



## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Mr Shrinjoy Sahu

**Heard on:** Tuesday, 21 May 2024

**Location:** Held remotely by Microsoft Teams

**Committee:** Mrs Wendy Yeadon (Chair)  
Dr David Horne (Accountant)  
Mr Mark Mills (Lay)

**Legal Adviser:** Ms Ini Udom

#### **Persons present**

**and Capacity:** Mr Shrinjoy Sahu (Student member)  
Mr Kamran Khan (Case Presenter on behalf of ACCA)  
Miss Mary Okunowo (Hearings Officer)

**Summary:** Severe reprimand.

**Costs:** No award made.

#### PRELIMINARY APPLICATIONS

1. The Disciplinary Committee (“the Committee”) convened in public to hear the allegations against Mr Sahu. Mr Sahu was present but not represented.
2. The papers before the Committee (‘the documents’) comprised:
  - a. A Main Hearing Bundle (pp 1-72),
  - b. A Service Bundle (pp1-20).
3. At the outset of the hearing, it was confirmed that there had been a previous adjourned listing in April 2024. The hearing had been adjourned on account of the fact that a required witness had not been warned by the ACCA to attend. During that hearing amendments had been made to the allegations. The Committee proposed a further amendment of its own motion, pursuant to Regulation 10 (5), to clarify and correct the allegations. There were no objections raised by the parties and the Committee was satisfied that the amendment would cause no prejudice to Mr Sahu in the conduct of his defence.

#### **ALLEGATIONS AND BRIEF BACKGROUND**

4. The amended allegations against Mr Sahu were as follows:

*Mr Shrinjoy Sahu ('Mr Sahu'), an ACCA student, during a Financial Reporting exam ("the exam") taken on 09 September 2021:*

1. *Used an unauthorised item, namely an electronic device capable of taking photographs to take a photograph of an exam question contrary to Exam Regulation 5(a) and Exam Regulation 12.*
2. *Further to the matters referred to in allegation 1 above, caused or permitted the photograph to be shared with a person or persons unknown, contrary to Exam Regulation 14.*
3. *Mr Sahu's conduct as referred to in allegations 1 and 2 above:*
  - a) *Was dishonest in that he took the photograph referred to in order to share it and/or in fact shared it with a third party for commercial/personal gain; in the alternative*



10. ACCA's Investigations team contacted Mr Sahu on 21 April 2022 and Mr Sahu was notified that he was under investigation. He was invited to provide any further information in regard to this matter.

11. Mr Sahu responded on 22 April 2022, where he stated (page 35):

*"Thanks for the response firstly. I would like to say that I haven't done anything intentionally or to breach any regulations from acca. The SS taken between the exams were not done by me and I didn't ever try to sell or show the question paper to any one, I don't know how it came up and who the person is who did this.*

*I assure you this would not happen again in the future and request you to please not take any action against me for the first and the last time. Please don't nullify my Audit paper I did a lot of hard work to study for the exam and the fees for the paper is also very high for me to take bare it all over again. Please give me a last chance I beg you.*

*Please take my apology and try to understand my situation. I request you again to please help me for the last time."*

12. Further questions were posed to Mr Sahu where he was invited to comment on why he took a picture of his exam and to confirm if the screen name in the messaging application, Person A was him.

13. Mr Sahu responded on 23 August 2022:

*"Firstly, I would like to thank you for taking up my case. The profile which is shown in this picture is not mine where someone being me is selling the questions. Secondly, it was my first exam for Acca which I gave remote based so I took just one picture of the first question just to keep a proof as I didn't know what to do. Someone is trying to make up a story on my name to get some personal benefit. I request you to please consider this matter and please do not nullify my exam.*

*I can even provide you with my telegram number. Please look into the matter and look forward to hearing from you."*

14. Mr Sahu provided a further response on 28 February 2023 in which he stated:

*"Firstly I would like to thank you for taking up the matter and giving me a response relating to the same.*

*The pictures that were shared with you were done by someone whom I don't know or someone who tried to defame me because of maybe some reasons I'm not aware of, I request you not to take action against me because I didn't do anything intentionally.*

*I took the pictures as it was my first home-based exam and I didn't mean to sell them obviously. I kindly request you pass the exam."*

15. ACCA's case was that Mr Sahu took the photograph of the exam question and shared it with a third party, potentially for financial gain, knowing that there was a market for such photographs and the value of the content to other ACCA students, yet to sit the same exam, would be high.

16. The allegations were referred to this Committee by the Independent Assessor and Mr Sahu was sent a Case Management Form ('CMF') on which he was asked to respond to the allegations. On 05 March 2024 he replied:

*"Being a new acca student was not aware of the facts. Also there were some groups being formed on Telegram which told us to take pictures before the exam started so that if something happens in between the exam you can show it as evidence and is the only reason which i took the pictures and am now being panelized for the same. I would ask for help in the regards as i was unaware and have already suffered as the audit paper was canceled. Please help me out"*

17. The Committee heard evidence from the Head of Qualifications Production who confirmed that they had used ACCA records to confirm that the access code shown in the photograph is unique and had been assigned to Mr Sahu.

18. Mr Sahu gave oral evidence to the Committee in his defence. During the course of his evidence Mr Sahu produce further screenshots which were considered. These screenshots confirmed the existence of the [REDACTED] that Mr Sahu was advised by and other messages sent by students who were members of that same group.

19. During the course of the hearing the exam questions captured in the screenshots

provided by Mr Sahu were read out. The Committee ordered that any reference to the content of an exam question should be redacted from any public record of these proceedings.

## **DECISIONS ON ALLEGATIONS AND REASONS**

20. The Committee considered all of the documents before it, the submissions of Mr Khan on behalf of ACCA and Mr Sahu 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 - in other words, the Committee asked itself whether the facts alleged by ACCA were 'more likely than not' to be true, based upon all the materials before it.
21. Mr Sahu admitted Allegation 1 and the Committee found that proved by admission.
22. In relation to Allegation 2 the Committee has regard to the evidence of Mr Sahu in which he accepted that he had provided the picture to the [REDACTED]. He had explained that he was advised to take a photograph at the start of the exam capturing his access code, so that in the event of any technological failure the Group would be able to approach ACCA on his behalf and ensure that his exam was not voided. In the circumstances it found Allegation 2 proved.
23. The Committee then went on to consider Allegation 3(a). In accordance with the legal advice received the Committee considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 76*:

*“When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”*

24. During its deliberations, the Committee had its attention drawn to the ACCA submissions in relation Regulation 6(b) of the Exam Regulations by the Legal Advisor. The Committee considered what unfair advantage had been sought and the explanation given by Mr Sahu in evidence. This advice was repeated in open session for the benefit of the parties.
25. The Committee was not satisfied that the dishonesty had been made out. The matter had come to the attention of ACCA by way of an anonymous referral. ACCA's case was entirely based upon the screenshots and alleged that Mr Sahu was the person identified as Person A and had taken the picture for commercial gain. However, there was insufficient evidence before it as to who Person A was, let alone that it was Mr Sahu. Mr Sahu's evidence was that he was not Person A and there was no further evidence before the Committee on this issue. It was entirely unclear and, therefore, unproven what personal gain Mr Sahu could have acted in pursuit of. After careful consideration, and with the burden of proof in mind, the Committee was unable to conclude, on the balance of probabilities that Mr Sahu had acted dishonestly and / or for commercial gain and / or personal gain.
26. The Committee proceeded to consider Allegation 3 (b). It bore in mind the case of *Wingate and Evans v SRA; SRA v Malins [2018] EWCA Civ 366* and noted that Mr Sahu had accepted in his evidence that he understood the Exam Regulations and presented as an intelligent, articulate individual. It concluded that he had decided to deliberately breach the Regulations, which set out very clearly what was and was not permissible. There was no evidence that he had been pressured to act as he did but rather it was clear that he had proactively decided to breach the Regulations by taking the photograph and sharing it in the Group.
27. The Committee was satisfied that the conduct was not in accordance with the higher standards which society expects from professional persons and which the professions expect from their own members and therefore amounted to a failure to act with integrity.
28. Having found Allegation 3(b) proven the Committee did not go on to consider Allegation 3 (c).
29. The Committee went on to consider whether the conduct found proved amounted to misconduct, as alleged in Allegation 4(a). It bore in mind that this was a matter for the judgement of the Committee.

30. The Committee was satisfied that any finding of acting with a lack of integrity is a serious matter for a member of a professional body. The Committee considered integrity to be a fundamental tenet of the profession. It was in no doubt that Mr Sahu's action would be regarded as deplorable by fellow members of the profession and fell far short of the acceptable standards. The conduct therefore constituted misconduct, rendering Mr Sahu liable to disciplinary action under Bye-law 8(a)(i).
31. The Committee accordingly found Allegation 4(a) proved.
32. In light of the fact that Allegations 1 and 2, which were clear breaches of the Exam Regulations, had been found proved the Committee further found Allegation 4(b) proved.

### **SANCTION AND REASONS**

33. 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.
34. The Committee had regard to Section F of the GDS and determined that the misconduct was very serious.
35. In mitigation, the Committee took into account that no previous disciplinary findings had been made against Mr Sahu. Furthermore, this was an isolated incident. The Committee noted that Mr Sahu had admitted taking the photograph very early on in the investigation and during the hearing had expressed remorse and made an apology.
36. The Committee was conscious of the delay (2021 - 2024) that had occurred in the progression of this matter and the resulting cost and effect that had on the development of Mr Sahu's career.
37. The Committee noted that Mr Sahu had, however, demonstrated limited insight as to the impact of his actions on the standing of the ACCA and the profession as a whole and had continued to apportion blame to the actions and advice of others.



38. Having found that Mr Sahu'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.
39. 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. These sanctions would not adequately mark the seriousness of the misconduct or satisfy the public interest.
40. The Committee took into account the guidance in the GDS. It noted that there was no continuing risk and that the breach had been short in duration. As stated above it was an isolated incident. There had also been some early acceptance of wrongdoing and apology. The Committee had not been notified by the ACCA of the occurrence of any adverse consequence. Further, Mr Sahu's engagement and participation in these proceedings was noted.
41. Mr Sahu had deliberately disregarded the Exam Regulations which had the potential to undermine the integrity of the exam system, and also, therefore, has the potential to cause harm to the reputation of the profession and ACCA. This was not minor misconduct but was of a serious nature.
42. The Committee was satisfied that the only appropriate and proportionate sanction was a severe reprimand. This was deemed a sufficient sanction in all of the circumstances. Therefore, the Committee made an order under Regulation 13(4)(b) of the Complaints & Disciplinary Regulations ('CDR') and issued Mr Sahu with a severe reprimand.

### **COSTS AND REASONS**

43. ACCA applied for costs against Mr Sahu in the sum of £6,175. The application was supported by schedules, in detailed and summary form, providing a breakdown of the costs incurred by ACCA in connection with the hearing.
44. The Committee found that, in principle, ACCA's application for costs was appropriately brought. It had regard to the important principle that in disciplinary proceedings the majority of its members should not subsidise the minority who find themselves within the disciplinary process.

45. The Committee paid careful regard to the principle of proportionality which it considered particularly compelling in the circumstances of this case. In light of the information provided by Mr Sahu as to his financial circumstances, which the Committee accepted, it found that an award of costs would cause severe financial hardship to Mr Sahu and effectively operate as an exclusion from the profession. It further noted the impact of the protracted nature of these proceedings on Mr Sahu and his studies. In the circumstances it determined that it was not appropriate to make any order for costs in ACCA's favour.

**Wendy Yeadon**  
**Chair**  
**21 May 2024**