

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Ms Akshara Pankaj Mehta

Heard on: Friday, 29 November 2024

Location: Remotely via Microsoft Teams

Committee: Ms Colette Lang (Chair)
Ms Joanne Royden-Turner (Accountant)
Ms Sue Heads (Lay)

Legal Adviser: Ms Valerie Charbit

**Persons present
and capacity:** Mr Samuel Irving (Case Presenter on behalf of ACCA)
Miss Nicole Boateng (Hearings Officer)

Observers: Ms Ceegay Verley (ACCA Staff)

Summary: Removed from the student register

Costs: £5700 to be paid by Ms Mehta to ACCA

INTRODUCTION

1. The Committee convened to consider the following allegations:

ALLEGATIONS

Allegation 1

Ms Akshara Pankaj Mehta an ACCA student on 8 June 2023 during a Financial Reporting session-based exam sat by her and remotely invigilated

- a) Was in possession of unauthorised materials comprising ACCA exam revision material or similar contrary to Examination Regulation 4.
- b) Misled the exam invigilator regarding some or all of the unauthorised materials referred to in Allegation 1 (a) above in that she claimed “it is rough working sheet” when in fact as she confirmed subsequently it was “pre exam study material”.

Allegation 2

By reason of the matters referred to in Allegation 1 above Ms Mehta was:

- a) In breach of Exam Regulation 3 by reason of her attempt to mislead the exam invigilator whilst seeking to gain an unfair advantage,
- b) Dishonest because she must have known what the material referred to in Allegation 1 was but claimed it was something else in order to mislead the exam invigilator whilst seeking to gain an unfair advantage; in the alternative
- c) Conduct that demonstrates a failure to act with integrity.

Allegation 3

By reason of the matters set out above, Ms Mehta, is:

- a) Guilty of misconduct pursuant to bye-law 8(a)(i); or in the alternative,
- b) Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of breaches of the Exam Regulations as set out in allegation 1 above.

2. The Committee had before it the following papers: a Disciplinary Committee Report and Bundle numbering 1-80 pages, a Service Bundle numbering 1-14 pages, an examination video recording lasting approximately 90 minutes. Further it received at the conclusion of the hearing, two Costs Schedules (simple and detailed) totalling 3 pages.
3. Ms Mehta did not attend the hearing, and she was not represented.

SERVICE OF PAPERS

4. The Committee first considered whether the appropriate documents and notice had been served in accordance with ACCA's Complaints and Disciplinary Regulations 2014 amended 1 April 2024 (CDR). The notice was dated 30 October 2024.
5. ACCA applied to proceed in the absence of Ms Mehta. The Committee took into account the submissions made by Mr Irving on ACCA's behalf.
6. The Committee noted Ms Mehta's reply to the notice of hearing and her confirmation that she was not planning to attend the disciplinary committee hearing set out in an email from her dated 30 October 2024 and in a Disciplinary Case Management Form dated 10 January 2024.
7. The Committee having considered the documents was satisfied that Ms Mehta had been served with the correct notice and the correct documents in accordance with Regulation 10 of the CDR.

PROCEEDING IN ABSENCE

8. The Committee went on to consider whether to proceed in the absence of Ms Mehta. It noted that she had agreed to the Committee proceeding in her absence and that she had been warned that the Committee had a discretion to decide to do so. It further noted that she had not requested that the Committee adjourn the hearing.

9. The Committee was satisfied that were it to adjourn the hearing this was unlikely to result in Ms Mehta's attendance on a future date. It decided that Ms Mehta had voluntarily absented herself since she knew that the hearing was taking place and she had decided not to attend it. It further decided that it was in the public interest that hearings take place expeditiously. The Committee therefore decided to proceed in Ms Mehta's absence.

BRIEF BACKGROUND

10. On 24 February 2023, Ms Mehta became an ACCA registered student. As such, she was bound by the ACCA's Code of Ethics and Conduct, Bye-laws and Regulations, including the Examination Regulations. Ms Mehta was alleged to be in breach of ACCA's Exam Regulations due to her conduct during her remotely invigilated Financial Reporting exam taken on 8 June 2023.
11. As the exam was sat remotely and recorded by video, ACCA were later able to view the exam footage. At one point during the exam, unauthorised material is seen. This then disappears when Ms Mehta is asked by the proctor to show the area around her. When the proctor asked Ms Mehta about the materials, she says she had a blank piece of paper which she showed the proctor.
12. In regard to Allegation 1, the exam footage confirms the following; at 1:02:38, Ms Mehta is seen picking up her mobile phone and taking a call from the proctor. The following is part of the exchange between the student and the proctor from this call:
- : can you show me a 360 of the room?
 - You: sure
 - ...
 - Proctor: what is it mam? Some papers on your left side.
 - You: that is my rough working sheet. It is plain paper ... I'm not using it.
 - Proctor: no some other paper I saw. Some book. Something was written on that. Something else.
 - ...
 - Proctor: No, I just saw some kind of something ... some booklet. Something was there.

- You: ... rough working sheet.
 - Proctor: Some notebook. Some blue coloured notebook was there.
13. At 1:03:05-1:03:48 on the video, Ms Mehta shows her left-hand side to the camera. Multiple materials can be seen next to her. They appear to relate to ACCA exams. The word ACCA can be seen on them at 1:03:39, on the document on the left, and at 1:03:42, on at least two of the documents seen on the right.
14. At 1:03:53, Ms Mehta shows her scrap paper to the camera. At 1:06:22, Ms Mehta removes her scrap paper.
15. At 1:20:24, Ms Mehta picks up her mobile phone and takes a further call from the proctor. The following are some of the exchanges between Ms Mehta and the proctor:
- Proctor: I want to ask you to I am requesting to show me the book was there beside you.
 - You: but I don't have any book beside me.
 - Proctor: are you sure about it mam because.
 - You: yes, I am sure about it.
 - You: ... I showed you the blank piece of paper I had ...
 - Proctor: I have seen paper, pencil and pen beside you and it is against ACCA policy. I have to end your exam.
16. ACCA provided the Committee with screenshots of two images taken from the video entitled Image A and Image B showing the unauthorised materials seen in the video footage at approximately 1:03:39.
17. ACCA submitted that Ms Mehta had unauthorised material in the vicinity of her workspace and misled the proctor about it when she was questioned about them. Though Ms Mehta denies that the unauthorised material was within arm's reach or that she misled the proctor regarding its existence when the proctor asked, the video evidence confirmed the materials were close to her and when asked the proctor about the materials which can be seen, she claimed those materials were just scrap paper.

18. On 6 October 2023, Ms Mehta was formally notified of ACCA's investigation and asked a series of questions relating to her conduct during the exam.
19. Ms Mehta, responded to ACCA's letter and the investigation department's enquiries on 6 October 2023 and stated:
- *“As per the examination guidelines available on the website of the institution, as seen in picture 1 below, the first statement of the paragraph clearly permits the use of scrap paper and pen/pencil. Although, it says "NO" for Remote examinations, the post examinations guidelines (as depicted in picture 2 below) mention clearly that the student must destroy all scrap paper on screen in front of the remote invigilator/proctor as instructed by them at the end of the exam.*
 - *There is a clear discrepancy in the guidelines issued wherein there are two interpretations: -*
 - *Scrap paper is permitted and has to be destroyed in end as per instructions*
 - *Scrap paper is not permitted but has to be destroyed in end as per instructions.*
 - *As per interpretation 1, there is no default at all.*
 - *As per interpretation 2, if scrap paper is not permitted only then how can the post examinations guidelines mention about destroying the scrap paper.*
 - *Upon calls being received from the invigilator, I co-operated and showed her everything she asked for. The invigilator was satisfied with this and yet after a lapse of around 15-20 minutes approx, notified me that my exam will be terminated. Why is there a delay if I was wrong in my interpretation of institute guidelines?*
 - *As a student, I believe I have been wronged even though I may have misinterpreted the guidelines. However, I do not wish to extend this anymore as I have been waiting for a response since June 8, 2023 and received some update only on October 6, 2023.”*

20. Ms Mehta initially denied having the unauthorised material within arm's reach or that she misled the proctor regarding its existence. She answered questions asked by ACCA about the unauthorised materials with a series of electronic sticky notes stating the following:

- *"This was my pre exam study material outside of my arm's reach and not accessible during examination.*
- *I shall not be able to share this as I have already donated the said books.*
- *It was out of arm's reach for me and not used.*
- *I brought them and kept it outside arm's reach.*
- *I did not look at or use the materials to assist me.*
- *In order to remember what i had read and if i am misinterpreting the question requirements. It is a simple student gesture which would not have created an issue had it been in an examination centre physically"*

21. ACCA submitted that the conduct set out at Allegation 1, amounted to dishonesty on the basis that Ms Mehta knew she was not permitted to have unauthorised material and tried to mislead the proctor when they sought to establish that she had unauthorised material during the exam.

22. Further, ACCA submitted that if any or all of the facts set out at Allegations 1 and 2 are found proved, Ms Mehta has acted in a manner which brings discredit to herself, ACCA and to the accountancy profession. Accordingly, Ms Mehta's conduct amounts to misconduct pursuant to bye-law 8(a)(i).

23. Ms Mehta later made admissions in a Case Management Form dated 10 January 2024 to all of ACCA's allegations.

24. Ms Mehta further stated in an email dated 10 October 2024:

"I do not intend to attend the hearing. The institute has delayed everything. The exams were conducted on 8th June 2023 and it's hearing is scheduled to be conducted on November 29,2024 which is exactly 17 months later. The institute has already harassed me enough and forced me into accepting allegations for the sake of it through delayed proceedings.

Had the institute wanted it to be fair and actually hear the student out who was misguided by the institute's own guidelines, it would've initiated proceedings much much earlier"

PRELIMINARY ISSUE

25. Mr Irving was asked by the Committee to inform the Committee what the chronology was in respect of this investigation. It further enquired of Mr Irving whether there was any correspondence which could be put before the Committee indicating that Ms Mehta had been pressured or forced to make admissions by ACCA.
26. Mr Irving gave the Committee the following brief chronology:

8 June 2023	Exam took place
9 July 2023	Referral to ACCA investigations
6 October 2023	Ms Mehta informed of ACCA's investigation and asked questions
24 November 2023	ACCA report referred to an assessor
12 December 2023	Assessor's review of ACCA's report
10 January 2024	Ms Mehta notified that there is a case to answer and that the case will be transferred to the adjudication department. A request for a case management form to be completed is made.
11 January 2024	Ms Mehta attempts to send completed case management form
20 September 2024	ACCA asks Ms Mehta to resend the case management form
7 October 2024	ACCA acknowledges admissions made by Ms Mehta in the case management form
30 October 2024	Ms Mehta notified of ACCA's disciplinary committee hearing.

27. Mr Irving also informed the Committee that there was no additional relevant correspondence which could indicate that Ms Mehta had been pressured or forced into making admissions.
28. The Legal Adviser advised the Committee that before considering any admissions made by Ms Mehta, the Committee needed to be satisfied that any admissions made by her were true admissions without any ambiguity.
29. The Committee found no evidence to persuade it that ACCA had forced or pressured Ms Mehta into making admissions. It further decided that if Ms Mehta wished to advance any defence, she was able to do so by attending a Disciplinary Committee hearing which she had decided not to do. The Committee noted the chronology and it did not consider there to have been an unreasonable delay which could have impacted Ms Mehta's admissions.
30. The Committee therefore decided that the admissions made by Ms Mehta unequivocal and could be relied upon.

ADMISSIONS

31. Ms Mehta admitted the facts of the allegations in the Case Management Form dated 10 January 2024. She also admitted misconduct.
32. In accordance with Regulation 12(3)(b) and (c) of the CDR, the Committee decided to accept the admissions made by Ms Mehta. It therefore found the facts of Allegation 1(a), 1(b) and 2(a) and 2(b) proved.
33. Since Allegation 2(c) was an alternative allegation to allegation 2(b) it did not determine it.

DECISION ON ALLEGATION 3(a) AND REASONS

34. In the Committee's judgment the facts found proved amounted to misconduct. The Committee was satisfied that facts which included misleading the proctor and being dishonest when deliberately deceiving the proctor during the examination about unauthorised materials amounted to misconduct. It was

satisfied that such conduct was discreditable to Ms Mehta, ACCA and the accountancy profession.

35. The Committee noted that Ms Mehta had initially denied having unauthorised materials in the exam when confronted by the proctor and she had further sought to deny matters to ACCA when confronted with clear screenshots which showed unauthorised materials from the video taken of the examination. Those screenshots showed a binder of material with ACCA printed on it and other material with ACCA written on them. Further, the video recording which alerted the proctor appeared to show Ms Mehta referring to the unauthorised material during the examination.
36. The Committee found that the facts found proved amounted to conduct which undermined the integrity of ACCA's examination process. Furthermore, because Ms Mehta had been dishonest when first confronted about the unauthorised materials by the proctor, this exacerbated the seriousness of taking unauthorised materials into an examination.
37. The Committee noted that Ms Mehta had also sought to obfuscate by referring to perceived discrepancies in the regulations relating to whether or not she was allowed scrap paper in the exam when this had nothing to do with her having unauthorised materials in the exam; as could be clearly seen in the screenshots from the video footage.
38. The Committee therefore found Allegation 3(a) proved and it was satisfied that individually and cumulatively Allegation 1(a), 1(b) and 2(a) and 2(b) amounted to misconduct.
39. Since Allegation 3(b) was an alternative allegation to Allegation 3(a) it did not determine it.

SANCTIONS AND REASONS

40. The Committee referred to the Guidance for Disciplinary Sanctions (GDS) produced by ACCA.

41. The Committee took into account that any sanction it imposed was required to be proportionate.
42. The Committee noted the following aggravating factor:
- Ms Mehta showed a lack of insight
43. The Committee noted the following mitigating factors:
- Ms Mehta had no previous disciplinary findings against her as a student member
 - Ms Mehta had cooperated with ACCA in responding to the allegations.
44. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The dishonest behaviour was serious. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.
45. The Committee reminded itself that it was dealing with a case of dishonesty. It had specific regard to Section E2 of the Guidance in relation to dishonesty and was mindful of the case law to the effect that dishonesty lies at the top of the spectrum of misconduct. It also referred to Section E3 of the Guidance and it noted that these were serious allegations relating to conduct in an ACCA professional examination.
46. Given the Committee's view of the seriousness of the misconduct, it was satisfied that the sanctions of No Further Action, Admonishment and Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. It referred to the various factors in the GDS in order to determine whether those sanctions were applicable to this case.
47. It noted that the sanction of admonishment was not indicated for a case of misconduct encompassing dishonesty. Further, since this was deliberate conduct both in relation to the unauthorised materials being present in the

examination room and in relation to what was said to the proctor about them this was insufficient as a sanction.

48. The Committee did not consider a sanction of reprimand was appropriate where the student member had not shown any genuine acceptance of their misconduct. Ms Mehta had not explained why she had acted as she had or shown that she had any insight into the seriousness of her conduct. Further the Committee considered that this sanction would not adequately protect the public in the future.
49. The Committee next considered the sanction of severe reprimand. It noted that Ms Mehta could have caused the public harm had she not been caught out by the proctor as she could have passed an ACCA examination by cheating thereby putting the public at risk. Further Ms Mehta had not shown any regret or remorse regarding her conduct or displayed that she had taken any rehabilitative steps since the examination. The Committee noted that the Guidance stated for a 'Severe Reprimand' to be applied as a sanction where the member no longer posed a risk to the public or if they had shown insight. The Committee therefore decided that this sanction was not appropriate. Further it decided that this sanction would also not protect the public in the future from the risk of such conduct being repeated by Ms Mehta.
50. The Committee therefore decided that Ms Mehta's behaviour was fundamentally incompatible with remaining on the student register of ACCA and it considered that the only appropriate and proportionate sanction was that she be removed from the student register.

COSTS AND REASONS

51. ACCA applied for costs in the sum of £6003.50 with a proportionate reduction for the reduced hours for the Case Presenter and Hearings Officer who had only been engaged for half a day.
52. Ms Mehta did not submit a statement of means. The Committee noted that she had made full admissions on 10 January 2024 to ACCA regarding all three allegations.

53. The Committee decided that it was appropriate to award costs to ACCA in this case and considered that the sum claimed by them was a reasonable one in relation to the work undertaken but it made some reduction for the half day hearing.
54. Accordingly, the Committee concluded that the sum of £5700 costs was an appropriate and proportionate sum to award ACCA. It therefore ordered that Ms Mehta pay ACCA's costs in the amount of £5700.

EFFECTIVE DATE OF ORDER

55. The Committee was not satisfied an immediate order was necessary or in the public interest for a student member given the limited immediate risk to the public.
56. It therefore decided that the effective date of order was at the conclusion of the expiry period for any appeal.

Ms Colette Lang
Chair
29 November 2024