

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Salmad Ahmad

Heard on: Tuesday, 10 May 2022

Location: Remotely via Microsoft Teams

Committee: HH Suzan Matthews QC (Chair)
Mr Colin Childs (Lay)
Mr Constantinos Lemonides (Accountant)

Legal Adviser: Mr Iain Ross

**Persons present
and capacity:** Mr Ben Jowett (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officers)
Ms Selda Krasniqi (Investigations Officer)

Outcome: Allegations 1, 2(a)(i) and (ii), 2(b), 2(c), 2(d)(i), 3(a) and
4(a) proved.

Costs: £9000.00

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PRELIMINARY MATTERS

1. The Committee heard an allegation of misconduct against Mr Salman Ahmad. The hearing was conducted remotely through Microsoft Teams. Mr Jowett appeared for ACCA. Mr Salman Ahmad was not present and was not represented. The Committee had a main bundle of papers numbered pages 1 to 154, a memo and agenda consisting of 2 pages, an additional bundle consisting of 2 pages, and a separate service bundle numbered page 1 to 17. The Committee also had copies of the video of the examination which was 2.23 hours in length.

SERVICE OF NOTICE OF HEARING AND PROCEEDING IN ABSENCE

2. The Committee saw that the notice of this hearing was dated 12 April 2022 and that it was sent to Mr Ahmad's registered email address. Proof of delivery of the email was also provided. The Committee was satisfied that there had been proper service in accordance with the ACCA Disciplinary Rules, as the required 28 days' notice period had been given and that the notice contained the required information.
3. Mr Jowett applied for the hearing to proceed in Mr Ahmad's absence. He submitted that Mr Ahmad had not replied to the notice of this hearing, nor had he made an application for an adjournment. The Committee received the advice of the Legal Adviser. The Committee noted that Mr Ahmad's engagement with ACCA was limited and consisted only of emails sent by him to ACCA on 28 July 2021 and 29 July 2021 and 30 July 2021. The Committee also noted that Mr Ahmad had used his registered email address to communicate with ACCA in July 2021, and that there had been no notification of any change to his email address.
4. In all the circumstances, as he had made no contact since July 2021 and had been sent the notice of hearing, the Committee concluded that Mr Ahmad had received notification of this hearing and had voluntarily absented himself. ACCA had also attempted to contact Mr Ahmad by telephone on two occasions including today. The Committee considered that no useful purpose would be served by adjourning this hearing and that the public interest required the matter to be dealt with expeditiously. Taking everything into consideration, the

Committee decided to proceed with the hearing in Mr Ahmad's absence.

ALLEGATION / BRIEF BACKGROUND

5. Mr Ahmad became an ACCA member on 07 November 2019. As such, he was bound by the Association's Bye-laws and Regulations, including the Examination Regulations.
6. On 29 October 2020, Mr Ahmad was taking his on-demand MA1 Management Information examination (the 'Exam') remotely. The Exam commenced and was completed within the scheduled time. After the Exam, the proctor (online invigilator) filed an Incident Report. Mr Ahmad was reported because suspicious behaviour was noted and there were integrity concerns regarding the Exam.
7. An investigation was commenced which involved obtaining documents and video footage relating to the Exam. In particular, the video footage obtained allegedly revealed the presence of a third party or third parties in the room where the Exam was taking place and the presence of headphones which must have been within arms' reach. Mr Ahmad's conduct was alleged to be in breach of Examination Regulations 1 and 16 and of the instructions contained within the information sheet given to all students prior to starting an exam.

Allegations

Mr Salman Ahmad, ACCA student:

1. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2021, Mr Ahmad has failed to co-operate fully with the investigation of a complaint, arising out of his conduct during an on-demand MA1 Management Information examination, in that he failed to respond fully or at all to any or all of ACCA's correspondence sent on
 - (a) 16 March 2021
 - (b) 08 April 2021

(c) 23 April 2021

2. On 29 October 2020, in relation to a scheduled on-demand MA1 Management Information examination:

(a) Caused or permitted a third party or parties to be

i. Present and

ii. To communicate with him during all or part of the Exam, in breach of Examination Regulation 16.

(b) 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, by reason of the matters referred to in allegation 2(a)(i) above, in breach of Examination Regulation 2.

(c) Further, the conduct at Allegation 2(a) and/or (b) was improper conduct designed to assist him in his exam attempt contrary to Examination Regulation 10.

(d) Further, any or all of the conduct described at Allegations 2(a) and/or (b) and/or (c) was:

(i) Dishonest, in that Mr Ahmad sought to obtain assistance from an unknown person or persons in his exam attempt; or in the alternative,

(ii) Conduct that demonstrates that Mr Ahmad acted with a lack of integrity

3. On 29 October 2020, prior and in relation to a scheduled on-demand MA1 Management Information examination:

- (a) Used and/or had at his desk within arm's reach, a pair of wired headphones, contrary to Examination Regulation 1 and the Examination Guidelines.

4. By reason of his conduct, Mr Salman Ahmad 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 above; 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, 2(a) 2(b) 2(c) and 3

DECISION ON FACTS / ALLEGATION AND REASONS

8. ACCA did not call any live witnesses and relied on the witness statements and exhibits produced in the main bundle and the additional bundles. The Committee was shown relevant excerpts of the examination video.
9. The Committee first considered Allegations 2, 3 and 4. The Committee made its own assessment of the video excerpts relied on by ACCA. The Committee also took into account that whilst Mr Ahmad was not present and had therefore not given any evidence, in his emails to ACCA in July 2021, he had denied the central allegation that a third party or parties had been present with him in the room when he took the exam on 29 October 2020. Mr Ahmad also explained [PRIVATE].
10. Having seen and heard the contents of the video excerpts relied on by ACCA, which were set out in a detailed chronology provided in the papers, the Committee was satisfied that, on numerous occasions, Mr Ahmad had engaged in whispering conversations with another person/s who was/were in the same room as Mr Ahmad during the exam. The Committee was also satisfied that there was cogent evidence in the relevant video excerpt that a note was passed to Mr Ahmad during the exam. The rustling of paper could be heard, and Mr

Ahmad acknowledged the note through his eye movements.

11. For the above reasons, the Committee was satisfied that Mr Ahmad had condoned or permitted another person/s to be in the same room as him when he took the exam on 29 October 2020. Further, the Committee was satisfied that Mr Ahmad had communicated with that person/s during the exam.
12. In not ensuring that he was by himself in a private room when taking the exam, and in communicating with a third party or parties during the exam, the Committee was satisfied that Mr Ahmad was in clear breach of the Examination Regulations as set out in the Allegations.
13. The Committee was also of the view that the most likely explanation for Mr Ahmad communicating with a third party in the same room during the exam, was that he engaged in improper conduct designed to assist him in his exam attempt.
14. For all of the above reasons, the Committee found, on a balance of probabilities Allegations 2(a)(i) and (ii), 2(b) and 2(c) proved.
15. In respect of Allegation 2(d), the Committee was satisfied that Mr Ahmad's improper conduct had no innocent intention and would be regarded as being dishonest by reasonable and honest people. Accordingly, the Committee found Allegation 2(d)(i) proved and did not consider the alternative allegation 2(d)(ii).
16. The Committee found Allegation 3(a) proved. In the Committee's view, the relevant video excerpts clearly demonstrate that Mr Ahmad's headphones were within arm's reach, contrary to Examination Regulation 1 and the guidelines.
17. In respect of Allegation 1, the Committee was of the view that Mr Ahmad's very limited engagement with ACCA in his emails July 2021, fell far short of him fully co-operating with the investigation. The Committee found Allegation 1 proved.
18. Having found that Mr Ahmad had engaged in improper conduct designed to assist in his exam attempt, the Committee was in no doubt that his conduct fell far below the standards required and amounted to misconduct. Accordingly, the Committee found Allegation 4(a) proved and did not consider the alternative 4(b).

DECISION ON SANCTION AND REASONS

19. The Committee heard submissions from Mr Jowett on behalf of ACCA. The Committee received advice from the Legal Adviser and had regard to the Guidance for Disciplinary Sanctions.
20. The Committee noted that the matters found proved against Mr Ahmad were very serious. The Committee considered the aggravating factors to be that Mr Ahmad's misconduct was premeditated, intended for his own benefit, and undermined the trust which the public rightly have in ACCA. Mr Ahmad had sought to cheat in an examination which leads to an ACCA qualification and could have become an ACCA member when not qualified to do so. The matter was further aggravated by Mr Ahmad's failures to co-operate with ACCA's investigation.
21. As a mitigating factor, the Committee took into account that Mr Ahmad has no previous disciplinary record.
22. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate given the gravity of the matters proved.
23. The Committee carefully considered whether a Severe Reprimand would be sufficient and proportionate or whether exclusion from membership was required and had careful regard to the factors applicable to each of these sanctions set out in the Sanctions Guidance.
24. The Committee had regard to E 2.2 of the Guidance for Disciplinary Sanctions which states,

“The public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. It is a cornerstone of the public value which an accountant brings.”

25. The Committee was mindful that the Sanction of exclusion from membership is the most serious sanction which could be imposed. The Committee also considered the guidance that this sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a member. The Committee was satisfied that Mr Ahmad's misconduct reached that high threshold.
26. For all of the above reasons, the Committee concluded that the only appropriate and proportionate sanction was exclusion.

DECISION ON COSTS AND REASONS

27. ACCA applied for costs in the sum of £9,214.50. The Committee was not provided with a statement of means by Mr Ahmad and therefore had no information as to his ability or otherwise to pay costs. Taking into account the schedule of costs provided and concessions made on behalf of ACCA, the Committee made an order that Mr Ahmad pay the sum of £9,000 in contribution to ACCA's costs incurred.

HH Suzan Matthews QC
Chair
10 May 2022