

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR THE DECISION

In the matter of:	Mr Syed Waqas Haider
Heard on:	Wednesday, 16 March 2022
Location:	Held remotely by video conference
Committee:	Mr Andrew Popat CBE (Chair) Mr David Horne (Accountant) Mr Geoff Baines (Lay)
Legal Adviser:	Ms Juliet Gibbon
Persons present and capacity:	Ms Afshan Ali (ACCA Case Presenter) Miss Nyero Abboh (Hearings Officer)
Summary:	Allegations 1a), 1b), 1c) and 2a) (misconduct) - proved Removed from the student register with immediate effect
Costs:	£2,000.00

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Syed Waqas Haider. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers, numbered pages 1 to 70, a service bundle, numbered pages 1 to 19 and two schedules of costs.

2. Ms Afshan Ali represented ACCA. Mr Haider did not attend the hearing and was not represented.

SERVICE

3. Written notice of the hearing was sent by electronic mail (“email”) to Mr Haider’s registered email address on 16 February 2022 and he was also sent a password separately to access the document. The Committee had sight of the delivery notification that indicated the email was delivered on 16 February 2022 at 17:18:01 hours. 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. The Committee was, therefore, satisfied that ACCA had given the requisite 28 days’ notice required under Regulation 10(1)(a) of the regulations.
4. The Committee accepted the advice of the Legal Adviser. The Committee was satisfied that ACCA had given the requisite 28 days’ notice required under Regulation 10(1)(a) of the Regulations. It was also satisfied that the email attaching the notice of hearing, to which Mr Haider had access, contained all the requisite information about the hearing in accordance with Regulation 10(1)(b) of the Regulations. The Committee was, therefore, satisfied that service had been effective in accordance with Regulations 10 and 22 of the Regulations.

APPLICATION TO PROCEED IN ABSENCE

5. Ms Ali made an application to proceed in the absence of Mr Haider.
6. Mr Haider was sent emails by the Hearings Officer (“the HO”) on 02 and 14 March 2022 asking him to confirm his attendance at the hearing. The Committee was also referred to the HO’s attendance note of 11 and 14 March 2022. The HO telephoned Mr Haider at 12 noon on 11 March 2022 to discuss his attendance at the hearing. The call was successful but, as soon as she identified herself, Mr Haider hung up the phone. The HO attempted to call Mr Haider again that day, but he did not answer and there was no opportunity for her to leave a voice message. The HO also tried to call Mr Haider at 1.30pm on 14 March 2022, but again without success.

7. The Committee considered whether it should proceed in Mr Haider's absence. It accepted the advice of the Legal Adviser. The Committee bore in mind that whilst it had a discretion to conduct a hearing in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee paid due regard to the factors set out in the cases of Hayward & Others [2001] 3 WLR 125 and Rv Jones [2002] UKHL 5 and to the case of The General Medical Council v Adeogba and Visvardis [2016] EWCA Civ 162.
8. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that ACCA had made repeated attempts to contact Mr Haider prior to the hearing. Mr Haider had not asked for an adjournment and given his non-engagement with the investigation; the Committee was of the view that there was no evidence before it to suggest that an adjournment of today's hearing would result in his attendance on a future date.
9. Having balanced the public interest with Mr Haider's own interests, the Committee determined that it was fair, reasonable and in the public interest to proceed in the absence of Mr Haider.

ALLEGATIONS

Mr Syed Waqas Haider (Mr Haider), an Association of Chartered Certified Accountants' ('ACCA') student:

- 1) Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:
 - a) 06 April 2021;
 - b) 28 April 2021;
 - c) 07 June 2021.
- 2) By reason of his conduct in respect of any or all of the matters set out in Allegation 1, Mr Haider 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).

BACKGROUND

10. Mr Haider first registered as a student of ACCA on 25 March 2019. As such, he is bound by ACCA's byelaws and Regulations.
11. On 10 December 2020, Mr Haider took an on-demand FBT-Business and Technology examination ("the exam") remotely. The proctor filed an Incident Report in respect of conduct observed during the exam.
12. ACCA commenced an investigation against Mr Haider. All correspondence was sent to Mr Haider by email to the email address that he had previously registered with ACCA. ACCA initially sent a letter, dated 17 December 2020, to Mr Haider's registered email address. The letter outlined the nature of the complaint and informed Mr Haider that he would be referred to the Professional Conduct Department for further investigation. Mr Haider responded to ACCA, using his registered email address on the same day in relation to the conduct identified by the proctor in the report.
13. Mr Haider's email address has not been changed by him during the course of the investigation and none of the emails sent to him by ACCA were returned or 'bounced back' into the case management system.
14. ACCA sent a letter to Mr Haider's registered email address on 06 April 2021 informing him of the complaint and seeking his response to a number of questions by 27 April 2021. Mr Haider was also advised of his duty to co-operate in accordance with Regulation 3(1) of the Regulations. ACCA did not receive a response to this email from Mr Haider.
15. A further letter was sent by ACCA to Mr Haider's registered email address on 28 April 2021 reminding him of his obligation to co-operate with the investigation and seeking a response by 12 May 2021. Again, ACCA did not receive a response to this email from Mr Haider.
16. On 07 June 2021, ACCA sent a further letter to Mr Haider's registered email address reminding him of his obligation to co-operate and seeking a response by 14 June 2021. Again, no response was received from Mr Haider.
17. ACCA again wrote to Mr Haider by email on 09 September 2021 enclosing a copy of the report of the disciplinary allegations and again on 07 December 2021, informing him that the Disciplinary Committee would be considering the allegations as set out in the report. A further email was sent to Mr Haider on 03 February 2022 in relation to his failure to return

the Case Management form. Mr Haider failed to respond to all of these communications from ACCA but his failure to do so does not form part of the case against him. On 07 February 2022, a member of the Adjudication Team attempted to call Mr Haider but without success, and on 11 and 14 March 2022, the HO attempted to call him. The HO also sent further emails to Mr Haider on 2 and 14 March 2022 asking him to confirm his attendance at the hearing.

ACCA SUBMISSIONS

18. Ms Ali submitted that, in failing to respond to the correspondence sent to him by ACCA, Mr Haider had breached Regulation 3(1) of the Regulations, that provides:
 - a) Every relevant person is under a duty to co-operate with any investigating officer and any assessor in relation to the consideration and investigation of any complaint.
 - b) The duty to co-operate includes providing promptly such information, books, papers or records as the investigating officer or assessor may from time to time require.
 - c) A failure or partial failure to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of these regulations and may render the relevant person liable to disciplinary action.

19. Ms Ali further submitted that:
 - a) The failure of a student to co-operate with his professional body was a very serious matter, demonstrating a lack of professional responsibility and a complete disregard for ACCA's regulatory process. Further, a failure by Mr Haider to respond to questions asked by the investigating officer during the investigation into his conduct had prevented ACCA from fully investigating the complaint against him and, if considered necessary, taking disciplinary action in relation to what may have amounted to a serious matter.
 - b) Mr Haider had an obligation to co-operate with his professional body and to engage with it when a complaint was raised. Such co-operation is fundamental to ACCA, as his regulator, being able to discharge its obligations of ensuring protection and upholding the reputation of the profession.

- c) Mr Haider had acted in a manner which brought discredit to him, the Association and the Accountancy Profession and his failure to co-operate with the investigation against him was so serious as to amount to misconduct.
- d) If the Committee was not satisfied that Mr Haider's failure to co-operate amounted to misconduct then, as he has breached Regulation 3(1) of the regulations, it should find him liable to disciplinary action.

DECISION AND REASONS

- 20. The Committee carefully considered the documentary evidence before it and the oral submissions made by Ms Ali. The Committee accepted the advice of the Legal Adviser.
- 21. The Committee bore in mind that the burden of proving a factual allegation in dispute rests on ACCA and the standard of proof is the balance of probabilities.

ALLEGATION 1a), 1b) and 1c) - PROVED

- 22. On the evidence before it the Committee was satisfied that ACCA had sent emails to Mr Haider's registered email address on 06 April, 28 April and 7 June 2021 and they had been delivered successfully. It also noted that Mr Haider had replied to an email sent to his registered email address at the pre-investigation stage of the proceedings.
- 23. The Committee was also satisfied that Mr Haider had failed to respond to the three emails. The Committee determined that Mr Haider's failure to respond represented a failure by him to co-operate with an ACCA investigation. Indeed, he had been warned by ACCA in the correspondence that he had a duty to co-operate with ACCA and there had been a requirement for him to respond. Accordingly, the Committee found Allegations 1a), 1b) and 1c) proved.

ALLEGATION 2a) - MISCONDUCT FOUND

- 24. The Committee determined that Mr Haider's conduct, in failing to co-operate with the investigation against him, fell far below the standards expected of an ACCA student. In the Committee's determination, Mr Haider's conduct undermined the integrity of ACCA's investigatory process and had brought discredit to him, the Association and the

Accountancy Profession.

25. The Committee made no findings in respect of the issues being investigated by ACCA. The requirement for members, including student members, to engage and co-operate with their regulator during an investigation was, however, 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 as a regulator was seriously compromised.
26. The Committee was satisfied that Mr Haider's failure to co-operate with the ACCA investigation was a very serious, deliberate breach of the Regulations on more than one occasion and clearly amounted to misconduct.
27. The Committee, having found Allegation 2a) proved, did not go on to consider Allegation 2b) which was pleaded in the alternative.

SANCTION AND REASONS

28. Ms Ali informed the Committee that there were no previous disciplinary findings against Mr Haider.
29. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(4) of the Regulations and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Haider's own interests. The purpose of any sanction was not meant to be punitive but was to protect members of the public, maintain public confidence in the profession and ACCA and to declare and uphold proper standards of conduct and behaviour.
30. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee accepted that there were no previous findings against Mr Haider but also took into consideration that he had been a student member of ACCA for less than three years
31. The Committee did not consider that there were any specific aggravating features apart from the seriousness of the Mr Haider's deliberate and calculated misconduct in failing to co-operate with his regulator.

32. The Committee had no information regarding the personal circumstances of Mr Haider, nor had it been provided with any testimonials or references.
33. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the misconduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the gravity of the matters proved, and would not protect the public interest.
34. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from the student register was required. It had careful regard to the factors applicable to each of these sanctions as set out in the Guidance for Disciplinary Sanctions. The Committee considered that most of the factors applicable to a severe reprimand did not apply in this case. Mr Haider had persistently failed to co-operate with ACCA, his regulator, not only in relation to the investigation of his conduct during an examination, but also in relation to these proceedings. The Committee concluded that a severe reprimand would not be appropriate or sufficient to protect the public interest in this case.
35. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed. The Committee took into account the guidance that this sanction was likely to be appropriate when the behaviour of the student was fundamentally incompatible with being a registered student of ACCA. The Committee was satisfied that Mr Haider's conduct, in failing to co-operate with his regulator on more than one occasion, had reached that high threshold. There was no mitigation before the Committee from Mr Haider, for example evidence of insight and remorse, to warrant anything other than removal from the student register.
36. For the above reasons, the Committee concluded that the appropriate and proportionate sanction was for Mr Haider to be removed from the student register.
37. The Committee did not deem it necessary to impose a specified period before which Mr Haider can make an application for readmission as a student member.

EFFECTIVE DATE

38. The Committee had determined that the misconduct in this case was so serious as to warrant a sanction of removal from the student register. In the circumstances, the

Committee determined that it was in the interests of the public that the sanction order should have immediate effect and so directed.

DECISION ON COSTS AND REASONS

39. ACCA applied for costs in the sum of £6,006.00. The Committee had been provided with two costs schedules.
40. The Committee made deductions for the hours claimed in relation to the Case Presenter and the Hearings Officer and concluded that the sum of £5,500.00 would be an appropriate and reasonable sum for ACCA to claim by way of costs. Mr Haider had not provided any details of his current financial means, although the Committee noted that in his initial correspondence to ACCA, dated 17 December 2021, he had stated that he belonged to 'a poor family' and had to rent the equipment necessary to take the exam. The Committee also took into account that Mr Haider was a young student living in Pakistan.
41. The Committee determined that it would be fair and proportionate to order Mr Haider to pay a contribution to ACCA's costs in the sum of £2,000.00.

ORDER

- i. Mr Syed Waqas Haider shall be removed from ACCA's student register with immediate effect.
- ii. Mr Syed Waqas Haider shall pay a contribution to ACCA's costs in the sum of £2,000.00.

Mr Andrew Popat CBE
Chair
16 March 2022