

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

- In the matter of:** Mr Atta Ur Rahman
- Heard on:** Wednesday, 28 September 2022
- Location:** Held Remotely by Microsoft Teams via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
- Committee:** Mr Maurice Cohen (Chair)  
Mr David Horne (Accountant)  
Mr Gerard McClay (Lay)
- Legal Adviser:** Ms Tope Adeyemi (Legal Adviser)
- Persons present  
and capacity:** Ms Ariane Tadayyon (ACCA Case Presenter)  
Ms Nkechi Onwuachi (Hearings Officer)
- Summary:** Removed from the student register
- Costs:** Student member to pay cost to the ACCA in the sum of £4,500.00.

#### ACCA



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## **INTRODUCTION**

1. The Disciplinary Committee (*“the Committee”*) convened to consider a number of allegations against Mr Rahman. Mr Rahman was not present and was unrepresented.
2. The papers before the Committee were in a main bundle numbered 1 to 107. There were also 3 additional bundles: a service bundle (pages 1 to 19), a memorandum and agenda (pages 1 to 2) and a Case Management Form (pages 1 to 24). ACCA also supplied video footage of Mr Rahman dated 17 March 2021.

## **SERVICE OF PAPERS**

3. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (*“the Regulations”*). The Committee took into account the submissions made by Ms Tadayyon on behalf of ACCA and also took into account the advice of the Legal Adviser.
4. Included within the bundle was the Notice of Hearing dated 31 August, thereby satisfying the 28-day notice requirement, which had been sent to Mr Rahman’s email address as it appears on the ACCA register. The Notice included details about the correct time, date and remote venue of the hearing, it also notified Mr Rahman of the option to attend the hearing by telephone or video link and to be represented, if he wished. Additionally, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in his absence if considered appropriate. A delivery receipt dated 31 August 2022, confirming delivery of the Notice, was also provided.
5. The Committee also had sight of 7 call notes which recorded attempts made by ACCA’s Hearings Officer to speak to Mr Rahman. The notes record that 5 of the calls are recorded to have not been answered. A call made on 16 September 2022 was answered however it goes on to record that the Hearings Officer was then placed on hold, twice, for 15 minutes before deciding to

terminate the call. A call made on 26 September 2022 is also recorded to have been answered but then terminated when the Hearings Officer introduced themselves. The Committee were informed at the start of the hearing on 28 September 2022, that a further three calls had been made to Mr Rahman prior to the start of the hearing. The calls were not answered.

6. The Committee, having considered the relevant documents, were satisfied that Notice had been served in accordance with the Regulations.

### **PROCEEDING IN ABSENCE**

7. The Committee took into account that Mr Rahman had been sent a number of emails by ACCA's Hearings Officer asking if he would be attending the hearing with no response being received. Three attempts were also made by the Hearings Officer to speak with Mr Rahman on the morning of the hearing, with no success. The Committee considered that Mr Rahman's lack of response to emails and phone calls amounted to a pattern of behaviour in avoiding contact with ACCA.
8. It was noted that Mr Rahman had indicated within ACCA's Disciplinary Committee Case Management Form that if he did not attend the hearing, he was not content for the Disciplinary Committee to proceed in his absence. However, no reasons had been given by Mr Rahman as to why. Further, the Committee was of the view that an adjournment would serve no useful purpose as there was nothing to indicate that Mr Rahman would attend on a different date and no application for an adjournment had been made by him. In all the circumstances, the Committee decided that it was in the public interests of justice that the matter should proceed, notwithstanding the absence of Mr Rahman.

### **ALLEGATIONS**

9. Mr Rahman faced the following allegations:

Mr Atta Ur Rahman ('Mr Rahman'), a student of the Association of Chartered Certified Accountants ('ACCA'):

1. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2020, failed to co-operate with the investigation of a complaint, in that he did not respond adequately or at all, to any or all of ACCA's correspondence dated:
  - a. 17 June 2021;
  - b. 27 July 2021;
  - c. 11 August 2021;
  - d. 26 August 2021.
  
2. On 17 March 2021, during the exam launch process for an FBT-Business and Technology examination (the 'Exam'), contrary to Examination Regulation 2, failed to comply with instructions provided to him by ACCA in the document entitled "*Information Sheet for On- Demand CBE Students sitting exams at home*" that he should have "*no one else around*" him prior to the Exam starting.
  
3. By reason of his conduct, Mr Rahman is:
  - (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations 1 and 2 above; or, in the alternative,
  
  - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of any or all of the matters set out at Allegations 1 and/or 2.

## **BACKGROUND**

10. Mr Rahman is currently an ACCA student. He was admitted into the ACCA's student register on 11 January 2021.

11. On 17 March 2021, Mr Rahman was due to take an on-demand FBT-Business and Technology examination remotely. On the day of the exam the online proctor (the remote invigilator) filed an Incident Report noting concerns that an individual was heard directing Mr Rahman from off-screen. An investigation was subsequently commenced due to the concerns raised.
12. On 04 May 2021, ACCA sent an email to Mr Rahman's registered email address notifying him of the complaint. Mr Rahman replied on 12 May 2021 stating, '*...when I was attempting my FBT paper on 17 March 2021, I wrote my password 14 January 2003 instead of 14 March 2003, which was just a human error because I wasn't familiar too much, so I made this mistake. Also during the paper I had an internet problem which caused my paper to be disconnected. I tried to restore the internet myself but failed but I sought the help of internet operator for the same reason internet operator came to restore internet and went back after the internet was stored...*' (sic)
13. On 17 June 2021, ACCA sent another letter by email to Mr Rahman informing him of the complaint and seeking his response by 08 July 2021. On 23 June and 11 July 2021, Mr Rahman emailed ACCA explaining his concerns about his account and studies, but he did not provide any response to any of the questions detailed in the letter dated 17 June 2021.
14. On 27 July 2021, ACCA sent another email to Mr Rahman's registered email address asking him to confirm whether he had received ACCA's previous correspondence and advised him that he was required to respond to this. Mr Rahman responded on the same day with, '*SORRY! ACCA administration due some technical reasons I was unable to read email on that date (17 June 2021) from your side*'.
15. On 11 August 2021 and 26 August 2022, ACCA sent further letters to Mr Rahman's registered email address seeking his response. No responses were received. All the emails sent to Mr Rahman detailed his duty to co-operate with ACCA and they set out how a failure to do so may render him liable to disciplinary action.

## **DECISION ON FACTS**

### **Allegation 1 – proved**

16. The Committee considered there to be clear evidence of Mr Rahman's non-compliance with the regulations. The Committee reviewed the documentary evidence in the form of emails sent to Mr Rahman and took into account that he had provided some responses to them. It considered those responses however, to be totally inadequate. The Committee were satisfied that Mr Rahman's lack of adequate response to the emails amounted to a failure to co-operate with an ACCA Investigation.
17. The Committee also noted the screenshots exhibited by ACCA, taken from ACCA's Case Management System that showed that Mr Rahman had opened four of the emails sent to him by ACCA. It considered this evidence to be of particular significance as it indicated that the emails had indeed been received by Mr Rahman.
18. The Committee therefore found allegation 1 proved.

### **Allegation 2 – proved**

19. The Committee reviewed the exam video footage of Mr Rahman on 17 March 2021 that had been provided. At a point within the footage, two shadows could be observed on either side of Mr Rahman. The Committee concluded that it was more likely than not, that one of the shadows was of someone other than Mr Rahman. The existence of the second shadow was indicative of another person being in the room and was therefore contrary to the instructions provided to Mr Rahman by ACCA. Taking everything together the Committee was satisfied that there was sufficient evidence to find allegation 2 proved to the requisite standard.

### **Allegation 3(a) – proved**

20. Having found all the facts of the allegations proved, the Committee went on to consider whether they amounted to misconduct.
21. The Committee was satisfied that Mr Rahman's failure to co-operate with an investigation that was being carried out by his regulator into his alleged misconduct, was a serious matter. ACCA relies on the co-operation of its members and student members to carry out its functions as a regulator. A failure to co-operate, not only undermines ACCA's ability to function effectively but also has the potential to undermine its standing as a professional body. The Committee was satisfied that such behaviour represented a serious departure from professional standards and brought discredit upon Mr Rahman and also upon ACCA as his regulator. It therefore decided that Mr Rahman's behaviour in failing to co-operate amounted to misconduct.
22. The Committee also considered Mr Rahman's failure to follow the instructions provided to him in respect of the conduct of the exam amounted to misconduct. Adherence to exam instructions is necessary to maintain the integrity of the assessment process and failure to do so could undermine public confidence in ACCA as a regulator. With all these points in mind, the committee found allegation 3 proved.

### **Allegation 3(b)**

23. Having found the behaviour amounted to misconduct, it was not necessary for the Committee to also consider whether Mr Rahman was liable to disciplinary action, since this was alleged in the alternative.

### **SANCTIONS AND REASONS**

24. The Committee considered what sanction, if any, to impose, taking into account all the information provided in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had also listened to legal advice from the Legal Adviser, which it accepted.

25. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
26. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
27. The Committee considered whether any mitigating or aggravating factors featured in this case.
28. The Committee accepted that there were no previous findings against Mr Rahman. However, it did not find that this amounted to a mitigating factor bearing in mind the short period of time in which he had been a student member. The Committee had little information regarding Mr Rahman's personal circumstances as no detailed information had been provided by him in this regard. Overall, the Committee found there to be no mitigation.
29. The Committee also did not find there to be any aggravating factors. It noted that Mr Rahman had failed to fully engage but was mindful that the allegation that had been brought and found proved, concerned his failure to co-operate with an ACCA investigation.
30. The Committee moved on to consider the range of potential sanctions. It concluded that neither an admonishment nor reprimand would adequately reflect the seriousness of its findings. In particular the Committee considered that the public needs to be able to trust future ACCA members in their dealings and have confidence in the ACCA as a regulator. There was also no evidence of any corrective steps taken by Mr Rahman to ensure future conduct did not occur and he had demonstrated no insight into his failings.
31. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings,



the Committee did not consider that a severe reprimand would be sufficient or proportionate.

32. Mr Rahman had been found to have failed to comply with instructions provided to him in respect of the conduct of an exam and had failed to co-operate with an ACCA investigation. Such conduct was considered to be a serious departure from the standard expected of student members and fundamentally incompatible with student membership. In all the circumstances the Committee considered that the only appropriate, proportionate and sufficient sanction was to order Mr Rahman be removed from the student register.

#### **COSTS AND REASONS**

33. The Committee had been provided with a 5-page costs bundle which it considered, together with the submissions made by ACCA. No information had been submitted by Mr Rahman in respect of his financial circumstances and very limited information had been provided by him concerning his personal circumstances.
34. The Committee concluded that ACCA was entitled to be awarded costs against Mr Rahman on the basis that all the allegations had been found proved.
35. £8,873.50 in costs were applied for by ACCA. This amount included costs associated with a two-day hearing, which was the period of time the matter had originally been listed for. However, as the hearing had lasted one day rather than two, the Committee did not consider it appropriate for the full costs sought to be awarded. In all the circumstances, the Committee considered that £4,500.00 was the reasonable and proportionate amount to award as a contribution to the costs incurred by ACCA.

#### **EFFECTIVE DATE OF ORDER**

36. This Order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

**Mr Maurice Cohen  
Chair  
28 September 2022**