

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Danial Ali Hussain</b>
<b>Heard on:</b>	<b>Friday, 28 January 2022</b>
<b>Location:</b>	<b>Remotely by Microsoft Teams via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU</b>
<b>Committee:</b>	<b>Mr Andrew Popat (Chair) Mr Ryan Moore (Accountant) Mrs Victoria Smith (Lay)</b>
<b>Legal Adviser:</b>	<b>Miss Juliet Gibbon (Legal Adviser)</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Mr Jonathan Lionel (Hearings Officer)</b>
<b>Outcome:</b>	<b>Allegations 1a, 1b, 2a, 2b and 4 – proved</b>
<b>Sanction:</b>	<b>Removal from the Affiliate Register with immediate effect</b>
<b>Costs:</b>	<b>Order to pay a contribution to ACCA's costs in the sum of £5,916.00</b>

#### ACCA



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## **PRELIMINARY**

1. The Disciplinary Committee (“the Committee”) convened to hear a number of allegations of misconduct against Mr Danial Ali Hussain. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 142, a service bundle numbered pages 1 to 17 and two costs schedules.
2. Ms Michelle Terry represented ACCA. Mr Hussain did not attend the hearing and was not represented.

## **SERVICE**

3. Written notice of the hearing was sent by electronic mail (“email”) to Mr Hussain’s registered email address on 24 December 2021. The password to open the notice of hearing was sent by a separate email. The Committee had sight of two notifications stating that both emails had been delivered to the email address. By virtue of Regulation 22(8)(b) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (“the Regulations”) the notice would have been deemed served on the same day. ACCA has, therefore, given the requisite 28 days’ notice to Mr Hussain as required under Regulation 10(1)(a) of the Regulations.
4. The Committee was satisfied that the email attaching the notice of hearing had been sent to Mr Hussain's registered email address and had been delivered successfully. The notice of hearing contained all the requisite information about the hearing in accordance with Regulation 10 of the Regulations.
5. The Committee accepted the advice of the Legal Adviser. It was satisfied that service had been effected in accordance with Regulations 10 and 22 of the Regulations.

## **APPLICATION TO PROCEED IN ABSENCE**

6. Ms Terry made an application to proceed in the absence of Mr Hussain.
7. The Committee, having satisfied itself that the requirements of Regulations 10 and 22 of the Regulations had been complied with, therefore went on to

consider whether to proceed in the absence of Mr Hussain. The Committee accepted the advice of the Legal Adviser. In particular, it bore in mind that the discretion to do so must be exercised with the utmost care and caution.

8. The Committee noted that Mr Hussain had replied to ACCA's email containing the notice of hearing on 26 December 2021. He stated: "*Hi, Hope you are doing well. I confirm I will not be attending any sort of hearing in the future, therefore consider it a NO for all the upcoming hearings and committees can proceed in my absence. Thanks*".
9. The Committee was mindful that there was a public interest in dealing with regulatory matters expeditiously. It noted that Mr Hussain had informed ACCA that he would not be attending the hearing and that the Committee could proceed in his absence. The Committee was, therefore, of the view that Mr Hussain had voluntarily waived his right to attend the hearing and that adjourning the hearing would not result in his attendance in the future.
10. Having balanced the public interest with Mr Hussain's own interests, the Committee determined that it was fair, reasonable and in the public interest to proceed in his absence.

## **ALLEGATIONS**

Mr Danial Ali Hussain, at all material times an ACCA trainee:

1. Submitted or caused to be submitted to ACCA on or about 25 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 04 February 2015 to 19 April 2018 was Mr A when Mr A did not and/or could not supervise his practical experience training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance (the Guidance).
  - b. he had achieved:
    - Performance Objective 3, Strategy and innovation;

- Performance Objective 4, Governance, risk and control;
- Performance Objective 7, Prepare external financial reports;
- Performance Objective 15, Tax computations and assessments; and
- Performance Objective 18, Prepare for and plan the audit and assurance process.

2. Mr Hussain's conduct in respect of the matters described in allegation 1 above was:-
  - a. In respect of allegation 1a, dishonest, in that Mr Hussain 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 Hussain knew he had not achieved the performance objectives referred to in paragraph 1b above as described in the corresponding performance objective statements or at all.
  - c. In the alternative, any or all of the conduct referred to in paragraph 1 above demonstrates a failure to be straightforward and honest and accordingly is contrary to the Fundamental Principle of Integrity, as applicable in 2018.
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 his performance objective statements relating to the performance objectives referred to in paragraph 1b above accurately set out how the corresponding objectives had been met.

4. By reason of his conduct, Mr Hussain is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.

## **BACKGROUND**

11. Mr Hussain was admitted as a student of ACCA on 11 December 2012 and he became an affiliate on 15 January 2018.
12. Regulation 3(a)(ii) 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").
13. ACCA's PER is based on the International Federation of Accountants' ("IFAC") International Education Standard 5. ACCA's PER develops the professional knowledge, values, ethics and behaviours required to become a professionally qualified accountant.
14. ACCA's PER has three components: First, the achievement of five "Essential" Performance Objectives ("POs") and any four "Technical" POs by gaining the experience required to achieve the necessary elements and complete a statement for each PO, which is signed off by the trainee's Practical Experience Supervisor ("PES"). Secondly, complete 36 months' work experience in one or more accounting or finance-related roles, which is verified by the trainee's PES. Thirdly, regularly record PER progress in the online "My Experience" recording tool, which is accessed via ACCA's online portal "myACCA".
15. A PES has the personal responsibility of approving or signing-off the trainee's POs if the trainee has met the required standard. A qualified supervisor means a qualified accountant who has worked closely with the trainee and who knows the trainee's work. A qualified accountant means a member of an IFAC member body and/or a body recognised by law in the trainee's country. If a trainee's line manager is not a qualified accountant, they can sign off or approve the trainee's time in their relevant role, but the trainee must nominate a qualified supervisor to sign off their POs. A trainee cannot nominate a friend who happens to be a

qualified accountant or an accountant that has no connection with the trainee's place of work and who has not liaised with the trainee's manager about the trainee's work.

16. POs are designed to set the minimum standard of work that a trainee is expected to achieve and the level of competence they will need to demonstrate to their qualified supervisor. They set out the kind of work activities a trainee may carry out and highlight the values and attitudes ACCA trainees are expected to possess and to demonstrate as a trainee accountant.
17. Each PO is comprised of three parts. First, a summary of what the PO relates to. Secondly, five elements outlining the tasks and behaviours a trainee must demonstrate to be able to achieve the objective. Thirdly, a 200 to 500-word concise personal statement in which the trainee must summarise 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 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 My Experience 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 and PESs and their role, is published on ACCA's website.
20. Mr Hussain's PER record shows that he claimed 38 months of workplace experience at Company A between 04 February 2015 to 19 April 2018. This claimed period of employment was submitted to Mr A by Mr Hussain and

approved by Mr A on or about 23 May 2018.

21. Mr Hussain's PER record also shows that he submitted nine PO statements for approval to Mr A on or about 25 May 2018. The PO statements were approved by Mr A on or about 25 May 2018. In the comment box for each of the PO statements submitted to Mr A for approval, Mr Hussain had added '*Company A – Trainee Audit*' in the comment box. Five of the POs, namely PO3, PO4, PO7, PO15 and PO18 were identical to those submitted by other trainees.
22. In his email response to ACCA, dated 20 March 2020, Mr Hussain stated that he worked at Company A where he had met Mr A who worked as a researcher for a not-for-profit organisation ("NPO") that was a client of Company A. Mr Hussain stated that Mr A would visit Company A and set the trainees various taxation assignments related to the NPO. Mr Husain said that he got to know Mr A and asked him to sign off his experience at Company A. Mr Hussain stated that Mr A was not his employer or his direct line manager and did not directly supervise his training at Company A. Mr Hussain stated that each of the PO statements set out in his PER logbook were written in his own words but, as English was his second language, he had asked Mr A to assist him to achieve '*a more clearer and professional presentation when writing the PO statements set out in the PER logbook*' (sic). Mr Hussain stated that he had not received any assistance with submitting the PO statements, however, he had received assistance from Mr A before submitting them to ensure '*better presentation*'.
23. On 21 March 2021, ACCA wrote to Mr Hussain by email. He was asked why some of his POs were identical to those of other trainees supervised by Mr A. Mr Hussain did not, however, respond to ACCA's communication and failed to engage further in the investigation.
24. Fourteen other trainees, also purportedly supervised by Mr A, submitted to ACCA that they had completed their supervised practical experience at Company A. ACCA, however, has not been able to find any address or contact details for this firm and the only reference to it is on the [www.rozee.pk](http://www.rozee.pk) website which describes it as a "*Local firm of Chartered Accountants engaged in providing taxation, Audit and Business Advisor to a wide range of Corporate and individual clients*".

25. Mr A did not become an ACCA member until 23 September 2016, but Mr Hussain claimed that Mr A was his PES when he was working at Company A between 04 February 2015 to 19 April 2018. Accordingly, Mr A could not have acted as Mr Hussain's PES for the period prior to 23 September 2016. Further, Mr A contacted ACCA in 2017 requesting a reduction in his membership subscription as he was not employed as a qualified accountant so he could not have acted as Mr Hussain's PES at that time.
26. At a hearing in January 2021, a Disciplinary Committee ("DC") found that Mr A had:
  - a. approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Hussain, when Mr A had no reasonable basis for believing they had been achieved and/or were true;
  - b. falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Hussain, in accordance with ACCA's PER. He had not been a member of ACCA for all or part of the work experience period for all but one of the 52 trainees and he had not worked in the same firm as any of the trainees.
  - c. improperly assisted 52 ACCA trainees, including Mr Hussain, in completing their supporting statements as evidence of their achievement of their POs.
  - d. improperly participated in an arrangement to assist ACCA trainees to approve their supporting statements as evidence of their achievement of their POs, when those trainees were unable or unwilling to properly obtain verification from a supervisor that met ACCA's PER.
27. The DC found that Mr A's conduct was dishonest and amounted to misconduct.
28. The Investigations Officer wrote to Mr Hussain by email on 14 May 2021 to notify him that the matter would be referred to the Independent Assessor and that he should provide his response/observations to the Assessor by 9.00am on 07 June 2021. There was, however, no response from Mr Hussain. There



was no further communication from Mr Hussain until 26 December 2021 when he sent two emails to ACCA in response to receiving the Notice of Hearing.

## **SUBMISSIONS**

29. In relation to Allegation 1a, Ms Terry informed the Committee that the PER submitted by Mr Hussain on or about 25 May 2018 purported to confirm that his PES in respect of his practical experience training in the period 04 February 2015 to 19 April 2018 was Mr A. Ms Terry submitted that Mr A was not qualified to supervise Mr Hussain's practical experience training during at least part of that period because he had not become a member of ACCA himself until 23 September 2016. Mr A had also not worked as a qualified accountant in 2017 as he had contacted ACCA to request a reduction in his membership subscription for that reason. Ms Terry submitted that it was incumbent upon Mr Hussain to ensure that his PES was suitably qualified and that such a person would usually be a trainee's line manager or someone who had oversight of their work.
30. Mr Hussain's PER training record submitted to ACCA on or about 23 May 2018 purported to confirm that Mr A had been his line manager at Company A from 04 February 2015 to 19 April 2018. Mr A had not been Mr Hussain's line manager at that, or any other firm, based on Mr Hussain's own admission and the findings of the DC that Mr A had not supervised any of the trainees, including Mr Hussain.
31. Ms Terry submitted that it was more likely than not that Company A does not exist. She informed the Committee that Mr Hussain had not produced any documents, such as payslips or payments made for professional services, to evidence that Company A was a legitimate firm. Ms Terry submitted that it was more likely than not that Mr Hussain had not completed his claimed work experience.
32. In relation to Allegation 1b, Ms Terry relied on the fact that Mr Hussain's PO3, PO4, PO7, PO15 and PO18 statements were identical those submitted by Mr A in his own application to become a member of ACCA and to those of other

trainees who also claimed to have trained at Company A. Ms Terry reminded the Committee that a trainee's work experience should be unique to that trainee and that was not so in Mr Hussain's case. She submitted that Mr Hussain must have known that the PO statements were false when he submitted them to ACCA.

33. In respect of Allegations 2a and 2b, Ms Terry submitted that Mr Hussain's conduct was dishonest in accordance with the test set out by the Supreme Court in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. She submitted that Mr Hussain would have known that Mr A had not supervised his work or acted as his PES at the material time. Mr Hussain would also have known that he had not achieved the POs that he claimed as described in the corresponding PO statements or at all. Ms Terry submitted that such conduct would be regarded as dishonest by the standards of ordinary decent people.
34. In respect of Allegation 4a, Ms Terry submitted that Mr Hussain's deliberate dishonest conduct in attempting to subvert ACCA's PER process fell far short of the standards expected of an ACCA trainee and undermined public confidence in ACCA's membership qualification process. She submitted that the public would be put at risk if a trainee became a member of ACCA without having the requisite skill and qualifications. Ms Terry submitted that misconduct, as defined by byelaw 8(c), was clearly made out in respect of Mr Hussain's conduct as set out in both Allegation 1a and 1b.

#### **MR HUSSAIN'S CASE**

35. On 26 December 2021, Mr Hussain sent two emails to ACCA in response to the Notice of Hearing. In the first email he stated that he would not be attending the hearing and in the second email he stated: "... *Previously I mentioned I will not be attending any hearing therefore I would like the case to be concluded before the hearing and accept all the allegations on me to save both time and cost as I will not be fighting the case*". The Committee noted that Mr Hussain had not indicated what allegations he was admitting to and appeared to be making admissions simply because he was not '*fighting the case*'.

## **DECISION ON FACTS**

36. The Committee considered all the evidence presented, including the witness statement of a Professional Development Team Manager at ACCA and the submissions made by Ms Terry. It also considered Mr Hussain's email response to ACCA, dated 02 March 2020 and his two emails sent to ACCA on 26 December 2021. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove each of the allegations made against Mr Hussain and that the standard of proof to be applied was the balance of probabilities.

### **Allegation 1a - proved**

37. The Committee considered there was ample evidence to prove that Mr Hussain had submitted or caused to be submitted to ACCA, on or about 25 May 2018, an ACCA Practical Experience training record which purported to confirm:-
- i. his PES in respect of his practical experience training in the period 04 February 2015 to 19 April 2018 was Mr A when Mr A did not and could not have supervised his practical experience training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance.
38. The Committee noted that Mr Hussain did not appear to dispute this. In his email to ACCA, dated 02 March 2020, Mr Hussain stated that *"... Mr A used to come to Company A as a researcher from the NPO when I initially met him. He would often set us various taxation assignments related to NPO. Therefore, having been treated so unfairly by local chartered accountants at Company A and having recognised Mr A as an ACCA member, a fellow from same professional body, who was aware of my training at Company A, I requested him to sign my experience ... Mr A did not directly supervise my training ... Mr A was not my employer nor my line manager, hence I do not have any correspondence of e-mails or letters with him and neither did he provide any personal reports regarding my work ... Company A did not provide me with a copy of my training contract or payroll for my wages ... therefore I do not*

*possess a training contract or wages evidence” (sic).*

39. The Committee was provided with a copy of Mr Hussain’s PER training record, which was submitted on 25 May 2018. It recorded Mr A as his PES for the period 04 February 2015 to 19 April 2018. On the evidence relating to Mr A, the Committee was satisfied that Mr A did not supervise, and could not have supervised, Mr Hussain 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. Further, Mr A informed ACCA that he was not employed as an accountant in 2017. In the Committee’s view, 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 in a position to supervise Mr Hussain in order to be able to sign off his PER. Furthermore, the Committee noted that Mr A, in his disciplinary hearing, had informed the DC that he had not supervised any of the trainees and had simply signed off their POs.
40. The Committee noted the question mark over the existence of the firm Company A. There was no evidence before the Committee to show that it did exist. The Committee also noted that Company A was the firm quoted by other trainees who were 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.
41. Accordingly, the Committee found Allegation 1(a) proved.

**Allegation 1b - proved**

42. The Committee was of the view that the PER training record submitted to ACCA by Mr Hussain, that purported to confirm that he had achieved the five POs set out in Allegation 1b, was false. The supporting statements for each PO were either identical or strikingly similar to the POs submitted by Mr A and those of other trainees that Mr A had purported to supervise. Further, the Committee noted that Mr Hussain’s PO15 statement was identical to other trainees who also claimed to have worked at Company A. Mr Hussain had

provided nothing to ACCA to show that he had legitimately achieved the performance objectives claimed in his training record. The Committee also noted that Mr Hussain had admitted the allegations in an email to ACCA on 26 December 2021.

43. Accordingly, the Committee found Allegation 1b proved.

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

44. The Committee then considered whether the conduct 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 Hussain had done, what his intentions were and whether the ordinary decent person would find his conduct dishonest. Significantly, though, for Mr Hussain's account about the POs to be true, the Committee would have to accept that it was entirely coincidental that Mr Hussain's PO statements were as identical to other trainees connected to Mr A, some of whom also purported to work at Company A. This stretched credulity beyond the plausible and the only realistic explanation was that Mr A had provided Mr Hussain with a stock response, which he had also used for many other students, and Mr Hussain had relied on it and claimed it was his own. The only reason for doing so was to deceive ACCA into believing he had the relevant experience shown in the POs and thereby to allow him to become a member of ACCA.
45. On the evidence, therefore, the Committee was satisfied, on the balance of probabilities, that Mr Hussain 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 Hussain had submitted were not genuine and did not reflect the work experience he had completed.
46. In addition, the Committee could not ignore the fact that Mr A had been found guilty of the dishonest conduct described above. This had included: improperly participating in, or being otherwise connected with, an arrangement to assist

52 ACCA trainees (including Mr Hussain) 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.

47. 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 Hussain was complicit in, and entirely aware of, Mr A's provision of false POs so that he, Mr Hussain, could add those to his PER and subsequently illegitimately qualify as an ACCA member.
48. The Committee was satisfied that an ordinary decent member of the public, in full possession of the facts of the case, would find Mr Hussain's conduct dishonest. The Committee therefore found Allegations 2(a) and 2(b) proved.
49. 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 pleaded in the alternative.

#### **Allegation 4 – proved**

50. Having found Allegations 1a, 1b, 2a and 2b proved, the Committee then considered whether the facts found proved amounted to misconduct. The Committee considered there to be sufficient evidence to show that Mr Hussain had sought the assistance of Mr A to provide false POs and to act as his PES in order to allow him, Mr Hussain, to, illegitimately, qualify as a member of ACCA. Mr Hussain's dishonest conduct demonstrated a disregard for ACCA's membership process and would have allowed him to become a member of ACCA when not qualified to be so. In the Committee's view such behaviour clearly had potential to undermine the integrity of the membership process and the standing of ACCA. Further, if Mr Hussain had become a member of ACCA then there was potential for the public to be put at risk because he was not qualified to become an accountant. The Committee determined that Mr Hussain's conduct brought discredit upon him, the profession and ACCA. The Committee considered that Mr Hussain's dishonest conduct was very serious

and clearly amounted to misconduct.

51. The Committee, therefore, found Allegation 4 (misconduct) proved.

### **SANCTION AND REASONS**

52. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of a sanction is not to punish Mr Hussain, 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.
53. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
54. 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; attempting to become a member of ACCA when not qualified to be so; a lack of insight into his dishonest conduct and no evidence of regret or remorse on the part of Mr Hussain.
55. The Committee considered there to be one mitigating factor, namely the absence of any previous disciplinary history with ACCA.
56. 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.
57. The Committee then considered whether to reprimand Mr Hussain. 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 Hussain'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.

58. 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 suggests that this sanction may be appropriate where most of the following factors are present:

- a. the misconduct was not intentional and no longer continuing;
- b. evidence that the conduct would not have caused direct or indirect harm;
- c. insight into failings;
- d. genuine expression of regret/apologies;
- e. previous good record;
- f. no repetition of failure/conduct since the matters alleged;
- g. rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- h. relevant and appropriate references;
- i. co-operation during the investigation stage.

59. 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 Hussain's conduct. His misconduct was premeditated and



had continued over a long period of time. Mr Hussain had acted in concert with Mr A. Further, Mr Hussain had not demonstrated any insight into his dishonest conduct and had offered no expression of regret or apology. The Committee also noted that whilst Mr Hussain had initially engaged with the investigation, he had not responded to any communication with ACCA in relation to the investigation since March 2020. The Committee accepted that Mr Hussain has no previous disciplinary findings against him.

60. The Committee noted that ACCA 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 removal. 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 professional accountant to act honestly.
61. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Hussain'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. 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 an affiliate of ACCA and undermined 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 Hussain's dishonest, premeditated conduct was so serious that no other sanction would adequately reflect the gravity of his

offending behaviour.

62. 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 conduct is unacceptable
63. The Committee therefore ordered that Mr Hussain be removed from ACCA's affiliate register.

#### **DECISION ON COSTS AND REASONS**

64. The Committee was provided with two costs schedules. ACCA applied for costs in the sum of £6,651.00.
65. The Committee was satisfied that the costs sought by ACCA were appropriate and reasonably incurred. The Committee noted that Mr Hussain had not provided any details of his current financial means or provided the Committee with any written representations in relation to the costs claimed by ACCA. The Committee was not, therefore, in a position to make any reductions based on Mr Hussain's financial circumstances. The Committee did, however, consider that there should be a reduction in the costs as the hearing had been listed for a full day but had taken less time.
66. The Committee determined that it would be fair and proportionate to order Mr Hussain to pay a contribution to ACCA's costs in the sum of £5,916.00.

#### **ORDER**

- i. Mr Danial Ali Hussain shall be removed from ACCA's Affiliate Register with immediate effect.
- ii. Mr Danial Ali Hussain shall pay a contribution to ACCA's costs in the sum of £5,916.00.

### **EFFECTIVE DATE OF ORDER**

67. The Committee considered that Mr Hussain's dishonest misconduct was so serious that it was in the interests of the public to order that the order should have immediate effect.

**Mr Andrew Popat CBE**  
**Chair**  
**28 January 2022**

