

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Imran Khan
Heard on:	Wednesday, 20 July 2022
Location:	Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
Committee:	Mr Andrew Gell (Chair) Mr George Wood (Accountant) Mr Damian Kearney (Lay)
Legal Adviser:	Mr Alastair McFarlane
Persons present and capacity:	Ms Michelle Terry (ACCA Case presenter) Mr Jonathan Lionel (Hearings Officer)
Summary:	Exclusion from membership with immediate effect Interim Order revoked
Costs:	£7,000.

1. ACCA was represented by Ms Terry. Mr Khan did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1-226, an additional bundle, numbered pages 1 – 7, and a service bundle, numbered pages 1-13.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

SERVICE/PROCEEDING IN ABSENCE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mr Khan in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).
3. Ms Terry, for ACCA, made an application for the hearing to continue in the absence of Mr Khan.
4. The Committee accepted the advice of the Legal Adviser.
5. The Committee noted that Mr Khan’s last communication with ACCA was when he signed a set of undertakings in October 2020 and his only other communication was an email response to ACCA, dated 19 September 2020, in which he claimed he knew nothing of the case and of ACCA’s enquiries. He also claimed to have experienced issues with receipt of emails.
6. The Committee noted that Mr Khan’s only response in this case was from the email address that ACCA has corresponded with throughout and that there has been no contact since October 2020 and no request for an adjournment.
7. The Committee was satisfied that Mr Khan’s non-engagement amounts to a voluntary waiving by Mr Khan of his right to attend this hearing and that an adjournment would be very unlikely to secure his attendance. In all the circumstances, including the public interest in the expeditious discharge of the Committee’s regulatory function, it was satisfied that it was just to proceed with the hearing in his absence.

ALLEGATIONS

Mr Imran Khan, at all material times an ACCA trainee

1. Submitted or caused to be submitted to ACCA on or about 28 November 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 19 April 2015 to 28 May 2018 was Person A when Person 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 2: ("Stakeholder relationship management")
- Performance Objective 5: ("Leadership and management")
- Performance Objective 7: ("Prepare external financial reports")
- Performance Objective 18: ("Prepare for and plan the audit and assurance process")

2. Mr Khan's conduct in respect of the matters described in allegation 1 above was:-

- a. In respect of allegation 1a, dishonest, in that Mr 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 Khan 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 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:

- i. His Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee; and /or

- ii. That the performance objective statements relating to the performance objectives referred to in paragraph 1b above accurately set out how the corresponding objective had been met.
4. By reason of his conduct, Mr Imran Khan 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

8. Mr Khan became an ACCA member on 07 December 2018.
9. 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"). The PER requires trainees to achieve nine Performance Objectives ("POs"). For each PO the trainee must complete a personal statement. Each PO must be signed off by the trainee's Practical Experience Supervisor ("PES"). It is a trainee's responsibility to find 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 be either a trainee's line manager or an external, qualified accountant, who liaises with the employer about the trainee's work experience.
10. ACCA's primary case against Mr Khan is that he entered into a fraudulent arrangement with Person A to enable Mr Khan to complete his practical experience training.

ACCA's SUBMISSIONS

11. Mr Khan commenced his training in April 2015, apparently under the supervision of Person A. The relevant guidance applicable for the training commencing in April 2015 explains that the PES must be a qualified accountant and is supposed to support the trainee throughout their training, including in the planning of their POs.
12. ACCA contend that Mr Khan's PER record shows he claimed 37 months of workplace experience at Company A between 19 April 2015 to 28 May 2018. This claimed period of employment was submitted to Person A by Mr Khan and approved by Person A on 07 November 2018. Person A also confirmed Mr

Khan's time in that employment. Mr Khan's PER record also shows he submitted nine PO statements for approval to Person A on 07 November 2018. The PO statements were approved by Person A on the same dates. In the comment box for each of the PO statements submitted to Person A, Mr Khan added "*Company A – Trainee Auditor*". ACCA have been unable to verify the existence of Company A and there is no information from Mr Khan to show that Company exists or has ever existed.

13. Mr Khan claimed Person A was his supervisor when he was working at Company A from April 2015 to May 2018. ACCA submitted that Mr Khan was representing that Person A was his line manager at Company A but contended that neither of them worked at the firm as the firm never existed. Furthermore, Person A was not a qualified accountant until September 2016. Mr Khan asserted his supervisor was Person A. ACCA's case was that Person A could not have acted as Mr Khan's supervisor throughout the period of Mr Khan's purported supervision as Person A's membership record indicates they did not become a member of ACCA until September 2016.
14. ACCA also contended that Mr Khan's PO 18 statement was nearly the same or strikingly similar to Person A's PO 18 statement, and that Mr Khan's PO2, PO5, PO7 and PO 18 statements were nearly the same as those of other trainees. ACCA wrote to Mr Khan notifying him that these statements were copied from Person A and other trainees. There was no substantive response from Mr Khan although he signed the undertakings ACCA requested dated 01 October 2020.
15. ACCA's primary case was that Mr Khan was dishonest when he submitted his Practical Experience Training Record to ACCA in November 2018 because he asserted that Person A was his PES when he knew that Person A did not and could not supervise his PE training. Further he was also dishonest in that he had not achieved PO 2, PO 5, PO7 and PO18 as the statement in support of these POs were copies of statements from other trainees. A breach of the fundamental principle of integrity or reckless conduct were alleged as alternatives to dishonesty. ACCA contended Mr Khan's conduct amounted to misconduct.

MR KHAN'S SUBMISSIONS

16. There was no substantive response from Mr Khan to ACCA's case and he has not made any submissions.

17. In summary, the Committee inferred that Mr Khan appeared to maintain that he thought Person A was a valid supervisor and that Mr Khan wrote all the PO statements and properly undertook the POs.

DECISION ON ALLEGATIONS AND REASONS

18. The Committee accepted the advice of the Legal Adviser. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the balance of probabilities. It reminded itself of Collins J's observations in Lawrance v. GMC [2015] EWHC 581 (Admin) to the effect that in cases of dishonesty, cogent evidence was required to reach the civil standard of proof.
19. The Committee heard that there had been no previous findings against Mr Khan and accepted that it was relevant to put his good character into the balance in his favour.

DECISION ON FACTS

20. The Committee reminded itself to exercise caution as it was working from documents alone. It noted the submissions of Ms Terry for ACCA. It reminded itself that the burden of proof was on ACCA alone and that Mr Khan's absence added nothing to ACCA's case and was not indicative of guilt.

Allegation 1

1. **Submitted or caused to be submitted to ACCA on or about 28 November 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 19 April 2015 to 28 May 2018 was Person A when Person 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).**
21. The Committee was satisfied on the basis of the practical experience training record contained in the bundle and produced from ACCA's records that Mr Khan had submitted it or caused it to be submitted to ACCA in or around

November 2018. Further, the Committee accepted on the face of the document that it purported to confirm that Person A was his PES from April 2015 to May 2018.

22. The Committee noted ACCA's documentary business record, which it accepted as being accurate, that Person A only became a member of ACCA in September 2016. It accepted that it was a requirement as set out in ACCA's guidance that the PES be a member of ACCA or an IFAC qualified accountant. There was no evidence before the Committee to indicate that Person A fulfilled the criteria to be a PES at the material time. The Committee was therefore satisfied that Person A could not supervise Mr Khan's PE training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance. It noted that Person A wrote to ACCA in February 2017 stating they were going back to full time education. It also noted the absence of any evidence to support that there had been any supervision by Person A of Mr Khan. The Committee was satisfied on the balance of probabilities that Person A did not supervise Mr Khan's PE training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance. Accordingly, the Committee was satisfied that Allegation 1 a) was proved.

b. he had achieved:

- **Performance Objective 2: ("Stakeholder relationship management")**
- **Performance Objective 5: ("Leadership and management")**
- **Performance Objective 7: ("Prepare external financial reports")**
- **Performance Objective 18: ("Prepare for and plan the audit and assurance process")**

23. The Committee accepted ACCA's evidence that the Training Record that Mr Khan submitted to ACCA (or caused to be submitted) contained PO statements for PO 2, PO 5, PO 7 and PO 18. Accordingly, the Committee was satisfied on the face of the document that it purported to confirm that Mr Khan had achieved PO 2, PO 5, PO 7 and PO 18 and therefore Allegation 1 b) was proved.

Allegation 2

2. Mr Khan's conduct in respect of the matters described in allegation 1 above was:-

- a. In respect of allegation 1a, dishonest, in that Mr 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.**

24. The Committee next asked itself whether the proven conduct in Allegation 1 a) was dishonest.

25. The Committee considered what Mr Khan's belief was, as to the facts. Whilst mindful the burden of proof was on ACCA, it noted that Mr Khan had provided no details about what Person A allegedly did for him as his supervisor or what checks or enquiries he had made as to the suitability for Person A being a supervisor at the relevant time or of his contended employment with Company A. There was no evidence before the Committee of efforts by Mr Khan to confirm that Person A was an ACCA member at the time or was otherwise suitable to act as his supervisor. Further, and in any event, on the information before it, the Committee rejected as less likely than not, that Person A did supervise his PE training in accordance with the requirements. The Committee was also satisfied that at the material time Person A was not a member of ACCA. Further, it rejected as implausible any assertion (though not made by Mr Khan) that he could have genuinely thought Person A fulfilled the criteria to be his PE supervisor. In the circumstances the Committee was satisfied that Mr Khan knew that it was untrue to confirm that Person A did and could supervise him. The Committee rejected any other basis such as mistake or carelessness. It was satisfied that this conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2 a) was proved.

- 2 b. In respect of allegation 1b, dishonest, in that Mr Khan 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.**

26. The Committee next asked itself whether the proven conduct in Allegation 1 b) was dishonest.

27. The Committee considered what Mr Khan's belief was, as to the facts. It was satisfied that Mr Khan's statements for PO 2, PO 5, PO 7 and PO 18 were nearly the same as the statements of other trainees who claimed to be supervised by Person A and, moreover, that Mr Khan's PO 18 was nearly the same as Person A's PO 18. It compared Mr Khan's statements with those of other trainees contained in the records and Person A's PO 18 statement and noted that they were nearly identical in content. The Committee was therefore satisfied on the balance of probabilities that Mr Khan knew his statements were not his original work and did not reflect his work experience. The statements were therefore false and had been copied from others. It made the reasonable inference on these finding of facts that Mr Khan had not done the work for or "achieved" the POs as described. It was satisfied that this conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2 b) was proved.

2 c. In the alternative, any or all of the conduct referred to in paragraph 1 above demonstrates a failure to act with integrity.

28. Given the Committee's findings in relation to Allegation 2 a) and 2 b) it did not consider the alternative of Allegation 2 c). This was therefore not proved.

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 performance objective statements relating to the performance objectives referred to in paragraph 1b above accurately set out how the corresponding objective had been met.**

29. Given the Committee's findings in relation to Allegation 2 a) and 2 b) it did not consider the alternative of Allegation 3. This was therefore not proved.

Allegation 4(a) - Misconduct

- 4. By reason of his conduct, Mr Khan 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.**
30. The Committee next asked itself whether, by submitting a fraudulent Practical Experience Training Record, Mr Khan was guilty of misconduct.
31. The Committee had regard to the definition of misconduct in bye-law 8(c) and the assistance provided by the case law on misconduct. To dishonestly gain membership status and not undertake the work claimed, was, in the Committee's judgment, deplorable conduct. This was a dishonest route to securing that status. It was satisfied that Mr Khan's actions brought discredit on him, the Association and the accountancy profession. It was satisfied that his conduct undermined one of the fundamental tenets of the profession – to be honest and not associate oneself with false and misleading statements – and therefore had reached the threshold for misconduct.

SANCTIONS AND REASONS

32. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate.
33. The Committee accepted the advice of the Legal Adviser.
34. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The dishonest behaviour was serious. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.
35. The aggravating factors the Committee identified were:
- The conduct involved dishonesty which was pre-planned, including collusion with another for securing of false PO statements;
 - The serious impact on the reputation of the profession, particularly by someone who secured entry into the profession by fraud;

- There was no evidence of insight into the seriousness of the conduct and into the future risk of repetition;
 - There was no substantive engagement with ACCA.
36. The only mitigating factor the Committee identified was:
- A previous good character with no disciplinary record albeit over a relatively short professional career
37. Given the Committee's view of the seriousness of the misconduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct.
38. The Committee reminded itself that it was dealing with a case of dishonesty and had specific regard to Section E2 of the Guidance in relation to dishonesty and was mindful of the case law to the effect that dishonesty lies at the top of the spectrum of misconduct. The Committee determined that his dishonest behaviour was fundamentally incompatible with Mr Khan remaining on the register of ACCA. The lack of co-operation and engagement was also of concern to the Committee. The Committee considered that the only appropriate and proportionate sanction was that he be excluded from membership. This sanction was also in the wider public interest to protect the public and maintain confidence in the profession and the regulatory process. The Committee revoked the Interim Order.

COSTS AND REASONS

39. ACCA claimed costs of £8,007.50 and provided a detailed schedule of costs. The Committee noted Mr Khan had not provided any evidence as to his means. The Committee decided that it was appropriate to award costs to ACCA in this case and considered that the sum claimed by them was a reasonable one in relation to the work undertaken. It made some reduction for the Case Presenter's fees as the case has not taken a full day as estimated. There is no information as to the ability of Mr Khan to pay and therefore the Committee made no assumption of means and therefore no reduction. Accordingly, the Committee concluded that the sum of £7,000 was appropriate and

proportionate. It ordered that Mr Khan pay ACCA's costs in the amount of £7,000.

EFFECTIVE DATE OF ORDER

40. The Committee was satisfied that, given the seriousness of the conduct and the potential risk to the public that an immediate order was necessary in the circumstances of this case given the seriousness of the case and the reasons for the substantive decision above.

Mr Andrew Gell
Chair
20 July 2022