

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Raj Jayasurya K

**Heard on:** Wednesday, 01 May 2024

**Location:** Heard remotely by video conference (MS Teams)

**Committee:** Mr Maurice Cohen (Chair),  
Mr George Wood (Accountant),  
Ms Sue Heads (Lay)

**Legal Adviser:** Mr Andrew Granville Stafford

#### Persons present

**and Capacity:** Mr Raj Jayasurya K (Student member)  
Mrs Saila Vipinachandran (Interpreter)  
Ms Elaine Skittrell (ACCA Case Presenter)  
Miss Mary Okunowo (Hearings Officer)

**Summary:** Allegations 1, 2, 3(a) and 4(a) proved.  
Removed from the student register with immediate effect.

**Costs:** No order as to costs.

#### PRELIMINARY

#### ACCA



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1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Raj Jayasurya K ('Mr Jayasurya').
2. The Committee had before it a bundle of documents (121 pages), a video recording of the examination in question, an additional bundle (11 pages), and a service bundle (15 pages).

### **ALLEGATIONS AND BRIEF BACKGROUND**

3. The allegations against Mr Jayasurya were as follows:

Mr Raj Jayasurya K, a student member of the Association of Chartered Certified Accountants (ACCA):

1. On 27 September 2021, failed to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) before and/or during a scheduled Business and Technology exam (the 'Exam'), in that he failed to ensure he was in a room with no-one else around him, contrary to Examination Regulation 2.
2. On 27 January 2022, gave inaccurate and/or misleading responses to ACCA personnel during an investigation into the integrity of the 'Exam', in that he told ACCA that there was no one with him in the room before and/or during the 'Exam', when there was, contrary to Examination Regulation 3.
3. Any or all of Mr K's conduct at allegation 2 was:
  - (a) Dishonest, in that he provided answers that he knew to be untrue and/or sought to mislead ACCA's investigation; or in the alternative
  - (b) Demonstrated a failure to act with Integrity.
4. By reason of his conduct, Mr K is:
  - (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at allegations 1 and/or 2 above; or in the alternative
  - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of any or all of the matters set out at allegations 1 and/or 2.

4. Mr Jayasurya was admitted to student membership of ACCA in November 2020.
5. On 27 September 2021, Mr Jayasurya sat ACCA's Business and Technology exam. This was a computer-based exam ('CBE'), remotely invigilated through the camera on the candidate's computer. The Committee was provided with the video recording of Mr Jayasurya taken during the exam.
6. Prior to the exam, Mr Jayasurya was provided with a copy of ACCA's examination regulations, which contain the following:

- '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.*
- 2. You are required to comply in all respects with any instructions issued by the exam supervisor/s, invigilator/s, proctor/s, and any ACCA personnel before, during and at the conclusion of an exam. Failure to comply with these instructions may result in the termination of your examination and potential disciplinary procedures being Invoked.*
- 3. You may not attempt to deceive the exam supervisor/s, invigilator/s, proctor/s and any ACCA personnel by giving false or misleading information.'*

7. Before sitting an ACCA examination, the candidate is also provided with a Student Information Sheet. This states that the candidate must be:

*'... located in a private, well-lit room with no one else around you.'*

8. On the day of the exam, prior to the test commencing, Mr Jayasurya provided the following confirmation:

*'I have read and understand the exam rules prior to starting my test with [CBE provider].'*

9. ACCA's case was that there was another person in the room with Mr Jayasurya when he took the exam, in breach of the above examination requirements.
10. In the video recording, a shadow can be seen passing across Mr Jayasurya's face and on the wall behind him, which is consistent with a person walking across the room behind Mr Jayasurya's laptop. The shadow is noticeable on four occasions during the recording, which lasts approximately 23 minutes.
11. Mr Jayasurya did not complete the exam as his internet connection was lost and he did not reconnect. Later the same day, the proctor invigilating the exam filed an incident report stating:

*'During the session, [the proctor] noticed a shadow behind the test-taker observable at 00:22:10 in the session recording . . . In addition to this, the test-taker can be seen looking offscreen after the shadow passes by in front of them'*

12. The same day, the CBE team informed Mr Jayasurya that the incident had been reported to it. Mr Jayasurya replied by email on 28 September 2021 saying:

*'I'm shocked by getting this mail which I never tried to do. I didn't breach the exam guidelines knowingly. I'm sure that there was no one in the testing room with me. I tried to follow all Acca exam guidelines. I'm not sure what the exact reason you are pointing out in regards to the incident referral. I have shown a 360-degree view of my testing room. Inside the testing room, everything was ok and clear but the outside situation was very bad due to heavy rain. I don't know whether it is the reason.'*

13. On 14 January 2022, ACCA's investigation department wrote to Mr Jayasurya providing him with a link to the video recording and asking him for his explanation in relation to the shadow that can be seen on the screen. He replied on 27 January 2022, saying:

*'I can assure that no one was in my room, as I have showed 360 view of my room twice and no one was in my room and I always followed the instruction of the proctor. As I have mentioned above the climate was not favorable. It was a rainy day with strong winds, those winds caused the curtains in my opposite wall to move which caused shadows on my wall. And I was unknowingly looking towards it. Which also made me tensed thinking of losing the electricity which may affect my internet connectivity'.*

14. ACCA's case was that this response was untrue and misleading, and that therefore Mr Jayasurya had been dishonest.
15. The allegations were referred to this Committee by the Independent Assessor and Mr Jayasurya was sent a Case Management Form ('CMF') on which he was asked to respond to the allegations. He said:  
  
*'I admit to the first allegations put forward by the ACCA Committee, which was the presence of a third party in the room, not with the intention to sabotage the exam. I admit to the rest of the allegations but it was reflex response due to my fear of ban from the ACCA student body.  
I apologise for my mistakes and deeply regret my actions. I request the Hearing council to be benevolent and plead for minimal penalty for the irresponsible errors that I have committed. . .'*
16. ACCA's case was that it was only belatedly, when completing the CMF in August 2022, that Mr Jayasurya admitted his wrongdoing.
17. Mr Jayasurya submitted a personal account to the Committee, dated 09 April 2024. He said that he had initially denied the allegation that another person had been in room out of fear and lack of knowledge. He said that he now realises the severity of his actions and the damage they have caused, and that he had learned from his mistakes.

### **DECISIONS ON ALLEGATIONS AND REASONS**

18. The Committee considered the documents before it, the submissions of Ms Skittrell on behalf of ACCA and Mr Jayasurya on his own behalf, and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.
19. Mr Jayasurya admitted Allegations 1, 2 and 3(a) and the Committee found those proved by admission. As Allegation 3(b) was in the alternative to Allegation 3(a), there was no need for the Committee to consider it.
20. The Committee went on to consider whether this conduct amounted to misconduct, as alleged in Allegation 4(a).

21. Any finding of dishonesty is a serious matter for a member of a professional body. The Committee was in no doubt that Mr Jayasurya's action would be regarded as deplorable by fellow members of the profession. It therefore constituted misconduct, rendering Mr Jayasurya liable to disciplinary action under Bye-law 8(a)(i).
22. The Committee accordingly found Allegation 4(a) proved. As Allegation 4(b) was in the alternative, it was not necessary for the Committee to consider it.

### **SANCTION AND REASONS**

23. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. Having found that Mr Jayasurya's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
24. In mitigation, the Committee took into account that no previous disciplinary findings had been made against Mr Jayasurya. The Committee also took into account a testimonial provided on his behalf, which described him as a model student.
25. The Committee considered that Mr Jayasurya's initial denials to his regulator was an aggravating factor.
26. The Committee considered that the misconduct in this case was not of a minor nature and, therefore, neither an admonishment nor a reprimand would be an appropriate sanction.
27. The Committee considered a severe reprimand, taking into account the guidance in the GDS. Mr Jayasurya had engaged in deliberately dishonest behaviour and had shown little in the way of insight or genuine remorse. His admission had come at a late stage in the investigation, after initially attempting to deny his wrongdoing. Breaching the examination regulations undermines the integrity of the exam system, and therefore has the potential to cause harm to the reputation of the profession and ACCA.
28. The Committee concluded that a severe reprimand would not adequately mark the seriousness of the misconduct or satisfy the public interest.

29. The Committee was of the view that Mr Jayasurya's actions in this case were fundamentally incompatible with being a member of a professional association. They constituted a serious departure from relevant standards and included dishonesty. The Committee accepted Ms Skittrell's submission that abuse of the exam system by a student member is tantamount to an abuse of trust. Furthermore, Mr Jayasurya had initially attempted to cover-up his misconduct.
30. Taking into account the guidance in the GDS, the Committee was satisfied that the only appropriate and proportionate sanction was exclusion from the student register.
31. Therefore, the Committee made an order under Regulation 13(4)(c) of the Complaints & Disciplinary Regulations ('CDR') excluding Mr Jayasurya from membership of ACCA. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(4)(c) restricting Mr Jayasurya's ability to apply for readmission beyond the normal minimum period.

#### **COSTS AND REASONS**

32. ACCA applied for costs against Mr Jayasurya in the sum of £7,050. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
33. The Committee found that, in principle, it was appropriate to make a costs order against Mr Jayasurya. The Committee was satisfied that the sum applied for was reasonable in the circumstances of this case.
34. However, in light of the information provided by Mr Jayasurya as to his financial circumstances, which the Committee accepted, it determined that it was not appropriate to make any order for costs in ACCA's favour.

#### **EFFECTIVE DATE OF ORDER**

35. The Committee determined that it would be in the interests of the public for the sanction imposed in this case to take immediate effect. Therefore, pursuant to CDR 20, the order removing Mr Jayasurya from student membership will take effect immediately.

**Maurice Cohen**  
**Chair**  
**01 May 2024**