

HEARING

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Usman Khan

Heard on: Friday, 08 December 2023

Location: Remote video hearing via MS Teams

Committee: Mr Michael Cann (Chair)
Mr Ryan Moore (Accountant)
Ms Yvonne Walsh (Lay)

Legal Adviser: Miss Judith Chrystie

**Persons present
and capacity:** Mr Adam Slack (ACCA Case Presenter)
Ms Nicole Boateng (Hearings Officer)

Observers: Mr James Keeley (newly appointed Legal Adviser)

Summary Application refused

CONSIDERATION OF BIAS

1. Prior to the start of the hearing, the Chair announced that the Lay Committee member had, when preparing the papers, recognised that she had been part of

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an Interim Order Committee (IOC). The IOC had been convened to consider whether an Interim Order was necessary in the disciplinary case involving Mr Khan.

2. Having heard submissions from ACCA's Case Presenter that there was no objection from ACCA in the Lay Member continuing to sit and advice from the Legal Adviser, the Committee determined that there was no actual or apparent bias connected with the Lay Member having been involved in the IOC.
3. The Committee recognised that in order for it to reach a fair decision, there must be no actual or apparent bias and that fairness meant that a decision-maker must be, and must be seen to be, unbiased. The Committee applied the test set out in *Porter v McGill* - namely whether the fair minded and informed observer, having considered all the facts, would conclude that there was a real possibility of bias.
4. The Committee was satisfied that an objective and informed observer would conclude that being involved in the IOC would not disqualify the Lay Member from sitting. The Committee noted that an Interim Order Committee does not reach decisions about whether allegations are proved and does not draw conclusions on the reliability and credibility of any evidence before it, other than being satisfied that the evidence shows a *prima facie* case.
5. The Committee recognised that an Interim Order Committee makes a risk assessment on an interim basis and forms no firm view on whether a case is proved. As a consequence, it was satisfied that the Lay Member was not disqualified from sitting to consider Mr Khan's application for readmission; there was no actual or apparent bias.

SERVICE OF PAPERS

6. Mr Khan was neither present nor represented.
7. The Committee considered a Service Bundle with pages numbered 1-16 in order to determine whether the Notice of the Hearing ('the Notice') dated 10

November 2023 had been served in accordance with the provisions of the Authorisation Regulations 2014 (as amended 1 January 2023) ('the Authorisation Regulations').

8. The Committee was satisfied that there was effective service: Notice had been sent to Mr Khan's registered email address with sufficient notice and complied with the other requirements set out of the Authorisation Regulations.

PROCEEDING IN ABSENCE

9. The Committee considered whether it should proceed in Mr Khan's absence and recognised that it could only do so with the utmost care and caution.
10. The Committee identified that, in an email to the Hearing Officer dated 15 November 2023, Mr Khan had stated that he, '*would be happy for the Committee to proceed in [his] absence*'. He had been provided with a link to the hearing by the Hearing Officer in case he wished to attend. He noted that he had previously provided his personal conduct number to be contacted should, '*there be any further questions*'.
11. The Committee considered it was clear that Mr Khan did not wish to present his application for readmission to the Committee in person through any mode (telephone or through MS Teams) nor that he wished an adjournment of today's proceedings. Given this unequivocal statement, the Committee determined that Mr Khan had chosen to absent himself and had voluntarily waived his right to attend the hearing. The Committee was satisfied that there was no purpose in adjourning the hearing as it was highly unlikely that Mr Khan would attend at a later date.
12. In all the circumstances, the Committee determined that it was fair, in the public interest and reasonable to proceed in Mr Khan's absence in accordance with its discretionary power at Regulation 6(7) of the Authorisation Regulations and that a fair hearing could take place in his absence.

APPLICATION

13. Mr Khan became an ACCA member on 18 May 2018.
14. On 5 January 2022, a Disciplinary Committee of ACCA ordered Mr Khan should be excluded from membership with immediate effect having judged him guilty of misconduct. The misconduct followed findings that Mr Khan was dishonest having submitted a Practical Experience Requirement (PER) training record claiming that:
 - a. Mr A had supervised his work when Mr A did not supervise, and could not have supervised have supervised his work and
 - b. He had legitimately achieved the performance objectives when these were false statements, which were identical to statements from other trainees also approved by Mr A.
15. On 8 December 2022, Mr Khan applied for readmission to membership. This was an invalid application as it was submitted prior to the expiry of the minimum period of 12 months for any application for readmission under Regulation 14(2) of the Membership Regulations 2014 (as amended 1 January 2019) ('Membership Regulations').
16. In October 2023, Mr Khan resubmitted the application for readmission. This was in identical terms to the application made the previous year; no additional information or evidence was included.
17. In his application Mr Khan set out the reasons why he considered that he should be admitted as an ACCA member as follows.
 - a. ACCA was his pride and he had studied and worked to achieve, '*my ACCA membership*'
 - b. Without ACCA membership he could not find a suitable job.

- c. If he was re-registered, he would, '*prodly contribute my efforts for the betterment of community surrounding me*' [sic]
 - d. He was, '*Sincere with my own profession and will be sincere with ACCA forever and my intentions was not to deceive public and my professions, Actually the situation was that I did not do any thing at that time*' [sic]
 - e. He now had about 6 to 7 years' experience and, '*there is not evidence of any kind of distrction to my profession or any harm/loss to public*' [sic]
18. Mr Khan commented on the Disciplinary Committee findings as follows:

The underlying fact was that he supervisor was not ACCA member at initial stage of my experiance, about after 1 year he became member and the Firm that I have worked with is not genuine and PER I submitted was not genuine. I confirm that I did not submit the wrong work intentionally, I was working remotly in my native town. At that time my home town was facing the severe terrorism issues <https://edition.cnn.com/2014/12/16/world/asia/pakistan-peshawar-school-attack/index.html> and there were also military operations to control terrorism, in such a situation it was not possible for me to leave my hometown as my father was heart patient also and the situation of my home was not good for leaving. I found the firm through social media and started working on their clients remotly. At a very later stage, it was revealed that the firm does not have any physical existance and my supervisor was himself not ACCA member at my initial stage of experiance . The management works mostly remotly as a freelancer and all the situation was due misguidance and lack of my knowledge as I was fresh at that time. [sic]

19. Further, in his application Mr Khan described that he had made a mistake, he was regretful and would take great care in the future. He offered ACCA assurances that he would not do anything to discredit ACCA, his profession or the general public. He would:
- a. Not be the cause of any kind of matters in the future,

- b. Take great care
 - c. Work with due diligence
 - d. Not been involved '*to distrust my own Profession and Public*' [sic]
20. In the application Mr Khan set out his employment history and identified four employers:
- Employer 1: 23 August 2017-30 June 2018 – Accounts and Finance Officer
 - Employer 2: 26 November 2018 – 27 September 2019 – Assistant Manager Accounts Payable
 - Employer 3: 3 October 2019 – 4 February 2020 – Assistant Manager Accounts
 - Employer 4: 15 February 2020 – 15 November 2021 – Assistant Manager Tax and Accounts Services – a positive professional reference was submitted by Mr Khan

ACCA's REQUESTS FOR INFORMATION

21. On receiving the original premature application in December, ACCA had asked a number of questions and sought further information from Mr Khan in order to determine whether, or not, it would oppose his request for readmission, once the application was in time and resubmitted. No response was received from Mr Khan.
22. On receipt on the resubmitted application, ACCA repeated its requests for information in an email dated 18 October 2023. The email stated that ACCA would be preparing a report opposing the application but would be prepared to review the position if the following information was provided by Mr Khan:

- a. Current employment status,
 - b. Up to date and stronger references,
 - c. An expansion on what Mr Khan had learnt in respect of the conduct leading to the disciplinary action and exclusion from membership,
 - d. The steps since the disciplinary action towards obtaining legitimate work experience,
 - e. What his intentions were for the future should he be readmitted to ACCA membership.
23. On 24 October 2023, Mr Khan responded as follows:
- a. He was doing consultancy work.
 - b. He provides references from his friend and class fellow and his brother.
 - c. He had taken many positive steps by obtaining experiences from reputable organisations.
 - d. He works with due diligence and great care and will, '*not do any type of work or behaviour in future that will discredit me or my profession*'.
 - e. If he was readmitted to ACCA he had three intentions: to work overseas, to obtain a government job in Pakistan or to open a consultancy firm in Pakistan.
24. On 31 October 2023, ACCA asked Mr Khan to confirm the name of his employer and requested an up-to-date employment reference and asked for references to be obtained directly from his referees and sent to ACCA. In response, Mr Khan advised that he is not employed by a consultancy firm but is a consultant for himself.

ACCA's SUBMISSIONS

25. In addition to providing a detailed report setting out why ACCA opposed the application for readmission, at the hearing ACCA's Case Presenter set out opposed the application with three primary objections:
- a. *Eligibility* - Mr Khan was not eligible for membership under Regulation 3 of the Membership Regulations in that he had not completed the necessary practical experience required as a condition of membership. He fraudulently gained membership by submitting a false PER training record and so needed to demonstrate three years supervised experience to be eligible. No such evidence had been provided.
 - b. *Seriousness* – Mr Khan obtained membership illegitimately through dishonest means which disregarded ACCA's membership process. The finding of dishonesty by the Disciplinary Committee undermines trust and confidence and was a matter of significant and seriousness.
 - c. *Character* – through his application Mr Khan had shown remorse for what happened but had not demonstrated any insight into the seriousness of the case. Whereas the Disciplinary Committee found he must have known Mr A could not be his supervisor, Mr Khan continued to dispute the findings of the panel in that, in his application, he claimed to have been sincere with ACCA, that he had no intention to deceive ACCA and that he did not intentionally submit the wrong work.

DECISION ON APPLICATION

26. The Committee recognised that, under Regulation 14 of the Membership Regulations, Mr Khan needed to satisfy the Committee, on the balance of probabilities, that he was eligible for readmission to ACCA membership following his exclusion in January 2022. The Committee also recognised that, under Regulation 14, it was required to have specific regard to the circumstances of that exclusion.

27. The Committee noted that there were four elements for membership set out in Regulation 3 of the Membership Regulations and that, as a consequence, Mr Khan needed to satisfy the Committee:
- (i) He has passed or obtained exemptions from the ACCA Qualification examinations;
 - (ii) He has completed three years of approved experience in accordance with the Association's Practical Experience Requirement; and
 - (iii) He has satisfactorily completed the Ethics and Professional Skills module; and
 - (iv) As to his general character and suitability,
28. The Committee considered that the key points for its consideration were in connection with points (ii) and (iv).
29. In relation to eligibility criteria (ii), the Committee was not satisfied that Mr Khan had demonstrate he had completed three years of approved experience in accordance with the Association's Practical Experience Requirement. Mr Khan had originally gained ACCA membership using false and fictitious statements of his experience and claiming supervision from an individual who could not, and had not, supervised his work. Mr Khan could not rely on the experience set out in the fraudulent documents. He needed to provide new, legitimate evidence demonstrating he had met the practical experience requirements, including in respect to duration of experience and supervision; there was no such evidence before the Committee.
30. In respect of Eligibility Criteria (iv), the Committee was not satisfied as to Mr Khan's general character and suitability. Mr Khan had engaged in planned, prolonged, premediated deceit of his regulatory body. He had been found to be dishonest and guilty of misconduct. The Committee considered that there was no evidence within his application to show Mr Khan had developed a real

understanding of the impact of his misconduct and the detrimental effect this would have on the public and the potential for loss. In addition, the Committee considered Mr Khan had not shown any insight or genuine regret nor had he provided evidence to demonstrate he had reflected on his wrongdoings and sought to remediate. The absence of such corrective action was underscored by the brevity of his references - from a friend and a family member - which did not evidence any active steps taken by Mr Khan in response to the disciplinary findings and order.

31. Further the Committee were concerned that the comments in his application sought to minimise the seriousness of the findings against him and demonstrated a failure to take responsibility for his dishonest actions.
32. The Committee concluded that Mr Khan was not a fit and proper person for readmission and had not satisfied it as to his character and suitability to be a member of ACCA.
33. The Committee considered that considerable remedial action and corrective steps over a significant period of time would be necessary in order to overcome the significance and seriousness of Mr Khan's previous dishonest behaviour.
34. For the reasons set out above, in accordance with their powers under Regulation 3(10) of the Authorisation Regulations, the Committee refused the application.

Mr Michael Cann
Chair
8 December 2023