

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Umer Farooq

Heard on: Tuesday 30 August 2022
Monday, 24 and Tuesday, 25 October 2022

Location: Remotely via Microsoft Teams

Committee: Ms Wendy Yeadon (Chair)
Ms Andrea White (Accountant)
Mr Andy Skelton (Lay)

Legal Adviser: 30 August 2022 – Mr David Mason
24 & 25 October 2022 - Miss Judith Chrystie

Persons present

and capacity: Mr Ben Jowett (ACCA Case Presenter – 30 August 2022)
Ms Michelle Terry (ACCA Case Presenter – 24 October 2022)
Ms Nikita Apostol (Hearings Officer)
Ms Zarqa Shaikh (Interpreter – Urdu)

Observers: None

Summary Facts found proved – including dishonesty.
Misconduct. Exclusion from affiliate register.
Costs awarded to ACCA in sum of £500.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

PRELIMINARIES

1. Mr Farooq attended the hearing but was not represented.
2. The hearing was translated into Urdu for the benefit of Mr Farooq.

ALLEGATIONS

Application to amend

3. On 24 October 2022, ACCA applied to amend the allegations set out in the Notice of Hearing as follows:
 - a. Allegation 4: to replace the date 2018 with 2014 on the basis that this was a typographical error.
 - b. Allegation 5: to delete the word 'and' after the word 'above' and insert the phrase 'or in the alternative' in order to avoid duplication and add clarity.
4. Mr Farooq did not object to the amendments.
5. The Committee was satisfied that there was no prejudice to Mr Farooq in the conduct of his defence by granting ACCA's application. It exercised its discretion under Regulation 10(5) of the Complaints and Disciplinary Regulations 2014 ('the Regulations') to amend the allegations.

Allegations considered

6. The Committee considered the allegations set out below.

Mr Umer Farooq, at all material times an ACCA trainee:

1. Submitted or caused to be submitted to ACCA on or about 17 September 2018 an ACCA Practical Experience training record which purported to confirm:

- a. His Practical Experience Supervisor in respect of his practical experience training in the period, 03 January 2016 to 01 January 2018 was Person A, when Person A did not and or could not supervise his practical experience training in accordance with ACCA's requirements as set out and published in ACCA's PER Guide.
- b. He had achieved:
 - Performance Objective 2 ("Stakeholder relationship management");
 - Performance Objective 3 (Strategy and innovation")
 - Performance Objective 4 ("Governance, risk and control");
 - Performance Objective 7 ("Prepare external financial reports");
 - Performance Objective 15 ("Tax computations and assessments");
 - Performance Objective 18 ("Prepare for and plan the audit and assurance process").

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

- a. In respect of allegation 1a, dishonest, in that Mr Farooq 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 Farooq knew he had not achieved the performance objectives referred to in

paragraph 1b above as described in the corresponding performance objective statements or at all.

c. In the alternative, any or all of the conduct referred to in paragraph 1 above 4 demonstrates a failure to act with integrity.

3. In the further alternative to allegations 2a and or 2b above, such conduct was reckless in that it was in wilful disregard of ACCA's Guide to ensure;

(i) A Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee and or;

(ii) That the performance objective statements relating to the performance objectives referred to in paragraph 1 above accurately set out how the corresponding objective had been met.

4. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, Mr Farooq has failed to co-operate with the investigation of a complaint, in that he has failed to respond to all of the following communications:

- Email of 23 January 2020;
- Email of 18 February 2020;
- Email of 6 March 2020;
- Email of 15 September 2020;
- Email of 11 November 2020;
- Email of 12 May 2021;
- Email of 22 October 2021.

5. By reason of his conduct, Mr Farooq 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 4

above, or in the alternative, in respect of allegation 4 only, liable to disciplinary action pursuant to bye-law 8 (a)(iii).

BRIEF BACKGROUND

Papers

7. The Committee considered the following papers:
 - a. Disciplinary Committee report and bundle with page numbers 1-238;
 - b. Tabled additional bundle with page numbers 1-4;
 - c. Transcript of hearing on 30 August 2022;
 - d. ACCA written closing submissions;
 - e. Completed Case Management Form;
 - f. Email from Mr Farooq to ACCA dated 26 April 2022;
 - g. Email from Person C dated 29 August 2022.

Membership Regulations

8. To be eligible for membership in accordance with the Chartered Certified Accountants' Membership Regulations 2014, an individual must have:
 - a. Passed or obtained exemptions from the ACCA Qualification examinations; and
 - b. Completed three years of approved experience in accordance with ACCA's Practical Experience Requirement (PER); and
 - c. Satisfactorily completed the Ethics and Professional Skills module; and
 - d. Satisfied the Admissions and Licensing Committee as to his general character and suitability.

Background

9. On or about 17 September 2018, Mr Farooq's Practical Experience Requirement ('PER') record was submitted via his My ACCA account.
10. Mr Farooq was one of 52 ACCA trainees who submitted or caused to be submitted to ACCA that some or all of their practical experience training had been supervised by Person A.
11. Person A appeared before an ACCA Disciplinary Committee on 29 January 2021. A copy of that Disciplinary Committee's reasoned decision was contained in the Committee's evidence bundle. In January 2021, the Disciplinary Committee found that Person A had:
 - a. Approved the Performance Objectives (POs) and/or supporting statements of 52 ACCA trainees, including Mr Farooq (referred to in the proceedings as trainee F), 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 Farooq, in accordance with ACCA's PER.
 - c. Improperly assisted 52 ACCA trainees, including Mr Farooq, in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; 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 ACCA Practical Experience performance objectives, when those trainees were unable or unwilling to properly obtain verification from a supervisor that they had met ACCA's Practical Experience Requirements.

ACCA Evidence

12. ACCA relied on evidence of ACCA's Professional Team Manager, Person D, dated 15 April 2021. This evidence was not challenged by Mr Farooq. Person D's statement stated that:
 - a. ACCA's practical training requirements set out the professional knowledge and values, ethics and behaviours needed to become a professionally qualified accountant.
 - b. Trainees must achieve five 'Essential' and any four 'Technical' POs.
 - c. They do so by gaining the experience required to achieve the necessary elements for each PO.
 - d. 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.
 - e. A personal statement must be completed for each PO. These are concise explanation of how the trainee has achieved the PO. Trainees must provide examples of tasks they have been involved with to illustrate their personal statement.
 - f. Trainee's statements must be unique to their own work experience.
 - g. The statements must be signed off by the trainee's practical experience supervisor (PES). It is a trainee's responsibility to find a PES. The PES must be a qualified accountant recognised by law in the trainee's country and or a member of an International Federation of Accountant's body with knowledge of the trainee's work.
 - h. A PES will usually 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 may consult with the trainee's line manager to validate their experience.

- i. It is not possible, therefore, for a qualified supervisor to approve POs in relation to previous roles where the qualified supervisor was not supervising the trainee in those roles.
 - j. Trainees must enter their PES's details into the 'MyExperience' recording tool and send their PES an invitation to register as their PES.
 - k. Trainees cannot submit anything to their PES until the PES is registered.
 - l. Trainees must complete 36 months experience in one or more accounting or finance-related role which is verified by their PES.
 - m. Trainees must regularly record their PER progress in the online 'MyExperience' recording tool, which is accessed via ACCA's online portal 'myACCA'.
 - n. Guidance about ACCA's PER including trainees' responsibilities, PESs and their role, is published on ACCA's website.
13. Mr Farooq's PER record shows he claimed 24 months of workplace experience at Firm A between 03 January 2016 to 01 January 2018 and an earlier period of 12 month's workplace experience from 01 January 2015 to 02 January 2016 whilst employed by Firm B.
14. ACCA submitted that:
- a. Though Mr Farooq claimed he had obtained workplace experience with Firm B, the nine PO statements claimed appear to relate only to the period of employment with Firm A.
 - b. Mr Farooq's PER record also shows he submitted nine PO statements for approval to Person A on or around 17 September 2018. The PO

statements were approved by Person A on the same date they were submitted for approval.

- c. Mr Farooq claimed Person A was his supervisor. Person A approved his time at the firm and his performance objectives at Firm A from January 2016 to January 2018. He claimed his supervisor was Person B in relation to his employment at Firm B, yet Person A approved all of his objectives.
 - d. Person A did not become an ACCA member until 23 September 2016 and therefore would not be permitted to act as a supervisor until then.
 - e. ACCA had not been provided with any evidence that Person B was a qualified accountant either during the period he supervised Mr Farooq or otherwise.
 - f. Mr Farooq's PO18, statement was nearly the same to Person A's statement and Mr Farooq's PO2, PO3, PO4, PO7, and PO15 statements were nearly the same as other trainees.
15. The Case Presenter advised that Mr Farooq has failed to engage in the investigation by ACCA and in particular:
- a. Did not reply to ACCA correspondence emailed to him from January 2020 using his email address included in ACCA's records – although the emails were opened, and ACCA had evidence demonstrating that a number were opened shortly on being sent;
 - b. Mr Farooq did not sign and return the undertaking sent to him on 15 September 2020.

Mr Farooq's Evidence

16. Mr Farooq provided a written response to the allegations in emails dated 22 May 2022 and 14 July 2022. He also provided a brief explanation in his reply

to the case management form, gave oral evidence on 30 August 2022 and oral submissions on 24 October 2022.

17. In summary, his evidence was that:
 - a. In 2015 he was working at Firm B. After 7-8 months of employment, he realised that his employer would not sign his PER as there were difficulties between the Institute of Chartered Accountancy in Pakistan (ICAP) and ACCA.
 - b. He went to ACCA's office in Peshawar in 2015 and was told by Person C, that if an employer would not sign the PER, any ACCA member could do so instead of a direct supervisor. This was a verbal conversation, and he did not have any record of it.
 - c. The difficulties between ICAP and ACCA continued after 2014.
 - d. He went to work for Firm A, which was not an audit firm but a consultancy business. They were unable to sign his PER.
 - e. He could not find any ACCA member to sign his PER but, given what he had been told by Person C and after he had completed the three-year period of required experience, one of his friends, Person E, offered to help him.
 - f. Person E said he needed his ACCA log in ID and password. Person E uploaded the PO statements from Person A.
 - g. He had no idea who completed the PER. He did not know the exact date he realised that the PER had not been completed properly but this was after it has been submitted.
 - h. He would have written it himself if he had known the requirements before. He had the experience – but not in the way Person E had written it. He thought that because Firm B, as his first employer, was ACCA approved, he did not need to write the PER objective himself.

- i. He had made a mistake. This was not intentional. However, he thought the biggest mistake was Person A's, not his because he was a student and Person A was an ACCA member. Person A should have informed him that he needed to write the experience himself. Person A should have asked him, and this was his mistake.
- j. Person A did not guide him or inform him. He was just a student and Person A should have advised that he (Person A) could not sign the PER because Person A had no knowledge of his work or involvement in his training.
- k. Person A was not his supervisor. He had been supervised but by someone who was not a professional accountant.
- l. He was not satisfied with the PO statements. He accepted the were not true because they were not written by him.
- m. He did not think the PO statements were appropriate, which is why he had not applied for ACCA membership and had tried to delete the PER from his ACCA dashboard (but was unable to do so).
- n. The only advantage he could have gained was applying for ACCA membership and he had not made any application so had not gained any advantage.
- o. It was a mistake for him not to have contacted ACCA when he found out that the PO statements were not true.
- p. Person A was not his friend but was known to Person E. He had lost Person E's contact details on moving to UAE. He had no contact with Person A.
- q. He only had a little bit of knowledge about the PERs at the time.

- r. He was extremely sorry and would like another chance as he now had more than 7½ years' experience.
 - s. No one else has access to, or uses, his email address – other than, rarely, his wife. He does not check his email very often because he gets 30-40 emails daily. When he opened an email and tried to enter the password, the password had expired, and he was unable to open the email. He had not asked ACCA to resend the passwords to open the emails that he could not open.
 - t. He had found ACCA documents in his company's post box and realised that there was a case against him and had emailed ACCA that day (26 April 2021). After that, he got married and returned to Pakistan and got busy with married life and had not received any response from ACCA to his email in April 2021 and had not realised that the issue would become so significant.
 - u. He had no idea whether he opened the emails on the days that ACCA's records show that they had been opened (on the same day or day after they were sent). On those emails that were not password protected, he cannot have checked the emails properly.
 - v. ACCA should have called him when he did not respond to the emails.
18. The evidence presented to the Committee contained an email from Person C, dated 29 August 2022 which contained a screenshot of the relevant page of ACCA's website and stated:
- "I don't recall having such conversation with the member in 2015 Normally whenever we receive a query on Practical Experience Supervisor, we refer to details mentioned on our website", sic.*
19. On the first day of the hearing, Mr Farooq advised he wanted Person C to be called to give oral evidence. In response to questions, Person C stated:

- a. He did not exactly remember that such a conversation happened with Mr Farooq.
- b. Whenever there is a problem about the practical experience supervisor, students or affiliates are usually guided to the information on the website.
- c. There was a difficulty in ACCA students and affiliates securing and completing of training at audit firms owing to a case listed by ICAP. This was in 2012 to 2013-14. If someone had been allowed to work at a public practising firm or audit firm, there was no such issue regarding the signing of the PER. The problems between ICAP and ACCA only continued up to 2014 and then settled down.

DECISION ON FACTS AND REASONS

20. The Committee recognised the fact that Person A was found guilty of misconduct did not, in itself, prove the allegations against Mr Farooq. The Committee understood that they needed to decide whether or not ACCA had proved the allegations against Mr Farooq, based on the evidence they had read and heard as part of the hearing, so that the Committee was satisfied on the balance of probabilities.
21. The Committee acknowledged the eligibility criteria for ACCA membership set out in the Chartered Certified Accountants' Membership Regulations 2014.

Allegation 1

22. The Committee found allegations 1 (a) and (b) proved. Its finding was based on the evidence presented by ACCA together with the admissions provided by Mr Farooq. In this respect, the Committee received – and were able to consider – the PER submitted via Mr Farooq's ACCA account. The Committee was satisfied it contained statements against the six POs set out in the allegations and that it claimed that Person A was Mr Farooq's Practical Experience Supervisor for the training period 03 January 2016 to 01 January 2018.

23. Further in relation to Allegation 1, Mr Farooq said he had given his ACCA ID and password to his friend Person E to complete the PER and submit it on his behalf.
24. Mr Farooq admitted that Person A was not his supervisor. The Committee accepted the evidence from Person D. It recognised that ACCA's booklet, Practical Experience Trainee Guide - which set out information for trainee ACCA accountants about the practical experience requirements, achieving the performance objectives and recording and reporting achievements and progress - specified that the practical experience supervisor needed to be familiar with the applicant's work in order to validate it, yet Mr Farooq said that had never met person A. Further, Person A had not become an ACCA member until September 2016 and, in any event, could not have been a practical experience supervisor before this date.
25. Mr Farooq acknowledged he had not written the PO statements himself and that these did not properly reflect his experience. The Committee received evidence – which it accepted– that demonstrated duplication between the PO statements in Mr Farooq's PER and those in Person A's own PER and those in the PERs of other trainees purportedly supervised by Person A. ACCA's booklet specified that a trainee's situation and experience was unique to them. The Committee considered that duplicated answers, whether from question to question, or trainee to trainee was not expected or acceptable.

Allegation 2

26. The Committee found allegations 2(a) and 2(b) proved. It applied the two-stage test to determine whether Mr Farooq was dishonest.
27. In connection with allegation 2(a), the Committee first sought to ascertain the actual state of Mr Farooq's knowledge or belief as to the facts. Mr Farooq claimed that he has not been dishonest but had, instead, made unintentional mistakes, including by asking a friend to complete his PER using his ACCA login details, and that Person A was at fault in not advising and guiding him in the submission process.

28. The Committee did not find Mr Farooq's explanation reliable or credible. It did not consider that this represented Mr Farooq's actual state of knowledge and belief. The Committee considered that Mr Farooq was aware of the process for the PER and of ACCA's requirements for the practical experience; accountancy is a rule-based profession (a fact that is underscored throughout the examination and training process). Further, the Committee considered that he went to seek advice from the Peshawar office recognising there were problems with the process of getting his PER supervised and validated. Finally, the Committee found that Mr Farooq knew that Person A had not worked with him and could not be familiar with his work so could not conceivably supervise him - and further that Person A's purported supervision was post-dated.
29. Having identified the state of the Mr Farooq's knowledge or belief as to the facts, the Committee considered the objective limb of the test for dishonesty, namely, whether Mr Farooq's conduct was honest or dishonest by the standards of ordinary people. The Committee considered that it was plain that the ordinary person would regard deliberately seeking to confirm that his supervisor did, and could, supervise his practical experience training knowing that this was untrue, as dishonest.
30. The Committee applied the same two-part test to allegation 2(b). It did not consider it credible that Mr Farooq was not aware that the PO statements were not reflective of his experience and that he only discovered the nature of the PO statements sometime after their submission by his friend - the PER was an important document, one that was necessary to progress towards ACCA membership. It was submitted through Mr Farooq's own ACCA account. Further at no point did Mr Farooq contact ACCA to withdraw the submitted PER after he claimed he had discovered the PO statements were unsatisfactory (to use his phrase). Further, even if Firm B was an approved employer, there were still supervision expectations and the requirement for 36 months of practical experience.
31. The Committee considered that it was plain that the ordinary person would regard knowingly claiming to have achieved performance objectives (by relying on duplicated statements from other applicant's PERs) was dishonest.

32. Having found allegations 2(a) and 2(b) proved, the Committee did not go on to consider allegation 2(c) as it was pleaded in the alternative.

Allegation 3

33. The Committee did not consider allegation 3 as this was pleaded in the alternative.

Allegation 4

34. The Committee found allegation 4 proved. It did not consider Mr Farooq's explanation that he did not check his email as he received too many and had then become too busy to respond as credible. It was satisfied that there was a significant delay in responding to ACCA. It accepted the evidence from ACCA that emails were opened on or around the day of sending for an account that Mr Farooq said was accessed only him (and rarely by his wife) and concluded that Mr Farooq had deliberately failed to cooperate with ACCA as the regulator. It was clear to the Committee that Mr Farooq did not treat his obligations to ACCA seriously.

Allegation 5

35. The Committee found allegation 5 proved in respect of the facts found proved at allegations 1, 2 and 4. The Committee considered that Mr Farooq's dishonest conduct, together with his repeated and lengthy failure to co-operate with ACCA, fell far short of the standards expected of a student member of the accountancy profession and could not be regarded as anything other than serious departures from the standards expected.
36. It regarded Mr Farooq's conduct as entirely unacceptable and considered it brought the profession into disrepute.
37. Having found misconduct proved, the Committee did not go on to consider the aspect of allegation 5 which was charged in the alternative.

SANCTION AND REASONS

38. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
39. The Committee recognised that Mr Farooq had made some partial admissions – albeit after a lengthy delay. This delay had protracted and unduly delayed the proceedings. However, it acknowledged that, once he started to engage in the disciplinary process, Mr Farooq fully participated. The Committee did not consider that there were any aggravating circumstances in the case other than the significance of his lengthy non-cooperation and the serious nature of his dishonesty.
40. The Committee regarded Mr Farooq's misconduct and, in particular, his related dishonesty as serious; Mr Farooq attempted to undermine the integrity of ACCA's training requirements and membership process. This could have detrimentally impacted on the public's confidence in the integrity and credibility of ACCA's membership process and the public's trust in its members. Further, the Committee considered that had Mr Farooq gained membership without the necessary practical experience this could potentially have caused harm to the public.
41. The Committee considered that it would be wholly insufficient to impose no order or to conclude this matter with an admonishment or a reprimand. The Committee took account of paragraph E2 of the Guidance which stated 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 Committee considered that none of these orders would properly recognise the seriousness of Mr Farooq's deliberate and dishonest intentions, nor would they be sufficient to reflect the damage to public confidence.
42. The Committee reviewed the Guidance in relation to a sanction of a severe reprimand. The Committee recognised that Mr Farooq had a previous good record and had, belatedly, co-operated with ACCA's investigation, including making some admissions. However, the Committee also considered that

important factors that might indicate that a severe reprimand was a reasonable and proportionate sanction were not present in this case. In particular, the Committee had not seen any level of insight from Mr Farooq nor any understanding about the significance of his conduct and his own failings. Mr Farooq had not displayed any genuine remorse nor any expression of regret, nor made any effort to remedy and remediate his misconduct.

43. As a consequence, given the clear and proper expectations that an accountant should be honest, the Committee could not be satisfied that there was no continuing risk to the public such that it would be sufficient to conclude the matter with a severe reprimand.
44. The Committee considered Mr Farooq's conduct in deliberately and dishonestly seeking to deceive ACCA by submitting false records (even though they were not subsequently used to gain greater advantage) and protracted non-cooperation with his regulator in disregard of his obligations was fundamentally incompatible with being an accountant and remaining on the affiliate register.
45. The Committee, therefore, ordered that Mr Farooq's name should be removed from the affiliate register. It made no order in relation to the period of time that should elapse before an application for readmission should be considered. Further, the Committee did not consider it was necessary to direct that the order should have immediate effect.

COSTS AND REASONS

46. The Committee had regard to the Guidance on Cost Orders.
47. ACCA claimed costs in the sum of £10,080.50 set out in a spreadsheet.
48. The Committee considered that this sum was reasonable and had been reasonably incurred. The Committee did not consider that there was any rationale for reducing the costs for the hearing on 24 October 2022 as proposed by the Case Presenter. This was because the time between her submissions

on this point and the conclusion of the formal hearing extended to the time allocated for it on the ACCA spreadsheet.

49. The Committee considered that significant aspects of the costs incurred by ACCA had been incurred given Mr Farooq's conduct. In particular, his lack of engagement and non-cooperation had driven the costs ACCA incurred during their investigation and his lack of preparation had led to delays during the first day of the hearing.
50. However, the Committee received evidence – which was not disputed by ACCA – about Mr Farooq's financial circumstances. Mr Farooq told the Committee that he was responsible for his parents, paying for his brother's education and that his wife and child were dependants. He provided the Committee with a spreadsheet which contained his monthly salary together with advances and loans provided by his employer. [PRIVATE].
51. The Committee accepted – there being no contrary submissions by ACCA - that Mr Farooq's ability to pay the sum claimed by ACCA was compromised by [PRIVATE]. It acknowledged that it could not impose an order for costs that would cause undue hardship. However, the Committee recognised that it needed to consider the principle that the majority of those paying ACCA's fees should not be required to subsidise the majority who, through their own failings, have found themselves subject to disciplinary proceedings.
52. Balancing all these considerations, the Committee considered that it would be reasonable and proportionate to impose a cost order that Mr Farooq pay a contribution to ACCA's costs in the sum of £500.

Wendy Yeadon
Chair
25 October 2022