

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Hasnain Taj Abbasi

Heard on: Tuesday, 14 January 2025

Location: Remotely via Microsoft Teams

Committee: Ms Colette Lang (Chair)
Ms Sue Gallone (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Ms Giovanna Palmiero

**Persons present
and capacity:** Mr Benjamin Jowett (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)

Summary Removed from the student register

Costs: No order for costs

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Hasnain Taj Abbasi (Mr Abbasi).
2. Mr Ben Jowett (Mr Jowett) presented the case on behalf of the ACCA.

3. Mr Abbasi attended and was not represented. The Allegations were formally put to Mr Abbasi, and he entered denials to them all. He confirmed that he did not wish to make an application to have his hearing in private.
4. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
5. In accordance with Regulation 11(1)(a) of the Chartered Certificate Accountants Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
6. The hearing was conducted remotely via Microsoft Teams.
7. The Committee was provided with, and considered in advance, the following documents:
 - (i) A Report & Hearing Bundle with pages numbered 1-104;
 - (ii) A Supplementary Bundle with pages numbered 1-21;
 - (iii) A Completed Case Management Form 15 pages
 - (iv) Tabled Additional Bundles with pages numbered 1-2
 - (v) An Additional Bundles (2) with pages numbered 1-8
 - (vi) A Service Bundle numbered with pages numbered 1-20.
 - (vii) Cost Schedules were provided to the Committee at the sanction stage.

ALLEGATIONS

Mr Hasnain Taj Abbasi, an ACCA student, during a remotely invigilated MA1 Management Information examination taken 16 December 2020:

1. Used or permitted a third party an unauthorised item namely an electronic device capable of taking photographs.
2. Further to the matters referred to in Allegation 1, took 56 photographs of exam questions as presented on his PC screen.

3. Further to the matters referred to in Allegations 1 and 2 shared some or all of those photographs referred to in Allegation 2 with a person or persons unknown.
4. By the reason of the matters referred to above in respect of Allegations 1 to 3, Mr Abbasi is in breach of one or more of:
 - a) Exam Regulations 6 in respect of Allegation 1
 - b) Exam Regulation 14 in respect of Allegation 2
 - c) Exam Regulation 10 in respect of Allegation 3
 - d) Exam Regulation 14 in respect of Allegation 3
5. Contrary to Exam Regulation 6, used an electronic communication device (capable of taking photographs) to gain an unfair advantage in accordance with Exam Regulation 7(b).
6. Mr Abbasi's conduct as referred to in any or all Allegations 1 to 4 above:
 - a) Was dishonest in that the taking and retaining of photographs of exam content could potentially assist him if he had to re-sit the same exam, and thereby provide him with an unfair advantage; and/or
 - b) Was dishonest in that causing and/or permitting the photographs to be taken and/or shared with a person or persons unknown whether during the exam or otherwise could provide them with an unfair advantage in the said exam or a future exam; or in the alternative,
 - c) Demonstrates a failure to act with Integrity.
7. By reason of his conduct, Mr Abbasi is liable to disciplinary action pursuant to:
 - a) Bye-law 8(a)(i) or in the alternative
 - b) Bye-law 8 (a)(iii) in respect of breaches of the exam regulations as set out in Allegation 4 above

BRIEF BACKGROUND

8. On 25 October 2020, Mr Abbasi became an ACCA registered student. As such, he is bound by ACCA's Code of Ethics and Conduct, Bye-laws and Regulations including the Examination Regulations.
9. Mr Abbasi sat ACCA exams between December 2020 and December 2023. On 16 December 2020, Mr Abbasi sat ACCA's MA1 Management Information remotely invigilated exam (the Exam). The Exam was hosted on ProctorU's platform. It is accepted by Mr Abbasi that he agreed to comply with those regulations in advance of sitting the Exam.
10. On 21 December 2023, ACCA received an email from an individual who wished to remain anonymous notifying ACCA of certain concerns and attaching 56 photographs/images of examination content. The Investigations Officer reviewed the 56 images and noted that most of the images displayed a student registration number which was identical to that of Mr Abbasi's unique registration number.
11. ACCA relies on the witness statement of Neil Smith exhibiting the said photographs received. To protect the integrity of ACCA's exams, a redacted version of the photographs has been included in the accompanying Evidence Bundle.
12. On 18 April 2024, Mr Abbasi was formally notified of ACCA's investigation and sent a series of questions relating to the photographs of the exam questions. He was sent a redacted version of the exam photographs allegedly shared and asked for his comments regarding the incident in question.
13. Mr Abbasi responded to ACCA's letter and investigation enquiries on 2 May 2024 and denied that he took and subsequently shared any photographs of the said exams, and/or permitted another individual to do so. Although he accepts that the majority of the photographs shared by the whistleblower include his unique registration number, he said he does not know how the photographs were taken and subsequently shared.

ACCA's SUBMISSIONS

14. ACCA submits that the allegations referred to above are capable of proof by the documents in the Evidence Bundle attached to this report. ACCA's position is that Mr Abbasi took photographs of ACCA exam questions, or permitted a third party to take said photographs, during his examination attempt. ACCA rely on the photographic evidence provided by the whistleblower which shows that most of the photographs include Mr Abbasi's unique student registration number as exhibited in the witness statement of Mr Neil Smith.
15. The fact that the matter was brought to ACCA's attention by a third party demonstrates that at least one other person had in their possession photographs taken from Mr Abbasi's exam attempt of 16 December 2020. As noted above, these photographs originate from Mr Abbasi's exam attempt and ACCA submits that Mr Abbasi therefore caused or permitted the sharing of one or more of the photographs provided to ACCA by the third party. ACCA submits that if proved, such conduct amounts to misconduct.

Dishonesty

16. The case of *Ivey v Genting Casinos [2017] UKSC 67* at para 74 since approved in *R v Barton and another [2020] EWCA Crim 575* provided the following guidance as to the meaning of dishonesty:

"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."

17. ACCA submits that the conduct set out at Allegations 1 to 4 above amounts to dishonesty on the basis that Mr Abbasi knew that he was not permitted to take photographs of exam content and/or permit a third party to do so as this may allow him to procure for himself answers to the exam questions and therefore gain an unfair advantage in the exam. Additionally, Mr Abbasi knew that he was not permitted to cause and/or permit the sharing of exam content with another as such conduct may assist another person(s) sitting the same exam or a future exam, which may give them an unfair advantage for the reasons explained by Mr Smith at paragraph 11 of his witness statement. It is submitted that such conduct would be regarded as dishonest by the standards of ordinary decent people.

Integrity

18. In the alternative, if the conduct as referred to above is not found to be dishonest, then it is submitted that Mr Abbasi failed to demonstrate Integrity. In *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, the Court of Appeal addressed what was required in a professional disciplinary context by the standard of integrity. At paras 95-97, Jackson LJ expressed the matter in a way that applied to regulated professions generally and said this:

“95. Let me now turn to integrity. As a matter of common parlance and as a matter of law, integrity is a broader concept than honesty...”

96. Integrity is a more nebulous concept than honesty. Hence it is less easy to define, as a number of judges have noted.

97. In professional codes of conduct, the term “integrity” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.”

Misconduct

19. Misconduct is a matter of judgment for the Disciplinary Committee and not a matter of evidence.
20. It was said in *Roylance v General Medical Council* [2001] 1 AC 311, at para. 38:

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety in any given case may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances.”

21. For a Committee to conclude that the facts found proved amount to misconduct, the Committee must be satisfied that the conduct is serious. Misconduct is a matter for the Disciplinary Committee’s professional judgement.
22. ACCA submits that the facts that underly the allegations, if proved, amount to misconduct, both individually and when considered in their totality, in that the conduct alleged brings discredit to Mr Abbasi and/or ACCA, and/or the accountancy profession.

Liability to Disciplinary Action

23. ACCA submits that Mr Abbasi’s conduct has breached Exam Regulations 6,10 and 14 of the Exam Regulations. If the Committee is not persuaded that any conduct found proved amounts to misconduct, then Mr Abbasi is liable to disciplinary action pursuant to bye-law 8(a)(iii) for breach of the aforementioned Exam Regulations.

EVIDENCE CALLED BY ACCA

24. Mr Neil Smith (Mr Smith) was called by Mr Jowett to give evidence on behalf of the ACCA. Mr Smith attended the remote hearing and confirmed that the statement submitted in the bundle of evidence at page 35 is his witness

statement, that the contents were true and that he signed this statement on the 23 April 2024. This statement was adopted as Mr Smith's main evidence in chief.

25. Mr Jowett asked Mr Smith a number of questions in chief.
26. Mr Smith confirmed the investigation against Mr Abbasi commenced by ACCA on being sent the images of the exam by the whistleblower and that the main evidence was the photographs, and the student number appears in most of the photos. Mr Smith explained that at the start of the remote examination, when the student logged into the system, they had to enter their registered ACCA number and present identification documentation to the Proctor.
27. Mr Abbasi's student number appears in most of the images. The configuration of the remote online exam means that the students' data is built into the exam and student registration number, which is unique to each student, is displayed at the top of the remote online exam.
28. Mr Smith further stated that after a student books an online remote exam, a link is provided to the student in advance, to which the student, when logging into the exam, must input their unique student number, date of birth and then go through the verification process with the Proctor previously mentioned.
29. As well as confirming the student number on the photographs, Mr Smith undertook other enquiries to substantiate whose exam those photographs originated from. On reviewing the exam production systems, Mr Smith was able to confirm that on the 16 December 2020, not all students who sat the exam on that day would be presented with the same questions in the same order. Mr Smith confirmed that the time stamps on the photographs correlate with the time the exam was undertaken by Mr Abbasi and the questions match the content of the exam presented to Mr Abbasi during his exam.
30. Mr Smith was asked as to whether the student registration number could have been changed or doctored. Mr Smith stated that there is no evidence of pixilation, tampering or doctoring. Mr Smith also pointed out that all the images collectively show the same environment and room. The photographs are taken

from different angles, but the student registration number is in the same, as well as the environment.

31. During cross-examination by Mr Abbasi, Mr Smith was asked if he could be sure that the photographs were from Mr Abbasi's exam. Mr Smith re-iterated the points previously made regarding the unique student number, the correlation of exam questions, the environment and that there was no obvious pixilation of the images.
32. The Committee asked Mr Smith questions about the unique nature of the questions presented during the exam. He explained that the questions are taken from a larger bundle of questions and that they vary throughout the day, so he could tell that this student had been presented with the particular set of questions. He also confirmed that the questioned were in the correct sequence and used question 12 to illustrate the point. When pushed Mr Smith conceded that another student may have had the same sequence of exam questions that same day was theoretically possible, but when linked with the time of the exam, the actual questions, and student number this was highly unlikely.
33. The Committee then asked, if the student registration number had not been visible, could Mr Smith have identified that the photographs represented Mr Abbasi's exam. He stated that without the student number, the ACCA may have been able to identify which student undertook this exam, but due to having the registration number it was a moot point. Mr Smith confirmed that all the factors, such as the unique student number, the actual questions and their sequence, the environment (which was the same even though the photographs were taken from a number of different angles) and also that there was no obvious pixelation, were all indicative that this was Mr Abbasi's exam.
34. The Committee also asked about the time that was visible on the photographs. Mr Smith stated that students can navigate the exam and move around the questions, and do not have to answer them in sequential order. It was clear from the time on the photographs that most of the images were captured within a short period of time frame, from the beginning of the exam.

35. Mr Smith confirmed, in re-examination by Mr Jowett, that there was no evidence to show at what time the answers to the questions were inputted by Mr Abbasi, and that without the student registration number the ACCA may have been able to simply use the questions to identify which student had undertaken this exam.

MR ABBASI'S RESPONSE TO ALLEGATIONS AND SUBMISSIONS

36. Mr Abbasi formally denied all the allegations before the Committee.
37. During the course of the investigation Mr Abbasi responded to the ACCA's correspondence. In an email dated 2 May 2024 Mr Abbasi stated:

"Hi,

I hope you're doing well. I recently received your email about the accusation of using unfair means during the exam that happened around 3.5 years ago. I got to be honest, I'm a bit surprised by this claim because I genuinely have no recollection of any unfair behavior during that exam.

Now, let's talk about the timing. It's been quite a while since that exam, and it's pretty tough to remember the specifics of what went down. I mean, it's humanly really difficult for me to recall something from 3.5 years ago, however I am writing to express my utmost commitment to providing comprehensive support to the investigating board in its endeavors.

MY RESPONSE:

- 1. I hereby confirm that student number attached in photos is mine*
- 2. I deny the allegation(1a) that I used or permitted someone to use camera during the exam*
- 3. I also deny allegation (1b) that I shared photographs of exam content*
- 4. I have no idea how were the photographs taken during the exam because to me my focus is always on screen while attempting every exam*
- 5. I categorically deny the allegations of sharing exam photos as I did not capture nor possess any exam photos*
- 6. There was no person in room*
- 7. There was no one*

8. *I haven't allowed any one to take photos of my exam*
9. *Neither did I nor i let someone to take photos of my exam*
10. *I didn't shared exam photos*
11. *No i didn't*
12. *I didn't took photos in the exam nor do i have any other photos*
13. *How can i receive any payment when i didn't shared any photos*
14. *I didn't received any payment*
15. *Yeah i read all Examination regulations and guidelines*
16. *I placed my cellphone out of reach, showed it to my proctor and made sure it was out of arms. In addition i did not left my seat so my cellphone was out of reach during whole exam.*
17. *I didn't mislead my proctor*

To cut it short i have always made sure to follow exam guidelines given by ACCA. Though I attempted 14 more exams after this particular exam and never came across any allegations. Secondly why will i share my exam pictures after completing my acca 70%. I have never shared any exam photos in any social media groups nor have I got any exam photos from anywhere

Moreover i got an additional attachment regarding attempting ACCA exams remotely in Pakistan by changing VPN, I gave exam during the time when remote exams were allowed in Pakistan and CBE's were closed at that time once we got CBE's open i gave all my exam Centre based and never attempted online exam again." (sic)

38. Mr Abbasi sent a further email dated 24 July 2024:

"Hi,

Hope you are doing well

Respected sir/madam i just want to give a brief background that it shocked me when I received email of acca regarding alleged paper that happened 3 years ago. Acca told me that the questions are of my exam and pictures are not edited, well i don't know the procedure acca takes to reconfirm questions because as a student it's not possible for me to remember exact questions of

an exam that i attempted 3 4 years ago. Sir i am a student who gives exam regularly but just because of this case i have already wasted almost a year. I can't give an exam and now it's almost 6 7 months and case is still ongoing.

[Private]

Sir with due respect just as i told the board i completely deny that i took photos I requested acca to see recording i haven't took any pictures also we are being told by proctor to leave phones out of reach in front of him and you aren't allowed to leave you seat till exam is finished. The allegations that these were being shared on social media by me i had told them I am ready to share my any social media handel acca wants and I have never ever shared any single photo on any groups. There has never been a single proof shown by acca that i have shared photos in public groups. Secondly why will I share any photos that has my registration number on it and that too after 3 years of passing that exam.

I told the board and now to respected assessor that remote exams are not available in pakistan and i haven't given any remote exam in past 2 3 years. So the allegation by acca that it's a public property and student can do such thing again has no value because remote exams are already banned in my country and as i said earlier i haven't given any exam since last 2 3 years.

The alleged paper was in 2020 and now it's 2024 i attempted 14 exams and i passed 10 exams after that paper, As it can be seen in transcript i have even failed exams and re attempted them. I even reattempted an exam called FM (F9) 4 times, I spent my 4 years with this degree whereas 4th being wasted. It requires alot of effort to clear 10 exams. And it's really painful for a student to get banned for absolutely doing nothing and that too for an exam that he attempted 3 years ago. Everyone has their goals set for their future and it affected me alot as i was really motivated to complete my studies. As i said earlier i spent 3 more years after that exam and there's never been a single issue in those 3 years.

I am a regular student of accounting who has no idea of law/legal proceedings neither I have money to hire a lawyer for my case. So if any of my above message doesn't fit in to the standards of a professional reply i apologize for it

At last i just want to say i really hope it won't get any further from here as i want this case to be completed ASAP because of the time that has been wasted already and I really want to continue my studies

*Kindly let me know if i can be helpful for any further explanation if needed
Kind regards,*

Hasnain" (sic)

39. Mr Abbasi completed the Case Management Form and sent this to ACCA attached to an email in September 2024. This stated:

"As I said earlier it was quite a while ago (Almost 4 years) I don't remember each and everything but I had nothing to do with any of pictures neither did I shared them with anyone. I am ready to provide any details of social media to team if acca thinks I shared them in any of groups. More importantly there is absolutely no use of pictures from exam after 4 years, why would I share such photos after 4 years. Further explanation or reply to any query will be hopefully answered in meeting I want my case to be heard in private because of confidentialiaty, and I will be more comfortable when meeting is private" (sic)

MR ABBASI'S SUBMISSIONS

40. Mr Abbasi chose to address the Committee by making formal submissions rather than to give evidence.
41. Mr Abbasi emphasised that four years had passed since he undertook the exam in question, and that it is extremely difficult to recount details of a specific day. He could not provide specific evidence to support his account due to the passage of time. He has since taken 11 exams after the one in question.

42. As way of a brief background, Mr Abbasi stated that this was his second exam and it was during the Covid pandemic, which is why he was able to take a remote exam. He explained that in his country there are issues with supply of electricity and internet access, and he had been concerned that his exam could be cancelled due to this. He did not take the exam at his home, but a private room in a library like facility, due to this issue with connectivity and electrical supply.
43. Mr Abbasi accepts that his student number is present in some of the photographs shared by the whistleblower.
44. Mr Abbasi confirmed that at the start of the exam he had to show his documentary identification and surroundings to the Proctor, which included the room, the door, the table and his home. The Proctor asked him to put the phone out of arms reach before the exam started and the Proctor monitored him throughout the exam. It was not possible for Mr Abbasi to take the photographs in front of the proctor, when his phone was out of reach.
45. Mr Abbasi reminded the Committee that there is no recording of the exam, and the Proctor raised no concerns at the time.
46. Mr Abbasi denied taking the photographs due his phone being out of reach and he was not in possession of another phone. The first time he saw the photographs was in 2024 when the ACCA contacted him. He questioned why the person sending the photographs to ACCA was not questioned as to where they were obtained from, and no attempt appears to have been made to trace the person who had shared them.
47. Mr Abbasi stated that he was at a disadvantage before the Committee, as he could not afford legal assistance, and did not believe that he was able to be on equal ground as the ACCA, however he was thankful to the legal advisor for their assistance.
48. Mr Abbasi explained the stress of the proceedings and that he had been unable to continue with his examinations since this was raised in April 2024. He submitted that this was punishment enough and questioned the purpose of a

sanction. He further explained that the exams were expensive to sit, and he no longer had the option to switch to another form of professional exam.

49. Mr Abbasi denied taking the photographs or sharing them. He stated that would not be so stupid to share the photographs of his exam when they showed his registration number on them. He accepted that he did not read the exam regulations and stated that most students do not read them. The institution who reported the images to ACCA is not one which is local and is very far from where he lives and does not know any students who study there.
50. Mr Abbasi relied upon his good character in support of his submissions and referred to the references he had provided in advance of the hearing. He went through the different documents and explained their relevance.

DECISION ON ALLEGATIONS AND REASONS

51. The Committee considered ACCA's bundle of evidence, the written representations which were supplemented by Mr Jowett orally, the oral evidence of ACCA witness Mr Neil Smith. The Committee also considered Mr Abbasi's submissions and the documentation he provided in support. The Committee accepted the legal advice from the Legal Adviser.
52. The Committee was aware that the burden of proving the facts was on ACCA. Mr Abassi did not have to prove anything, and the charges could only be found proved if the Committee was satisfied on the balance of probabilities.
53. The Committee heard that there had been no previous disciplinary findings against Mr Abassi and accepted that it was relevant to put his good character in evidence relating to the likelihood of him acting as ACCA alleged. The Committee had been advised on what weight to attach to this by the Legal Adviser.

ALLEGATIONS 1, 2 and 3

54. The issue for the Committee to determine in respect of these allegations was whether Mr Abassi used, or permitted another to use, an unauthorised

electronic device capable of taking photographs during his exam on 16 December 2020, and that this device then took photographs the 56 photographs, and then these photographs were shared with others.

55. ACCA relied upon the evidence of the 56 photographs of the exam forwarded by the whistleblower and the analysis of these photographs by Mr Smith to prove the allegations.
56. The main evidence which linked these photographs to Mr Abbasi was the fact that Mr Abbasi's unique student number was present on most of the photographs captured. Mr Abbasi admitted that this was indeed his student number. Mr Smith asserted that in his opinion the photographs did not look like they had been pixilated or doctored to change this number. The Committee determined on balance that these were genuine photographs of Mr Abbasi's exam.
57. The Committee was also mindful of the rest of Mr Smith's evidence in support of the fact that these photographs were taken of Mr Abbasi's exam. The time, the almost unique format of the questions on Mr Abbasi's exam and the order that they were presented in, also supported the fact that these photographs were indeed from Mr Abbasi's exam.
58. The Committee determined that these photographs were taken near to the computer screen and were taken at various different angles, and the only conclusion which can be inferred is that they were not taken from a fixed camera but a mobile electronic device, and by a person who was in close proximity to the computer screen. The only plausible inference therefore was that Mr Abbasi must have taken the photographs or been aware that someone else was taking these images.
59. It was also noted by the Committee that the photographs of the screen showed the time remaining on the computer, so the time they were taken could be established. The Committee noted that many of the photographs were taken at the beginning of the exam but displayed questions from throughout the whole exam. Mr Smith had confirmed that the exam taker was able to navigate the

exam freely without having to answer questions in sequence before being able to move to the next.

60. The Committee, whilst sympathetic to Mr Abbasi's assertions that he was at a disadvantage in these proceedings due to fact that a number of years has passed since the exam and that the recording of the exam had been disposed of, was nonetheless aware that the relevant photographs were only provided to ACCA in 2024, after which it immediately commenced the investigation.
61. The Committee bore in mind that Mr Abbasi made his submissions clearly and robustly and considered his points, such as there were no issues raised by the Proctor at the time of the exam, and that at the start of the exam he had to show the Proctor the room, the table and that his mobile phone was out of reach. Mr Abbasi, in his summing up stated that he had not undertaken the exam in his own home, he was aware the Proctor was watching and that he would not be so stupid as to send images of exams showing his own student number.
62. The Committee considered Mr Abbasi's submissions carefully, but it decided to give them less weight, in the context of the documentary and oral evidence available to it. His submissions had not been subject to the testing or probing of cross examination.
63. The Committee concluded that the only plausible conclusion on the facts, was that the photographs were of Mr Abbasi's exam due to his unique student number being present on the screen, and that the evidence of Mr Smith, which confirmed timings, and the format of the questions could be attributed to Mr Abbasi's exam. The Committee noted Mr Abbasi's denials of taking any photographs or wrongdoing but did not consider on the balance of probabilities this to be plausible or credible in the circumstances.
64. Further, the Committee found that it was more likely than not, that the photographs were taken on a mobile phone or camera that was an unauthorised item capable of taking photographs. Accordingly, the Committee was satisfied that Allegation 1 was proved on a balance of probabilities.

65. It therefore followed, that if the photographs were of Mr Abbasi's exam, then the only credible inference is that Mr Abbasi must have taken photographs or that he allowed and permitted someone else to do so. Accordingly, the Committee was satisfied that Allegation 2 was proved on a balance of probabilities.
66. The Committee was satisfied that the photographs were received by ACCA from a third party or whistleblower. The whistleblower referred to the photographs being shared in a group. Given its finding on Allegation 1 and 2 the Committee were satisfied that it was a reasonable inference to draw that Mr Abbasi either shared the photographs with person or persons unknown or permitted them to be so shared. Accordingly, the Committee was satisfied that Allegation 3 was proved on a balance of probabilities.

ALLEGATION 4 – Breach of Exam Regulations.

67. The Committee noted that in his oral submissions Mr Abbasi stated that he had not read the exam rules and regulations, however in his written correspondence, he had confirmed that he had read the rules and regulations. Notwithstanding this inconsistency, Mr Abbasi was clearly aware of the rule not to have his mobile phone close to him during the remote exam as he gave a description in his submission, of the initial instructions by the Proctor, such as showing his table and the room and ensuring that the mobile phone was at arm's length.
68. As a student member of a professional organisation, it is Mr Abbasi's responsibility to ensure his understanding of the rules and regulations of a professional examination.
69. Based on the Committee's findings above in relation to Allegation 1, 2 and 3 that Mr Abbasi had with him an electronic device that a device was used to take photographs and that these photographs were then shared with others, it therefore followed that was sufficient evidence on a balance of probability to prove that Mr Abbasi had breached:

- (a) Exam Regulations 6 in respect of Allegation 1

- (b) Exam Regulation 14 in respect of Allegation 2
- i. Exam Regulation 10 in respect of Allegation 3
- ii. Exam Regulation 14 in respect of Allegation 3

ALLEGATION 5

- 70. In deciding whether Mr Abbasi had used an electronic device to gain an unfair advantage for himself or others in accordance with Exam Regulation 7(b), the Committee had to consider what were the likely reasons for taking the photographs.
- 71. The Committee had found that the taking of the photographs was not accidental and was intentional, and the likely intention was to assist either himself or others. It was satisfied that it was a reasonable inference to draw from the taking of a large number of photographs during the exam, that a likely intention was to assist himself or in order to gain some benefit or unfair advantage for himself or to assist others.
- 72. The Committee therefore found that there was sufficient evidence upon a balance of probability to find Allegation 5 proved.

ALLEGATION 6 (a), (b) & (c) - Dishonesty & Integrity

- 73. The Committee relied upon its findings of fact under Allegations 1, 2, 3, 4 and 5 above in assisting with the determination of the issue of dishonesty.
- 74. The Committee reminded itself that the test of dishonesty was found in the Supreme Court decision in *Ivey v Genting Casinos* [2017] UKSC 67. The Committee first had to determine Mr Abbasi's actual knowledge or belief and then determine whether his acts or omission were, on the balance of probabilities, dishonest by the ordinary standards of ordinary decent people.
- 75. In reaching its decision in respect of this allegation, the Committee had applied the first part of the test for dishonesty and determined, Mr Abbasi's actual knowledge or belief. The Committee noted the previous good character of Mr Abbasi, and the references provided to support his good character.

76. Did Mr Abbasi know he was acting dishonestly? The exam regulations are clear that these actions were not permitted. Whilst he stated he did not read the rules, it is clear that this type of behaviour demonstrates dishonesty due to the secretive way the photographs are taken. There was no other innocent explanation for taking these photographs.
77. The Committee had already found that the taking of the photographs was not accidental and was intentional, and that the likely reasons for taking the photographs was to gain some benefit or unfair advantage for himself or to assist others.
78. The Committee further considered the sharing of the photographs and Mr Abbasi's state of mind. Mr Abbasi states that he knew the sharing to be wrong and the Committee considered it reasonable to infer that the sharing of photographs with other exam candidates sitting the same exams would provide them with an unfair advantage.
79. The Committee was satisfied that there was no innocent explanation for the taking photographs and sharing of the photographs and that Mr Abbasi must have known that his actions were dishonest, in order to gain an advantage for himself or others.
80. The Committee were also satisfied that, by the standards of ordinary decent people, such conduct would be viewed as being dishonest
81. It was also satisfied both of these states of mind would be considered dishonest by ordinary decent people and therefore Allegations 6(a) and (b) were proved on the balance of probabilities.
82. The Committee did not therefore consider the alternative Allegation 6(c) of Integrity, and the Committee made no finding in respect of it.

ALLEGATION 7 - Misconduct

83. The Committee next asked itself whether the proven conduct amounted to misconduct.
84. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. In relation to Allegation 7, the Committee applied the test for misconduct, as per the case of *Roylance v General Medical Council* [2001] 1 AC 311, in which it was decided that *'the meaning of [misconduct] is of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety in any given case may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances.'*
85. In relation to Allegation 6(a) and (b) the Committee had found that Mr Abbasi's behaviour had been dishonest, therefore was satisfied that both the dishonest taking of photographs of professional exams to assist himself and/or others, the dishonest sharing of them to assist others was deplorable conduct and reached the threshold of seriousness for misconduct.
86. Being honest and trustworthy is a fundamental tenet of the accountancy profession. Mr Abbasi's conduct therefore had the potential to undermine the integrity of ACCA's examination system and public confidence in those taking the examinations and thus the profession.
87. His actions were serious and fundamentally fell short of the standards required of a student member and such conduct fell far below the standards expected of an accountant or student member of ACCA and could properly be described as deplorable.
88. In the light of its judgment on misconduct, no finding was needed upon liability to disciplinary action under Bye-law 8 (a)(iii) in respect of breaches of the exam regulations.

SANCTION AND REASONS

89. Mr Jowett made no submission as to the actual sanction but referred to the Guidance for Disciplinary Sanctions (GDS) and particularly the summary of the general principles. He commented on potential mitigating and aggravating features of the case, referring to the fact that Mr Abbasi had no other known previous disciplinary findings. Mr Jowett stated that Mr Abbasi's actions amounted to potential of harm, to the integrity of the regulatory exam process and to the public.
90. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
91. The Committee considered that the conduct in this case was very serious. The Committee had made a finding of dishonesty and had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Being honest is a fundamental requirement of any accountant.
92. The Committee considered whether any mitigating or aggravating factors featured in this case.

Aggravating features:

- Actions for personal gain;
- Potential for harm as actions undermine the integrity of the exam process and gain membership when not properly qualified.
- Mr Abbas has not demonstrated any real understanding of the seriousness of his conduct as he denied the allegations;
- No evidence of insight, remorse or reflection.

Mitigating features:

- There were no previous findings against Mr Abbasi;
 - Character references in support;
 - Complete engagement with the investigation process throughout;
93. Given the Committee's view of the seriousness of Mr Abbasi's conduct, 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.
94. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the guidance were not present and, in particular, there was no evidence of insight or remorse and a finding of dishonesty, a Severe Reprimand would be insufficient and inappropriate.
95. The Committee had regard to Section E2 of the Guidance on Dishonesty and the seriousness of such a finding on a professional. The Committee was particularly mindful there was no early admission, no evidence of understanding or insight, reflection, remorse or apology from Mr Abbasi. Given the serious nature of the misconduct, the Committee determined Mr Abbasi's behaviour was a serious departure from relevant professional standards. The Committee determined the only appropriate and proportionate sanction available is to order the removal of Mr Abbasi from the student members register. There were no exceptional or remarkable facts in this case to warrant a departure from this sanction.

EFFECTIVE DATE OF ORDER

96. In light of its decision and reasons to remove Mr Abbasi from the student register and the nature of his misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect. The Committee noted that Mr Abbasi had previously been subject to an interim order. It was the view that there was a risk to the public, if no immediate order were to be imposed as Mr Abbasi might undertake further examinations.

97. The Interim Order previously imposed was thereby revoked.
98. The Committee noted that the default period of exclusion is 12 months. The Committee decided not to extend this period, given the mechanisms in place at ACCA for readmission.

COSTS AND REASONS

99. ACCA applied for costs in the sum of £ 8,376.00. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the costs of the Case Presenter and Hearings Officer included in the sum quoted were based upon a full day when in fact the hearing took less than a whole day. Accordingly, the figure would be reduced to reflect this.
100. Mr Abbasi provided details of his income and outgoings to the Committee. He submitted that he did not have the means to pay the costs applied for in particular given his family circumstances which had changed.
101. The Committee had in mind the principle that members against whom an allegation has been proven should pay the reasonable and proportionate cost of ACCA in bringing the case. This was because the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings. However, the Committee took into consideration the fact that Mr Abbasi simply did not have the means to pay the costs.
102. In light of its observations above, the Committee used its discretion and did not make an order for costs.

Ms Colette Lang
Chair
14 January 2025