

HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of:	Mr Bhupesh Tokas
Heard on:	Friday, 24 May 2024
Location:	Held remotely by Microsoft Teams
Committee:	Mrs Wendy Yeadon (Chair) Mr David Horne (Accountant) Mr Mark Mills (Lay)
Legal Adviser:	Ms Ini Udom
Persons present and capacity:	Mr Bhupesh Tokas (Member) Ms Michelle Terry (ACCA Case Presenter) Ms Lauren Clayton (Hearings Officer)
Summary:	Removal from the student register of the ACCA after the appeal period
Costs:	Ordered to pay a contribution to the ACCA's costs in the sum of £500

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PRELIMINARY APPLICATIONS

1. The Disciplinary Committee (“the Committee”) convened in public to hear the allegations against Mr Tokas. Mr Tokas was present but not represented.
2. The papers before the Committee (‘the documents’) comprised:
 - a. A Main Hearing Bundle (pp 1-44),
 - b. A Service Bundle (pp1-16).
 - c. A bundle of tabled additional
3. At the outset of the hearing, it was clear that Mr Tokas would seek to address the Committee on matters relating to his family. Ms Terry on behalf of the ACCA confirmed that the ACCA would not object to those parts of his evidence being heard in private. The Committee accepted the advice of its Legal Advisor.
4. The Committee ordered that any matters relating to Mr Tokas’ family life should be heard in private pursuant to Regulation 11(1)(a) having found that the potential prejudice to Mr Tokas outweighed the public interest in holding the hearing in public.

ALLEGATIONS AND BRIEF BACKGROUND

5. The allegations against Mr Tokas were as follows:
 1. *On or around 18 February 2023, Mr Bhupesh Tokas, an ACCA student, submitted or caused to be submitted to ACCA a ‘Provisional Result Notification for ACCA Computer Based Examinations – F2 - Management Accounting’ certificate that was false.*
 2. *In respect of allegation 1 above, Mr Tokas’s conduct was dishonest in that in submitting or causing to be submitted the documentation, he sought to represent that:*
 - a. *He had passed the F2 – Management Accounting examination with a 74% pass mark when he knew he had not, or in the alternative;*
 - b. *Demonstrated a lack of integrity.*

3. *By reason of his conduct Mr Tokas is:*
 - a. *Guilty of Misconduct pursuant to bye-law 8(a)(i) in respect of any or all of the matters set out above.*

6. Mr Tokas has been a student with ACCA since August 2017, with a period of suspension due to non-payment of ACCA fees between 12 June 2017 – 27 January 2023.

7. On or around 18 February 2023, Mr Tokas contacted the ACCA to confirm that he had re-registered but his record was not showing his successful completion of three ACCA Computer Based Examinations, namely F1, F2 and F3. He stated that only the completion of his F1 and F3 exams was showing. He also submitted a certificate purporting to be a Provisional Result Notification for ACCA Computer Based Examinations showing a pass mark in F2 - Management Accounting.

8. The ACCA replied to Mr Tokas and offered an apology for failing to update the records. It confirmed that the certificate had been passed to the relevant department to be uploaded. Prior to this being done the certificate was examined and it was noted that Mr Tokas had not attempted the F2 - Management Accounting examination and had, therefore, not achieved the 74% pass mark as purported by the certificate submitted.

9. It was further noted that the certificate provided showed the access token identifier for the F3-Financial Accounting examination previously taken by Mr Tokas and not one relating to an F2-Management Accounting (MA) examination.

10. On the 22 February 2023 Mr Tokas was referred for investigation into whether the document provided by Mr Tokas had been fraudulently amended.

11. On the 18 April 2023 a Senior Investigator for ACCA sent a request for information to Mr Tokas.

12. On the 20 April 2023 the Professional Conduct Department received an email from Mr Tokas in full response to the letter of the 18 April 2023:

“a) I take complete responsibility for what I did and if I do get a chance to continue my studies with ACCA I would like to tell you that no matter what I will never in my entire life do anything like this ever again. I know this is something a genuine student would never

do but like I don't know how I could even think of doing anything like this. It was like I was desperate to complete my ACCA education ASAP because I already had a gap of 4-5 years in between and I thought maybe I can start with skills level ASAP without even finishing my last knowledge level paper and this is what I finally came up with - a complete fraud. I know what I did cannot be justified no matter what and I take complete responsibility for my actions.

f) Yes, I do accept that I submitted a forged document. The document was a forged ACCA CBE F2-Management Accounting provisional certificate pass even though I had never actually given the exam. I edited my F3-Financial Accounting provisional certificate pass and changed the name of the paper to F2-Management Accounting as well as the date of the paper.”

13. Mr Tokas sincerely apologised for his conduct and for breaching ACCA's Code of Conduct.

DECISIONS ON ALLEGATIONS AND REASONS

14. Mr Tokas admitted Allegations 1 and 2 (a) and the Committee found those allegations proved by admission.
15. Having found allegation 2 (a) proved the Committee did not proceed to consider Allegation 2 (b).
16. The Committee went on to consider whether the conduct found proved amounted to misconduct, as alleged in Allegation 3. It bore in mind that this was a matter for the judgement of the Committee.
17. The Committee heard submissions from Ms Terry on this matter and also evidence and submissions from Mr Tokas. Mr Tokas provided a detailed explanation of his personal circumstances relating to his prior suspension from ACCA for non-payment for fees and the lead up to his decision to recommence his studies. He explained that he had enrolled on a course to undertake his outstanding skills papers. A precondition was the completion of the papers F1, F2 and F3, but he had not completed the F3 paper in his prior studies. In his evidence he described the F2 paper as hard and considered that he might not have time to complete this and the skills papers.

18. He explained that over the course of 1 - 3 days he had decided to fabricate his certificate and acted upon his decision. He stated that he understood why the ACCA applies a process that requires steps to be taken towards qualification. He accepted that he had tried to shortcut the process. There had been a long gap in his studies and a period of personal hardship. He had been eager to continue with his studies and career.
19. He further accepted that his dishonesty had come to light as a result of the ACCA's investigation; not by him taking steps to rectify the position. He stated that he understood it would be hard for ACCA to trust him again.
20. The Committee considered all of the documents before it, the submissions of Ms Terry on behalf of ACCA and Mr Tokas on his own behalf, and the advice of the Legal Adviser, who referred the Committee to the relevant caselaw on the matter of misconduct. The Committee bore in mind that the question of misconduct was a matter of judgement for the Committee.
21. The Committee was satisfied that any finding of acting dishonestly is a serious matter for any member of a professional body. Mr Tokas had acted with deliberation and premeditation. He, himself, fabricated the certificate. This further denoted an element of sophistication. The conduct had been undertaken solely for his own benefit. The Committee noted that, whilst it had a single incident before it, there had been stages to the dishonest conduct – falsification of the original certificate and contacting the ACCA to falsely advise that the records relating to his studies were inaccurate.
22. The Committee considered honesty to be a fundamental tenet of the profession. It was in no doubt that Mr Tokas' action would be regarded as deplorable by fellow members of the profession and fell far short of the acceptable standards. The conduct therefore constituted misconduct under Bye-law 8(a)(i).
23. The Committee accordingly found Allegation 3 proved.

SANCTION AND REASONS

24. The Committee heard submissions from Ms Terry on behalf of the ACCA and Mr Tokas. It accepted the advice of the Legal Adviser.

25. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour.
26. The Committee had regard to Section F of the GDS and determined that the misconduct was very serious. It involved dishonesty and an attempt to mislead the Regulator.
27. In mitigation, the Committee took into account that no previous disciplinary findings had been made against Mr Tokas. The Committee noted that Mr Tokas had made admissions very early on in the investigation, co-operated throughout and made an apology.
28. Mr Tokas expressed genuine remorse. The Committee, however, was not satisfied that Mr Tokas' insight was complete having noted that Mr Tokas demonstrated limited understanding as to the impact of his actions on the standing of the ACCA and the profession as a whole.
29. The Committee identified the following aggravating features:
 - a. This was deliberate, premeditated conduct
 - b. The conduct was sophisticated
 - c. The dishonesty was undertaken for Mr Tokas' own benefit, namely the furtherance of his career
30. By way of mitigating features the Committee noted that:
 - a. Mr Tokas had made early admissions
 - b. He had no previous disciplinary findings against him and
 - c. He had showed remorse.
31. Having found that Mr Tokas' actions were dishonest and amounted to misconduct, taking no further action was clearly not appropriate. The Committee, therefore, considered the available sanctions in ascending order of seriousness.
32. The Committee considered that the misconduct in this case was not of a minor nature

and, therefore, neither an admonishment nor a reprimand would be an appropriate sanction. These sanctions would not adequately mark the seriousness of the misconduct or satisfy the public interest. The gravity of the misconduct would not be reflected.

33. Mr Tokas had deliberately sought to mislead the ACCA and accelerate his journey to qualification. This had the potential to cause harm to the reputation of the profession and ACCA and also to harm members of the public should he have been successful and commenced practice. This was not minor misconduct but was of a serious nature.
34. The Committee next considered a severe reprimand as the sanction in this case. It was accepted that the misconduct would not result in a continuing risk to the public. Mr Tokas had no previous disciplinary findings against him and the misconduct was an isolated event. Further Mr Tokas had co-operated during the investigation stage.
35. The Committee, however, noted that the misconduct was very serious in nature. Whilst remorse had been expressed, in the circumstances, where Mr Tokas' dishonesty was quickly and resoundingly exposed, little weight could be attached to it. Further, Mr Tokas' insight was not fully developed.
36. The misconduct involved a finding of dishonesty, with the misrepresentations relating to his qualifications and being made to his Regulator. As noted above if the deception had been successful future clients and employers would have been adversely impacted. The Committee was satisfied that a severe reprimand would not be an appropriate and sufficient sanction.
37. The Committee proceeded to consider the sanction of removal from the student register and determined that this was a proportionate and sufficient sanction in all of the circumstances.
38. Therefore, the Committee made an order under Regulation 13(4)(c) of the Complaints & Disciplinary Regulations ('CDR') and ordered the removal of Mr Tokas from the student register.
39. On behalf of the ACCA, Ms Terry requested that the Committee consider whether the sanction should be of immediate effect and advocated that it should. The Committee accepted the advice of its legal advisor.

40. The Committee carefully considered the circumstances of the case. It concluded that immediate removal would be disproportionate, having been presented with no grounds for the urgency. It noted that Mr Tokas presented no current risk and that there had been a reasonable lapse of time during which no further conduct of concern had occurred. The Committee determined that the removal from the student register should have effect from the expiry of the appeal period.

COSTS AND REASONS

41. ACCA applied for costs against Mr Tokas in the sum of £5,907. The application was supported by a schedule, in detailed form, providing a breakdown of the costs incurred by ACCA in connection with the hearing.
42. The Committee had regard to the Guidance on Costs document and accepted the advice of the Legal Advisor.
43. The Committee found that, in principle, the ACCA application for costs was appropriately brought. It had regard to the important principle that in disciplinary proceedings the majority of its members should not subsidise the minority who find themselves within the disciplinary process.
44. The Committee reviewed the AACA costs schedule and concluded that the costs appeared to be more significant than would be expected in the circumstances of the case, including the early admissions and clear evidence available. Furthermore, the hearing had lasted less time than estimated.
45. The Committee paid careful regard to the principle of proportionality which it considered particularly compelling in the circumstances of this case. In light of the information provided by Mr Tokas as to his financial circumstances, which the Committee accepted, it found that an award of the full costs [Private]. Taking all matters into account the Committee decided that Mr Tokas should pay a contribution to the ACCA's costs in the sum of £500.

Wendy Yeadon
Chair
24 May 2024