

HEARING
**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of:	Mr Dinesh Mahendran
Heard on:	Monday, 29 April 2024
Location:	Remotely by Microsoft Teams
Committee:	Mr Martin Winter (Chair) Dr Beth Picton (Accountant) Mr Andrew Skelton (Lay)
Legal Adviser:	Ms Margaret Obi
Persons present and capacity:	Mr Adam Slack (ACCA Case Presenter) Ms Lauren Clayton (Hearings Officer)
Outcome:	Allegations 1, 2(i), 3(a), 3(b), 3(c) and 3(d) were found proved. Misconduct was established. In light of these findings the alternatives (lack of integrity and liability to disciplinary action) were not considered.
Sanction:	Removal from the Student Register of ACCA with immediate effect
Costs:	Ordered to pay a contribution to ACCA's costs in the sum of £5,190.50

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INTRODUCTION

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Mahendran. The hearing was conducted remotely via Microsoft Teams. The Committee was provided with the following documents: (i) a main hearing bundle with pages numbered 1-78 and (ii) a service bundle numbered 1-19. At the sanction stage, the Committee was provided with a cost schedule.
2. Mr Slack presented the case on behalf of ACCA. Mr Mahendran did not attend and was not represented.

PRELIMINARY APPLICATIONS

PROOF OF SERVICE

3. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations 2020 (“the Regulations”). The Committee took into account the submissions made by Mr Slack, on behalf of ACCA, and also took into account the advice of the Legal Adviser.
4. The Committee was provided with a printout from ACCA’s register confirming the email address that it holds on record for Mr Mahendran. The Committee was also provided with an email delivery receipt (timed at 15.30) which confirmed that the Notice of Hearing, dated 28 March 2024, and the password for the enclosed documents had been sent to Mr Mahendran’s registered email address on that date. The Notice of Hearing confirmed the date, time, and remote venue of the hearing. Mr Mahendran was informed of his right to attend the hearing and to be represented if he so wished. The Notice of Hearing also provided information about applying for an adjournment and the Committee’s power to proceed in absence.
5. The Committee was satisfied that Mr Mahendran had been provided with 28 days’ notice in accordance with Regulation 10.1.

PROCEEDING IN ABSENCE

6. Mr Slack, on behalf of ACCA, made an application for the hearing to proceed in Mr Mahendran’s absence, as permitted by Regulation 10.7.

7. The Committee accepted the advice of the Legal Adviser.
8. The Committee noted that Mr Mahendran responded to the Notice of Hearing. He stated in his email dated 28 March 2024: "*I already completed my acca papers. Why you all still asking the same question? (sic)*". In a further email from ACCA on 08 April 2024 Mr Mahendran was asked if he would be attending the hearing. There was no response to that email and the call that was made to him on 26 April 2024 was unanswered. A further email was sent to Mr Mahendran on 26 April 2024 inviting him to confirm whether he would be attending the hearing. He replied on the same day. He stated: "*I will not be attending.*"
9. The Committee determined that it was reasonable and in the public interest to proceed with the hearing for the following reasons:
 - a. The Committee was satisfied that ACCA had made sufficient efforts to provide Mr Mahendran with the opportunity to attend the hearing and noted that he had confirmed in clear terms that he would not be attending the hearing. The Committee concluded that it was reasonable to infer that Mr Mahendran's non-attendance was voluntary and therefore a deliberate waiver of his right to participate in these proceedings remotely.
 - b. There has been no application to adjourn and no indication from Mr Mahendran that he would be willing to attend the hearing remotely on an alternative date. Therefore re-listing this hearing would serve no useful purpose.
 - c. The Committee acknowledged that there may be some disadvantage to Mr Mahendran, in not being able to give evidence or make oral submissions. However, the Committee concluded that any disadvantage was significantly outweighed by the public interest in ensuring that the hearing proceeds and is concluded expeditiously.

BACKGROUND

10. Mr Mahendran was an ACCA student between 16 March 2017 to 30 September 2020. He registered as a student again on 24 October 2020. He remains an ACCA student.
11. On 29 January 2022, Mr Mahendran submitted or caused to be submitted an ACCA exam history transcript ('the transcript') and Strategic Professional certificate ('the certificate') to ACCA Customer Services Department alongside his application to become an ACCA Member.
12. The documents purporting to be issued by ACCA and Mr Mahendran's exam results were reviewed by Person A, an Exams Administrator at ACCA on 11 February 2022. They confirmed in their witness statement, dated 15 November 2022, that Mr Mahendran had failed his professional examinations, specifically his SBR and SBL examinations in December 2020 and his ATX and AAA examinations in September 2021.
13. On 12 April 2022, ACCA sent an email to Mr Mahendran. He was informed that the examination department had confirmed that he had not passed any Professional Level exams and he was asked to confirm where he had obtained the transcript and certificate. Mr Mahendran responded the same day. He stated as follows:

"...I received the certificate after I have completed the professional exams. I already attached the exam history and certificate completion in the previous email. I have received from my acca account after I passed the advanced taxation and advanced audit and assurance last year september. I checked myacca account but still my results are not updated yet with my actual results that I had send to you before. Please do reconsider the matter. ... (sic)"
14. The certificate Mr Mahendran submitted or caused to be submitted to ACCA could not be validated using ACCA's online validation tool as the certificate bears no registration number or certificate number, which all ACCA certificates should have. An investigation commenced on 08 June 2022.
15. ACCA wrote to Mr Mahendran's registered email address on the dates set out below, requesting his comments and observations in relation to the documents he submitted to ACCA.

- **A4 Acknowledgment Letter** - 09 September 2022 – No response
 - **First Chaser** - 28 September 2022 - No response
 - **Second Chaser** - 10 November 2022 – Insufficient response
16. On each occasion Mr Mahendran was given a date by which he should respond. In his responses on 10 November 2022, Mr Mahendran stated:
- “...Sorry for the late reply. I already passed my exams and I am no longer going to send email to you respectively. Thank you and have a nice day.”*
- “By the way, if I didn't pass my exams, I still can resit for the exams and also please don't send emails regarding the professional conduct. Thank you”.*
17. On 24 November 2022, the Investigations Office wrote to Mr Mahendran, informing him of his duty to co-operate with the investigation and requesting his detailed responses to the correspondence dated 09 September 2022 by 01 December 2022. No response was received.
18. On 07 December 2022, a final chaser email was sent via email to Mr Mahendran. He was informed that a failure to cooperate would lead to an allegation being raised against him as he had failed to respond adequately to correspondence dated 09 September 2022, 28 September 2022, 10 November 2022, and 24 November 2022.
19. Mr Mahendran responded on 07 December 2022. He stated:
- “...As I mentioned before, I already passed my exams and no longer composing emails to you and your authority. Thank you sir.”*

ALLEGATIONS

Mr Dinesh Mahendran, a student of ACCA

1. *On or around 29 January 2022, submitted or caused to be submitted to ACCA the documents listed in Schedule A, purporting to have been issued by ACCA when, in fact, they had not.*

2. *Mr Dinesh Mahendran's conduct as set out in paragraph 1 above was:*
 - i. *Dishonest in that he knew he had submitted or caused to be submitted false documents as referred to in paragraph 1 above;*

 - ii. *Or in the alternative, any or all of the conduct referred to in allegation 1 above demonstrates a failure to act with integrity*

3. *Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate with the investigation of a complaint in that whilst he sent emails to ACCA on 10 November 2022 and 07 December 2022, he failed to respond fully to ACCA's correspondence dated:*
 - (a) *09 September 2022*
 - (b) *28 September 2022*
 - (c) *10 November 2022*
 - (d) *24 November 2022*

4. *By reason of the above Mr Dinesh Mahendran is:*
 - i. *Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the conduct above or, in the alternative,*

 - ii. *Liable to disciplinary action pursuant to bye-law 8(a)(iii).*

RESPONSE TO THE ALLEGATIONS

20. Mr Mahendran's response to the allegations is summarised in the background above.

ACCA SUBMISSIONS

21. Mr Slack, on behalf of ACCA, submitted that the primary allegations (1, 2(i), 3(a) – 3(d)) were all capable of being found proved.
22. Mr Slack invited the Committee to consider whether, if found proved, Mr Mahendran's alleged conduct amounts to misconduct. In the alternative, the Committee was invited to find that the conduct renders Mr Mahendran liable to disciplinary action as it amounts to breaches of byelaw 8(a) and Regulations 110.1 and 110.2.

DECISIONS AND REASONS

FINDINGS OF FACT

23. The Committee was aware that the burden of proving the facts was on ACCA. Mr Mahendran did not have to prove anything, and the charges could only be found proved, if the Committee was satisfied, on the balance of probabilities.
24. In reaching its decision the Committee took into account the documentary evidence contained within the hearing bundle, as well as the oral submissions made by Mr Slack.
25. The Committee accepted the advice of the Legal Adviser. The Committee noted that following the Supreme Court decision in *Ivey v Genting Casinos* [2017] UKSC 67 the test for dishonesty is an objective test only. The Committee first had to determine Mr Mahendran's actual knowledge or belief and then determine whether his acts or omission were, on the balance of probabilities, dishonest by the ordinary standards of reasonable and honest people.

ALLEGATION 1(A)

On or around 29 January 2022, submitted or caused to be submitted to ACCA the documents listed in Schedule A, purporting to have been issued by ACCA when, in fact, they had not. - FOUND PROVED

26. The Committee was provided with the email chain between ACCA Customer Services department and Mr Mahendran. The Committee was satisfied that this chain of emails demonstrates that Mr Mahendran submitted or caused to be

submitted documents purporting to be issued by ACCA to ACCA alongside his application for membership on 29 January 2022.

27. The Committee also noted the evidence of Person A in their signed witness statement dated 15 November 2022. Person A, an Exams Administrator at ACCA, confirmed that the transcript and certificate are false, and that Mr Mahendran was not issued these documents by ACCA as he failed his professional exams.
28. The transcripts and documents submitted by Mr Mahendran or on his behalf were purportedly issued by ACCA. The Committee was satisfied that they had not been issued by ACCA as Mr Mahendran had not passed his SBR and SBL examinations in December 2020 and his ATX and AAA examinations in September 2021.
29. For these reasons, Allegation 1(a) was found proved.

ALLEGATION 2(I)

*Mr Dinesh Mahendran's conduct as set out in paragraph 1 above was:
Dishonest in that he knew he had submitted or caused to be submitted false documents as referred to in paragraph 1 above; – **FOUND PROVED***

30. The Committee noted that Mr Mahendran suggested in his email correspondence that he received the certificate after passing all his professional exams but failed to provide any additional information despite numerous requests. The Committee concluded that it is implausible that Mr Mahendran was unaware that he had failed his SBR and SBL examinations in December 2020 and his ATX and AAA examinations in September 2021. He knew that he was required to pass these exams and provide evidence of having done so in order to be granted ACCA membership.
31. The Committee, having concluded that false documents were sent to ACCA, also concluded that Mr Mahendran knew or ought to have known that these documents were false. In reaching this conclusion the Committee noted that the email address used to send the documents to ACCA is the same email address registered with ACCA. The Committee concluded that the submission of the false documents was a deliberate and conscious attempt to circumvent the rules and regulations designed

to ensure that only student members who meet the high standards expected can become registered members of ACCA.

32. The Committee concluded that the submission of false documents to ACCA for the purposes of supporting a membership application was an egregious act of dishonesty. The Committee was satisfied that his acts and omissions would be regarded as dishonest by the ordinary standards of reasonable and honest people.
33. The Committee, having found Allegation 2(i) proved, did not go on to consider the alternative charge.

ALLEGATION 3

*Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate with the investigation of a complaint in that whilst he sent emails to ACCA on 10 November 2022 and 07 December 2022, he failed to respond fully to ACCA's correspondence dated: (a) 09 September 2022; (b) 28 September 2022; (c) 10 November 2022; and (d) 24 November 2022 – **FOUND PROVED***

34. The Committee was provided with documentary evidence which confirmed that, following referral of this matter to ACCA's Investigations Team, Mr Mahendran was invited, in a letter dated 09 September 2022, to respond to four specific questions relating to the submission of the documents and his assertion that he had passed his exams. The Committee noted the letter also referred to the Complaints and Disciplinary Regulation 3(1) requiring Mr Mahendran to cooperate with the investigation by responding to the questions by the deadline.
35. As Mr Mahendran did not respond by the deadline, a further email was sent on 28 September 2022 with a copy of the previous letter attached. The covering email reminded Mr Mahendran of his obligation to cooperate by responding to the questions in the letter and to do so by 12 October 2022. There was no response from Mr Mahendran.

36. A further email was sent to Mr Mahendran on 10 November 2022 with a copy of the letter attached from the initial email. In the covering email, Mr Mahendran was again reminded of his obligation to cooperate by responding to the questions by 17 December 2022. There was an insufficient response from Mr Mahendran, in that, it did not address the questions that had been asked. Therefore, a further email was sent to him on 24 November 2022, in which he was advised that if she failed to respond by the deadline a report of disciplinary allegations would be drafted, and his case would be referred to an independent assessor for review. There was no response from Mr Mahendran.
37. The Committee was satisfied that Mr Mahendran had a duty to respond to the queries that were raised by ACCA. Either no response or no sufficient response was received from Mr Mahendran in relation to the investigation despite being informed in clear terms that a response to the specific questions that had been posed was required. The questions required prompt action and meaningful engagement with the investigation process. Instead, Mr Mahendran chose to disregard the numerous efforts that were made to obtain his response to the issues raised and when he did reply his response was dismissive in nature. The Committee concluded that Mr Mahendran's conduct amounts to a failure as no reason has been provided for the lack of cooperation.
38. As ACCA's emails were sent to Mr Mahendran's email address, as it appeared on the database, the Committee concluded that it was reasonable to infer that he was aware of ACCA's investigation and that his failure to respond was a conscious decision. In these circumstances, the Committee concluded that by not fully engaging and cooperating with the investigation, Mr Mahendran's acts and omissions had the potential to frustrate ACCA's ability to regulate its members and so undermine its reputation and public trust and confidence in the regulatory process.
39. For these reasons, Allegation 3 was found proved.

ALLEGATION 4 - MISCONDUCT

40. The Committee noted that the admission requirements are designed to ensure, in the interests of protecting the public and trust and confidence in the profession, that

only those that meet ACCA's high standards are admitted as members. The Committee determined that Mr Mahendran's dishonest conduct was premeditated as he must have been aware that he had failed his professional exams. He put his own interests above the interests of the public and his obligations as an ACCA student and, in so doing, significantly undermined the integrity of ACCA's membership process and the accountancy profession.

41. The Committee was satisfied that Mr Mahendran's dishonest conduct fell far below the standards expected of him and amounts to misconduct.
42. The Committee noted that Mr Mahendran as an ACCA student member has a duty to comply with ACCA rules, regulations and bye-laws and there is a legitimate expectation that he will do so. The Committee noted that all student members agree to adhere to these requirements and accept that any failure may result in disciplinary action.
43. The Committee took the view that Mr Mahendran's failure to respond to the requests made by ACCA amounted to a serious falling short of his duties and obligations. The failings cannot be described as one-off instances as they were repeated and demonstrate a complete disregard for the standards expected of student members. Furthermore, Mr Mahendran's failings have the potential to seriously undermine public trust and confidence in the profession and the regulatory process.
44. In these circumstances, the Committee was satisfied that the failure to co-operate with the investigation also amounts to misconduct.
45. The Committee having determined that Mr Mahendran's acts and omissions amounted to misconduct did not go on to consider the alternative allegation that he was liable to disciplinary action.

SANCTION AND REASONS

46. Mr Slack informed the Committee that there were no previous disciplinary findings against Mr Mahendran.

47. The Committee accepted the advice of the Legal Adviser who referred it to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose, the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Mahendran's own interests. The purpose of any sanction is not meant to be punitive but to protect members of the public, maintain public confidence in the profession and ACCA and to declare and uphold proper standards of conduct and behaviour.
48. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee considered that the only mitigating feature was that no previous disciplinary findings had been made against Mr Mahendran. However, the Committee afforded this factor limited weight as student members are expected to adhere to the rules and regulations.
49. The Committee considered the following to be aggravating features:
- Mr Mahendran's dishonest actions were planned and premeditated;
 - Mr Mahendran's dishonesty involved an act of forgery which was sophisticated in nature;
 - Mr Mahendran has demonstrated no insight into the seriousness of his dishonest conduct or the impact of his behaviour on the profession;
 - Mr Mahendran's failure to co-operate persisted for a significant period of time.
50. The Committee first considered taking no further action. The Committee concluded that, in view of the nature and seriousness of Mr Mahendran's conduct and behaviour, it would not be in the public interest to take no further action.
51. The Committee then considered an Admonishment. The Committee concluded that Mr Mahendran had not demonstrated any remorse or insight. In any event, the Committee concluded that an Admonishment would be insufficient to mark the seriousness of Mr Mahendran's conduct and therefore would not uphold trust and confidence in the profession and the regulatory process.

52. The Committee went on to consider a Reprimand or a Severe Reprimand. It noted that such sanctions may be suitable if the member has proper insight into their failings or has expressed genuine remorse and where there was no continuing risk to the public; none of which applies to Mr Mahendran. The Committee concluded that the nature of Mr Mahendran's dishonesty, in deliberately seeking to undermine the very purpose of membership and regulation in order to serve his own interests, was towards the higher end of the spectrum for misconduct of this type. Honesty and integrity are fundamental qualities expected of all student members and therefore the absence of these qualities is fundamentally incompatible with continued registration as a member. In reaching this conclusion the Committee also took into account the failure to cooperate with the ACCA's investigation. As a consequence, even a Severe Reprimand would undermine rather than uphold public trust and confidence in the profession and the regulatory process.
53. Having determined that a Severe Reprimand would be insufficient to address the nature and seriousness of Mr Mahendran's dishonesty and his failure to co-operate the Committee determined that he should be removed from the student register of ACCA. Removal is a sanction of last resort and should be reserved for those categories of cases where there is no other means of protecting the public or the wider public interest. The Committee concluded that Mr Mahendran's case falls into this category because of the serious nature of his misconduct, which includes a breach of trust, the absence of insight, and the ongoing risk of repetition. The sanctions guidance states that the public is entitled to expect a high degree of probity from a student ACCA member. The Committee took the view that members of the public and fellow ACCA students would be appalled by the prospect of a student member attempting to acquire ACCA membership by deception.
54. The Committee concluded that a failure to remove a student member who had submitted forged documents for the purposes of admission to ACCA would seriously undermine public confidence in the profession and in ACCA as a regulatory body. The public needs to know it can rely on the integrity, ability, and professionalism of those who are members of ACCA.
55. The Committee had regard to the impact expulsion may have on Mr Mahendran, but concluded that his professional, personal, and financial interests were significantly

outweighed by the Committee's duty to give priority to the significant public interest concerns raised by this case.

56. The Committee decided that the appropriate and proportionate sanction is removal.

COSTS

57. The Committee considered ACCA's application for costs in the sum of £5,865.50 as set out in the schedule of estimated costs that had been provided to Mr Mahendran.

58. The Committee concluded that it is appropriate to make an award for costs. The Committee was satisfied that the case had been properly brought, and that the costs were fair and reasonable. However, the Committee reduced the costs to £5,190.50 because the hearing time was shorter than a full day and therefore the costs associated with the involvement of the case presenter and hearing officer were less than anticipated. The time recorded for the case presenter and hearing officer were reduced by 3 hours each.

59. The Committee concluded that the costs could not be reduced any further because Mr Mahendran had not provided a statement of his means and should be required to contribute to the costs of bringing these proceedings otherwise the entirety of the costs would be borne by the profession as a whole.

ORDER

60. The Committee made the following orders:
1. Mr Mahendran shall be removed from the student register of ACCA.
 2. Mr Mahendran shall pay a contribution to ACCA's costs in the sum of £5,190.50.

EFFECTIVE DATE OF ORDER

61. Taking into account all the circumstances, the Committee decided that in the interests of public protection, the order for removal would take effect immediately.
62. This is subject to the order being varied or rescinded on appeal as described in the Appeal Regulations.

Mr Martin Winter
Chair
29 April 2024