

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

In the matter of: Mr Tameri Fon

Heard on: Tuesday, 23 July 2024

Location: Held remotely via Microsoft Teams

Committee: Mr Tom Hayhoe (Chair)
Mr George Wood (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Ms Tope Adeyemi

**Persons present
and capacity:** Ms Michelle Terry (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: Removal from the student register

Costs: Costs awarded in the sum of £9.331

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Tameri Fon. Mr Fon was not in attendance and was not represented. Ms Michelle Terry represented ACCA. The papers before the Committee consisted of a main bundle (pgs.1 - 146) a service bundle (pgs.1-17) and a 2-page Memo and Agenda.

PRELIMINARY MATTERS

Service of papers

2. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Ms Terry on behalf of ACCA and the advice of the Legal Adviser.
3. Included within the Service Bundle was the Notice of Hearing dated 25 June 2024, thereby satisfying the 28-day notice requirement, which had been sent to Mr Fon’s address as it appears on ACCA’s register. The Notice included the correct details of the date, time and remote venue for the hearing and Mr Fon’s right to attend the hearing by telephone or video link and to be represented if he wished. Additionally, the Notice provided details about applying for an adjournment. The service bundle included two further emails addressed to Mr Fon dated 25 June 2024 which provided a secure link to the documentation regarding the hearing and a password. Notifications confirming delivery, accompanied the emails dated 25 June 2024.
4. The Committee also had sight of a telephone attendance note which records that Mr Fon was called by a member of ACCA staff on 22 July 2024. The phone was answered, and the caller was informed that Mr Fon was not available.
5. The Committee, having considered the relevant documents, was satisfied that Notice had been served in accordance with the Regulations.

Proceeding in absence

6. Having concluded that proper notice had been served in accordance with the Regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Mr Fon. The Committee took into account that Mr Fon had been sent a number of emails by ACCA's Hearings Officer asking if he would be attending the hearing, with no response being received. There was also evidence in the form of receipts that those messages had been delivered and that Mr Fon's number had been called and a message had been left for him by ACCA staff.
7. Further, it appeared that Mr Fon was aware of the proceedings, as the Committee noted the content of notes of calls between Mr Fon and ACCA dated 14 July 2022 and 17 October 2022. In the notes Mr Fon is recorded to have stated he was aware of the investigation and that he had received all the correspondence.
8. The Committee was of the view that Mr Fon's attendance was unlikely to be secured through an adjournment as he had not engaged at all and appeared to have voluntarily absented himself. In balancing the interests of Mr Fon against the public interest and the interests of ACCA, the Committee concluded that it was in the interests of justice that the matter proceeds expeditiously notwithstanding the absence of Mr Fon.

Application to amend

9. An application was made by ACCA to amend allegations 2(i), 2(ii) and 2(iii). It was proposed that the word 'sitting' be added after the words March 2021, June 2021 and September 2021 respectively. Ms Terry submitted that the amendments essentially served to correct a typo and that they caused no prejudice to Mr Fon.
10. Regulation 10(5) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') allows the Committee at any stage, upon

the application of either party or on its own motion, to amend the allegations provided the relevant person is not prejudiced in the conduct of their defence.

11. The Committee was satisfied that the proposed amendments did not cause prejudice or unfairness to Mr Fon, and it was therefore content to accede to the application.

Application to hear proceedings partly in private

12. It was highlighted by Ms Terry that ACCA's documentation included information that had been provided by Mr Fon about his personal life. An application was made by Ms Terry for any references to such information to be heard in private.
13. Regulation 11(1) of the CDR allows a committee having given the parties an opportunity to make representations and having obtained the advice of the Legal Adviser, the power to hear matters in private. A Committee is also to consider whether the particular circumstances of the case outweigh the public interest in holding the hearing in public, which may include but is not limited to any of the parties.
14. The Committee was satisfied it was appropriate for any information relating to Mr Fon's personal life to be heard in private. It was satisfied that doing so outweighed the public interest in hearing the matter in public.

BACKGROUND

15. Mr Fon was admitted as a student member of ACCA in February 2016. On 22 December 2021 ACCA received a complaint from Mr Fon's previous employer, Company A, where he had been employed as an Accounts Clerk.
16. Company A informed ACCA that Mr Fon had been dismissed from his employment for falsifying ACCA examination transcripts and results. The complaint details that Mr Fon led Company A to believe that he had passed the Financial Reporting exam when he had not. He is said to have done this through manipulating his ACCA exam transcript and changing the mark he

received. The complaint also details that he led Company A to believe that he had sat the strategic business reporting exam when he had not.

17. During disciplinary investigations convened by Company A, Mr Fon was described as admitting the allegations. A complaint was also made by Company A that Mr Fon had provided false and inconsistent information to his study provider and apprenticeship team at Kaplan advising Kaplan that he had passed ACCA's Financial Reporting exam when he knew that this was not true.
18. An investigation was commenced by ACCA as a result of Company A's complaint. ACCA assert that during the investigation it was noted that over a period of sixteen months from September 2020 to March 2022, Mr Fon sat the Financial Reporting exam six times and was unsuccessful at each attempt.

In a letter dated 14 June 2022, Mr Fon was advised by an ACCA Investigating Officer of the complaint against him. Enclosed with the letter was a copy of the complaint form and subsequent documents received from Company A. ACCA requested that Mr Fon respond to the letter by 28 June 2022. In a follow-up email dated 16 June 2022, Mr Fon was asked a number of questions concerning his current employment. ACCA requested in both the letter and the email that Mr Fon respond by 28 June 2022.

19. In emails from the investigating officer dated 29 June 2022, Mr Fon was again provided with the letter of 14 June 2022 and previous correspondence he had been sent. The letter went on to request that Mr Fon respond to a number of enquiries by 13 July 2022 regarding a request for documentation. It is alleged that Mr Fon did not respond to those enquiries, leading an ACCA Investigation Officer to call him on 14 July 2022 to enquire whether he was aware of the complaint and of the correspondence previously sent to him. Mr Fon is said to have confirmed that he was aware of the complaint and the emails, advising that he would respond at a later date. No response is said to have been received.
20. On 18 July 2022 ACCA wrote to Mr Fon enclosing copies of all correspondence that had been sent to him up until that point. He was requested to respond to

the enquiries raised and was advised that an allegation of failure to cooperate would be raised if no response was received by 25 July 2022. ACCA state that Mr Fon did not respond and therefore a notification was sent to him that a failure to co-operate allegation under Complaints and Disciplinary Regulation 3(1) had been raised against him due to his failure to respond to ACCA letters and emails of 14 June 2022; 16 June 2022; 29 June 2022 and 26 July 2022.

21. ACCA contacted Mr Fon by phone on 17 October 2022 to enquire as to why he had not responded to the complaint and to give him a final opportunity to respond to the allegations raised. Mr Fon indicated that he had received all the correspondence and had responded to the investigating officer's last email of 26 July 2022. The investigating officer stated that no response had been received to date, hence the need to make further contact. No response is said to have been received from Mr Fon following the phone call.

ALLEGATIONS

22. The allegations faced by Mr Fon, as amended, are set out below.

Mr Tameri Fon, an ACCA student:

1. On 26 April 2021, submitted or caused to be submitted to his employer, Red Funnel, a screen shot of an email listed in Schedule A, which he had purportedly received from ACCA on 12 April 2021, stating that he had passed FR Financial Reporting exam at the March 2021 when in fact, he had failed.
2. On 9 December 2021, submitted or caused to be submitted to his employer, Red Funnel, a transcript listed in Schedule A, purportedly showing his ACCA examination history, stating:
 - (i) he had passed FR Financial Reporting exam at the March 2021 sitting, when he failed;

(ii) he had failed ACCA's Strategic Business Reporting exam at the June 2021 sitting when he had never sat the ACCA's Strategic Business Reporting exam;

(iii) omitted that he had failed ACCA's Financial Reporting exam at the September 2021 sitting when he failed in the June 2021 sitting.

3. On unknown dates in 2021, submitted or caused to be submitted false and inconsistent information listed in Schedule A, regarding his ACCA examinations to his study provider and apprenticeship team at Kaplan.

4. Mr Tameri Fon's conduct in relation to 1 to 3 above:

i) was Dishonest, in that Mr Tameri Fon knew the documents set out in Schedule A were false; or in the alternative

ii) Demonstrates a lack of integrity;

5. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate fully with the investigation of a complaint in that he failed to respond to any or all of ACCA's correspondence dated:

(a) 14 June 2022;

(b) 16 June 2022;

(c) 29 June 2022;

(d) 26 July 2022.

6. By reason of his conduct in respect of any or all of the matters as set out in 1 to 5 above Mr Tameri Fon is:

i) Guilty of misconduct pursuant to ACCA's bye-laws 8(a)(i); 8(c); 8(d)(ii);
or

- ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of 5 above.

DECISION ON FACTS AND REASONS

- 23. The Committee considered with care all the evidence presented and the submissions made by Ms Terry. It also accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

Allegation 1 - Proved

- 24. The Committee had been provided with a copy of the screenshot said to have been submitted by Mr Fon to his former employer and noted that it set out that he had passed the FR Financial Reporting exam. The Committee compared this screenshot to the information provided by ACCA which showed that he had failed the FR Financial Reporting exam. The Committee also took particular note of the comments made by Mr Fon during an investigation meeting with Company A on 13 December 2021. In the interview Mr Fon admitted the allegations made against him in relation to falsifying information and stated the following in respect of the Financial Reporting exam:

“It was just more of me wanting to get FR out of the way and carry on. But especially last year, there has been a lot going on, on my side that has impacted work, in general, with me. I’m not going to refuse any of the allegations that you’ve mentioned. That is true. I’ve written FR those times and did not make it.”

- 25. The Committee were satisfied that allegation 1 was proved on the basis of the documentation provided and based on Mr Fon’s admissions during the course of the investigation conducted by Company A.

Allegations 2 (i), (ii) and (iii) - Proved

26. The Committee was provided with a copy an email that Mr Fon had sent to the Head of Corporate Finance at Company A. The email was sent in response to a request for his ACCA exam transcript. It set out that he had passed the FR Financial Reporting exam in March 2021, that he had failed ACCA's Strategic Business Reporting exam in June 2021. It did not include that he had failed ACCA's Financial Reporting exam at the September 2021 sitting. The Committee compared the information Mr Fon had sent to the information provided by ACCA obtained from ACCA's own records. ACCA's records showed that Mr Fon failed ACCA's Financial Reporting exam in June 2021, that he never sat the Strategic Business Reporting exam and that he failed ACCA's Financial Reporting exam in September 2021.
27. The Committee again took particular note of the comments made by Mr Fon during the investigation meeting with his former employer on 13 December 2021. In the interview he admitted the allegations made against him in relation to falsifying information and he provided the following general comments about his behaviour:

“...So, I hold up my hands to that. I'll put it on myself. I have no other... I can't give any other excuse to Company A for misinforming and lying about exams. That's not me, but I had to. I was in a situation where I thought I could get away with that by saying I've passed the exam, but then making sure I try and pass it on the next go, without Company A realising...”

28. Overall, the Committee was satisfied that allegations 2 (i), (ii) and (iii) were proved to the requisite standard on the basis of the documentary evidence available and on the basis of admissions made by Mr Fon to his former employer in December 2021.

Allegation 3 - Proved

29. Within the documentation relied on by ACCA are emails dated 8 December 2021 from a member of staff at Kaplan to the CFO of Company A. The emails include tables which set out (amongst other information) that Mr Fon had passed the Financial Reporting exam in March 2021 and cancelled a resit in

December 2020. Such information is inconsistent with the exam records provided by ACCA from its internal records and therefore the Committee is satisfied the information in the emails is incorrect. The Committee considered that it was more likely than not that the information contained in the emails was provided to Kaplan by Mr Fon. It reached this view bearing in mind the comments made within the body of the email stating that the information was obtained from each “catch up” held with Mr Fon.

30. With these points in mind the Committee was satisfied that allegation 3 was proved to the requisite standard.

Allegation 4 (i) - Proved

31. The Committee considered whether Mr Fon knew the information he submitted was incorrect having regard to the test for dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* (“Ivey”). The test was expressed at paragraph 76 of the court’s judgement in the following terms:

“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.”

32. The Committee was satisfied on the basis of the documents provided that Mr Fon had access to his actual examination results and knew what his true results were. It followed therefore that Mr Fon would have understood that the information he provided to Company A and Kaplan was incorrect. The

Committee considered that Mr Fon's conduct, namely knowingly providing false information to Company A and Kaplan was clearly dishonest by the standards of ordinary decent people. As a result, the Committee found allegation 4 proved.

Allegation 4 (ii) - N/A

33. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour demonstrated a failure to act with integrity, since this was alleged in the alternative.

Allegation 5 - Proved

34. Copies of letters sent by email to Mr Fon following the referral of the matter to ACCA's investigation team were provided. The letters dated 14 June 2022, 16 June 2022, 29 June 2022 and 26 July 2022 provided information on the nature of the concerns about his conduct, with the letters of 14 June 2022 and 29 June 2022 including a copy of the Complaint Form received by Company A and accompanying documents. Within the letters, Mr Fon was requested to respond to ACCA by specific dates. There is no evidence that any responses were received from Mr Fon. The screenshots from ACCA's records show that all the emails were sent to the address Mr Fon had provided ACCA with. Additionally, the Committee were provided with a file note that included screenshots from ACCA's case management system. The Screenshots showed that all the emails sent out were opened. Overall, the Committee was satisfied that Mr Fon had received the correspondence.
35. The Committee was of the view that consistent efforts had been made to contact Mr Fon using the details he had provided to ACCA. There was a duty on him to co-operate and by not replying to the emails sent to him he had failed in that duty. It followed therefore that allegation 5 was found proved.

Allegation 6 (i) - Proved

36. The Committee considered that Mr Fon's dishonest actions in regards to the submission of his ACCA exam results together with his failure to co-operate with the investigation of his conduct fell far short of what was expected of a student member of ACCA. It found his behaviour to be serious, discreditable to the accountancy profession and to amount to misconduct. The Committee therefore found allegation 6 (i) proved.

Allegation 6 (ii)

37. As allegation 6 (i) was found proved, the Committee did not go on to consider allegation 6 (ii) which was drafted in the alternative.

SANCTION AND REASONS

38. In reaching its decision the Committee took into account the submissions made by Ms Terry. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA effective from February 2024 and had in mind the fact that the purpose of a sanction was not to punish Mr Fon but to protect the public. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.
39. The Committee turned first to consideration of the aggravating and mitigating features in this case. The Committee had not been made aware of any previous regulatory findings against Mr Fon, and this was to his credit. It also noted that he had made an early admission during the investigation meeting into the allegations conveyed by his former employers. Furthermore, during the same meeting he had expressed remorse and stated that he would act differently if faced with the same circumstances. Mr Fon had also made reference to facing difficult personal circumstances during the period he submitted the false information. The Committee considered all these factors to amount to mitigation.
40. The Committee noted a number of aggravating features in this case. Mr Fon had provided false information repeatedly and therefore his misconduct was

not isolated. The Committee also considered that he had breached his former employer and his study provider, Kaplan's trust.

41. Set against those mitigating and aggravating factors and taking into account all the circumstances of the case, the Committee did not think it was appropriate, nor in the public interest, to take no further action. Neither did it consider it would be appropriate to order an admonishment in a case where (as here) a member had acted dishonestly and failed to co-operate with their Regulator.
42. The Committee then considered whether to reprimand Mr Fon. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature and there is sufficient evidence of an individual's understanding and genuine insight into the conduct found proved. The guidance goes on to state that a reprimand may be appropriate where the conduct was not in deliberate disregard of professional obligations, and the period of misconduct was stopped as soon as possible. The Committee did not find those factors to be present in the current instance. While Mr Fon demonstrated some insight into what had occurred, the Committee had found his conduct to be planned, deliberate, repeated and undertaken for personal gain. It was also not considered to be minor in nature.
43. The Committee moved on to consider whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case, or mitigation advanced, which satisfy the Committee that there is no continuing risk to the public and that corrective steps had been taken to cure the conduct and ensure such behaviour was not repeated. The Committee was not provided with evidence to show these criteria to be met. No evidence had been marshalled of any rehabilitative steps that had been taken by Mr Fon to ensure the behaviour would not re-occur and overall, the conduct was considered too serious for a severe reprimand.
44. The Committee went on to consider the guidance relating to removal from the student register. Mr Fon had acted dishonestly and failed to co-operate with his

regulator, with the Committee reaching the view that such dishonesty had been serious. Such conduct was considered to be fundamentally incompatible with student membership. In all the circumstances the Committee considered removal from the student register to be the most appropriate and proportionate sanction.

COSTS AND REASONS

ACCA applied for costs in the sum of £9,781. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing and investigation. A simplified breakdown was also provided. The Committee did not have any information on Mr Fon's means. The Committee was satisfied that ACCA was entitled to claim its costs. However, it considered it appropriate to make a deduction to the amount claimed as the hearing had taken significantly less time than provided for in the costs schedule. The Committee therefore ordered Mr Fon to pay ACCA's costs in the sum of £9,331.

EFFECTIVE DATE OF ORDER

45. In accordance with Regulation 20(1)(a) of the Regulations, the order relating to Mr Fon's removal from the student register will take effect at the expiry of the appeal period.

Mr Tom Hayhoe
Chair
23 July 2024