearing to proceed in his absence.
8. On 27 October 2021, there were a number of email exchanges between the Hearings Officer and Mr Zambezi, with the Hearings Officer explaining the timings of the hearing, the possibilities for Mr Zambezi to participate remotely via video link or telephone and that ACCA would bear the costs of any telephone call. Mr Zambezi indicated that he would have difficulty getting the time off work and also that he was unable to attend the hearing remotely via Microsoft Teams due to financial constraints in purchasing data. In his last email that day, Mr Zambezi stated, *“I can confirm the hearing can go ahead in my absence, as i can not get time off and adjournment is not the best option on this case.”*
9. The Committee noted that Mr Zambezi 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 Zambezi 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 Case Management Form, together with his more recent communication with the Hearings Officer in which he reiterated his contentment with the hearing proceeding in his absence, the Committee concluded that Mr Zambezi had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
10. 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 Zambezi. 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

11. Mr Jowett made an application to amend the Allegation by simply adding the words 'Mr Zambezi' at the start of the Allegation. Mr Jowett apologised for the absence of Mr Zambezi's name, but said this was simply an oversight and did not in any way prejudice Mr Zambezi.
12. The Committee accepted the advice of the Legal Adviser that it could amend the Allegation provided Mr Zambezi would not be prejudiced. The omission of his name was clearly an oversight and adding it would not prejudice Mr Zambezi. Accordingly, the Committee allowed the application.

ALLEGATIONS/BRIEF BACKGROUND

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

Mr Zambezi:

1. Submitted or caused to be submitted to ACCA on or about 27 August 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 25 February 2008 to 27 August 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 any or all the performance objectives claimed in his training record.
2. Mr Zambezi's conduct in respect of the matters described in allegation 1 above was:-

- a) In respect of allegation 1a, dishonest, in that Mr Zambezi 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 Zambezi knew he had not achieved any or all the performance objectives referred to in paragraph 1 above as described in 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 in 2017.
 3. In the further alternative to allegations 2a and 2b 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 had been achieved as set out in the corresponding objective statements or at all.
 4. By reason of his conduct, Mr Zambezi 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.
14. Mr Zambezi registered as an ACCA student in 2010. He sat his first exam in June 2010, passed his last exam in June 2016.

15. 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").
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"). 36 months work experience in one or more accounting or finance-related roles, which is verified by a PES. 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 by ACCA and updated from time to time, including in 2016.

20. In the period May 2008 to August 2017, Mr Zambezi worked as an Assistant Internal Auditor at the [PRIVATE]. He said his workplace supervisor was a Mr B, the Chief Internal Auditor, who, it transpired, was not qualified to be Mr Zambezi's PES.
21. Mr Zambezi 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.
22. On 08 September 2017, Mr Zambezi became a member of ACCA.
23. ACCA subsequently carried out an investigation into Mr A and those he had purported to supervise.
24. When asked by an ACCA Investigations Officer, in an email dated 13 February 2020, about the content of his POs and whether any of them had been altered by Mr A, Mr Zambezi responded:
 - “1. *Yes, at that time I had read guide about PER, and the only thing I was not sure of was the how it should be structured, that should it be like an essay? This was the information I was not sure of.*
 2. *Mr [B] was my line manager for about 3 years, we worked together at Ministry of Agriculture, Mr [B] was not an IFAC accountant at the time and had Bachelor's Degree in Finance. Currently Mr [B] retired from public service and am trying my best to locate him to assist me in providing evidence to you sir that he was indeed my supervisor at that time. He was posted to work with Ministry of Foreign affairs that's where he retired. I have tried to get his payslip and employment number while he was working in civil service, this is just to show that we were indeed serving together in civil service. I am just keeping my fingers crossed that I will be able trace him and he will be coopertive (sic) and understanding.*

3. *The time I shared my details with this person I had already saved some of my objectives and some were in soft copy of which am sure I sent them through whatsapp if I am not mistaken though time has passed that's as far as I can remember. This was just for him to read and advices (sic) me if I am going towards the right direction as I was afraid that after them being submitted I might fail.*
4. *On PER 4 objective (e) there was no this section "I obtained updated "SECP"(Security Exchange Commission of Pakistan) requirement from SECP website and "FBR (Federal board of Revenue)" requirement from FBR Website," that why I said it was edited without my authorization. And I don't write where I work as company, I usually call it as Department.*
5. *As I said on my earlier response, I met this person on Facebook ACCA P5 group which we used to teach each other and sharing ideas on how to study and tips. I have tried to go back to the group and see last postings but I can't trace him. I quite sure I had his whatsapp number, but I have failed to get it, maybe due to the fact that I have changed handsets for the previous years. Currently I have completely lost hope and I didn't know that this will mess up my career.*
6. *I ignorantly provided my password and other details as I thought nothing malicious can happen and it didn't came (sic) to my thinking that I was doing something unethical. I know I did something wrong to the professional (sic) I apologise for this, it wasn't intentional.*
7. *I remember to have clicked the submission button, though time has passed but am sure it was me.*
8. *On not seeing Mr [A's] details I accept to have not gone through my PER again and review them, I don't know whether it was over excitement on my part that things were ok but I admit I made a gross mistake and incompetently. I didn't think of what am submitting will bring (sic), I was negligent, after all the hard work to become qualified, it seems I committed a silly mistake.*

9. *I agree PER is one way of showing what you are putting into practice, materials we learnt theoretically and completing them satisfactory (sic) is very important.”*
25. In a statement provided to ACCA and dated 06 October 2020, Mr Zambezi confirmed that (at that time) he was currently working for the Malawi [PRIVATE] as an Internal Auditor. He said that whilst sitting his ACCA exams he joined various chat room forums on Facebook about ACCA, sharing ideas with other forum members on how to study and things to do with ACCA. He added that when he had finished his last exam, he posted a question in one of the on-line forums about how to go about completing his PER, because at the time he did not have any understanding or information about how it was done. He went on to say:

“My original PER supervisor was Mr [B], who was the [PRIVATE]. Whatever work I was doing he was supervising. He was the one observing and therefore able to verify what I was doing based on those observations. When I was doing my PERs I discussed with him what I was doing this (sic) and that I wanted to include a description of that work in my PER. He said go ahead. I therefore entered Mr [B's] details on to ACCA's system as my PER supervisor.

At the time I did not know that my supervisor had to be an IFAC qualified accountant. I thought it could be anyone who had accountancy knowledge and experience like Mr [B] who had an accountancy degree and many years of accountancy experience. I saw Mr [B] every day and we worked in the same building. I only found out that he could not be PER supervisor when I was contacted by ACCA Investigations in January 2020 about my PER.

I remember there were a lot of people on Facebook trying to give me advice about how to sort out my PER problem. It was then that I received a message from Mr [A] who asked me what my problem with my PER was. I explained to him that I wanted clarification as to how the process worked.

Mr [A] told me to send him what I had done, and he would look at it for me. I did not know Mr [A] or where he was located. I just assumed he was one of the students participating in the forum who was perhaps a P5 student like me who had completed their PER and had experience of dealing with ACCA. He was using the surname [A] and we had contact via Facebook and possibly WhatsApp as far as I can remember now. We never actually spoke to each other - we just communicated online. This was in 2017.

Mr [A] asked me for and I provided to him, my ACCA user ID and passcode so he could access what I had written for my PER. I was worried that if I submitted something which was not correct I would not meet the PER requirements.

I now realise it was a mistake to give Mr [A] access to my ACCA account, because, about a week or two later, Mr [A] sent me a message saying that what I had written was OK. I then logged into my account and submitted my PERs. I did not check the Performance Objectives before submitting them, because I had no reason to suppose, they had, as I explain below, been changed by Mr [A].

I think at the bottom of the screen I had to tick box confirming the PER is complete. After this I received automated messages from ACCA saying that my PER was complete and subsequent to this I was confirmed as an ACCA member. I did not have any contact with Mr [A] after this. I did not pay him or anyone else any money in return for completing my PER.”

26. Mr Zambezi went on to say that it was only when he was contacted by ACCA in 2020 that he noticed some changes had been made to his POs. He said, “*I honestly do not know why Mr [A] made these changes to my Performance Objectives.*” He went on to say that when being confirmed as a member of ACCA he did not realise there was anything wrong with his PER. He added that he did not have a copy of his PER before he sent it to Mr [A] and no longer has any copies of the messages from the Facebook forums or WhatsApp messages because he changed his phone in 2017.

27. On 11 March 2021, Mr Zambezi was asked, in an email sent by the Investigations Officer about his PO2, PO3, PO5 and PO19 statements being the same as other trainees who had claimed they were supervised by Mr A, and about his PO6, PO7 and PO8 statements being the same as the PO9, PO10 and PO11 statements of other trainees who claimed to have been supervised by Mr A. In an email dated 17 March 2021, Mr Zambezi responded saying:

"I have read the letter and other attached documents regarding the PER's which were similar to other students in which [Mr A] represented them as supervisors. I have read through all of them, and I can confirm that those were not what I have achieved during my working experience.

I have been working since 2008 and over the years I have accumulated different experiences but those were replaced with what I presented to be checked by [Mr A]. I acknowledge the mistake that I made, and I apologise to the ACCA body for my negligence and unprofessional behaviour.

If I could be given the chance to write my PER's I can do that, as I know i have really gained the experience that i can present to the institute.

I regret the path I took, as it has affected my career as I can not use the qualifications I earned after sacrificing my family time and money. Once again, am sorry for my actions and am thankful through this case I have learnt many things about the profession."

28. 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 Zambezi, 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 Zambezi, in accordance with ACCA's PER;

- improperly assisted 52 ACCA trainees, including Mr Zambezi, 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.
29. Mr A's conduct was found to have been dishonest and he was excluded from membership of ACCA.

DECISION ON FACTS/ALLEGATION AND REASONS

30. 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 Zambezi during the course of the investigation and the contents of the Case Management Form.

Allegations 1 (a) & 1(b) - proved

31. On his Case Management Form, Mr Zambezi was asked if he admitted any of the allegations. He ticked the yes box and wrote:

"I admit that according to ACCA regulations I registered a supervisor who is not IFAC registered, but I did not know this at the time of registering up to the time

the case was opened, when I was told the supervisor should have been an IFAC member.”

32. It was not clear, however, what this was an admission to and accordingly the Committee approached the case on the basis that all matters required proof by ACCA.

33. In the additional 5-page bundle provided on 27 October 2021, but relating to a document provided in 2020, Mr Zambezi said:

- “1. I do not know this person called Mr [A] and I did not register him as my supervisor. I remember during this time when I was writing my PER I was confused about the format and presentation of what I have learnt in each objectives (sic). That time I was in different ACCA groups on facebook, and I remember to have asked colleagues (sic) on the groups on how do they present their PER and how it is assessed. I remember there was a certain man, I have forgotten the name he was not using the name Mr [A] and I have forgotten the name, who said he can help me to see how I have written it, that time I had recorded them but I did not I had not yet submitted them, and I remember to have provided him with my ID number and password, since I felt nothing malicious can happen. After some few days he said he have seen them and are ok. So, I just submitted without rechecking them. When I received your email informing me about this case I tried to go back to my old email, and I have seen that my account was changed Mr [A] was registered as my supervisor and unfortunately I didn't notice about this change and email. The supervisor I was working under is Mr [B] and that's the one I dully registered on the system. I know things are messed up big time, as I did not verify my own account see what is happening.*
- 2. Mr [A] did not supervise me I was under the supervision of Mr [B].*
- 3. I cannot provide documentation in relation to Mr [A] as I have provided the explanation above.*

4. *I have attached the offer letter of my employment and copy of my payslip*
 5. *During the recording of my PER, I wrote the all what I learnt on the objective and saved before submitting them (sic). When I got the message that I have properly written them as they should be, I started submitting them.*
 6. *I have gone through the PER which I submitted, and I have observed that some of the contents were edited, not the way would have wanted it to be. I wrote my own statements, though time has passed, it seems the person I provided with my ID and password altered the (sic) without noticing me or my consent.*
 7. *I wrote the PER myself and I was not helped*
 8. *As far as I can remember, am sure I was the one pressing the submission button.*
 9. *As far as I can remember I did not pay anyone on PER issue”*
34. He went on to say:
- “I admit, I made a mistake by providing my ACCA ID and password for someone to access my account and go through my private information without thinking such thing can happen and I did mistake by not making sure that everything is as it should be in my account. I did intend to be dishonest to the professional and breach the principal of intergrity.” [sic]*
35. The Committee was satisfied that Mr Zambezi meant to say he did not intend to be dishonest or to have breached the principle of integrity.
 36. The Committee considered there was ample evidence to prove that Mr Zambezi had submitted or caused to be submitted to ACCA, on or about 27 August 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 25 February 2008 to 27 August 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 any or all the performance objectives claimed in his training record.
37. The Committee was provided with a copy of Mr Zambezi's PER training record, which was submitted on 27 August 2017. It recorded Mr A as his PES for the period 25 February 2008 to 27 August 2017. On the evidence relating to Mr A the Committee was satisfied that Mr A did not supervise Mr Zambezi during this period. Mr A did not qualify as an ACCA member until September 2016, he was in [PRIVATE] not [PRIVATE] and Mr Zambezi said he did not know Mr A.
38. Furthermore, Mr Zambezi'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 fictitious accounts provided by Mr A. There was no evidence provided by Mr Zambezi to show that he had legitimately achieved the performance objectives claimed in his training record. He made reference to Mr B overseeing him for three years whilst at [PRIVATE], but no evidence was provided by Mr B, who in any event, according to Mr Zambezi, was not qualified to be his PES, so any such experience would not have qualified.
39. The Committee also noted that Mr Zambezi himself fully acknowledged and accepted that he had submitted his PER training record, albeit he said he did not check it after allowing Mr A access to it and he was unaware that Mr A had recorded himself as his, Mr Zambezi's, supervisor and changed the PO statements that he had written. He also admitted that the PO statements in his PER training record were not the ones he had written.
40. On the basis of this evidence, the Committee found Allegations 1 (a) and (b) proved.

Allegation 2 (a) & (b) - proved

41. The Committee then considered whether such behaviour was dishonest. The Committee considered what it was that Mr Zambezi had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. According to Mr Zambezi, he believed Mr A was simply checking the responses that he, Mr Zambezi, had already written and confirmed that they were fine. For this account to be true, the Committee would have to accept that Mr A, for no possible personal gain, had taken it upon himself to change many of Mr Zambezi's responses and replace them with stock responses, which he used for many other students, to also put himself down as Mr Zambezi's PES and never to mention these facts to Mr Zambezi. Mr A would also have to have taken the risk that Mr Zambezi might look at the PERs, notice the changes and query this with him. The Committee found such a sequence of events to be entirely implausible.

42. In his written submissions, Mr Zambezi said that in 2017 he had a problem with his PER. He said he had read the guide about PERs. He then gave his log in details to a complete stranger and then, on his account, did not check what the stranger had done before pressing the submit button. The Committee did not consider this to be a credible account. The Committee considered it an appropriate and reasonable inference to draw that Mr Zambezi knew he had a problem because he could not get his experience signed off by Mr B, who he knew was not an IFAC member at the time. Mr Zambezi had been unable to subsequently locate Mr B.

43. On the evidence, therefore, the Committee was satisfied, on the balance of probabilities, that Mr Zambezi was aware that Mr B was not an appropriate person to act as his PES and thus he needed to find an alternative PES in order for the PER training record to be approved. Mr Zambezi knew Mr A had not been his PES and so he could not legitimately rely on him. The Committee was satisfied that whilst Mr Zambezi may not have known exactly what Mr A was going to do, he must have known that he was going to do something dishonest on his, Mr Zambezi's, behalf in order for him to be able to submit his PER training record. Furthermore, Mr Zambezi was in [PRIVATE], whilst Mr A was

in [PRIVATE], some 5000 miles away, thus further confirming the impossibility of Mr A legitimately acting as Mr Zambezi's PES.

44. In addition, the Committee could not ignore the fact that Mr A had been found guilty of the dishonest conduct described in paragraph 28 above. This had included: improperly participating in, or being otherwise connected with, an arrangement to assist 52 ACCA trainees (including Mr Zambezi) 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.
45. The Committee could not know the precise mechanics of how the PO statements were completed. Mr A claimed in his case that he would send sample statements to trainees to make use of. Mr Zambezi said Mr A made the changes himself. Whatever process was followed, the only reasonable inference to be drawn was that Mr Zambezi was complicit in, and entirely aware of, Mr A's provision of false POs so that he, Mr Zambezi, could illegitimately qualify as an ACCA member. When asked by ACCA to look at the POs Mr Zambezi only highlighted one paragraph in PO 4 as being incorrect, when in fact there were eight POs that were copied from other students. When the question was raised by ACCA, Mr Zambezi must have known these POs were not the ones he had written and yet even then he did not admit this. Anyone reading those POs would see from a number of them that they did not relate to working [PRIVATE]. It was clear, therefore, that he could not have achieved any, or all of, the POs claimed in his training record and he would have known that. 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 2(a) and 2(b), on the balance of probabilities, proved.
46. Having found Allegation 2(a) and 2(b) proved it was not necessary for the Committee to consider Allegations 2(c) or 3, which were alleged in the alternative.

Allegation 4 - proved

47. Having found the facts proved in Allegations 1(a), 1(b), 2(a) and 2(b), the Committee then considered whether they amounted to misconduct. The Committee considered there to be sufficient evidence to show that Mr Zambezi, on realising that Mr B was not qualified to be his supervisor, sought the assistance of Mr A to provide false POs and to act as his PES in order to allow him, Mr Zambezi, to illegitimately qualify as a member of ACCA. This dishonest behaviour demonstrated a disregard for ACCA's membership process and allowed Mr Zambezi 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 Zambezi, the profession and ACCA. The Committee considered this behaviour to be very serious and was in no doubt it amounted to misconduct.

SANCTION AND REASONS

48. 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 Zambezi, 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.
49. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
50. The Committee considered the misconduct involved the following aggravating features: 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 Zambezi 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.

51. The Committee considered there to be the following mitigating factors: the absence of any previous disciplinary record with ACCA; Mr Zambezi's assistance to ACCA in providing evidence against Mr A; his apology, albeit for what he referred to as a 'mistake', rather than to acting dishonestly.
52. 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.
53. The Committee then considered whether to reprimand Mr Zambezi. 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 Zambezi'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. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.
54. 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.
55. 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 Zambezi's behaviour. His misconduct was intentional, and he has not demonstrated any insight into his dishonest behaviour. He has offered an apology, but not to acting dishonestly. He does have a previous good record, but there has been no evidence of rehabilitative steps and no references. It is fair to say Mr Zambezi did co-operate during the investigation stage.
56. 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."*
57. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Zambezi'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 upon a man who has apparently worked in a responsible position for a number of years. 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 Zambezi's dishonest conduct was such a serious breach of byelaw 8 that no other sanction would adequately reflect the gravity of his offending behaviour. In addition, it was not known if Mr Zambezi had the relevant practical experience to have ever become a member in light of the way he went about securing his membership.

58. 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.
59. The Committee therefore ordered that Mr Zambezi be excluded from membership.

COSTS AND REASONS

60. ACCA applied for costs in the sum of £8435.50 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. Mr Zambezi did not provide any formal details of his means or provide any representations about the costs

requested by ACCA, despite being sent a form to complete on two separate occasions. He did refer to having modest means, earning \$300 a month, but only provided a payslip from 2016. There was, therefore, no real evidential basis upon which the Committee could make any reduction on that ground.

61. The Committee therefore made an order for costs in the full sum requested, namely £8435.50.

EFFECTIVE DATE OF ORDER

62. In light of its decision to exclude Mr Zambezi 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.
63. The Committee ordered that the interim order in respect of Mr Zambezi shall be rescinded.

Ms Carolyn Tetlow
Chair
28 October 2021

