

## HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mr Hafiz Muhammad Saim Ali</b>
<b>Heard on:</b>	<b>Wednesday, 22 June 2022</b>
<b>Location:</b>	<b>Held Remotely by Microsoft Teams via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU</b>
<b>Committee:</b>	<b>Mrs Kathryn Douglas (Chair) Mr Ryan Moore (Accountant) Mrs Jackie Alexander (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Robin Havard (Legal Adviser)</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)</b>
<b>Summary</b>	<b>Removed from the student register</b>
<b>Costs:</b>	<b>Student member to pay cost to the ACCA in the sum of £6,000.00.</b>

#### ACCA



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## **PRELIMINARY APPLICATIONS**

### **SERVICE OF PAPERS**

1. The Committee had considered the following documents: a hearing bundle (pages 1 to 145), two video recordings of the exam sessions on 30 October 2020 and 06 November 2020, and a service bundle (pages 1 to 22). The Committee had also considered legal advice which it had accepted.
2. The Committee had read the letter dated 25 May 2022 containing the Notice of Proceedings, sent on the same day by ACCA by email to Mr Ali. It had noted the subsequent emails sent to Mr Ali with the necessary link and password to enable Mr Ali 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 Ali 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 Ali in accordance with CDR 22.

### **PROCEEDING IN ABSENCE**

5. On 15 June 2022, in the absence of any response from Mr Ali to the email of 25 May 2022, ACCA tried to call Mr Ali on a mobile number provided by him and held by ACCA. There was no answer.
6. On 15 June 2022, ACCA sent an email to Mr Ali at the registered email address asking him to indicate whether he intended to attend the hearing or whether he was content for the hearing to proceed in his absence, reminding him of the date of hearing. The email had been delivered successfully.

7. On 15 June 2022, Mr Ali replied, stating as follows:

*"Sorry for the late reply  
I am not attend the hearing.  
I leave ACCA" (sic)*

8. On 15 June 2022, ACCA responded, asking Mr Ali if he was happy for the hearing to proceed in his absence.

9. On the same day, Mr Ali replied, saying, *"Sorry I leave ACCA"*.

10. On 20 June 2022, ACCA sent a further email to Mr Ali, reminding him of the hearing date and providing the link to enable him to join the hearing.

11. On 20 June 2022, ACCA had also attempted to call Mr Ali on the number registered with ACCA but there was no response nor was there the option to leave a message.

12. The Committee was satisfied that ACCA had done all that it could reasonably be expected to do, to engage Mr Ali in the hearing. However, taking account of his responses on 15 June 2022, the Committee concluded that Mr Ali was aware of the hearing date but that he had no intention of participating in the hearing, nor had he requested an adjournment.

13. The Committee concluded that, based on the responses received from him, Mr Ali 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.

14. 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 in adjourning the hearing and no such application had been made.

15. Finally, the Committee considered that it was in a position to reach proper findings of fact on the evidence presented to it by ACCA, to include the brief responses from Mr Ali in his emails of 1, 3 and 17 November 2021.
16. The Committee ordered that the hearing should proceed in the absence of Mr Ali.

## **ALLEGATIONS**

### **Allegations**

Mr Hafiz Muhammad Saim Ali, a student member of the Association of Chartered Certified Accountants ('ACCA'):

- 1) On 30 October 2020, failed to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) before the start of a MA1 Management Information exam, in that he failed to ensure he was not distracted, contrary to Examination Regulation 1 and the Examination Guidelines.
- 2) On 06 November 2020, failed to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) before the start of a MA1 Management Information exam, in that he failed to ensure he was not distracted, contrary to Examination Regulation 1 and the Examination Guidelines.
- 3) On 06 November 2020, failed to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) before the start of a MA1 Management Information exam, in that he failed to ensure that the door to the exam room was closed, contrary to Examination Regulation 1 and the Examination Guidelines.
- 4) On 30 October 2020 and/or 06 November 2020, engaged in improper conduct designed to assist himself in his exam attempts in that he caused or permitted a third party to be present and/or communicate with him

during all or part of his MA1 Management Information exams, contrary to Examination Regulation 10.

- 5) Mr Ali's conduct as referred to in allegation 4 above was:
  - (a) Dishonest, in that he sought to obtain an unfair advantage in the exam by obtaining assistance from a third party; or in the alternative,
  - (b) Conduct that demonstrates Mr Ali acted with a lack of integrity.
- 6) Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, failed to co-operate fully with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:
  - (a) 04 May 2021, and/or
  - (b) 26 May 2021, and/or
  - (c) 10 June 2021
- 7) By reason of his conduct, Mr Ali 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 6 above; or in the alternative,
  - b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of allegations 1, 2, 3, 4 and/or 6.

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

### **Allegations 1, 2 & 3**

17. In reaching its findings in respect of allegations 1, 2 and 3, the Committee relied upon the email correspondence and documents contained in ACCA's bundle and noted the Incident Reports provided by the proctor (i.e. a remote exam

invigilator) prepared following each exam. It had also viewed the video footage from the videos taken on 30 October 2020 and 06 November 2020 and considered the screenshots taken from the video footage as contained in the bundle. The Committee had taken account of the submissions of Ms Terry. The Committee also listened to legal advice, which it accepted.

18. The Committee took into consideration that the case as presented by ACCA had not been challenged by Mr Ali.
19. On 06 July 2020, ACCA registered Mr Ali as a student. As such, the Committee found that, throughout the material time, he was bound by ACCA's Byelaws and Regulations.
20. Examination Regulation 1 provides as follows:

*"You are required to adhere at all times to the examination regulations. If you are found to be in breach of any of these regulations or fail to adhere to the guidelines below, you may become liable to disciplinary action, pursuant to ACCA Bye-law 8, which could result in your removal from the student register."*

21. Prior to the date of the exam, Mr Ali had been sent a Student Information Sheet which set out the Examination Guidelines. In booking an exam, Mr Ali confirmed that he had read the Information Sheet and agreed to comply with all the requirements it contained. It also warned Mr Ali that if he did not comply with its content, it may result in disciplinary action. An extract from the relevant Guidelines is set out below.

### **"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 starts, you must ensure you follow the instructions below:*

- *Ensure you are not disturbed by anyone."*

22. On 30 October 2020, Mr Ali sat his MA1 Management Information examination remotely. The Committee found that the proctor filed an Incident Report in respect of conduct observed during the exam, noting, "*an individual was heard whispering to the test taker off-screen*" and that the behaviour continued after a warning was issued.
23. On 06 November 2020, Mr Ali sat his MA1 Management Information examination again. The Committee found that the proctor filed an Incident Report in respect of Mr Ali's conduct during this exam as well, noting, "*the test taker was looking off-screen, and was heard communicating with an individual*".
24. An investigation was commenced. As part of the investigation, documents and video footage relating to Mr Ali's exams on 30 October 2020 and 06 November 2020 were obtained by ACCA.
25. The Committee relied on the video footage and, in particular, the extracts from the video footage to which ACCA referred and which are particularised below, together with the description of the behaviour observed. As stated, this evidence had not been challenged. The Committee was satisfied that the descriptions applied to the extracts were consistent with its own findings on viewing the video evidence and screenshots.

### **30 October 2020 exam**

At 00:00-00:04, Mr Ali can be seen speaking and turning to his left-hand side. Whilst speaking, a third party can be heard replying to him.

At 00:16-00:21, after whispering from a third party can be heard, Mr Ali turns to his left-hand side and can be seen gesturing, placing two fingers on his mouth, and touching his nose.

Between 11:00 and 12:00, the exam is launched.

At 16:25-16:45, a third party's voice can be heard. Mr Ali briefly looks off screen, rolling his eyes to his left-hand side and can be heard whispering in response to the third party.

At 17:55-18:10, Mr Ali coughs, looks downwards and can be seen whispering. After he whispers, he looks off screen briefly, to his left hand-side, and a third party can be heard whispering.

At 42:05-42:15, faint whispers from a third party can be heard, followed by a brief whisper from Mr Ali. After Mr Ali's whisper, "A", "B", "B3" and "A and B" can be heard from a third party.

At 47:50-48:42, whispering from a third party can be heard. At 48:11, the word "*customer*" can be heard. Mr Ali can be seen looking at his screen whilst the whispering can be heard.

At 54:50-55:01, whispering from a third party can be heard. Mr Ali can be seen looking at his screen, touching his face with his left hand.

At 1:05:23-1:05:29, a sneezing sound can be heard. After this is heard, Mr Ali coughs.

Between 1:06:00 and 1:07:00, the exam is terminated.

The proctor noted in their report, that they observed "*an individual heard whispering to the test taker off-screen*" (sic), and that the behaviour continued after Mr Ali was issued a warning which led to the exam being terminated.



At 1:07:15-1:07:45, Mr Ali can be heard whispering, reading out a message in the chatbox from the proctor which notified Mr Ali that his exam was terminated. The words "*I have terminated exam session*", "*matter*", "*having a person*" and "*warning*" can be heard from Mr Ali. After these whispers, Mr Ali turns to his left-hand side for a brief period. After Mr Ali begins to look at his screen, a third party's voice can be heard. Shortly after, Mr Ali looks off screen, to his left-hand side and can be seen whispering.

### **06 November 2020 exam**

At 1:05-1:14, Mr Ali can be seen turning to his left-hand side and speaking to a third party. The third party can be heard replying to him.

At 6:24-6:47, Mr Ali performs a camera pan and shows the proctor his desk. At 6:26-6:28, the door to the room where Mr Ali is sitting his exam is seen open.

Between 9:45 and 10:15, the exam is launched.

At 18:46-19:00, Mr Ali can be seen looking off screen to his left and covers his mouth with his right hand. After he removes his hand covering his mouth, faint whispering from a third party can be heard.

At 22:21-22:23, a third party's voice can be heard.

At 26:40-27:01, a camera pan is performed. At 26:50, the door to the room where Mr Ali is sitting his exam is seen open.

At 36:36, a faint whisper can be heard whilst Mr Ali is covering his mouth with his left hand.

Between 40:30 and 41:30, the exam is terminated.

The proctor noted in their report that they observed "*the test taker was looking off-screen, and was heard communicating with an individual*", and this

behaviour continued during the exam session which led to the exam being terminated.

At 44:06-44:35, Mr Ali covers his mouth with his left hand, turns to his left-hand side and can be heard whispering. A third party can be heard responding to Mr Ali.

26. ACCA submitted, and the Committee found, that the video footage taken from both exams, together with the proctor's reports, illustrated that Mr Ali was communicating with, and was distracted by, a third party during the exams on 30 October 2020 and 06 November 2020.
27. Finally, the Committee was satisfied that, in the exam on 06 November 2020, the door to the room where Mr Ali sat his exam was open.
28. On 30 September 2021, ACCA sent a report of disciplinary allegations and accompanying evidence bundle to Mr Ali for comment.
29. In his initial responses dated 02 October 2021, Mr Ali denied any wrongdoing, stating that he was in a room in his house which he described as being very small and there was a child in the background who was whispering.
30. However, on 01 November 2021, Mr Ali wrote to ACCA saying:  
  
*"I want to tell the truth about exam. I cheated in exam ma1 for both time. If you want fined or myacca banned. So you can do it thank you"* (sic).
31. On 03 November 2021, ACCA wrote to Mr Ali asking how the cheating in both exams took place. Mr Ali responded on the same day, saying:  
  
*"There was a boy sitting next to me who was answering me"* (sic).
32. On 17 November 2021, Mr Ali wrote again to ACCA, saying:

*"Yes, I confess. That I was chatting in the exam."*

33. In reaching its findings, the Committee relied on the video evidence, the screenshots taken from the video evidence, and the proctor's Investigation Reports, together with the emails from Mr Ali of 01, 03 and 17 November 2021. The Committee found that Mr Ali was distracted by another person during his exams on 30 October 2020 and 06 November 2020 and did not sit his exam on 06 November in a room with a closed door.
34. Consequently, the Committee was satisfied that Mr Ali had failed to follow the Examination Guidance and had therefore acted in breach of Examination Regulation 1.
35. On this basis, the Committee found allegations 1, 2 and 3 proved.

#### **Allegation 4**

36. The Committee relied on its findings of fact in respect of allegations 1, 2 and 3 above.
37. Examination Regulation 10 provides as follows:

*"10. 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."*

38. The Committee was satisfied that the only proper inference to be drawn from its findings of fact and the behaviour observed in the video footage during the course of both exams was that he was conversing with a third party in order to obtain assistance in the course of the exam.
39. Indeed, in his email of 01 November 2021, Mr Ali accepted that this was the case, stating, " *I want to tell the truth about exam. I cheated in exam ma1 for both time....*"(sic)

40. In his email of 03 November 2021, he stated, "*There was a boy sitting next to me who was answering me*"(sic)
41. The Committee found that Mr Ali had engaged in improper conduct during the exams on 30 October 2020 and 06 November 2020 designed to assist him in his attempt to pass the exam.
42. Consequently, the Committee found allegation 4 proved.

#### **Allegation 5(a)**

43. The Committee relied on its findings of fact under allegations 1, 2, 3 and 4 above.
44. The Committee found that, on the basis on which it had found allegation 4 proved, and in particular his responses of 01 and 03 November 2021, Mr Ali knew that it was improper conduct to seek assistance from a third party in the course of an exam.
45. The Committee was satisfied that, by the standards of ordinary decent people, such conduct, namely cheating in a professional exam, would be considered to be dishonest.
46. Consequently, the Committee found allegation 5(a) proved.

#### **Allegation 5(b)**

47. On the basis that this allegation was pleaded in the alternative to allegation 5(a), the Committee made no finding in respect of it.

#### **Allegation 6**

48. On 04 May 2021, ACCA sent a letter as an attachment to Mr Ali's registered email address. The letter informed Mr Ali of the investigation into his conduct in the exams on both 30 October 2020 and 06 November 2020. The proctor's

Incident Reports in respect of each exam were attached as appendices. They included screenshots taken from the video footage of the exams. Within this letter, Mr Ali was asked a series of questions about his conduct during the exams. 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."*

49. Mr Ali was required to respond by 25 May 2021. No response was received.
50. On 26 May 2021, ACCA sent another letter to Mr Ali's registered email address reminding him of his obligation to co-operate with the investigation and seeking his response by 09 June 2021. No response was received.
51. On 10 June 2021, ACCA sent a final letter to Mr Ali's registered email address reminding him again of his obligation to co-operate with the investigation and again seeking his response by 17 June 2021. No response was received.
52. The Committee was satisfied that all emails had been sent to Mr Ali at his registered email address which he provided to ACCA. The email address had not changed throughout the course of the investigation. None of the emails had been returned or bounced back into the case management system.
53. The Committee also took into consideration a note made by an ACCA official dated 29 April 2022 which confirmed that, on an interrogation of ACCA's case management system, it showed that the letters sent by email to Mr Ali on 04 and 26 May 2020 and 10 June 2020 had been accessed.
54. Furthermore, the Committee noted that, on 30 September 2021, ACCA wrote to Mr Ali at the same email address as the one used in the emails above, enclosing a report in respect of the disciplinary allegations together with a bundle of evidence, requesting Mr Ali to comment.

55. By emails in October and November 2021 i.e. some five months after the initial letter of 04 May 2021, Mr Ali responded, using the same email address.
56. The Committee was satisfied that the emails of 04 and 26 May 2020 and 10 June 2020 had been received by Mr Ali and that he had failed to respond. This amounted to a failure to cooperate with ACCA in the course of its investigation and on this basis, the Committee found allegation 6 proved.

#### **Allegation 7(a)**

57. Taking account of its findings that Mr Ali had acted dishonestly, the Committee was satisfied that he was guilty of misconduct in that such conduct could properly be described as deplorable. In the Committee's judgement, it brought discredit to Mr Ali, the Association and the accountancy profession.
58. In respect of allegation 6, 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 Ali had failed persistently to cooperate with ACCA and to respond to correspondence.
59. 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 to maintain its reputation was seriously compromised.
60. The Committee found that the failure of Mr Ali to cooperate with his regulator also amounted to misconduct in that such failure brought discredit to himself, ACCA and the accountancy profession.
61. Therefore, the Committee found allegation 7(a) proved.

### **Allegation 7(b)**

62. On the basis that this allegation was pleaded in the alternative to allegation 7(a), the Committee made no finding in respect of it.

### **SANCTION AND REASONS**

63. 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 the submissions of Miss Terry, and legal advice from the Legal Adviser which it accepted.
64. 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.
65. 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.
66. The Committee considered whether any mitigating or aggravating factors featured in this case.
67. The Committee accepted that there were no previous findings against Mr Ali. However, the Committee took into consideration the fact that, at the time the exams took place, Mr Ali had only been a student member since 06 July 2020 i.e. approximately three months before he sat the first exam.
68. The Committee had no information regarding the personal circumstances of Mr Ali nor had it been provided with any testimonials or references as to Mr Ali's character.

69. The Committee noted that the only engagement from Mr Ali in respect of the investigation related to his emails of October and November 2021, some five months after ACCA first wrote to him in relation to the investigation. Initially, he denied any wrongdoing, but the Committee took account of the fact that he subsequently admitted that he had cheated. It was also evident that he had received the correspondence from ACCA in May and June 2021 but had chosen to ignore it. The Committee was not satisfied that Mr Ali had shown any real insight into the seriousness of his conduct and he had not expressed genuine remorse.
70. The Committee had found Mr Ali to have been dishonest and that he had failed to engage with ACCA during its investigation, both of which the Committee considered to be very serious.
71. The Committee found such serious conduct to be aggravated in the following ways.
72. Mr Ali had shown neither insight nor contrition. His dishonest conduct in taking the exams in October and November 2020 cannot be described as isolated incidents and illustrated a level of premeditation. His lack of cooperation had also extended over a period of months and therefore, again, it could not be described as an isolated incident.
73. 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.
74. 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.
75. Mr Ali had been found to have acted dishonestly on more than one occasion in a premeditated and deliberate manner. The Committee was also concerned



that, based on its findings, the objective of his dishonest conduct on both occasions that he sat the exam was to unfairly assist himself to pass the exam. It ran the risk that, in this way, Mr Ali may have gained his qualification when not competent to do so. This was conduct which was fundamentally incompatible with being a student member of ACCA. The Committee was not satisfied that there was no risk of a repetition of such behaviour.

76. Mr Ali had also failed persistently to cooperate with his regulator, ACCA, in respect of an investigation of potentially serious allegations. His lack of engagement in relation to the investigation of his conduct during an exam represented conduct which was also 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 Ali would behave in a manner expected of a member of ACCA.
77. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to remove Mr Ali from the student register but could find none.
78. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Ali shall be removed from the student register.

#### **COSTS AND REASONS**

79. The Committee had been provided with a costs schedule (pages 1 and 6) relating to ACCA's claim for costs.
80. The Committee concluded that ACCA was entitled to be awarded costs against Mr Ali, all allegations having been found proved. The amount of costs for which ACCA applied was £6,627.00. The Committee did not consider that the claim was unreasonable, but the hearing had taken less time than estimated.

81. Mr Ali had not provided ACCA with any documentary evidence of his means. The Committee was satisfied that, in the correspondence sent to him, Mr Ali 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.
82. In the absence of any information from Mr Ali, the Committee approached its assessment on the basis that he was able to pay any amount of costs awarded against him.
83. 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**

84. The Committee had considered whether the order should have immediate effect. However, ACCA did not seek such an order and, taking account of Mr Ali's removal from the student register, the Committee did not consider that he presented a current risk to the public. It was also clear from his emails that Mr Ali did not wish to continue as a student member of ACCA. It therefore concluded it was not in the interests of the public to make an order which takes effect immediately.
85. 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.

**Mrs Kate Douglas**  
**Chair**  
**22 June 2022**