

**HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Mr Usman Khan

Heard on: Wednesday, 05 January 2022

Location: Hearing held remotely

Committee: HH Suzan Matthews QC (Chair),
Mrs Susan Gallone (Accountant),
Mr Colin Childs (Lay Member)

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and capacity:** Mr Benjamin Jowett (Case Presenter)
Miss Geraldine Murray (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a), 2(b) and 4 found proved.
Member excluded from Register with immediate effect.

Costs: £2000.00

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Mr Khan. Mr Khan did not attend, nor was he represented.
2. The papers before the Committee were in a main bundle numbered 1 to 259. There were also three additional bundles, numbered 1 to 10, 1 to 14 and 1 to 13 respectively. The Committee was also provided with an 18-page service bundle and a costs schedule.
3. Given the absence of Mr Khan, 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 08 December 2021, thereby satisfying the 28 day notice requirement, which had been sent to Mr Khan’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 Khan’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 Khan’s absence, if considered appropriate. There was a receipt confirming the email had been delivered to Mr Khan’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 Khan’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 Khan’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Khan it should exercise that discretion with the utmost care and caution.
7. Mr Khan responded to the Notice of hearing on 17 December 2021, stating,

“I would like to not attend the hearing because we are living in such environment where there is uncertainty of light, internet or some any other reason so it may cause disturbance and I do not want disturbance from my side but please these are all the points that I sent in previous email with evidences and also please U all are our superior and we expect better expectations from hearing so that we continue our bright future otherwise we will face a lot of mental illness honestly.” (sic)
8. The Committee noted that Mr Khan faced serious allegations, including an allegation of dishonesty, and that there was a clear public interest in the matter being dealt with expeditiously. He had engaged with the process and provided written representations for the Committee to consider. The Committee noted that Mr Khan had been told he could apply for an adjournment and had chosen not to do so. There was nothing before the Committee to suggest that adjourning the matter to another date would secure Mr Khan’s attendance. In light of the clear indication given in the email of 17 December 2021, the Committee concluded that Mr Khan had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.

9. In addition, in an email sent on 27 December 2021, Mr Khan said:

“Respected Sir and all the Respected committee members can proceed my hearing on the basis of all the evidences that I have sent from 3rd parties confirmation and also the financial position evidences that I have sent now.” (sic)

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 Khan. No adverse inference would be drawn from his non-attendance and the Committee would take into account his various written responses and documents to the matters alleged.

ALLEGATIONS/BRIEF BACKGROUND

11. It is alleged that Mr Khan is liable to disciplinary action on the basis of the following Allegations:

Mr Usman Khan, at all material times an ACCA member:

1. Submitted or caused to be submitted to ACCA on or about 10 May 2018 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 10 March 2014 to 15 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
 - Performance Objective 1: Ethics and professionalism;
 - Performance Objective 2: Stakeholder relationship management;
 - Performance Objective 3: Strategy and innovation;
 - Performance Objective 4: Governance, risk and control;
 - Performance Objective 5: Leadership and management; and
 - Performance Objective 15: Tax computations and assessments.
2. Mr Usman Khan's conduct in respect of the matters described in allegation 1 above was:-

- a. In respect of allegation 1a, dishonest, in that Mr Usman Khan 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 Usman Khan knew he had not achieved the performance objectives referred to in paragraph 1b 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 act with 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 paragraph 1b above accurately set out how the corresponding objective had been met.
 4. By reason of his conduct, Mr Usman Khan is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all of the matters set out at 1 to 3 above.
12. Mr Khan became a member of ACCA on 18 May 2018.
13. 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").
14. ACCA's PER is based on the International Federation of Accountants ("IFAC") International Education Standard 5, PER. ACCA's PER develops the professional knowledge and values, ethics and behaviours needed to become a professionally qualified accountant.
15. ACCA's PER has three components. The achievement of "Essential" and "Technical" Performance Objectives ("PO") by gaining the experience required to achieve the necessary elements for each PO, evidenced by a personal statement for each PO signed off by the trainee's Practical Experience Supervisor ("PES"). Secondly, 36 months' work experience in one or more accounting or finance-related roles, which is verified by a PES. And thirdly, regularly recording PER progress in the online "MyExperience" recording tool, which is accessed via ACCA's online portal "myACCA".

16. 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.
17. 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.
18. Trainees must enter the PES's details into the "*MyExperience*" recording tool and send their PES an invitation to register as their PES. Trainees cannot submit anything to their PES until the PES is registered. Guidance about ACCA's PER including trainees' responsibilities, PESs and their role, is published on ACCA's website.
19. Mr Khan's PER record shows he claimed 41 months of workplace experience at Company A between 10 March 2014 to 15 August 2017. A 17-month period of employment was submitted by Mr Khan and approved by Mr A, on 12 May 2018. A period of 24 months employment was submitted by Mr Khan and approved by Mr A on 10 May 2018.
20. Mr Khan's PER record also shows he submitted nine PO statements for approval to Mr A on 10 May 2018. The PO statements were approved by Mr A on 10 May 2018.
21. ACCA's wider investigations led it to conclude that Mr A had not worked closely with Mr Khan and was not familiar with Mr Khan's work, such that he would be permitted to act as Mr Khan's supervisor and that these facts should have been or more likely were known by Mr Khan.
22. Further, Mr A could not have been Mr Khan's supervisor when working at Company A during most of the period claimed, because Mr A did not become an ACCA member, and therefore able to supervise trainees, until 23 September 2016. In addition, ACCA's Professional Development Team and ACCA Pakistan were unable to find any trace of a firm by the name of Company A, either on the internet or in Pakistan itself. ACCA was able to provide a screenshot from an advertising organisation which refers to Company A, Chartered Accountants, but the advertising organisation makes it clear that it is not a verified firm and it would appear that Company A, if it exists at all, does so only on the internet. There was no address for the firm or any indication of a physical existence.

23. ACCA wrote to Mr Khan on 27 January 2020 asking for his comments and observations about his PERs where Mr A acted as his PER Supervisor. Mr Khan responded on 14 February 2020, as follows:

'let me introduce my employment, I've got training by a firm named " [Company A] chartered accountants"

In this firm there was no ifac qualified supervisor, and they were not bound to help us in this regard because they never commit us to help in any kind of professional proceedings (PER etc). ACCA should know about the situation of audit firms' trainings and their behavior to acca students. They were not paying much to me as well, but we need to learn something practically, so I joined the firm because some of my acca fellows were already working there. And we don't have much jobs in our market I.e. (because acca posted bookkeeping jobs on their portal for us many time which are offering £99 per month to an acca affiliate or member) (sic)

So that I went to that firm because at least I wanted to learn something practical (they were paying me £20 per month)

I met [Mr A] (He use to visit us frequently) when I was searching for someone who can sign off for me who knows about my work as well. He guided me about PER and the process... (sic)

Mr. [A] was not my line manager, but He knows my employment and work

I don't have any documentary evidence of supervision because I was not reporting anything to Mr. [A]

Mr. [A] gave me a template of performance objectives for learning and I use it for my acca membership process by amending it a little bit. In our region we have language problem, and my mother language is Pashto.

I have added all those objectives which I thought I've knowledge about that working". (sic)

All I've about my training is the Experience letter which I got after a lot of struggle even they were not giving me that too. I've not paid anything to anybody. (sic)

This was the help we desperately need at that time. Because if we didn't go for it, we were unable to proceed for membership. And as I mentioned we don't have very much opportunities in our region. (sic)

But we need memberships. I know many of my fellows they are still affiliates having more than 10 years of experience because lack of guidance and support.

And some of them even they are not active on acca register.

Please let me know how I can prove myself honest in this scenario?

Ask me anything you want to ask anytime ...' (sic)

24. 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 Khan, 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 Khan, in accordance with ACCA's PER;
 - improperly assisted 52 ACCA trainees, including Mr Khan, 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.
25. Mr A's conduct was found to have been dishonest and he was excluded from membership of ACCA.
26. On 14 December 2021, Mr Khan sent an email to ACCA headed 'STATEMENT OF DEFENCE' setting out the following:

"1. It is stated that I have not acted in any way which can be termed as dishonest" or discredit my profession therefore I deny the allegations.

Also being a trainee, I was never in a position to challenge the authenticity of my mentor's qualification i.e., Mr. [A]" and the existence of the firm [Company A], Chartered Accountants" as You all know.

That it is a common sense that a person applying for a job does not verify the qualifications of its employer/mentor/teacher rather it is the other way round.

1. I hail from FATA Tribal Areas” of Pakistan that are considered the most backward and underdeveloped areas not only in Pakistan but in the whole world as the committee members may know we are affected mostly from Afghanistan war and we were in a very critical situation at that time from financial and security perspectives because our houses were empty during military operations, And I was in intense need of job, I saw add for job and I applied for that job , [Company A] was similarly hired me through online process and said that most of our clients in remote area will be deal by you because you know better this area and there is security reason so no one is ready to deal this area . (sic)

2. I was sent on various assignments of “bookkeeping”, “internal audit” and “taxation” to different clients.

3. I did my training with honesty for more than three years and all the clients of the firm were extremely satisfied with my work.

4. Reply time is short for this reason I am enclosing Affidavits of only two of those clients whom I worked at that time. (sic)

5. I was not in a position to access any approved employers in Tribal Areas nor did my financial position allow me to migrate to any large city because pay was very low for ACCA trainee at that time also ban from Pakistani CA on ACCA students on big Firm nor I have any references for job in big city. (sic)

Therefore, I availed this online opportunity and was more than happy to complete my PERs under the remote guidance of Mr. [A].” (sic)

27. Mr Khan said that Mr A masqueraded as a qualified member of ACCA and eligible to train trainees such as himself. He added that the office of Company A had closed down, but he provided screenshots of a job advert and a LinkedIn page, together with the same screenshot provided by ACCA from the advertising organisation referring to Company A Chartered Accountants which, he asserted, showed the firm had existed since 2012.
28. Mr Khan said that “*Whatever I did was under an honest belief and in no way have I acted in any way which proves me to be “dishonest” or discredit to profession” (sic).*

DECISION ON FACTS/ALLEGATION AND REASONS

29. 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 written responses provided by Mr Khan during the course of the investigation.

Allegation 1 (a) - proved

30. The Committee considered there was ample evidence to prove that Mr Khan had submitted or caused to be submitted to ACCA, on or about 10 May 2018, 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 10 March 2014 to 15 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.
31. Mr Khan did not appear to dispute this, although he claimed Mr A "*knows my employment and work*" at Company A.
32. The Committee noted the question mark over the very existence of the firm Company A. There was no evidence that it had any physical presence and that, if it existed at all, it was possibly only on the internet. The Committee also noted that Company A was the firm quoted by 15 other trainees purportedly supervised by Mr A. Notwithstanding the question mark over the status of Company A, the Committee did not consider this was a matter which it had to decide one way or the other in order to find Allegation 1(a) proved.
33. The Committee was provided with a copy of Mr Khan's PER training record, which was submitted on 10 May 2018. It recorded Mr A as his PES for the period 10 March 2014 to 15 August 2017. On the evidence relating to Mr A, the Committee was satisfied that Mr A did not supervise, and could not have supervised, Mr Khan during this period, not least because Mr A did not become a member of ACCA until 23 September 2016 and therefore was not eligible to act as a supervisor prior to that date. Mr A did not meet the requirements of the PES guidance in that prior to 23 September 2016 he was not an ACCA member and thereafter he was not in a role of responsibility or able to supervise Mr Khan in order to be able to sign off his PER. Furthermore, Mr A in his case said that he didn't supervise the trainees, he just signed off on their POs.
34. Accordingly, the Committee found Allegation 1(a) proved.

Allegation 1(b) - proved

35. Mr Khan's training record confirmed that he had achieved the POs stated when, at the very least, he cannot have achieved them in the way recorded since they were apparently fictitious accounts provided by Mr A and not his own. There was no evidence provided

by Mr Khan to show that he had legitimately achieved the performance objectives claimed in his training record. The Committee noted:

- a) Mr Khan's PO1 statement was identical to the PO1 statement of Mr A and identical to two other trainees whose PO1 statements were approved by Mr A;
- b) Mr Khan's PO2 statement was identical to one other trainee whose PO2 statement was approved by Mr A;
- c) Mr Khan's PO3 statement was identical to the PO3 statement of Mr A;
- d) Mr Khan's PO4 statement was identical to one other trainee whose PO4 statement was approved by Mr A;
- e) Mr Khan's PO5 statement was identical to two other trainees whose PO5 statements were approved by Mr A;
- f) Mr Khan's PO15 statement was identical to four other trainees whose PO15 statements were approved by Mr A.

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

- approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Khan, when Mr A had no reasonable basis for believing they had been achieved and/or were true;
- improperly assisted 52 ACCA trainees, including Mr Khan, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; and
- improperly participated in, or been otherwise connected with, an arrangement to assist 52 ACCA trainees to draft and/or approve their supporting statements as evidence of their achievement of their ACCA Practical Experience performance objectives, when those trainees were unable or unwilling to properly obtain verification from a supervisor that they had met ACCA's Practical Experience Requirements.

37. The Committee noted that in his written representations, Mr Khan said:

"Mr [A] gave me a template of performance objectives for learning and I use it for my acca membership process by amending it a little bit."

38. Given the identical nature of the statements to other trainees approved by Mr A, and even in some instances to Mr A's own POs, the Committee found Mr Khan's assertion that he had amended the templates provided by Mr A to be entirely implausible. Additionally, the Committee noted the omission of any reference to an audit PO despite his assertion that his employment with Company A was as an audit trainee.
39. On the basis of this evidence the Committee found Allegation 1(b) proved.

Allegation 2(a) and 2(b) - proved

40. The Committee then considered whether the behaviour found proved in Allegation 1(a) and 1(b) was dishonest. Whilst it considered each separately, the Committee recognised that they were clearly linked. The Committee considered what it was that Mr Khan had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. According to Mr Khan he believed at the time that Mr A was allowed to be his supervisor and he provided him, Mr Khan, with a template of POs for learning and that he then amended the templates in accordance with his knowledge. The Committee noted the inconsistency in Mr Khan's responses where in one account he said he regularly met with Mr A and then in another account said he availed himself of the remote guidance of Mr A and this cast some doubt upon his credibility. Significantly, though, for Mr Khan's account about the POs to be true, the Committee would have to accept that it was entirely coincidental that six of Mr Khan's POs were identical to a number of other trainees connected to Mr A and that two of Mr Khan's POs were identical to the POs submitted by Mr A himself. This stretched credulity beyond the plausible and the only realistic explanation was that Mr A had provided Mr Khan with stock responses, which he used for many other students, and Mr Khan relied on them and pretended they were his own. The only reason for doing so was to deceive ACCA into believing he had the relevant experience shown in those POs and thereby to allow him to become a member of ACCA, which is what in fact happened.
41. On the evidence, therefore, the Committee was satisfied, on the balance of probabilities, that Mr Khan knew the PES requirements and that Mr A could not legitimately be his PES, was not supervising him and he could not, therefore, legitimately rely on him to sign off his POs. Furthermore, the Committee was satisfied on the balance of probabilities, that the POs Mr Khan submitted were not genuine and did not reflect the work experience he had completed, but rather were stock answers provided by Mr A.
42. In addition, the Committee could not ignore the fact that Mr A had been found guilty of the dishonest conduct described in paragraph 36 above. This had included: improperly participating in, or being otherwise connected with, an arrangement to assist 52 ACCA trainees (including Mr Khan) 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.

43. The Committee could not know the precise mechanics of how the PO statements were completed. Whatever process was followed, however, the only reasonable inference to be drawn was that Mr Khan was complicit in, and entirely aware of, Mr A's provision of false POs so that he, Mr Khan, could add those to his PER and subsequently illegitimately qualify as an ACCA member.
44. As mentioned above, there was also a significant question mark over the very existence of Company A. ACCA had been unable to find any evidence to establish its current existence, although it may have existed in the past. Clearly if Company A never existed then that would mean Mr Khan was lying about its existence. There was also no documentary evidence of Mr Khan being employed by Company A. However, the Committee did not feel able to resolve one way or the other, whether that firm had existed at the time Mr Khan said he was working there.
45. Mr Khan must have known that Mr A had not and could not supervise his work and/or act as his supervisor at the material time in accordance with the necessary requirements. In addition, Mr Khan did not achieve at least some of the performance objectives he claimed, in the manner he claimed or at all, but rather relied on stock answers provided by Mr A. The Committee was in no doubt that an ordinary decent member of the public, in full possession of the facts of the case, would find the entirety of this conduct to be dishonest. The Committee therefore found Allegations 2(a) and 2(b), on the balance of probabilities, proved.
46. Having found Allegations 2(a) and 2(b) proved it was not necessary for the Committee to consider Allegations 2(c) or 3(a) and (b), 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 Khan sought the assistance of Mr A to provide false POs and to act as his PES in order to allow him, Mr Khan, to, illegitimately, qualify as a member of ACCA. This dishonest behaviour demonstrated a disregard for ACCA's membership process and allowed Mr Khan 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 Khan, the profession and ACCA. The Committee considered this behaviour to be very serious and was in no doubt it amounted to misconduct.
48. The Committee therefore found Allegation 4 proved.

SANCTION AND REASONS

49. 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 Khan, 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.
50. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
51. The Committee considered the misconduct involved the following aggravating features: an element of premeditation and planning; a course of conduct over a period of time, involving repeated acts of deceit; collusion with Mr A; undermining the integrity, and thereby undermining public confidence, in ACCA's membership process; becoming a member of ACCA when not qualified to be so; the significant period during which Mr Khan continued to hold himself out as a member when aware that he had relied on false POs prepared by Mr A in order to do so; a lack of insight into his dishonest behaviour; no evidence of regret or remorse.
52. The Committee considered there to be one mitigating factor, namely the absence of any previous disciplinary history with ACCA.
53. 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.
54. The Committee then considered whether to reprimand Mr Khan. 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 Khan'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.
55. 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.

56. 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 Khan's behaviour. His misconduct was intentional, and he has not demonstrated any insight into his dishonest behaviour. He has offered no expression of regret or apology. He does have a previous good record, but there has been no evidence of rehabilitative steps. He had provided two references, although they were of limited assistance to this Committee.

57. 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."*

58. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Khan's case that warranted anything other than exclusion from membership. The Committee was of the view that there were no

exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was exclusion. The Committee was cognisant of the severity of this conclusion. However, seeking out or making contact with a third party to provide false POs in order to satisfy one's PER represents behaviour fundamentally incompatible with being a member of ACCA and undermines the integrity of ACCA's membership process. The PER procedure is an important part of ACCA's membership process, and the requirements must be strictly adhered to by those aspiring to become members. In the Committee's view, Mr Khan'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 Khan had the relevant practical experience to have ever become a member in light of the way he went about securing his membership.

59. 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.
60. The Committee therefore ordered that Mr Khan be excluded from membership.

COSTS AND REASONS

61. ACCA applied for costs in the sum of £8,323.50 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. However, the costs were based on the hearing lasting a whole day when, in the event, it did not take quite that long. Accordingly, the Committee made a reduction to reflect the time actually taken.
62. In his email dated 14 December 2021, Mr Khan said that he earns the equivalent of about £200 a month and that he is not in a financial position to pay the costs requested by ACCA. He also provided a statement of means indicating he had no surplus income and limited assets. The Committee also, therefore, made a reduction to reflect Mr Khan's limited means.
63. In deciding the appropriate and proportionate order for costs the Committee took into account the above factors and decided to make an order for costs in the sum of £2,000.

EFFECTIVE DATE OF ORDER

64. In light of its decision to exclude Mr Khan 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.

65. The Committee rescinded the current Interim Order.

HH Suzan Matthews QC
Chair
05 January 2022