

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Mohammad Qasim
Heard on:	Thursday, 10 March 2022
Location:	Remote via Microsoft Teams
Committee:	Mr Maurice Cohen (Chair) Mr Ryan Moore (Accountant) Mr Nigel Pilkington (Lay)
Legal Adviser:	Mr Robin Havard (Legal Adviser)
Persons present and capacity:	Ms Afshan Ali (ACCA Case Presenter) Ms Nyero Abboh (Hearings Officer)
Observers:	
Summary	Allegations 1, 2(a) found proved Removal from the student register
Costs:	£4,500

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PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 76) and a service bundle (pages 1 to 19). The Committee had also considered legal advice which it had accepted.
2. The Committee had read the letter dated 10 February 2022 containing Notice of Proceedings, sent on the same day by ACCA by email to Mr Qasim. It had noted the subsequent emails sent to Mr Qasim with the necessary link and password to enable Mr Qasim to gain access to the letter and the documents relating to this hearing.
3. The Committee was satisfied that such emails had been sent to his registered email address in accordance with Regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee had noted that the emails had been delivered successfully. The emails and the documents to which Mr Qasim had access also contained the necessary information in accordance with CDR10.
4. Consequently, the Committee decided that there had been effective service of proceedings on Mr Qasim in accordance with CDR10 and 22.

PROCEEDING IN ABSENCE

5. On 24 February 2022, in the absence of any response from Mr Qasim to the email of 10 February 2022, ACCA sent another email to him at the same email address asking him to respond and reminding him of the date of hearing. It also reminded Mr Qasim of ACCA's offer to make arrangements for and to bear the cost of him attending via telephone or video link. The email had been delivered successfully. However, Mr Qasim did not reply.

6. On 04 March 2022, ACCA sent a further email to Mr Qasim with a link enabling him to join the hearing today remotely. The email re-confirmed the date and time of hearing. There was no reply.
7. On 07 March 2022, ACCA attempted to call Mr Qasim on the mobile number registered with ACCA. There was no reply, nor was there an opportunity to leave a message on voicemail before the line was disconnected. This was consistent with the attempts to contact him by phone on 25 November 2021 and 08 February 2022.
8. The Committee was satisfied that ACCA had done everything possible to engage Mr Qasim in the hearing. The Committee was satisfied that the lack of any response suggested that he had no intention of participating in the hearing, nor had he requested an adjournment.
9. The Committee found that Mr Qasim had received the emails from ACCA informing him of the hearing and giving him access to the documents containing the evidence on which ACCA relied in support of the allegations.
10. The Committee concluded that, having failed to reply to any of the emails sent to him, Mr Qasim had voluntarily absented himself from the hearing, which he could have joined by telephone or video link. He had therefore waived his right to attend.
11. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made. Finally, the Committee considered that it was in a position to reach proper findings of fact on the written evidence presented to it by ACCA.
12. The Committee ordered that the hearing should proceed in the absence of Mr Qasim.

ALLEGATIONS

Mr Mohammad Qasim, a student member of the Association of Chartered Certified Accountants ('ACCA'):

1. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014 (as applicable in 2021), failed to co-operate fully with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:
 - a. 15 April 2021
 - b. 07 May 2021
 - c. 24 May 2021

2. By reason of his conduct in respect of any or all of the matters set out at 1, Mr Qasim is:
 - a. Guilty of misconduct pursuant to byelaw 8(a)(i); or, in the alternative,
 - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii)

DECISION ON FACTS, ALLEGATIONS AND REASONS

Allegation 1

13. In reaching its findings in respect of allegation 1, the Committee relied upon the email correspondence and documents contained in ACCA's bundle and noted the Incident Report provided by the Proctor (i.e. a remote exam Invigilator). The Committee also listened to legal advice, which it accepted.

14. On 22 November 2020, Mr Qasim became registered as a student member of ACCA. As such, he is bound by the Association's byelaws and Regulations.

15. On 25 February 2021, Mr Qasim sat his FMA Management Accounting examination (the 'Exam') remotely. The Proctor filed an Incident Report in respect of conduct observed during the Exam.
16. An investigation was commenced. Mr Qasim had not provided any response to the correspondence sent to him during the course of the investigation.
17. On 15 April 2021, ACCA sent an email to Mr Qasim's registered email address informing him of a complaint relating to his conduct during his on-demand FMA Management Accounting exam. The email referred to an attached letter. A separate email was sent with a password enabling Mr Qasim to gain access to the letter. There was no evidence to suggest that the email had not been delivered successfully and the email address was the same as that on ACCA's register. The letter contained the Proctor's Incident Report and set out a number of detailed questions to which Mr Qasim was required to respond. He was told that he should respond by 06 May 2021. The letter included confirmation of Mr Qasim's duty to cooperate and that his failure to do so may lead to disciplinary action. Mr Qasim failed to respond.
18. On 07 May 2021, ACCA sent a further email to Mr Qasim's registered email address, to which a letter was attached. The letter reminded him again of his obligation to co-operate with the investigation and again seeking his response by 21 May 2021. Mr Qasim failed to respond. No screenshot of Mr Qasim's email address was taken on 07 May 2021, i.e. the date the letter was sent. However, a screenshot was taken on 19 May 2021 and Mr Qasim's email address remained the same.
19. On 24 May 2021, ACCA sent a final email to Mr Qasim's registered email address to which a further letter was attached, reminding him again of his obligation to co-operate with the investigation and again seeking his response by 31 May 2021. Once again, Mr Qasim failed to respond.
20. Whilst not directly related to the emails on which allegation 1 was based, the Committee also noted that Mr Qasim had failed to respond to further emails

sent to him by ACCA on 22 July 2021, 19 October 2021 and 08 December 2021. He failed to reply to any of that correspondence and, again, he has failed to respond to correspondence in relation to this hearing as described above.

21. On the basis of the evidence, the Committee was satisfied that the emails of 15 April 2021, 07 May 2021 and 24 May 2021 had been sent to the registered email address of Mr Qasim and that they had been delivered successfully. The Committee was also satisfied that Mr Qasim had failed to respond to those emails. The Committee found that this represented a failure by Mr Qasim to cooperate with ACCA. Indeed, he had been warned by ACCA in the correspondence that he had a duty to cooperate with ACCA and that there was a requirement for him to respond. Therefore, the Committee found the facts of allegation 1 proved.

Allegation 2(a)

22. Taking account of its findings that, despite clear warnings, Mr Qasim had failed persistently to cooperate with ACCA and to respond to correspondence, the Committee was satisfied that such conduct brought discredit to Mr Qasim, ACCA and the accountancy profession.
23. The need for members, including student members, to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to ensure proper standards of conduct and to maintain its reputation was seriously compromised.
24. The Committee had made no findings in respect of the issues being investigated by ACCA. However, it was clear that they related to Mr Qasim's conduct during an examination that raised serious issues which needed to be explored.
25. The Committee found allegation 2(a) proved.

Allegation 2(b)

26. On the basis that this allegation was pleaded in the alternative to allegation 2(a), the Committee made no finding in respect of it.

SANCTION AND REASONS

27. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions ("the Guidance"), and the principle of proportionality. It had also listened to legal advice from the Legal Adviser which it accepted.
28. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
29. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
30. The Committee considered whether any mitigating or aggravating factors featured in this case.
31. The Committee accepted that there were no previous findings against Mr Qasim. However, the Committee took into consideration the fact that Mr Qasim was still a student member and had only been on the student register for approximately two months when he sat the exam in February 2021.
32. The Committee had no information regarding the personal circumstances of Mr Qasim nor had it been provided with any testimonials or references as to Mr Qasim's character.

33. The Committee noted that Mr Qasim had failed completely to engage with the process. Mr Qasim had not shown any insight into the seriousness of his conduct in failing to respond to ACCA nor had he expressed any remorse.
34. As for aggravating features, the Committee repeated that, in failing to engage with ACCA during its investigation or in these proceedings, Mr Qasim had shown neither insight nor contrition. His failure to cooperate also extended over a period of time and could not be described as an isolated incident.
35. For these reasons, the Committee concluded that neither an admonishment nor a reprimand would represent a sufficient and proportionate outcome. Furthermore, neither sanction would adequately reflect the seriousness of the Committee's findings.
36. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, and reflecting on the criteria suggested in the Guidance, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
37. Mr Qasim had failed persistently to cooperate with his regulator, ACCA, in respect of an investigation of potentially serious allegations of misconduct. His lack of engagement, not only in relation to the investigation of his conduct during an exam but also in relation to these proceedings, represented conduct which was fundamentally incompatible with being a student member of ACCA. His lack of engagement since April 2021, and his failure to show any insight or contrition for his lack of cooperation, led the Committee to conclude that there was no guarantee that Mr Qasim would at any stage behave in a manner expected of a member of ACCA.
38. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Mr Qasim from the student register but could find none.

39. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Qasim shall be removed from the student register.

COSTS AND REASONS

40. The Committee had been provided with a detailed breakdown of costs schedule (pages 1 and 2) and a simple costs schedule (page 1) relating to ACCA's claim for costs.
41. The Committee concluded that ACCA was entitled to be awarded costs against Mr Qasim, all allegations having been found proved. The amount of costs for which ACCA applied was £5,497.50. The Committee did not consider that the claim was unreasonable, but the hearing had taken less time than estimated.
42. Mr Qasim had not provided ACCA with any documentary evidence of his means. In the correspondence sent to him, Mr Qasim was warned at the outset of the importance of providing details of his financial circumstances. Furthermore, he was made aware of ACCA's intention to apply for costs.
43. In the absence of any information from Mr Qasim, the Committee approached its assessment on the basis that he was able to pay any amount of costs awarded against him.
44. In all the circumstances, and in exercising its discretion, the Committee considered that it was reasonable and proportionate to award costs to ACCA in the reduced sum of £4,500.

EFFECTIVE DATE OF ORDER

45. The Committee had considered whether the Order should have immediate effect. However, taking account of Mr Qasim's removal from the student register, and the fact that he is not in practice, the Committee did not consider

that he presented a risk to the public. It therefore concluded it was not in the interests of the public to make such an Order.

46. The Committee decided that this Order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

Mr Maurice Cohen
Chair
10 March 2022