

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Janmesh Jangam
Heard on:	Thursday, 12 January 2023
Location:	Held Remotely by video conference
Committee:	Mr Andrew Gell (Chair), Mr Trevor Faulkner (Accountant), Ms Rachel O'Connell (Lay)
Legal Adviser:	Mr Sanjay Lal
Persons present and capacity:	Ms Afshan Ali (ACCA Case Presenter) Ms Nyero Abboh (Hearings Officer)
Summary	Allegations 1), 2) and 3a) found proved. Severe reprimand
Costs:	£5000

PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Committee had before it a main bundle pages 1-65, an additional bundle pages 1-8, a service bundle pages 1-15 and subsequently a costs schedule.

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2. Ms Ali applied for the matter to proceed in the absence of Mr Jangam and she addressed the Committee on service and the factors the Committee should consider in respect of proceeding in absence.
3. The Committee was satisfied that Mr Jangam was served with notice of this hearing to his registered email address on 15 December 2022 in accordance with Regulation 10 and 22 of the Complaints and Disciplinary Regulations 2014 (as amended 1 January 2020).
4. The Committee then turned to whether to proceed in the absence of Mr Jangam. It noted no communication has been received from Mr Jangam in respect of this hearing. There was no application from him and or any representative to adjourn the matter. The Committee was satisfied that all reasonable efforts have been made to try and engage Mr Jangam. He has not engaged with ACCA since February 2022. The Committee noted the public interest in this matter being heard and, in the circumstances, determined to exercise its discretion to proceed in the absence of Mr Jangam in accordance with Regulation 10 (7).

ALLEGATIONS/BRIEF BACKGROUND

5. The Committee convened to consider the following allegations:

Allegations

On 26 March 2021, Mr. Janmesh JANGAM ('Mr Jangam'), a student of the Association of Chartered Certified Accountants ('ACCA'):

1. *Distributed a photograph of an ACCA Financial Accounting (FA) exam question to a Telegram messaging application group containing 483 members, which he is strictly prohibited from doing so, contrary to ACCA Exam Regulation 14;*
2. *Mr. Jangam's conduct in respect of the matters set out at paragraph 1 above was reckless, in that by sharing a photograph of the FA exam in the Telegram messaging application group, this could and/or is likely to be seen by any person in the group including other ACCA registered students and /or entrants for the same exam who could thereby obtain an unfair advantage.*

3. *By reason of his conduct Mr. Jangam is:*

 - a) *Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of paragraphs 1 and/or 2 above;*
 - b) *Liable in the alternative to disciplinary action pursuant to byelaw 8(a)(iii), in respect of paragraph 1*

6. Ms Ali stated that Mr Jangam registered as an ACCA student on 16 January 2020. ACCA received a referral from an individual, Person A. Person A raised concerns about the integrity of ACCA's Computer-based exams (CBE) after they found an ACCA exam question was shared in a Telegram study chat group they are part of.
7. Ms Ali submitted that the contents of Person A's referral was reviewed by ACCA and this review further identified a Person B. Person B in their response to ACCA confirmed that they shared the picture of the Financial Accounting (FA) exam question on 25 March 2021 through a WhatsApp group they both belong to. Person B denied that they shared/distributed the photograph of the FA exam question in the Telegram group.
8. Person B did not dispute they took the picture of the exam. Person B denied that they took the picture to copy or cheat in the exam. Person B asserted that the exam froze and got scared and the exam invigilator was not available to assist. Person B took a photo of the exam as proof of their progress. Person B denied that they sent the picture during the exam.
9. When the exam was finished, Person B stated that they received a message from a friend on WhatsApp who asked how the FA exam went. Person B sent the picture to their friend of the exam and informed them how they did on WhatsApp. Person B could not explain how the picture they supplied to their friend ended up in the Telegram group chat of Person A.
10. Person B supplied a screen capture of the exchange with the friend, in a WhatsApp group called "*The chaos club*" where they shared the photo of the exam question with Mr Jangam on 25 March 2021. It should be noted that there is a "Janmesh" in the WhatsApp group. The picture was posted by a "Janmesh Jangam" in the Telegram group chat on 26 March 2021 at 08:24.

11. ACCA also reviewed the picture supplied by Person A and confirmed that the picture was the same picture taken by Person B during their FA exam on 25 March 2021.
12. Ms Ali submitted ACCA Investigations contacted Mr Jangam on 22 February 2022. Mr Jangam was notified he was under investigation and invited to provide any further information about this matter.
13. Ms Ali submitted that Mr Jangam responded on 27 February 2022. He asserted that he thought the FA exam question posted in the WhatsApp group by Person B was a specimen exam question. He was unable to solve it, he sought assistance and posted the FA exam question in the Telegram group. When he was told it was a live question, he got scared, removed the question, and left the Telegram group.
14. Ms Ali submitted that Mr Jangam was reckless in sharing the photograph in that by sharing the photograph he undermined the integrity of the exam process.

DECISION ON FACTS/ALLEGATIONS AND REASONS

15. The Committee accepted the advice from the Legal Adviser. The Committee was reminded that the burden of proving the disputed facts rests on the ACCA and the burden is the civil standard of the balance of probabilities.
16. Having adopted the above approach, the Committee found the following:

On 26 March 2021, Mr. Janmesh JANGAM ('Mr Jangam'), a student of the Association of Chartered Certified Accountants ('ACCA'):

1. *Distributed a photograph of an ACCA Financial Accounting (FA) exam question to a Telegram messaging application group containing 483 members, which he is strictly prohibited from doing so, contrary to ACCA Exam Regulation 14; **FOUND PROVED***
2. *Mr. Jangam's conduct in respect of the matters set out at paragraph 1 above was reckless, in that by sharing a photograph of the FA exam in the Telegram messaging application group, this could and/or is likely to be seen by any person in the group including other ACCA registered students and /or entrants for the same exam who could thereby obtain an unfair advantage. **FOUND PROVED.***
3. *By reason of his conduct Mr. Jangam is:*

- a) *Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of paragraphs 1 and/or 2 above; **FOUND PROVED.***
- b) *Liabile in the alternative to disciplinary action pursuant to byelaw 8(a)(iii), in respect of paragraph 1. **NOT PROVED.***

17. The Committee accepted that it was not disputed that Mr Jangam shared and or distributed the photograph of the FA exam question in the Telegram group. The Committee noted that Mr Jangam accepted he had distributed the FA exam question in his response to ACCA of 27 February 2022. The Committee was satisfied that this was contrary to the relevant Exam Regulations. It therefore found Allegation 1 above proved.
18. Turning to Allegation 2 and whether he was reckless in doing so, the Committee had regard to Mr Jangam's response, namely that he thought the photograph he posted was of a specimen question. However, the Committee noted that the photograph in question has on it a candidate number and time remaining in the exam section. The Committee is satisfied that ACCA have established on the balance of probabilities that this was not a specimen question and it would have been clear to Mr Jangam that this was not a specimen question.
19. On the balance of probabilities, the Committee is satisfied that by sharing the photograph, there was a significant risk the persons he shared the image with could use the images to derive an unfair advantage either for themselves or otherwise cause or permit them to be shared more widely including any person yet to sit the exam, who would thereby derive an unfair advantage in the exam. There was nothing in the photograph to suggest that the exam question was a specimen question and Mr Jangam's actions in sharing this photograph were reckless in the circumstances.
20. In respect of Allegation 3a, the Committee is satisfied that the findings in Allegation 1 and 2 amounts to a serious departure from the standards expected. It noted that misconduct is a matter of judgment. The Committee is satisfied that misconduct is clearly made out. The Committee is satisfied that the sharing of photographs of exam questions or papers in this manner undermines the integrity of the exam in question and more generally, ACCA's qualifications, causing potentially considerable reputational harm. The above conduct also brings the Association and accountancy profession into disrepute.
21. In light of its findings in respect of Allegation 3a, the Committee did not find Allegation 3b proved as this was charged in the alternative.

SANCTION

22. The Committee had regard to the Guidance for Disciplinary Sanctions. The Committee accepted the advice of the Legal Adviser. The Committee accepted his advice that any sanction must be proportionate and it should consider the least restrictive sanction first and move upwards only if it would be proportionate to do so.
23. The Committee balanced Mr Jangam's interests with that of the public interest, which includes the protection of members of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance. The issue of sanction was for the Committee exercising its own professional judgement.
24. The Committee carefully considered the aggravating and mitigating factors in this case. The Committee considered the following to be aggravating features:
 - The potential to undermine the integrity of the exam process given the size of the Telegram group.
25. In terms of mitigating factors, the Committee considered the following factors:
 - No previous regulatory or disciplinary matters.
26. The Committee first considered taking no action in this case. It was in no doubt that to do so would fail to mark the gravity of Mr Jangam's misconduct and would undermine confidence in the profession and in ACCA as the regulator.
27. Having decided that it was necessary to impose a sanction in this case, it considered the question of sanction in ascending order, starting with the least restrictive.
28. The Committee considered whether the appropriate and proportionate sanction would be an admonishment or reprimand. The Committee noted Mr Jangam has not engaged in this hearing and there was no evidence of insight or any evidence of a genuine expression of remorse or apology. The Committee decided that the misconduct found was too serious and that public confidence in the profession and the regulator would be undermined if any such orders were made.

29. The Committee then went on to consider whether a severe reprimand would be appropriate and proportionate in the circumstances of this case. The Committee determined that the imposition of a severe reprimand would be the proportionate sanction because it would acknowledge that it was misconduct of a serious nature that undermined the integrity of the overall exam process. However, it would also acknowledge there was nothing to suggest that the actions were dishonest and would more accurately reflect the reckless nature of sharing the photograph. The Committee noted that Mr Jangam immediately deleted the photograph when the issue was highlighted to him. A severe reprimand would also send the appropriate message to the wider student body that conduct of this type would not be tolerated.

COSTS AND REASONS

30. ACCA claimed costs of £5,760 which comprised the costs of the investigation and the matters as highlighted by in respect of the history of the matter. These cover the costs of investigation, preparation and the presentation of the case as well as the costs of the hearings officer and of today's hearing. The Committee noted the Costs Schedule was sent to Mr Jangam in advance of the hearing but he has not responded. The Committee had regard to the Guidance of Costs document.
31. The Committee decided that it was appropriate to reduce costs to the sum of £5,000 to reflect the fact that hearing concluded in less time than anticipated.

EFFECTIVE DATE OF ORDER

32. The Committee decided that the order would come into effect at the expiry of the usual appeal period.

Mr Andrew Gell
Chair
12 January 2023