

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Miss Umidakhon Turgunova

**Heard on:** Tuesday, 16 July 2024

**Location:** ACCA, The Adelphi, 1-11 John Adam Street,  
London, WC2N 6AU. Virtual hearing using  
Microsoft Teams

**Committee:** Ms Wendy Yeadon (Chair)  
Ms Andrea White (Accountant)  
Ms Rachel O'Connell (Lay)

**Legal Adviser:** Mr David Marshall

**Persons present  
and capacity:** Mr Benjamin Jowett (Case Presenter)  
Ms Anna Packowska (Hearings Officer)

**Observers:** Ms Jackie Alexander (Appointments Board)

**Summary:** Removed from the student register

**Costs:** £7,900

1. The Committee heard an allegation of misconduct against Miss Turgunova. Mr Jowett appeared for ACCA. Miss Turgunova was not present and not represented.
2. The Committee had a main bundle of papers containing 135 pages, a Tabled Additional bundle of 2 pages and a service bundle containing 19 pages. It also had a video recording of the examination with which this hearing was concerned, lasting 2 hours, 18 minutes.

### **SERVICE AND PROCEEDING IN ABSENCE**

3. The Committee was satisfied that Miss Turgunova had been served with the documents required by regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 18 June 2024 to an email address notified by Miss Turgunova to ACCA as an address for all correspondence. In fact ACCA held two email addresses for Miss Turgunova and the notice was sent to both of them. The period of notice was 28 days as required.
4. In considering whether to exercise its discretion to proceed in Miss Turgunova's absence the Committee noted that nothing had been heard from her during the investigation. There had been one very brief email on 20 August 2021 from Miss Turgunova, before the investigation started, but nothing relevant after. Recently, ACCA had sent a number of emails to remind Miss Turgunova of this hearing and to ask if she was attending. There had been no response. On 15 July 2024 (yesterday) an attempt was made to phone her, but the caller was not able to speak to anyone or to leave a message.
5. Miss Turgunova's lack of response to communications about attending this hearing was consistent with her conduct throughout the investigation. There was evidence in relation to some of ACCA's emails that the emails had been opened and, presumably, read by her but she had not replied. The Committee concluded that Miss Turgunova knew, or had the means of knowing, that the hearing would be taking place today and had decided not to exercise her right to attend. The Committee considered that the public interest required that a

hearing take place as arranged and that nothing would be gained by an adjournment. There was no reason to think that Miss Turgunova would attend on a future date.

6. The Committee determined to proceed in Miss Turgunova's absence.

#### **ALLEGATION(S)/BRIEF BACKGROUND**

7. Miss Turgunova became an ACCA student on 12 December 2019. On 14 August 2021 she took an ACCA on-demand FMA Management Accounting examination. This was a computer-based exam taken at a place of her choosing in her home country, Uzbekistan. The exam was remotely invigilated by a company called ProctorU. The invigilator was not present but could view what was on her screen and could communicate directly if required through chat messages. The invigilator also had video and audio access to the camera mounted on Miss Turgunova's screen. The screen and the video/audio from the webcam were recorded. Following the exam ProctorU submitted an Incident Report about alleged breaches of the examination regulations, which led to an investigation.
8. Miss Turgunova faced the following allegations:

#### ***Allegations***

*Miss Umidakhon Turgunova, ACCA student:*

1. *On 14 August 2021 in relation to a remotely invigilated FMA Management Accounting exam:*
  - (a) *contrary to Examination Regulation 2, failed to comply with instructions issued before the exam by ACCA personnel, as per the Information Sheet for On- Demand CBE Students, in that another person was in the same room as her during the exam session;*
  - (b) *contrary to Examination Regulation 16, communicated or attempted to communicate with that other person referred to in Allegation 1(a) above.*
2. *Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate with the investigation of a*

*complaint, in that she did not respond fully or adequately to any or all of ACCA's correspondence sent on:*

*(a) 28 January 2022;*

*(b) 14 February 2022;*

*(c) 28 February 2022.*

3. *By reason of her conduct, Miss Turgunova 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/ALLEGATION(S) AND REASONS**

9. Mr Jowett relied on the documentary evidence, including chat logs, and the video/audio recording. The Committee was provided with a copy of the principal video. The Committee did not see the whole of the screen recording, because it contained the text of the exam questions, but it saw relevant extracts. The Committee considered these carefully. Mr Jowett called one witness who was the paralegal who had reviewed the video and prepared the papers in this case. She showed relevant extracts from the video and had also prepared a timeline with screenshots of the key points. The Committee accepted her evidence. It was greatly assisted by her painstaking analysis of the video.
10. Miss Turgunova did not make any written submissions at any time in relation to the issues in this case except for the brief email dated 20 August 2021 (referred to above). This stated:

*Hello, How are you? I read the question in a whisper that I hadn't talked to anyone during the exam*
11. This appeared to be a denial that she had spoken to anyone during the exam. It didn't deal with the allegation that there was someone else in the room. It did not help the Committee to understand what her position was.
12. The Committee considered the video and audio recording of the exam and particularly the sections to which Mr Jowett drew attention. It was quite clear

that there was another person in the room. For example (times are hours: minutes:seconds from the start of the recording):

- (a) Starting at 00:13:20 and continuing for about a minute a reflection can be seen of what appears to be a mobile phone or tablet being held up in Miss Turgunova's field of vision. The person holding the object could not have been Miss Turgunova.
  - (b) At 01:07:55 a finger which is clearly not Miss Turgunova's appears briefly at the top of the screen.
  - (c) At 01:55:30 and continuing for some minutes a series of bangs and other noises can be heard in the room interspersed with whispering. Throughout this time Miss Turgunova was immobile with her lips pursed so she was not the source of the noises or the whispering.
  - (d) From about 02:08:36 for a considerable time Miss Turgunova herself can be seen and heard whispering while the noises and whispering from the other person continue.
  - (e) At the end of the exam the result was shown on screen (the Committee saw the screenshot of this). Miss Turgunova had passed with a mark of 69%. At this point on the video, 02:12.00, Miss Turgunova speaks and breaks into a smile. Another person in the room claps and one can then hear (off screen) what are presumably congratulations and general talk.
13. On the basis of this evidence the Committee was satisfied that another person was in the room while the exam was conducted. On the balance of probabilities that person was present for the whole duration of the exam. The Committee was also satisfied that Miss Turgunova communicated with that other person on numerous occasions. These matters were breaches of the examination regulations and guidance.
14. The Committee found that **Allegations 1(a) and (b) were proved.**

### **Allegation 2**

15. On 28 January 2022 ACCA wrote to Miss Turgunova (by email) to inform her of the complaint and that an investigation had commenced. The letter asked a

number of questions to assist the investigation. The letter reminded her of her duty to cooperate. Miss Turgunova did not reply. She did not reply to two further letters on 14 February and 28 February 2022 to similar effect. Indeed, she did not reply to any letter sent during the investigation. The Committee saw documentary evidence that the three letters referred to were opened by Miss Turgunova. On this basis Miss Turgunova had clearly not cooperated with the investigation. **Allegation 2 was found proved.**

### **Allegation 3: misconduct and liability to disciplinary action**

16. The fact that Miss Turgunova caused or allowed another person to be with her in the room throughout the time when she was taking an important ACCA examination and communicated with that person was not just a breach of the examination requirements, but a very serious breach. Although Mr Jowett was careful to say that ACCA did not allege cheating, it meant that she took the exam under different and more favourable conditions than other candidates. Any student in almost any context would know that such conduct was absolutely wrong. The Committee concluded that Miss Turgunova was guilty of misconduct.
17. The failure to cooperate was an equally serious matter. One of the essential elements of professional regulation is that members, and students, must cooperate with their regulator. It is impossible to regulate them otherwise. Her complete failure to respond to any correspondence showed a complete disregard of her professional obligations and the importance of ACCA's regulatory function.
18. **The Committee concluded that Miss Turgunova was guilty of misconduct in respect of Allegations 1 and 2.**

### **SANCTION(S) AND REASONS**

19. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2024). It first sought to identify mitigating and aggravating factors.
20. Miss Turgunova had no previous disciplinary findings against her. That was a mitigating factor, although not a strong one given that she had been an ACCA

student for less than two years. There were no other mitigating factors. In particular, Miss Turgunova had not demonstrated, or shown, any insight into the seriousness of what she had done or any remorse.

21. There were aggravating factors. Miss Turgunova had shown a flagrant disregard for the integrity of the exam process. The fact that the other person had been present with her throughout the exam and that they had communicated with each other suggested that her conduct was pre-planned.
22. ACCA's Guidance at section F puts failure to co-operate with a disciplinary investigation in the 'very serious' category. In this case, the failure extended for the entire period of the investigation so was at the top end of the scale of seriousness. At any point she could have made an attempt to respond to ACCA's questions but did not do so.
23. The Committee was satisfied that the misconduct required a sanction. The Committee considered the sanctions of admonishment and reprimand but concluded that these would not be wholly inadequate to mark the seriousness of Miss Turgunova's failures. The Committee next considered the sanction of severe reprimand. The Guidance says that this can be applied 'in situations where the conduct is of a serious nature but 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.' This clearly did not apply to Miss Turgunova's case where there was no indication that she had any appreciation of the significance of being professionally regulated. Most of the suggested factors were not satisfied either.
24. The next relevant sanction was removal from the student register. The Committee was satisfied that Miss Turgunova's conduct was incompatible with remaining registered as a student of the ACCA and that this was the minimum sanction it could impose.

### **COSTS AND REASONS**

25. Mr Jowett applied for costs totalling £8,664.42. He acknowledged that this was a high figure, but a large part of the costs represented the time spent in

analysing the video and related evidence. The Committee was satisfied that the length of time spent was justifiable. The analysis – for example spotting the reflections in the spectacles – must have required careful consideration of every second of video. Mr Jowett also acknowledged that the estimate for the time to be spent at this hearing by him and by the Committee officer was too high. To allow for this the Committee reduced the costs figure to £7,900 and awarded this amount.

26. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. There was no information before the Committee about Miss Turgunova's means so it was not possible to make a reduction on that basis.

#### **EFFECTIVE DATE OF ORDER**

27. The order will take effect at the normal time, after the expiry of the appeal period.

#### **ORDER**

28. The Committee ordered as follows:
- (a) Miss Umidakhon Turgunova shall be removed from the student register
  - (b) Miss Umidakhon Turgunova shall make a contribution to ACCA's costs of £7,900.

**Ms Wendy Yeadon**  
**Chair**  
**16 July 2024**