



HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Mohteshim Mahmood Awal

Heard on: Thursday, 13 October 2022 and Tuesday, 08 November 2022

Location: Remotely by Microsoft Teams

Committee: Ms Valerie Paterson (Chair)
Mr Martin Davis (Accountant)
Mr Andrew Skelton (Lay)

Legal Adviser: Ms Margaret Obi

**Persons present
and capacity:** Mr Benjamin Jowett (ACCA Case Presenter)
Miss Nkechi Onwuachi (Hearings Officer)

Outcome: Allegations 1(a), 1(b), 2(a), 2(b) and 4 found proved. The
alternative charges were not considered

Sanction: Exclusion from membership of ACCA with immediate effect
Interim Order rescinded

Costs: Ordered to pay a contribution to ACCA's costs in the sum of £6,000

INTRODUCTION

1. The Disciplinary Committee ("the Committee") convened to hear allegations of misconduct against Mr Awal. The hearing was conducted remotely via Microsoft Teams. The Committee was provided with a main hearing bundle with pages numbered 1-339, two additional bundles numbered 1-4 and 1-10 respectively, a service bundle numbered 1-18 and a 5 page Costs Schedule.
2. Mr Jowett presented the case on behalf of ACCA. Mr Awal did not attend and was not represented.

BACKGROUND

PRACTICAL EXPERIENCE REQUIREMENT

3. To become a member of ACCA, a trainee must complete 36 months of supervised experience in a relevant accounting or finance role, or roles, and in the process complete nine performance objectives ("POs") including five that are "essential" and a minimum of four other "technical" ones. This is known as ACCA's Practical Experience Requirement or "PER".
4. Trainees must record their supervised experience using the "MyExperience" recording tool through ACCA's online portal "myACCA". The PER Recording tool has been in its current form since February 2016. A "Help" page, explaining who qualifies as a Practical Experience Supervisor (PES) and the role, as well as links to further resources, is available within the MyExperience recording tool.

PERFORMANCE OBJECTIVES

5. Each PO is made up of a short description of the PO, five elements describing the skills and expertise that trainees must demonstrate to have achieved the PO and a personal statement written by the trainee personally. The PES evaluates

these when considering if the trainee has achieved the standard that is required by ACCA.

6. PO statements should be between 200 and 500 words, be a concise explanation of how the trainee has achieved the PO and include details of tasks the trainee has undertaken pertinent to that objective.

PRACTICAL EXPERIENCE SUPERVISORS

7. After a PES's details have been inserted into the MyExperience tool and the trainee has clicked the submit button, the PES is sent an email with an invitation to accept and link with the trainee. The PES is requested to confirm which IFAC body he or she is a member of and to upload a copy of their membership certificate or provide their membership number.
8. When a PES logs in to consider a trainee's POs, they see the trainee on a "*supervisor overview*" page, which shows the name of the trainee, the "*Pathway*" or PER, the "*Permissions*", that is whether the PES can approve or sign-off both POs and a trainee's time, the "*Items submitted*", that is the POs waiting for assessment, the "*elements waiting for assessment*" and the "*time claims waiting for assessment*".
9. When a PES accesses a trainee's data an "*Approve time*" option is located towards the top left-hand side of the screen, showing the number of months experience the trainee has recorded. When the "*Approve time*" button is selected, the PES is then presented with the specific time claim they are being asked to approve. Each PO is accessed by clicking on those submitted by the trainee, which takes the PES to the statement that the trainee has submitted for approval. On the right-hand side of the screen, the role and expectations of a PES are clearly laid out.
10. A PES can click on and view the PO statement and add comments approving the PO or not. If a PES declines a PO, they must always leave a comment to ensure there is proper feedback to a trainee to clarify any shortcomings and offer extra guidance if necessary.

11. The PES must necessarily be familiar with the work of the trainee to be able to validate the PO statement against the trainee's work experience. They must assess each statement against the PO requirements, including whether there are any obvious areas which appear to be copied or are otherwise not the trainee's work. If the statement does not capture enough evidence that the trainee has met the PO requirement or appears to be not the work of the trainee, or appears to have been copied, the PES must return the statement back to the trainee with appropriate commentary.

MR AWAL's PER RECORD

12. Mr Awal submitted his PER on or around 21 March 2017 and was subsequently admitted as an ACCA member on 30 March 2019. Mr Awal's PER record shows that he claimed forty-five months of workplace experience between 03 June 2013 and 17 March 2017.
13. Mr Awal was referred for investigation when ACCA's Professional Development Team became aware of a number of irregularities. During the ACCA investigation it became apparent that Mr Awal was one of 52 ACCA trainees who submitted or caused to be submitted to ACCA their training records which indicated that some or all of their practical experience training had been supervised by Person A, including at times when Person A was not qualified to do so. Furthermore, in doing so, it appeared that they had submitted one or more performance objective ("PO") statements that were identical, or similar to Person A's own PO statements, which they included when completing their own training record in 2016.

Allegations

Mr Mohteshim Mahmood Abdul Awal, at all material times an ACCA trainee

1. Submitted or caused to be submitted to ACCA on or about 21 March 2017 an ACCA Practical Experience training record which purported to confirm:

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- a. His Practical Experience Supervisor in respect of his practical experience training in the period 03 June 2013 to 17 March 2017 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 1 ("Ethics and professionalism")
 - Performance Objective 3 ("Strategy and Innovation")
 - Performance Objective 5 ("Leadership and management")
 - Performance Objective 6 (Record and process transactions and events")
 - Performance Objective 7 ("Prepare external financial reports")
 - Performance Objective 8 ("Analyse and interpret financial reports")
 - Performance Objective 15 ("Tax computations and assessments")
 - Performance Objective 16 ("Tax compliance and verification")

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

- a. In respect of allegation 1a, dishonest, in that Mr Awal 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 Awal 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 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 Guidance to ensure
 - (i) His 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. By reason of his conduct, Mr Awal 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.

RESPONSE TO THE ALLEGATIONS

14. Mr Awal stated in an email to ACCA, dated 17 February 2020, that:

"...local regulatory body has inflicted restriction on local audit firms and top notch firms to not hire ACCA's. ...[Person A] was on assignment as a volunteer and knew [their] work and knew my work as well [they were] in touch with my supervisor at the time but later I was in touch with [Person A] as a Acca fellow. So I asked [them] to help me out over this. [They] guided me thoroughly & I got supervised by [them]..." [sic]

15. In a further email sent by Mr Awal to ACCA on 22 September 2020, he stated:

"[Person A] was one of my college friends, we met each other on different occasions like official meetings and on some job affairs."

PRELIMINARY APPLICATIONS

PROOF OF SERVICE

16. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations 2020 (“the Regulations”). The Committee took into account the submissions made by Mr Jowett, on behalf of ACCA, and also took into account the advice of the Legal Adviser.
17. The Committee was provided with a printout from ACCA’s register confirming the email address that it holds on record for Mr Awal. The Committee was also provided with an email delivery receipt which confirmed that the Notice of Hearing, dated 15 September 2022, and the password for the enclosed documents had been sent to Mr Awal’s registered email address on that date. The Notice of Hearing confirmed the date, time and remote venue of the hearing. Mr Awal was informed of his right to attend the hearing and to be represented, if he so wished. The Notice of Hearing also provided information about applying for an adjournment and the Committee’s power to proceed in absence.
18. The Committee was satisfied that Mr Awal had been provided with 28 days’ notice in accordance with Regulation 10.1.

PROCEEDING IN ABSENCE

19. Mr Jowett, on behalf of ACCA, made an application for the hearing to proceed in Mr Awal’s absence, as permitted by Regulation 10.7.
20. The Committee accepted the advice of the Legal Adviser.
21. The Committee determined that it was reasonable and in the public interest to proceed with the hearing for the following reasons:
 - a. The Committee noted that Mr Awal did not respond to the Notice of Hearing. He did not respond to the chaser email sent on 06 October 2022 inviting him to confirm whether he would be attending the hearing; nor did he respond to any phone calls. The Committee was satisfied Mr Awal was using his registered email address for the purposes of communicating with ACCA and, in any event, it is his duty to maintain an up to date email address whilst registered as a member. In these circumstances, the

Committee took the view that ACCA had made sufficient efforts to provide Mr Awal with the opportunity to attend the hearing. The Committee concluded that it was reasonable to infer that Mr Awal's non-attendance was voluntary and therefore a deliberate waiver of his right to participate in these proceedings remotely.

- b. There has been no application to adjourn and no indication from Mr Awal that he would be willing to attend the hearing remotely on an alternative date. Therefore re-listing this hearing would serve no useful purpose.
- c. The Committee acknowledged that there may be some disadvantage to Mr Awal in not being able to give evidence or make oral submissions. However, the Committee concluded that any disadvantage was significantly outweighed by the public interest in ensuring that the hearing is heard and concluded expeditiously.

DECISION AND REASONS

FINDINGS OF FACT

- 22. The Committee was aware that the burden of proving the facts was on ACCA. Mr Awal did not have to prove anything, and the charges could only be found proved, if the Committee was satisfied on the balance of probabilities.
- 23. In reaching its decision the Committee took into account the documentary evidence contained within the hearing bundle, as well as the oral submissions made by Mr Jowett.
- 24. The Committee accepted the advice of the Legal Adviser. The Committee noted that following the Supreme Court decision in Ivey v Genting Casinos [2017] UKSC 67 the test for dishonesty is an objective test only. The Committee first had to determine Mr Awal's actual knowledge or belief and then determine whether his acts or omission were, on the balance of probabilities, dishonest by the ordinary standards of reasonable and honest people.

Allegation 1(a)

“Submitted or caused to be submitted to ACCA on or about 21 March 2017 an ACCA Practical Experience training record which purported to confirm:... his practical experience training ...”

FOUND PROVED

25. The Committee was provided with Mr Awal’s PER. The Committee was satisfied that the PER had been submitted as that was Mr Awal’s route to admission as an ACCA member.
26. The PER clearly stated that Person A was his supervisor. The Committee concluded that at the time the PER was submitted Mr Awal must have realised that Person A was unsuitable as a supervisor because Person A did not become eligible to be an ACCA supervisor until September 2016. Mr Awal states that he was at ACCA college with Person A. This is corroborated by the evidence that Person A gave during their disciplinary hearing. Person A stated that they been at college together and they had met five or ten times. The Committee took the view that the connection between Mr Awal and Person A increased the likelihood that Mr Awal would know that his friend had only become an ACCA member in 2016. Therefore, even on Mr Awal’s account, if Person A had supervised him this could only have been during the last 6 months of Mr Awal’s training period.
27. Furthermore, the Committee noted that there was no corroborative evidence to support Mr Awal’s assertion that Person A had been his supervisor. On the contrary, Person A stated during their disciplinary hearing that they had not reviewed any of the trainees’ records. In addition, Mr Awal’s email communication with ACCA with regard to his supervision was vague and strongly indicates that he entered into an arrangement with Person A because it was difficult to find a suitable supervisor in his local area.
28. For these reasons, the Committee concluded that Person A could not and did not supervise Mr Awal at all.

ALLEGATION 1(b)

“Submitted or caused to be submitted to ACCA on or about 21 March 2017 an ACCA Practical Experience training record which purported to confirm:... he had achieved: Performance Objective 1...Performance Objective 16”

FOUND PROVED

29. The Committee took into account its findings in relation to allegation 1(a).
30. The PER was purportedly ‘signed off’ by Person A as Mr Awal’s supervisor. The Committee, having already determined that Person A was not Mr Awal’s supervisor, concluded that any endorsement signed by Person A was invalid.
31. For these reasons the Committee concluded that Mr Awal had purported to confirm that he had achieved the eight PO’s listed above.

ALLEGATION 2(a) and 2(b)

Dishonesty in respect of 1(a) and 1(b)

FOUND PROVED

32. The Committee concluded that Mr Awal knew that he was required to submit evidence of his training as approved by his supervisor and that Person A had not supervised his work. The guidance on submission of PER’s was readily available and, in any event, as a trainee Mr Awal was required to make himself aware of his obligations. Therefore, submission of the PER was a deliberate and conscious attempt to circumvent the rules and regulations designed to ensure that only trainees that meet the high standards expected are able to become registered members of ACCA.
33. The Committee concluded that by the standards of ordinary and honest people Mr Awal’s behaviour would be regarded as dishonest.
34. The Committee also noted that with regard to the PO’s there were striking similarities between Mr Awal’s statement and those that had been submitted by Person A when they had been admitted to the register. The Committee concluded that it was implausible that this was mere coincidence. It concluded

that Mr Awal had copied the statements or had allowed the statements to be copied. It is inconceivable that Mr Awal honestly believed that he could demonstrate the PO by plagiarising the statements of someone else. Mr Awal was aware that the PO's had to be the result of the learning that he had achieved during his training. Therefore, the Committee concluded that by the standards of ordinary and honest people this aspect of Mr Awal's PER was also dishonest.

35. The Committee, having found Allegations 2(a) and 2(b) proved, did not go on to consider the alternative charges.

ALLEGATION 4 - MISCONDUCT

36. The Committee determined that Mr Awal's dishonest conduct was premeditated and persisted for a significant period as he must have been aware for some time that he was not complying with the ACCA training requirements. The Committee noted that the training requirements are designed to ensure, in the interests of protecting the public and trust and confidence in the profession, that only those that meet ACCA's high standards are admitted as members. Mr Awal put his own interests above the interests of the public and his professional obligations and, in so doing, significantly undermined the integrity of ACCA's membership process and the accountancy profession.
37. The Committee was satisfied that Mr Awal's dishonest conduct fell far below the standards expected of him and amounts to misconduct.

SANCTION AND REASONS

38. Mr Jowett informed the Committee that there were no previous disciplinary findings against Mr Awal.
39. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(4) of the CDR and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose, the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Awal's own interests. The purpose of any sanction is not meant to be punitive but to protect members of the public, maintain public confidence in the

profession and ACCA and to declare and uphold proper standards of conduct and behaviour.

40. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee considered that the only the mitigating feature was that no previous disciplinary findings had been made against Mr Awal.
41. The Committee considered the following to be aggravating features:
 - Mr Awal's dishonest actions were premeditated and persistent;
 - Mr Awal had demonstrated no insight into the seriousness of his dishonest conduct or the impact of his behaviour on the profession;
 - Mr Awal had demonstrated no remorse or regret;
 - Mr Awal had colluded with another ACCA member to undermine the regulatory process.
42. The Committee first considered taking no further action. The Committee concluded that, in view of the nature and seriousness of Mr Awal's conduct and behaviour, it would not be in the public interest to take no further action.
43. The Committee then considered an Admonishment. The Committee concluded that Mr Awal had not demonstrated any remorse or insight. In any event, the Committee concluded that an Admonishment would be insufficient to mark the seriousness of Mr Awal's dishonesty and therefore would not uphold trust and confidence in the profession and the regulatory process.
44. The Committee went on to consider a Reprimand or a Severe Reprimand. It noted that such sanctions may be suitable if the member has proper insight into their failings or has expressed genuine remorse and where there was no continuing risk to the public; none of which applies to Mr Awal. The Committee concluded that the nature of Mr Awal's dishonesty, in deliberately seeking to undermine the very purpose of regulation in order to serve his own interests, was towards the higher end of the spectrum for misconduct of this type. Honesty and integrity are fundamental qualities expected of all accountants and therefore the absence of these qualities is fundamentally incompatible with continued registration as a member. As a consequence, even a Severe Reprimand would

undermine rather than uphold public trust and confidence in the profession and the regulatory process.

45. Having determined that a Severe Reprimand would be insufficient to address the nature and seriousness of Mr Awal's dishonesty the Committee determined that Mr Awal should be excluded from membership of ACCA. Exclusion is a sanction of last resort and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. The Committee concluded that Mr Awal's case falls into this category because of the serious nature of his misconduct, the absence of insight, and the ongoing risk of repetition. The sanctions guidance 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 member to do the right thing in difficult circumstances - *"It is a cornerstone of the public value which an accountant brings."* The Committee took the view that members of the public, fellow accountants and ACCA are entitled to expect a member to uphold high standards of behaviour at all times and would be appalled by the prospect of a member acquiring ACCA membership by deception.
46. The Committee concluded that a failure to exclude a member 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 it can rely on the integrity, ability and professionalism of those who are members of ACCA. In order to maintain public confidence and uphold proper standards in the profession, it is necessary to send out a clear message that this sort of behaviour is unacceptable.
47. The Committee had regard to the impact exclusion would have on Mr Awal, but concluded that his professional, personal, and financial interests were significantly outweighed by the Committee's duty to give priority to the significant public interest concerns raised by this case.
48. The Committee decided that the appropriate and proportionate sanction is exclusion.

COSTS

49. The Committee considered ACCA's application for costs in the sum of £8,636.50 as set out in the schedule of estimated costs that had been provided to Mr Awal.
50. The Committee concluded that it is appropriate to make an award for costs. The Committee was satisfied that the case had been properly brought, and that the costs were fair and reasonable. However, the Committee reduced the costs to £6,000 for the following reasons:
- i. The hearing time was shorter than a full day and therefore the costs associated with the involvement of the Case Presenter and Hearings Officer were less than anticipated;
 - ii. The Committee noted that Mr Awal was at an early stage of his career and therefore his ability to pay costs was likely to be less than an experienced member.
51. The Committee concluded that the costs could not be reduced any further because Mr Awal had not provided a statement of his means and should be required to make a contribution to the costs of bringing these proceedings otherwise the entirety of the costs would be borne by the profession as a whole.

ORDER

- i. Mr Awal shall be excluded from membership of ACCA.
- ii. Mr Awal shall pay a contribution to ACCA's costs in the sum of £6,000.

EFFECTIVE DATE OF ORDER

52. Taking into account all the circumstances, including that Mr Awal had achieved membership of ACCA by acting dishonestly, the Committee decided that it was in the interests of the public for the order for exclusion to take immediate effect. This is subject to the order being varied or rescinded on appeal as described in the Appeal Regulations.

INTERIM ORDER

53. The Interim Order imposed on Mr Awal on 01 June 2022 is rescinded.

Ms Valerie Paterson
Chair
08 November 2022