

HEARING

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

In the matter of: Ms Taslim Kausar Shaikh

Heard on: Friday, 13 September 2024

Location: Remote via Microsoft Teams

Committee: Mr David Tyme (Chair)
Mr Abdul Samad (Accountant)
Mr Geoff Baines (Lay)

Legal Adviser: Mr Robin Havard

**Persons present
and capacity:** Mr Matthew Kerruish-Jones (ACCA Case Presenter)
Miss Sofia Tumburi (Hearings Officer)

Observer: Mr Bill Matthews (Appointments Board ACCA)

Summary Allegations 1(a), (b), (c) & (d) and 2(a) found proved.

Sanction Removal from student register

Costs: £6,200

ACCA



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PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

1. The Committee had considered the following: a Hearing Bundle (pages 1 to 79); a video recording of the exam session on 23 January 2021, a Service Bundle (pages 1 to 22), and a revised Service Bundle (pages 1 to 25). The Committee had listened carefully to the submissions made by Mr Kerruish-Jones and also considered legal advice, which it had accepted.
2. The Committee had read the letter dated 16 August 2024 sent from ACCA by email to Ms Shaikh. It had noted the subsequent emails sent to her with the necessary link and password to enable her to gain access to the letter and the documents relating to this hearing.
3. The Committee was satisfied that such emails had been sent to Ms Shaikh's registered email address in accordance with regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee had noted that the emails had been delivered successfully. CDR22(8) stipulated that, when a notice has been sent by email, it is deemed to have been served on the day it was sent.
4. The emails and the documents to which Ms Shaikh had access also contained the necessary information in accordance with CDR10.
5. Consequently, the Committee decided that Ms Shaikh had been properly served with notice of the proceedings.

PROCEEDING IN ABSENCE

6. Ms Shaikh failed to respond to the email of 16 August 2024.
7. On 27 August 2024, ACCA sent an email to Ms Shaikh. The email included the date of the hearing. It asked her once again to indicate whether she intended to attend and, if not, whether she consented to the hearing proceeding in her absence. Ms Shaikh was reminded of her ability to join the hearing via telephone or video link which would be provided by ACCA, whether she would

require an interpreter, which would also be provided at ACCA's expense, and it reminded her to submit any documents on which she intended to rely. The email was delivered successfully. However, there was no response.

8. On 03 September 2024, ACCA called Ms Shaikh on the mobile number registered with ACCA. The person who answered confirmed that she was Ms Shaikh but, when she was asked whether she had seen the emails regarding the upcoming hearing, the phone was disconnected. Despite ACCA trying to call back, no further contact was made.
9. On the same day, ACCA sent an email to Ms Shaikh confirming their telephone conversation, and again reminding her of the hearing on 13 September 2024, and asking her to confirm that she had been able to access the documents sent to her on 16 August 2024. There was no response.
10. On 12 September 2024, ACCA tried once more to contact Ms Shaikh by telephone but there was no answer, nor was it possible to leave a message.
11. On the same day, ACCA wrote again to Ms Shaikh, reminding her of the hearing date, and of her ability to join by phone or via video. Ms Shaikh was asked again if she intended to attend or whether she consented to the hearing proceeding in her absence. There was no response.
12. Again, on 12 September 2024, ACCA sent an email which contained the link to enable Ms Shaikh to join the hearing remotely. There was no response.
13. On the morning of the hearing, ACCA contacted Ms Shaikh by phone and spoke with her. Ms Shaikh confirmed that she was no longer a student of ACCA. She was informed that the hearing may proceed in her absence at which point the call was disconnected.
14. The Committee considered that ACCA had done everything possible to enable Ms Shaikh to attend the hearing. The Committee was satisfied that the emails had been sent to the address on ACCA's register and there was a record of the emails having been delivered successfully.

15. The Committee noted that Ms Shaikh had answered the phone to ACCA on 03 September 2024 and found that she had disconnected the call once she became aware that it was ACCA endeavouring to speak with her. The Committee noted that ACCA had spoken to Ms Shaikh on the morning of the hearing and was told of the hearing today, but she had failed to attend. It also took into account Ms Shaikh's failure to respond to correspondence in April, May and June 2021 as particularised in allegation 1 below.
16. The Committee concluded, on the balance of probabilities, that Ms Shaikh was aware of today's hearing, which she could have joined by telephone or video link but had voluntarily absented herself.
17. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made. There was no information that suggested that an adjournment would secure attendance in the future.
18. Finally, the Committee considered that it was in a position to reach proper findings of fact on the written evidence presented to it by ACCA.
19. The Committee ordered that the hearing should proceed in the absence of Ms Shaikh.

ALLEGATIONS

Ms. Taslim Kausar Shaikh, (Ms Shaikh) a student of Association of Chartered Certified Accountants ('ACCA'):

1. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended) Ms. Shaikh failed to co-operate with an investigation of a complaint, in that she did not respond to any or all of ACCA's correspondence dated:
 - (a) 13 April 2021;
 - (b) 06 May 2021;

(c) 26 May 2021

(d) 07 June 2021.

2. By reason of her conduct in respect of any or all of the matters set out above, Ms Shaikh is:

(a) Guilty of misconduct pursuant to bye-law 8(a)(i); or, in the alternative,

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

DECISION ON FACTS, ALLEGATIONS AND REASONS

ALLEGATIONS 1(A), (B), (C) & (D)

20. In reaching its findings of fact in respect of allegation 1, the Committee relied on the email correspondence and documents contained in ACCA's bundle. The Committee had taken account of the submissions of Mr Kerruish-Jones. The Committee also listened to legal advice, which it accepted.
21. On 11 November 2020, ACCA registered Ms Shaikh as a student. As such, and from that date, she has been bound by ACCA's Bye-laws and Regulations, including the Examination Regulations and Examination Guidelines.
22. On 23 January 2021, Ms Shaikh took her on-demand FA1 Recording Financial Transactions examination (the 'Exam') remotely. The proctor filed an Incident Report in respect of conduct observed during the Exam.
23. An investigation was commenced on 15 March 2021. Ms Shaikh had not provided any response to correspondence sent to her during the course of the investigation. The email address that was used by ACCA to communicate with Ms Shaikh had remained the same throughout the investigation. Furthermore, as outlined below, the Committee noted that, on 26 January 2021, Ms Shaikh had sent an email to ACCA using the same email address used by ACCA in its correspondence to Ms Shaikh. None of the emails had been returned or bounced back into ACCA's case management system.

24. On 25 January 2021, ACCA's CBE Delivery team emailed Ms Shaikh informing her that a report had been received following on from her Exam taken on 23 January 2021.
25. On 26 January 2021, prior to receiving the first letter from ACCA's Investigations Department, Ms Shaikh sent an email to ACCA maintaining that she did not breach any rules or regulations and her reasons for saying so. Whilst Ms Shaikh indicated that she would be prepared to speak to someone about the alleged conduct during the exam itself, there was no evidence that any subsequent phone conversation took place.
26. On 13 April 2021, ACCA sent a letter to Ms Shaikh's registered email address informing her of the complaint. In that letter, ACCA set out the reason for the investigation and the evidence on which it relied. ACCA asked Ms Shaikh a series of questions regarding her conduct in the exam. In addition, the letter reminded Ms Shaikh of her duty to cooperate, as set out below:

Duty to co-operate

In accordance with Complaints and Disciplinary Regulation 3(1), you are required to co-operate with this investigation. A failure or partial failure to co-operate fully with the investigation may render you liable to disciplinary action.

This includes responding to the questions referred to above by the deadline of 4 May 2021.

- (a) 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.*
- (b) The duty to co-operate includes providing promptly such information, books, papers or records as the investigating officer or assessor may from time to time require.*

(c) A failure or partial failure to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of these regulations and may render the relevant person liable to disciplinary action..."

27. As stated, ACCA stipulated that Ms Shaikh must respond by 04 May 2021. However, she failed to respond.
28. On 06 May 2021, ACCA sent another letter to Ms Shaikh's registered email address, attaching the letter of 13 April 2021, and reminding her of her obligation to co-operate with the investigation, seeking her response by 20 May 2021. Ms Shaikh failed to reply.
29. On 26 May 2021, ACCA sent another email to Ms Shaikh's registered email address asking her to confirm whether she had received previous emails from ACCA. Ms Shaikh failed to reply.
30. On 07 June 2021, ACCA sent a further letter to Ms Shaikh's registered email address, attaching the previous correspondence as set out above. Again, ACCA reminded Ms Shaikh of her obligation to co-operate, requiring her to respond by 14 June 2021. Ms Shaikh failed to reply.
31. There was nothing to suggest that the emails had not been delivered successfully.
32. On 24 November 2021, ACCA contacted Ms Shaikh on a telephone number she provided when registering with ACCA. Ms Shaikh answered the call. The note of the conversation was as follows:

"Telephone conversation with Taslim on 24/11/2021 at 14:20 (UK Time). CEC 14:35 checked whether student has responded, no response. DPA passed. Student was asked whether they had been receiving correspondence sent by email and if she could respond. Student explained, she had received emails however, has not responded as she is no longer studying the course. Student said she will respond soon. When asked whether a time frame could be given, student again responded, she will reply soon."

33. On 25 November 2021, ACCA sent a follow up email to Ms Shaikh's registered email address regarding the telephone conversation alongside previous correspondence which was sent to Ms Shaikh, allowing her another opportunity to respond to this by 09 December 2021. Despite what she had said in the phone conversation on 24 November 2021, Ms Shaikh failed to respond.
34. The Committee was satisfied that Ms Shaikh had failed to respond to the correspondence from ACCA dated 13 April 2021, 06 May 2021, 26 May 2021 and 07 June 2021. Furthermore, the Committee found that all four emails had been delivered successfully to Ms Shaikh. Finally, on the basis of her conversation with ACCA on 24 November 2021, the Committee found that Ms Shaikh was aware of the emails that had been sent to her but had failed to respond to any of them. She had therefore failed to cooperate with ACCA and its investigation.
35. On this basis, the Committee found allegations 1(a), (b), (c), and (d) proved.

ALLEGATION 2(A)

36. In respect of allegation 1, the Committee had found that, despite ACCA providing a number of reminders of her obligation to cooperate and warnings of potential consequences of her failure to do so, Ms Shaikh had failed to cooperate with ACCA and to respond to correspondence.
37. The Committee had taken into consideration that the email of 13 April 2021 contained a substantial amount of information and a significant number of detailed questions which Ms Shaikh was required to answer in respect of serious allegations. Her lack of cooperation undermined ACCA's ability to pursue its investigation.
38. Furthermore, in sending Ms Shaikh the emails of 06 May 2021, 26 May 2021 and 07 June 2021, ACCA had given Ms Shaikh every opportunity to respond substantively to its investigation.
39. The duty on members, including student members, to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to ensure proper standards of

conduct; protect the public, and maintain its reputation, was seriously compromised.

40. The Committee considered that the conduct on the part of Ms Shaikh could properly be defined as deplorable. It found that the failure of Ms Shaikh to cooperate with her regulator, and the lack of any proper explanation for her failure to do so, amounted to misconduct in that such failure brought discredit to her, ACCA and the accountancy profession.
41. On this basis, the Committee found allegation 2(a) proved.

ALLEGATION 2(B)

42. On the basis of its findings in respect of allegation 2(a), the Committee made no findings in respect of this allegation.

SANCTION AND REASONS

43. The Committee considered what sanction, if any, to impose, taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had also listened to the submissions of Mr Kerruish-Jones, and legal advice from the Legal Adviser which it accepted.
44. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
45. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
46. The Committee considered whether any mitigating or aggravating factors featured in this case.

47. The Committee accepted that there were no previous findings against Ms Shaikh. However, the Committee took into consideration the fact that, at the time the exam took place, Ms Shaikh had only been a student member since 11 November 2020 i.e. just over four months before she sat the exam. The letter of 13 April 2021 was sent to her only five months after she became a student member.
48. The Committee had no information regarding the personal circumstances of Ms Shaikh, nor had it been provided with any testimonials or references as to Ms Shaikh's character. Indeed, there had been no engagement by Ms Shaikh in the course of the proceedings.
49. As a consequence, the Committee was not satisfied that Ms Shaikh had shown any insight into the seriousness of her conduct and she had not expressed any remorse.
50. The Committee had found Ms Shaikh had failed to engage with ACCA during its investigation into alleged wrongdoing in an exam, which the Committee considered to be very serious.
51. The Committee found such serious conduct to be aggravated by virtue of the absence of any insight or contrition on the part of Ms Shaikh. Furthermore, her lack of cooperation extended over a period of months and, as such, was not an isolated occurrence.
52. On the basis of its findings, the Committee concluded that neither an admonishment nor a reprimand would represent a sufficient and proportionate outcome. Neither sanction would adequately reflect the seriousness of the Committee's findings.
53. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, and reflecting on the criteria suggested in the Guidance, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
54. Ms Shaikh had failed persistently to cooperate with her regulator, ACCA, in respect of an investigation of potentially serious allegations. Her lack of

engagement in relation to the investigation of such conduct represented conduct which was fundamentally incompatible with being a student member of ACCA. Her failure to show any insight or contrition for her lack of cooperation led the Committee to conclude that, currently, there was no guarantee that Ms Shaikh would behave in a manner expected of a member of ACCA.

55. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Ms Shaikh from the student register but could find none.
56. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Ms Shaikh shall be removed from the student register.

COSTS AND REASONS

57. The Committee had been provided with a simple costs schedule (page 1) and a detailed costs schedule (pages 1 and 2) relating to ACCA's claim for costs.
58. The Committee concluded that ACCA was entitled to be awarded costs against Ms Shaikh, all allegations having been found proved. The amount of costs for which ACCA applied was £6,434.33. The Committee did not consider that the claim was unreasonable, but the hearing had taken less time than estimated.
59. Ms Shaikh had not provided ACCA with any documentary evidence of her means. The Committee was satisfied that, in the correspondence sent to her, Ms Shaikh had been warned at the outset of the importance of providing details of her financial circumstances and of ACCA's intention to apply for costs if any or all of the allegations were found proved.
60. In the absence of any information from Ms Shaikh, the Committee approached its assessment on the basis that she was able to pay any amount of costs awarded against her.
61. In all the circumstances, and in exercising its discretion, the Committee considered that it was reasonable and proportionate to award costs to ACCA in the reduced sum of £6,200.00.

EFFECTIVE DATE OF ORDER

62. The Committee had considered whether the order should have immediate effect. However, ACCA did not seek such an order and, taking account of Ms Shaikh's removal from the student register, the Committee did not consider that she presented a current risk to the public. It therefore concluded it was not in the interests of the public to make an order which takes effect immediately.

63. The Committee decided that this order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

Mr David Tyme
Chair
13 September 2024