

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Aashish Balakrishna Talreja

Heard on: Thursday, 09 and Friday, 10 March 2023

Location: Remotely via Microsoft Teams

Committee: Mr Mike Cann (Chair)
Ms Andrea White (Accountant)
Mr Andy Skelton (Lay)

Legal adviser: Mr Alastair McFarlane

**Persons present
and capacity:** Ms Afshan Ali (Case presenter on behalf of ACCA)
Mr Aashish Balakrishna Talreja (ACCA Member)
Mr Khan (Representative on behalf of Mr Talreja)
Ms Nikita Apostol (Hearings Officer)

OUTCOME: Admonishment.
Mr Talreja to pay ACCA's costs in the sum of £3,000.

1. ACCA was represented by Ms Ali. Mr Talreja attended and was represented by Mr Khan. The Committee had before it a bundle of papers, numbered pages 1 – 83, and a service bundle numbered pages 1-30, and a tabled additional bundle numbered pages 1 – 4.

SERVICE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mr Talreja in accordance with the Complaints and Disciplinary Regulations 2014

("CDR").

ALLEGATIONS

Mr Aashish Balakrishna Talreja, an ACCA member:

1. On 13 January 2020 engaged in sharing by improperly forwarding answers to certain assessment questions, to a prospective candidate for a mandatory quarterly audit training course, 'Update for Auditors web-based training'.
2. Mr Talreja's conduct in respect of the matters described in allegation 1 above was:-
 - a. Dishonest, in that Mr Talreja shared answers to questions, as alleged in allegation 1, to enable a prospective candidate taking that assessment to obtain an unfair advantage;
 - b. In the alternative, any or all of the conduct referred to in allegation 1 above demonstrates a failure to act with integrity;
 - c. In the further alternative, the conduct referred to in allegation 1 was reckless.
3. By reason of the above Mr Talreja is,
 - a. Guilty of misconduct pursuant to byelaw 8(a)(i) in respect of any or all of the above.

BACKGROUND

3. Mr Talreja became an ACCA affiliate on 15 October 2018 and a member of ACCA on 11 January 2019.
4. This case concerns an allegation of improperly forwarding answers to certain assessment questions, to a prospective candidate for a mandatory quarterly audit training course, 'Update for Auditors web-based training'.
5. Mr Talreja was employed at Company A at the material time in January 2020.
6. Company A undertook its own investigation into the sharing of answer sets.

7. Company A provided ACCA with the following evidence to support the allegations made against Mr Talreja:

- a. The email dated 13 January 2020 from Mr Talreja demonstrates Mr Talreja had shared the answer set with a prospective candidate;
- b. The answer set that he forwarded to the prospective candidate in the email;
- c. The final warning letter issued to Mr Talreja by Company A which includes the sanction imposed and was signed by Mr Talreja to confirm he agreed with the contents of the letter;
- d. Details of Mr Talreja's answers during an interview with Company A regarding the allegations;
- e. The email Mr Talreja sent to a prospective candidate on 13 January 2020 included an attachment containing the answer set. The subject heading of the email was 'You know what it is';
- f. The answer set Mr Talreja forwarded to the prospective candidate, had a warning printed at the beginning of the assessment stating:

"Update for Auditors Assessment – We remind you that the sharing of test answers is inconsistent with the firm's Code of Conduct and [Company A's] values. Where the firm's monitoring processes identify possible inappropriate activity, a full investigation will be conducted and disciplinary action will be taken, if warranted."

8. Company A interviewed Mr Talreja regarding the allegations and the record of the interview included the following:

- In response to the question as to what his understanding of the training and the conditions in which it should be taken, Mr Talreja stated that he did not note the guidance at the beginning of the test.
- Mr Talreja confirmed that he did undertake the test himself without assistance from others.
- Mr Talreja confirmed that he did screenshot his own answers and then sent them to one other person.

- Mr Talreja was asked “if he shared his answers or forwarded answers of others, what made him think he could share or forward the answers?”. Mr Talreja explained, “he was working together with the receiver (sic) at the time. They were working on a busy season client, and they wanted to save time. He did not think that it is not permitted.”
 - Mr Talreja shared the answers with one other person and no-one else.
 - Mr Talreja confirmed that he had not received answers from others in relation to any other tests.
 - It was confirmed that this is the only instance of Mr Talreja sharing answers to tests.
9. Company A gave, and Mr Talreja verbally agreed to accept, a final written warning.
 10. ACCA relied on the documentary evidence in its bundle.
 11. Mr Talreja gave oral evidence to the Committee. He explained that he and a colleague were undertaking a project at a client of Company A, and it was the first audit they had undertaken for Company A. They were under time pressure to complete their work and as new employees wanted to make a good impression with Company A. Mr Talreja explained that they were “super focussed” on the project, and they had a short time at the client’s offices to undertake the online training and then complete the questions that formed Company A’s ‘Update for Auditors web-based training’. He further explained that it was not like an exam, there was no invigilator, and it was an untimed “open book” assessment, where repeated attempts at the questions were permitted until the relevant pass rate was reached. For example, he completed three attempts.
 12. Mr Talreja accepted that he shared his answers with his colleague in the client’s room. He stated that his objective in doing this was for his colleague to save time and for them both to continue working on the project. He knew his colleague had done the training and Mr Talreja described his actions as “a moment of recklessness” and that it was “just time saving” at the end. He accepted that he was aware that he was not meant to share the answers but uppermost in his mind was the pressure to complete the project on time. He described his action as a “momentary lapse in judgment”.

ACCA’s SUBMISSIONS

13. ACCA submitted that Allegation 1 was proved by the documentation, in particular the copy of the email sent by Mr Talreja on 13 January 2020 to his colleague, a prospective candidate, with

an attachment containing the answers to the mandatory audit training assessment, as well as admissions made by Mr Talreja.

14. ACCA further submitted that such conduct was dishonest in that Mr Talreja shared answers to questions, to enable a prospective candidate taking that assessment to obtain an unfair advantage, In the alternative, ACCA submitted that the conduct was a failure to act with integrity. In the further alternative, ACCA contended the conduct was reckless. It further submitted that the conduct reached the threshold for misconduct.

MR KHAN'S SUBMISSIONS

15. Mr Khan indicated that Mr Talreja denied the allegations as drafted but accepted that he had passed the answer set to a colleague. Mr Khan submitted that his client was not cheating or trying to deceive anyone. He referred to Mr Talreja's "immaculate character" and contended that his client was not dishonest or lacking in integrity. Further, his conduct was not reckless and did not constitute misconduct.

DECISION ON ALLEGATIONS AND REASONS

16. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the case was on ACCA and had regard to the observation of Collins J in Lawrance v General Medical Council [2012] EWHC 464 (Admin) concerning the need for cogent evidence to reach the civil standard of proof in cases of dishonesty. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the 'balance of probabilities'.
17. The Committee heard that there had been no previous findings against Mr Talreja and accepted that it was relevant to put his good character into the balance in his favour.

DECISION ON FACTS

18. The Committee carefully considered all the documentary and oral evidence it had received, as well as the submissions of Ms Ali on behalf of ACCA and of Mr Khan on behalf of Mr Talreja.

Allegation 1

19. The Committee accepted the documentary evidence and Mr Talreja's admission that he shared his answers. He also stated that he knew it was improper to do so as he had a general understanding that he should not have done it. It therefore found Allegation 1 proved.

Allegation 2(a)

20. The Committee next considered whether Mr Talreja's conduct was dishonest.
21. The Committee considered that Mr Talreja's oral explanation was plausible and credible. It accepted that his motivation was to enable him and his colleague to get back to working on the project for the client as soon as practicable. It was not persuaded that Mr Talreja's intention was to give his colleague an unfair advantage. The Committee accepted that this was not in his mind at the time. What was more likely than not in his mind was freeing up time to do the work project. The Committee was satisfied that this state of mind would not be considered dishonest according to the standards of ordinary decent people. Accordingly, it was not satisfied that Allegation 2 (a) was proved.

Allegation 2(b)

22. The Committee next considered whether Mr Talreja's conduct was lacking in integrity. It noted the observations of Jackson LJ in *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, that integrity is a broader concept than honesty and that the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members.
23. The Committee accepted Mr Talreja's evidence that at the time of this decision to share his answers he did not understand the impact of his actions. His focus was on getting him and his colleague back to work. His intention was not to give an advantage to his colleague. The Committee considered the nature of this assessment. It was not an exam and not conducted under exam conditions. Although he knew he should not have shared his answers, the Committee was satisfied that in the particular circumstances of this case and its findings about Mr Talreja's motivation, the conduct did not reach the threshold for a want of integrity. Accordingly, it was not satisfied that Allegation 2(b) was proved.

Allegation 2(c)

24. The Committee next considered whether Mr Talreja's conduct was reckless.

25. The Committee was satisfied that Mr Talreja's conduct was a momentary lapse of judgment and was a single episode. Nonetheless, the Committee was persuaded that he paid insufficient regard to the fact that he was not permitted to share the answer sets - which it was satisfied was at the back of his mind - and that such conduct was reckless. Accordingly, it was satisfied that Allegation 2 (c) was proved.

Allegation 3 - Misconduct

26. The Committee next asked itself whether, having recklessly shared the answer set, Mr Talreja was guilty of misconduct.
27. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Mr Talreja's actions brought discredit on him, the Association, and the accountancy profession. It was satisfied that his reckless conduct reached the threshold for misconduct.

SANCTIONS AND REASONS

28. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
29. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour.
30. The aggravating factor the Committee identified was:
- The serious potential impact on the reputation of the profession.
31. The mitigating factors the Committee identified were:
- A previous good character with no disciplinary record;
 - He has shown genuine insight and undertaken independent remediation;
 - He has made genuine expressions of remorse and apology;

- He has fully co-operated with ACCA;
 - This was a one-off momentary lapse of judgment.
32. The Committee did not consider that taking No Further Action would sufficiently mark the conduct or satisfy the public interest. It carefully considered the Guidance for Disciplinary Sanctions and was satisfied that most of the factors for Admonishment were present. It considered the misconduct to be towards the lower end of the scale and to be very unlikely to be repeated. It was satisfied that an Admonishment was sufficient to highlight to the profession and the public the gravity of the proven misconduct and that a Reprimand would be disproportionate in the all the circumstances.
33. Accordingly, the Committee considered that the appropriate and proportionate sanction was that Mr Talreja be admonished.

COSTS AND REASONS

34. ACCA claimed costs of £9,766 and provided a detailed schedule of costs. The Committee noted Mr Talreja has provided a statement of his means. The Committee decided that it was appropriate to award costs to ACCA in this case and considered that the sum claimed by them was a reasonable one in relation to the work undertaken. It noted Ms Ali's concession that the case had not taken the two days allocated and accordingly, reduced the figure claimed to a total of £6,000 to reflect that. The Committee then considered that it was fair and reasonable to make a further reduction in the light of Mr Talreja's disposable income and savings. The Committee concluded that the sum of £3,000 for costs was appropriate and proportionate. Accordingly, it ordered that Mr Talreja pay ACCA's costs in the amount of £3,000.

EFFECTIVE DATE OF ORDER

35. This order shall take effect from the date of the expiry of the appeal period unless notice of appeal is given prior to the expiry of that period, in which case it shall become effective (if at all) as described in the Appeal Regulations. The Committee was not persuaded that the ground for imposing an immediate order was made out given the facts of this case and that public protection is not involved.

Mr Mike Cann
Chair
09 and 10 March 2023