

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Shah Faisal

Heard on: Tuesday, 14 March 2023

Location: The hearing was conducted remotely by Microsoft Teams via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU

Committee: Mr Martin Winter (Chair)
Ms Jo Royden-Turner (Accountant)
Dr Jackie Alexander (Lay)

Legal Adviser: Miss Juliet Gibbon

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

Outcome: Allegations 1, 2, 3a), 3b), 3c), 4a) and 5a) - proved.

Sanction: Removal from the student register with effect from the date of expiry of the appeal period.

Costs: Ordered to pay costs to ACCA in the sum of £6,597.50.

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PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Shah Faisal. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 133, a service bundle, numbered pages 1 to 16, and video footage of the examination. The Committee also had two costs bundles.
2. Mr Ben Jowett represented ACCA. Mr Faisal did not attend the hearing and was not represented.

SERVICE

3. Written notice of the hearing was sent by electronic mail (“email”) only to Mr Faisal’s registered email address on 14 February 2023. The password to open the notice of hearing was sent by a separate email. The Committee has had sight of two delivery notifications stating that both emails had been delivered to Mr Faisal’s email address. By virtue of Regulation 22(8)(b) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (“the Regulations”) the notice would have been deemed served on the same day. ACCA has, therefore, given 28 days’ notice to Mr Faisal, as required under Regulation 10(1)(a) of the Regulations.
4. The Committee was satisfied that the email attaching the notice of hearing had been sent to Mr Faisal’s registered email address and had been delivered successfully. The notice of hearing, to which Mr Faisal had access, contained all the requisite information about the hearing in accordance with Regulation 10 of the Regulations.
5. The Committee accepted the advice of the Legal Adviser. It was satisfied that service had been effected in accordance with Regulations 10 and 22 of the Regulations.

APPLICATION TO PROCEED IN ABSENCE

6. Mr Jowett made an application to proceed in the absence of Mr Faisal.
7. The Committee, having satisfied itself that the requirements of Regulations 10 and 22 of the Regulations had been complied with, therefore went on to consider whether to proceed in the absence of Mr Faisal. The Committee bore in mind that the discretion to proceed in the absence of a member must be exercised with the utmost care and caution.
8. The Committee noted that the email address to which the hearing notice had been sent was Mr Faisal's registered email address and that was the email address that Mr Faisal had previously used to correspond with ACCA. The Committee noted that the last email to ACCA from Mr Faisal was dated 03 June 2022. It also noted that Mr Faisal had not replied to ACCA's email attaching the notice of hearing or to any subsequent emails or telephone calls from the Hearings Officer.
9. The Committee also noted that Mr Faisal had not requested an adjournment of the hearing. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. The Committee was of the view that there was no evidence before it to suggest that an adjournment of today's hearing would result in Mr Faisal's attendance on a future date.
10. The Committee was satisfied that Mr Faisal was aware of today's hearing but had chosen not to attend.
11. Having balanced the public interest with Mr Faisal's own interests, the Committee determined that it was fair, reasonable and in the public interest to proceed in his absence.

ALLEGATIONS

Mr Shah Faisal a student member of the Association of Chartered Certified Accountants ('ACCA'):

1. On 11 October 2020, during a Corporate and Business Law (LW), remotely invigilated exam (the Exam), engaged in improper conduct designed to assist him in his exam attempt, in that he caused or permitted a third party or parties to be present in the same room that he sat the exam in.
2. On 11 October 2020, Mr Faisal communicated with the third party or parties referred to in allegation 1 during all or part of the exam.
3. Mr Faisal's conduct referred to in paragraphs 1 and 2 above was:
 - a) in breach of examination Regulation 10;
 - b) in breach of examination Regulation 16; and in addition
 - c) in breach of examination Regulation 2, in that he caused or permitted a third party or parties to be present in the same room he sat the exam in.
4. Further, Mr Faisal's conduct as referred to in paragraphs 1 and 2 above:
 - a) was dishonest, in that Mr Faisal sought to obtain an unfair advantage in the exam by obtaining assistance from a third party, or in the alternative;
 - b) demonstrates a lack of integrity.
5. By reason of his conduct, Mr Faisal is:
 - a) guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out at allegations 1 - 4 above; or, in the alternative,
 - b) in respect of allegations 1- 3 above, liable to disciplinary action pursuant to byelaw 8(a)(iii).

BACKGROUND

12. Mr Faisal registered as a student with ACCA on 31 December 2017. As such, he is bound by ACCA's byelaws and Regulations, including the Examination Regulations.

13. On 11 October 2020, Mr Faisal sat the Corporate and Business Law (LW) exam (the Exam) remotely. Prior to commencing the Exam, Mr Faisal informed the proctor (the online invigilator) that that he agreed to the Exam rules by typing "I agree" into the chat box. Following the Exam, the proctor filed an Incident Report that stated: *"During the session, observed that the test taker was speaking when they were covering their mouth, it seems that someone was with them while they were taking the test. The test taker was speaking in a foreign language ... Additionally, the test taker was looking off-screen on their left like someone was helping them on their exam. At 56:40 marks of the video recording, the sound of the door opening can be heard, and there was a shadow of the person. Proctor warned the test taker and requested a camera pan. The test taker complied and proceed with their exam ... Based on the proctor's observations and ProctorU's experience with cases of a similar nature, there is a possibility that the academic integrity of this exam has been breached"* (sic).

An investigation was commenced by ACCA which involved obtaining documents and video footage relating to the Exam.

On 10 November 2020, ACCA sent Mr Faisal copies of the transcript of the Exam and the Examiner's Irregular Exam Report. Mr Faisal responded on 16 November 2020 requesting that the block on his ACCA account be removed. He stated: *"... Sir during my exam i had faced many problem such as poor internet connection. Invagilater had asked me many times to check the room. I was too much disturb due to it. Sir it is my habit that when i read the question i put too much prasure on my head due to which i see above or below. Sir I try many times during my exam not to do this. But unfortunaty i might be done this.. Last night, when i have read the email. I am in stress. Sir i am humbly*

requesting you to re open my account ... my moral does not allow me to do like this which is against my profession ..." (sic).

14. Mr Faisal sent further emails to ACCA requesting access to his account on 17 and 18 November 2020. On 19 November 2020 ACCA sent an email to Mr Faisal advising him to await a response from the Professional Conduct Department.
15. On 13 August 2021, ACCA sent a letter to Mr Faisal by email asking him specific questions and sought his response by 03 September 2021. Mr Faisal responded on 02 September 2021. He did not, however, respond to all of the questions. Mr Faisal denied that anyone had been with him during the Exam and stated: *'I was all alone in my room'*. He denied that it was him repeatedly calling someone by the name of 'Zubair' as heard on the video. He stated: *'It is said that there was someone repeatedly calling someone. Sir it was a large flate and there were some residents maybe they were calling someone'* (sic). Mr Faisal stated that the reason he had looked off screen was due to him being *'panicked'*. He said that he had wanted to concentrate but had been unable to.
16. ACCA sent a further letter to Mr Faisal by email on 02 September 2021 seeking his response to the outstanding questions by 16 September 2021. Mr Faisal sent an email to ACCA on 30 September 2021. Mr Faisal did not respond. ACCA, therefore, sent a further letter to him on 08 October 2021 reminding him of his obligation to cooperate with the investigation and seeking a response by 15 October 2021.
17. On 14 October 2021, Mr Faisal sent an email to ACCA stating: *'... there was no one to help me in my exam'* and *'my nephew was there in the flat with me and I could not get away with him'*. Mr Faisal also stated: *'... if I talked it was just to the kid who was disturbing me in my exam. I was on my own in the room ... the third party heard could be other people in the flat'*. He stated that *'The person heard in the video footage was 'obviously not someone in the room. In the room I was all alone. The kid has no mobile phone etc'*. Mr Faisal reiterated that he *'didn't say anything other than ordering my nephew not to*

come near me and *'I didn't talk after the proctor instructed me'*. In fact, however, the footage shows that Mr Faisal continued to talk throughout the Exam session. Mr Faisal stated that his nephew's [PRIVATE], but his nickname was 'Zubair. Mr Faisal denied that anyone had been in the room with him or had assisted him in the Exam. He confirmed that he had read the Examination Regulations and Guidelines prior to the Exam.

18. ACCA sent a further letter by email to Mr Faisal on 24 February 2022. The letter sought answers to questions that ACCA considered Mr Faisal had not adequately answered in his previous correspondence. Mr Faisal responded on 03 March 2022 stating that he believed that he had answered all the questions put to him by ACCA.
19. In an email to ACCA, dated 21 April 2022, Mr Faisal stated *'the third party was present, if you consider a child, a child of 7 years, as a party. He was really was other than the my invigilator, I talked to during my exam ...'* (sic).
20. Mr Faisal was sent a Case Management Form to complete and return on 16 May 2022. He did not return it but on 03 June 2022, Mr Faisal sent an email to ACCA asking if he could talk to someone about his case. The Case Progression Officer sent a letter to Mr Faisal by email on 13 January 2023 asking him to return the completed Case Management Form and to confirm if he would be attending the hearing.

THE VIDEO FOOTAGE

21. The Committee was taken through the relevant video footage from the Exam. ACCA submitted that the following parts of the transcript of the video footage is important evidence:
 - a. Prior to commencing the Exam Mr Faisal says: *'Zubair humara paper abhi start kharna singha...'* which translates to 'Zubair I'm about to start the paper';

- b. At 00:08:10, the Exam started on the ProctorU platform and Mr Faisal could be heard whispering exam content;
- c. At 00:09:10, Mr Faisal pointed his finger at the screen, as though he is showing someone his screen, before quickly glancing off screen to the left.
- d. Mr Faisal whispered exam content. He then covered his mouth with his ID card whilst talking to, what appeared to be, a third party. A few seconds later Mr Faisal pointed his finger at the screen whilst saying something. His gesture suggested that he was communicating with someone;
- e. At 00:11:18, Mr Faisal covered his mouth and said '*question number 8*'. At this time question 8 was displayed on his screen;
- f. At 00:11:38, Mr Faisal repeated '*question number 8*' and looked to his left. He then said something which was unclear before selecting an answer;
- g. Mr Faisal then said '*60*' and went back to question 7. He then again said '*question number 8*' whilst holding a tissue in his hand in front of his mouth.
- h. At 00:12:34, Mr Faisal covered his mouth with his ID card whilst saying something that was unclear. A few seconds later Mr Faisal covered his mouth with both hands and said '*question number 9*', which was displayed on his screen;
- i. At 00:15:51, Mr Faisal covered his mouth and said '*question number 12*', which was also displayed on his screen;
- j. At 00:16:09 Mr Faisal covered his mouth with his ID card and appeared to be talking to someone;

- k. At 00:16:58, Mr Faisal continued to cover his mouth with his ID card and said '*...class...*'. At this time a multiple-choice question was displayed on screen with an answer that included the word 'class' in it;
- l. At 00:20:28, Mr Faisal covered his mouth with his ID card and said '*shhhht*';
- m. At 00:23:15, Mr Faisal shook his head, looked up and called '*Zubair...*';
- n. At 00:24:30, a third party's voice was heard saying '*... terah*', which means the number 13 and Mr Faisal then goes back to question 13;
- o. At 00:24:39, a third party's voice is heard to say '*eek minute*', which means '*one minute*';
- p. At 00:25:35, Mr Faisal covered his mouth with his hand whilst saying something that was unclear. A few seconds later a third party was heard talking;
- q. At 00:26:06, Mr Faisal looked to his left, covered his mouth with his ID card and said '*... sai hai sai hai*' which translates to '*that's correct, that's correct*';
- r. At 00:28:01, a third party can be heard talking but it is unclear what is said;
- s. At 00:28:29, Mr Faisal covered his mouth with his ID card and appeared to say '*check karo na*', which translated means '*check it*';
- t. At 00:28:59, Mr Faisal again said '*check karo na*' whilst covering his mouth;
- u. At 00:31:26, Mr Faisal covered his mouth and said '*question number...*' whilst he could be seen pointing at his screen, the screen changed to the next question;

- v. At 00:32:11 a third party was heard talking in the background, but it is unclear what is being said. Mr Faisal the said '*hmmm...hmmm, shhhttt*';
- w. At 00:35:12, Mr Faisal covered his mouth with ID card and said something that was unclear. He then looked up and again said something;
- x. At 00:36:58, Mr Faisal covered his mouth with his ID card whilst speaking and a third party's voice was then heard;
- y. At 00:40:57, whilst covering his mouth with his ID card, Mr Faisal appeared to say '*sai hai*' which translates to '*is it correct*';
- z. At 00:45:54, Mr Faisal covered his mouth with his ID card and said '*Zubair... Zubair*', whilst a third party could be heard coughing in the background. Mr Faisal also coughed and said '*gyarah number...*' which means '*number 11...*';
- aa. At 00:47:34, Mr Faisal looked up and a third party could be heard talking. Mr Faisal said '*sai hai*' to the answer selected on the screen, which means '*that's correct*';
- bb. At 00:51:07, Mr Faisal said '*chapter 7*'. He continued to speak with his hand covering his mouth. The third party could be heard talking in the background, but it is unclear what was being said;
- cc. At 00:52:10, Mr Faisal said '*check karo*' meaning '*check it*'. He then said '*I think this is...*' and the third party responded. They both continued talking intermittently;
- dd. At 00:56:18 Mr Faisal called the third party '*Zubair*', pointed at his screen and continued to read the Exam content out loud;
- ee. At 00:56:45, Mr Faisal and the third party could be heard talking to each other;

- ff. At 01:00:57, Mr Faisal called '*Zubair*' but it is unclear what was said;
- gg. At 01:01:42, during the camera pan, two of the doors to the testing room were seen to be open.
- hh. At 01:07:23 to 01:08:33, Mr Faisal covered his mouth with his ID card and talked intermittently;
- ii. At 01:16:29, Mr Faisal informed the proctor via the chat log that he was alone in his apartment whilst performing a camera pan of his room and at 01:16:56 Mr Faisal told the proctor that the doors, which were now closed, were '*locked ... I'm just alone in my apartment that's why I just open the doors*';
- jj. At 01:24:47, the third party could be heard coughing in the background;
- kk. At 01:40:28, Mr Faisal covered his mouth with his ID card and can be heard to say '*...question...*' and then '*Zubair...*';
- ll. At 01:48:26, Mr Faisal said '*saatar number*' which means '*number 7*';
- mm. At 02:01:58, Mr Faisal covered his mouth with a tissue and said, '*...39...*' then says '*saath minute*' which means '*7 minutes*' at this time there was around 6 minutes left until the exam finished;
- nn. At 02:06:46, Mr Faisal said '*...6...46*' he then looked up and then the third party could be heard talking;
- oo. At 02:08:05, the third party said something, Mr Faisal said '*hmm... paper complete...*' and the third party responded;
- pp. At 02:08:39, Mr Faisal informed the proctor via the chat box that he had finished the Exam;
- qq. At 02:09:14, Mr Faisal smiled and said '*shukar karde de*' meaning '*I'm thankful*.';

- rr. At 02:10:13, the third party appears to have asked Mr Faisal his result and Mr Faisal said '*saatar*'. The third party responded and Mr Faisal said '*haa*' meaning 'yes'.
- ss. At 02:13:09, Mr Faisal said '*Zubair... Zubair*' whilst covering his mouth with his ID card;
- tt. At 02:13:51, Mr Faisal left his workstation and can be heard talking with the third party.

SUBMISSIONS

- 22. Mr Jowett submitted that during the Exam Mr Faisal had stated to the Proctor that he was in the flat alone. He had then informed ACCA that there were other people present in the flat but not in the exam room. Mr Faisal had subsequently, however, suggested that his nephew, who is a child called Zubair, had been present in the exam room during the Exam. Mr Jowett informed the Committee that, in the video footage, Mr Faisal can be heard informing the proctor that he is alone in the apartment. Mr Jowett further submitted that the third-party voice heard in the footage is the voice of an adult male and not a 7-year-old child, as claimed by Mr Faisal. Mr Jowett also submitted that Mr Faisal cannot be heard '*ordering his nephew not to come near*', as he asserted he was saying during the Exam.
- 23. Mr Jowett referred the Committee to the following Examination Regulations and the guidance provided in the ACCA Information Sheet for On-demand CBE Students Sitting Exams at Home are relevant in this case:
 - a. Regulation 1 provides that '*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 Byelaw 8, which could result in your removal from the student register*'.

- b. Regulation 2 provides that *'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'*.
 - c. Regulation 10 provides that *'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'*.
 - d. Regulation 16 provides that *'Candidates must not talk to, or attempt to communicate with, people other than the exam supervisor/s, invigilator/s, or proctor/s for the duration of the exam'*.
24. Mr Jowett submitted that the following guidance from the Examination Guidelines was also relevant in this case:
- a. *"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.*
 - b. *Before the examination start, you must ensure you follow the instructions below:*
 - i. *Ensure you are not disturbed by anyone ...'*
25. Mr Jowett referred the Committee to the video footage of the Exam that, in his submission, clearly evidenced that there was an adult third party in the room with Mr Faisal assisting him during the Exam. He submitted that Mr Faisal was in breach of Examination Regulation 16 because he should not have been speaking to anyone other than the proctor.
26. Mr Jowett informed the Committee that the proctor in the Exam had told Mr Faisal to stop looking off-screen. Mr Faisal had acknowledged this but had

continued to look away from the screen. Mr Jowett submitted that this was also a breach of Examination Regulation 2 because Mr Faisal should have complied with the proctor's instruction.

27. Mr Jowett submitted that Mr Faisal had also breached Examination Regulation 10 by engaging in improper conduct during the Exam with a third party that was designed to assist him in the Exam.
28. Mr Jowett submitted that Mr Faisal would have known that he was acting dishonestly in attempting to gain an unfair advantage in the Exam and that, objectively, such conduct would be considered dishonest.
29. Mr Jowett submitted that Mr Faisal's dishonest conduct undermined the examination process and ACCA's reputation as a provider of examinations. He further submitted that Mr Faisal's conduct fell far short of the conduct expected of professional accountants and those training to become accountants and that misconduct, as defined by byelaw 8(c), was clearly made out.

DECISION AND REASONS

30. The Committee carefully considered the documentary evidence and the video footage before it together with the oral submissions made by Mr Jowett. The Committee accepted the advice of the Legal Adviser.
31. The Committee bore in mind that the burden of proving the allegations rests on ACCA and the standard of proof is the balance of probabilities.
32. The Committee noted the evidence that Mr Faisal had agreed to abide by the Examination Regulations in the Exam as part of the pre-examination set up, as shown in the chat box.

Allegations 1 - Proved

33. The Committee was satisfied, on the evidence before it, that Mr Faisal had received instructions prior to the exam that he should not have any other person in the exam room with him. The Committee noted that this would have been confirmed to Mr Faisal in the 'Information Sheet for Students' examination guidance provided by ACCA prior to the exam. He also confirmed this to the proctor in the chat box prior to commencing the Exam.
34. The Committee noted that a voice, other than that of Mr Faisal, could be heard on the video footage of the Exam and that this frequently coincided with Mr Faisal looking towards someone or something in the room. It also noted that Mr Faisal was attempting to cover up the fact that he was speaking in the exam room by attempting to cover his mouth with either his hand or a card. The Committee was, therefore, satisfied from the evidence shown in the video footage that there had been a third party or third parties in the exam room whilst Mr Faisal was taking the Exam on 11 October 2020. The Committee considered that the only reason another person would have been in the room would have been to assist Mr Faisal in the Exam. It also noted that Mr Faisal had denied that there was anyone in the room with him but had subsequently informed ACCA that his young nephew, Zubair, had also been present in the flat.
35. On the evidence before it, the Committee was satisfied, on the balance of probabilities, that Mr Faisal had engaged in improper conduct during the Exam that was designed to assist him in his exam attempt, in that he had caused or permitted a third party to be present in the exam room in order to so assist him.

Allegation 2 - Proved

36. The Committee was also satisfied from the video footage provided that an adult third party or third parties had been present in the exam room throughout the Exam and that person had been talking with Mr Faisal in order to assist him to answer the Exam questions that were on screen. The Committee was,

therefore, also satisfied on the balance of probabilities that Mr Faisal had communicated with the third party or third parties during the Exam.

Allegation 3a) - Proved

37. The Committee noted that Examination Regulation 10 provides that: *'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'*. It was satisfied that Mr Faisal's conduct, in having a third-party present in the exam room during the Exam and communicating with that person in order to assist him to answer the Exam questions, as set out in Allegations 1 and 2 above, had been in breach of Examination Regulation 10.

Allegation 3b) - Proved

38. The Committee noted that Examination Regulation 16 provides that: *'candidates must not talk to, or attempt to communicate with, people other than the exam supervisor/s, invigilator/s, or proctor/s for the duration of the exam'*. It was satisfied that Mr Faisal's conduct, in having a third-party present in the exam room during the Exam and communicating with that person in order to assist him to answer the Exam questions, as set out in Allegations 1 and 2 above, had been in breach of Examination Regulation 16.

Allegation 3c) - Proved

- a. The Committee noted that Examination Regulation 2 provides that *'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'*. It was satisfied that Mr Faisal's conduct, in having a third-party present in the exam room during the Exam and communicating with that person in order to assist him to answer the Exam questions, as set out in Allegations 1 and 2 above, had been in breach of Examination Regulation 10.

Allegation 4a) - Proved

39. The Committee noted the video footage of Mr Faisal during the Exam. The footage showed numerous incidents, throughout the Exam, when Mr Faisal had clearly been communicating with a third party. The Committee was satisfied that Mr Faisal had deliberately sought the assistance of a third party, who was present in the exam room during the Exam. It considered that Mr Faisal was aware that what he was doing was wrong because he was attempting to cover up his communication with the third party or parties by attempting to cover his mouth with his hand or a card. The Committee was satisfied that Mr Faisal's actions in having a third party or parties present in the exam room and communicating with that person during the Exam was a deliberate attempt by Mr Faisal to obtain an unfair advantage or 'cheat' in the Exam. It was also satisfied that this would, by the standards of ordinary decent people, be considered dishonest. The Committee was satisfied, on the balance of probabilities, that Mr Faisal's conduct was dishonest, in accordance with the test for dishonesty set out in *Ivey v Genting Casinos (UK) t/a Crockfords [2017] UKSC 67*.

Allegation 4b) - Not Considered

40. The Committee, having found Allegation 4a) proved, did not go on to consider the alternative charge set out in Allegation 4b).

Allegation 5 - Misconduct Proved

41. The Committee was satisfied that Mr Faisal had deliberately sought to gain an unfair advantage in the Exam by having at least one third party present in the exam room to assist him in answering questions during the Exam. It was satisfied that Mr Faisal's conduct was deliberate and premeditated in that he had arranged for another person to be present in the exam room during the Exam to assist him in answering the questions. It also noted that Mr Faisal had subsequently given ACCA various explanations as to why a voice or voices could be heard on the video footage in an attempt to cover up his dishonest conduct.

42. The Committee determined that Mr Faisal's premeditated conduct, in attempting to 'cheat' in an ACCA professional examination, in order to gain an unfair advantage in the Exam, was conduct that fell far below the standards expected of an ACCA student. In the Committee's determination, Mr Faisal's conduct undermined the integrity of ACCA's examination process and had brought discredit to him, the Association and the accountancy profession.
43. The Committee was satisfied that Mr Faisal's attempt to gain an unfair advantage in the Exam amounted to misconduct.

Allegation 5b) - Not Considered

44. The Committee, having found Allegation 5a) proved, did not go on to consider the alternative charge set out in Allegation 5b).

SANCTION AND REASONS

45. Mr Jowett informed the Committee that there were no previous disciplinary findings against Mr Faisal.
46. The Committee accepted the advice of the Legal Adviser. It was referred to Regulation 13(4) of the Regulations and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose the Committee bore in mind the principle of proportionality and the need to balance the public interest against Mr Faisal'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 to declare and uphold proper standards of conduct and behaviour.
47. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee considered the following to be mitigating features:

- a. Mr Faisal had no previous disciplinary findings against him, although the Committee noted that he had only been a registered student since 31 December 2017.
48. The Committee considered the following to be aggravating features:
- a. This was deliberate and premeditated dishonest conduct on the part of Mr Faisal in an attempt to gain an unfair advantage in an ACCA professional examination.
 - b. Mr Faisal had involved another person in his dishonest conduct.
 - c. Mr Faisal's misconduct undermined the integrity of the ACCA examination process and had the potential to damage the reputation of the ACCA qualification.
 - d. Mr Faisal had not fully engaged with the ACCA investigation or the proceedings and there was no evidence of any insight or remorse on his part.
49. The Committee considered each of the available sanctions in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the dishonest conduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the seriousness of the conduct proved. The Committee also considered that an admonishment or a reprimand would not protect the public interest in this case.
50. The Committee carefully considered whether a severe reprimand would be a sufficient and proportionate sanction, 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 ACCA's Guidance for Disciplinary Sanctions. The Committee considered that most of the factors applicable to a severe reprimand were not present in this case. The Committee concluded

that a severe reprimand would not be appropriate or sufficient to protect the public interest.

51. The Committee considered the factors to be taken into account when considering a sanction of removal from the student register. It noted that Mr Faisal's conduct was deliberate and premeditated dishonesty that he had involved another person in. It also noted that Mr Faisal's attempts to obtain assistance in answering the Exam questions had continued throughout the duration of the Exam. Mr Faisal had subsequently changed his explanation for why voices could be heard on the video footage during the Exam and there was no evidence of any insight on his part.
52. The Committee was mindful that a sanction of removal from the student register was the most serious sanction that it could impose. 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 was satisfied that Mr Faisal's conduct in attempting to cheat in a professional examination had reached that high threshold. The Committee had heard no mitigation from Mr Faisal to warrant anything other than removal from the student register.
53. For the above reasons, the Committee concluded that the appropriate and proportionate sanction was removal from the student register.
54. The Committee did not deem it necessary to impose a minimum period before which Mr Faisal is able to reapply for admission as a student member.

DECISION ON COSTS AND REASONS

55. The Committee was provided with a cost schedule. ACCA applied for costs in the sum of £7,107.50.
56. The Committee was satisfied that the costs sought by ACCA were appropriate and reasonably incurred. The Committee noted that Mr Faisal had not provided any details of his current financial means or provided the Committee

with any written representations in relation to the costs claimed by ACCA. The Committee was not, therefore, in a position to make any reductions based on Mr Faisal's financial circumstances. The Committee did, however, consider that there should be a reduction in the costs claimed in respect of the Case Presenter and the Hearings Officer as the hearing had taken less time than anticipated. The Committee decided to reduce the amount of the costs claimed by £510 to reflect the fact that the hearing had concluded earlier than anticipated.

57. The Committee determined that it would be fair and proportionate to order Mr Faisal to pay costs to ACCA in the sum of £6,597.50.

ORDER

Mr Shah Faisal shall be removed from ACCA's student register.

Mr Shah Faisal shall pay a contribution to ACCA's costs in the sum of £6,597.50.

EFFECTIVE DATE OF ORDER

58. The Committee determined that the order should take effect from the date of the expiry of the appeal period referred to in the Appeal Regulations.

Mr Martin Winter
Chair
14 March 2023