

HEARING

ADMISSIONS AND LICENSING COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muhammad Ismail

Heard on: Wednesday, 08 November 2023

Location: Remotely by MS Teams

Committee: Mr Maurice Cohen (Chair)
Mr David Horne (Accountant)
Mr Andrew Skelton (Lay)

Legal Adviser: Ms Valerie Charbit (Legal Adviser)

**Persons present
and Capacity:** Mr Adam Slack (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary Application for readmission for membership refused.

1. The Committee convened to consider whether Mr Ismail should be readmitted to ACCA's membership register or alternatively ACCA's student register following his removal from ACCA's membership register on 21 April 2022.
2. The Committee had before it a Service Bundle (1-19 pages), ACCA's bundle (1-56 pages) and a Tabled Additional bundle (1-3 pages).

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3. Mr Ismail was present but was not represented.

APPLICATION AND BRIEF BACKGROUND

4. Mr Ismail became an ACCA member on 31 July 2017. On 21 April 2022 Mr Ismail's membership was administratively ceased following a Disciplinary Committee hearing on 29 March 2022.
5. Regulation 3(a) of ACCA's Membership Regulations provides that an ACCA trainee cannot become a member of ACCA until they have completed three years of approved work experience, in accordance with ACCA's Practical Experience Requirement. Trainees must achieve the requisite number of "Essential" and "Technical" Performance Objectives ('PO') by gaining experience and completing a personal statement for each PO, which are signed off by the trainee's Practical Experience Supervisor ('PES').
6. Mr Ismail was identified as one of fifty-two ACCA trainees who submitted or caused to be submitted to ACCA that some or all of their practical experience training had been supervised by Mr A (the PES), including at times when Mr A was not qualified, and further in doing so submitted one or more performance objective ('PO') statements that were identical or near identical, to one or more of Mr A's other trainee's PO statements or the same or similar to Mr A's own PO statements which he included when completing his own training in 2016.
7. ACCA's investigation concluded that Mr A had not worked closely with Mr Ismail and was not familiar with Mr Ismail's work, such that he would be permitted to act as Mr Ismail's supervisor and that these facts should have been or were known by Mr Ismail. Further Mr A couldn't have been Mr Ismail's supervisor when working at Company Z during the period claimed (a total of 37 months between 02 February 2012 and 01 March 2015), because Mr A didn't become an ACCA member and therefore able to supervise trainees, until after 23 September 2016, and this was after Mr Ismail ceased working at Company Z.
8. In summary therefore, the Disciplinary Committee found proved that Mr Ismail had committed misconduct in that he had been dishonest as an ACCA trainee

in submitting his Practical Experience Training Record which stated that he had met various Performance Objectives when he had not.

9. At the Disciplinary Committee hearing on 29 March 2022, the Committee found the allegations to be particularly serious. It decided that Mr Ismail had been complicit in colluding with Mr A and was entirely aware that he was participating in an arrangement which enabled him to qualify as a member of ACCA illegitimately and improperly. The Committee found this was dishonest behaviour that undermined public confidence in the integrity of ACCA's membership process. Further, the Committee was not satisfied that Mr Ismail felt and/or expressed genuine remorse about his conduct or demonstrated meaningful insight into the seriousness of his actions.
10. Mr Ismail was excluded from ACCA membership and ordered to pay £5,000 costs to ACCA. Mr Ismail was unable to make any application for readmission for a minimum period of 12 months.
11. Mr Ismail successfully appealed the costs order. On 29 April 2022 the Chair decided that the application should be allowed based on new information provided. The order of costs in the sum of £5,000 made in favour of ACCA, on 29 March 2022, was replaced by an order of costs totalling £100.
12. Mr Ismail's disciplinary costs have since been cleared and paid in full to ACCA.

APPLICATION FOR READMISSION

13. In June 2023, Mr Ismail submitted an application to be readmitted to ACCA's membership register.
14. Mr Ismail submitted an application form for readmission to ACCA including a professional reference from Mr Sudhir Barma who was aware of the readmission application. In the reference Mr Barma stated that Mr Ismail worked in his team and conducted himself professionally and that he was proving a great asset.

15. In his application Mr Ismail explained the circumstances which led to his removal from ACCA membership. He stated *'My supervisor was not fulfilling the criteria defined by ACCA of being my supervisor at the time of applying ACCA membership, i was misguided by him during my work. I regret my careless behaviour...My performance objectives were misused and plagiarized since it was under the possession of my supervisor and he was supervising many people... The problem was that i never ready [sic] the guidelines provided at the ACCA website for ACCA members before the disciplinary committee hearing'*.
16. When asked why he believed that in similar circumstances in the future the conduct wouldn't be repeated and/or he will not commit a similar breach of ACCA rules, Mr Ismail stated: *'Since I am a complete professional person now who works in corporate environment. I can never go step back and be casual that i used to be in old times. It is not acceptable for current person who i am and especially in corporate environment [sic] ...'*
17. When asked why he should be readmitted as an ACCA member, Mr Ismail stated: *'Re admitting [sic] me would give me the opportunity to learn more, keep myself updated with the latest financial standards and improve myself further my means of ACCA vast resources available to its members my means CPDs webinars arranged by ACCA local offices'*.
18. Further in his application Mr Ismail expressed his attitude towards the removal, stating, *'I become more responsible and professional about my behaviour after removal before that i was more casual about my dealings and usually rely on information i get without verifying it from the authentic source like i did in my case and i believed at my supervisor when he said he meets criteria of being my supervisor. Now i verify and evaluate things myself and take full responsibility of those things rather than blindly what others says. I do my complete due diligence now, act professionally and take full responsibility of my actions'*.
19. Mr Ismail is currently employed as a 'Record to Report Specialist'. He has been employed by the same company since August 2022 and is responsible for

'whole month end close process and financial reporting to our stake holders...[sic] and 'facilitating the work of external auditor'.

20. On 25 August 2023, ACCA wrote to Mr Ismail requesting he expand on what he had learnt and what he would do differently to avoid committing a similar breach of ACCA regulations and was asked to explain what his future intentions are should he be readmitted to ACCA membership. Mr Ismail replied saying, *'...I regret what has happened and take full responsibility for my actions and I am sorry for that. The action of the disciplinary committee enables me to take things seriously and not rely on what I heard and read ACCA codes on their website since all the material is available...I must act professionally and in line with guidelines provided by ACCA and not be the reason to defame ACCA's body. I promise there will never be any violation of ACCA codes in future'*.
21. Further, in response to his future intentions Mr Ismail stated, *'that he hopes to regain access to the benefits associated with and afforded to ACCA members should he be readmitted to membership'*.
22. In his oral submissions Mr Ismail submitted that he could supply proof that he has completed the PER and that, if necessary, he would seek an adjournment so that such information could be provided to the Committee. Mr Ismail offered to share his screen to prove that he had fulfilled the PER.
23. He also stated that he disagreed with the reasons for the Disciplinary Decision in that he continued to blame Mr A although he accepted that he too was at fault. Mr Ismail denied that he acted dishonestly.
24. Mr Ismail asked for an adjournment if the Committee considered it necessary so that he could provide information to show he had since completed the PER.

ACCA's RESPONSE TO THE APPLICATION

25. Mr Slack confirmed that Mr Ismail had no other disciplinary findings against him.

26. ACCA opposed the application for readmission. Mr Slack, submitted that Mr Ismail was not eligible for membership because he had never completed the PER.
27. Mr Slack further submitted that in any event the allegations found proved against Mr Ismail were particularly serious, involving dishonest behaviour and a disregard for ACCA's membership process which also raised public interest concerns.
28. ACCA's written submissions emphasised that the reputation of the accountancy profession is built upon the public being able to rely on a member and/or professional who has undertaken to abide by a code of ethics and do the right thing in difficult circumstances, "*It is a cornerstone of the public value which an accountant brings.*"¹ Therefore, ACCA submitted that a finding of dishonesty, that is directly related to obtaining membership, is behaviour that is fundamentally incompatible with being an ACCA member because it undermines the trust and confidence the public have in the profession. ACCA relied on the following from dicta from Bolton v Law Society [1994] 1 WLR 512, 519, when the then Master of the Rolls Sir Thomas Bingham said in circumstances where dishonesty is concerned, "*the reputation of the profession is more important than the fortunes of the member. Membership of a profession brings many benefits, but that is a part of the price.*"
29. ACCA submitted that there is considerable importance in the public knowing that, save for in the most exceptional circumstances, they are dealing with members and potential members of a profession who have never been guilty of any dishonesty at all. Therefore, in cases of behavioural misconduct such as dishonesty, public confidence will be a stronger factor in weighing any decision with regard to readmission. If allowing an individual to return to the register can undermine the public's trust in the profession, readmission is unlikely to meet the overarching objective.

¹ Bolton v Law Society [1994] 1 WLR 512, 519

30. ACCA submitted that because Mr Ismail obtained ACCA membership by colluding with another to submit PO statements that were not his own. Mr Ismail should not be readmitted to membership, an original position that was obtained through dishonest means. ACCA's position was that based on the finding of dishonesty, readmission in such circumstances is not compatible with ACCA's overarching objectives, upholding the reputation and confidence in the profession, and protecting the public.
31. Further ACCA stressed the imperative need to uphold and maintain public confidence in the profession: "... *On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness. Thus it can never be an objection to an order of suspension in an appropriate case that the solicitor may be unable to re-establish his practice when the period of suspension is past. If that proves, or appears likely to be, so the consequence for the individual and his family may be deeply unfortunate and unintended. But it does not make suspension the wrong order if it is otherwise right. The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.*"²
32. ACCA submitted that although Mr Ismail has been sanctioned for his misconduct and has demonstrated some insight into the seriousness of this conduct in his reflection on his actions, Mr Ismail has demonstrated little evidence of having taken any rehabilitative steps since the Disciplinary proceedings and he had not provided adequate references in support of his application. It said therefore that in the absence of this information, ACCA are unable to make a determination on Mr Ismail's suitability or character.

² Bolton v Law Society [1994] 1 WLR 512, 519

33. ACCA therefore submitted that Mr Ismail had not demonstrated that he has been sufficiently rehabilitated to no longer be considered a risk to the public and uphold the integrity of the accounting profession if he once again becomes an ACCA member or student member.

DECISION ON APPLICATION AND REASONS

34. The Committee referred to The Chartered Certified Accountants Membership Regulations 2014 (amended 01 January 2023) (MR) and in particular MR3, MR7, MR9 and MR14.
35. In addition, it took into consideration the Guidance produced by ACCA entitled: Admissions and Licensing Committee Guidance (01 January 2019), Guidance for Regulatory Orders (February 2013) and Guidance for Requests on Adjournments on ACCA's Regulatory and Disciplinary Committees (01 January 2021).
36. The Committee noted that the burden was on Mr Ismail to satisfy the Committee that either he met the requirements for readmission as a member or that he met the requirements for admission as a student. In either case, Mr Ismail would have to satisfy the Committee as to his 'general character and suitability'.
37. The Committee noted that ACCA's rules and Guidance required it to consider the underlying facts and surrounding circumstances of the disciplinary matter found proved which led to his exclusion, changes that have taken place since the misconduct was committed and evidence of Mr Ismail's understanding and appreciation of his past failings and any genuine expression of remorse. The guidance also advised the Committee of relevant factors to take into consideration in deciding whether to allow the application, or allow the application with conditions, or refuse the application or adjourn the application.
38. The Committee noted that Mr Ismail had paid all costs to date. It further noted that the reference he supplied described him as a valued member of his current employment.

39. However, the Committee was not persuaded that Mr Ismail had sufficient insight into his past conduct because of how he described his actions in relation to the previous disciplinary case. Mr Ismail did not in the Committee's view show that he understood the seriousness of his past misconduct or express sufficient insight about his past misconduct.
40. As part of his application, Mr Ismail had maintained before this Committee that Mr A was at fault because he was not an ACCA member but Mr Ismail did not appear to acknowledge that the Disciplinary Committee had found Mr Ismail had colluded with Mr A. The Committee noted that the previous Disciplinary Committee had found *"Mr Ismail had been dishonest when applying for membership to ACCA, that he had colluded with Mr A thereby undermining public confidence and the integrity of ACCA's membership process and that Mr Ismail did not appear to express any remorse or genuine regret about what had happened, and he did not understand the seriousness of what had taken place."*
41. The Committee decided that Mr Ismail had failed to satisfy the requirement regarding 'general character and suitability' both to be an ACCA member or to be an ACCA registered student due to the seriousness of the matters found proved by the Disciplinary Committee which included Mr Ismail having acted dishonestly, alongside this Committee's finding that Mr Ismail lacked insight into his past misconduct.
42. The Committee considered that honesty and integrity go to the heart of an accountant's practice and are a fundamental tenet for membership of ACCA. The Committee was not persuaded that Mr Ismail had discharged the burden of proof regarding his 'general character and suitability' to be admitted to either the student register or readmitted to the membership register since he had engaged in dishonest actions about his PER. The Committee was not persuaded by Mr Ismail's submissions, evidence, or his written application that he would not act similarly in the future. The Committee found his insight to be lacking and his remorse superficial.
43. The Committee also concluded that the Disciplinary findings which encompassed dishonesty were so serious that Mr Ismail should have provided

considerable evidence in order to discharge the burden on him to prove that his general character and suitability was now reformed. It noted the paucity of the professional reference which Mr Ismail had supplied. It made no reference to the responsibilities that Mr Ismail had in his current employment, or how he had changed or demonstrated honesty in his work.

44. Furthermore, the Committee decided that Mr Ismail had therefore failed to provide evidence of sufficient insight or evidence of rehabilitative steps taken to persuade the Committee he would not act similarly in the future.
45. Although Mr Ismail had asked to adjourn matters, so he could provide proof of a valid PER, the Committee was also concerned that Mr Ismail had not even considered that it was necessary to provide this as part of his application particularly since the Disciplinary Committee hearing was all about the PER not being valid and that had resulted in his removal from the membership register. The Committee considered that without any proof as to Mr Ismail having completed the PER, Mr Ismail could not be admitted as a member. It considered the fact that he wished to show his screen to prove his PER demonstrated his lack of appreciation about the importance of the PER and the need to evidence it fully.
46. The Committee was therefore not persuaded that an adjournment was in either Mr Ismail's interest or the public interest. The Committee was not persuaded that an adjournment could meet the concerns it had about Mr Ismail's insight into his past misconduct or about his 'general character and suitability'.
47. The Committee was therefore not persuaded that an adjournment to evidence Mr Ismail's PER could meet the Committee's concerns that were raised in the course of Mr Ismail making this application.
48. In all the circumstances, Mr Ismail had failed to discharge the burden of satisfying the Committee as to his 'general character and suitability' to be readmitted to either the Student Register or the Membership Register. In addition, he had failed to evidence any PER to justify readmission to the membership register.

49. Accordingly, the Committee refused both applications.

Mr Maurice Cohen
Chair
08 November 2023