

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Uzair Ahmed

Heard on: Thursday, 23 January 2025

Location: Remotely via Microsoft Teams

Committee: Ms Kathryn Douglas (Chair)
Mr George Wood (Accountant)
Mr Geoff Baines (Lay)

Legal Adviser: Miss Juliet Gibbon

**Persons present
and capacity:** Mr Samuel Irving (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary: Allegations 1 and 2 found proved Allegation 3
(misconduct) found proved

Sanction: Removed from the student register

Costs: Mr Ahmed shall pay a contribution towards ACCA's costs
in the sum of £6,000.00.

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PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Uzair Ahmed. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1-121, two tabled additional bundles, numbered pages 1-13 and 1-8, together with a service bundle, numbered pages 1 to 17. The Committee also had sight of the video footage of the examination. At the second stage of the hearing the Committee was provided with a detailed and a simple schedule of costs.
2. Mr Samuel Irving represented ACCA. Mr Ahmed did not attend the hearing and was not represented.

SERVICE AND PROCEEDING IN ABSENCE

3. The notice of hearing, containing all the requisite information about the hearing, was sent by email on 18 December 2024 to Mr Ahmed’s registered email address. ACCA has provided a notification confirming delivery to Mr Ahmed’s email address.
4. On 23 December 2024 the Hearings Officer received an email from Mr Ahmed’s registered email address that purported to come from [PRIVATE]. The email stated that the email account had been compromised and hacked and was ‘*no longer active under Mr [PRIVATE] control*’. The sender further stated ‘we kindly request that you not send any email or confidential documents on this email and refrain from sending any further communications to that email. Because this email ... was hacked for 1.5 years. Now this email is used in China and under the control of a Chinese company. So we are aware you do not send any document or email on that Gmail. We are not responsible for any document and email which is misused by that hacker’. The email also stated: ‘*Mr. Khanuzair which is user of that email account is not aware anything for 1.5 years and he is deleted that email account when the email was hacked almost 1.5 years this email is not working and totally compromised by hacker and china based company*’ (sic).

5. An analyst in ACCA's Cyber Security Department was asked for advice. They were of the view that whilst it was 'impossible to say with absolute certainty that the account hasn't been taken over for 1½ years' the following 'oddities' were noted:
 - a. Why would a hacker reply to ACCA?
 - b. If the account had been compromised then how was the 'IT & Security Expert' managing to log in and send emails from the account, as this would indicate they have the password?
 - c. There is terminology in the email that does not make sense: it states that the account was 'reported and blocked' and then it states that it was 'deleted' and then it states that a Chinese company is using the account.
 - d. How would the account owner know that it was 'being used in China' and was compromised by a hacker and a China based company?
6. A paralegal with ACCA telephoned Mr Ahmed's registered number on 10 January 2025. The call was answered and the paralegal asked to speak to Uzair Ahmed. They were advised that they had the wrong number. When asked for confirmation that they were not speaking to Mr Uzair Ahmed they were advised that 'this is Norman'.
7. The paralegal subsequently sent an email to Mr Ahmed's registered email address on 10 January 2025 advising him that they had attempted to contact him via telephone and that 'it is imperative that we are able to contact you'. A link to Mr Ahmed's myACCA was included in the email together with a link to ACCA's contact centre. ACCA has provided a notification confirming delivery to Mr Ahmed's email address. ACCA's case management system shows that this email was opened on 11 January 2025.
8. On 10 January 2025 ACCA also sent a letter to Mr Ahmed at his registered address in Pakistan advising him to contact ACCA on the date he received the

letter. He was also advised to visit his myACCA account and update his contact information.

9. On 13 January 2025 the paralegal attempted to call Mr Ahmed again but received the message 'the number you have tried is off, try again later'.
10. On 17 January 2025 the case papers were sent to Mr Ahmed's registered address in Pakistan by post but, unfortunately, it was not sent by 'track and trace' and so there is no evidence before the Committee as to whether the papers have been delivered to Mr Ahmed's address or not.
11. On 22 January 2025 the Hearings Officer made a phone call to Mr Ahmed's registered telephone number. The call was answered but when they asked to speak with Mr Ahmed the person replied: 'I am Oman, you have a wrong number'. The call was then disconnected.
12. The Committee was satisfied that the requirements of Regulations 10(1) and 22(1) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended ('the Regulations') as to service had been complied with.
13. The Committee was satisfied that the notice of hearing had been sent to Mr Ahmed's registered email address, being the email address that he had previously notified to ACCA.
14. The Committee accepted the advice of the Legal Adviser who advised that the onus was on Mr Ahmed to inform ACCA of his up-to-date details. The Committee was referred to the case of *General Medical Council v Adeogba* [2016] EWCA Civ 162 in which the Court of Appeal stated that the responsibility of the regulator was very simple, 'it is to communicate with the practitioner at the address he had provided; neither more nor less. It is the practitioner's obligation to ensure that the address is up to date'.
15. The Committee noted that the emails sent to Mr Ahmed during the course of ACCA's investigation had been opened and a number had been responded to

by Mr Ahmed. It noted that the last correspondence received from Mr Ahmed prior to the notice of hearing been sent was on 21 September 2022.

16. In all the circumstances, and despite the fact that an email had been sent from Mr Ahmed's email address stating that his email had been hacked one and a half years ago, the Committee was satisfied that notice had been effected in accordance with Regulations 10 and 22 of the Regulations.
17. 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 Ahmed.
18. The Committee bore in mind that whilst it had a discretion to conduct a hearing in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee paid due regard to the factors set out in the cases of *Hayward & Others* [2001] 3 WLR 125 and *R v Jones* [2002] UKHL 5.
19. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that Mr Ahmed had not asked for an adjournment. It was of the view that the onus had been on Mr Ahmed to provide up-to-date details to ACCA. He was clearly aware that an investigation was ongoing against him and, despite the assertion that his email account had been hacked, he had failed to provide a new email address to ACCA. Further, the telephone number that ACCA has on record for Mr Ahmed was, it appears, not currently being used by him and should also have been updated.
20. In all the circumstances the Committee determined that it was in the public interest to proceed with the hearing in the absence of Mr Ahmed.

ALLEGATIONS

Mr Uzair Ahmed ('Mr Ahmed'), a student member of the Association of Chartered Certified Accountants ('ACCA') on 30 November 2020 in connection with FBT Business and Technology remotely invigilated exam ('the exam'):

1. Failed to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) before the exam, in that he failed to ensure no one else was in the room with him where he sat his exam, contrary to Examination Regulation 2.
2. Talked or communicated with another person or persons unknown during all or part of the exam, contrary to Examination Regulation 16.
3. By reason of his conduct above, Mr Ahmed is:
 - a. guilty of misconduct pursuant to bye-law 8(a)(i) or, in the alternative
 - b. Liable to disciplinary action pursuant to bye-law 8(iii), in respect of breach of the Examination Regulations as referred to in allegations 1 and 2.

BACKGROUND

21. Mr Ahmed registered as a student of ACCA on 11 September 2020. He is, therefore, bound by ACCA's Bye-laws and Regulations, including the Examination Regulations.
22. On 30 November 2020 Mr Ahmed sat his FBT Business and Technology examination remotely. As part of the examination booking process, and immediately prior to the commencement of the exam, Mr Ahmed would have agreed to ACCA's terms and conditions on sitting exams remotely. This would have included the Information Sheet for On-Demand CBE Students sitting exams at home ('the Student Information Sheet') which contains the Examination Regulations and Guidelines, and the CBE announcements.
23. The exam was due to last for two hours but was terminated early due to the proctor ('remote invigilator) observing that Mr Ahmed was looking off screen and whispering to another person present in the room during the exam. An Intervention Specialist was invited to observe the exam and terminated it due

to 'breach of academic integrity'. Mr Ahmed was advised to contact ACCA for further instructions.

24. The proctor filed an incident report setting out their concerns and ACCA commenced an investigation. This included obtaining documents and video footage of the exam.
25. ACCA considered the video footage of the exam. Immediately prior to the exam starting that Mr Ahmed can be heard speaking to another person and a person's hair can be seen coming into the frame.
26. Mr Ahmed can also be heard whispering and looking off-screen towards someone who is also whispering after the exam commenced. The exam was subsequently terminated by an Intervention Specialist, who also observed Mr Ahmed's conduct in the exam.
27. ACCA wrote to Mr Ahmed by email on 26 March 2021 which included a chronology of key observations from the video footage of the exam. Mr Ahmed was asked to answer a number of questions about his conduct during the exam and to respond to ACCA by 16 April 2021. Copies of the proctor's incident report and images from the video footage were attached to the email. Mr Ahmed was subsequently sent the video footage of the exam.
28. Mr Ahmed responded to ACCA by email on 29 March 2021 stating that he had been alone in the testing area which was his school exam room. He explained that there were several rooms attached to his exam room and voices could be heard from outside. He stated that the voices had disturbed him a lot and he was very angry about this. He denied that he was whispering to another person present in the room during the exam but said that he sometimes read the questions aloud during exams. Mr Ahmed said that his exam room door was closed but there were several rooms attached to his room and so door noise could be heard from outside his exam room. He also stated that he had not read the Examination Regulations and Guidelines prior to sitting the exam.

29. ACCA wrote to Mr Ahmed on a number of further occasions about his conduct during the exam, but he continued to deny that anyone had been with him in the exam room. He stated that any voices heard on the video were from outside the exam room and that he would sometimes read the question aloud.
30. ACCA wrote to Mr Ahmed on 26 August 2022 to inform him that he had been referred by the Assessor to the Disciplinary Committee. Copies of the Assessor's decision and a Case Management Form ('CMF') were attached. Mr Ahmed responded on 22 September 2022 as follows:

"Dear ACCA team! My name is Uzair Ahmed ... I'm writing my apology mail to you. I want to continue my ACCA journey under this pressure and circumstances. It will be difficult for me to pursue it will only be possible with your forgiveness. It been 2-year i'm facing an inquiry by acca team it wasted a lot of time, money and most importantly my future is at risk [PRIVATE]. Now you've made a committee for the inquiry, this is beyond my ability to tackle because [PRIVATE]. I have a part time job and pay ACCA fees and tuition fees. I've invested all I earn so I think I deserve one chance. Kindly end this all inquiry forgive my all charges. I am new to acca. I wasn't aware of remote exams. I'm human, maybe I did something that I didn't know was unintentionally. I'm eager to pursue my ACCA studies. Kindly accept my apology so that I can continue my studies with full zeal and confidence. I hope you will understand my circumstances" (sic).

31. There has purportedly been no further communication from Mr Ahmed.

SUBMISSIONS ON FACTS AND MISCONDUCT

32. Mr Irving took the Committee through the background of the case. He submitted that the Committee could be satisfied, on the balance of probabilities, that there was at least one other person present in the exam room with Mr Ahmed during the exam. He submitted that ACCA relied on the one occasion in which hair could be seen in the video footage, together with Mr Ahmed's conduct in whispering to another person during the exam and a third party or parties whispering back to him.

33. Mr Irving submitted that Mr Ahmed had breached Examination Regulations 2 and 16 by having a third party or parties in the exam room with him and communicating with them during the exam.
34. Mr Irving submitted that Mr Ahmed's breaches of Examination Regulations 2 and 16 had brought discredit to him, the Association and the accountancy profession. He submitted that Mr Ahmed's conduct clearly amounted to misconduct, as defined by Bye-law 8(c).

DECISION ON FACTS AND MISCONDUCT

35. The Committee carefully considered all the documentary evidence before it. It had sight of the video footage of the exam during the hearing.
36. The Committee took into account the oral submissions made by Mr Irving and it accepted the advice of the Legal Adviser. It bore in mind that the burden of proving the allegations in dispute rests with ACCA and that the standard of proof is the balance of probabilities.
37. The Committee noted that Allegation 1 could possibly be construed in two ways. It determined to construe the words 'before the exam' as relating to the issuing of instructions by ACCA personnel rather than to the failure to comply with those instructions.
38. The Committee noted that as part of the exam set-up Mr Ahmed had agreed to abide by the Examination Regulations, but it also noted that he had stated in correspondence to ACCA that he had not read the Examination Regulations and Guidelines prior to sitting the exam. In the Committee's view, however, that would not provide him with a defence for failing to comply with the Examination Regulations.

Allegation 1 – proved

39. The Committee noted the content of the instructions issued by ACCA personnel in the Student Information Sheet that prior to the exam starting:

'You will have a government-issued I.D. (Passport, Driving Licence or Government Issued Photographic Identification) ready and be located in a private, well-lit room with no one else around you'.

40. The Committee noted that the video footage of the exam, which the Committee was shown during the course of the hearing, clearly depicts Mr Ahmed talking to a person in the exam room with him both before the exam commenced and during the exam. On one occasion before the exam commenced a person's hair can be seen on the left side of the screen. Further, at various times both prior and during the exam whispers can be heard off-screen to which Mr Ahmed appears to respond by looking off screen (in the direction of where the third party's hair was previously seen on screen) and whispering back. The word 'next' can clearly be heard on a number of occasions. The Committee was, therefore, satisfied that there was a third party in the exam room with Mr Ahmed both prior to and during the exam.

41. The Committee noted that Examination Regulation 2 (as applicable in 2020) provided that:

"You are required to comply in all respects with any instructions issued by the exam supervisor/s, invigilator/s, proctor/s, and any ACCA personnel before, during and at the conclusion of an exam. Failure to comply with these instructions may result in the termination of your examination and potential disciplinary procedures being invoked".

42. The Committee noted that the first paragraph of the 'Information Sheet for On-Demand CBE Students sitting exams at home' stated in bold writing: *"Applicable to ACCA On-Demand CBE examinations scheduled on or after 4 June 2020. If you book an exam on or after 4 June 2020, you are confirming to ACCA that you have read this Information Sheet and that you have agreed to and will comply with its contents, and any non-compliance may result in ACCA taking disciplinary action against you".* Further, under the heading 'Prior to Exam Starting', the first bullet point states: *"You will have a government-issued I.D. ... ready and be located in a private, well-lit room with no one else around*

you". The Committee also noted that the Examination Regulations and Guidelines are fully set out in that document.

43. The Committee was satisfied that Mr Ahmed had failed to comply with instructions issued by ACCA personnel in the 'Information Sheet for On-Demand CBE Students sitting exams at home' in that he failed to ensure that no one else was in the room with him where he sat his exam contrary to Examination Regulation 2. The Committee, therefore, found Allegation 1 proved.

Allegation 2 – proved

44. The Committee was satisfied that Mr Ahmed had communicated with another person who was present in the exam room during the exam. It noted that Examination Regulation 16 (as applicable in 2020) provided that:

"Candidates must not talk to, or attempt to communicate with, people other than the exam supervisor/s, invigilator/s or proctor/s for the duration of the exam".

45. The Committee was satisfied, on the balance of probabilities, that on the evidence before it, including the video footage of the exam, Mr Ahmed had failed to comply with Examination Regulation 16 by talking to / communicating with another person on a number of occasions during the exam.

Allegation 3a – Misconduct Found

46. The Committee next considered whether the facts of Allegations 1 and 2 amounted to misconduct.
47. In the Committee's view Mr Ahmed had breached two of the Examination Regulations during the exam by having at least one third party in the exam room with him both prior to and during the exam and communicating with them during the exam. The Committee considered that such conduct in a professional examination undermined ACCA's examination process, the reputation of the profession and ACCA as the regulator.

48. The Committee determined that Mr Ahmed's conduct in a professional examination was very serious and had brought discredit to him, ACCA and the accountancy profession. The Committee determined that Mr Ahmed's conduct in breaching Examination Regulations 2 and 16 was very serious and both individually and collectively amounted to misconduct.

Allegation 3b – Not Considered

49. The Committee, having found Allegation 3a proved, did not go on to consider the alternative charge set out in Allegation 3b.

SUBMISSIONS ON SANCTION AND COSTS

50. The Committee was informed that Mr Ahmed had no previous findings recorded against him.
51. Mr Irving referred the Committee to ACCA's 'Guidance for Disciplinary Sanctions'. He submitted that the appropriate and proportionate sanction in this case was a matter for the judgement of the Committee. The Committee noted that dishonesty was not alleged, and Mr Irving confirmed that there was no accusation of dishonesty.
52. In respect of costs, Mr Irving referred the Committee to the detailed and simple costs schedules. He informed the Committee that Mr Ahmed had not returned a Statement of Financial Means. He submitted that ACCA claimed costs in the sum of £6,722.55 but that he accepted the Committee may wish to reduce the costs claimed by ACCA as the hearing had taken less than the time allowed for in the schedules.

SANCTION AND REASONS

53. In reaching its decision on sanction, the Committee considered Regulation 13(4) in determining what, if any, sanction to impose on Mr Ahmed. It took into account the submissions made by Mr Irving and it referred to the Guidance for Disciplinary Sanctions issued by ACCA (updated 14 February 2024). The

Committee had in mind the fact that the purpose of a sanction was not to punish Mr Ahmed, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction it imposed must be proportionate. The Committee accepted the advice of the Legal Adviser.

54. The Committee carefully considered the aggravating and mitigating features of the case.
55. The Committee considered that the mitigating features in the case were:
 - a. Mr Ahmed had no previous disciplinary findings recorded against him.
 - b. Mr Ahmed had co-operated during ACCA's investigation.
 - c. Mr Ahmed had issued a very limited apology for any wrong-doing (but this was on the basis that he continued to deny that his conduct had been intentional).
56. The Committee considered that the misconduct involved the following aggravating features:
 - a. This was a deliberate and planned course of action on Mr Ahmed's part.
 - b. Mr Ahmed had persistently denied the allegations and, therefore, lacked insight into his misconduct.
57. The Committee went on to consider what, if any, was the appropriate and proportionate sanction to impose in this case. It did not think it appropriate, or in the public interest, to take no further action or to order an admonishment in a case where a student of ACCA had deliberately breached the Examination Regulations during an exam attempt.
58. The Committee then considered whether to reprimand Mr Ahmed. The guidance indicates that a reprimand would be appropriate in cases where the

misconduct is of a minor nature; there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding; together with genuine insight into the misconduct found proved. Mr Ahmed has shown no insight into his misconduct, and, in the Committee's view, the misconduct was not of a minor nature. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the conduct in this case.

59. The Committee next considered whether a severe reprimand would be a sufficient and proportionate sanction or whether removal from the student register was required. The guidance indicates that a severe reprimand would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case, or mitigation advanced, which satisfies the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The guidance suggests that this sanction may be appropriate where most of the following factors are present:

- a. the misconduct was not intentional and no longer continuing.
- b. evidence that the conduct would not have caused direct or indirect harm.
- c. insight into failings.
- d. genuine expression of regret/apologies.
- e. previous good record.
- f. no repetition of failure/conduct since the matters alleged.
- g. rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur.
- h. relevant and appropriate references.
- i. co-operation during the investigation stage.

60. The Committee took into account that Mr Ahmed's conduct was intentional, he lacked insight into his failings, and he had given a very limited expression of remorse. It also noted that only the following factors were present:

- a. Mr Ahmed has a previous good disciplinary record.
- b. Mr Ahmed had co-operated with ACCA during the investigation stage.

61. The Committee concluded that, given Mr Ahmed's persistent denial of the allegations, his lack of insight and his very limited expression of remorse, a severe reprimand would not be an appropriate or sufficient sanction to protect the public interest.
62. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed. The Committee took into account the guidance that this sanction was likely to be appropriate when the behaviour of the student was fundamentally incompatible with being a registered student of ACCA. The Committee was satisfied that Mr Ahmed's deliberate conduct in having a person present in the exam room and communicating with them during a professional exam had reached that high threshold. The Committee had heard no mitigation from Mr Ahmed to warrant anything other than removal from the student register.
63. For the above reasons, the Committee concluded that the appropriate and proportionate sanction was removal from the student register.
64. The Committee did not deem it necessary to impose a minimum period before which Mr Ahmed is able to reapply for admission as a student member.

DECISION ON COSTS AND REASONS

65. The Committee was provided with two schedules of costs. It noted that Mr Ahmed had not provided a completed Statement of Financial Position. ACCA applied for costs in the sum of £6,722.55 in respect of the investigation against Mr Ahmed and the hearing.
66. The Committee noted that the only very limited information it had about Mr Ahmed's means was from an email to ACCA in which Mr Ahmed stated:

"... Now you've made a committee for the inquiry, this is beyond my ability to tackle because [PRIVATE]. I have a part time job and pay ACCA fees and tuition fees. I've invested all I earn so I think I deserve one chance ...]."

67. The Committee was satisfied that the costs sought by ACCA were appropriate and had been reasonably incurred. It determined that it did not have sufficient information about Mr Ahmed's current financial means to reduce the amount claimed on that basis. It did, however, consider that the costs claimed should be reduced to reflect the fact that the hearing had taken less time than accounted for in the two schedules of costs.
68. The Committee determined that, in all the circumstances, it would be fair and proportionate to order Mr Ahmed to pay a contribution towards ACCA's costs in the sum of £6,000.00.

ORDER

- i. Mr Uzair Ahmed shall be removed from ACCA's student register.
- ii. Mr Uzair Ahmed shall pay a contribution towards ACCA's costs in the sum of £6,000.00.

EFFECTIVE DATE OF ORDER

69. In accordance with Regulation 20(1)(a) of the Regulations, the order that Mr Ahmed shall be removed from ACCA's student register shall take effect from the date of expiry of the appeal period referred to in the Appeal Regulations.
70. In accordance with Regulation 20(2) the order for Mr Ahmed to pay a contribution towards ACCA's costs in the sum of £6,000.00 shall have immediate effect.

Ms Kathryn Douglas
Chair
23 January 2025