

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Miss Stacey Moto

**Heard on:** Friday, 02 December 2022

**Location:** Held Remotely by Microsoft Teams via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU

**Committee:** Ms Wendy Yeadon (Chair)  
Mr David Horne (Accountant)  
Ms Diane Meikle (Lay)

**Legal Adviser:** Ms Jane Kilgannon (Legal Adviser)

**Persons present  
and capacity:** Ms Afshan Ali (ACCA Case Presenter)  
Mr Jonathan Lionel (Hearings Officer)

**Summary:** Allegations 1(a), 2(a), 3 and 4(a) found proved.  
Removal from student register.

**Costs:** Miss Moto ordered to pay £5,868

#### ACCA



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1. The Disciplinary Committee (“the Committee”) convened to consider the case of Miss Stacey Moto (“Miss Moto”).
2. Ms Afshan Ali (“Ms Ali”) represented the Association of Chartered Certified Accountants (“ACCA”). Miss Moto did not attend the hearing and was not represented.
3. The Committee confirmed that it was not aware of any conflicts of interest in relation to the case.
4. The hearing was conducted remotely through Microsoft Teams.
5. In accordance with Regulation 11(1) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014 (“the Regulations”), the hearing was held in public.
6. The Committee had considered the following documents: a Memorandum and Agenda (pages 1 to 2); a Hearing Bundle (pages 1 to 59); an Additional Bundle (pages 1 to 3); and a Service Bundle (pages 1 to 13).

### **SERVICE OF PAPERS**

7. The Committee considered whether the appropriate documents had been served on Miss Moto in accordance with the Regulations.
8. The Committee noted the written notice of the hearing dated 03 November 2022 that had been sent by electronic mail (“email”) to Miss Moto’s registered email address on 04 November 2022. As the notice of hearing was sent by email, the Committee noted that service may be proved by confirmation of delivery of the notice, which had been provided to the Committee, and that the notice would be deemed as having been served on the day that it was sent, that is, 04 November 2022. The Committee was therefore satisfied that the notice of hearing had been served on Miss Moto on 04 November 2022, 28 days before the date of today’s hearing.

9. The Committee noted the contents of the notice of hearing and was satisfied that it contained all of the information required by the Regulations.
10. The Committee accepted the advice of the Legal Adviser, who referred it to Regulations 10 and 22 of the Regulations, and in particular, the requirement that notice of the hearing must be served no later than 28 days before the date of the hearing unless there are exceptional circumstances.
11. The Committee found that service of the notice of hearing had been effected in accordance with Regulations 10 and 22 of the Regulations.

#### **PROCEEDING IN ABSENCE**

12. Ms Ali made an application to proceed in the absence of Miss Moto.
13. The Committee, having satisfied itself that the requirements of Regulations 10 and 22 of the Regulations had been complied with, went on to consider whether to proceed in the absence of Miss Moto.
14. The Committee took into account the submissions of Ms Ali. The Committee accepted and took into account the advice of the Legal Adviser, who referred it to Regulation 10(7) of the Regulations, the ACCA document 'Guidance for Disciplinary Committee hearings' and the relevant principles from the cases of *R v Jones* [2002] UKHL 5, and *GMC v Adeogba and GMC v Visvardis* [2016] EWCA Civ 162.
15. The Committee bore in mind that its discretion to proceed in the absence of Miss Moto must be exercised with the utmost care and caution.
16. The Committee noted that ACCA had sent a notice of hearing and further correspondence to Miss Moto at her registered email address. It also noted that ACCA had made attempts to contact Miss Moto by telephone, using her registered telephone number, but that the call had not connected.
17. On the basis of the evidence set out above, the Committee was satisfied that ACCA had made reasonable efforts to notify Miss Moto about today's hearing

and that Miss Moto knew or ought to know about the hearing. The Committee noted that Miss Moto had not applied for an adjournment of today's hearing and there was no indication that such an adjournment would secure her attendance on another date. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously.

18. Having balanced the public interest with Miss Moto's interests, the Committee decided that it was fair and in the interests of justice to proceed in her absence.

### **BRIEF BACKGROUND**

19. Miss Moto became a student member of ACCA on 16 November 2018.
20. On 28 January 2021, Miss Moto sent an email to ACCA attaching two documents:
  - a. Provisional Result Notification for ACCA Computer Based Examinations – FMA-Management Accounting dated 17 May 2019 ("Document 1"); and
  - b. Provisional Result Notification for ACCA Computer Based Examinations – FAB-Accountant in Business dated 01 March 2019 ("Document 2").
21. On 01 February 2021, Miss Moto sent an email to ACCA stating "*Am changing school, so I was required to show exemptions. My documents are attached to this email*" and attaching further copies of Document 1 and Document 2.
22. On 05 February 2021, ACCA's Investigations Department received a referral from ACCA's Computer Based Exams ("CBE") Team asserting that the provisional exam result listed in Document 1 was not genuine. A CBE Delivery Manager stated that the result listed in Document 1 is a pass mark of 60%, whereas the exam information on Miss Moto's ACCA account shows a fail and a mark of 24%. Furthermore, the CBE Delivery Manager stated that Document 1 bears the term "*Successful Attempt*", whereas, if it were a genuine certificate, it would instead state "*Pass*".

23. ACCA contacted Miss Moto in relation to the allegation by email on:
  - a. 23 August 2021;
  - b. 14 September 2021; and
  - c. 15 October 2021.
  
24. The emails were sent to Miss Moto's registered email address and no email failure notice or auto-response was received by ACCA. ACCA did not receive any response to the three emails referenced above.
  
25. On 04 November 2021, ACCA attempted to contact Miss Moto in relation to the allegation by telephone using her registered telephone number, but the call did not connect.

## **ALLEGATIONS**

1. *Miss Stacey Moto ("Miss Moto"), a student of the Association of Chartered Certified Accountants ("ACCA"):*
  - a. *On 28 January 2021 and/or on 01 February 2021, submitted to ACCA, a false provisional exam result document dated 17 May 2019 purporting to be from the Academy For Career Enhancement ("the Document").*
  
2. *The conduct described at Allegation 1(a) was:*
  - a. *Dishonest, in that Miss Moto knew the Document was not genuine and/or intended to use the Document to mislead the ACCA; or, in the alternative*
  
  - b. *Failed to demonstrate integrity.*
  
3. *Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended and in force at the time), Miss Moto failed*

*to co-operate with the investigation of a complaint in that she failed to responds to any or all of ACCA's correspondence dated:*

- a. 23 August 2021;*
- b. 14 September 2021;*
- c. 15 October 2021.*

*4. By reason of the conduct described in any or all of the matters, Miss Moto is:*

- a. Guilty of misconduct pursuant to bye-law 8(a)(i); or in the alternative*
- b. Liable to disciplinary action, pursuant to bye-law 8(a)(iii).*

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

26. Ms Ali submitted that Document 1 was sent to ACCA from Miss Moto's registered email address. Therefore, it is reasonable to infer that the document was sent to ACCA by Ms Moto. Ms Ali stressed that the evidence of the CBE Delivery Manager indicates that the document was not genuine and the only person who could have benefited from the provision of the false document was Miss Moto herself. Ms Ali submitted that Miss Moto's conduct amounted to dishonesty on the basis that Miss Moto either knew, ought to have known or did not care that the document was false and that sending such a false document to ACCA would be regarded as dishonest by ordinary reasonable and honest people. Ms Ali submitted that if the Committee is not satisfied that Miss Moto's conduct set out at Allegation 1(a) was dishonest, it should find, in the alternative, that it lacked integrity.
27. Ms Ali submitted that the evidence provided proved that Miss Moto had received the letters sent to her on 23 August 2021, 14 September 2021 and 15 October 2021. She further submitted that, in failing to respond to the correspondence sent to her by ACCA, Miss Moto had breached Regulation 3(1) of the Regulations which provides that:

- a. Every Student Member is under a duty to cooperate with any **Investigating Officer** and any assessor in relation to the consideration and investigation of any complaint;
  - b. The duty to co-operate includes providing promptly such information, books, papers or records as the **Investigating Officer** or assessor may from time to time require; and
  - c. A failure or partial failure to cooperate fully with the consideration or investigation of a complaint shall constitute a breach of the Regulations and may render the Student Member liable to disciplinary action.
28. The Committee considered all of the documentary evidence before it and the submissions of Ms Ali.
29. The Committee accepted the advice of the Legal Adviser, which included reference to the applicable burden and standard of proof, and the interpretation of the terms dishonesty, integrity and misconduct.

**Allegation 1(a) - proved**

30. In relation to Allegation 1(a), the Committee noted that Document 1 had been sent to ACCA on 28 January 2021 and 01 February 2021 from Miss Moto's current registered email address and there was no evidence before the Committee to indicate that anyone else had access to that email account. The Committee also noted that the email address used to send Document 1 to ACCA is the same email address that Miss Moto then registered with ACCA on 13 February 2021. On the basis of that evidence, the Committee was satisfied, on the balance of probabilities, that it was Miss Moto who had sent Document 1 to ACCA on 28 January 2021 and 01 February 2021.
31. The Committee noted the opinion of the CBE Delivery Manager, indicating that Document 1 was false in two ways. First, it provided a score of 60%, whereas the score held on ACCA's records was 24%. Second, it indicated a result of "Successful Attempt", whereas the result held on ACCA's records was "Fail".

Furthermore, the Committee noted that the CBE Delivery Manager had explained that a score of 60% would attract a result of “*Pass*”, not “*Successful Attempt*”. The Committee accepted the evidence of the CBE Delivery Manager. It was relevant, adequately detailed, consistent with the documentary evidence presented and had not been challenged by Miss Moto. Taking into account the evidence of the CBE Delivery Manager, the Committee concluded that Document 1 was false.

32. Bringing these two findings together, the Committee was satisfied, on the balance of probabilities, that Miss Moto had sent to ACCA on 28 January 2021 and on 01 February 2021 a false provisional exam result document purporting to be from the Academy For Career Enhancement.
33. Accordingly, the Committee found Allegation 1(a) to be proved.

#### **Allegation 2(a) - proved**

34. In relation to Allegation 2(a), the Committee reminded itself that the applicable test for dishonesty is that set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67.
35. Applying the first stage of the test, the Committee considered that it was probable that Miss Moto either knew or ought to have known that Document 1 contained false information. The document referenced a score and a result for an examination that she had undertaken. However, it referred to a score and result that she had not received. The Committee also noted that it had not been provided with any alternative version of events by Miss Moto. The Committee considered that Miss Moto, in sending a document containing a false examination score and result to ACCA, would have understood that what she was doing was not proper in the circumstances. Furthermore, the Committee considered that the most likely motivation for sending a false examination score and result to ACCA would be to convince ACCA that the score and result were genuine – that is, to misrepresent a qualification for her own benefit.
36. The Committee took into account the fact that Miss Moto did not have any previous regulatory findings against her but noted that Miss Moto had only been



a Student Member for a relatively short time (since 16 November 2018) before the conduct complained of took place. The Committee also noted that it did not have any other evidence that it could draw upon to assist with assessing Miss Moto's state of mind at the relevant times. For example, it had not been provided with a response from Miss Moto nor any professional or character references in support of Miss Moto.

37. Applying stage 2 of the test, the Committee considered that an ordinary decent member of the public would find Miss Moto's conduct to be dishonest because it was an attempt to gain credit for a qualification that she had not obtained.
38. Accordingly, the Committee found Allegation 2(a) to be proved.
39. Given the Committee's finding in relation to Allegation 2(a), it was not necessary for the Committee to consider the alternative matter set out at Allegation 2(b).

### **Allegation 3 - proved**

40. In relation to Allegation 3, the Committee noted that each of the three letters (dated 23 August 2021, 14 September 2021 and 15 October 2021) had been sent by email to the registered email address of Miss Moto and that no response had been received by ACCA. The Committee also noted that each of the letters highlighted the requirement for Miss Moto to cooperate by responding and requesting specific information from Miss Moto.
41. Having examined Regulation 3(1) of the Regulations, the Committee was satisfied that Miss Moto, as a Student Member, is under an obligation to cooperate with ACCA and that that includes responding to the queries of an investigating officer considering a complaint against the Student Member.
42. Taking all of the evidence into account, the Committee found that in failing to respond to any of the three letters, Miss Moto had failed to cooperate with the investigation of a complaint contrary to Regulation 3(1) of the Regulations.
43. Accordingly, the Committee found Allegation 3 to be proven.

### **Allegation 4(a) – misconduct established**

44. In relation to Allegation 4(a), the Committee considered the seriousness of Miss Moto's conduct.
45. The Committee considered that dishonestly submitting a false provisional examination result document to ACCA was a very serious matter, which departed significantly from what was proper in the circumstances. Not only does such conduct risk a Student Member being accredited with a qualification that they do not merit and potentially being trusted by an employer or client to undertake work for which they are not competent, it also risks undermining proper professional standards and undermining public confidence in the profession of accounting.
46. The Committee considered that Miss Moto's complete failure to cooperate with an investigation into her conduct was also a very serious matter. Such conduct may cause significant delay and difficulty for the investigators, and could even thwart their attempts to fully investigate the matter. The conduct had been repeated over a period of time. Furthermore, the conduct indicates an attitude that departs from the principles set out in the ACCA Code of Ethics and Conduct and is incompatible with being registered as a Student Member of ACCA.
47. In both cases, the Committee concluded that Miss Moto's conduct was serious enough to amount to misconduct.
48. Accordingly, the Committee found Allegation 4(a) to be established.
49. Given the Committee's finding in relation to Allegation 4(a), it was not necessary for the Committee to consider the alternative matter set out at Allegation 4(b).

### **SANCTION AND REASONS**

50. In reaching its decision on sanction, the Committee took into account the evidence that it had already heard and the submissions made by Ms Ali.
51. Ms Ali submitted that there were two potentially aggravating features in this case. First, the seriousness of the misconduct. Second, the fact that the reputation of the ACCA could be harmed if appropriate disciplinary action were not to be taken against Miss Moto. Ms Ali submitted that a potential mitigating feature is the fact that Miss Moto does not have any previous ACCA regulatory findings against her.
52. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(1) of the Regulations, relevant caselaw and the ACCA document 'Guidance for Disciplinary Sanctions'. The Committee bore in mind that the purpose of any sanction was not to punish Miss Moto, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct and that any sanction must be proportionate.
53. When deciding on the appropriate sanction, the Committee carefully considered whether there were any aggravating and mitigating features in this case.
54. The Committee considered the following to be aggravating features in this case:
  - a. the intentional nature of the dishonest conduct;
  - b. the risk of harm to ACCA's reputation if the public were to lose trust in the integrity of the qualifications data held by ACCA; and
  - c. the repeated nature of the failure to cooperate.
55. In terms of mitigating features, the Committee noted that there were no previous disciplinary findings against Miss Moto but also took into consideration that she had been a Student Member for a relatively short period of time when the misconduct had taken place.

56. As Miss Moto did not attend the hearing, was not represented and had not sent any written submissions, the Committee had not been provided with any evidence that Miss Moto felt remorse for her conduct, nor that she had demonstrated any insight or remediation in relation to her conduct. Furthermore, the Committee had no information regarding the personal circumstances of Miss Moto, nor had it been provided with any testimonials or references. Given this background, the Committee considered there to be a high risk of repetition of the conduct.
57. The Committee considered the available sanctions in increasing order of severity.
58. The Committee first considered whether to take no further action, but considered that such an approach was not appropriate given the seriousness of the misconduct.
59. The Committee considered that neither admonishment, reprimand nor a severe reprimand would be appropriate, because the misconduct appeared to have been deliberate, repeated and, in relation to the failure to cooperate, appears to be continuing. The Committee considered that these sanctions would be insufficient to mark the seriousness of the misconduct, provide adequate protection for the public and address the wider public interest.
60. The Committee considered that removal from the student register was the appropriate sanction in this case because Miss Moto's conduct:
  - a. was fundamentally incompatible with being a Student Member;
  - b. amounted to a serious departure from professional standards;
  - c. had continued over a period of time; and
  - d. had hampered ACCA's ability to investigate a complaint.
61. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed and recognised

that it could have negative consequences for Miss Moto in terms of her reputation and financial circumstances. However, the Committee considered the sanction to be proportionate in the circumstances, given the seriousness of the misconduct, the need to protect the public and the wider public interest in upholding proper professional standards and maintaining public confidence in ACCA and the accountancy profession.

62. Accordingly, the Committee decided to remove Miss Moto from the student register.
63. The Committee did not deem it necessary to impose a specified period before which Miss Moto could make an application for readmission as a Student Member.

#### **COSTS AND REASONS**

64. Ms Ali made an application for Miss Moto to make a contribution to the costs of ACCA. Ms Ali applied for costs totalling £6,358.00. The Committee was provided with a Schedule of Costs providing a breakdown of the activity undertaken by ACCA and the associated costs. Ms Ali submitted that the costs claimed were appropriate and reasonable. However, she did acknowledge that the hearing today had taken slightly less time than that allocated to it on the Schedule of Costs.
65. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (1 January 2021).
66. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. However, it was considered that there should be a reduction to reflect the fact that the hearing had taken approximately two hours less than the full day for which it was scheduled to last.

67. The Committee noted that it could not take into account Miss Moto's financial and personal circumstances because Miss Moto had not provided any details of those circumstances.
68. In deciding the appropriate and proportionate order for costs, the Committee took into account the above matters and decided to make an order for costs in the sum of £5,868.00.

#### **EFFECTIVE DATE OF ORDER**

69. The Order will take effect at the expiry of the appeal period.

#### **ORDER**

70. The Committee made the following order:
- a. Miss Moto shall be removed from the ACCA student register.
  - b. Miss Moto shall make a contribution to ACCA's costs in the sum of £5,868.00.

**Ms Wendy Yeadon**  
**Chair**  
**02 December 2022**