



HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muneeb Ur Rehman

Heard on: Tuesday, 19 – Wednesday, 20 March 2024

Location: Remotely by MS Teams

Committee: Mr Tom Hayhoe (Chair),
Ms Joanne Royden-Turner (Accountant),
Ms Sue Heads (Lay)

Legal Adviser: Mr Charles Apthorp

**Persons present
and Capacity:** Mr Muneeb Ur Rehman (Member)
Ms Zarqa Shaikh, (day 1 Interpreter),
Ms Hamida Begum (day 2 Interpreter)
Mr Ben Jowett (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary: Allegations 1a) and b), 2a)(ii), 3a) proved.

Sanction: Removed from student register with immediate effect.
Interim Order rescinded.

Costs: Mr Rehman ordered to pay £500 towards the ACCA costs.

PRELIMINARY

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider the case concerning Mr Muneeb Ur Rehman ("Mr Rehman").
2. The Committee had before it a bundle of documents (1-145 pages), an agenda bundle (2 pages), an adjournment bundle (1-7 pages), Excel spread sheet, Note Pad document and Exhibits 3, 4, 5 and 6 of Person D's statement. The Committee also had available to it screen shots of the video of the examination, which is the subject of these allegations. The Committee heard from three live witnesses and Mr Rehman gave evidence.
3. Mr Rehman attended the hearing and was assisted by an interpreter.

ALLEGATIONS

4. The allegations against Mr Rehman are as follows:
 1. On 25 August 2020, Mr Muneeb Ur Rehman an ACCA student:
 - a) Used, an unauthorised item namely an electronic device capable of taking photographs, during ACCA's Corporate and Business Law (LW) on-demand remotely invigilated exam, to take a photograph of an exam question, contrary to Exam Regulations 5 and 14,
 - b) Caused or permitted the photograph referred to in Allegation 1a, to be shared with a person or persons unknown, contrary to Exam Regulation 10.
 2. Further, Mr Muneeb Ur Rehman's conduct referred to in Allegation 1 above was:
 - a) Dishonest in that he,
 - (i) Took the photograph of the exam question in order to gain an unfair advantage for himself or in the alternative,
 - (ii) Caused or permitted the photograph to be shared to assist another person or persons unknown to obtain an unfair advantage, in the further alternative;

- b) Reckless in that he failed to have any or sufficient regard to the possibility that the sharing of a photograph of an exam question as referred to in Allegation 1 with any other ACCA student (whether directly or otherwise) would provide them with an unfair advantage if they were intending to sit the same exam.
- 3. By reason of any or all of the facts at Allegations 1, and 2, Mr Muneeb Ur Rehman is:
 - a) Guilty of misconduct pursuant to bye-law 8(a)(i); or in the alternative
 - b) Liable to disciplinary action pursuant to bye-law 8 (a)(iii) in respect of breaches of the exam regulations as set out in Allegation 1.

BACKGROUND

- 5. Mr Rehman is a student member of ACCA, having been admitted to the student register on 16 August 2017.
- 6. The allegations in this case relate to a computer-based exam ('CBE') that Mr Rehman sat on 25 August 2020. ACCA's case is that, in breach of the Exam Regulations, Mr Rehman took and shared a photograph of one of the questions in the examination.

DECISION ON ALLEGATIONS AND REASONS

EVIDENCE AND SUBMISSIONS OF ACCA

- 7. Mr Rehman attempted ACCA's remotely invigilated LW – Corporate and Business Law ("LW-ENG") exam on 25 August 2020. One month later, ACCA was sent one photograph of an exam question by an anonymous whistle-blower.
- 8. The photograph contained the following information:
 - (a) The exam question (this has now been redacted);
 - (b) The title of the exam – Corporate and Business Law;

- (c) The section of the exam and question number – Section A, question 34;
 - (d) The time left for the exam when the question was shown, 01:48:36.
9. The contents of the photograph were examined by ACCA's Exams Department who explained that this was a question which could only have been from Mr Rehman's exam attempt of 25 August 2020.
 10. ACCA called Person A, CBE Delivery Manager. They produced their statement and gave evidence setting out the process for establishing that the question which was presented to the student was based on the information that could be seen in the photograph. They answered questions from the Committee and was cross examined by Mr Rehman.
 11. Further evidence was provided by Person B, Exam Production Technician, in their statement confirming this process.
 12. ACCA relied upon the written evidence of Person C, the Technical Lead. They explained in their statement that the information, which was shown in the photograph, showed:

“At 11:24 into the exam (1h 48 remaining) – the student was on Q34, which was the question shown in the image. We have correlated this with the result file (exam audit log). We also looked at the other exams with this question presented in the same day, and there was only one other exam where it appeared as Q34. The result file for this exam shows the student was on Q17 at 11:24 into the exam, which was a completely different question. So, we are confident that the data shows that this student was the only one to have been presented this question as Q34 and be viewing the question at 11:24 into the exam on 25-August- 2020”.
 13. ACCA also called Person D, ACCA's Learning and Assessment Technology CoE Manager. Their statement expands on Person C's account. Using the data Person D carefully and thoroughly explained to the Committee how ACCA was able to reach the conclusion that Mr Rehman was the only candidate to whom Question 34 (“Q34”) was presented at 11:24 into the exam.
 14. The evidence relied upon by ACCA was that, as a result of enquiries made by Person A or other members of ACCA staff, the photograph in question, Q34, could only have

been taken off Mr Rehman's exam paper.

15. In his response of 28 January 2021, Mr Rehman denied using his mobile phone during the exam and stated that the reason for him looking off screen was due to his weak eyesight and because his *"eyeglasses are break [sic]"*.
16. In correspondence sent by ACCA to Mr Rehman, additional enquiries were made based on the video (webcam) evidence regarding him looking off screen, not utilising his scratch paper and whether any other person(s) entered the exam room during the exam. Mr Rehman was also notified that ACCA's Computer Based Exams team had confirmed that the question was from his exam attempt of 25 August 2020, and was asked to comment.

MR REHMAN'S EVIDENCE

17. Mr Rehman had confirmed his attendance at the hearing and provided ACCA with a completed Case Management Form. He gave evidence and denied that he had taken the photograph or had provided it to another.
18. Mr Rehman referred to the video of the examination and stated that ACCA Proctor could see him and he had shown the Proctor the room and under the table. He had read through the exam paper twice and then completed the examination. He was cross examined and stated he didn't recall the question 34 and he had no idea whether it was the same or not. He denied having the mobile phone in his lap and accessing his phone. When questioned by the Committee he stated that after verification he left the mobile phone in the other room.

SUBMISSIONS

19. ACCA submitted that the allegations are capable of proof by the documentary evidence in the bundle, however they did not rely upon the video footage as proving their case.
20. In respect of Allegation 1(a) ACCA relies on the witness statement and evidence of Person A which confirms that the photograph of the exam LW- ENG exam question is from Mr Rehman's exam attempt of the 25 August 2020. This states that *"we are confident that the data shows that this student was the only one to have been presented this question as Q34 and be viewing the question at 11:24 into the exam on 25-August-*

2020'.

21. Mr Jowett submitted that Mr Rehman took the photograph of Question 34 during his exam attempt.
22. In respect of Allegation 1b) Mr Jowett submitted that the fact that the photograph was brought to ACCA's attention by a third party supports the allegation that Mr Rehman caused or permitted the photograph to be shared with another person or persons unknown. Although Mr Rehman denies this, ACCA relied on the fact that this is a photograph from Mr Rehman's exam attempt of 25 August 2020.
23. Mr Jowett submitted that Mr Rehman took the photograph of the exam question and caused or permitted the photograph to be shared with another person(s). It should have been obvious to Mr Rehman that taking one or more photographs of questions from an exam paper would assist him with any further attempts of the exam, thereby giving him an unfair advantage, and sharing them with others would enable other ACCA students who were going to sit the same exam to gain an unfair advantage. In that sense, it is submitted that Mr Rehman's conduct was dishonest or in the alternative was reckless.
24. In respect of allegation 2 a) and b) Mr Jowett referred the Committee to the case of *Ivey v Genting* and submitted the conduct set out at allegation 1a) and b) was dishonest on the basis that Mr Rehman knew that he was not permitted to take and share a photograph of ACCA exam content or seek to gain any unfair advantage for himself (potentially in a future exam) or provide assistance to another person or persons unknown as this could give them an unfair advantage.
25. Mr Jowett submitted in respect of allegation 2a) (i) and (ii) such conduct would be regarded as dishonest by the standards of ordinary decent people.
26. Mr Jowett also submitted that allegation 2 (b) was an alternative to Allegation 2(a) and referred the Committee to case *R v G* where the legal test for recklessness was defined as having knowledge of the risk and continuing on to take it.

MISCONDUCT

27. In respect of allegation 3a) Mr Jowett submitted that misconduct is a matter of judgment for a professional panel. He referred the Committee to the case of *Roylance v GMC* in

that misconduct is a word of general effect involving an act or omission which falls short of what would be proper in the circumstances. In addition, the Committee must be satisfied that the misconduct is serious. He submitted that misconduct is made out if any or all the facts relied upon in support of allegations are found proved. This is on the basis that the conduct concerned in each of these allegations amounts to misconduct both individually and collectively having regard to bye-law 8(a)(i).

28. In respect of allegation 3b) Mr Jowett submitted that it was an alternative allegation to allegation 3 a). He submitted that liability for disciplinary action would follow if the Committee found that there was a breach of the exam regulations.

DECISION ON ALLEGATION 1 a) AND b)

29. In reaching its findings of fact in respect of allegations 1a) and b), the Committee relied on the email correspondence and documents contained in ACCA's bundle. The Committee had taken account of the submissions of Mr Jowett and the evidence and submissions of Mr Rehman. The Committee also listened to legal advice, which it accepted.
30. On 16 August 2017, ACCA registered Mr Rehman as a student. As such, and from that date, he has been bound by ACCA's Byelaws and Regulations.
31. The Committee found that Mr Rehman had attempted ACCA's remotely invigilated LW – Corporate and Business Law (“LW-ENG”) exam on 25 August 2020. It accepted the evidence that one month after Mr Rehman had attempted the examination, ACCA received a photograph of the exam question sent by an anonymous whistle-blower.
32. The Committee accepted and found credible the evidence of ACCA's Exams Department who confirmed that the photograph was a question from Mr Rehman's exam attempt of 25 August 2020.
33. In particular the Committee found the evidence of Person A to be very persuasive where they stated, *“that the data shows that this student was the only one to have been presented this question as Q34 and be viewing the question at 11:24 into the exam on 25-August 2020”*. The Committee also concluded that the data produced by ACCA was as reliable as could be expected and there was no other rational explanation which pointed to another candidate on another occasion taking the photograph. It noted the

care ACCA investigation had taken to exclude the other candidate who was presented with the same question as Mr Rehman as number 34 on 25 August 2020.

34. The Committee also found that the photograph was taken at an angle which was consistent with it being taken from a position out of view of the camera of the laptop Mr Rehman was using. It noted Mr Rehman's evidence that no other person was present who could have taken the photograph.
35. The Committee took into account Mr Rehman was providing evidence through an interpreter. It noted that there was an inconsistency in where the mobile phone was placed in the room between an email to ACCA on 29 January 2021 and what was said in evidence. However, it considered that this inconsistency was not material to its decision, which was primarily based on the documentary evidence of the ACCA.
36. The Committee found that Mr Rehman both used an unauthorised device and took a photograph of the examination question. It therefore found allegation 1(a) proved.
37. In respect of allegation 1(b) the Committee, as set out above, noted that the photograph of the exam question was provided to ACCA by an anonymous source. In light of the finding that the photograph was taken by Mr Rehman and no other explanation was forthcoming from him, it drew a reasonable inference that Mr Rehman had shared the photograph.

DECISION ON ALLEGATION 2 a) (i) AND (ii)

38. The Committee took account of the terms of Examination Regulation 1 and the relevant section of the Examination Guidelines which were in force at the time Mr Rehman took the examination and which are set out below:

"1. You are required to adhere at all times to the examination regulations. If you are found to be in breach of any of these regulations or fail to adhere to the guidelines below, you may become liable to disciplinary action, pursuant to ACCA Bye-law 8, which could result in your removal from the student register."

EXTRACT FROM THE EXAMINATION GUIDELINES (AS APPLICABLE IN 2020)

“Before the Examination
Proctored Exam

The exam can be attempted at home or in your office. Wherever you choose to sit the exam, you should be in a walled room, with a closed door and without distractions. Before the examination start, you must ensure you follow the instructions below:

- *Ensure you are not disturbed by anyone.*
- *Disconnect extra monitors, projectors and televisions.*
- *Place food and smoking equipment out of sight.*
- *Move electronic devices, earpieces and watches out of arm's reach”.*

39. In respect of Allegation 2a) (i), the Committee first considered whether Mr Rehman had taken the photograph to gain an unfair advantage for himself. This would require there to be some evidence of what purpose he is alleged to have intended to use it for his own benefit. The Committee was not satisfied that there was a sufficient basis to reach this conclusion on the balance of probabilities and therefore found this allegation not proved.
40. In respect of allegation 2a) (ii) the Committee noted it had found at allegation 1 that Mr Rehman had surreptitiously taken the photograph and shared it with another person. In addition, it concluded he was aware that such conduct was a breach of the exam regulations.
41. In determining whether the conduct was dishonest it applied the two-stage test set out in *Ivey v Genting* to determine whether his conduct was dishonest.
42. The Committee first sought to ascertain the actual state of Mr Rehman’s knowledge or belief as to the facts. The Committee considered that the material published by ACCA was to ensure that individuals were fully aware of the exam process and the importance of compliance with the exam regulations. In all the circumstances the Committee concluded Mr Rehman was aware of the exam regulations and ACCA requirements. He deliberately and knowingly broke them for his own and/or another person’s advantage.
43. The Committee considered that the ordinary person would regard Mr Rehman’s

conduct during the exam and the sharing of the photograph as dishonest.

44. The Committee therefore found allegation 2a) (ii) proved. The Committee did not go on to consider allegation 2b) as it was pleaded in the alternative.

ALLEGATION 3(a) MISCONDUCT

45. In relation to Allegation 3a), the Committee considered the seriousness of Mr Rehman's conduct set out at Allegations 1 and 2.
46. In assessing the seriousness of Mr Rehman's conduct set out at Allegation 2a) it considered dishonesty in a professional to be a serious breach of the standards to be expected of an accountant and striking at the reputation and confidence placed in the profession by the public.
47. Taking all of the evidence and submissions into account, and considering Allegations 1 and 2 collectively, the Committee considered Mr Rehman's conduct to be serious enough to amount to misconduct.
48. Given the Committee's finding in relation to Allegation 3(a), it was not necessary for the Committee to consider the alternative matter set out at Allegation 3(b).
49. In reaching its decision on sanction, the Committee took into account the evidence that it had already heard and the further submissions made by Mr Jowett.
50. The Committee accepted the advice of the Legal Adviser, who referred it to Regulation 13(1) of the Regulations, relevant case law and ACCA document 'Guidance for Disciplinary Sanctions'. The Committee bore in mind that the purpose of any sanction was not to punish Mr Rehman, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate.

SANCTION

51. When deciding on the appropriate sanction, the Committee carefully considered whether there were any aggravating and mitigating features in this case.

52. The Committee considered the following to be aggravating features in this case:
- (i) Lack of insight into the misconduct.
 - (ii) Potential harm to the reputation of the profession and the public.
 - (iii) Breach of trust undermining the remote examination process.
53. The Committee considered the following to be mitigating features in this case:
- (i) No previous findings of regulatory misconduct.
54. The Committee considered the available sanctions in increasing order of severity.
55. 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.
56. The Committee considered that neither admonishment, reprimand nor severe reprimand would be appropriate, because there had been no demonstration of remorse, insight or remediation by Mr Rehman. The Committee considered that these 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 given there had been a finding of serious dishonesty.
57. The Committee considered that removal from the student register was the appropriate sanction in this case because Mr Rehman's conduct:
- (a) Was fundamentally incompatible with being an ACCA Student;
 - (b) Amounted to a very serious departure from professional standards at the upper range of misconduct;
 - (c) Was a serious breach of the examination regulations, undermining the validity of the examination process.
58. 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 Rehman 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.

59. Accordingly, the Committee decided to remove Mr Rehman from the student register.
60. The Committee did not deem it necessary to impose a specified period before which Mr Rehman could make an application for readmission to the register.

COSTS AND REASONS

61. Mr Jowett made an application for Mr Rehman to contribute to the costs of ACCA. He applied for costs totaling £12,060. The Committee was provided with a Schedule of Costs providing a breakdown of the activity undertaken by ACCA and the associated costs. Mr Jowett submitted that the costs claimed were appropriate and reasonable. However, he did acknowledge that the hearing today had taken slightly less time than that allocated to it and that had been reflected in the Schedule of Costs.
62. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and ACCA document 'Guidance for Costs Orders' (01 January 2021).
63. The Committee found that ACCA was entitled to have its costs in principle and the costs sought were reasonably incurred and proportionate.
64. The Committee took into account Mr Rehman's account of his financial position and noted that there was no supporting material in support of his account. However, the Committee was satisfied that Mr Rehman was of limited income and noted the delay in the disciplinary process which he stated had impacted on his income.
65. In deciding the appropriate and proportionate order for costs, the Committee took into account the above matters and decided to make an order for costs in the sum of £500.

EFFECTIVE DATE OF ORDER

66. The Committee determined that the order should come into effect immediately. It took account of the serious finding of dishonesty it had made and considered there would

be a risk to the public if Mr Rehman was able to continue to enter examinations and put that process at serious risk of being undermined.

ORDER

67. The Committee made the following order:

- a. Mr Rehman shall be removed from ACCA student register.
- b. The Order shall take immediate effect.
- c. The Committee directed that the interim order be rescinded.
- d. Mr Rehman shall make a contribution to ACCA's costs in the sum of £500.

Mr Tom Hayhoe
Chair
21 March 2024