

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR THE DECISION

In the matter of:	Mr Samiullah Jan
Heard on:	06-07 September and 10 October 2022
Location:	Held remotely by video conference
Committee:	Ms Kathryn Douglas (Chair) Ms Jo Royden-Turner (Accountant) Mr Nigel Pilkington (Lay)
Legal Adviser:	Miss Juliet Gibbon
Persons present and capacity:	Mr Ben Jowett (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer on 06-07 September 2022) Miss Nyero Abboh (Hearings Officer on 10 October 2022) Ms Zarqa Shaik (Urdu Interpreter) Mr Samiullah Jan (Affiliate Member)

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

Summary: **Allegations 1a), 1b), 2b), 3(i) and 4 (misconduct)-
found proved
Removal from the Affiliate Register**

Costs: **£500**

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear a number of allegations of misconduct against Mr Samiullah Jan. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 233, a supplemental bundle, numbered pages 1-72, a service bundle, numbered pages 1 to 16 and two tabled additional bundles, numbered pages 1-11 and 1-2. For the resuming hearing on 10 October 2022, the Committee was provided with two transcripts of the hearing on 06-07 September 2022, two costs schedules and Mr Jan’s completed Statement of Financial Position.
2. Mr Ben Jowett represented ACCA. Mr Jan attended the hearing but was not represented. Mr Jan had the assistance of an Urdu interpreter.

Allegations

Mr Samiullah Jan, at all material times an ACCA student:

1. *Submitted or caused to be submitted to ACCA on or about 10 April 2019 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 1 March 2016 to 15 March 2019 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 3: Strategy and innovation;*
- *Performance Objective 7: Prepare external financial reports;*
- *Performance Objective 15: Tax computations and assessments.*

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

- a. *In respect of allegation 1a, dishonest, in that Mr Jan 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 Jan 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, in respect of the conduct referred to in paragraph 1 failed to demonstrate integrity.*

3. *In the further alternative to allegations 2a to 2b above, such conduct was reckless in that it was in willful disregard of ACCA's Guidance to ensure:*

- (i) *A Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee; and or*
- (ii) *That his performance objective statements referred to in paragraph 1b above accurately set out how the corresponding objective had been met.*

4. *By reason of his conduct, Mr Jan 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

3. Mr Jan has been an Affiliate Member of ACCA since 12 April 2021 and prior to that, he had been a Registered Student of ACCA since 30 July 2007.

4. Mr Jan was one of 52 ACCA trainees who informed ACCA that some or all of their practical experience training had been supervised by Person A, including during times when Person A was not yet a qualified Accountant. The 52 trainees also submitted one or more Performance Objective (“PO”) statements to ACCA that were identical or nearly identical to one or more of the other trainees supervised by Person A.
5. 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”).
6. ACCA’s PER is based on the International Federation of Accountants’ (“IFAC”) International Education Standard 5, PER. ACCA’s PER develops the professional knowledge, values, ethics and behaviours required to become a professionally qualified accountant.
7. ACCA’s PER has three components. First, to achieve five “Essential” POs and any four “Technical” POs by gaining the experience required to achieve the necessary elements and to complete a statement for each PO, which is signed off by the trainee’s Practical Experience Supervisor (“PES”). Secondly, to complete 36 months’ work experience in one or more accounting or finance-related roles, which is verified by the trainee’s PES. Thirdly, to regularly record PER progress in the online “MyExperience” recording tool, which is accessed via ACCA’s online portal “myACCA”.
8. 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 is not able to nominate an accountant that has no connection with their place of work and who has not liaised with the trainee’s manager about the trainee’s work.
9. 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.

10. Each PO is comprised of three parts. First, a summary of what the PO relates to. Secondly, five elements outlining the tasks and behaviours that 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 should be unique to their own work experience.
11. 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 often 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 should consult with the trainee's line manager to validate their experience.
12. Trainees must enter the PES's details into the MyExperience 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.
13. Guidance about ACCA's PER, including trainees' responsibilities and PESs and their role, is published on ACCA's website.
14. Mr Jan's PER record shows that he claimed 36 months of workplace experience at Firm B from 01 March 2016 to 15 March 2019. ACCA's records show that this claimed period of employment was submitted to Person A by Mr Jan on or about 02 April 2019.
15. Mr Jan's PER record also shows that he submitted nine PO statements for approval to Person A on 02 to 10 April 2019. The PO statements were approved by Person A on the same date as they were submitted to him. In the comment box for each of the PO statements, Mr Jan submitted for approval, he added: 'Firm B – *Trainee audit*'.

16. In his response to ACCA, Mr Jan stated the following:

"I was working in [Firm A] as a Trainee audit and working devotedly here to apply my knowledge gain in ACCA qualification As you might know there so much difficulty for Acca students to work in Audit firm as they prefer CA student over us. During my practice in firm I met [Person A] have responsible for assignment of an NPO. I persuade him to assess my work and request him to be my supervisor during my PER progress and Accomplishment and to Approve my PER objectives. And there is too much difficulties to find Qualified person from a professional body. In Pakistan several issues is standing in front of us as i describe above I would like to add some more ICAP members even forcing us to enter in a contract to be register yourself with ICAP otherwise they didn't hire and will not do correspond with ACCA about your performance please take actions regarding these issues in Pakistan. [Person A] was not my line manager but he visit my firm four days a week and review my work. He is ACCA member and can sign off my PER. Because of the issues I describe I requested him to assist me and appraise my work and sign off my Performance objectives. I have no any other relationship with [Person A]" (sic).

17. Mr Jan explained how he came to select the PO statements he submitted to Person A for approval:

"I draft and submit Performance objectives statements that I had achieved as per guidelines issued by ACCA. For submission process I add employer and relevant role in the firm I had worked after that I add supervisor which is accepted and registered as a supervisor then I submitted performance objectives statements drafted by me which contains 200-500 words on each objective, He reviewed and approved my submitted statements" (sic).

18. Mr Jan maintained that he had carried out the work detailed in his PO statement. ACCA asked Mr Jan why his PO statements bore a similarity to other trainees. Mr Jan responded to ACCA on 25 March 2021:

"Dear sir i have change my city after obtaining training from there as I previously told you that due to ICAP ban on ACCA trainees hiring in Pakistan there is no formal contract with them on papers. The firm was located in Lahore Garden town and the office is so small they

send me on client from my hostel. After that i became busy working in my city and doesn't kept any contact with managers. After you contact me i tried to contact but firm is dissolved and might the senior managers go abroad. As i contact the firm official number which is in use by other people now i have tried to contact my old fellows ..." (sic).

19. ACCA had not been able to verify the existence of Firm A. The only information that ACCA could locate about the firm was a page on www.rozee.pk website that described it as “a local firm of Chartered Accountants engaging in providing Taxation, Audit and Business Advisory to a wide range of Corporate and individual clients”. Mr Jan has provided ACCA with two reference letters from Firm B in order to prove that it existed.
20. Although Person A did not become a member of ACCA until 23 September 2016, Mr Jan claimed that Person A was his supervisor when he was working at Firm A between March 2016 and March 2019.
21. ACCA’s case against Mr Jan includes that his PO3 statement was identical to one other Trainee, whose PO3 statement was approved by Person A; his PO7 statement was identical to three other trainees, whose PO7 statements were approved by Person A and his PO15 was identical to one other trainee, whose PO15 was approved by Person A.
22. At a hearing in January 2021, a Disciplinary Committee (“DC”) found that Person A had:
 - a. *Approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Jan (Trainee D), when Person 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 Jan, in accordance with ACCA’s PER.*
 - c. *Improperly assisted 52 ACCA trainees, including Mr Jan, to complete their supporting statements as evidence of their achievement of their POs; and*
 - d. *Improperly participated in, or been otherwise connected with, an arrangement to assist 52 ACCA trainees to draft and/or 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 properly qualified supervisor that they had met ACCA's PER.

CASE OPENING

23. Mr Jowett informed the Committee that the findings made against Person A at his Disciplinary Committee ("DC") hearing in January 2021 were very relevant to the case against Mr Jan. He reminded the Committee that it was not bound by the findings of another committee.
24. Mr Jowett informed the Committee that there were findings made against Person A that he had approved the POs and statements of 52 trainees when he had no basis for believing them to be true. He also falsely claimed that he had supervised the work of the trainees and had provided them with templates of PO statements which the trainees had used to complete their own training records. Mr Jan had been one of the trainees and one of 19 trainees from Firm A, for whom Person A had purportedly acted as PES.
25. Mr Jowett explained that Person A had acted as PES for the trainees in circumstances where the trainees who approached him had been unable to obtain a PES, or had otherwise neglected to do so, in respect of the work experience that they had attained. Mr Jowett said that it was, perhaps, of no surprise that Mr Jan had approached Person A and, in Person A, had found a person who was willing to sign off training records when he had not supervised the trainee and was aware that they had not achieved the POs in the way they claimed.
26. Mr Jowett referred the Committee to a file note, dated 14 November 2019, which set out that ACCA and ACCA Pakistan had been unable to trace Firm A, either on the internet or to a physical location in Pakistan. Mr Jowett said that it was odd that Firm A could not be located just eight months after Mr Jan claimed to have finished his training with the firm. Mr Jowett referred the Committee to an agency's web page that appeared to show the existence of Firm A but said that the firm had not been verified by the agency.
27. Mr Jowett invited the Committee to find that there was no evidence that Person A had supervised Mr Jan's work experience or that Person A had ever been employed at Firm A,

let alone been a partner at the firm, as suggested on a letter provided to ACCA by Mr Jan to detail his work experience at Firm A. Mr Jowett reminded the Committee that at his own DC hearing Person A did not claim to have worked at Firm A.

28. Mr Jowett informed the Committee that the PER submitted by Mr Jan purported to confirm that his PES in respect of his practical experience training in the period from 01 March 2016 to 15 March 2019 was Person A. Mr Jowett submitted that Person A had not been qualified to supervise Mr Jan's practical experience training for at least part of that period because Person A had not become a member of ACCA himself until 23 September 2016. Mr Jowett submitted that it had been incumbent upon Mr Jan to ensure that his PES was suitably qualified and he informed the Committee that a PES would usually be a trainee's line manager or someone who had oversight of their work.

29. Mr Jowett suggested that the Committee should take the following into consideration:
 - a. Mr Jan was described as an Audit Trainee at Firm A, but he had not selected one or more of the three POs that specifically related to audit;

 - b. Person A was not Mr Jan's line manager so why would he want to approve his time at Firm A?;

 - c. Person A had approved all of Mr Jan's POs but in March 2016, he was not a member of ACCA and, therefore, not eligible to be his PES;

 - d. If the POs and supporting statements were genuine then one would have expected them to have been submitted on sequential dates as the training progressed and not to have been submitted and approved on the same dates (02 and 10 April 2019);

 - e. The PER Guidance booklet makes it clear that the PER is to keep track of training as it progresses. It is meant to be a contemporaneous record of training undertaken and completed and should not be completed at the end of the training. The fact that Mr Jan's training was completed in March 2019 and the POs and supporting statements

were all submitted in April 2019 suggested that the record was completed after the training had finished;

- f. ACCA's case is that the supporting statements for PO3, PO7 and PO15 had been copied. The PER Guidance to trainees suggests that 'your experience must be unique, and your statement should be unique too' and that '*we do not expect to see duplicated wording whether from statement to statement or from other trainees*';
 - g. The copied PO statements suggested that not only did Mr Jan not obtain the relevant training for which he could demonstrate achievement of the POs, but also that Person A, who was found to have acted dishonestly, was happy to confirm the three POs when both he and Mr Jan knew that they had not been achieved or, at the very least, had not been achieved in the way claimed by Mr Jan.
 - h. That Mr Jan has produced two letters to ACCA, from Firm A, one of which had purportedly been signed by Person A. The letters both provided different dates for Mr Jan's work experience at the firm.
 - i. Mr Jan had not produced any evidence, for example meeting notes, emails or text messages, of correspondence between him and Person A and he had provided no written feedback from Person A to show that there had been any supervision by Person A.
30. Mr Jowett referred to the fact that Mr Jan's PO3 and PO15 statements were identical to those submitted by another trainee and his PO7 statement was the same as three other trainees for whom Person A had also acted as PES. Mr Jowett reminded the Committee that a trainee's work experience should be unique to that trainee and that was clearly not the position in relation to the PO statements submitted by Mr Jan. Mr Jowett submitted that Mr Jan must have known that the three PO statements were false when they were submitted to ACCA.
31. Mr Jowett asked the Committee to consider carefully ACCA's PER Guidance booklet; the written statement of the Professional Development Team Manager at ACCA, that was not

challenged by Mr Jan, and the written reasons of the Committee in Person A's disciplinary hearing.

32. In respect of Allegations 2a and 2b, Mr Jowett submitted that Mr Jan's conduct was dishonest as he would have known that Person A had not supervised his work or acted as his PES at the material time and to say that Person A had done so was a lie. Mr Jowett also submitted that Mr Jan would also have known that he had not achieved the POs that he claimed, as described in his PO statements, because he must have copied the PO statements from someone else's text. Mr Jowett submitted that such conduct would clearly be regarded as dishonest by the standards of ordinary decent people.
33. In respect of Allegation 4, Mr Jowett submitted that Mr Jan'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. He submitted that the public would be put at risk if a trainee was able to become a member of ACCA without having the requisite skill and qualifications. Mr Jowett submitted that misconduct, as defined by bye-law 8(c), was clearly made out in respect of Mr Jan's conduct as set out in both Allegation 1a and 1b.
34. Mr Jan had no questions for Mr Jowett.
35. In answer to questions from the Committee, Mr Jowett said that it was the trainee's responsibility to find a suitably qualified PES. He said that Mr Jan could have looked on the ACCA webpage to find out if Person A was a member of ACCA or he could have contacted ACCA directly to ascertain if Person A was suitably qualified to act as his PES.

MR JAN'S CASE

36. Mr Jan initially gave the Committee an overview of the practices in Pakistan at the time that he was completing his training. He said that the Institute of Chartered Accountants of Pakistan ("ICAP") had a monopoly in Pakistan and ACCA was not well thought of. He said that there are many firms in Pakistan that say they have Chartered Accountants when, in fact, the employees have not yet gained their qualification - although they still sign the relevant reports. He said that ICAP had banned ACCA training at the time that he was

training. After a struggle, however, he had been able to obtain an internship at Firm A, which was the only way he was able to complete the practical experience required by ACCA.

37. Mr Jan told the Committee that at the time he was a student and not familiar with ACCA's Rules and Regulations. He said that Person A had told him that he would be his mentor and would supervise him and sign his POs. He said that Person A had been a client of someone who used to bring clients to Firm A. He said that firms would hire someone from other accountancy bodies and form partnerships on the basis that the partner would bring more clients to the firm. They would then share the commission. Mr Jan said that he was only at the firm to get experience and to finish his studies. He was not able to ask questions of Person A or the other partner, Person B, as he feared that if he did so he would be 'kicked out' of the firm. When he joined Firm A, Person A had 'comforted' him and told him that he would help him and act as his supervisor.
38. Mr Jan said that he was being honest in saying that he had done the work experience. He said that he gained relevant experience and learnt from the firm and that is why he was now able to have his own tax firm. He said that he did not know that Person A was not qualified to be his PES. He told the Committee that he gave Person A money when his work experience was signed off. Mr Jan said that at the time he was training, the trainees had no authority or respect in a firm. He would just obey the partners and do the work. He was not allowed to be frank with the partners or question them. He said there were other trainees in the firm and that he would discuss his experience with them, but they never copied each other's work. Mr Jan said that had he known about Person A being a fraud and using his ACCA qualification then he would never have asked him to sign his PER. He said he had no idea that Person A was not qualified to act as his PES.
39. In respect of his letters/certificates regarding dates of training, Mr Jan informed the Committee that Person B had sent him the first certificate with the wrong dates on it. He said that Person B had not wanted to send him the certificate in the first place and that is why he had asked Person C to send him another certificate by email and that is why there were two certificates from Firm A with different dates on them.
40. Mr Jan reiterated that in Pakistan ICAP does not respect ACCA and would '*make fun and laugh*' at ACCA trainees and preferred an ICAP trainee, even if he did not have any

knowledge. He told the Committee that it had slightly improved now but 3-4 years ago, when he was training, they had banned ACCA training, so the trainees had to work without stipend. He said the conditions had been very bad for the ACCA trainees at the time. Mr Jan told the Committee that he had been a student of ACCA since 2007; had gained his ACCA qualification and now had his own tax firm. He said that he wanted to broaden the services that his firm provides in the future but would not be able to do so until he was a member of ACCA.

41. Mr Jowett asked questions of Mr Jan. Mr Jan said that he had been a student of ACCA and had no knowledge of how to verify members at that time. He said that his whole focus had been his learning and gaining the requisite experience. He said that he was living in a hostel at the time and had limited access to the internet.
42. Mr Jan told Mr Jowett that he had met Person A through Person B after he had been with the firm for 15-16 days. There was an introduction for all the trainees, and he had a conversation with Person A about the task and the job description. Person A had told him to obtain his three-year work experience at Firm A and that he would try and help him. Mr Jan said that he had a discussion with Person A about him acting as his PES towards the end of his training at Firm A. He said that Person A had asked him for his phone number and had told him that he would receive an email and that he could discuss the objectives with the other trainees. Mr Jan said that Person A had taken a fee from him for doing this. Mr Jan said that he had chosen his POs and had not chosen audit objectives because he was not happy about how the audits were conducted in the firm.
43. Mr Jowett asked Mr Jan when he had first discussed with Person A about being his PES. Mr Jan said that about four to five months after he joined the firm, Person A had told him to carry on and do the three years and that he would sign off his experience. He said that Person A had also told him that he would receive 4,000 Rupees after six months in the firm and that if he did as the firm said then he would sign off his practical experience. Mr Jan said that Person A had signed off his experience when he finished his training with the firm in 2019.
44. Mr Jan was asked about any discussions he had with Person A about his experience. He said that he had asked him about his qualifications and Person A had said that he had been

at the University of Punjab and then he had done his ACCA exams and joined ICAP after one and a half years. Mr Jan said that Person A had not shown him any proof of his qualifications.

45. Person A said that Firm A had kept the names of the clients confidential from the trainees in the firm, but Person A knew which clients he had asked him to work for and had short names for the clients so that he could keep track.
46. Mr Jan said that Person A had said that he had done the supervision and would sign off his POs, but that Mr Jan would need to pay for the hard work that he had done supervising him. Mr Jan said that Person A informed him that all partners asked for money from their trainees. He said that Person A had told him that if he did not pay then he would not sign off his PER. Mr Jan told Mr Jowett that he had paid Person A in February 2019.
47. Mr Jan said that he had called ACCA Lahore in relation to the difficulties in obtaining training contracts due to the rivalries between ICAP and ACCA. He told the Committee that they had informed him the issue was on-going and had not been very helpful.
48. Mr Jan was asked about the letter sent by Person B. He said that Person B had not wanted to send the letter and had got the training dates wrong. Mr Jan said that the firm was not happy to write the letter because they did not want any other organisation to know that they had provided the training to an ACCA trainee. Mr Jan said that one of the letters had been given to him by Person A, with the wrong dates, and the other had been given to him by his witness, Person B. He said that Person A had signed it as he was a partner who had brought clients to the firm and the income had been distributed 50:50. He said the reason that the second letter had not been submitted sooner was because he thought that ACCA would consider he was being dishonest because of the different dates on the letters, but that his representative had advised him that the letter should be provided to ACCA.
49. Mr Jan said that Person A informed him that his PER was in accordance with ACCA's guidelines. He said that he had not specifically looked at the PER Guidance on ACCA's website but had received help from colleagues and other people in the firm. Mr Jan commented that ICAP would not have allowed Person A to work for Firm A and that is probably why Person A had not informed ACCA that he had worked there during his DC

hearing. He repeated that Person A was a dishonest man who had taken money from several trainees in exchange for signing their training records.

50. Mr Jan told Mr Jowett that he had seen a partnership deed showing that Person A and Person B had a 50% share of Firm A. He said that Person A had lied when he told ACCA that he was unemployed for ten months prior to January 2019 because at the time he had been a partner at Firm A.
51. Mr Jan was asked why three of his POs were the same as other students. He said that he was a student at the time and that he would write his POs with other trainees. He also said that he would tell Person A about the experience he had gained at the firm and that Person A would then write his POs and submit them to ACCA. He said that he had not checked the POs before they were submitted by Person A. He accepted that it was his responsibility to check the POs before they were submitted.
52. Mr Jan was asked questions by the Committee. He said that he had been running a tax office as a Tax Consultant for the past three years and that he only employed an office boy. He said that he had a lot of clients. In respect of the submission of his POs, Mr Jan said that he had discussed his practical work experience with Person A over a period of 15 days at the end of January or the beginning of February 2019.
53. Mr Jan called a witness, Person C, to give evidence on his behalf. In an email, dated 06 September 2022, Person C stated: *"My name is [Person C], and i am here to let you know some facts about this hearing,i was also working with [Firm A], back in 2016 as admin officer. When Mr samiullah jan joined as an audit trainee, he worked with the firm for nearly 3 years, where he worked and got experience in various fields of accounting and audit. I also quit the firm back in 2020 and heard of the dissolution of the firm after that..Mr samiullah used to have meetings and sessions with [Person A] who was one of the partners in the firm ... regard [Person C]"* (sic).
54. In his oral evidence, Person C informed the Committee that he had joined Firm A as an Administration Officer around the middle of 2014. Person C said that he had helped Mr Jan to obtain the training certificate from Person A.

55. Person C was questioned by Mr Jowett. He said that there were two partners in Firm A, Person A and Person B. He said that Person A had acted as a partner and owner of the firm. He said that he came to the firm about 2-3 times a week and would share the executive table with Person B. Person C thought that Mr Jan had joined the firm in 2016 and left in 2019. He said that the firm should have been registered with ICAP but that he had never seen any documentation to prove this. In respect of the training certificate, Person C said that Mr Jan had asked him to obtain a letter from Person A who had told him that there was an outstanding payment but that he would sign the letter after he had received payment from Mr Jan. Person C said that he had forwarded this information to Mr Jan. Person C said that the letter was eventually signed by Person A in 2020 and he had forwarded the letter to Mr Jan.
56. Person C was asked questions by the Committee. He said that he had not seen a partnership deed for Firm A, but he had considered Person A to be a partner of the firm because of the way that he acted with Person B when he was present at the firm.

CLOSING SUBMISSIONS

57. Mr Jowett reminded the Committee that ACCA had not been able to find any trace of Firm A. He said that ACCA's case was that Person A could not, therefore, have been a partner of Firm A. Mr Jowett informed the Committee that in his DC hearing Person A had not claimed to have worked at Firm A, albeit he did say that the firm existed. Mr Jowett submitted that, in any event, whatever relationship there was between Person A and Mr Jan, it could not be defined as a trainee/supervisor relationship. He submitted that Mr Jan's training was entirely unstructured and haphazard. He reminded the Committee that, contrary to what he had told ACCA during the investigation, Mr Jan had said in evidence that he had not read ACCA's PER Guidance. Mr Jowett, however, invited the Committee to find that Mr Jan was sufficiently familiar with the requirements to know that he had not met them. Mr Jowett submitted that between them Person A and Mr Jan created false records. He further submitted that it was inconceivable that Mr Jan had not looked at the PO statements before they were submitted. Mr Jowett submitted that the admission during the course of the hearing that Mr Jan had paid Person A was an interesting development and that Mr Jan's evidence that he had paid Person A in February 2019 coincided with the date that Person A had agreed to be his PES.

58. Mr Jowett referred the Committee to his opening representations and submitted that on the evidence before it the Committee could be satisfied, on the balance of probabilities, that Allegations 1a and 1b had been proved.
59. In respect of Allegations 2a and 2b, Mr Jowett submitted that Mr Jan'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*. He submitted that Mr Jan would have known that Person A had not supervised his work or acted as his PES at the material time and to say that he had was a lie. Mr Jowett also submitted that Mr Jan would also have known that he had not achieved the POs that he claimed, as described in his PO statements, because he had copied the PO statements from another trainee. Mr Jowett submitted that such conduct would clearly be regarded as dishonest by the standards of ordinary decent people.
60. In respect of Allegation 4a, Mr Jowett submitted that Mr Jan'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. He submitted that the public would be put at risk if a trainee became a member of ACCA without having the requisite skill and qualifications. Mr Jowett submitted that misconduct, as defined by bye-law 8(c), was clearly made out in respect of Mr Jan's conduct as set out in both Allegation 1a and 1b.
61. Mr Jan submitted that he now knew that Person A was not an honest man, but at the time he had trusted him to assist with the preparation of his POs. He submitted that Person A had worked as a partner at Firm A and must have lied about this in his DC hearing because he had not been registered with ICAP, as he should have been, to be a partner of the firm. Mr Jan accepted that he should have been aware of ACCA's PER Guidance, but he had thought that Person A, as his supervisor, would have guided him properly. Mr Jan informed the Committee that he had worked hard to complete his studies and that it had been a long journey with a lot of stress and financial hardship along the way. He told the Committee that he wanted to be a member of ACCA.

DECISION ON FACTS

62. The Committee considered all the documentary evidence presented, including the witness statement of a Professional Development Team Manager at ACCA, and the oral evidence of Mr Jan and Person C. It also considered the submissions made by Mr Jowett and by Mr Jan. 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 Jan and that the standard of proof to be applied was the balance of probabilities.

Allegation 1a - proved

63. The Committee was provided with a copy of Mr Jan's PER training record, that was submitted on 10 April 2019. It recorded that Person A was his PES for the period 01 March 2016 to 15 March 2019.
64. The Committee was satisfied, and it was not in dispute, that at all material times Mr Jan was a student of ACCA. It noted that Mr Jan accepted that he had informed ACCA that Person A was his PES. The Committee was also satisfied, and again this did not appear to be disputed by Mr Jan, that Person A did not meet ACCA's requirements to be a PES, at least for a part of the relevant period, as prior to 23 September 2016, Person A had not been an ACCA member and, therefore, was not qualified to supervise Mr Jan or to sign off his PER. Further, the Committee noted that Mr Jan had stated that he had only discussed his experience with Person A over a period of 15 days at the end of January or the beginning of February 2019 and that Person A had written and submitted the POs for him. The Committee determined that this was clearly not in accordance with the PER requirements as set out in ACCA's PER Guidance. It noted that Mr Jan accepted that the onus was on him to ensure that his PES was suitably qualified so to act.
65. The Committee noted that Person A, in his DC hearing, had informed the Committee that he had not supervised any of the 52 trainees and had simply signed off their PO statements. The Committee had not, however, heard any evidence from Person A and it placed little weight on what he had told the DC in his hearing. Person C was called to give evidence on behalf of Mr Jan. The Committee found him to be a credible witness. It determined that whilst it was likely that Firm B had existed in some form at the relevant time, any supervision provided to Mr Jan by Person A had been of a superficial nature and had clearly fallen far

short of ACCA's PER requirements, as published in the PER Guidance. Accordingly, the Committee found Allegation 1a proved.

Allegation 1b - proved

66. The Committee was satisfied that Mr Jan has submitted a PER training record that purported to confirm he had achieved the three POs set out in Allegation 1b. The Committee noted that the supporting statements for each of the POs were either identical or strikingly similar to the POs submitted by other trainees for whom Person A had also acted as PES. Further, the Committee noted Mr Jan's evidence that he had met with Person A and discussed his work experience, but that it was Person A who had written and submitted the POs on his behalf and Mr Jan had not checked them prior to their submission. The Committee also noted that Mr Jan had not provided any information to ACCA to demonstrate that he had legitimately achieved the POs claimed in his PER training record.
67. Accordingly, the Committee found Allegation 1b proved.

Allegation 2a - not proved

68. The Committee considered whether the conduct found proved in Allegation 1a was dishonest, applying the test set out by the Supreme Court in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. The Committee was not satisfied that ACCA had proved to the requisite standard that Mr Jan had known that Person A was not qualified to act as his PES. Mr Jan's evidence was that Person A had told him that he was an ACCA member and was able to act as his PES. The Committee was satisfied that Mr Jan had relied upon what he had been told by Person A but it noted that he had not carried out any checks with ACCA to ascertain if the information provided by Person A was correct. The Committee, however, was satisfied that an ordinary decent member of the public, in full possession of the facts of the case, would not consider that Mr Jan had acted dishonestly. The Committee therefore found Allegation 2a not proved.

Allegation 2b - proved

69. The Committee next considered whether the conduct found proved in Allegation 1b was dishonest, applying the test set out in *Ivey*. It was satisfied, on the balance of probabilities, that Mr Jan would have known that he had not achieved POs 3,7 and 15. In his oral evidence to the Committee Mr Jan said that it was Person A who had written and submitted the POs on his behalf and in return for payment. In an email that he sent to ACCA during the investigation, however, Mr Jan had stated: *"I draft and submit Performance objective statements that I had achieved as per guidelines issued by ACCA ... then I submitted performance objectives statements submitted by me which contains 200-500 words. He [Person A] reviewed and approved my submitted statements ... Yes I drafted the statements by my own, I took help of my affiliate colleagues, fellows, read online articles related to writing performance objectives and I get some advice from Person A as well ... No, I did not pay any third party".* (sic)
70. The Committee noted the inconsistencies in Mr Jan's various accounts in relation to the submission of the POs and was satisfied that he must have known that three of his POs submitted to ACCA did not accurately record his work experience at Firm A. The Committee was also satisfied that an ordinary decent member of the public, in full possession of the facts, would consider that Mr Jan's conduct was dishonest. The Committee therefore found Allegations 2b proved.

Allegation 2c - not proved in respect of Allegation 1a

71. Having found Allegations 2a not proved, the Committee went on to consider Allegation 2c, which was pleaded in the alternative. The Committee has found that Mr Jan was not aware that Person A was not suitably qualified to act as his PES, and, in such circumstances, it was not satisfied that he has failed to demonstrate integrity in respect of allegations 1a. The Committee, therefore, found Allegation 2c not proved.
72. Having found Allegation 2b proved, the Committee did not go on to consider Allegation 2c which was in the alternative.

Allegation 3(i) - proved in respect of Allegation 1a

73. Having found Allegations 2a and 2c not proved, the Committee next considered Allegation 3(i), which was a further alternative to Allegation 2a. The Committee noted that Mr Jan had taken no steps to check that Person A was suitably qualified to act as his PES, notwithstanding that he had told the Committee in his oral evidence of various corrupt practices that had been carried out by Person A and Person B, the other partner in the firm. The Committee was satisfied that Mr Jan's conduct, in failing to ensure that Person A met the specified requirements in terms of qualification and supervision to act as his PES, had been reckless in that it was in willful disregard of ACCA's PER Guidance.
74. Having found Allegation 2b proved, the Committee did not go on to consider Allegation 3(ii), which was in the alternative.

Allegation 4 – misconduct found

75. Having found Allegations 1a, 1b, 2b and 3(i) proved, the Committee then considered whether the facts found proved amounted to misconduct.
76. In the Committee's view, Mr Jan's dishonest and reckless conduct demonstrated a clear disregard for ACCA's membership process. The Committee considered that such dishonest and reckless conduct had the potential to undermine the integrity of the membership process and the good standing of ACCA. It also meant that Mr Jan would have been able to become a member of ACCA when he was not properly qualified so to do. Further, if Mr Jan had become a member of ACCA then there was potential for the public to be put at risk of harm because he would not have been a properly qualified accountant.
77. The Committee determined that Mr Jan's conduct had brought discredit to him, the accountancy profession and ACCA. The Committee determined that Mr Jan's dishonest conduct was very serious and clearly amounted to misconduct.
78. Accordingly, the Committee found that Mr Jan's conduct as set out in Allegations 1a, 1b, 2b and 3(i) amounted to misconduct.

SUBMISSIONS ON SANCTION

79. Mr Jowett informed the Committee that Mr Jan had become an Affiliate of ACCA in 2021 and that he had no previous findings recorded against him, for which he should receive credit. He had denied all the allegations so could not receive any credit for admissions. Mr Jowett submitted that dishonesty lies at the top of the spectrum of misconduct and that the reputation of ACCA, and the accountancy profession, is built on relying on members to do the right thing. Mr Jowett reminded the Committee that Mr Jan had entered into an arrangement that was fundamentally fraudulent such that, in return for payment, an ACCA member would assist him in completing his training record so that he could represent that he had met his PER when he had not. Mr Jowett referred the Committee to ACCA's 'Guidance for Disciplinary Sanctions'.
80. In respect of costs, Mr Jowett referred the Committee to the two costs schedules. He submitted that the £13,524 costs claimed by ACCA had been reasonably incurred. Mr Jowett informed the Committee that ACCA did not challenge the figures set out in Mr Jan's Statement of Financial Position, and he accepted that the Committee would need to take Mr Jan's very limited financial means into account when determining what, if any, costs to award ACCA.
81. Mr Jan informed the Committee that any sanction would affect him very badly. He submitted that he had been a loyal member of ACCA since 2007 and was very proud of himself for working so hard and passing his ACCA examinations. He told the Committee that it had been a struggle but that he wanted to pursue his education with ACCA. He also submitted that he should not be punished for someone else's fraud and that he had been a victim. He asked the Committee not to remove him from the Affiliate Register.
82. In respect of costs, Mr Jan reminded the Committee of his limited financial means.

SANCTION AND REASONS

83. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Jowett and Mr Jan. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Jan, 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.

84. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
85. The Committee considered the following to be mitigating features: Mr Jan had been a student of ACCA since 2007 and an Affiliate Member since 2021 and had no previous disciplinary findings against him. The Committee also noted the difficulties that Mr Jan claimed ACCA trainees in Pakistan had in finding training contracts and suitable supervisors at the relevant time.
86. The Committee considered that the misconduct involved the following aggravating features: undermining the integrity of, and public confidence in, ACCA's membership process; a lack of insight into his dishonest and reckless conduct and no evidence of regret or remorse on the part of Mr Jan.
87. The Committee did not think it was 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.
88. The Committee then considered whether to reprimand Mr Jan. The Guidance indicates that a reprimand would be appropriate in cases where the misconduct 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 misconduct found proved. The Committee did not consider Mr Jan's misconduct to be of a minor nature and there was no evidence of any insight into his dishonest behaviour or the impact thereof on the reputation of the profession and ACCA. 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.

89. 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 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.
90. The Committee considered that apart from Mr Jan's previous good record and his co-operation during the investigation stage, no other factors were present, save there was no repetition of the conduct, but there was also no opportunity for repetition. Accordingly, the Committee considered that a severe reprimand would not adequately reflect the seriousness of Mr Jan's misconduct. The misconduct was dishonest and Mr Jan had acted in concert with Person A in an attempt to become a member of ACCA when he was not suitably qualified so to do. Further, Mr Jan had not demonstrated any insight into his dishonest and reckless conduct and had offered no expression of regret or apology.
91. The Committee noted that ACCA provides specific Guidance on the approach to be taken in cases of dishonesty, which is regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, 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.

92. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Jan's case that warranted anything other than removal from the Affiliate Register. 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 removal from the Register. Making a payment to a third party to provide false POs in order to satisfy one's PER represented behaviour that was 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 Jan's dishonest and reckless conduct was so serious that no other sanction would adequately reflect the gravity of his offending behaviour.
93. The Committee also considered that a failure to remove an Affiliate 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 that it can rely on the integrity, ability and professionalism of those who are members of ACCA.
94. The Committee, therefore, ordered that Mr Jan be removed from ACCA's Affiliate Register.

DECISION ON COSTS AND REASONS

95. The Committee was provided with two schedules of costs. ACCA applied for costs in the sum of £13,524.00 in respect of the three-day hearing.
96. The Committee was satisfied that the costs sought by ACCA were appropriate and reasonably incurred.

97. The Committee was also provided with Mr Jan's Statement of Financial Position. ACCA took no issue with the sums provided in the document that showed a monthly income of £66 and a monthly expenditure of £44.
98. The Committee took into account Mr Jan's limited financial means and determined that, in the circumstances, it would be fair and proportionate to order Mr Jan to pay a contribution to ACCA's costs in the sum of £500.

ORDER

- i. Mr Samiullah Jan shall be removed from ACCA's Affiliate Register.
- ii. Mr Samiullah Jan shall pay a contribution to ACCA's costs in the sum of £500.

EFFECTIVE DATE OF ORDER

99. The Committee determined that the Order shall take effect from the expiry of the appeal period referred to in the Appeal Regulations.

Mrs Kathryn Douglas
Chair
10 October 2022