

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Swapnil Govekar
Heard on:	Thursday, 08 August 2024
Location:	Held Remotely via Microsoft Teams
Committee:	Ms Ilana Tessler (Chair) Mr Trevor Faulkner (Accountant) Mr Damian Kearney (Lay)
Legal Adviser:	Mr Ashraf Khan (Legal Adviser)
Persons present and Capacity:	Miss Holly Girven (ACCA Case Presenter) Miss Mary Okunowo (Hearings Officer)
Summary	Removed from the student register.
Costs:	£6,500.00

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Swapnil Govekar. The hearing was scheduled to last 1 day. Mr Govekar did not attend nor was he was represented. ACCA was represented by Ms Girven.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

2. The papers before the Committee consisted of a service bundle consisting of 22 pages and the hearing bundle consisting of 68 pages.

ALLEGATIONS

On 25 March 2021 Mr. Swapnil Govekar ('Mr. Govekar'), a student of the Association of Chartered Certified Accountants ('ACCA') during a Financial Accounting (FA) computer-based exam (CBE):

1. *Mr. Govekar used and/or was in possession of an unauthorised item, namely a mobile phone which he used in the exam room contrary to Exam Regulation 5(a).*
2. *Mr. Govekar took a photograph of an exam question using the mobile phone referred to in paragraph 1 and shared the photograph with another person 'Person B', contrary to Exam Regulation 12 and / or 14.*
3. *Mr. Govekar's conduct in respect of any or all of the matters set out at paragraphs 1 and 2 above was reckless in that by sharing a photograph of his exam with another person, this could and/or is likely to cause the photograph to be published or otherwise shared with entrants for the same exam who would thereby obtain an unfair advantage.*
4. *By reason of his conduct Mr. Govekar is:*
 - a) *Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of paragraphs 1 and/or 2 and/or 3 above;*
 - b) *Liable in the alternative to disciplinary action pursuant to byelaw 8(a)(iii), in respect of paragraphs 1 and/or 2.*

PRELIMINARY APPLICATIONS

Service of Papers

3. The Committee was informed that Mr Govekar had been served with a notice of today's hearing, together with the necessary papers via electronic mail on 10 July 2024.

4. The Committee was satisfied that notice had been sent to Mr Govekar's registered email address in accordance with regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee noted that the email had been delivered successfully. CDR 22(8) stipulates that, when a notice has been sent by email, it is deemed to have been served on the day it was sent. Accordingly, the Committee was satisfied that Mr Govekar has been given 28 days' notice with the necessary information required in accordance with CDR 10.
5. The Committee decided that Mr Govekar had been properly served with Notice of Proceedings.

Proceeding in absence

6. The Committee noted a series of communications between ACCA and Mr Govekar since service of the notice and case papers on 10 July 2024.
7. On 17 July 2024, ACCA emailed Mr Govekar to ascertain whether he would attend the hearing. He did not answer.
8. On 24 July 2024, ACCA spoke to Mr Govekar via telephone to ascertain whether he was intending to attend the hearing. He confirmed he would not be attending. He was asked if he was happy for the hearing to proceed in his absence, but the line had been disconnected. ACCA called Mr Govekar back, but the call was unanswered and there was no opportunity to leave a voice message. The same day, ACCA emailed Mr Govekar asking whether he would be content for the hearing to proceed in his absence. No response was received.
9. On 30 July 2024, ACCA emailed Mr Govekar again seeking written confirmation that he would not be attending the hearing and asking for clarification as to whether he would be content for the hearing to proceed in his absence. Mr Govekar responded on 31 July 2024 confirming he would not be attending. He did not state whether he would be happy for the hearing to proceed in his absence.
10. On 07 August 2024, ACCA emailed Mr Govekar with the Microsoft Teams link to join the hearing should he chose to attend. He was invited to join at 08:00am

UK time to speak to the Case Presenter and Legal Adviser before the hearing. No response was provided by Mr Govekar.

11. The Committee considered that ACCA had taken reasonable steps to invite Mr Govekar to attend the hearing. The Committee was satisfied that the emails had been sent to the address on the ACCA's register and that there was a record of the emails having been delivered successfully. The Committee noted that Mr Govekar had decided not to attend. He had also been warned in the notice that hearing could proceed in his absence if he did not attend. He was repeatedly asked whether he agreed to the hearing proceeding in his absence and failed to answer the question. The Committee concluded, on the balance of probabilities, that Mr Govekar was aware of today's hearing and had voluntarily absented himself.
12. The Committee was also satisfied that taking the seriousness of the allegations into account, it was in the public interest to proceed without further delay. The Committee did not consider that any benefit would be derived by adjourning the hearing and no such application had been made.

BACKGROUND

13. Mr Govekar registered as an ACCA student on 22 January 2020. ACCA records confirmed Mr Govekar sat an in person Financial Accounting (FA) examination on 25 March 2021.
14. Following an anonymous referral from Person A who found an ACCA exam question had been shared in a Telegram study chat group they were part of, ACCA Computer-based Exams (CBE) Delivery contacted Mr Govekar on 07 April 2021 and invited him to provide his comments.
15. Mr Govekar responded on 08 April 2021, 13 April 2021 and 19 April 2021. He did not dispute he took pictures of the exam. He denied he took the picture to copy or cheat in the exam. Mr Govekar asserted his exam froze, he got scared and the exam invigilator was not available to assist. He took a photo of the exam as proof of his progress. He denied he sent the picture out during the exam.
16. When the exam was finished, Mr Govekar stated he received a message from a friend, Person B, who asked how his FA exam went. Mr Govekar sent the

picture of his exam to his friend and informed him of how he did. Mr Govekar could not explain how the picture he supplied to his friend ended up in the group chat of Person A.

17. Mr Govekar supplied a screen capture of his exchange with his friend. ACCA's CBE Delivery Manager reviewed the picture supplied and confirmed that the picture was indeed the question put to Mr Govekar in his FA exam on 25 March 2021.
18. ACCA Investigations contacted Mr Govekar on 01 November 2021 and a chaser was sent on 16 November 2021. Mr Govekar was notified he was under investigation and invited him to provide any further information in regard to this matter.
19. Mr Govekar responded on 17 November 2021 and supplied the same response he provided previously.

ACCA Submissions on Facts

20. ACCA submitted that the allegations referred to above are capable of proof by reference to the evidence and the documents in the bundle of documents, as referenced in the evidence table.
21. In respect of Allegation 1, ACCA relied on the photo included as part of the referral by Person A and Mr Govekar's response as evidence that Mr Govekar was in possession of an unauthorised item, namely a mobile phone, during his FA exam on 25 March 2021.
22. ACCA submitted it was reasonable to infer that the photo of Mr Govekar's exam question supplied by Person A in their referral and Mr Govekar's response could only be obtained with an electronic device capable of taking images.
23. ACCA further submitted that Mr Govekar by his admission was in possession of a mobile phone and used a mobile phone during the exam to take the photo of his exam question. Mr Govekar asserted his exam froze and the Exam Invigilator was not available to assist. He took a photo of the exam as proof of his progress.

24. In respect of Allegation 2, ACCA relied on the referral of Person A and Mr Govekar's response as evidence that Mr Govekar took a photo of the exam and shared it with a third party / Person B.
25. A photo of Mr Govekar's exam question was supplied to ACCA by Person A as part of their referral to ACCA. ACCA submitted that Mr Govekar in his response did not dispute he took the same photo, but he asserted he shared it with Person B only and cannot say how it ended up in Person A's chat group.
26. In respect of Allegation 3, ACCA submitted that taking and sharing of photos of exam questions from a Computer Based Examination that the student is sitting constitutes behaviour the student knows to be wrong.
27. By sharing the photographs there was a significant risk the person he shared the image with could use the images to derive an unfair advantage either for him or herself or otherwise cause or permit them to be shared more widely including any person yet to sit the exam, who would thereby derive an unfair advantage in the exam.

ACCA Submissions on Misconduct

28. ACCA submitted that taking and sharing of photos of exam questions from a Computer Based Examination that the student is sitting constitutes behaviour the student knows to be wrong. The taking and sharing of photographs of exam questions or papers in this manner undermines the integrity of the exam in question and more generally ACCA's qualifications, causing potentially considerable reputational harm.
29. ACCA submitted that if any or all of the facts set out at Allegations 1, 2 and 3 are found proved, Mr Govekar has acted in a manner which brings discredit to himself and to the accountancy profession and his conduct amounts to misconduct pursuant to bye-law 8(a)(i).

Liability to disciplinary action

30. ACCA submitted that Mr Govekar had breached exam Regulations. If the Committee is not persuaded that the same amounts to misconduct, then to the extent it is found Mr Govekar has breached any or all of the exam regulations,

such breaches give rise to liability to disciplinary action pursuant to byelaw 8(a)(iii).

Submissions made by Mr Govekar

31. Whilst Mr Govekar had not attended the hearing, the Committee noted his written responses on 08 April 2021, 13 April 2021, 19 April 2021 and 17 November 2021. Mr Govekar admitted taking pictures of the exam. He denied his intention was to cheat. He stated his exam had frozen, he got scared and the exam invigilator was not available to assist. He took a photo of the exam as proof of his progress. He denied sending the picture out during the exam.

DECISION ON FACTS/ALLEGATIONS AND REASONS

32. The Committee took into account ACCA's written representations which were supplemented by Miss Girven orally. The Committee took into account written responses from Mr Govekar. The Committee considered legal advice from the Legal Adviser, which it accepted.
33. The Committee considered Allegation 1 and 2.
34. The Committee noted Mr Govekar admits he shared pictures of the exam with his friend. The Committee inferred he must have used a mobile phone device at the exam hall to send the pictures. The Committee decided the mobile phone was an unauthorised item and therefore concluded Allegation 1 and 2 were proved on the balance of probabilities.
35. The Committee considered Allegation 3.
36. The Committee concluded that once Mr Govekar shared pictures with his friend, there was a high risk of further dissemination. Indeed, the Committee heard that a photograph of the exam had been passed on to a third-party chat group. The Committee inferred there was a possibility that Mr Govekar's friend may have been a student who could have benefitted from the photo. If the photographs were taken because the exam had frozen and Mr Govekar felt he needed to prove progress, there was no legitimate reason for sending it on to his friend. The Committee concluded it was unreasonable for him to take that risk and he had acted recklessly. The Committee found Allegation 3 proved.

37. The Committee considered Allegation 4a.
38. The Committee concluded deliberately breaching exam regulations is a very serious matter. Whilst students do not have direct contact with the public, they are expected to pass exams fairly. It is wrong if they have an unfair advantage and gives potentially unsuitable candidates entry into the profession. The Committee determined this behaviour lacks integrity and is a serious falling short of what would be proper, and it brings discredit not only to the individual but also the profession.
39. In all the circumstances, taking Mr Govekar's conduct as a whole, the Committee decided this was serious professional misconduct.
40. Given the Committee's findings in relation Allegation 4a, it did not consider Allegation 4b.

SANCTION AND REASONS

41. The Committee considered the available sanctions starting with the least serious. In reaching a decision on sanction, the Committee took into account the public interest and Mr Govekar's own interests. It noted that the purpose of sanction was not punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in the ACCA, and to declare and uphold proper standards of conduct and performance.
42. The Committee determined breaching exam regulations is very serious.
43. The Committee considered whether any mitigating or aggravating factors featured in this case.
44. The Committee accepted that there were no previous findings against Mr Govekar. The Committee noted that Mr Govekar accepted sending photographs of the exam to his friend at an early stage. The Committee did not receive any references or testimonials.
45. As for aggravating features, the Committee concluded there was no evidence of insight, remorse or reflection. Furthermore, Mr Govekar has not demonstrated any real understanding of the seriousness of his conduct. There

has been some adverse impact from this. Mr Govekar undermined the integrity of the exam process and in all likelihood, caused ACCA to remove or modify the exam question.

46. For the reasons set out above, the Committee determined deliberately breaching exam regulations is a serious matter and therefore taking no further action, admonishment, reprimand or a severe reprimand would be insufficient and inappropriate. The Committee was particularly mindful there was no evidence of understanding or insight, reflection or remorse from Mr Govekar. His actions could have given other unsuitable students an unfair advantage and who could enter the profession as a full member and consequently they could present a risk to the public. Breaching exam regulations is a serious departure from relevant professional standards. The Committee determined the only appropriate and proportionate sanction available is to order the removal of Mr Govekar from the student register.
47. The Committee noted that the default period for removal from the student register is 12 months. The Committee decided not to extend this period, given the mechanisms in place at ACCA for readmission.

EFFECTIVE DATE OF ORDER

48. The Committee noted that ACCA have not made an application for an immediate order. The Committee considered whether it was in the public interest to impose such an order. It decided not to impose an immediate order in this instance.

COSTS AND REASON(S)

49. The Committee was provided with a detailed costs schedule.
50. The Committee concluded that ACCA was entitled to be awarded costs against Mr Govekar. The amount of costs for which ACCA applied was £6,801.50. Mr Govekar did not supply any information regarding his means or ability to pay. Considering the nature of the investigation, the Committee determined the costs incurred were reasonable, although it decided to make an adjustment given the length of the hearing was shorter.

51. Accordingly, the Committee decided it would be reasonable and proportionate to award ACCA costs in the sum of £6,500.00.

Ms Ilana Tessler
Chair
08 August 2024