

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Abhi Goyal

**Heard on:** Friday, 19 April 2024

**Location:** Remotely by Microsoft Teams

**Committee:** Ms Carolyn Tetlow (Chair)  
Ms Joanne Royden-Turner (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Miss Juliet Gibbon

**Persons present  
and Capacity:** Ms Elaine Skittrell (Case Presenter)  
Miss Mary Okunowo (Hearings Officer)

**Outcome:** Allegations 1(a), 1(b), 1(c), 2(a), 3(a), 3(b), 3(c), 3(d) and 4(a)  
(misconduct) found proved.

**Sanction:** Removal from the student register with immediate effect.

**Costs:** Order to pay a contribution to ACCA's costs in the sum of £5,700.00

**PRELIMINARY**

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Mr Abhi Goyal. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 82, numbered pages 1 to 2, a service bundle, numbered pages 1 to 19, and video footage of the examination of approximately one hour and 42 minutes. The Committee was also provided at stage 2 with a simple and a detailed costs bundle.
2. Ms Elaine Skittrell represented ACCA. Mr Goyal 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 Goyal’s registered email address on 20 March 2024. The password to open the notice of hearing was sent by a separate email. The Committee had sight of two notifications stating that both emails were delivered to the 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 the requisite 28 days’ notice to Mr Goyal 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 Goyal's registered email address and had been delivered successfully. The notice of hearing, to which Mr Goyal 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. Ms Skittrell made an application to proceed in the absence of Mr Goyal.

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 Goyal. The Committee bore in mind that the discretion to do so must be exercised with the utmost care and caution.
8. The Committee noted that the notice of hearing had been sent to Mr Goyal at his registered email address on 20 March 2024. It also noted that the email address to which the notice of hearing had been sent was the same one that Mr Goyal had used to contact ACCA on 20 December 2022, which was the only time he responded to a communication from ACCA. It also noted that Mr Goyal had not replied to ACCA's email attaching the notice of hearing or any of the previous correspondence to him from the Investigations Officer. He had also not responded to recent emails sent by the Hearings Officer, and she had been unsuccessful in contacting him by telephone, having attempted to telephone him the day before and on the morning of the hearing.
9. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that Mr Goyal had not engaged with ACCA's investigation. Given his non-engagement 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 Goyal's attendance on a future date.
10. Having balanced the public interest with Mr Goyal's own interests, the Committee determined that it was fair, reasonable and in the public interest to proceed in his absence.

#### **APPLICATION TO AMEND**

11. Ms Skittrell made an application to amend Allegation 2 as Allegation 2(b) (failing to act with integrity) should have been charged in the alternative to Allegation 2(a) (dishonesty). She proposed that this could be done by inserting the words 'or in the alternative' at the end of Allegation 2(a).
12. The Committee accepted the advice of the legal adviser. It determined that Mr Goyal would not be prejudiced by the proposed amendment and therefore allowed ACCA's application

to amend Allegation 2 by inserting the words 'or in the alternative' at the end of Allegation 2(a).

## **AMENDED ALLEGATIONS**

Mr Abhi Goyal (Mr Goyal), a student of the Association of Chartered Certified Accountants (ACCA):

1. On 19 December 2022, during a remotely invigilated Business and Technology exam ("the exam"):
  - (a) Caused or permitted a third party to be present with him in the same room where he sat the exam, contrary to Examination Regulation 20.
  - (b) Spoke to a third party during the exam contrary to Examination Regulation 16.
  - (c) Attempted to deceive the proctor by giving false or misleading information about the presence of a third party in the same room where he sat the exam contrary to Examination Regulation 3.
2. Mr Goyal's conduct as referred to in paragraph 1c above was:
  - (a) Dishonest in that Mr Goyal informed the proctor that a third party was not in the same room where he sat the exam, when this was not true, or in the alternative
  - (b) Demonstrates a failure to act with integrity.
3. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Mr Goyal failed to co-operate with the investigation of this complaint, in that he did not respond in full or otherwise to any or all of ACCA's correspondence sent on:
  - (a) 11 January 2023;
  - (b) 03 February 2023;

- (c) 27 February 2023;
- (d) 16 March 2023.

4. By reason of his conduct, Mr Goyal is:

- (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1 to 3 above; or in the alternative,
- (b) In respect of Allegations 1 and 3 only, liable to disciplinary action pursuant to bye-law 8(a)(iii).

## **BACKGROUND**

- 13. Mr Goyal registered as a student with ACCA on 18 August 2022. As such, he is bound by ACCA's bye-laws and regulations, including the Examination Regulations, the Examination Guidelines and the Regulations.
- 14. On 19 December 2022, Mr Goyal sat his FBT Business and Technology examination (the exam) remotely. As part of the booking process for the exam Mr Goyal agreed to ACCA's terms and conditions on sitting exams remotely. This included the content of the Information Sheet for On-demand Computer Based Examinations ("CBE") Students sitting exams at home ("the Student Information Sheet"), which set out the Examination Regulations and Guidelines and the CBE announcements.
- 15. During the exam the proctor (on-line invigilator) noted a number of concerning behaviours which were reported to ACCA following the exam. These included Mr Goyal frequently looking off-screen, even after he was advised not to, and speaking out loud during the exam. Subsequently, a person was seen to be in the room behind Mr Goyal and at this point the exam was terminated by the proctor. The proctor filed an Incident Report with ACCA setting out their concerns the same day.
- 16. ACCA wrote to Mr Goyal on 20 December 2022 explaining that they had received an Incident Report stating that there had been a person in the room whilst he took the exam.

17. Mr Goyal responded by email on 20 December 2022 stating: *“As per the email provided by you, as you mentioned that there is someone in the room but with due respect I genuinely said there were no one in my room during my FBT Exam, also the team observed my whole room and as per there instructions I arranged or assembled myself and my room. But one thing may be possible that my upper floor neighbours noise may cross my room due to room attached with shaft or ventilation area. I genuinely feel sorry about my misarrangement or disturbance. Please understand my situation and I hope it will not effect my studies, exams and my future. Please allow me to take exam and I assure you that this mistake will not repeat again and I will not disappoint you next time”* (sic).
18. ACCA commenced an investigation. This included obtaining documents and video footage of the exam. ACCA wrote to Mr Goyal on 11 January 2023 asking him to respond to a number of questions and he was also sent the video footage of the exam. Mr Goyal did not respond. ACCA wrote to Mr Goyal again on 03 February 2023 requesting that he provide his response to the allegations made against him and the questions asked in the correspondence of 11 January 2023. Reference was made in the correspondence to Mr Goyal’s duty to cooperate with the investigation under Regulation 3(1) of the Regulations. Again, Mr Goyal failed to respond.
19. ACCA wrote to Mr Goyal on 27 February 2023 and, again, attached a copy of the letter of 11 January 2023. Mr Goyal was informed that an allegation under Regulation 3(1) of the Regulations would be raised against him if ACCA did not receive a satisfactory response from him. Mr Goyal did not respond.
20. ACCA wrote again to Mr Goyal on 16 March 2023 asking him to respond to all the previous correspondence sent to him, but he failed to respond.
21. ACCA also attempted to contact Mr Goyal by telephone on several occasions but without success.
22. The video footage revealed the following:

Between 00:00:01 and 00:03:40 a third party's (female) voice can be heard from the beginning talking with Mr Goyal with respect to the logging in process. The language spoken is a mixture of English and Hindi.

Between 00:09:20 and 00:10:00 Mr Goyal speaks out loud and looks off camera. He asks a series of questions.

Between 00:10:24 and 00:11:00 Mr Goyal undertakes a room pan at the proctor's request.

Between 00:23:00 and 00:23:15 Mr Goyal speaks sporadically with a third party whilst also looking up repeatedly to his left-hand side.

Between 00:23:28 and 00:44:21 Mr Goyal undertakes a room pan for the proctor.

Between 00:45:20 and 00:45:30 a third party can be heard clearly speaking, in Hindi.

Between 00:51:50 and 00:53:20 Mr Goyal speaks out loud, a third party can be heard responding and then the third party talks to someone on a phone whilst a further third-party can also be heard. All of this communication is in Hindi.

Between 00:53:30 and 00:54:27 Mr Goyal repeatedly tells the proctor "*no-one is in my room*", even though a slight whisper can also be heard, and Mr Goyal also says, "*check my room*".

Between 00:57:50 and 01:02:36 Mr Goyal frequently looks toward his right-hand side.

Mr Goyal's exam began at 01:31:59 into the video footage.

Between 01:32:00 and 01:32:39 Mr Goyal reads the questions on the ACCA exam platform out loud.

Between 01:32:40 and 01:32:43 someone can be seen crawling quickly behind Mr Goyal whilst he is speaking out loud.

At 01:32:53 Mr Goyal reads out an exam question and a whisper can be heard from the third party. Mr Goyal then says in Hindi, “*Go out of the room, jump and get out. Hurry up. Damn you got me caught. Come here*”. Mr Goyal switches to English and again reads an exam question before reverting back to Hindi saying, “*sit here*”.

At 01:33:01 and to 01:37:00 Mr Goyal talks out loud and then speaks to the proctor. He then lowers his voice and reads the question out loud again and it looks like he is moving a sheet with his right hand toward his right-hand side whilst looking toward his right-hand side. Mr Goyal reads out a question and then asks, “*Yes or No*” and then says in Hindi, “*Speak quickly*”. He then, in between talking with the proctor, reads a question out loud and says in Hindi, “*Go \*\*\*\* yourself, it’s beyond your capability to answer...\*\*\*\* it I am going to fail miserably...*”.

Between 01:34:39 and 01:35:10 and 01:36:11 and 01:38:28 Mr Goyal looks to his right hand side again and it sounds as if someone is writing or making noises.

Between 01:37:59 and 01:42:10 Mr Goyal reads the questions out in a whisper but also says in Hindi “*It’s a waste of time*”. A third party can be heard whispering in Hindi “*looks like the exam is over*”.

23. The Investigations Officer (“IO”) sent a copy of the disciplinary report to Mr Goyal on 04 October 2023 informing him that the report was to be referred to the Independent Assessor for review and that any comments or concerns that he wished to bring to the assessor’s attention should be submitted in writing before 21 October 2023. Mr Goyal did not respond to ACCA.
24. On 30 October 2023 the IO wrote to Mr Goyal informing him that the Assessor had found that there was a case to answer against him and the matter had been referred to ACCA’s Disciplinary Committee. Again, there was no response from Mr Goyal.

## **SUBMISSIONS**

25. Ms Skittrell took the Committee through the background of the case and certain parts of the video footage was shown during the hearing.



26. Ms Skittrell submitted that the following Examination Regulations and the guidance provided in the Student Information Sheet were relevant in this case:

- a. Regulation 3 provides that '*you may not attempt to deceive the exam supervisor(s), invigilator(s), remote invigilator(s), proctor(s) or any ACCA personnel by giving false or misleading information*'.
- b. Regulation 16 provides that '*candidates must not whisper or speak out loud during the exam or communicate or attempt to communicate with any person other than the exam supervisor(s), invigilator(s), remote invigilator(s), proctor(s). This includes from the time that you log into the remote proctoring platform until 5 minutes after the time that you submit your exam, or your exam is terminated (whether by you or anyone else)*'.
- c. Regulation 20 provides that '*if you are taking a remotely-invigilated exam, only you and no one else is permitted in the room in which you are sitting your exam. This includes from time to time that you log into the remote proctoring platform until 5 minutes after the time that you submit your exam, or your exam is terminated (whether by you or anyone else)*'.
- d. The guidance includes the following:
  - i. If any third party is detected as being present in your physical location, whether visible or not; or overheard in any manner, whether physically detected through movement and/or sound, irrespective of whether or not they are in your current location during the exam, your exam may be terminated and you will be reported to ACCA.
  - ii. Wherever you choose to sit the exam, you should be in a walled room, with a closed door and your screen should not be visible to anyone else including through a window, via CCTV or any other device.
  - iii. Do not whisper or read out loud any of the exam content.

27. Ms Skittrell submitted that ACCA relied on the video footage that showed Mr Goyal's behaviour in looking around the room; speaking and whispering out loud and reading the exam questions out loud to prove the presence of a third party in the room. It also relied on the video footage that indicated a third party was talking to Mr Goyal and the fact that a third party can clearly be seen in the exam room at one point in the footage.
28. Ms Skittrell submitted that Mr Goyal's conduct in having a third party present in the room in an attempt to 'cheat' in the exam was blatantly dishonest. She submitted that the test for dishonesty, as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* ("Ivey") was clearly met. Ms Skittrell referred the Committee to Mr Goyal's demeanor throughout the video footage and submitted that this showed that this was deliberate and intentional conduct on his part. She further submitted that Mr Goyal's actions, in attempting to 'cheat' in a professional exam, would be considered dishonest by the standards of ordinary decent people.
29. Ms Skittrell submitted that Mr Goyal's actions in attempting to gain an unfair advantage in the exam undermined the examination process and ACCA's reputation as a provider of professional examinations. She further submitted that Mr Goyal's dishonest conduct had brought discredit on him, the Association and the accountancy profession and fell far short of the conduct expected of those training to become professional accountants. Ms Skittrell submitted that misconduct, as defined by bye-law 8(c), was clearly made out.

## **DECISION AND REASONS**

30. The Committee carefully considered the documentary evidence before it, the video footage and the oral submissions made Ms Skittrell. 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 Goyal had agreed to abide by the Examination Regulations as part of the pre-exam set up.

### **Allegations 1(a), 1(b) and 1(c) - Proved**

33. The video footage of the exam, which the Committee has seen in full, clearly shows Mr Goyal reading exam questions out loud and looking off screen multiple times, which continued despite Mr Goyal being asked to stop by the proctor. One or more third parties can be heard on the video footage and, at one point in the footage, a third party can clearly be seen in the exam room. In the Committee's view that person was obviously trying to avoid being seen, because they crawl behind Mr Goyal rather than walking. This interpretation is supported by the video footage of Mr Goyal telling that person to conceal themselves.
34. The Committee was satisfied that there was another person in the room with Mr Goyal both before and during the exam who was there to assist him in answering the exam questions. It was also satisfied that Mr Goyal had deliberately lied to the proctor, in an attempt to deceive, when he informed them on more than one occasion that there was no one in the room with him. The Committee was satisfied that Mr Goyal had breached Examination Regulations 3, 16 and 20 and it found Allegations 1(a), 1(b) and 1(c) proved.

### **Allegation 2(a) - Proved**

35. The Committee was satisfied that Mr Goyal had deliberately attempted to deceive the proctor by telling them that there was no one in the room with him when there was. It was also satisfied that Mr Goyal's deliberate attempt to deceive the proctor would, by the standards of ordinary decent people, be considered dishonest. The Committee was satisfied that Mr Goyal's conduct was dishonest, in accordance with the test for dishonesty set out in *Ivey*.

### **Allegation 2(b) - Not Considered**

36. On the basis that this allegation was pleaded in the alternative to Allegation 2(a), the Committee made no finding in respect of it.

### **Allegations 3(a), 3(b), 3(c) and 3(d) - Proved**

37. On the evidence before it the Committee was satisfied that ACCA had sent emails to Mr Goyal's registered email address on 11 January 2023, 03 February 2023, 27 February 2023 and 16 March 2023 and that each of the emails had been delivered successfully and opened on the day they were sent. It noted that the email address to which the correspondence had been sent was the same email address that Mr Goyal had previously used to respond to ACCA on 20 December 2022.
38. The Committee was satisfied that by virtue of Regulation 3(1) of the Regulations Mr Goyal was under a duty to cooperate fully with the investigation. It determined that Mr Goyal's failure to respond to ACCA's correspondence was a failure on his part to co-operate with ACCA's investigation. Indeed, Mr Goyal had been warned by ACCA in the correspondence that he had a duty to co-operate with the investigation and there had been a requirement for him to respond to the questions asked by ACCA.
39. The Committee was of the view that Mr Goyal's failure to cooperate with the investigation was very serious and had the potential to undermine public confidence in the profession and ACCA as a regulator. The Committee found Allegations 3(a), 3(b), 3(c) and 3(d) proved.

#### **Allegation 4(a) - Misconduct Proved**

40. The Committee determined that Mr Goyal's premeditated and dishonest conduct, in attempting to deceive the proctor in an ACCA professional examination, fell far below the standards expected of an ACCA student and was deplorable. In the Committee's determination Mr Goyal's dishonest conduct undermined the integrity of ACCA's examination process and had brought discredit to him, the Association, and the accountancy profession. The Committee was also satisfied that Mr Goyal's failure to cooperate with the ACCA investigation was very serious. It was satisfied that Mr Goyal's dishonest conduct, his breach of the Examination Regulations and his failure to cooperate with the disciplinary investigation amounted to misconduct.

#### **Allegation 4(b) - Not Considered**

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

## **SANCTION AND REASONS**

42. Ms Skittrell informed the Committee that there were no previous disciplinary findings against Mr Goyal.
43. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(4) of the Regulations and to ACCA's Guidance for Disciplinary Sanctions (effective date 14 February 2024). 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 Goyal'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.
44. When considering the appropriate sanction, the Committee considered both the aggravating and mitigating features of the case. The Committee considered that the only mitigating feature was that Mr Goyal had no previous disciplinary findings against him. It noted, however, that he had only been a registered student of ACCA for four months at the date of the exam, and therefore placed little weight on this as a mitigating feature.
45. The Committee considered the following to be aggravating features:
  - a. This was deliberate and premeditated dishonesty on the part of Mr Goyal for personal gain.
  - b. Mr Goyal had not engaged with the ACCA investigation or the proceedings and so there was no evidence of any insight or remorse on his part.
  - c. Mr Goyal was given an opportunity to admit that someone had been in the exam room with him, but he had denied that to be the case in his email to ACCA of 20 December 2022.

46. The Committee considered each available sanction 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 gravity of the conduct proved, and it would not protect the public interest.
47. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from ACCA's Student Register was required. It had careful regard to the factors applicable to each of these sanctions as set out in the Disciplinary Sanctions Guidance. The Committee considered that most of the factors applicable to a severe reprimand were not present in this case. The Committee therefore concluded that a severe reprimand would not be appropriate or sufficient to protect the public interest.
48. The Committee had regard to section E2 of the Guidance for Disciplinary Sanctions that provides specific guidance in cases of dishonesty. It noted that section E2.2 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*". It also considered section E2.3 of the guidance that states: "*The Committee should bear these factors in mind when considering whether any mitigation presented by the member is so remarkable or exceptional that it warrants anything other than exclusion from membership or removal from the student register*".
49. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed. The Committee considered 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 Goyal's dishonest conduct, his breach of the Examination Regulations and his failure to cooperate in ACCA's investigation, had reached that high threshold. The Committee had heard no mitigation from Mr Goyal to warrant anything other than removal from the student register.

50. For the above reasons, the Committee concluded that the appropriate and proportionate sanction was to remove Mr Goyal from ACCA's student register.
51. The Committee did not deem it necessary to impose a minimum period before which Mr Goyal is able to reapply for admission as a student member.

### **DECISION ON COSTS AND REASONS**

52. The Committee was provided with two costs schedules. ACCA applied for costs in the sum of £6,183.50.
53. The Committee accepted the advice of the Legal Adviser. It was satisfied that the costs sought by ACCA were appropriate and reasonably incurred. The Committee noted that Mr Goyal 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 Goyal's financial circumstances.
54. The Committee did, however, consider that there should be a reduction in the costs as the hearing had taken less time than anticipated. The Committee determined that it would be fair and proportionate to order Mr Goyal to pay a contribution to ACCA's costs in the sum of £5,700.00.

### **ORDER**

- i. Mr Abhi Goyal shall be removed from ACCA's student register.
- ii. Mr Abhi Goyal shall pay a contribution to ACCA's costs in the sum of £5,700.00.

### **EFFECTIVE DATE OF ORDER**

55. The Committee considered that it would be undesirable for Mr Goyal to be permitted to take any further exams. It therefore directed that it was in the interests of the public for the order

for Mr Goyal to be excluded from membership of ACCA to have immediate effect, subject to the order being varied or rescinded on appeal as described in the Appeal Regulations.

**Ms Carolyn Tetlow**  
**Chair**  
**19 April 2024**