

## HEARING

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

<b>In the matter of:</b>	<b>Mr Muhammad Nouman Jamshaid</b>
<b>Heard on:</b>	<b>Thursday, 30 May 2024</b>
<b>Location:</b>	<b>Virtual hearing using Microsoft Teams.</b>
<b>Committee:</b>	<b>Ms Ilana Tessler (Chair) Dr David Horne (Accountant) Mr Nigel Pilkington (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Charles Apthorp (Legal Adviser)</b>
<b>Persons present and Capacity:</b>	<b>Mr Ben Jowett (ACCA Case Presenter) Miss Mary Okunowo (Hearings Officer)</b>
<b>Summary:</b>	<b>Removed from Student Register.</b>
<b>Costs:</b>	<b>£6,000</b>

**SERVICE OF PAPERS**

1. Mr Jamshaid was neither present nor represented.
2. The Committee considered the service bundle (1) with pages numbered 1- 21 in order to determine whether the Notice of Hearing ("the Notice") dated 01 May

ACCA



+44 (0)20 7059 5000



info@accaglobal.com

[www.accaglobal.com](http://www.accaglobal.com)

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

2024 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (amended 2020) ("the Regulations")

3. The Notice had been sent to Mr Jamshaid's registered email address and complied with the other requirements of the Regulations.
4. The Committee was satisfied that this was effective service under the regulations.

### **PROCEEDING IN ABSENCE**

5. The Committee considered whether it should proceed in Mr Jamshaid's absence and recognised it could only do so with care and caution.
6. The Committee noted that Mr Jamshaid had initially responded to questions put to him by ACCA, however since late in 2021 he had ceased responding to communications and no application had been made by him to adjourn the hearing to another date.
7. The Committee recognised that there was a strong public interest in regulatory proceedings being considered and concluded expeditiously, particularly given the serious nature of the allegations.
8. The Committee determined that it was fair and just to proceed in Mr Jamshaid's absence in accordance with its discretionary power at regulation 10(7) and that a fair hearing could take place in his absence.
9. The Committee were provided with the following bundles: hearing bundle (1-210 pages), a service bundle was provided (1-21 pages) and the Examination Video 1 hour 55 minutes, from which stills were included in the hearing bundle.
10. Mr Jamshaid faced the following allegations:

### **ALLEGATIONS**

Mr Muhammad Nouman Jamshaid ('Mr Jamshaid') ACCA student on 19 February 2021 and in relation to a scheduled MA2 Managing Costs and Finance computer-based examination (the 'exam'):

1. Contrary to Examination Regulation 2, failed to comply with instructions issued by:
  - a) ACCA personnel as per the "Information Sheet for On-Demand CBE Students sitting exams at home" in that case he caused or permitted a third party or parties to be present in the room where he sat the exam and during that exam and thereby failed to ensure he was in a room with no-one else around him;
  - (b) The exam proctor (remote invigilator), in that he failed to respond adequately to an instruction to keep his eyes on his computer screen during the exam.
2. Further, Mr Jamshaid's conduct as referred to in Allegation 1(a) above was:
  - (a) Dishonest, in that he deliberately sought to conceal the presence of the third party or parties referred to in allegation 1(a); or in the alternative,
  - (b) Contrary to the Fundamental Principle of Integrity (as applicable in 2021) in that such conduct is not straightforward and honest.
3. By reason of his conduct Mr Jamshaid is:
  - (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out in Allegation 1 and/or 2 above; or in the alternative,
  - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of Allegations 1(a) and/or 1(b).

## **BRIEF BACKGROUND**

11. Mr Jamshaid registered as an ACCA student on 25 October 2016. On 19 February 2021 took an On-demand MA2 Managing Costs and Finance examination (the 'Exam') remotely.
12. During the Exam the proctor, an online invigilator, noted a number of concerning behaviours, which led the proctor to terminate the exam early. The proctor was concerned that a third party might be in the room where the Exam was being taken. In addition, the chat log shows that the proctor instructed Mr Jamshaid to keep his eyes on the screen and to perform another camera pan.
13. The 'incident report filed later that day suggested that there was another individual in the room with Mr Jamshaid, a second calculator was noted on the floor and he was seen looking off screen. When the Exam was terminated, another person was seen to enter the testing area and noises could be heard. When conducting the camera pan Mr Jamshaid is seen to angle the camera on the mobile phone and his laptop so that only parts of the room can be seen.
14. Following the report an investigation was commenced, which included obtaining the video footage, documents, which included the 'chat log'.
15. On the video Mr Jamshaid is seen to look to one side, shadows of another person can be seen and a third person can be seen. In addition, a second calculator can be seen in arms reach of Mr Jamshaid, which is in breach of the guidelines, which he had been sent on his registration.
16. In February 2021 ACCA wrote to Mr Jamshaid and informed him the proctor had raised an incident report and in May 2021 sent him a chronology with screen shots of the video footage of the Exam. ACCA asked Mr Jamshaid a series of questions to which he has provided responses. These include an admission that his cousin and brother were present during the Exam.
17. Further accounts have been provided to ACCA which included stating that "*his*

*roommate who wasn't aware of the exam entered the room ...", his brother had entered the room to take his laptop and calculator and then left and he admitted his cousin was in the room for "technical support" during the Exam. When questioned by ACCA about the manner in which the camera pan was conducted Mr Jamshaid stated "it was a change of angle to hide presence of my cousin" and that he had looked off to his left before performing the camera pan so as to "Try to alarm my cousin".*

18. Mr Jamshaid accepts in the agreed facts that:
  - (a) A third party or parties was/were in the Exam room with him;
  - (b) A third party was in the room where the Exam was taking place, for the duration of the Exam.
  - (c) He concealed this from the proctor.
19. Mr Jamshaid denies he was dishonest or lacked integrity and committed misconduct.
20. Mr Jowett in submissions relied on the documentary evidence and the video recording. He did not call any witnesses. Mr Jamshaid made written responses to questions put by ACCA in relation to the issues in this case. The Committee considered these carefully and reviewed the video and the still shots of the Exam.

## **DECISION ON FACTS/ALLEGATION(S) AND REASONS**

### **Allegations 1a) and b)**

21. The Committee find Allegation 1a) proved.
22. The Committee had regard to the Exam Regulations, which it was satisfied Mr Jamshaid was provided with and was aware of the instructions set out in the instruction sheet. It also had viewed the whole video recording. It is not in

dispute that other persons were present in the room where the remote exam was taking place. It can be observed on the video of the exam, at one point the Committee heard a cough and this fact was admitted by Mr Jamshaid.

23. The Committee reach the following conclusions:
- a. Mr Jamshaid had failed to comply with the clear instructions, that he had been provided with, that no third party should be present in the exam room.
  - b. Other persons, namely his cousin was present throughout the Exam and his younger brother entered and left the room during the Exam.
  - c. Mr Jamshaid was aware that these persons were present and it was a wilful and deliberate breach of the Exam Regulations and the instructions of the proctor.
24. The Committee find Allegation 1b) proved. The Committee observed that the proctor provided clear the instructions to Mr Jamshaid to keep his eyes on the screen. The Committee having reviewed the Video of the Exam concluded that Mr Jamshaid had not followed the instructions of the proctor to keep his eyes on the screen. It also took into account Mr Jamshaid's response to ACCA that he had looked off to his left before performing the camera pan so as to "*Try to alarm my cousin*".

**Allegation 2 a) and b)**

25. The Committee found allegation 2 a) proved.
26. In reaching this finding the Committee took into account the fact Mr Jamshaid was of previous good character, having no previous regulatory findings made against him. The Committee at allegations 1(a) and (b) have previously found that Mr Jamshaid had failed to comply with instructions not to have a third party present in the Exam and had failed to respond adequately to the instructions of the proctor.

27. In consequence it found that Mr Jamshaid was aware that his brother and cousin had been present in the room during the examination and had sought to conceal that fact from the proctor and in correspondence he had provided misleading accounts to the ACCA. Having established his state of mind and knowledge at the relevant time the Committee went on to consider whether this would be considered by a member of the public to be dishonest conduct. The Committee found that this was dishonest conduct by the standards of ordinary decent people and therefore found allegation a) proved.
28. The Committee did not go on to consider Allegation 2 b) whether there was a lack of integrity as this had been put as an alternative allegation if allegation 2 a) was not proved.

#### **MISCONDUCT AND LIABILITY TO DISCIPLINARY ACTION**

29. In respect of allegation 3 a) the Committee regarded honesty as a fundamental tenet of professionalism and Mr Jamshaid had been dishonest during an Exam and in his responses to ACCA. In the Committee's view the level of dishonesty was serious. Mr Jamshaid's dishonest conduct fell far short of the standards expected of a member of the accountancy profession. It could not be regarded as anything other than entirely unacceptable behaviour which brought the profession into disrepute and plainly constituted misconduct.
30. The Committee did not go on to consider Allegation 3 (b) whether there was a breach of bye-law 8(a)(i) as this had been put as an alternative allegation if allegation 3 (a) was not proved.

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

31. Mr Jowett and made submissions on the appropriate and proportionate sanction. The Committee received advice from the Legal Adviser and in determining the appropriate and proportionate sanction considered the least restrictive sanctions first before moving onto the more serious ones.

32. 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 aggravating and mitigating factors.
33. Mr Jamshaid had no previous disciplinary findings against him. That was a mitigating factor, although not a strong one given his status as an ACCA student of less than five years standing. It also took account of his limited engagement in the disciplinary hearings, that there had been some admissions later in the day and his previous good character. In the Committee's view there was limited mitigation.
34. The Committee next considered whether there were any aggravating factors. It found that the dishonest conduct was planned, there was an attempt to undermine the validity of the examination process. In addition, it found that Mr Jamshaid lacked insight into his conduct and there was no evidence of remorse or insight into what the Committee considered to be serious breaches. He had provided conflicting accounts during the investigation and there had been a lack of co-operation.
35. The Committee took into account that the dishonesty was a one off over a short period of time. It took into account section E2 of the ACCA Guidance for Disciplinary Sanctions regarding findings of dishonesty.
36. The Committee considered that it would be wholly insufficient to take no further action or impose an admonishment. Neither of those sanctions would reflect the seriousness of the conduct. It noted that there was no evidence of insight or early admissions.
37. In respect of a reprimand the Committee considered the dishonest conduct to be serious and not minor. Given the lack of insight the Committee considered that a severe reprimand was not a sufficient sanction as there was a continuing risk to public confidence and the risk to validity of the ACCA examination process.
38. The Committee considered the factors listed at C4.1 in the guidance. It noted



that in addition to showing no insight or remorse there was no reflection. It took into account the importance of protecting the integrity of the profession's examinations and therefore determined that the only proportionate sanction was to direct that Mr Jamshaid be removed from the Student Register.

### **COSTS AND REASONS**

39. Mr Jowett applied for costs totalling £6,523. He acknowledged that this was based on an estimated hearing time of a full day whereas the actual time was less. He invited the Committee to make an appropriate reduction.
40. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. The Committee also recognised that it needed to consider the principle that the majority of those paying ACCA's fees should not be required to subsidise the minority who, through their own misconduct, have found themselves subject to disciplinary proceedings. The Committee considered that the time spent, and the sums claimed were reasonable. It was appropriate to make a reduction for the fact that the hearing would last for less time than estimated. That would reduce the reasonable costs to about £6,000.
41. There was no information before the Committee about Mr Jamshaid's means or personal circumstances. The Committee determined that there was no basis to depart from the standard position that the reasonable costs of the ACCA should be paid by the member. The Committee directed that Mr Jamshaid pay £6,000 towards ACCA's costs.

### **IMMEDIATE ORDER**

42. The Committee considered whether Mr Jamshaid be removed pending the expiry of the Appeal period. The Committee noted that there had been no interim order sought in the last 3 years, it determined that it was not necessary to impose an immediate order as there was no identified risk to the public.

## **ORDER**

43. The Committee **ordered** as follows:

- (a) Mr Jamshaid shall be removed from the Student Register.
- (b) Mr Jamshaid shall make a contribution to ACCA's costs of £6,000.

**Ms Ilana Tessler**  
**Chair**  
**30 May 2024**