

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Ms Vanshika Chouhan
Heard on:	Friday, 03 March 2023
Location:	Remotely via Microsoft Teams
Committee:	Ms Valerie Paterson (Chair) Dr Beth Picton (Accountant) Ms Diane Meikle (Lay)
Legal Adviser:	Mr Sanjay Lal
Persons present and capacity:	Ms Afshan Ali (ACCA Case Presenter) Ms Humera Arif (Hearings Officer)
Summary:	Allegations 1(a), (b), (c) found proved. Exclusion from membership.
Cost:	Ms Chouhan ordered to pay £5,000 towards ACCA's costs.

PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Committee had before it a Report and Bundle pages 1-91, a Service Bundle pages 1-20 and subsequently two costs schedules.

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2. Ms Ali applied for the matter to proceed in the absence of Ms Chouhan and she addressed the Committee on service and the factors the Committee should consider in respect of proceeding in absence.
3. The Committee was satisfied that Ms Chouhan was served with notice of this hearing to her registered email address on 03 February 2023 in accordance with Regulations 10 and 22 of the Complaints and Disciplinary Regulations 2014 (amended 1 January 2020).
4. The Committee then turned to whether to proceed in the absence of Ms Chouhan. It noted no communication has been received from Ms Chouhan in respect of this Hearing. There was no application from her and or any representative to adjourn the matter. The Committee noted the attempts on 10 February 2023 and 24 February 2023 by the Hearings Officer, as evidenced in telephone attendance notes, to call Ms Chouhan's mobile number but the calls being terminated. The Committee was satisfied that all reasonable efforts have been made to try and engage Ms Chouhan. She has not engaged with ACCA. The Committee noted the public interest in this matter being heard and, in the circumstances, determined to exercise its discretion to proceed in the absence of Ms Chouhan in accordance with Regulation 10 (7).

ALLEGATIONS/BRIEF BACKGROUND

5. The Committee convened to consider the following Allegations:

Ms Vanshika Chouhan ("Ms Chouhan"), a student member of the Association of Chartered Certified Accountants ("ACCA"):

1. *Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Ms Chouhan failed to co-operate with the investigation of a complaint, in that she did not respond fully to any or all of ACCA's correspondence dated:*
 - a. *21 July 2021;*
 - b. *12 August 2021; and*
 - c. *27 August 2021.*
2. *By reason of her conduct in respect of any or all of the matters set out at Allegation 1, Ms Chouhan is:*

- a. Guilty of misconduct pursuant to byelaw 8(a)(i); or, in the alternative,*
 - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii).*
6. Ms Ali stated that on 17 June 2021, ACCA registered Ms Chouhan as a student. On 03 July 2021, Ms Chouhan took her FFA Financial Accounting Information examination (the 'Exam') remotely. The proctor supervising the exam subsequently filed an Incident Report in respect of alleged conduct observed during the Exam. An investigation was then commenced.
7. Ms Ali submitted that Ms Chouhan has not provided any response to the correspondence sent to her during the course of the investigation. The emails were sent to Ms Chouhan at an email address Ms Chouhan had provided to ACCA. The email address has not changed throughout the course of the investigation. None of the emails have been returned or “bounced back” into the case management system.
8. Ms Ali submitted that on 05 and 07 July 2021, ACCA sent an email to Ms Chouhan’s registered email address informing her of the complaint.
9. In so far as the Allegations are concerned, Ms Ali stated that on 21 July 2021, ACCA sent another letter to Ms Chouhan’s registered email address informing her of the complaint and seeking her response by 11 August 2021. No response was received.
10. On 27 July 2021, ACCA sent an email to Ms Chouhan’s registered email address advising that she will be provided with a link to the video footage from her examination, which would give her the opportunity to review the footage and provide any comments.
11. On 12 August 2021, ACCA sent another letter to Ms Chouhan’s registered email address reminding her of her obligation to co-operate with the investigation and seeking her response by 26 August 2021; no response was received.
12. On 27 August 2021, ACCA sent a final letter to Ms Chouhan’s registered email address reminding her again of her obligation to co-operate and again seeking her response by 03 September 2021; no response was received.

13. Ms Ali submitted that Ms Chouhan has not provided any response to the correspondence sent to her during the course of the investigation. Ms Ali submitted that there was no evidence to suggest that the emails have not been delivered. She added that a failure to cooperate is a serious matter and demonstrates a lack of regard towards her regulator. Such cooperation is fundamental in order for ACCA to discharge its function of protecting the public and such failure would undermine public confidence in the profession. Ms Ali submitted that Ms Chouhan has a professional responsibility to ACCA and the profession.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

14. The Committee accepted the advice from the Legal Adviser. The panel were reminded that the burden of proving the disputed facts rests on the ACCA and the burden is the civil standard of the balance of probabilities.
15. Having adopted the above approach, the Committee found the following:

Ms Vanshika Chouhan ("Ms Chouhan"), a student member of the Association of Chartered Certified Accountants ("ACCA"):

1. *Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Ms Chouhan failed to co-operate with the investigation of a complaint, in that she did not respond fully to any or all of ACCA's correspondence dated:*
 - a. 21 July 2021; **FOUND PROVED**
 - b. 12 August 2021; **FOUND PROVED**
 - c. 27 August 2021. **FOUND PROVED**

2. *By reason of her conduct in respect of any or all of the matters set out at Allegation 1, Ms Chouhan is:*
 - a. *guilty of misconduct pursuant to byelaw 8(a)(i); or, in the alternative,*
 - b. *liable to disciplinary action pursuant to byelaw 8(a)(iii).*

FOUND PROVED IN RESPECT OF 2(a), NOT PROVED IN RESPECT OF 2(b) AS CHARGED IN THE ALTERNATIVE

16. The Committee accepted that there is a duty to cooperate, and Ms Chouhan is under a positive obligation to do so. The Committee was satisfied that correspondence was sent on the various dates as detailed in Allegation 1 and that there was no response from Ms Chouhan in full or in part to the correspondence sent. The Committee was satisfied that ACCA has proved Allegation 1 in its entirety.
17. In respect of Allegation 2(a), the Committee is satisfied that its findings in Allegation 1 amounts to a serious departure from the standards expected. It noted that misconduct is a matter of judgment. The Committee is satisfied that misconduct is clearly made out. The Committee is satisfied cooperation with the regulator is essential to any system of effective regulation and in this case has the potential to undermine the integrity of the exam in question as the correspondence arose out of a complaint. The above conduct also brings the Association and accountancy profession into disrepute.
18. In light of its findings in respect of Allegation 2 (a), the Committee did not find Allegation 2(b) proved as this was charged in the alternative.

SANCTION

19. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted the advice that any sanction must be proportionate and it should consider the least restrictive sanction first and move upwards only if it would be proportionate to do so.
20. The Committee balanced Ms Chouhan's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance. The issue of sanction was for the Committee exercising its own professional judgement.
21. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee considered the following to be an aggravating feature:
 - Ms Chouhan has not engaged with the Disciplinary process.
22. In terms of mitigating factors, the Committee considered the following factor:

- No previous regulatory or disciplinary matters.
23. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of Ms Chouhan's misconduct and would undermine confidence in the profession and in ACCA as regulator.
 24. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.
 25. The Committee considered whether the appropriate and proportionate sanction would be an Admonishment or Reprimand. The Committee noted Ms Chouhan has not engaged in this hearing or at all and there was no evidence of insight or any evidence of a genuine expression of remorse or apology. The Committee decided that the misconduct found was too serious and that public confidence in the profession and in the regulator would be undermined if any such orders were made.
 26. The Committee then went on to consider whether a Severe Reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a Severe Reprimand would not be a proportionate sanction because it would not acknowledge that it was misconduct of a serious nature that undermined the integrity of the overall investigation process. There is no evidence of insight or apology from Ms Chouhan.
 27. In the above circumstances the Committee determined that the only appropriate and proportionate sanction in this case was removal from the Student register. The Committee determined that no application for readmission may be made until a minimum of 12 months after the effective date of exclusion.

COSTS AND REASONS

28. ACCA claimed costs of £7062 which comprised the costs of the investigation and the matters as highlighted by in respect of the history of the matter. These cover the costs of investigation, preparation and the presentation of the case as well as the costs of the Hearings Officer and of today's hearing. The Committee noted the costs schedule was sent to Ms Chouhan in advance of

the hearing but she has not responded. Ms Chouhan has not provided a statement of financial means. The Committee had regard to the Guidance for Costs document.

29. The Committee decided that it was appropriate to reduce costs to the sum of £5000 to reflect the fact that hearing concluded in less time than anticipated.

EFFECTIVE DATE OF ORDER

30. The Committee decided that the order would come into effect at the expiry of the usual appeal period.

Ms Valerie Paterson
Chair
03 March 2023