

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muhammad Salim

Heard on: Tuesday, 23 April 2024

Location: Virtual hearing via Microsoft Teams

Committee: Mr Maurice Cohen (Chair)
Mr Andrew Skelton (Lay)
Ms Sue Gallone (Accountant)

Legal Adviser: Ms Jane Kilgannon

Persons present

and Capacity: Mr Adam Slack (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)
Mr Muhammad Salim (Student)
Ms Zarqa Shaikh (Urdu Interpreter)

Summary: Removal from the student register.

Costs: No order for costs.

1. The Disciplinary Committee (the Committee) convened to consider the case of Mr Muhammad Salim (Mr Salim).

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2. Mr Adam Slack (Mr Slack) represented the Association of Chartered Certified Accountants (ACCA).
3. Mr Salim attended and was not represented. Given that Mr Salim is 17 years old, the Committee agreed for him to be accompanied throughout the hearing by a trusted adult. Initially his cousin, Person A, and later, his cousin, Person B.
4. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
5. In accordance with Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
6. The hearing was conducted remotely through Microsoft Teams.
7. The Committee had considered in advance the following documents:
 - a. Memorandum and Agenda (pages 1 to 2);
 - b. Hearing bundle (pages 1 to 77); and
 - c. Service bundle (pages 1 to 17).

PRELIMINARY MATTERS

8. Mr Salim applied for two further documents to be put before the Committee:
 - a. A screenshot of an undated WhatsApp chat group exchange in a group titled "[REDACTED]", some of which was in English, including a message highlighted in green stating "Sorry for all"; and

- b. A photograph of an ACCA certificate indicating a provisional result of “66% - Pass” for Mr Salim for the “FFA – *Financial Accounting*” examination held at “[REDACTED] – Lahore” taken on 26 July 2023.
9. ACCA had no objection to the application other than to request that any confidential information contained within the WhatsApp chat group exchange (for example, telephone numbers) not be made public for data protection and privacy reasons.
10. On the basis that the documents may have relevance to the matters alleged against Mr Salim, and that there was no obvious prejudice to ACCA if the documents were to be admitted (because it had not objected to their admission and it would have the opportunity to ask Mr Salim questions about them and make submissions about them), the Committee decided that it would be fair and appropriate to admit the documents for consideration at the hearing. The Committee indicated, however, that no confidential information (for example, names and telephone numbers) from the WhatsApp chat group document should be made public, in order to protect the privacy of the individuals that participated in that chat group.

BRIEF BACKGROUND

11. Mr Salim became a student member of ACCA on 16 November 2022.
12. On 26 July 2023, Mr Salim sat ACCA’s FFA – Financial Accounting examination at the [REDACTED] in Lahore, Pakistan.
13. The day before that, on 25 July 2023, ACCA received a complaint referral by email from an individual who wished to remain anonymous. The email stated “*A guy from Pakistan is sharing real exam questions. I am sharing proof. Please take some serious action against him. Thank you*”. Three images, all mobile telephone screenshots, were provided by the complainant. Two of the images included what appeared to be a question from an ACCA examination.

14. ACCA staff reviewed the photographs that included the examination question, noting that: the examination question related to ACCA's Financial Accounting (FFA) examination; the telephone number shown in the photograph was the same as ACCA's registered telephone number for Mr Salim; the examination question appeared to have been posted to a group chat entitled '[REDACTED]' with a message asking "*Can anybody solve?*"; and one person appeared to have provided a possible answer.
15. An ACCA Exam Production Technician, Person C, confirmed that:
 - a. Two of the three photographs submitted by the complainant contained an image of an ACCA examination question. It was from an ACCA Financial Accounting (FFA) examination prior to September 2022, when that question had been 'retired'; and
 - b. The other photograph contained the name and telephone number of Mr Salim.
16. ACCA was unable to identify the individual whose examination had been photographed to create the image of the examination question.
17. On 18 August 2023, ACCA sent a letter and email to Mr Salim notifying him of ACCA's investigation into his conduct and asking him some questions. No response was received.
18. ACCA wrote to Mr Salim again on 04 September 2023, setting out allegations against him, asking for Mr Salim's response and reminding Mr Salim of his duty to cooperate with ACCA. No response was received. ACCA wrote to Mr Salim again on 26 September 2023 and on 04 October 2023, seeking a response to its earlier correspondence. No response was received.

ALLEGATIONS

Mr Muhammad Salim, an ACCA student,

1. On or about 25 July 2023 shared a photograph of a question from a previous sitting of an ACCA Financial Accounting (FFA) exam (the exam) via a WhatsApp group called '[REDACTED]', contrary to Exam Regulation 14.
2. In respect of the matters referred to in allegation 1 above was dishonest in that he shared the photograph as alleged in allegation 1 above:
 - a. With a view to potentially assisting him in his sitting of the exam on 26 July 2023 and or
 - b. To potentially provide other ACCA students with an unfair advantage in their sitting of the same exam whether on 26 July 2023 or some other date after.
3. In the alternative, if such conduct is not found to be dishonest then it demonstrates a lack of integrity.
4. In the further alternative in respect of allegation 2(b) above such conduct, if not found to be dishonest or lacking integrity, was reckless in that Mr Salim failed to have any or sufficient regard to the possibility that the sharing of the exam question with any other ACCA student (whether directly or otherwise) would provide them with an unfair advantage, if they had yet to sit the same exam.
5. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Mr Salim failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence sent on:
 - a. 18 August 2023;
 - b. 04 September 2023;
 - c. 26 September 2023;
 - d. 04 October 2023.
6. Mr Salim is accordingly liable to disciplinary action

- a. Pursuant to Bye law 8(a)(i);
- b. In the alternative in respect of allegation 1 and or 5 pursuant to Bye law 8(a)(iii).

DECISION ON ALLEGATIONS AND REASONS

Admissions

19. At the outset of the hearing, Mr Salim admitted Allegation 1. Accordingly, it was announced that Allegation 1 was found proved by way of admission.
20. There were no further formal admissions and so ACCA was required to prove the remainder of the allegations.

Evidence and submissions of ACCA

21. Mr Slack took the Committee through the documentary evidence relied upon by ACCA. In particular, Mr Slack highlighted:
 - a. The witness statement of Person C confirming that the examination question shown in one of the photographs was from an FFA – Financial Accounting examination prior to September 2022;
 - b. The content of the message displayed with the examination question, asking “*Can anybody solve?*”; and
 - c. The fact that Mr Salim sat his ACCA FFA Financial Accounting examination on 26 July 2023, the day after the anonymous complaint had reported the posting of the examination question on the WhatsApp group.
22. Mr Slack brought the Committee’s attention to Exam Regulation 14 which provides: “*You must not copy, photograph or reproduce in any manner exam*

questions. You are also strictly prohibited from distributing or seeking to exploit for commercial gain unauthorised copies of exam questions”.

23. Mr Slack submitted that it is noteworthy that Mr Salim shared the ACCA examination question on the day before he sat his ACCA FFA Financial Accounting examination. Mr Slack submitted that the Committee could infer from this close proximity in time, that Mr Salim, in sharing the examination content on the WhatsApp chat group, was seeking an unfair advantage in his examination by attempting to gain knowledge of a previous ACCA examination question and its potential solution, of which other examination candidates would not have been aware.
24. Mr Slack submitted that this conduct was dishonest, or alternatively demonstrated a lack of integrity or recklessness on Mr Salim’s part.
25. Mr Slack submitted that Mr Salim’s failure to respond at all to ACCA’s correspondence arising from its investigation into this matter, amounted to a failure to cooperate with ACCA, contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations. He submitted that the failure risked frustrating the ACCA’s investigation into his conduct and undermining public confidence in the ACCA’s ability to regulate its members.
26. Mr Slack submitted that Mr Salim’s whole conduct had brought discredit to himself, ACCA and the wider accountancy profession. He submitted that it was so serious as to amount to misconduct, rendering him liable to disciplinary action. In the alternative, Mr Slack submitted that Mr Salim was liable to disciplinary action on the basis that he had acted contrary to two ACCA regulations, namely Exam Regulation 14 and Regulation 3(1) of the Complaints and Disciplinary Regulations.

Evidence and submissions of Mr Salim

27. Mr Salim stated that:
 - a. The ACCA examination question had come into his possession because it was shared, in PDF format, on another social media chat group;

- b. He took a photograph of the examination question as it appeared on his screen and that is the copy of the examination question that was shared with the '[REDACTED]' WhatsApp chat group;
- c. He was not aware that it was a previous ACCA examination question;
- d. He believed that it could have been an ACCA specimen question or a question created by an academy for the purpose of examination preparation;
- e. His intention was not to share the examination question to enable other students to gain an unfair advantage;
- f. As soon as it was brought to his attention that this was a previous ACCA examination question and so it was not appropriate to share the photograph of it, he removed the photograph within five minutes and apologised to the chat group. He referred the Committee to the screenshot provided in support of this assertion;
- g. His examination on 26 July 2023 was sat in person at a hearing centre, and not been taken remotely; and
- h. He did not respond to the ACCA correspondence because at the relevant time he was living in an area of Pakistan with poor internet connection and he had missed telephone calls from ACCA.

28. Under cross examination Mr Salim accepted that:

- a. Questions created by academies for examination preparation did not include the ACCA logo;
- b. His reason for sharing the examination question on the WhatsApp chat group was to look for an answer to that question, as part of his examination practice;

- c. He did not respond to the ACCA correspondence listed at Allegation 5; and
 - d. ACCA phone calls showed up on his telephone as UK calls but not as calls from ACCA.
29. Following questions from the Committee, Mr Salim confirmed that:
- a. He attempted to call back the UK number that had called him but the calls did not connect;
 - b. He received the first two pieces of correspondence from ACCA following the date of the second – 04 September 2023;
 - c. When he received the correspondence from ACCA, he did not understand it; and
 - d. Rather than seeking assistance from ACCA, he asked for help from his cousin.
30. Mr Salim submitted that:
- a. When he received the examination question in its PDF format, it did not say whether it was a real examination question or only a specimen;
 - b. He was not aware that it was a previous examination question and that he was not permitted to share it;
 - c. He accepted that he had shared it and apologised for his mistake in doing so; and
 - d. He is not very familiar with how to respond to ACCA emails and he apologises for failing to respond.

Allegation 2(a) – proved

31. In relation to Allegation 2(a), the Committee noted that Mr Salim had admitted to sharing the examination question alongside a request for assistance in solving the question. It further noted that at least one participant in the WhatsApp group had responded to that request. The Committee further noted that Mr Salim's sharing of the examination content pre-dated him sitting his ACCA FFA Financial Accounting on 26 July 2023. Taking these matters into account, the Committee considered that it was reasonable to infer that Mr Salim's motivation in sharing the examination question on the WhatsApp group was to assist himself in his examination sitting the following day.
32. The Committee was satisfied that the assistance obtained from having the examination question answered for him on 25 July 2023 would have provided an unfair advantage. This is because, even though the examination question would not have been used in examinations after the date on which it was shared (because it had been 'retired' in September 2022), it could have provided a helpful example of how an examination question might be structured and given an opportunity to think about how to answer a similar type of question. The Committee noted that Mr Salim would not have been aware that the examination question had been retired. The content of the retired examination question was information that other ACCA examination candidates sitting the examination on 26 July 2023 would not have had access to in their own examination preparation.
33. The Committee applied the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
34. Applying the first stage of the test, the Committee had regard to Mr Salim's previous good character and considered that it made it less likely that he would have had a dishonest state of mind at the relevant times or since been untruthful about his state of mind at those times. However, bearing in mind its finding that Mr Salim had shared the examination content with intent to gain an unfair advantage (either for himself or another person), the Committee considered that Mr Salim's subjective state of mind at the relevant times was that he knew that he should not be sharing examination content with others, but he nevertheless did so, uploading it to a WhatsApp group where others

could see it in order to gain an answer to assist him in preparing for his examination the next day.

35. Applying the second stage of the test, the Committee considered that Mr Salim's conduct would be viewed by ordinary decent members of the public to be dishonest by objective standards because it amounted to an attempt to gain an unfair advantage in a professional examination or assist another in obtaining such an unfair advantage.
36. Accordingly, the Committee found Allegation 2(a) proved.

Allegation 2(b) – not proved

37. In relation to Allegation 2(b), the Committee was not satisfied, on the balance of probabilities, that Mr Salim had shared the examination question with the intention to assist or provide an unfair advantage to others. There was no evidence, for example, that he was responding to a request for such an examination question, nor that he had any interest in the examination success of the other participants in the WhatsApp chat group.
38. The Committee applied the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
39. Applying the first stage of the test, the Committee had regard to Mr Salim's previous good character and considered that it made it less likely that he would have had a dishonest state of mind at the relevant times or since been untruthful about his state of mind at those times. The Committee considered that Mr Salim's subjective state of mind at the relevant times was that he was not sharing the examination question with the intention of offering an unfair advantage to others.
40. Applying the second stage of the test, the Committee considered that Mr Salim's conduct would not be viewed by ordinary decent members of the public to be dishonest by objective standards because he was not seeking to obtain an unfair advantage for others.

41. Accordingly, the Committee found Allegation 2(b) not proved.

Allegation 3 – Not proved

42. In relation to the conduct set out at Allegation 2(b), the Committee found that Mr Salim's conduct did not amount to a lack of integrity because it accepted that he had not deliberately acted to seek an unfair advantage for other ACCA students.

43. Accordingly, the Committee found Allegation 3 not proved.

Allegation 4 – proved

44. The Committee noted that Mr Salim had accepted that he had shared the examination question with other ACCA students on the WhatsApp chat group for his own benefit but that he had not intended to offer it as a potential advantage for those other students. The Committee considered that this indicated that Mr Salim had given insufficient thought to the potential for the examination question to offer unfair assistance to the other ACCA students and had taken insufficient care to check whether he might be prohibited from sharing the examination question. On that basis, the Committee considered – in relation to the conduct set out at Allegation 2(b) – that Mr Salim had been reckless.

45. Accordingly, the Committee found Allegation 4 proved.

Allegation 5 – proved

46. Copies of the correspondence sent by email to Mr Salim following the referral of the matter to ACCA's Investigation team were provided. The first letter dated 18 August 2023 set out the nature of the complaint and requested that Mr Salim respond to a series of questions by 01 September 2023. Reference is made in the letter to the part of the Regulations that require ACCA members to cooperate fully with ACCA investigations. The subsequent three pieces of

correspondence (04 September 2023, 26 September 2023, and 04 October 2023) sought to prompt Mr Salim to respond to the original questions.

47. ACCA's records show that the correspondence was sent to the email address that Mr Salim had provided to ACCA.
48. The Committee noted that some of the emails sent to Mr Salim had been encrypted, requiring a password to open them. However, the Committee considered that it would be reasonable to expect an ACCA student member receiving correspondence from ACCA and having any difficulty opening it, to contact ACCA and ask for assistance. The Committee noted that no such communication had been received by ACCA from Mr Salim.
49. The Committee considered Mr Salim's explanation of his conduct to be inconsistent and inadequate. He had admitted to having received at least the first two pieces of correspondence and not to have understood them. However, he had failed to make contact with ACCA in order to ensure that he gained an understanding and provided ACCA with the information that it had requested.
50. The Committee noted that Mr Salim was under a duty to cooperate fully with the ACCA investigation into his conduct and found that, by not responding to the letters sent to him in any way, he had failed to discharge that duty.
51. Accordingly, Allegation 5 was found proved.

Allegation 6(a) – proved

52. In relation to Allegation 6(a), the Committee considered the seriousness of Mr Salim's conduct set out at Allegations 1, 2(a), 4 and 5. The Committee referred back to the evidence that it had seen and heard and its earlier findings of fact.
53. The Committee considered that Mr Salim's conduct was not only a breach of ACCA Exam Regulations and the Complaints and Disciplinary Regulations but also departed significantly from what was proper in the circumstances and brought discredit to Mr Salim, ACCA and the accountancy profession. The

conduct risked the academic integrity of the examination and therefore risked undermining proper professional standards and public confidence in ACCA and its qualifications.

54. The Committee noted that Mr Salim's conduct in sharing examination questions had been designed to afford him an unfair advantage and was dishonest and, in respect of its potential to afford others an unfair advantage, reckless. As such, the Committee found it to be conduct that fell far below the standards expected of a student member of ACCA.
55. The Committee found that, in failing to fully co-operate with ACCA's investigation into his alleged conduct, Mr Salim's conduct had fallen far short of what would be expected of an ACCA student member and was serious enough to amount to misconduct. Mr Salim's failure had the potential to undermine ACCA's ability to function effectively as a regulator and therefore risked bringing both ACCA and the profession into disrepute.
56. For these reasons, the Committee concluded that Mr Salim's conduct at Allegations 1, 2(a), 4 and 5, taken individually and collectively, was serious enough to amount to misconduct. As such, the Committee noted that Mr Salim was liable to disciplinary action pursuant to bye-law 8(a)(i).
57. Given the Committee's finding in relation to Allegation 6(a), it was not necessary for it to consider the alternative matter set out at Allegation 6(b).

SANCTION AND REASONS

58. In reaching its decision on sanction, the Committee took into account the evidence that it had already seen, its earlier findings and the submissions of Mr Slack and Mr Salim.
59. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(4) of the Regulations, relevant caselaw and the ACCA document 'Guidance for Disciplinary Sanctions'. The Committee bore in mind that the purpose of any sanction was not to punish Mr Salim, but to protect the public,

maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate.

60. When deciding on the appropriate sanction, the Committee carefully considered whether there were any aggravating and mitigating features in this case.
61. The Committee considered the following matters to be aggravating features of the case:
 - a. The conduct amounted to deliberate dishonesty, motivated by a desire for personal gain;
 - b. The conduct undermined the academic integrity of the examination, creating a risk of potential harm to clients and the public (because he and others may have had an unfair advantage in an ACCA examination using the previous examination content shared) and therefore damaging public confidence in the profession of accountancy; and
 - c. Mr Salim's lack of engagement with the ACCA investigation demonstrated a lack of insight into the seriousness and potential consequences of his conduct.
62. The Committee considered the following to be mitigating features in this case:
 - a. Mr Salim has had no previous regulatory findings made against him (although it noted that he had only been a student member for a short time at the time of the misconduct); and
 - b. Mr Salim had offered an apology for his conduct, which he considered to be a mistake.
63. The Committee considered that Mr Salim's apology and explanations for his conduct to the Committee demonstrated only limited insight into the seriousness of his conduct.

64. No professional or character testimonials were presented for the consideration of the Committee.
65. The Committee noted that Section E2 of the 'Guidance for Disciplinary Sanctions' document indicated that:
 - a. Dishonesty, even when it does not result in direct harm and/or loss undermines trust and confidence in the profession;
 - b. 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; and
 - c. The Committee should bear these factors in mind when considering whether any mitigation presented by the student member is so remarkable or exceptional that it warrants anything other than removal from the student register.
66. The Committee considered the available sanctions in increasing order of severity.
67. The Committee first considered whether to take no further action but considered that such an approach was not appropriate given the seriousness of the misconduct.
68. The Committee considered that neither admonishment, reprimand nor severe reprimand would be appropriate, because the nature of the conduct was deliberate and there was insufficient evidence of insight. The Committee considered that these three sanctions would be insufficient to mark the seriousness of the misconduct, to provide adequate protection of the public and to address the wider public interest.

69. The Committee considered that removal from the student register was the appropriate and proportionate sanction in this case because Mr Salim's conduct:
- a. Was a serious departure from professional standards;
 - b. Was fundamentally incompatible with being a student member of ACCA;
 - c. Had the potential to have an adverse impact on members of the public if trust was undermined in ACCA qualifications and the profession of accountancy;
 - d. Included dishonesty; and
 - e. Demonstrated a lack of insight into the seriousness of the conduct and the consequences thereof.
70. The Committee did not consider the mitigating features of the case were so remarkable or exceptional so as to warrant anything other than removal from the student register.
71. The Committee was mindful that the sanction of removal from the student register was the most serious sanction that could be imposed and recognised that it could have negative consequences for Mr Salim in terms of his reputation and financial circumstances. However, the Committee considered the sanction to be proportionate in the circumstances, given the seriousness of the misconduct, the need to protect the public, and the wider public interest in upholding proper professional standards and maintaining public confidence in ACCA and the accountancy profession.
72. Accordingly, the Committee decided to remove Mr Salim from the student register.

73. The Committee decided that, given the circumstances of the case, there was no public interest imperative that required it to exercise its discretion to make its order for removal from the student register with immediate effect.
74. The Committee did not deem it necessary to impose a specified period before which Mr Salim could make an application for re-admission as a student member.

COSTS AND REASONS

75. Mr Slack, on behalf of ACCA, applied for Mr Salim to make a contribution to the costs of ACCA in bringing this case. Mr Slack applied for costs in the sum of £5,943.50. The application was supported by a schedule breaking down the costs incurred by ACCA in connection with the hearing.
76. Mr Salim did not provide the Committee with a completed Statement of Financial Position. However, he did provide oral representations, stressing that [PRIVATE].
77. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (September 2023).
78. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. Having reviewed the schedule and considering ACCA's suggested reduction because less time had been taken at the hearing than the estimate provided, the Committee considered that the costs claimed appeared to have been reasonably and proportionately incurred. However, reflecting upon Mr Salim's financial and personal circumstances, the Committee decided that it would be inappropriate to make an award of costs against Mr Salim because [PRIVATE].
79. Taking all of the circumstances into account, the Committee decided that Mr Salim should not be ordered to make a contribution to the costs of ACCA.

ORDER

80. The Committee made the following order:
- a. Mr Salim shall be removed from the ACCA student register.

EFFECTIVE DATE OF ORDER

81. In accordance with Regulation 20(1) of the Regulations, the order relating to removal from the ACCA student register shall take effect from the date of the expiry of the appeal period unless Mr Salim gives notice of appeal prior to the expiry of the appeal period, in which case it shall become effective (if at all) as described in the Chartered Certified Accountants' Appeal Regulations 2014.

Mr Maurice Cohen
Chair
23 April 2024