

## HEARING

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

<b>In the matter of:</b>	<b>Mr Justin Andrew Sepulveda</b>
<b>Heard on:</b>	<b>Wednesday, 19 February 2025</b>
<b>Location:</b>	<b>Remotely by video conference (MS Teams)</b>
<b>Committee:</b>	<b>Ms Ilana Tesler (Chair), Mr George Wood (Accountant), Mr Geoff Baines (Lay)</b>
<b>Legal Adviser:</b>	<b>Person Andrew Granville Stafford</b>
<b>Persons present and capacity:</b>	<b>Ms Emily Mitchell (ACCA Case Presenter) Miss Mary Okunowo (Hearings Officer)</b>
<b>Summary:</b>	<b>Allegations 1, 2, 3(a) and 4(a) proved.</b>
<b>Sanction:</b>	<b>Removed from the student register.</b>
<b>Costs:</b>	<b>£8,000.00</b>

## ACCA



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## **INTRODUCTION**

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Justin Sepulveda. Mr Sepulveda is a student member of ACCA and is resident in [PRIVATE].
2. The Committee had before it a bundle of documents (109 pages), and a service bundle (30 pages).
3. Mr Sepulveda did not attend the hearing and was not represented.

## **ALLEGATIONS**

4. The allegations against Mr Sepulveda are as follows:
  1. On 07 February 2023, during a Management Accounting (MA) examination ('the Exam'), was in possession of unauthorised materials, in the form of hand-written notes whilst at his exam desk or on or about his person, contrary to Examination Regulation 4.
  2. Intended to use and/or used the unauthorised materials referred to in allegation 1, to gain an unfair advantage in the exam.
  3. Mr Sepulveda's conduct as referred to in allegations 1 and 2 above:
    - a) Was dishonest, in that Mr Sepulveda used or intended to use any or all of the unauthorised materials which he had on his exam desk and or on or about his person to gain an unfair advantage in the exam or in the alternative,
    - b) Demonstrates a lack of integrity.
  4. By reason of his conduct, Mr Sepulveda is:
    - a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1 to 3 above; or in the alternative,
    - b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of allegation 1.

## PROCEEDING IN ABSENCE

5. The notice of hearing was sent by email to Mr Sepulveda's registered email address on 21 January 2025. The Hearings Officer spoke to Mr Sepulveda by telephone on 13 February 2025 and he confirmed he intended to attend the hearing. He had previously attended a hearing on 26 September 2024, when the case was adjourned.
6. The Hearings Officer emailed Mr Sepulveda on 18 February 2025, the day before the hearing, and he replied by email timed at 23:33 UK time. He said:  
  
*'Thank you for reaching out. I confirm that I will be attending the reconvening Disciplinary Committee Hearing later today.'*
7. However, Mr Sepulveda did not attend the hearing and attempts by the Hearings Officer on the morning to contact him by telephone and email were unsuccessful.
8. The Committee was satisfied that the requirements of regulations 10(8)(d) and 22(1) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') as to service had been complied with.
9. Having satisfied itself that service had been effected in accordance with the regulations, the Committee went on to consider whether to proceed in the absence of Mr Sepulveda. The Committee bore in mind that the discretion to do so must be exercised with care and in light of the public interest in dealing with matters such as this fairly, economically and expeditiously.
10. It was clear that Mr Sepulveda was aware of the hearing. Despite what he said to the Hearings Officer, the Committee was bound to conclude that he had decided not to take part in the hearing. He had not applied for an adjournment, and the Committee had no confidence that he would attend on a future occasion if the hearing was adjourned. It therefore considered that no useful purpose would be served by adjourning this hearing and, furthermore, to do so would cause inconvenience to the witness who was attending to give evidence.
11. The Committee considered that, in the interests of justice, the hearing should proceed in Mr Sepulveda's absence.

## PRELIMINARY MATTERS

12. This hearing listed for 26 September 2024 had been adjourned on the basis that ACCA relied on the evidence of two witnesses, but neither had been warned to attend the hearing.
13. One of those witnesses was Person A, who was the invigilator of the exam in question. Their evidence is that they saw Mr Sepulveda looking at revision notes during the exam and seized them from him. Person A states that Mr Sepulveda seemed shocked when he was caught with the notes. Though Mr Sepulveda insisted that he wrote the notes during the exam, Person A's evidence is that, based on the penmanship, they did not believe that to be the case.
14. The other witness is ACCA's Qualifications Content Lead, Ms Linda Webb. She gives evidence confirming that the notes were relevant to the syllabus in question and that, in her opinion, the notes must have been written before the exam.
15. On adjourning the hearing, the Committee had made the following direction:

*'ACCA must, if it wishes to rely on one or both of their witnesses, call them to give oral evidence.'*
16. At the outset of the hearing today, Ms Mitchell informed the Committee that Ms Webb was available and would attend to give evidence. However, attempts to contact Person A had proved unsuccessful. She therefore made an application, in accordance with CDR 12(2), to rely on his written evidence.
17. The Committee heard and accepted the advice of the Legal Adviser.
18. The Committee acceded to the application. An important reason underpinning the previous direction was that Mr Sepulveda told the Committee in September 2024 that he did not agree with the evidence of Person A and wished to ask him questions. However, that was no longer a relevant consideration as Mr Sepulveda had chosen not to attend this hearing.
19. The Committee did not consider that Person A's evidence was the sole and decisive evidence supporting the allegations made in this case. It would have the benefit of hearing from Ms Webb, and her evidence was of more importance

to the crucial issue of whether Mr Sepulveda wrote the notes in question before or during the exam.

20. It was therefore satisfied, in accordance with the test laid out in CDR 12(2)(b), that it was in the interests of justice to receive Person A's evidence in written form. It took into account that it would be a matter for the Committee, when determining the facts in this case, to consider what weight to attach to that evidence.

## **BACKGROUND**

21. Mr Sepulveda was admitted to student membership of ACCA in May 2022.
22. On 07 February 2023, Mr Sepulveda attended an examination centre [PRIVATE] to sit the ACCA Management Accounting ('MA') examination.
23. Prior to examinations, all candidates receive an attendance docket which contains ACCA's Examination Regulations and Examination Guidelines. These include the following regulations:

### *Examination Regulation 4*

*You are not permitted during the exam to possess, use or attempt to use any notes, books or other written materials except those expressly permitted in the guidelines below. These are known as 'unauthorised materials'.*

### *Examination Regulation 6(a)*

*If you breach exam regulation 4 and the 'unauthorised materials' are relevant to the syllabus being examined; it will be assumed that you intended to use them to gain an unfair advantage in the exam. In any subsequent disciplinary proceedings, you will have to prove that you did not intend to use the unauthorised materials to gain an unfair advantage in the exam.*

24. ACCA's case is Mr Sepulveda attempted to cheat in his MA exam by taking revision notes into the examination room with him. ACCA relied on the evidence of an invigilator, Person A, who provided a witness statement dated 11 April 2023.
25. Person A stated that the exam began at 10am. Students are permitted to use two pages of blank paper, known as scratch paper, to write notes on during the exam.

26. Person A said as follows:

*'At about 11.20 am I approached Mr Sepulveda after observing him and his actions. He appeared to be looking at his lap which was not seen with the other students I was invigilating. Other students were simply refering [sic] to their scratch paper on the exam desk since there is enough space on the desks. I noticed that he was browsing / reading something and I thought that he was hiding something. I saw that he was staring down and looking at a sheet of paper which was filled with notes. I wanted to make sure that when I caught his attention, he would still be looking at the paper with the notes. The paper with notes was folded with small fonts on his notes. These notes were mixed together with his scratch papers. Mr Sepulveda seemed annoyed when I approached him to observe him closer. When I found the written notes in Mr Sepulveda's possession, he seemed shocked that he was caught with them. Mr Sepulveda insisted that it was just notes he had written during his exam. However, I believed that it had not been written during the exam based on the characteristics of the paper that was found and the penmanship written on the notes were not the same as the other scratch paper he was using. I noticed that Mr Sepulveda only had one pen but the thickness of the writing in his scratch paper and notes in the questions were not obviously the same.'*

27. Person A said that they confiscated the notes, and the Committee was provided with a copy of them. Person A said that Mr Sepulveda was given an opportunity to complete a SCRS2B form, setting out his account of events on that day, but he did not do so.

28. ACCA also relied on a witness statement from ACCA's Qualifications Content Lead, Ms Linda Webb.

29. Ms Webb confirms that the information contained within the confiscated notes would give a candidate taking the MA exam, such as Mr Sepulveda, an advantage.

30. She was asked whether it was her belief that it was feasible that Mr Sepulveda could have written the notes during the exam or if they were written and structured in a way that could show they had been written before the exam. Ms Webb said that in her opinion the notes were written before the exam and that this was the most likely situation for the following reasons:

*'The notes are lengthy – generally candidates writing formulae to remember at the beginning of their exam would tend not to write such a detailed, comprehensive set of notes.*

*The notes are very well written, most are written in full with few abbreviations, they are neatly laid out in obvious sections, with headings and numbering in some parts. The numbering would be particularly unusual if a student was simply writing reminders for themselves on the day. On 2 parts of the notes, the headings refer to Chapter 4 and Chapter 5 – again unusual if this was simply an aide memoire.*

*One part of the notes appears darker than the rest suggesting a different pen had been used. The notes then revert back to the lighter ink.*

*The MA exam is two hours long and this set of notes would have taken a considerable time to write out, thus reducing significantly the time available for answering the exam questions.'*

31. ACCA wrote to Mr Sepulveda on 24 April 2023, putting the allegations to him and inviting him to answer a number of questions. He replied by email on 10 May 2023 (pages 49-52).

32. In response to the question as to whether he accepted that he had written the notes that were found on his desk during the examination on 07 February 2023, Mr Sepulveda said:

*'Yes. I accept that I had written notes which I write during the exam and inside the testing site.'*

33. He was also asked if he accepted that the written notes consisted of unauthorised materials and were in his possession during the Management Accounting exam on 07 February 2023. Mr Sepulveda stated:

*'No. I do not accept that the notes consisted of unauthorized materials. The notes only consisted of formulas which I wrote during the exam and inside the testing site.'*

34. Mr Sepulveda was further asked if he accepted that these notes were relevant to the syllabus or examination taken on 07 February 2023. Mr Sepulveda replied:

*'Yes. It is relevant to the Management Accounting exam since it is a formula and scratch paper I wrote during the duration of the exam.'*

35. Mr Sepulveda was also asked if he intended to use these written notes during the examination on 07 February 2023. Mr Sepulveda said:

*'Yes. As I've mentioned, the notes consist of formulas and scratch I've written during the duration of the examination and inside the testing site.'*

36. He was asked whether he had any comments to make in response to the allegations and Mr Sepulveda stated:

*'I am writing to express my deep disappointment and frustration at the allegations being thrown at me during the Management Accounting Examination. As a student, I take my academic integrity very seriously, and I want to make it clear that I did not violate any of the policies.*

*I understand that the allegations being thrown is a serious offense and can have severe consequences. However, being falsely accused can be equally damaging to my emotional and mental well-being and academic record.*

*I have worked hard throughout my review to prepare for this exam, and I would never jeopardize my academic progress. I understand that the ACCA integrity policy is in place to ensure that everyone is held accountable and treated fairly. However, I urge you to reconsider the evidence and accusations against me and give me a chance to defend myself.*

*As I've read the report, I would like to clarify that I wasn't annoyed to be seen having scratch papers with formula, as I've entered the examination site and before I answer any of the question I have immediately wrote all of the formulas I deemed necessary to use in any case I might forgot it as I normally do. However, I am shocked and disappointed and humiliated when the proctor approach me with the presumption that I am doing something unethical without any proper confirmation. We were allowed to bring 5 blank white papers to serve as scratch paper during the exam where I wrote my formulas during the duration of the exam which were all present in my table. One more issue that I would like to raise is the timing of the invigilator's approach. Written in the report the time of incident happened at 11:20, however the invigilator approached me with only 5-10 minutes remaining in my exam time. If the allegations were true, it seems unlikely that the invigilator would wait until the last minute to approach me about the issue and as he is sitting behind me. It is possible that if it was true, the invigilator would have approached me earlier in the exam.'*



37. ACCA's case was that the notes seized from Mr Sepulveda constitute unauthorised material, as defined by Exam Regulation 4. ACCA alleged that Mr Sepulveda's conduct was dishonest, or alternatively lacking in integrity, in that he had the notes in his possession in order to gain an unfair advantage in the exam.

## **DECISIONS ON ALLEGATIONS AND REASONS**

38. The Committee considered the documents before it, the oral evidence of Ms Webb, the submissions of Ms Mitchell on behalf of ACCA and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities. However, where a student is found to be in possession of unauthorised material during an exam the burden is reversed, and the student is presumed to have intended to use the material to gain an unfair advantage unless the contrary is proved (Exam Regulation 6(a)).

### Allegation 1

39. It was not in dispute that Mr Sepulveda had in his possession, during the MA exam on 07 February 2023, the notes that were seized by Person A. The issue for the Committee was whether they were unauthorised materials. Ms Mitchell, for ACCA, accepted that if Mr Sepulveda had written the notes during the exam, they would not constitute unauthorised material. However, ACCA's case was that these were revision notes which he had brought into the exam in order to cheat.
40. The question for the Committee, therefore, was whether ACCA had established, on the balance of probabilities, that the notes had not been written during the exam.
41. The Committee was satisfied that it had. The Committee found Ms Webb to be a credible witness. It considered that it could place weight on her opinion, as set out in paragraph 30 above, that it was very unlikely that the notes in question would have been written in the exam room.
42. The detail, structure and neatness of the notes was inconsistent with them having been written during an exam. The Committee noted Ms Webb's evidence that it would probably take a student in the order of 15 to 20 minutes

to write out notes as comprehensive as these. It was unlikely that, in an exam which was only due to last two hours, that much time would be taken up in such a task.

43. Further, if the candidate were able to recall the contents of their revision to such an extent, they were able to produce a set of notes as detailed as these, they could have simply applied that knowledge during the course of the exam. They would not have wasted time by writing them out.
44. Ms Webb also made the point during her evidence that some of the formulas in the notes were contained in the formula sheet that all candidates were provided with as part of the exam materials. The Committee considered there was force in Ms Webb's point that there would be little purpose in writing out, during an exam, a formula which the student already had available to them.
45. The Committee also felt there was significance in the account of the invigilator that Mr Sepulveda was looking at the notes on his lap, rather than on his desk. There would have been no need for this degree of secrecy if Mr Sepulveda's account was correct.
46. The Committee was satisfied that Mr Sepulveda had taken these notes into the exam with him, and therefore he had in his possession unauthorised materials in breach of Exam Regulation 4. It therefore found this allegation proved.

#### Allegation 2

47. Having found Allegation 1 proved, the Committee had to consider whether Mr Sepulveda either used or intended to use the notes to gain an unfair advantage in the exam.
48. The evidence of the invigilator, which the Committee accepted, was that Mr Sepulveda was using the notes at the time he approached him. Further, as a matter of common sense, there was no reason that Mr Sepulveda would have had them with him other than to use them to assist in answering the questions.
49. In any event, given that the notes were clearly relevant to the syllabus, under Exam Regulation 6(a) the burden is on Mr Sepulveda to show that he did not have the intention of using the notes to gain an unfair advantage. He had not discharged that burden.
50. For all these reasons, the Committee found Allegation 2 proved.

Allegation 3(a)

51. There was no doubt in the Committee's mind that Mr Sepulveda was well aware he was not permitted to bring revision notes into the exam, and that his purpose in doing so was to gain an unfair advantage. This would clearly be regarded as dishonest by the standards of ordinary and honest members of the public. The Committee found that Mr Sepulveda's actions were dishonest, and therefore Allegation 3(a) was proved.

Allegation 3(b)

52. Having found Allegation 3(a) proved, there was no need for the Committee to consider the alternative in Allegation 3(b).

Allegation 4(a)

53. Dishonest conduct in connection with a professional exam would rightly be regarded as deplorable by fellow members of the profession. It brings discredit on the member and on the Association. It constitutes a very significant falling short of acceptable standards and amounts to misconduct.
54. The Committee therefore found Allegation 4(a) proved.

Allegation 4(b)

55. Having found Allegation 4(a) proved, there was no need for the Committee to consider Allegation 4(b) as it was put in the alternative.

**SANCTION AND REASONS**

56. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour.
57. The only mitigating factor was that Mr Sepulveda has no previous disciplinary record.

58. The Committee considered the following to be aggravating factors. This was deliberate conduct motivated by personal gain. Such conduct undermines the integrity of the exam system and causes harm to public confidence in the profession because it can result in a student passing an exam they would not otherwise have passed.
59. Having found that Mr Sepulveda's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
60. Mr Sepulveda's actions were dishonest. Given the seriousness of the conduct, in the Committee's view it would be inappropriate to admonish or reprimand him. Taking into account in particular the guidance in the GDS on cases where dishonesty has been found, the Committee found no exceptional reasons which would justify the imposition of a severe reprimand.
61. The Committee concluded that Mr Sepulveda's actions in this case were fundamentally incompatible with being a student member of a professional association. The Committee did not feel that any order which allowed Mr Sepulveda to retain his student membership of ACCA could possibly be justified.
62. Therefore, the Committee made an order under CDR 13(4)(c) of the Disciplinary Regulations removing Mr Sepulveda from the student register.
63. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(4)(c) restricting Mr Sepulveda's right to apply for readmission beyond the normal minimum period.

#### **COSTS AND REASONS**

64. ACCA applied for costs against Mr Sepulveda in the sum of £9,203. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
65. The Committee found that there was no reason in principle not to make an order for costs in ACCA's favour. The Committee had no information about Mr Sepulveda's financial circumstances.

66. The Committee considered that a reduction should be made from the sum sought to reflect the fact that this case was listed for two days but concluded within one day. Otherwise, the Committee considered that the sums claimed were reasonable and had been properly incurred.
67. In the circumstances, the Committee ordered Mr Sepulveda to pay ACCA's costs in the sum of £8,000.

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

68. The order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Mr Sepulveda gives notice of appeal in accordance with the Appeal Regulations prior to that.

**Ilana Tessler**  
**Chair**  
**19 February 2025**