

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Mr Sameer Anwar

**Heard on:** Tuesday, 07 June 2022

**Location:** Remotely via ACCA Offices, The Adelphi, 1-11 John  
Adam Street, London WC2N 6AU using Microsoft Teams

**Committee:** Mr Andrew Popat CBE (Chair)  
Ms Wanda Rossiter (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Mr Robin Havard

#### Persons present

**and capacity:** Mr Ben Jowett (ACCA Case Presenter)  
Mr Jon Lionel (Hearings Officer)  
Ms Adaora Onyekwelu (ACCA witness)

**Summary:** Removed from the student register

**Costs:** £6,000

#### PRELIMINARY APPLICATIONS

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

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 112), a video recording of the exam session on 27 November 2020, and a service bundle (pages 1 to 14). The Committee had also considered legal advice which it had accepted.
2. The Committee had read the letter dated 10 May 2022 containing the Notice of Proceedings, sent on the same day by ACCA by email to Mr Anwar. It had noted the subsequent emails sent to Mr Anwar with the necessary link and password to enable Mr Anwar to gain access to the letter and the documents relating to this hearing.
3. The Committee was satisfied that such emails had been sent to his registered email address in accordance with Regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee had noted that the emails had been delivered successfully. The emails and the documents to which Mr Anwar had access also contained the necessary information in accordance with CDR10.
4. Consequently, the Committee decided that there had been effective service of proceedings on Mr Anwar in accordance with CDR.

#### **PROCEEDING IN ABSENCE**

5. On 06 June 2022, in the absence of any response from Mr Anwar to the email of 10 May 2022, ACCA tried on two occasions to call Mr Anwar on a mobile number provided by him and held by ACCA. There was no answer but ACCA left a message for him on voicemail.
6. Later that day, on 06 June 2022, ACCA sent an email to Mr Anwar at the registered email address asking him to respond, and reminding him of the date of hearing. The email had been delivered successfully. However, Mr Anwar did not reply.
7. Whilst allegation 1 related to Mr Anwar's failure to respond to a number of emails sent to him, he did respond on 22 September 2021 to an email from

ACCA sent to him on the previous day. The email address was the same as the one recorded on ACCA's register and the same address used in the emails of 10 May 2022 and 06 June 2022.

8. The Committee was satisfied that ACCA had done all that it could reasonably be expected to do to engage Mr Anwar in the hearing. However, in the absence of any response, the Committee concluded that he had no intention of participating in the hearing, nor had he requested an adjournment.
9. The Committee found that Mr Anwar had received the emails from ACCA informing him of the hearing and giving him access to the documents containing the evidence on which ACCA relied in support of the allegations. The Committee concluded that, in the absence of any response to all attempts made by ACCA to engage with him, Mr Anwar had voluntarily absented himself from the hearing, which he could have joined by telephone or video link. He had therefore waived his right to attend.
10. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived from adjourning the hearing and no such application had been made. Finally, the Committee considered that it was in a position to reach proper findings of fact on the evidence presented to it by ACCA, including the brief response from Mr Anwar in his email of 22 September 2021.
11. The Committee ordered that the hearing should proceed in the absence of Mr Anwar.

## **ALLEGATIONS**

Mr Sameer Anwar, (Mr Anwar) an Association of Chartered Certified Accountants ('ACCA') student:

- 1) Contrary to Regulation 3(1) of the Complaints & Disciplinary Regulations 2014 (as amended), Mr Anwar failed to co-operate with the investigation

of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:

- a. 13 April 2021;
  - b. 05 May 2021;
  - c. 21 May 2021;
  - d. 24 May 2021;
  - e. 08 June 2021;
  - f. 23 June 2021.
- 2) On 27 November 2020 in relation to a remotely invigilated exam (FA1 Recording Financial Transactions) Mr Anwar failed to comply with instructions provided to him by ACCA before the exam that he should ensure he was in a room on his own in that he caused or permitted a third party to be present in the same room where he sat the Exam contrary to Examination Regulation 2.
- 3) By reason of his conduct Mr Anwar is:
- a. Guilty of misconduct pursuant to byelaw 8(a)(i); in respect of any or all of the matters set out at 1 and 2 above; or in the alternative,
  - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii)

## **DECISION ON FACTS, ALLEGATIONS AND REASONS**

### **Allegation 1**

12. In reaching its findings in respect of allegation 1, the Committee relied upon the email correspondence and documents contained in ACCA's bundle and noted the Incident Report provided by the Proctor (i.e. a remote exam invigilator). The Committee had listened to the submissions of Mr Jowett. The Committee also listened to legal advice, which is accepted.
13. On 11 November 2019, ACCA registered Mr Anwar as a student. As such, the Committee found that he was bound by ACCA's Bye-laws and Regulations.
14. On 27 November 2020, Mr Anwar took his on-demand FA1 Recording Financial Transaction examination (the 'Exam') remotely. The Proctor filed a complaint in the form of an Incident Report in respect of conduct observed during the Exam. The Proctor had noted that, despite instructions being given to Mr Anwar prior to the commencement of the exam that he should at all times be in the room on his own during the exam, a third party was observed on two separate occasions in the room whilst he took the exam.
15. An investigation was commenced. The Committee had made findings in respect of that investigation under allegation 2 below.
16. On 13 April 2021, ACCA sent an email to Mr Anwar. The Committee found that the email was sent to Mr Anwar's registered email address. A letter was attached to the email. The letter informed Mr Anwar of the complaint. The Proctor's Incident Report was attached as an appendix. Within this letter, Mr Anwar was asked a series of questions about a third party who appeared to be in the same room as him during the exam. It included screenshots taken from the video footage of the exam. The letter contained the following paragraph:

***"Duty to co-operate***

*In accordance with Complaints and Disciplinary Regulation 3(1), you are required to co-operate with this investigation. A failure or partial failure to co-operate fully with the investigation may render you liable to disciplinary action."*

17. Mr Anwar was required to respond to the complaint by 04 May 2021. Despite the clear reminder of his duty to cooperate, and the potential consequences of his failure to do so, no response was received.
18. On 05 May and 21 May 2021, ACCA sent further emails to Mr Anwar's registered email address requesting that he confirm whether he had received ACCA's previous correspondence and advised that he was required to respond. No response was received.
19. On 24 May 2021, ACCA sent another letter to Mr Anwar attached to an email at his registered email address reminding him of his obligation to co-operate with the investigation and seeking his response by 07 June 2021. Indeed, the letter included the text of Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended). Despite that warning, no response was received.
20. On 08 June 2021, ACCA sent another email to Mr Anwar's registered email address asking him to confirm whether he had received ACCA's previous correspondence and advised that he was required to respond to previous correspondence and, more particularly, the complaint. Again, no response was received.
21. On 15 June 2021, ACCA sent a further email to Mr Anwar's registered email address to which was attached a letter, reminding him again of his obligation to co-operate, requesting him to respond by 22 June 2021. No response was received.
22. On 23 June 2021, ACCA sent a final email to Mr Anwar's registered email address requesting that he confirm whether he had received ACCA's previous correspondence and confirmed that he was required to respond. Again, no response was received.

23. The Committee had accepted ACCA's evidence, based on its case management system, and found that Mr Anwar had opened the emails of 15 and 23 June 2021.
24. On 08 July 2021, ACCA sent an email to Mr Anwar's registered email address confirming that he would be provided with a link to the video footage from his examination, advising him that this would give him the opportunity to review the footage and provide any comments. Within this email, the previous correspondence, to which Mr Anwar had not responded, was also attached.
25. On 09 July 2021, Mr Anwar was sent the link to the video footage. Again, no response was received.
26. The Committee observed that, on the previous day, 08 July 2021, and whilst ignoring correspondence regarding the investigation, ACCA wrote in response to a "*recent request*" from Mr Anwar for a copy of his examination history.
27. Whilst not forming part of the allegation, the Committee noted that, on 20 September 2021, ACCA wrote to Mr Anwar by email to his registered email address, enclosing: a case management form; a letter regarding the assessor's decision, and the assessor's decision itself.
28. On 21 September 2021, using the same email as had been used throughout by ACCA and which was the same as the email address on ACCA's register, Mr Anwar responded to ACCA's email of 20 September 2021, saying as follows (sic):

*"Sorry to say but I already left ACCA there is no use to send me these emails because during my paper that woman irritated me so much I show my room to her three time during my paper but there was no one in my room may be she saw a man out side of the window but in my room there was no one ...*

*I apologise to you that you are doing so much effort in my case but I don't won't to continue this case*

*I hope you understand me Thank you"*

29. Based on his response of 22 September 2021, the Committee was therefore satisfied that not only was Mr Anwar aware of the correspondence sent to him by ACCA, but he was also aware of the nature of the allegation being investigated.
30. On the basis of the evidence, the Committee was satisfied that the emails of 13 April 2021, 05, 21 and 24 May 2021, and 08 and 23 June 2021 together with, where applicable, their attachments, had been sent to the registered email address of Mr Anwar and that they had been delivered successfully. The Committee was also satisfied that Mr Anwar had failed to respond to those emails. The Committee found that this represented a failure by Mr Anwar to cooperate with the ACCA investigation. Indeed, he had been warned by ACCA in the correspondence that he had a duty to cooperate with ACCA and that there was a requirement for him to respond. Therefore, the Committee found the facts of allegation 1 proved.

## **Allegation 2**

31. In reaching its findings in respect of allegation 2, the Committee relied upon the documents contained in ACCA's bundle, the Incident Report provided by the Proctor and the video footage. The Committee had listened to the submissions of Mr Jowett. The Committee also listened to legal advice, which it accepted.
32. In the Information Sheet which, together with the Examination Regulations, would have been provided to Mr Anwar when he booked to take the online examination, the following guidance was provided:

**"PRIOR TO 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."*

33. Further down the document, the Examination Guidelines included the following:

### **"EXAMINATION GUIDELINES**

#### ***Before the Examination***

##### ***Proctored Exam***

*The exam can be attempted at home or in your office. Wherever you choose to sit the exam, you should be in a walled room, with a closed door and without distractions.*

*Before the examination start, you must ensure you follow the instructions below:*

- *Ensure you are not disturbed by anyone.*
- *Disconnect extra monitors, projectors and televisions.*
- *Place food and smoking equipment out of sight.*
- *Move electronic devices, headphones and watches out of arm's reach."*

34. Examination Regulation 2 states as follows:

*"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."*

35. Based on its review of the video footage of Mr Anwar sitting his exam on 27 November 2020, the screenshots taken from the video which were included in

the bundle, and the submissions made by Mr Jowett, the Committee made the following findings. The timings of the events shown below were those taken from the video footage.

36. At 1:03:20 (i.e. 1 hour 3 minutes and 20 seconds from the beginning of the video footage), the exam commenced.
37. Between 1:18:20-1:18:46, there was a faint reflection of a third party shown in the window to the left-hand side of Mr Anwar. The Committee was satisfied, on the balance of probabilities, that this was the reflection of a person who was in the room with Mr Anwar.
38. Between 1:56:13-1:56:37 (i.e. approximately 38 minutes later), the Committee found that there was a clearer reflection of a third party appearing in the window to the left-hand side of Mr Anwar. Again, the Committee was satisfied, on the balance of probabilities, that this represented the reflection of a person who was in the room with Mr Anwar whilst he was sitting the exam.
39. The third party walked across the room from the right-hand side to the left-hand side of Mr Anwar. The third party then turned to Mr Anwar when at the door and waited there until 1:56:37.
40. At 2:45:26, the exam was terminated by an Intervention Specialist at the company running the exam. This was done before completion of the exam due to concerns regarding Mr Anwar covering his face and looking away from the screen.
41. An investigation was commenced. The Committee was satisfied that the video footage established that a third party was in the same room as Mr Anwar when he was sitting the Exam as their reflection can be seen on the window of the room behind Mr Anwar during the Exam. The Committee did not accept Mr Anwar's denial in his email of 22 September 2021.

42. Consequently, the Committee found that Mr Anwar breached Examination Regulation 2 as a third party was in the room during the Exam, contrary to the instruction in the Information Sheet for On-Demand CBE Students sitting exams at home which requires that students be *“located in a private, well-lit room with no one else around you”*. As stated, this sheet is also provided to all students prior to sitting their examinations as part of the registration process for the exam.
43. However, in the absence of any further evidence, the Committee was not satisfied that Mr Anwar caused the third party to be in the room nor was there any evidence that Mr Anwar deliberately attempted to conceal the presence of the third party. Nevertheless, he had clearly permitted the person to be present during certain stages of the exam as illustrated by the video footage.
44. On this basis, the Committee found allegation 2 proved.

### **Allegation 3(a)**

45. In respect of allegation 1, the Committee had found that, despite ACCA providing a number of reminders of his obligation to cooperate and warnings of potential consequences of his failure to do so, Mr Anwar had failed persistently to cooperate with ACCA and to respond to correspondence.
46. The need for members, including student members, to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to: ensure proper standards of conduct; protect the public, and maintain its reputation was seriously compromised.
47. As for allegation 2, it was also of critical importance that, in the course of taking an examination, a student must at all times adhere to the Guidelines and follow any instruction given by those responsible for ensuring that the exam is conducted in a fair manner.

48. The Committee found that allegations 1 and 2, taken together, amounted to conduct that brought discredit to Mr Anwar, ACCA and the profession.
49. The Committee found allegation 3(a) proved.

### **Allegation 3(b)**

50. On the basis that this allegation was pleaded in the alternative to allegation 3(a), the Committee made no finding in respect of it.

### **SANCTION AND REASONS**

51. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had also listened to legal advice from the Legal Adviser which it accepted.
52. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
53. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
54. The Committee considered whether any mitigating or aggravating factors featured in this case.
55. The Committee accepted that there were no previous findings against Mr Anwar. However, the Committee took into consideration the fact that this was the second attempt at the exam taken by Mr Anwar and he had only been a student member since 11 November 2019 i.e. approximately one year before he sat the exam.

56. The Committee had no information regarding the personal circumstances of Mr Anwar nor had it been provided with any testimonials or references as to Mr Anwar's character.
57. The Committee noted that the only engagement from Mr Anwar in respect of the investigation related to his email of 22 September 2021. It contained a denial of any wrongdoing which had been rejected by the Committee. It was also evident that he had received the previous correspondence from ACCA but had chosen to ignore it. Finally, he described the requests made by the examiner during the course of the exam as a source of irritation. Mr Anwar had not shown any insight into the seriousness of his conduct in failing to respond to ACCA nor had he expressed any remorse.
58. As for aggravating features, the Committee repeated that, in failing to engage with ACCA during its investigation and in these proceedings, Mr Anwar had shown neither insight nor contrition. His lack of cooperation had also extended over a period of months and therefore could not be described as an isolated incident.
59. On the basis of its findings, the Committee concluded that neither an admonishment nor a reprimand would represent a sufficient and proportionate outcome. Neither sanction would adequately reflect the seriousness of the Committee's findings.
60. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, and reflecting on the criteria suggested in the Guidance, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
61. Mr Anwar had failed persistently to cooperate with his regulator, ACCA, in respect of an investigation of potentially serious allegations. His lack of engagement, not only in relation to the investigation of his conduct during an exam but also in relation to these proceedings, represented conduct which was

fundamentally incompatible with being a student member of ACCA. His lack of engagement and his failure to show any insight or contrition for his lack of cooperation led the Committee to conclude that, currently, there was no guarantee that Mr Anwar would behave in a manner expected of a member of ACCA.

62. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Mr Anwar from the student register but could find none.
63. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Anwar shall be removed from the student register.

#### **COSTS AND REASONS**

64. The Committee had been provided with a costs schedule (pages 1 and 2) relating to ACCA's claim for costs.
65. The Committee concluded that ACCA was entitled to be awarded costs against Mr Anwar, all allegations having been found proved. The amount of costs for which ACCA applied was £6,647.50. The Committee did not consider that the claim was unreasonable but the hearing had taken less time than estimated.
66. Mr Anwar had not provided ACCA with any documentary evidence of his means. The Committee was satisfied that, in the correspondence sent to him, Mr Anwar had been warned at the outset of the importance of providing details of his financial circumstances and of ACCA's intention to apply for costs.
67. In the absence of any information from Mr Anwar, the Committee approached its assessment on the basis that he was able to pay any amount of costs awarded against him.

68. In all the circumstances, and in exercising its discretion, the Committee considered that it was reasonable and proportionate to award costs to ACCA in the reduced sum of £6,000.00.

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

69. The Committee had considered whether the order should have immediate effect. However, ACCA did not seek such an order and, taking account of Mr Anwar's removal from the student register, the Committee did not consider that he presented a risk to the public. It therefore concluded it was not in the interests of the public to make such an order.
70. The Committee decided that this order shall take effect at the expiry of the period allowed for an appeal in accordance with the Appeal Regulations.

**Mr Andrew Popat CBE**  
**Chair**  
**07 June 2022**