



HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Uzain Sabri

Heard on: Thursday, 25 April 2024
Friday, 26 April 2024

Location: Held remotely by Microsoft Teams

Committee: Ms Wendy Yeadon (Chair)
Dr David Horne (Accountant)
Mrs Diane Meikle (Lay)

Legal Adviser: Mr James Keeley

**Persons present
and capacity:**

Mr Uzain Sabri (Student)
Ms Elaine Skittrell (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)
Ms Hamida Begum (Interpreter)
Ms Zarqa Shaikh (Interpreter)

Summary: Removed from the student register
Allegations 1 (a), (b), (c) and 2 (c) admitted
Allegations 1 (d), 2 (a) and 3 (a) found proved

Costs: £11,500

SERVICE OF PAPERS

1. The Committee considered the Service Bundle with pages numbered 1-20 in order to determine whether the Notice of the Hearing ('the Notice') dated 28 March 2024 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (amended 2020) ('the Regulations')
2. The Notice had been sent to Mr. Sabri's registered email address and complied with the other requirements of the Regulations.
3. The Committee was satisfied that this was effective service under the Regulations.

HEARING

4. The Disciplinary Committee ("the Committee") convened to hear a number of allegations of misconduct against Mr Sabri. The hearing was conducted remotely through Microsoft Teams. The Committee had a Bundle of papers numbered pages 1-57 and a Service Bundle, numbered pages 1-20, and the recording of Mr Sabri's examination process. Mr Sabri attended the hearing but was not legally represented. Mr Sabri was provided with an Interpreter.

ALLEGATIONS

Allegation 1

On 27 February 2023 Mr Uzain Sabri, an ACCA student, in respect of a FMA Management Accounting remotely invigilated on demand exam ('the exam'):

- a) Caused or permitted, or failed to prevent a third party to be present in the room when he sat the exam, contrary to Exam Regulation 20;
- b) Caused or permitted a third party using an electronic device to take photographs of one or more of the exam questions during the exam, designed to assist himself in the exam he was sitting or a future exam and/or provide improper assistance to other exam entrant(s) in their exam attempt(s) contrary to Exam Regulation 12;

- c) Failed to prevent a third party to be present in the room when he sat the exam, and/or failed to prevent a third party using an electronic device to take photographs of one or more of the exam questions during the exam, designed to assist himself in the exam he was sitting or a future exam and/or provide improper assistance to other exam entrant(s) in their exam attempt(s) contrary to Exam Regulations 10, 12 and 20;
- d) In respect of Allegations 1(a), 1(b) and/or 1(c) Mr Sabri engaged in irregular conduct designed to assist himself in the exam he was sitting or a future exam and/or provide improper assistance to other exam entrant(s) in their exam attempt(s), contrary to Exam Regulation 10.

Allegation 2

In respect of the matters referred to in Allegation 1 above Mr Sabri:

- a) Acted dishonestly in that he knew the presence and/or actions of the third party were designed to assist himself in the exam he was sitting or a future exam, and/or assist others in their exam(s);
- b) In the alternative, failed to act with integrity;
- c) In the second alternative, was reckless in that he permitted the presence of a third party in the room in which he was sitting during the exam.

Allegation 3

By reason of any or all of the matters set out above, Mr Sabri is:

- a) Guilty of misconduct pursuant to bye-law 8(a)(i); or
- b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of the matters set out in Allegation 1.

BACKGROUND

5. On 24 September 2019 Mr. Sabri became a registered ACCA student.
6. On 27 February 2023 Mr. Sabri took an ACCA FMA Management Accounting (FMA) examination. This was conducted remotely. The whole process was recorded and subject to online invigilation by ProctorU.
7. On 2 March 2023, a complaint was made to ACCA's Investigations Department in respect of Mr. Sabri allegedly being in breach of ACCA's Exam Regulations and Guidelines by virtue of his conduct during that examination. The conduct complained about was that a third party was present during Mr. Sabri taking the examination. This third party was said to have been using a mobile phone taking images of examination content.

DETAILS OF ALLEGATIONS

8. On 24 September 2019, Mr. Sabri became an ACCA registered student. As such, he is bound by the ACCA's Code of Ethics and Conduct, Bye-laws and Regulations, including the Examination Regulations.
9. The matter came to ACCA's attention in March 2023, following a referral from ProctorU.
10. The referral included an Incident Report from the online proctor of Mr. Sabri's FMA exam dated 27 February 2023 which made some observations regarding Mr. Sabri's conduct based on the exam footage.

The report stated, "During the exam, the proctor noticed a phone which appeared to be taking picture of the exam content. This was visible at 00:30:47 in the session recording. The proctor notified an intervention specialist who reviewed the session and verified the incident. Additionally, another person could be seen in the camera view which appeared to be another person could be seen in the camera view which appeared to be looking at the test taker's screen at 00:44:12. The exam was terminated and the test taker was advised to contact their testing organization for further instructions. Based on the proctor's observations and ProctorU's

experience with cases of a similar nature, there is evidence that the academic integrity of this exam has been breached.”

11. From a review of the video footage, it appeared that a third party had an unauthorised item in their possession (which appeared to be a mobile phone). The third party appeared to be taking photos of the exam screen and exam content on the screen.

12. The key incidents in the video footage of Mr. Sabri's exam are noted as follows:
 - a. At 1:17, the student leaves his desk.
 - b. At 1:41, the student returns to his desk and shows his ID to the camera.
 - c. At 4:45, the student shows his ID to the camera again.
 - d. At 5:52, the student shows his ID to the camera again.
 - e. At 7:15, the student leaves his desk.
 - f. At 7:29, the student returns to his desk with his mobile phone.
 - g. At 7:51, while the student shows his phone to the camera, another person can be seen in the camera of the student's mobile phone
 - h. At 8:13, while the student shows his phone to the camera, the person seen at 7:51 can be seen lying on the floor.
 - i. At 9:35, the student leaves the room with his device to show the location where he placed his mobile phone.
 - j. At 12:38, the student leaves his desk.
 - k. At 16:58, the student returns with a chair and performs a camera pan of the room.
 - l. Between 20:50 and 21:20 the student's exam started.
 - m. At 22:20, another person's hair can be seen to the student's upper left-hand side.
 - n. Between 22:39 and 40:06, there are multiple instances where an object with a camera lens pointed at the student's screen can be seen appearing to his left-hand side, potentially a mobile phone being held by another person in the room.
 - o. At 43:04-44:35, another person can be seen to the student's left-hand side. They can be seen holding a mobile phone in front of the student's screen.

- p. Between 44:45 and 46:20, the student's exam was terminated.
 - q. At 45:53-46:20, the student performs a camera pan of the room.
 - r. At 46:47, the student tears up his scratch paper.
-
- 13. On 20 March 2023, Mr. Sabri was notified of the investigation and the allegations against him.

 - 14. In his response of 21 March 2023, Mr. Sabri states, *"I'm sorry for this type of incident I'm really sorry for it actually I was so [PRIVATE] and I was [PRIVATE] because it's been [PRIVATE] it's the first and last time it will never gonna happened again please . Can you please continue it for me so I can give my future exam So I can prepare it's my first and last time I do apologise I am so [PRIVATE] because of my studies can you forgive me for this time please so I can continue my further papers please I'm so [PRIVATE] as well (sic)."*

 - 15. On 29 March 2023, Mr. Sabri submitted the same email to ACCA.

 - 16. On 18 April 2023, Mr. Sabri provided a further response stating, *"I'm sorry for this kind of act actually I was so [PRIVATE] and there was few MCQ's I do apologise that's the first time I did and will never do again kindly open my account I'm already [PRIVATE] about my studies and wasting alot of time kindly solve this matter as soon as possible I did tgat mistake will never do it again. I gave my paper before as well it was my first time because of trouble in few MCQ's. Kindly Allow me to continue my further study as I'm [PRIVATE] (sic)."*

 - 17. On 18 April 2023, Mr. Sabri submitted another email to ACCA stating: *"I'm on Fault it was my mistake I do apologise for that actually I'm living in A shared house he is my friend at first he was in room and I told him to go than I showed my room and I started my exam so he came again and he was teasing me he was disturbing me as I was giving my exam I'm not allowed to talk or to take any action I know it's my fault but he was teasing me and I can't do anything and for the pictures he just took some pictures just to disturbing but I swear I deleted that pictures already I know the rules and regulations didn't share any single picture at the end of my test I asked him why you did this so he replied I was just checking you are doing right or no so I was already [PRIVATE] with this issue I was [PRIVATE] so I know I'm on fault but I do apologise will never gonna*

happened again. Kindly let me allow to continue my study. As I'm already [PRIVATE].” (sic) [emphasis added]

18. On 9 May 2023, Mr. Sabri emailed ACCA and stated, *“I'm uzain here just want to know that I know I did mistake Actually [PRIVATE] as well I wasted alot of time for my studies as well and now I'm in that case kindly solve this case as soon as possible I'm already [PRIVATE] I know about the rule and regulations I did my exams before as well Actually I'm in A shared house so they guy was just disturbing me he was teasing me and the time I was giving my exam he was lying in my room and I told him to go than he came back as well and he was taking pictures and get caught my examiner actually I was unable to stopped him because I was giving my exam . I swear I promise deleted the pictures I'm so [PRIVATE] about this situation already wasted alot of time it's A last time this thing happened not gonna happen again please solve this issue so I can continue my further studies please (sic)”*

ACCA's SUBMISSIONS

19. ACCA submitted that the allegations are capable of proof by the documentary evidence in the bundle and the video footage from the exam. It is submitted that Mr. Sabri permitted (or failed to prevent) a third party to be present in the room in which he was taking the exam and further, permitted (or failed to prevent) the third party to take a photograph(s) of the question(s) during his exam attempt and that this was irregular conduct designed to assist himself or others.
20. ACCA's case is that Mr. Sabri is in breach of the Exam Regulations and Guidelines referred to in the allegations.
21. Although Mr. Sabri states that his friend took the photos as a joke and he deleted them, ACCA submits that the evidence tends to suggest Mr. Sabri was complicit and did in fact permit his friend to be in the exam room and to take photographs of live exam content which is a breach of the Regulations.
22. ACCA contends that in all the circumstances Mr. Sabri caused, permitted, or failed to prevent a third party from taking photographs of live exam questions in order to assist him in the exam attempt or any future exam attempts and/or to assist others yet to sit the exam (in either case as a revision aid) and in either or

both respects was dishonest and/or demonstrates a lack of integrity or was reckless.

23. Consequently, ACCA submitted that Mr. Sabri had displayed “irregular conduct” or to put it another way “cheated” in order to help himself or another (Allegation 1 (d)), was dishonest (Allegation 2 (a)) or in the alternative lacked integrity (Allegation 2 (b) or was reckless (Allegation 2 (c)). In all of the circumstances had committed misconduct or was liable to disciplinary action (Allegation 3).

MR SABRI'S SUBMISSIONS

24. Mr. Sabri said he lived in shared accommodation at the time he took the examination. He said that before the examination started his friend (house mate) was in his room. The Proctor (the examination invigilator) asked Mr. Sabri to ensure that his friend left the room. Mr. Sabri followed the Proctor's directions.
25. However, during the examination Mr. Sabri's friend came back into his room. Mr. Sabri said that his house mate was harassing and teasing him. Mr. Sabri said that he was worried that if he took his eyes or face away from his computer screen the examination would be terminated. This knowledge was based on an experience that another friend of his has experienced in Pakistan when taking a remote exam. This person had turned his face away from a computer leading to the process being cancelled.
26. Mr. Sabri said that in such circumstances there was nothing he could do. He was faced with an impossible situation namely to ignore his house mate, keeping his eyes and face turned to the computer screen and take his exam, or deal with his friend which necessarily would have led to him turning away from the screen leading to his exam being cancelled.
27. Mr. Sabri chose to continue with his examination.
28. Mr. Sabri told the Committee there were only two or three photographs of the exam taken by his friend on his phone. Mr. Sabri said that he ensured that these were deleted.

29. Mr. Sabri giving this explanation decided to accept Allegations 1 (a), (b) (c) and 2 (c). He denied cheating in order to help himself or any other student (allegation 1 (d)), being dishonest and having a lack of integrity (2 (a) and 2 (b)). He also did not accept that his actions amounted to misconduct and was liable to disciplinary action (Allegation 3).

DECISION ON THE FACTS

30. The Committee heard and accepted the advice of the Legal Adviser.
31. Mr. Sabri had sat four previous examinations. These had taken place both online and in person at an examination centre. Therefore, he was well aware of ACCA's rules and regulations in respect of the conduct and the behaviour to be expected of a student when sitting an exam. Mr. Sabri confirmed that he understood the rules and regulations.
32. Mr. Sabri knew that it was a breach of ACCA's rules to have anyone else in the room with him when he was taking the exam.
33. Before the examination process started Mr. Sabri scanned the room using his mobile phone. The Proctor had already alerted Mr. Sabri to someone else being present in his room. This person, Mr. Sabri's house mate and friend, was initially sitting up against a wall when first seen. However, on the second time of being shown the friend had altered his position and was lying down so as to try to avoid being noticed.
34. The Committee found, on viewing the video of the examination, that Mr. Sabri looked comfortable when his friend was beside him using the mobile phone. Mr. Sabri did not flinch once. There was no evidence of Mr. Sabri being harassed or teased. The Committee concluded that he accepted his house mate's presence taking photographs of the examination.
35. In his emails to ACCA Mr. Sabri apologised for his behaviour during the exam. He said that he was [PRIVATE] and that he had "trouble" with "MCQs" (referring to multiple choice questions). Despite being given every opportunity during the

hearing Mr. Sabri failed to explain what he meant when he said that he was having trouble with MCQs.

36. The Committee found Mr. Sabri's apology amounted to him accepting that he had breached the examination rules by having a third party in the room taking photographs at the time of the examination.
37. During the hearing whilst giving evidence Mr. Sabri said that he felt that he could not take his eyes or face away from the screen for fear of having his exam cancelled. No such assertion was made in his previous emails. The Committee found the different explanation given by Mr. Sabri in the hearing undermined his credibility.
38. Mr. Sabri did not help himself by refusing to give the details of his house mate who was in the examination with him. Mr. Sabri confirmed that his friend was not an ACCA student and therefore would not have been subject to any ACCA investigation himself. Such information could have assisted Mr. Sabri, as on Mr. Sabri's account, his friend would have confirmed that he was harassing and teasing Mr. Sabri at the time. However, even at the hearing Mr. Sabri would not name his house mate. Mr. Sabri said that his friend could be named in Pakistan but not in the United Kingdom.
39. The Committee found that there was nothing to stop Mr. Sabri telling the Proctor that his friend had come back into his room.
40. In his emails to ACCA Mr. Sabri had initially stated that he [PRIVATE]. He said that this process had caused him [PRIVATE]. However, he provided [PRIVATE]. The Committee considered whether or not the Equality Act 2010 applied. However, there was insufficient evidence that even if Mr. Sabri did have a qualifying condition under the Equality Act that it was not such that the impairment has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities. Taking account this and all of the evidence in this case the Committee found that the Equality Act did not apply in this case.

Allegation 1 (d)

41. Taking all of the above into account and applying Examination Rule 10 the Committee found, on the balance of probabilities, that Mr. Sabri had allowed his friend into his room during him taking his examination. Furthermore, Mr. Sabri had permitted his friend to take photographs of the computer screen showing live exam content. The only plausible explanation for Mr. Sabri allowing such conduct was to assist himself in the exam or a future exam or to provide improper assistance to other exam entrant(s) in their exam attempt(s), contrary to Exam Regulation 10. Therefore, the Committee find that Allegation 1 (d) is proven, on the balance of probabilities, against Mr. Sabri.

Allegation 2 (a)

42. The Committee, after considering all of the forestated evidence and applying the relevant law find, on the balance of probabilities, that Mr. Sabri's contentions were implausible and disingenuous. Mr. Sabri allowed his friend into his room and had permitted his friend to take photographs of the computer screen showing live exam content.
43. Therefore, applying the relevant test for dishonesty the Committee find that Mr. Sabri's knowledge and belief at the time of him taking the examination was him wilfully allowing his friend into his room to take photographs knowing that such conduct was in breach of the examination rules.
44. This dishonest conduct fell far short of the standards expected of a student of the accountancy profession. It could not be regarded as anything other than entirely unacceptable behaviour, which could undermine the profession and the integrity of the examination process.
45. The Committee, applying the standards of ordinary, decent people, find, on the balance of probabilities, that Mr. Sabri's conduct was dishonest. Therefore, Allegation 2 (a) is proven. Allegation 2 (b), being in the alternative, does not need to be considered. Mr. Sabri's admission to Allegation 2 (c) had no standing given that the more serious allegation and alternative has been found proven against him.

Allegation 3

46. Mr. Sabri admitted Allegations 1 (a), (b) and (c). The Committee have found that Allegations 1 (d) and 2 (a) are proven.
47. In such circumstances the Committee find that applying bye law 8 the conduct admitted and found proven against Mr. Sabri: *"brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession."*
48. Therefore, Mr. Sabri's actions amount to misconduct and he is liable for disciplinary action.
49. This decision was delivered on the second day of the hearing 26 April 2024.

PROCEEDING IN ABSENCE

50. The Committee heard and accepted the legal advice of the Legal Adviser.
51. Mr. Sabri did not attend on 26 April, the second day of the hearing. Mr. Sabri was told at the end of hearing on 25 April that the hearing would continue on 26 April. Miss Boateng, the Hearing Officer, tried to contact Mr. Sabri on several occasions via email. However, he did not respond. Therefore, the Committee had to decide whether or not to proceed in his absence.
52. The Committee has a discretion under CDR Regulation 10 (7) to proceed in Mr. Sabri's absence. The Committee was satisfied that Mr. Sabri had been served with a notice of the hearing in accordance with the rules.
53. The Committee, in accordance with CDR Regulation 10 (7) and applying the relevant case law decided that Mr. Sabri had absented himself, that an adjournment would not resolve the matter, he had decided not to be legally represented, it had heard evidence and submissions in respect of the allegations from Mr. Sabri yesterday, it was in the general public interest for this hearing to conclude and that overall it was fair to proceed in his absence.

SANCTION

54. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
55. The Committee considered that the only element of mitigation was that Mr. Sabri had no previous disciplinary history.
56. The Committee considered that the aggravating factors were that Mr. Sabri had not made any genuine expression of remorse, there had been a lack of cooperation on Mr. Sabri's behalf with the investigation, Mr. Sabri had not taken accountability for his actions and had tried to blame others such as his friend, the Proctor and ACCA and that there was real potential to significantly undermine ACCA's processes and the profession.
57. The Committee regarded Mr. Sabri's misconduct and, in particular, his related dishonesty as extremely serious.
58. Such behaviour could have detrimentally impacted on the public's confidence in the integrity and credibility of ACCA's membership and the public's trust in its members.
59. The Committee considered that it would be wholly insufficient to impose no order or to conclude this matter with an admonishment, a reprimand, or a severe reprimand. None of these orders would provide the necessary restrictions needed to protect the public interest in this matter.
60. The Committee recognised that paragraph E2 of the Guidance for Disciplinary Sanctions stated that the public is entitled to expect a high degree of probity from a student who has undertaken to abide by a code of ethics.
61. The Committee considered that none of these sanctions would properly recognise the seriousness of Mr. Sabri's deliberate and dishonest actions, nor would they be sufficient to reflect the damage to public confidence.
62. The Committee concluded that this behaviour was fundamentally incompatible with being a student member of ACCA and undermined public confidence in ACCA.

63. The Committee considered whether there was any exceptional or remarkable mitigation which could be taken into account as a reason not to exclude Mr. Sabri as a student member but concluded that there was none present.
64. The Committee, therefore, ordered that Mr. Sabri should be removed from the ACCA student register. The Committee was told that Mr. Sabri had been subject to an interim order prior to this hearing. Having found the charges proved and applied the sanction of removal from the register, the Committee therefore revoked the Interim Order.
65. Recognising that an Interim Order had been in place and Mr. Sabri's name was now to be removed from the register, the Committee considered that it would be inconsistent to not conclude that the order should come into immediate effect.

COSTS AND REASONS

66. The Committee had regard to the Guidance on Cost Orders.
67. Mr. Sabri did not submit any information in respect of his financial and personal circumstances.
68. ACCA claimed costs in the sum of £11,857 as set out in a schedule of costs.
69. The Committee considered that this sum was reasonable and had been reasonably incurred but took into account that the hearing had taken less than the two days estimated. Therefore, it considered that the claim for costs should be reduced to reflect that the hearing had concluded in less time than had been allocated in the schedule of costs. The schedule of costs would therefore be reduced to £11,500.
70. The Committee recognised that it needed to consider the principle that the majority of those paying ACCA's fees should not be required to subsidise the minority who, through their own misconduct, have found themselves subject to disciplinary proceedings.

71. Balancing all the considerations, the Committee considered that it would be appropriate to make an order for costs and that it was reasonable and proportionate to impose a cost order in the sum of £11,500.

Ms Wendy Yeadon
Chair
26 April 2024