

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Emmanuel Quayson

Heard on: 1 March 2024

Location: Held remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Ms Andrea White (Accountant)
Ms Jackie Alexander(Lay)

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and capacity:** Mr Ryan Ross (Case Presenter on behalf of ACCA)
Miss Nicole Boateng (Hearings Officer)

Observers: Ms Ceegay Verley (ACCA Case Progression Officer)

Summary: All Allegations (save for 2(b) that was alleged in the
alternative)
Misconduct found proved.
Student removed from the Student Register

Costs: £6000

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider an Allegation against Mr Quayson. Mr Quayson did not participate in the hearing, nor was he represented.
2. The papers before the Committee were in a Bundle numbered 1 to 66. There was also a Service bundle and a Costs bundle.
3. Mr Ross made an application to proceed in the absence of Mr Quayson.

PROCEEDING IN ABSENCE

4. 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 Mr Ross on behalf of ACCA and also took into account the advice of the Legal Adviser.
5. Included within the Service bundle was the Notice of Hearing dated 2 February 2024, thereby satisfying the 28-day notice requirement, which had been sent to Mr Quayson’s email address as it appears in the ACCA Register. The Notice included details about the time, date, and remote venue for the hearing and also Mr Quayson’s right to attend the hearing, by telephone or video link, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Mr Quayson’s absence, if considered appropriate. There was a receipt confirming the email had been delivered to Mr Quayson’s registered email address.
6. The Committee was thus satisfied that the Notice for the hearing had been served in accordance with the Regulations, which require ACCA to prove that the documents were sent, not that they were received.

7. The Committee therefore went on to consider whether to proceed in Mr Quayson's absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Quayson, it should exercise that discretion with the utmost care and caution, particularly as Mr Quayson was unrepresented.
8. On 26 February 2024, the Hearings Officer attempted to call Mr Quayson to see whether he would be attending his upcoming hearing before the Disciplinary Committee. There was no answer and no option to leave a voice message. The Hearings Officer followed up with an email the same day, sent to the email address provided by Mr Quayson and asking him whether he would be attending the hearing. No response was received to that email.
9. The Hearings Officer went through the same process again on 28 February 2024, with the same result.
10. The same day, in a separate email, the Hearings Officer sent Mr Quayson a link to join the hearing, should he decide to do so.
11. The Committee was of the view that Mr Quayson faced serious allegations and that there was a clear public interest in the matter being dealt with expeditiously. The Committee noted that Mr Quayson had not responded to any of ACCA's many attempts to get in touch with him by both phone and email. The Committee thus considered an adjournment would serve no useful purpose because it seemed unlikely that Mr Quayson would attend on any other occasion, and he had not applied for an adjournment.
12. In light of his complete lack of engagement throughout the investigation and in relation to the hearing, the Committee concluded that Mr Quayson had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Mr Quayson. No adverse inference would be drawn from his non-attendance.

ALLEGATIONS/BRIEF BACKGROUND

13. It is alleged that Mr Quayson is liable to disciplinary action on the basis of the following Allegation:
 1. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2021, Mr Emmanuel Quayson has failed to co-operate with the investigation of a complaint, in that he has failed to respond to ACCA's correspondence dated:
 - (a) 4 March 2021;
 - (b) 26 March 2021;
 - (c) 13 March 2022;
 2. By reason of his conduct in respect of the above, Mr Emmanuel Quayson is:
 - (a) Guilty of misconduct pursuant to bye-law 8(a)(i); or
 - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii).
14. Mr Quayson first registered as an ACCA student on 21 May 2001.
15. This case concerns alleged action taken by Mr Quayson in relation to the sitting of an exam and his lack of cooperation into ACCA's investigation into that matter. In January 2021, ACCA's Exams Conduct Department referred a complaint to ACCA's Investigations Department.
16. Mr Quayson had not previously attempted the Strategic Business Reporting ("SBR") exam but had passed several other ACCA examinations.
17. On 18 December 2020, Mr Quayson appeared to have allowed, assisted and/or permitted an imposter to attend the Takoradi exam centre in order to sit the SBR examination on his behalf.

18. Prior to an examination, all candidates receive an attendance docket which contains the ACCA guidelines and Regulations. It is trite to observe that a candidate cannot send someone else to sit their exam.
19. On 18 December 2020, ACCA received an email from an employee at the British Council in Ghana, with the Subject of the email stating 'suspected impersonation'. The email stated as follows:

"Kindly find below suspected impersonation.

I have filled this on the supervisor's portal but I needed to attach the photo evidence.

Candidate with registration number [PRIVATE] came with a suspected ID so he was issued with NO ID form. Upon verification of ID and candidate, we realized that the candidate who took the SBR exams with the name Emmanuel Quayson is NOT the actual registered candidate for the exams. Photo evidence was taken before the start of exams and after the point of verification of the candidate on Monday 14/12/2020. Also, the photo image on the suspected ID is totally different from the actual photo."

20. On 17 February 2021, ACCA's Investigations Officer wrote to the British Council for further information pertaining to the incident.
21. On 26 February 2021, the British Council responded indicating that they became aware of the imposter based on pictorial evidence that showed the person who sat the exam was not the same as Mr Quayson. This was only discovered when Mr Quayson attended the office after the exam session and he was not the person who had sat the exam. The British Council confirmed it was only the SBR exam that was sat by the imposter.
22. On 4 March 2021, ACCA's Investigation Department, via an Investigating Officer, wrote to Mr Quayson to advise him of the complaint that had been received and requested his comments in this regard. Mr Quayson did not provide a response.

23. On 26 March 2021, ACCA's Investigation Department, via the Investigating Officer, wrote to Mr Quayson again, attaching the letter of 4 March 2021 and pointing out that no reply had been received. He was asked to provide a response to the 4 March 2021 letter. It was also pointed out that, in accordance with Complaints and Disciplinary Regulation 3(1), he was required to co-operate with the investigation and that a failure to co-operate could render him liable to disciplinary action. Mr Quayson was asked to respond by 9 April 2021, but he did not provide a response.
24. On 12 April 2021, an attempt was made by the Investigating Officer to call Mr Quayson on the home phone number and mobile number that he had provided to ACCA. No answer was received on either phone and there was no option to leave a message.
25. On 18 April 2021, ACCA wrote to Mr Quayson indicating that a report of disciplinary allegations was being prepared for internal review and referring to the allegation that he has allowed, assisted, or otherwise permitted an imposter to take the SBR exam on his behalf.
26. On 19 April 2021, the Investigating Officer wrote to the Exam Centre to obtain a witness statement and the following was obtained:

“On Thursday 10th December 2020, I was the Venue Supervisor for the Takoradi Centre with one Invigilator. On this day, I supervised Strategic Business Reporting (INT & UK) exam.

During check-in, candidate with the name Emmanuel Quayson with registration number [PRIVATE] and desk number 0005 came in with a Ghanaian Voter's ID card.

An hour into the paper (10:00am), I went round for the second ID check. During the check, I realized the candidate's voters ID looked altered. He started looking nervous as he wrote the exam which made me suspicious of the candidate.

20 minutes to the end of the paper (11:55am), a no ID form was issued to the candidate because he insisted that he needed to leave early in order not to miss his flight from Takoradi to Accra.

At the end of the examination (12:15pm), I took the filled No ID Form and reminded him to return with an acceptable and valid ID card. He said he could not return to the Takoradi center with the valid ID card since he was on his way to Accra.

Therefore, he was going to return ID to British Council office in Accra on the Friday (11th December, 2020). This made me request for his picture so that the Supervisor in Accra would easily identify and validate that he was at the Takoradi center for the SBR exam. I also took a picture of the Ghanaian voter's ID he brought.

I later sent all the candidate details and the filled No ID Form to the supervisor in Accra.”

27. On 13 March 2022, the Investigating Officer emailed Mr Quayson again, pointing out that no response had been received to his emails sent on 4 March 2021, 26 March 2021 and 18 April 2021. The Officer asked Mr Quayson to provide an urgent response by 20 March 2022. The Officer did not receive a response.
28. On 29 November 2022, ACCA sent an email to Mr Quayson enclosing a copy of a report of disciplinary allegations to be referred to the assessor for review. Mr Quayson was invited to submit any comments by 20 December 2022. No comments were received.
29. On 13 January 2023, ACCA sent an email to Mr Quayson providing him with the assessor's decision to refer the matter to a hearing before the Disciplinary Committee.
30. On 12 January 2024, a Case Progression Officer sent an email to Mr Quayson enclosing a Case Management Form and asking him to return it no later than 26 January 2024. The Form was not returned.

31. For all the emails sent to Mr Quayson, ACCA received delivery receipts confirming the emails had been delivered. There was also evidence that the emails sent to Mr Quayson had in fact been opened by the recipient.

DECISION ON FACTS/ALLEGATION AND REASONS

32. The Committee considered with care all the evidence presented and the submissions made by Mr Ross. The Committee 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

1. *Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2021, Mr Emmanuel Quayson has failed to co-operate with the investigation of a complaint, in that he has failed to respond to ACCA's correspondence dated:*
 - a. *4 March 2021;*
 - b. *26 March 2021;*
 - c. *13 March 2022;*
33. The Committee was advised by the Legal Adviser that the duty to co-operate with an ACCA investigation is absolute, that is to say every relevant person is under a duty to co-operate with any Investigating Officer and any Assessor in relation to the consideration and investigation of any complaint. A failure, or partial failure, to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of the regulations and may render the relevant person liable to disciplinary action.
34. Despite having ample opportunity to do so, Mr Quayson failed to respond to any of the correspondence sent to his registered email address by the Investigating Officer on the three dates specified in Allegation 1, in which he was asked to comment on the matters alleged. In the correspondence sent, Mr

Quayson was also warned that a failure to respond might result in an allegation of failing to cooperate with ACCA. The Committee noted that the correspondence was sent by email to Mr Quayson's email address provided by Mr Quayson and there were delivery receipts indicating the emails had been delivered and evidenced that they had been opened.

35. The Committee was thus satisfied, on the balance of probabilities, that Mr Quayson had received those emails and had failed to co-operate as alleged and found Allegation 1(a), (b) and (c) proved in its entirety.

Allegation 2 - proved

2. *By reason of his conduct in respect of the above, Mr Emmanuel Quayson is:*

(a) *Guilty of misconduct pursuant to bye-law 8(a)(i); or*

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

36. The Committee is of the view that failing to co-operate fully with an investigation being carried out by his regulator into his alleged conduct of allowing, assisting or otherwise permitting an imposter to take the SBR examination on his behalf is a serious matter. A student of ACCA should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a student of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and brought discredit upon Mr Quayson and also upon the profession and ACCA as regulator. ACCA's purpose is to ensure standards are met and that students are complying with the Regulations put in place to protect the public. The Committee considered other members of the profession would find Mr Quayson's behaviour of repeatedly not co-operating with ACCA to be deplorable.

3. The Committee was thus satisfied that Mr Quayson's behaviour in failing to co-operate amounted to misconduct and that Allegation 2(a) was proved.

37. Having found misconduct proved it was not necessary for the Committee to consider whether Mr Quayson was liable to disciplinary action for failing to cooperate, since this was alleged in the alternative.

SANCTION AND REASONS

38. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Ross. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Mr Quayson, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
39. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
40. The Committee considered there to be the following aggravating features: a pattern of failing to co-operate with his regulatory body over a significant period of time; an absence of insight; an absence of remorse; an absence of evidence suggesting any remediation; conduct undermining the effectiveness of ACCA's investigatory processes.
41. The Committee did not consider there to be any significant mitigating factors, but noted that Mr Quayson had no previous disciplinary record with ACCA.
42. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a student had repeatedly failed to co-operate with his Regulator. Every student of ACCA is duty bound to comply with ACCA's bye-laws and regulations and to cooperate with ACCA in its investigations.

43. The Committee then considered whether to reprimand Mr Quayson. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not consider Mr Quayson's conduct to be of a minor nature, and he had shown no insight into his behaviour. The Committee noted that when addressing factors relevant to seriousness in specific case types, ACCA's Guidance indicates that a failure to co-operate is considered to be 'very serious'. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.
44. The Committee then considered 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 there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered none of these criteria to be met. The guidance adds that this sanction may be appropriate where most of the following factors are present:
- the misconduct was not intentional and no longer continuing;
 - evidence that the conduct would not have caused direct or indirect harm;
 - insight into failings;
 - genuine expression of regret/apologies;
 - previous good record;
 - no repetition of failure/conduct since the matters alleged;
 - rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
 - relevant and appropriate references
 - co-operation during the investigation stage.
46. The Committee considered that almost none of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Mr Quayson's behaviour. His misconduct was intentional, he

has not demonstrated any insight into his failings nor made any apology; his behaviour was repeated; there has been no evidence of rehabilitative steps; no references; and the misconduct itself involved a lack of co-operation during the investigation stage, which continued during the lead up to the hearing.

47. Accordingly, the Committee decided that the only appropriate and proportionate sanction was removal from the Student Register. Failing to co-operate at all with an investigation being carried out by ACCA into his alleged cheating in an exam, is a very serious matter. A student of ACCA should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a student of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and was fundamentally incompatible with being a student of ACCA.
48. The Committee acknowledged the impact this decision would have on Mr Quayson. However, his conduct was such a serious breach of bye-law 8 that no other sanction would adequately reflect the gravity of his offending behaviour. The Committee considered that a failure to exclude a student who had demonstrated a pattern of ignoring the professional body responsible for regulating his conduct, would seriously undermine public confidence in the profession and in ACCA as its Regulator. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour was not to be tolerated.
49. The Committee therefore ordered that Mr Quayson be removed from the Student Register.

COSTS AND REASONS

50. ACCA applied for costs in the sum of £6,298.00. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the costs of the Hearings Officer included in the sum quoted were based upon a full day when in fact the hearing

took less than a whole day. Accordingly, the figure would be reduced to reflect this.

4. Despite being given the opportunity to do so, Mr Quayson did not provide any details of his means or provide any representations about the costs requested by ACCA. There was, therefore, no evidential basis upon which the Committee could make any reduction on this ground.

51. The Committee had in mind the principle that members/students against whom an allegation has been found proved should pay the reasonable and proportionate cost of ACCA in bringing the case. This was because the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings.

5. In light of its observations above, the Committee reduced the amount requested to reflect the actual costs more likely to have been incurred and made an order in the sum of £6,000.00

EFFECTIVE DATE OF ORDER

52. In light of its decision and reasons to remove Mr Quayson from ACCA's Student Register and the seriousness of his misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect.

Ms Ilana Tessler
Chair
1 March 2024