

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Pratham Jayesh Parmar

Heard on: Friday, 15 March 2024

Location: Virtual hearing using Microsoft Teams

Committee: Mr Maurice Cohen (Chair)
Dr Beth Picton (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Mr David Marshall

**Persons present
and Capacity:** Mr Adam Slack (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary: Removed from the student register

Costs: £6,000

1. The Committee heard an allegation of misconduct against Mr Parmar. Mr Slack appeared for ACCA. Mr Parmar was not present and not represented.
2. The Committee had a main bundle of papers containing 56 pages and a service bundle containing 28 pages. It also had a video recording of the examination with which this hearing was concerned, lasting 2 hours, 44 minutes.

PROCEEDING IN ABSENCE

3. The Committee was satisfied that Mr Parmar had been served with the documents required by regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 13 February 2024 to an email address notified by Mr Parmar to ACCA as an address for all correspondence. That was 28 days ago.
4. In considering whether to exercise its discretion to proceed in Mr Parmar's absence the Committee noted that nothing had been heard from him during the investigation. He had not responded to ACCA's emails. However, on 29 February 2024 the Hearings Office had phoned the number on the register and spoken to Mr Parmar, who had proved his identity to her satisfaction. The note of the conversation stated:

Mr Parmar said he stopped learning about ACCA and does not want to continue again. [I] asked Mr Parmar if he would be attending the upcoming DC hearing, and he said no he will not.
5. The Hearings Officer asked Mr Parmar to confirm his non-attendance in writing. He failed to do so but on the basis of the telephone note the Committee was satisfied that Mr Parmar knew that the hearing would be taking place today and had decided not to exercise his right to attend. The Committee considered that the public interest required that a hearing take place and that nothing would be gained by an adjournment.
6. The Committee determined to proceed in Mr Parmar's absence.

ALLEGATION(S)/BRIEF BACKGROUND

7. Mr Parmar registered as an ACCA student on 15 October 2021. On 14 April 2022 he took ACCA's Business and Technology (BT) examination. This was a remotely invigilated, computer-based exam taken in a place of Mr Parmar's

choosing. The invigilator was not present but had video and audio access through the camera mounted on Mr Parmar's screen and could communicate with him directly if required through chat messages. This was recorded. Later, on 14 April 2022 the (or an) invigilator submitted an Incident Report alleging breach of the Examination Regulations and Guidelines.

8. Mr Parmar faced the following allegations:

Allegations

Mr Pratham Jayesh Parmar ('Mr Parmar'), an Association of Chartered Certified Accountants ('ACCA') student:

- 1) *On 14 April 2022, during an on-demand Business and Technology (BT) examination (the Exam):*
 - a) *Failed to ensure that his full face was visible to the camera throughout the exam contrary to Examination Regulation 1 and the Examination Guidelines;*
 - b) *Whispered and or spoke aloud during the exam, contrary to Examination Regulation 16.*
- 2) *Contrary to Regulation 3(1) of the Complaints & Disciplinary Regulations 2014 (as amended), Mr Parmar failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence dated:*
 - a. *30 November 2022;*
 - b. *11 January 2023;*
 - c. *31 January 2023;*
 - d. *10 March 2023.*
- 3) *By reason of his conduct, Mr Parmar is:*

- a. *Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the above matters or, in the alternative,*
- b. *Liable to disciplinary action pursuant to bye-law 8(a)/(iii).*

DECISION ON FACTS/ALLEGATION(S) AND REASONS

9. Mr Slack relied on the documentary evidence and the video/audio recording. The Committee considered these carefully. Mr Slack did not call any witnesses. Mr Parmar had not made any written submissions at any time in relation to the issues in this case.
10. The Committee viewed the video and audio recording of the exam. There were clearly times when Mr Parmar moved his head in such a way that his full face was not visible to the camera. For example, at 33 minutes and 13 seconds into the recording (timestamp 00:33:13) he lowered his head so his mouth could no longer be seen. In fairness to Mr Parmar, he seemed to look in the direction of the camera at all times. He did not turn his head as he might if another person had been in the room.
11. There were also occasions when Mr Parmar spoke or whispered. He seemed to be reading the questions out loud, to himself. An example started at 00:20:00. At 00:20:39 there was an alert sound which probably represented a message from the invigilator on the text-based chat system. The invigilator reported that he had warned Mr Parmar not to talk. At 00:20:58 Mr Parmar is heard saying 'OK, OK, sorry' to the invigilator.
12. On the basis of this evidence the Committee was satisfied that **Allegations 1(a) and (b) and 2 were proved.**

Allegation 2

13. This raised completely different issues. On 30 November 2022 ACCA wrote to Mr Parmar to inform him of the complaint and the investigation and to ask various questions. The letter reminded him of his duty to cooperate. Mr Parmar

did not reply. He did not reply to any other correspondence from ACCA including three further letters to similar effect. On this basis Mr Parmar had clearly not cooperated with the investigation. **Allegation 3 was found proved.**

Allegation 3: misconduct and liability to disciplinary action

14. The breaches of Examination Regulations and Guidelines set out in allegation 1 automatically rendered Mr Parmar liable to disciplinary action. However, if they had stood alone the Committee would not have found that they amounted to misconduct. They were relatively minor departures from the rules. For example, Mr Parma's face was always at least partially visible. There was no allegation of cheating or attempting to gain an unfair advantage.
15. The failure to cooperate was a different matter although it arose out of the same investigation. One of the essential elements of professional regulation is that members, and students, must cooperate with their regulator. It is impossible to regulate them otherwise. His complete failure to respond to any correspondence was a sufficiently serious matter to warrant a finding of misconduct.
16. The Committee concluded that Mr Parmar was **liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of allegations 1(a) and (b) and guilty of misconduct in respect of Allegation 2.**

SANCTION(S) AND REASONS

17. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2024). It first sought to identify mitigating and aggravating factors.
18. Mr Parmar had no previous disciplinary findings against him. That was a mitigating factor, although not a strong one given that he had only been an ACCA student for about 6 months.
19. This was Mr Parmar's first ACCA exam and therefore his first experience of the

practical aspects of taking ACCA's remote computer-based exams. Keeping one's full face always on screen and not talking to oneself, even in a whisper, were rules he may never have had experience of before. This was mitigation in relation to Allegation 1.

20. There was an aggravating factor in that Mr Parmar's failure to cooperate had been complete, spanning the entire investigation. At any point he could have made an attempt to respond to ACCA's questions but he did not do so.
21. The misconduct found, the failure to cooperate, was a serious matter as the Sanctions Guidance emphasises. The Committee was satisfied that it required a sanction. The Committee considered the sanctions of admonishment and reprimand but concluded that these would not be sufficient to mark the seriousness of Mr Parmar's failure to cooperate with his regulator. The Committee next considered the sanction of severe reprimand. The Guidance says that this can be applied 'in situations where the conduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public, and there is evidence of the individual's understanding and appreciation of the conduct found proved.' This did not apply to Mr Parmar's case where there was no indication that he had any appreciation of the significance of being professionally regulated. Most of the suggested factors were not satisfied either.
22. The next relevant sanction was removal from the student register. The Committee was satisfied that Mr Parmar's conduct was incompatible with remaining registered and that this was the minimum sanction it could impose.

COSTS AND REASONS

23. Mr Slack applied for costs totalling £7,001.50. He acknowledged that this was based on an estimated hearing time of a day whereas the actual time was much less. He invited the Committee to make an appropriate reduction.
24. The Committee was satisfied that the proceedings had been properly brought

and that ACCA was entitled in principle to its costs. The Committee considered that the time spent and the sums claimed were reasonable. It was appropriate to make a reduction for the fact that the hearing would last for less time than estimated. That would reduce the reasonable costs to about £6,000.

25. There was no information before the Committee about Mr Parmar's means so it was not able to make a reduction to the amount of costs payable on that basis.

EFFECTIVE DATE OF ORDER

26. The order will take effect at the normal time, after the expiry of the appeal period.

ORDER

27. The Committee **ordered** as follows:
 - (a) Mr Pratham Jayesh Parmar shall be removed from the student register
 - (b) Mr Pratham Jayesh Parmar shall make a contribution to ACCA's costs of £6,000.

Maurice Cohen
Chair
15 March 2024