

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Muhammad Hassan
Heard on:	Tuesday, 22 March 2022
Location:	Held remotely by video conference
Committee:	Ms Valerie Paterson (Chair) Mr Trevor Faulkner (Accountant) Ms Sue Heads (Lay)
Legal Adviser:	Mr Robin Havard
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Miss Nyero Abboh (Hearings Officer)
Summary:	Allegations 1, 2a), 2b), 3a) and 4a) (misconduct) - proved Removed from the student register
Costs:	£2,750.00

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 146), a Tabled Additional bundle (pages 1 to 5), an examination video reference number 4108555 and dated 19 February 2021, a video from Mr Hassan with reference UF6965848 and dated 28 November 2021, and an updated Service Bundle (pages 1 to 28). The Committee had also considered legal advice, which it had accepted.
2. The Committee had read the letter dated 22 February 2022 sent from ACCA by email to Mr Hassan and had noted the subsequent emails sent to Mr Hassan with the necessary link and password to enable Mr Hassan to gain access to the letter and the documents relating to this hearing. 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.
3. The emails and the documents to which Mr Hassan had access also contained the necessary information in accordance with CDR10. Consequently, the Committee decided that Mr Hassan had been properly served with the proceedings.

PROCEEDING IN ABSENCE

4. On 08 March 2022, ACCA sent an email to Mr Hassan asking him to indicate whether he intended to attend the hearing, reminding him of the date of hearing and that a link enabling Mr Hassan to join the hearing remotely would be sent to him closer to the date of hearing. In the letter of 22 February 2022, ACCA confirmed that such arrangements would be at ACCA's expense.
5. On 15 March 2022, ACCA sent a further email to Mr Hassan with a link enabling him to join today's hearing. On the same day, ACCA attempted to contact Mr

Hassan by phone using the number registered with ACCA. However, there was no reply nor any facility enabling ACCA to leave a message.

6. However, on 15 March 2022, Mr Hassan sent an email to ACCA stating as follows:

"I might not be able to attend the committee hearing and have no questions either as I don't belong to a rich family and I handle my own expenses financially. Due to which I don't own a smart phone. I am sending you this email from a friend's phone and this might be too difficult for me. I can only send you one proof of something you can attach it if you could. I am sending you the pictures of the watch I was wearing it is just a digital watch and the proctor never told me to remove it. I really apologise for the inconvenience. Thank you." [sic]

7. Mr Hassan included further photographs of the watch he stated that he was wearing at the time of the exam.
8. On 16 March 2022, ACCA reiterated in an email to Mr Hassan that there would be no charge for him to participate in the hearing remotely. The email asked Mr Hassan to indicate whether he intended to join the hearing, whether he required an interpreter, whether he wished to apply for an adjournment or whether he was content for the hearing to proceed in his absence.
9. On 16 March 2022, Mr Hassan sent an email stating:

"I might not be able to attend the meeting so if it can occur without me it will be a pleasure from your side." [sic]

10. Following a further request having been made by ACCA for Mr Hassan to confirm his intentions, Mr Hassan sent an email on 18 March 2022, stating as follows:

*"I will not be able to attend the hearing.
I am happy for the hearing to proceed in my absence."*

Kind regards.

Hassan" [sic]

11. The Committee concluded that ACCA had done everything possible to enable Mr Hassan to attend the hearing. Taking account of this email from Mr Hassan, the Committee concluded that Mr Hassan had voluntarily absented himself from the hearing, which he could have joined by telephone or video link.
12. 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 as stated, Mr Hassan had consented to the hearing proceeding in his absence. Finally, the Committee considered that it was able to reach proper findings of fact on the written evidence presented to it by ACCA, to include the written responses provided by Mr Hassan.
13. The Committee ordered that the hearing should proceed in the absence of Mr Hassan.

APPLICATION TO AMEND THE ALLEGATIONS

14. Ms Terry applied to amend allegation 4a. Notice of the application had been sent to Mr Hassan by email on 18 March 2022.
15. The proposed amendment was as follows:
 - " 4. By reason of his conduct, Mr Hassan is:
 - a. Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations ~~2 and/or 2-3(a) and/or 3(b)~~ 1 - 3 above; or in the alternative,"
16. In effect, the application was to amend allegation 4a by referring the allegation of misconduct to allegations 1 – 3 as opposed to allegations 2 and 3.

17. The Committee noted that, as set out at paragraph 10 above, Mr Hassan had sent an email to ACCA on 18 March 2022. However, this was prior to the email from ACCA setting out its amendment application. Mr Hassan had not responded to ACCA's application. Nevertheless, on the basis that Mr Hassan had been in communication with ACCA on that day, the Committee was satisfied, on the balance of probabilities, that Mr Hassan had seen the email containing the application.
18. The Committee found that the proposed amendment had not arisen as a result of the introduction by ACCA of any new evidence in its case against Mr Hassan. Therefore, the Committee concluded that the amendment would cause no prejudice to Mr Hassan. In the circumstances, the Committee was prepared to grant the application.

ALLEGATIONS (as amended)

Mr Muhammad Hassan, (Mr Hassan), an Association of Chartered Certified Accountants ('ACCA') student:

1. On 03 January 2021, in relation to a scheduled Corporate and Business Law (LW) - ENG examination (the 'Exam') did not have his watch out of arm's reach before and/or during the Exam, contrary to Examination Guidelines and Examination Regulation 1 (as applicable in 2021);
2. Gave inaccurate and/or misleading responses to an ACCA investigation into his conduct during the Exam regarding the watch that he was wearing in that:
 - a. On 29 April 2021, in an email to ACCA, he inaccurately represented that the watch he wore in the Exam was the watch pictured in Schedule B;

- b. On 24 May, 2021 in an email to ACCA, he inaccurately represented that the watch he wore in the Exam was the watch pictured in Schedule C.
- 3. Mr Hassan's conduct described at Allegations 2(a) and/or 2(b):
 - a. Was dishonest in that he knew the representation to be untrue and/or sought to mislead ACCA's investigation; or, in the alternative,
 - b. Demonstrates a failure to act with integrity; or, in the alternative,
 - c. Was contrary to Complaints and Disciplinary Regulation 3(1).
- 4. By reason of his conduct, Mr Hassan is:
 - a. Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations 1 - 3 above; or in the alternative,
 - b. Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of any or all of the matters set out at Allegations 1, and/or 3(c).

DECISION ON FACTS/ALLEGATIONS AND REASONS

Allegation 1

- 19. On 10 September 2019, Mr Hassan was registered as a Foundations in Accountancy (FIA) student.
- 20. On 18 December 2020, ACCA registered Mr Hassan for the ACCA qualification. As such, he was bound by the ACCA's Bye-laws and Regulations.

21. On 03 January 2021, Mr Hassan took an on-demand Corporate and Business Law (LW) – ENG examination (the 'Exam') remotely. Remote exams of this sort are invigilated by a proctor (the name given to a remote exam invigilator).
22. In advance of such an exam, Mr Hassan received full details of the Examination Guidelines and Regulations to which he was required to adhere. In the "chat" log which recorded messages which passed between Mr Hassan and the proctor prior to the commencement of the Exam, the following exchange took place:

Proctor: *"Please confirm that you have read and understood the "Information Sheet for On-Demand CBE Students sitting exams at home" and the "On-Demand CBE Announcements" sent to you prior to the exam."*

Mr Hassan: *"Yes"*

23. The Examination Guidelines included in the Information Sheet set out clearly the required conduct of a candidate during a Proctored Exam. They include the following:

"EXAMINATION GUIDELINES

Before the Examination

Proctored Exam

The exam can be attempted at home or in your office. Wherever you choose to sit the exam, you should be in a walled room, with a closed door and without distractions.

Before the examination start, you must ensure you follow the instructions below:

- *Ensure you are not disturbed by anyone.*

- *Disconnect extra monitors, projectors and televisions.*
 - *Place food and smoking equipment out of sight.*
 - *Move electronic devices, headphones and watches out of arm's reach."*
24. Following the Exam on 03 January 2021, the proctor filed an Incident Report in respect of conduct observed (looking off screen) during the Exam.
25. An investigation was commenced. This involved obtaining documents and video footage relating to the Exam. On the basis of the video footage and, in particular, the footage recorded at 39:05 and 1:14:44, together with still photographs of those parts of the video, the Committee found that Mr Hassan was wearing a watch during the exam on 03 January 2021.
26. Indeed, in his correspondence with ACCA (for example his email dated 29 April 2021), Mr Hassan had admitted that he was wearing a watch during the course of the exam.
27. The Committee was, therefore, satisfied that Mr Hassan had breached the Examination Guidelines as he had failed to move his watch out of arm's reach during the Exam. In breaching the Examination Guidelines, he was in breach of Examination Regulation 1.
28. On this basis, the Committee found the facts of allegation 1 proved.

Allegation 2(a)

29. On 07 April 2021, ACCA wrote to Mr Hassan, asking him a number of questions relating to his conduct at the Exam on 03 January 2021. Certain of those questions related to the allegation that, during the Exam, Mr Hassan was wearing a watch.
30. On 29 April 2021, Mr Hassan responded to ACCA's letter.
31. In his response, Mr Hassan had attached to his email dated 29 April 2021 a photograph of a gold-coloured analogue watch. This photograph not only appeared as part of the email but had also been reproduced at Schedule B.

32. In his email of 29 April 2021, Mr Hassan stated,

"1.2 I was wearing a watch as I did not knew that it was not allowed, otherwise I wouldn't have wearing it. As you can see in the video I didn't even look at the watch or use it.

"1.3 Yes this is a watch but not a smart watch, i'm attaching a picture of it so you can have a look". [sic]

33. In the last line of that email, Mr Hassan wrote:

"This is the watch I was wearing" [sic]

34. However, the Committee was satisfied that the watch appearing on the wrist of Mr Hassan as illustrated in the video footage as described in paragraph 25 under allegation 1 above does not match the watch appearing in the photograph at Schedule B.

35. In the circumstances, the Committee found that, in his email of 29 April 2021, Mr Hassan inaccurately represented that the watch he wore in the Exam was the watch pictured in Schedule B.

36. The Committee was satisfied that ACCA had established, on the balance of probabilities, that, in making such an inaccurate representation, Mr Hassan had given inaccurate and misleading responses to an ACCA investigation into his conduct during the Exam regarding the watch he was wearing.

37. It was on this basis that the Committee found allegation 2(a) proved.

Allegation 2(b)

38. On 20 May 2021, ACCA wrote to Mr Hassan, stating that the watch appearing in the photograph attached to his email of 29 April 2021 did not match the watch

that can be seen in the video footage of the Exam, asking Mr Hassan for an explanation.

39. Mr Hassan responded in an email of 24 May 2021, stating:

"I am attaching the watch i was wearing". [sic]

40. However, in his email of 24 May 2022, Mr Hassan attached internet images of a watch which was also shown at Schedule C. This watch was different to the watch not only in the photograph attached to his email of 29 April 2021 i.e. Schedule B, but also the watch which can be seen in the Exam footage.

41. On 27 May 2021, ACCA wrote once again to Mr Hassan asking him to explain why he had sent photographs and internet screenshots in his emails of 29 April 2021 and 24 May 2021 respectively, both of which were different to the watch he was wearing during the Exam.

42. Indeed, the Committee noted that the watch shown in the screenshot from the internet has a white rim on the face whereas the watch worn in the Exam does not.

43. Mr Hassan stated in his email of 27 May 2021:

"I understand you're misunderstood by the picture I sent you from internet. The reason why i sent you from internet is I don't have the watch now i lost it last month and cant find it but I assure you that was a digital watch." [sic]

44. On 25 June 2021, Mr Hassan wrote to ACCA again, stating that:

"Actually i tried my best to find the watch but I couldn't find it anywhere. I hope you understand.

It was a digital watch which was not working." [sic]

45. On 28 November 2021, Mr Hassan sent an email to ACCA in which he accepted that he was wearing a watch in the Exam but that he did not use it.

He attached photographs of a watch and suggested that this was the actual watch he was wearing at the time of the Exam. First, despite suggesting in his emails of 27 May 2021 and 25 June 2021 that the watch he had worn in the Exam had been lost, Mr Hassan made no mention in his email of 28 November 2021 of how the watch had been found. Secondly, in his email of 25 June 2021, he stated that the watch was not working whereas in the photographs attached to his email of 28 November 2021, the watch was shown to be working.

46. Finally, on 15 March 2022, Mr Hassan sent an email to ACCA to which were attached two photographs of a digital watch. In the email, Mr Hassan stated:

"I am sending you the pictures of the watch i was wearing it is just a digital watch and the proctor never told me to remove it." [sic]

47. The Committee found the accounts of Mr Hassan to be inconsistent and unreliable, especially the explanation he gave for attaching the screenshot to his email of 24 May 2021.

48. As stated, in that email, he wrote, *"I'm attaching the watch I was wearing."* There was no mention of the fact that this was not the actual watch he was wearing at the time of the Exam nor was there any mention of the fact that he had lost the watch he was wearing in the Exam. That explanation was only forthcoming when it was pointed out by ACCA in its email of 27 May 2021 that the watch attached to his email of 24 May 2021 i.e. the one shown in Schedule C, was different to the one on his wrist as shown in the video of the Exam.

49. Then, as outlined above, on 28 November 2021 and 15 March 2022, Mr Hassan wrote to ACCA to say that he was attaching photographs, *"of the watch I was wearing"*. No explanation was given regarding how the watch had been found.

50. For these reasons, the Committee had not found Mr Hassan's account to be credible.

51. In the circumstances, the Committee was satisfied that, in an email to ACCA dated 24 May 2021, Mr Hassan had inaccurately represented that the watch he

wore in the Exam was the watch pictured in Schedule C when this was not the case.

52. The Committee was satisfied that ACCA had established, on the balance of probabilities, that, in making such an inaccurate representation in his email of 24 May 2021, Mr Hassan had given inaccurate and misleading responses to an ACCA investigation into his conduct during the Exam regarding the watch he was wearing.
53. It was on this basis that the Committee found allegation 2(b) proved.

Allegation 3(a)

54. The Committee relied upon its findings of fact under allegations 1, 2(a) and 2(b) above.
55. The various accounts provided by Mr Hassan were inconsistent, implausible and not credible. The Committee found that he knew that the representations he made in his emails of 29 April 2021 and 24 May 2021 were untrue. The Committee was also satisfied that the purpose of making representations that he knew to be untrue was to mislead ACCA's investigation.
56. The Committee was satisfied that, by the standards of ordinary decent people, such conduct would be considered to be dishonest.
57. Consequently, the Committee found allegation 3(a) proved.

Allegation 3(b) & (c)

58. On the basis that these allegations were pleaded in the alternative to allegation 3(a), the Committee made no finding in respect of them.

Allegation 4(a)

59. Taking account of its findings that Mr Hassan had acted dishonestly, the Committee was satisfied that he was guilty of misconduct in that such conduct

could properly be described as deplorable. In the Committee's judgement, it brought discredit to Mr Hassan, the Association and the Accountancy Profession.

60. The Committee found allegation 4(a) proved.

Allegation 4(b)

61. On the basis that this allegation was pleaded in the alternative to allegation 4(a), the Committee made no finding in respect of it.

SANCTION AND REASONS

62. 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, and the principle of proportionality. It had also listened to legal advice from the Legal Adviser, which it accepted.
63. 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.
64. 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.
65. The Committee considered whether any mitigating or aggravating factors featured in this case.
66. The Committee accepted that there were no previous findings against Mr Hassan. However, this represented limited mitigation as Mr Hassan only became a student member in 2019.

67. The Committee had little information regarding the personal circumstances of Mr Hassan. The Committee also noted that Mr Hassan had not provided the Committee with any testimonials or references as to his character.
68. The Committee noted that Mr Hassan had engaged with the process to the extent that he had corresponded with ACCA with regards to the allegations. However, this again offered no real mitigation as the most serious of the allegations were based on such correspondence.
69. As for aggravating features, on the basis of the Committee's findings, it had been established that Mr Hassan's behaviour had been dishonest. The steps Mr Hassan had taken involved took place over a number of months and illustrated a level of premeditation. This was not an isolated incident. The Committee was entirely satisfied that his behaviour would undermine confidence in the profession and put at risk the reputation of ACCA.
70. Mr Hassan had offered an apology and had also accepted that he had been wearing a watch although, again, the video made it clear that he was doing so. The Committee noted that Mr Hassan had not admitted the more serious allegations relating to his attempts to mislead ACCA and hamper its investigation. He therefore had not shown sufficient insight or remorse.
71. The Committee concluded that neither an admonishment nor a reprimand would adequately reflect the seriousness of the Committee's findings.
72. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
73. Mr Hassan had been found to have acted dishonestly in his conduct. Through the misleading emails he had sent, Mr Hassan had taken steps to cover up his misconduct. It was also conduct which was fundamentally incompatible with being a student member of ACCA.

74. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Mr Hassan from the student register of ACCA but could find none.
75. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Hassan shall be removed from the student register of ACCA.

COSTS AND REASONS

76. The Committee had been provided with a detailed costs schedule (page 1) relating to ACCA's overall claim for costs.
77. The Committee concluded that ACCA was entitled to be awarded costs against Mr Hassan, all allegations, including dishonesty, having been found proved. The amount of costs for which ACCA applied was £6,383.00. Taking account of the nature of the case, the Committee did not consider that the claim was unreasonable, although the actual time taken at the hearing was less than the estimated time.
78. In the Notice of Proceedings, Mr Hassan had been informed by ACCA that, if the allegations were found proved, an application for costs would be made. A form was also sent to Mr Hassan to complete regarding details of his income, assets and liabilities. Even though Mr Hassan had responded to ACCA following service of proceedings, he had failed to provide ACCA with any details as to his financial circumstances. However, he had made reference to the financial status of his family which he claimed to be very restricted. Whilst the Committee had not been provided with any supporting documents, it was prepared to take account of this submission by Mr Hassan. The Committee therefore approached its consideration of ACCA's claim on the basis that Mr Hassan was able to pay a proportion of ACCA's costs.
79. 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 £2,750.00.

EFFECTIVE DATE OF ORDER

80. The Committee had considered whether the order should have immediate effect. However, taking account of the fact that the order related to Mr Hassan's removal from the student register, and the fact that ACCA had not applied to the Committee for the order to take immediate effect, the Committee did not consider it was in the interests of the public to make such an order.

81. 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.

Ms Valerie Paterson
Chair
22 March 2022