

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Ms Maream Ebrahim Ali Mohamed Abdali Ebrahim</b>
<b>Heard on:</b>	<b>Tuesday, 26 April 2022</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 Kathryn Douglas (Chair) Mr George Wood (Accountant) Mr Nigel Pilkington (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Robin Havard (Legal Adviser)</b>
<b>Persons present and capacity:</b>	<b>Ms Afshan Ali (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)</b>
<b>Observers:</b>	<b>Mr William Matthews (Appointments Board) Mr Akbar Khan (Appointments Board)</b>
<b>Summary</b>	<b>Removed from the student register</b>
<b>Costs:</b>	<b>Student member to pay costs to the ACCA in the sum of £6,000.00.</b>

#### ACCA



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## **PRELIMINARY APPLICATIONS**

### **SERVICE OF PAPERS**

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 103), a video recording of the exam session on 07 December 2020, and a service bundle (pages 1 to 18). The Committee had also considered legal advice which it had accepted.
2. The Committee had read the letter dated 28 March 2022 containing the Notice of Proceedings, sent on the same day by ACCA by email to Ms Abdali Ebrahim. It had noted the subsequent emails sent to Ms Abdali Ebrahim with the necessary link and password to enable Ms Abdali Ebrahim to gain access to the letter and the documents relating to this hearing.
3. The Committee was satisfied that such emails had been sent to her registered email address in accordance with Regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("*CDR*"). The Committee had noted that the emails had been delivered successfully. The emails and the documents to which Ms Abdali Ebrahim had access also contained the necessary information in accordance with CDR10.
4. Consequently, the Committee decided that there had been effective service of proceedings on Ms Abdali Ebrahim in accordance with CDR.

### **PROCEEDING IN ABSENCE**

5. On 25 April 2022, in the absence of any response from Ms Abdali Ebrahim to the email of 28 March 2022, ACCA sent another email to her at the same email address asking her to respond and reminding her of the date of hearing. The email had been delivered successfully. However, Ms Abdali Ebrahim did not reply.

6. Later that same day, ACCA sent a further email to Ms Abdali Ebrahim providing her with the link to enable her to join this hearing and informing her once again of the time at which the hearing was due to start. There was no reply.
7. ACCA also tried on two occasions on 25 April 2022 to telephone Ms Abdali Ebrahim on the number registered with ACCA but there was no reply.
8. The Committee was satisfied that ACCA had done everything possible to engage Ms Abdali Ebrahim in the hearing but, in the absence of any response, the Committee concluded that she had no intention of participating in the hearing, nor had she requested an adjournment.
9. The Committee found that Ms Abdali Ebrahim had received the emails from ACCA informing her of the hearing and giving her access to the documents containing the evidence on which ACCA relied in support of the allegations. The Committee concluded that, in the absence of any response to all attempts made by ACCA to engage with her, Ms Abdali Ebrahim had voluntarily absented herself from the hearing, which she could have joined by telephone or video link. She had therefore waived her right to attend.
10. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made. Finally, the Committee considered that it was in a position to reach proper findings of fact on the evidence presented to it by ACCA, to include the written response provided by Ms Abdali Ebrahim in her email to ACCA of 24 December 2020.
11. The Committee ordered that the hearing should proceed in the absence of Ms Abdali Ebrahim.

## ALLEGATIONS

Ms Maream Ebrahim Ali Mohamed Abdali Ebrahim, (*Ms Abdali Ebrahim*) a student member of the Association of Chartered Certified Accountants ('ACCA'):

1. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Ms Abdali Ebrahim failed to co-operate with the investigation of a complaint, in that she did not respond to any or all of ACCA's correspondence dated:
  - a) 05 May 2021;
  - b) 01 June 2021;
  - c) 18 June 2021;
  
2. On 07 December 2020, during and in relation to an FA1 Recording Financial Transactions examination (the 'Exam'):
  - a) Had on her person, and/or within arm's reach, a headset, contrary to Examination Regulation 1 and the Examination Guidelines;
  - b) Contrary to Examination Regulation 2, failed to follow the instruction of the proctor to:
    - i) Not wear a headset; and/or
    - ii) Desist from looking away from the screen.
  
3. By reason of her conduct in respect of any or all of the matters set out at Allegations 1 and 2, Ms Abdali Ebrahim is:
  - a) Guilty of misconduct pursuant to byelaw 8(a)(i); or, in the alternative,

- b) Liable to disciplinary action pursuant to byelaw 8(a)(iii).

## **DECISION ON FACTS, ALLEGATIONS AND REASONS**

### **Allegation 1**

- 12. In reaching its findings in respect of allegation 1, the Committee relied upon the email correspondence and documents contained in ACCA's bundle and noted the Incident Report provided by the Proctor (i.e. a remote exam Invigilator). The Committee had listened to the submissions of Ms Ali. The Committee also listened to legal advice, which it accepted.
- 13. On 24 November 2020, ACCA registered Ms Abdali Ebrahim as a student. As such, the Committee found that she was bound by ACCA's byelaws and Regulations.
- 14. On 07 December 2020, Ms Abdali Ebrahim took her on-demand FA1 Recording Financial Transaction examination (the 'Exam') remotely. The Proctor (remote exam Invigilator) filed a complaint in the form of an Incident Report in respect of conduct observed during the Exam. The Proctor had noted that Ms Abdali Ebrahim was frequently looking off screen and using a headset. She was advised in the course of the examination that this was not permitted and to refrain from doing so.
- 15. An investigation was commenced. The Committee had made findings in respect of that investigation under allegation 2 below.
- 16. On 14 December 2020, ACCA sent to Ms Abdali Ebrahim the Proctor's Incident Report and asked for her comments on its content, stating that the case would be referred to ACCA's Professional Conduct Department for further investigation.
- 17. On 24 December 2020, Ms Abdali Ebrahim responded, disputing the findings contained within the Incident Report, setting out her explanation. Whilst the

email address was not clear on the document, ACCA confirmed, and the Committee found, that the address was the same address as that contained on ACCA's register. It was also sent as a response to ACCA's email of 14 December 2020.

18. On the same day, ACCA responded stating that it was unable to comment on her case whilst it was being investigated but that the Investigations team would be in contact with her in due course.
19. On 05 May 2021, ACCA sent an email to Ms Abdali Ebrahim's registered email address. A letter was attached to the email, informing her of the complaint. It was a detailed letter. It set out the evidence collated by ACCA of what had taken place during the course of the online examination and contained a series of questions for Ms Abdali Ebrahim to answer. It also included the Incident Report as an appendix. ACCA stated that it would require a response by 26 May 2021. Finally, it emphasised, under the heading, "*Duty to co-operate*", that under CDR3(1), Ms Abdali Ebrahim had a duty to cooperate and a failure to do so may render her liable to disciplinary action. No response was received.
20. On 27 May 2021, ACCA sent an email to Ms Abdali Ebrahim's registered email address chasing a response to ACCA's email and letter of 05 May 2021. No response was received.
21. On 01 June 2021, ACCA sent another letter to Ms Abdali Ebrahim's registered email address reminding her of her obligation to co-operate with the investigation and seeking her response. An error was made in this letter as the deadline was stated to be 15 May 2021 instead of 15 June 2021. A follow up email was sent on the same day asking Ms Abdali Ebrahim to confirm whether she had received and read the 05 May and 01 June 2021 emails. No response was received.
22. On 16 June 2021, ACCA sent a further email to Ms Abdali Ebrahim's registered email address asking her to confirm whether she had received ACCA's previous correspondence and advised that she was required to respond. Again, no response was received.

23. On 18 June 2021, ACCA sent a final letter to Ms Abdali Ebrahim's registered email address reminding her again of her obligation to co-operate and again seeking her response by 25 June 2021. A screenshot was taken of Ms Abdali Ebrahim's email address on the same day the final letter was sent out. A follow up email was also sent with this correspondence, asking her to respond. No response was received.
24. On 04 August 2021, ACCA sent an email to Ms Abdali Ebrahim's registered email address. It included the previous correspondence to which Ms Abdali Ebrahim had not responded. It also stated that Ms Abdali Ebrahim would be provided with a link to the video footage from her examination, to enable her to review the footage and provide any comments. On 04 August 2021 Ms Abdali Ebrahim was sent the link to the video footage. Again, no response was received.
25. On the basis of the evidence, the Committee was satisfied that the emails of 05 May 2021, 01 June 2021 and 18 June 2021 had been sent to the registered email address of Ms Abdali Ebrahim and that they had been delivered successfully. The Committee was also satisfied that Ms Abdali Ebrahim had failed to respond to those emails. The Committee found that this represented a failure by Ms Abdali Ebrahim to cooperate with the ACCA investigation. Indeed, she had been warned by ACCA in the correspondence that she had a duty to cooperate with ACCA and that there was a requirement for her to respond. Therefore, the Committee found the facts of allegation 1 proved.

### **Allegation 2(a)**

26. In reaching its findings in respect of allegation 2, the Committee relied upon the documents contained in ACCA's bundle, the Incident Report provided by the Proctor, the video footage, and the evidence of Ms Q. The Committee had listened to the submissions of Ms Ali. The Committee also listened to legal advice, which it accepted.
27. Examination Regulation 1 provides as follows:

*"You are required to adhere at all times to the examination regulations. If you are found to be in breach of any of these regulations or fail to adhere to the guidelines below, you may become liable to disciplinary action, pursuant to ACCA Bye-law 8, which could result in your removal from the student register."*

28. Before the commencement of the examination, the Examination Guidelines were displayed on Ms Abdali Ebrahim's screen. The relevant Guideline is set out below.

***"EXAMINATION GUIDELINES***

***Before the Examination***

***Proctored Exam***

*The exam can be attempted at home or in your office. Wherever you choose to sit the exam, you should be in a walled room, with a closed door and without distractions.*

*Before the examination start, you must ensure you follow the instructions below:*

- Ensure you are not disturbed by anyone.*
- Disconnect extra monitors, projectors and televisions.*
- Place food and smoking equipment out of sight.*
- Move electronic devices, headphones and watches out of arm's reach."*

29. Having examined the video footage of Ms Abdali Ebrahim sitting her exam on 07 December 2020 and the screenshots taken from the video and contained within the bundle, the Committee was satisfied that, in the period from the start of the video to 27 minutes and 12 seconds (27:12), which related to the period prior to the start of the exam, she can be observed wearing headphones.



30. The Exam began approximately 27:30 into the video footage. On various occasions during the Exam, for example between 57:01 - 57:32, 1:12:13 - 1:13:25, 1:15:23 - 1:15:58, the Committee observed Ms Abdali Ebrahim picking up and wearing headphones which were within her arm's reach.
31. The Committee was satisfied that, based on the Guidelines set out above, such conduct was in breach of Examination Regulation 1.
32. The Committee noted that in the one email received from Ms Abdali Ebrahim on 24 December 2020 which was in response to ACCA's email of 14 December 2020, she made no mention of the headphones.
33. In the absence of any explanation, and based on its findings of fact, the Committee found allegation 2(a) proved.

**Allegation 2(b)(i)**

34. The Committee found that, at approximately 1:43:11 in the video footage of Ms Abdali Ebrahim's Exam, the chat logs of the exam session showed Ms Abdali Ebrahim being told by the Proctor "*dont use the headset please*" (sic).
35. Despite these instructions, the Committee found that, based once more on the video footage and the screenshots taken from the video footage contained within the bundle, between approximately 1:43:32-2:04:30, Ms Abdali Ebrahim was seen intermittently wearing headphones.
36. Examination Regulation 2 states as follows:

*"You are required to comply in all respects with any instructions issued by the exam supervisor/s, invigilator/s, proctor/s, and any ACCA personnel before, during and at the conclusion of an exam. Failure to comply with these instructions may result in the termination of your examination and potential disciplinary procedures being invoked."*

37. In her email of 24 December 2020, it was claimed by Ms Abdali Ebrahim that she had not been warned by the Proctor. At that stage, she had not been asked about the headphones. However, as stated above, the Committee was satisfied that the chat log established that such a warning had been given by the Proctor and that Ms Abdali Ebrahim had worn the headsets after the instruction had been given.
38. The Committee was satisfied that Ms Abdali Ebrahim's failure to comply with the warning issued by the Proctor amounted to a breach of Examination Regulation 2. Ms Abdali Ebrahim had failed to follow the instruction of the Proctor as she continued to use the headphones despite being told not to use them.
39. The Committee found allegation 2(b)(i) proved.

**Allegation 2(b)(ii)**

40. The Committee found that, approximately 1:54:57 into the video, the chat logs showed that Ms Abdali Ebrahim was told by the Proctor that looking offscreen was not permitted during the exam and to refrain from looking off-screen.
41. However, following this warning and instruction, and on considering the video footage of Ms Abdali Ebrahim's exam and the screenshots taken from that video contained in the bundle, the Committee found that, between approximately 1:57:36-2:05:31 in the video footage of the Exam, Ms Abdali Ebrahim was intermittently looking offscreen in contravention of the instruction from the Proctor.
42. Again, the Committee was satisfied that this conduct was in breach of Examination Regulation 2.
43. On this basis, the Committee found allegation 2(b)(ii) proved.

**Allegation 3(a)**

44. In respect of allegation 1, the Committee had found that, despite ACCA providing a number of reminders of her obligation to cooperate and warnings of potential consequences of her failure to do so, Ms Abdali Ebrahim had failed persistently to cooperate with ACCA and to respond to correspondence.
45. The need for members, including student members, to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to ensure proper standards of conduct; protect the public, and to maintain its reputation was seriously compromised.
46. As for allegation 2, it was also of critical importance that, in the course of taking an examination, a student must at all times adhere to the Guidelines and follow any instruction given by those responsible for ensuring that the exam is conducted in a fair manner.
47. However, no allegation had been made by ACCA that Ms Abdali Ebrahim had attempted to gain an unfair advantage but had restricted the allegation to one of breaches of the regulations. On this basis, the Committee did not find that the conduct of Ms Abdali Ebrahim alleged in allegation 2, of itself, reached the threshold of misconduct. Indeed, having listened to the recording of the dialogue when Ms Abdali Ebrahim was using of the headset, it appeared as if Ms Abdali Ebrahim may have been speaking to the Proctor as opposed to any unauthorised third party.
48. The Committee found that allegation 1 individually and allegations 1 and 2 taken together, amounted to conduct that brought discredit to Ms Abdali Ebrahim, ACCA and the profession.
49. The Committee found allegation 3(a) proved.

**Allegation 3(b)**

50. On the basis that this allegation was pleaded in the alternative to allegation 3(a), the Committee made no finding in respect of it.

## **SANCTION AND REASONS**

51. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had also listened to legal advice from the Legal Adviser which it accepted.
52. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
53. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
54. The Committee considered whether any mitigating or aggravating factors featured in this case.
55. The Committee accepted that there were no previous findings against Ms Abdali Ebrahim. However, the Committee took into consideration the fact that this was the first exam taken by Ms Abdali Ebrahim and she had only been a student member since 24 November 2020 i.e. approximately two weeks before she sat the exam.
56. The Committee had no information regarding the personal circumstances of Ms Abdali Ebrahim nor had it been provided with any testimonials or references as to Ms Abdali Ebrahim's character.
57. The Committee noted that Ms Abdali Ebrahim had engaged with the process to the extent that she had provided an initial response to ACCA on 24 December 2020 but was concerned that this represented the extent of her engagement. Ms Abdali Ebrahim had not shown any insight into the

seriousness of her conduct in failing to respond to ACCA nor had she expressed any remorse.

58. As for aggravating features, the Committee repeated that, in failing to engage with ACCA during its investigation and in these proceedings, Ms Abdali Ebrahim had shown neither insight nor contrition.
59. On the basis of its findings, the Committee concluded that neither an admonishment nor a reprimand would represent a sufficient and proportionate outcome. Neither sanction would adequately reflect the seriousness of the Committee's findings.
60. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, and reflecting on the criteria suggested in the Guidance, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
61. Ms Abdali Ebrahim had failed persistently to cooperate with her regulator, ACCA, in respect of an investigation of potentially serious allegations. Her lack of engagement, not only in relation to the investigation of her conduct during an exam but also in relation to these proceedings, represented conduct which was fundamentally incompatible with being a student member of ACCA. Her lack of engagement since December 2020, and her failure to show any insight or contrition for her lack of cooperation, led the Committee to conclude that, currently, there was no guarantee that Ms Abdali Ebrahim would behave in a manner expected of a member of ACCA.
62. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Ms Abdali Ebrahim from the student register but could find none.
63. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Ms Abdali Ebrahim shall be removed from the student register.

## **COSTS AND REASONS**

64. The Committee had been provided with a costs schedule (pages 1 to 5) relating to ACCA's claim for costs.
65. The Committee concluded that ACCA was entitled to be awarded costs against Ms Abdali Ebrahim, all allegations having been found proved. The amount of costs for which ACCA applied was £6,473.50. The Committee did not consider that the claim was unreasonable, but the hearing had taken less time than estimated.
66. Ms Abdali Ebrahim had not provided ACCA with any documentary evidence of her means. The Committee was satisfied that, in the correspondence sent to her, Ms Abdali Ebrahim had been warned at the outset of the importance of providing details of her financial circumstances and of ACCA's intention to apply for costs.
67. In the absence of any information from Ms Abdali Ebrahim, the Committee approached its assessment on the basis that she was able to pay any amount of costs awarded against her.
68. In all the circumstances, and in exercising its discretion, the Committee considered that it was reasonable and proportionate to award costs to ACCA in the reduced sum of £6,000.00.

## **EFFECTIVE DATE OF ORDER**

69. The Committee had considered whether the order should have immediate effect. However, ACCA did not seek such an order and, taking account of Ms Abdali Ebrahim's removal from the student register, the Committee did not consider that she presented a risk to the public. It therefore concluded it was not in the interests of the public to make such an order.
70. The Committee decided that this order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

**Mrs Kate Douglas  
Chair  
26 April 2022**

