

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Raajjeyanthan Sri Rajendrarajah
Heard on:	Thursday, 22 February 2024
Location:	Remotely via Microsoft Teams
Committee:	Ms Ilana Tessler (Chair) Ms Fiona MacNamara (Accountant) Ms Sue Heads (Lay)
Legal Adviser:	Mr James Keeley
Persons present and capacity:	Mr Benjamin Jowett(ACCA Case Presenter) Miss Nicole Boateng (Hearings Officer)
Observers:	Mr Ashraf Khan (ACCA Legal Adviser)
Summary	Removed from the student register
Costs:	£4,010.50

PROCEEDING IN ABSENCE

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

1. On 25 January 2024 notification of the hearing was served on Mr. Rajendrarajah to his registered email address. On 29 January Mr. Rajendrarajah sent an email to Ms. Murray, the Hearings Officer, stating that due to prior commitments he would not be attending the hearing. Ms. Murray replied and asked if Mr. Rajendrarajah was happy for the hearing to proceed in his absence. On 18 February 2024 Mr. Rajendrarajah confirmed, in a further email, that he was content for the hearing to continue on the scheduled date with him not attending.
2. The ACCA Guidance for Disciplinary Committee Hearings at paragraph 46 states the following:

CDR Regulation 10(7) confers discretion upon a committee hearing where the relevant person fails to attend a hearing, the case may be heard in his or her absence. Consideration of this must be a two-stage process. Firstly, the Committee must be satisfied that the relevant person has been served with a notice of hearing in accordance with the rules.

CDR Regulation 10(1)(a) provides:

'On a case being referred to the Disciplinary Committee, the Association shall determine the date the case is to be heard...no later than 28 days before the date set, the relevant person shall be provided with a notice...and a paper summarising the procedure before the Disciplinary Committee and the Association's disciplinary process'

3. The Committee was satisfied that effective notice had been sent to Mr. Rajendrarajah's registered email address and that sufficient notice had been given.
4. The Committee then had to consider whether or not to exercise its discretion to proceed in Mr. Rajendrarajah's absence. The Committee applied the discretion with the upmost care and caution and the guidance in accordance the case of *R. Jones and others (N02) [2002] UKHL 5*.

5. The Committee decided that it would be fair to proceed in Mr. Rajendrarajah's absence in particular taking in account:
- (a) The nature and circumstances of Mr. Rajendrarajah absenting himself:
 - (i) In the Case Management Form that he submitted he confirmed that he did not wish to attend the hearing.
 - (ii) On 29 January 2024 Mr. Rajendrarajah stated that due to prior commitments he would not be attending the hearing.
 - (iii) On 18 February 2024 Mr. Rajendrarajah confirmed that he was content for the hearing to continue on the scheduled date with him not attending.
 - (b) Mr. Rajendrarajah knew about the possibility of asking for an adjournment, had not asked for one and was happy for the hearing to proceed in his absence.
 - (c) Therefore, Mr. Rajendrarajah had voluntarily decided to be absent from the hearing.
 - (d) These were serious allegations and it is in the public interest that a hearing should take place within a reasonable time.
 - (e) No adverse inference would be drawn from Mr. Rajendrarajah's non-attendance.
 - (f) The Committee would take account of all matters that could be said in Mr. Rajendrarajah's favour, any deficiencies in the case against him and give him a fair hearing.

BURDEN AND STANDARD OF PROOF

6. The burden is on ACCA to prove the case. The standard being on the balance of probabilities.

THE LAW IN RESPECT OF DISHONESTY

7. The Committee applies the law as set out in the case of:

“Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at para 74 since approved in R v Barton and another [2020] EWCA Crim 575, provided the following guidance on the issue of dishonesty:

“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

ALLEGATIONS

8. The allegations are as follows:

Mr. Raajjeyanthan Sri Rajendrarajah (‘Mr. Rajendrarajah’), who is and was at all material times an ACCA student:

1. In or around April 2022, submitted what purported to be an ACCA membership certificate to Firm A.
2. Mr. Rajendrarajah’s conduct in respect of allegation 1 above was: -
 - a. Dishonest, in that Mr. Rajendrarajah was not a member of ACCA and accordingly the ACCA membership certificate was false; or in the alternative

- b. Such conduct demonstrates a failure to act with integrity.
3. By reason of the above Mr. Rajendrarajah is guilty of misconduct pursuant to bye-law 8(a)(i).

OVERVIEW

9. ACCA received a status request from Firm A on 20 April 2022, in which they asked ACCA to confirm the ACCA qualification of Mr. Rajendrarajah and whether a membership certificate, submitted to ACCA by Firm A, with their status request, was confirmation that Mr. Rajendrarajah was ACCA qualified?
10. Following a check of ACCA's records this confirmed that Mr. Rajendrarajah is an ACCA student but had not been awarded membership status. An investigation into this complaint was opened by ACCA on 25 April 2022, pursuant to Regulation 4(1)(a) of the Complaints and Disciplinary Regulations 2014 (as amended) in connection with whether Mr. Rajendrarajah had wrongly claimed to Firm A that he was a member of ACCA and submitted to them a copy of an ACCA membership certificate in his name, to confirm this.

BACKGROUND

11. Mr. Rajendrarajah became an ACCA student on 14 January 2010.
12. ACCA's Connect Team received a status request from Firm A on 21 April 2022. The status request stated, "*We are looking to hire a candidate and we are wanting to confirm their ACCA qualification. Could you please confirm whether the attached certificate (page 13) confirms that this individual is ACCA qualified ? This individual is not showing up on the members register – are you able to confirm why this would be?*"

13. In order to complete the status check, ACCA's Connect Team asked Firm A to submit and return a consent form to them. However, Firm A did not pursue the status request with ACCA.
14. ACCA's Connect Team referred the membership certificate and Firm A's request to ACCA's Investigation Team stating, *"We received a status check request [PRIVATE], the candidates name is Raajjeyanthan Sri Rajendrarajah. They are showing as a student on CEC, but the candidate has sent a membership certificate and is claiming they are a member with ACCA. I've attached the certificate that the candidate to the firm. The membership number matched the students number that's on CEC and I was unable to find any other accounts under that name. Can this be investigated please?"*
15. Mr. Rajendrarajah was asked by ACCA, to explain whether he submitted the ACCA membership certificate appearing to confirm that he was admitted as a Member of the Association on 20 July 2018, to Firm A. Mr. Rajendrarajah explained, *"Yes, an ACCA certificate was submitted"*
16. Mr. Rajendrarajah was also asked to confirm whether he informed Firm A that he is an ACCA member and qualified as such since 2018. Mr. Rajendrarajah stated, *"Yes, I did"*
17. He was asked to explain the reasons why he submitted the ACCA membership certificate to Firm A. He explained, *"It was only a matter of time that I obtain the membership so did not want to let go of the opportunity due to not being able to provide what was being requested even though I was able to tick all the other boxes."*
18. Mr. Rajendrarajah was also asked to provide copies of all correspondence and communications between him and Firm A in relation to the submission of the ACCA membership certificate to Firm A. He explained, *"Apologies, I'm not able to retrieve the email correspondences from 3 months ago and I would like to highlight that most of the communications with the third party was over the phone."*

19. Mr. Rajendrarajah was asked how he obtained the ACCA membership certificate stating that he is an ACCA member. He explained, *"It was obtained from Google search engine."*
20. Mr. Rajendrarajah was asked to confirm if he had submitted the ACCA membership certificate to any other third party and if so, to provide ACCA with details. He explained, *"No, I can confirm that the certificate was not submitted to any other third party."*
21. Mr. Rajendrarajah was also asked to explain what he thought about his actions He said in relation to submitting the false ACCA membership certificate and confirmation that he was an ACCA member, to Firm A, he did so, as he *"was facing a period of unemployment and this particular whole episode was hard following the covid 19 and all the other external factors that was contributing towards my financial status. On this particular occasion, even though I was able to demonstrate and meet their other requirements and due to them being persistent of being an ACCA member, I made an error in judgement for which I do apologise."* He further explained, *"I regret for this act and this was because of the undue pressure that I was going through, since then I have sought professional advice regarding the same and currently working towards obtaining my membership from the body. Please accept my sincere apologies and I assure once again that this would not be repeated. At the same time, I request you to drop the investigation process at this juncture since I am cooperating with you on this matter and I believe you will understand the compelling reasons led to this act."*

FINDINGS

22. The Committee, having considered all of the material (including written representations by Mr. Rajendrarajah) applying the relevant caselaw, bye laws and regulations and burden and standard of proof, made the following findings:
 - (a) Mr. Rajendrarajah, by his own admission, submitted a membership certificate to Firm A. This certificate stated that Mr. Rajendrarajah had

been admitted as a member on 20 July 2018. In the paperwork that he provided he admitted Allegation 1. Therefore, Allegation 1 is proven.

- (b) The certificate was submitted in order for Mr. Rajendrarajah to apply for a job with Firm A.
- (c) Mr. Rajendrarajah, by his own admission, accepts that this certificate was false.
- (d) Mr. Rajendrarajah was not an ACCA member and had not gained the ACCA qualification and status set out in the membership certificate he submitted to Firm A.
- (e) Therefore, Mr. Rajendrarajah knowingly created a false ACCA Membership Certificate.
- (f) Mr. Rajendrarajah created the false document for personal gain in that he wanted to obtain employment with Firm A.
- (g) Mr. Rajendrarajah's stated rationale for acting in such a way was that it was only a matter of time before he obtained membership and did not want to let go of a potential job opportunity.
- (h) The Committee applying the test for dishonesty as set out in the case of Ivey concluded:
 - (i) Mr. Rajendrarajah knew that he was not an ACCA member and had not gained the ACCA qualification and status set out in the membership certificate he had submitted to Firm A.
 - (ii) Such conduct would be regarded as dishonest by the standards of ordinary decent people. Therefore, such conduct, is objectively dishonest.

- (i) Therefore, Mr. Rajendrarajah's conduct in respect of Allegation 2(a) is found to be proven in that he was:
 - a. Dishonest, in that Mr. Rajendrarajah was not a member of ACCA and accordingly the ACCA membership certificate was false.
- (j) The Allegation of not acting with integrity (2b) was in the alternative, that is say it was only to be considered if Allegation 2(a) was found not to be proven. Therefore, Allegation 2(b) falls away.
- (k) Bye-law 8(a)(i), 8(c) and 8(d) refer to (and partially define) misconduct. In order for Mr. Rajendrarajah's conduct to amount to a breach of bye-law 8(a)(i) it must amount to misconduct.
- (l) Bye-law 8(c) states that *"for the purpose of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession."*
- (m) Bye-law 8(d) provides that when assessing the conduct in question, regard may be had to the following:-
 - (i) Whether an act or omission, which of itself may not amount to misconduct, has taken place on more than one occasion, such that together the acts or omissions may amount to misconduct;
 - (ii) Whether the acts or omissions have amounted to or involved dishonesty on the part of the individual or relevant firm in question; and
 - (iii) The nature, extent or degree of a breach of any code of practice, ethical or technical, adopted by the Council, and to any regulation affecting members, relevant firms or registered students laid down or approved by Council.

- (n) The case of *Roylance v General Medical Council* [2001] 1 AC 311 says: *'the meaning of this term (is misconduct) is of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety in any given case may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances.'*
- (o) Mr. Rajendrarajah's knowingly created and submitted a false membership certificate that misrepresented an ACCA qualification and membership status with ACCA, as well as not disclosing the misrepresentations to Firm A, when applying for a job opportunity.
- (p) Such actions were dishonest and for personal gain creating serious risk to the public and Firm A.
- (q) The Committee finds that Mr. Mr. Rajendrarajah's actions and omissions in respect of Allegations 1 and 2(a) amounts to misconduct under by-law 8(a)(i).
- (r) The proven allegations, amount to serious misconduct, both individually and when considered in their totality, in that the conduct alleged brings discredit to Mr. Rajendrarajah, ACCA and the accountancy profession.

SANCTION

23. In setting the appropriate sanction the Committee has applied the following:
- (a) The Guidance as set out in the ACCA Guidance For Disciplinary Sanctions.
 - (b) The Principle of Proportionality:
 - (c) *"B3.2 Any interference in a member's professional standing and ability to practise must be no more than the minimum necessary to uphold the public interest. The Committee must strike a fair balance between the*

rights of the relevant person and the public interest. This is necessary in order to comply with Article 8 of the European Convention on Human Rights, which protects the right to private and family life.”

- (d) Considered all sanctions available to them in ascending order of seriousness.
- (e) The Committee recognised that dishonesty in a professional setting is a most serious matter.

“E2.1 Dishonesty, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere undermines trust and confidence in the profession. The Committee should consider all possible sanctions and/or combinations of sanctions available to it in every case, nevertheless the courts have supported the approach to exclude members from their professions where there has been a lack of probity and honesty.”

24. The Committee applying all the material, the guidance, the regulations, the bye laws and the case law finds the following:

(a) Aggravating Factors:

- The creation of the false certificate was pre-planned.
- He provided false information to a potential employer.
- He was dishonest for personal gain.
- Mr. Rajendrarajah showed a lack of insight stating that as he was going to qualify in any event he simply attempted to speed up the process in providing the false certificate.

(b) Mitigating Factors:

- Full Admissions.
 - No previous disciplinary finding. (Although he is a student this has limited effect).
 - His co-operation.
25. The Committee has approached and applied the range of sanctions in ascending order.
- (a) Given the serious circumstances of this case, taking no further action would be entirely inappropriate.
- (b) Admonishment is inadequate:
- Deliberate behaviour.
 - No insight.
 - Too serious conduct.
 - Potential continuing risk if he continued as an ACCA student.
- (c) Reprimand is insufficient:
- Deliberate behaviour
 - No insight.
 - Too serious conduct.
 - Potential continuing risk if he continued as an ACCA student.
- (d) Severe Reprimand is also inappropriate:

- No insight in failings.
- Intentional behaviour
- Too serious conduct.
- Potential continuing risk if he continued as an ACCA student.

(e) Removal from the student register is the only adequate sanction:

- Serious departure from professional standards.
- Lack of understanding insight in failings.
- Intentional behaviour.
- Potential continuing risk if he continued as an ACCA student.
- Dishonesty.

(f) Mr. Rajendrarajah is removed from the student register in order to:

- Protect the public.
- Protect the profession as well and re-enforce that only upholding the highest standards will be expected.

(g) The Committee noted that Mr. Rajendrarajah will be prevented from applying for readmission for a minimum period of 12 months and any such application would be considered at a hearing of an Admissions and Licencing Committee.

26. In order to protect the public, the sanction will take immediate effect.

COSTS

27. The Committee takes the following into account:
- (a) The Schedule of Costs.
 - (b) Mr. Rajendrarajah did not provide a statement of means.
 - (c) The award of costs should not cause him severe financial hardship and should be proportionate.
 - (d) The reduced hearing time needed to decide the matter.
28. The Committee makes a Costs order in the sum of £4,010.50

Ms. Ilana Tessler
Chair
22 February 2024