

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Mian Shujat Shaheen

Heard on: Wednesday, 29 June 2022

Location: Remotely via Microsoft Teams

Committee: Mr Andrew Gell (Chair)
Mr Martin Davis (Accountant)
Ms Rachel O'Connell (Lay)

Legal Adviser: Ms Valerie Charbit

Persons present

and capacity: Ms Ariane Tadayyon (ACCA Case Presenter)
Mr Jonathan Lionel (Hearings Officer)

Observers: Mr James Walker (ACCA Appointments board)
Ms Joy Julien (ACCA Appointments board)
Mr Adeel Lone

Interpreter: Ms Hamida Begum

Summary Allegations 1(a), 1(b), 1(c)(i), 2, 3(a) and 4(a) found proved.
Removed from the student register

Costs: Mr Shaheen ordered to pay £500 to ACCA

ACCA



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PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Committee convened to consider four allegations against a student member Mr Mian Shujat Shaheen. It had before it a Disciplinary Committee Report and Bundle of papers numbering 126 pages and bundle of Tabled Additional numbering 1-4 and a Service Bundle numbering 1-14 and a video extract.
2. Ms Tadayyon represented ACCA. Mr Shaheen attended the hearing but he was not represented. His relative Mr Adeel Lone attended the hearing. Ms Begum interpreted all of the proceedings for Mr Shaheen including his evidence in its entirety.
3. Ms Tadayyon applied to amend the allegations in two respects. The amendments proposed were typographical in respect of Allegation 3(b) and an amendment to Allegation 4(b) so that it referred to Allegations 1(a) and 1(b) and not Allegation 2.
4. Ms Tadayyon submitted that the substance of the allegations was not altered. She said that Mr Shaheen had also accepted the amendments in an email dated 22 June 2022. Mr Shaheen did not oppose the amendments.
5. The Committee considered Regulation 10(5) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, amended 01 January 2020 ("the Regulations"). The Committee decided to allow the amendments on the basis that they did not cause any prejudice to Mr Shaheen.

ALLEGATIONS

6. Mr Shaheen faced the following allegations:
 1. *On 15 April 2021, during and in relation to a scheduled MA1 Management Information examination (the 'Exam'):*
 - a) *Had at his desk, an unauthorised item, namely a mobile phone, contrary to Examination Regulation 6;*

- b) *Engaged in improper conduct designed to assist him in an exam attempt, namely that he permitted another person to sit beside him whilst he sat the Exam with the intention of that person assisting him during the Exam, contrary to Examination Regulation 10.*
 - c) *The conduct alleged at Allegations 1(a) and/or (b) was:*
 - i) *Dishonest, in that he intended to gain an unfair advantage in the Exam; or, in the alternative,*
 - ii) *Demonstrates a failure to act with integrity.*
2. *On 28 June 2021, in an email to ACCA in response to the investigation of alleged misconduct, inaccurately represented that the reason for the presence and/or movement of a mobile phone in the Exam was to enable him to obtain a stronger internet connection.*
3. *The conduct alleged at Allegation 2 was:*
 - a) *Dishonest in that he knew the explanation was false and/or intended to mislead an investigation into alleged misconduct; or, in the alternative,*
 - b) *Demonstrates a failure to act with integrity; or, in the further alternative,*
 - c) *Contrary to Complaints and Disciplinary Regulation 3(1).*
4. *By reason of his conduct, Mr Shaheen is:*
 - a) *Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at Allegations 1 to 3; or, in the alternative,*

- b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of any or all of the matters set out at Allegations 1(a), 1(b) and 3(c).*

BACKGROUND

7. On 25 January 2021, ACCA registered Mr Mian Shujat Shaheen as a student. As such, he was bound by the ACCA's Bye-laws and Regulations, including the Examination Regulations.
8. On 15 April 2021, Mr Shaheen took his on-demand MA1 Management Information examination ("the Exam") remotely. The Exam was terminated, and the Proctor filed an Incident Report in respect of conduct observed during the Exam which was looking off the screen and possession of a mobile phone.
9. ACCA wrote to Mr Shaheen asking him to respond to various queries in relation to the complaint. On 23 June 2021, ACCA provided Mr Shaheen with a link to the video footage of him during the Exam to enable him to review it.
10. The video footage of the Exam revealed that whilst Mr Shaheen was observed seated at his desk during the Exam, his mobile phone was seen in different locations, including at his desk and on his bed in different positions, during the Exam.
11. The mobile phone footage shows the following:
 - At 00:11:07 Mr Shaheen can be observed throwing his mobile phone onto the left side of the bed in the Exam room;
 - At approximately 01:02:12 minutes into the video footage during a camera pan, Mr Shaheen's mobile is seen on his desk;
 - Shortly thereafter, at 01:03:53 - 01:04:02 after showing his mobile phone to the Proctor Mr Shaheen throws it on his bed;
 - At approximately 01:22:00 Mr Shaheen performs another camera pan, and the mobile phone can be seen on the left-hand side of the bed. At approximately 01:22:46 Mr Shaheen can be seen throwing the mobile

phone from the left to the right-hand side of the bed. It appears that this occurs at the request of the Proctor as the chat log records;

- At approximately 01:29:13 a Proctor alert sound is heard and at approximately 01:29:33. Mr Shaheen performs another camera pan as instructed by the Proctor. During the camera pan at 01:30:12, the mobile phone is not seen on the right-hand side of the bed;
 - At 01:30:37 the Proctor can be heard saying “mobile phone”, and Mr Shaheen repeats the words “mobile phone”, and he shows his bed again where the mobile is not observable on the bed;
 - At 01:30:54 Mr Shaheen then repeats the words “mobile phone” a little louder and shows the bed again, at 01:30:59 the mobile can now be clearly seen towards the left side of the bed;
 - At 01:31:15 a creaking sound can be heard.
12. On 20 April 2021, ACCA’s CBE Delivery team wrote to Mr Shaheen and he responded stating: *“It is stated that i showed my mobile phone to the Proctor and he told me to place it aside far from my reach and I did that later on my internet connection become unstable so I grabbed my phone and used my mobile hotspot for exam when she checked again the phone was at its place she resumed the exam and then after some time she exited my exam window. I hope this clears it up.(sic)”* .
13. On 21 May 2021, ACCA wrote to Mr Shaheen to inform him that the complaint had been referred to the Investigations Department and asked him to respond to various questions regarding his conduct in the Exam. This included asking him to explain how his mobile phone went from being on the bed to his desk during the Exam.
14. On 28 June 2021, Mr Shaheen responded to ACCA stating: *“when the respected invigilator asked me to show the phone which was firstly near me and then on the bed because we live in a Private Town where the polititions (sic) live and have put jammers for security purposes. So, it is very difficult for*

us to get a strong internet as required by the ACCA examination and for this purpose I had to change the location of cell phone.”

15. On 28 June 2021, Mr Shaheen provided additional comments in an email stating: *“I have seen the video and as you can see there’s nothing suspicious in it.so kindly get to the decision as soon as possible as i have to continue my studies.”*
16. ACCA probed Mr Shaheen further regarding the movement of the mobile phone in its emails of 09 and 13 July 2021 and Mr Shaheen responded by admitting that he tried to cheat in the Exam with the help of his sister and mobile. In an email to ACCA dated 15 July 2021, he stated “ *At 1:02:12, when Proctor spotted the mobile on desk, I placed it back on the bed.... The phone again was with my sister to assist, which again was never exercised.....When specifically asked by Proctor, my sister quickly tried to improvise, by placing it back on the left side where it was at the start of the examination (as seen on the footage at 1:31:01). I hereby accept my mistake, in not informing the Proctor about the presence of my sister out of nervousness. The sole reason was not dishonesty, rather this was out of nervousness. I am ashamed of this and never realized that this single act and negligence, would result in such an irreversible serious misconduct which could possibly ruin my career.”*
17. On 15 July 2021, Mr Shaheen emailed ACCA and confirmed, *“I, Shujahat Shaheen, Membership no: 5022311, admit that I have tried to cheat in the exam. The intention was to cheat with the help of my sister and mobile, however I never exercised it . But the act of not exercising doesn't bail me out from the intention of cheating in first place.”*
18. The Student Information Sheet for On-Demand CBE Students which was issued to Mr Shaheen before he sat his Exam contains instructions from ACCA which include the following: *“PRIOR TO EXAM STARTING You will ...be located in a private, well-lit room with no one else around you.”*
19. The chat log from the Exam before the Exam commenced shows that Mr Shaheen was provided with access to the Student Information Sheet for On-

Demand CBE Students and was asked to agree to the Exam rules. An extract from the chat log is set out below:

“...Do you understand and agree to these rules as stated?”

3:36 AM Mian shujat Shaheen: yes

3:36 AM Please acknowledge that you have read and understood the "Information Sheet for On-Demand CBE Students sitting exams at home" and the "On-Demand CBE announcements" sent to you prior to the exam. Those documents can be found here (link supplied) For this exam, you are permitted the use of 2 sheets of blank scratch paper and a four function or scientific calculator. You will be required to destroy any scratch paper used upon the completion of your exam. Per your Institution, breaks are not permitted during your exam. Please be advised, in the event you leave the exam for an unpermitted break, the exam session will be terminated and reported to your institution.

Please type "I agree" into the chat box if you agree to these exam rules.

3:37 AM Mian shujat Shaheen: yes i read this..."

20. In the email dated 15 July 2021 answering questions from ACCA, Mr Shaheen stated:

- I was aware that using a mobile phone during exam is prohibited. Before I started my exam, the Proctor told me to keep my mobile at a distant place from my workstation. I followed the instructions and threw it on my bed at 10:47. During the exam, upon my given instructions my youngest sister unlocked the room, entered and sat beside me with my mobile, just in case to assist on any of the answers. However, though my intention was to get some assistance, but I never exercised it during the examination. At 1:02:12, when Proctor spotted the mobile on desk, I placed it back on the bed (sic);*
- The phone again was with my sister to assist, which again was never exercised. During the camera pan, no mobile could be seen at 1:30:14 in footage. When specifically asked by Proctor, my sister quickly tried to improvise, by placing it back on the left side where it was at the start of*

the examination (as seen on the footage at 1:31:01) I hereby accept my mistake, in not informing the Proctor about the presence of my sister out of nervousness. The sole reason was not dishonesty, rather this was out of nervousness. I am ashamed of this and never realized that this single act and negligence, would result in such an irreversible serious misconduct which could possibly ruin my career;

- *I can assure you that there was no one entering the room at start or at the end of examination. However as mentioned earlier, during the exam my youngest sister entered the room with an intention to assist me in examination, however the idea was dropped and I didn't exercise it later;*
 - *I never left my workstation throughout the examination. Unfortunately, I admit I did a terrible mistake in not informing the Proctor about my sister entering and leaving the room during the exam. But the intention in not informing was solely out of nervousness that if I inform the Proctor about my intention to cheat, the consequences would be unbearable;*
 - *In answer to the question "Did you read the examination regulations and guidelines before sitting the exam?" Mr Shaheen said "Honestly, I read them, but it was a bird eye view. A thorough walk through of all regulations before sitting in the exam should be an ideal way.";*
 - *The internet glitches were observed at all time, however considering this was my first ever online examination under a Proctor's supervision. I considered this to be normal, but with the passage of time the glitches kept on mounting. However, in any case, this does not overshadow the fact and justify my intention to cheat.*
21. ACCA submitted that Mr Shaheen was guilty of each of the allegations. It submitted that they were all capable by proof by reference to the video footage and Mr Shaheen's admissions contained in the bundle alongside other documents.
22. ACCA submitted that Mr Shaheen intended to gain an unfair advantage during the Exam and that his response on 28 June 2021 to the investigation, was

dishonest in that he attempted to mislead the investigation regarding why the mobile phone had moved and appeared at his desk during the Exam.

23. ACCA submitted that the conduct set out in Allegations 1 and 2 amounts to dishonesty because Mr Shaheen knew he was required to put his phone out of reach during the Exam. He also knew that his sister was not permitted to be in the Exam room. Such conduct, in either or both respects, would be regarded as dishonest by the standards of ordinary decent people.
24. ACCA submitted that Mr Shaheen's responses to ACCA regarding the mobile phone were dishonest in that he knew that the phone was at his desk to assist him in the Exam. Knowingly providing false or misleading information to ACCA in connection with its investigations is objectively dishonest.
25. ACCA submitted that if any of the allegations are proved, including dishonesty, Mr Shaheen's actions amount to misconduct, both individually and cumulatively, in that the conduct brings discredit to Mr Shaheen, ACCA and/or the wider profession.
26. Mr Shaheen gave evidence and answered questions. He said that he had his mobile in the room so he could use the internet. He said he intended to cheat but he didn't actually cheat. He said the disciplinary process and the disruption to his studies was a severe punishment and had impacted his future studies. He said he was sorry and sought forgiveness and another chance. He said that emails sent to ACCA were sent on his behalf and that the Committee should rely on what he said in evidence rather than what was contained in them. In answer to questions asked, he said his sister was in the room because she was sharing the internet with him for her university exam. Mr Shaheen said that he had understood the Exam rules from a friend rather than reading them himself. He knew that another person could not be present but he was unaware that he could not have a mobile phone in the room.

DECISION ON ALLEGATIONS AND REASONS

27. At the start of the hearing, Mr Shaheen admitted the following allegations: Allegation 1(a), 1(b) 1(c)(i) [in relation to both Allegation 1(a) and 1(b)],

Allegation 2 and Allegation 3(a). In addition, Mr Shaheen admitted Allegations 4(a) that Allegations 1(a), 1(b) and 3(c) amounted to misconduct.

28. The Chair announced in accordance with Regulation 12(3)(c) that Allegations 1(a), 1(b) 1(c)(i), 2 and 3(a) were found proved.

Allegation 4(a) - Misconduct

29. The Committee carefully considered the documentary and video evidence before it together with the oral submissions made by Ms Tadayyon and evidence given by Mr Shaheen when deciding whether the facts found proved amounted to misconduct.
30. The Committee noted that Mr Shaheen had agreed to abide by the Examination Regulations as part of the pre-examination set-up, as seen in the chat log. It also noted that Mr Shaheen was informed by the Information Sheet for On-Demand CBE students sitting exams at home that he should abide by the Exam Regulations and that this document made specific reference to mobile phones and not communicating with other people during the Exam.
31. Further, it was observed from the video footage that Mr Shaheen had been allowed to proceed with the Exam after he was warned by the Proctor and the area was resecured following concern about him looking off-screen several times during the Exam. However, the phone was then not seen in the same place and was eventually seen on the desk having been asked to move it earlier where it was seen on the bed.
32. The Committee was satisfied with the evidence before it that Mr Shaheen had received instructions before the Exam that he should not have a mobile phone with him in the Exam room. Mr Shaheen admitted that he had his mobile phone on his desk during the Exam and this can be seen in the video footage. This is contrary to Examination Regulation 6 which states:

“6. You are not permitted to use a dictionary or an electronic translator of any kind or have on or at your desk a calculator (if applicable to your exam) which can store or display text. You are also not permitted to use mobile phones,

electronic communication device, camera, or any item with smart technology functionality in your examination room. These are known as “unauthorised items” and are taken into the examination room at the candidates own risk. ACCA accepts no responsibility for their loss or damage, if applicable. Such items must not be worn, or be placed on your desk, in pockets of clothing, in your bag or personal belongings, or be kept anywhere else on or about your person. If you bring a mobile phone, electronic communication device or camera, or any item with smart technology functionality and/or capable of taking photographic images with you to your examination, you must declare this to the examination personnel prior to the start of the examination. You must switch the phone or electronic communication device or camera off and disable any alarms or notifications. You must then follow the instructions given to you by the examination personnel.”

33. Further, Mr Shaheen also admitted that his sister was present during the Exam which is contrary to Examination Regulation 10 which states:

“You may not engage in any improper conduct designed to assist you in your exam attempt or provide any improper assistance to any other exam entrant in their exam attempt.”

34. The Committee was satisfied that Mr Shaheen had later inaccurately represented to ACCA during its investigation that he had moved his mobile phone during the Exam because he was trying to locate a better internet connection.
35. The Committee decided that the conduct found proven in Allegations 1(a), 1(b),1(c)(i), 2 and 3(a) was serious and amounted to misconduct. It included dishonesty and therefore amounted to conduct which fell far below the standard to be expected of any student accountant. Honesty was at the heart of the accountancy profession. The fact that Mr Shaheen had also misled ACCA when confronted about these matters meant there was a pattern of dishonesty albeit arising from one Exam.
36. The Committee, therefore, found Allegation 4(a) proved in respect of Allegations 1, 2 and 3(a).

37. The Committee did not consider Allegations 1(c)(ii), 3(b), 3(c) or 4(b) since these particulars were alternatives to the matters found proved.

SANCTION AND REASONS

38. Ms Tadayyon informed the Committee that there were no previous disciplinary findings against Mr Shaheen.
39. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(4) of the Regulations.
40. In considering what sanction, if any, to impose the Committee took into consideration the principle of proportionality and the need to balance the public interest against Mr Shaheen's own interests. The purpose of any sanction was not meant to be punitive but was to protect members of the public, maintain public confidence in the profession and ACCA and declare and uphold proper standards of conduct and behaviour.
41. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case.
42. The Committee took into account in mitigation that there were no previous findings against Mr Shaheen but it also noted that he had only been a student member of ACCA for a few months by the time of the Exam. It also took into account as a mitigating factor the full admissions made by Mr Shaheen and his expression of remorse and his apology. However, the Committee noted that Mr Shaheen lacked candour in his answers to questions asked regarding those admissions when he gave evidence. It considered the new explanation he gave about his phone and his sister's need to share the internet illustrated a lack of candour by him.
43. The Committee considered overall that Allegation 2 aggravated the conduct which the Committee had found proven in respect of Allegation 1. Mr Shaheen had misled his regulator when first confronted about the cheating in the Exam when he represented that he had moved his mobile phone to enable him to get

a stronger internet connection. The Committee found this showed a pattern of dishonesty over a period of time.

44. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the misconduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the gravity of the matters proved, and would not protect the public interest.
45. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from the student register was required. It had careful regard to the factors applicable to each of these sanctions as set out in the Guidance for Disciplinary Sanctions. The Committee considered that most of the factors applicable to a severe reprimand did not apply in this case. Mr Shaheen had misled ACCA when it was investigating his conduct in respect of the Exam. Further, he had admitted dishonesty on two occasions as set out in Allegations 1(c) and 3(a) and the Guidance indicated that matters of dishonesty were serious and even when not resulting in any harm or loss, undermined trust and confidence in the profession.
46. The Committee, therefore, decided that in sanctioning Mr Shaheen in respect of all four allegations, a severe reprimand would not be sufficient sanction to protect the public interest. Nor would it be an appropriate sanction when considering the standards of the profession and the importance of accountancy professionals and student members being honest.
47. 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 concluded that although Mr Shaheen stated in essence that he had made a terrible mistake which he regretted, the seriousness of allegations and the wider public interest could only be maintained through the imposition of a sanction of removal from the student register. It was important to convey a message that cheating in an accountancy

examination was fundamentally incompatible with the profession of accountancy.

48. The Committee did not deem it necessary to impose a minimum period before which Mr Shaheen can reapply for admission as a student member.

EFFECTIVE DATE OF ORDER

49. The Committee had determined that the misconduct, in this case, was so serious as to warrant a sanction of removal from the student register. Since Mr Shaheen was a student and ACCA invited the effective date of any order to be at the expiry of the appeal period; the Committee determined that the sanction should take effect at the expiry of the appeal period.

DECISION ON COSTS AND REASONS

50. The Committee was provided with a cost schedule. ACCA applied for costs in the sum of £6,136.50
51. The Committee was satisfied that the costs sought by ACCA were appropriate and reasonably incurred.
52. The Committee noted that Mr Shaheen had provided a statement of his current financial means in relation to the costs claimed by ACCA. Mr Shaheen stated that if the full costs were ordered against him it would amount to 2½ years of his salary. He asked the Committee to not make any order as to costs due to his lack of means and so that he could continue his studies.
53. The Committee determined that it would be fair and proportionate to order Mr Shaheen to pay costs to ACCA in the sum of £500. It reduced the amount of the costs to take into account Mr Shaheen's means and also because the actual hearing with all parties present did not last a full day.

ORDER

- Mr Shaheen shall be removed from ACCA's student register at the expiry of the appeal period.
- Mr Shaheen shall pay a contribution to ACCA's costs in the sum of £500.

Mr Andrew Gell
Chair
29 June 2022