

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Kaizer Badhniwalla

Heard on: Thursday, 24 April 2025

Location Remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Ms Joanne Royden-Turner (Accountant)
Mrs Victoria Smith (Lay)

Legal Adviser: Miss Judith Chrystie

**Persons present
and capacity:** Mr James Halliday (ACCA Case Presenter)
Miss Sofia Tumburi (Hearings Officer)

Summary Removed from the student register with immediate effect.

Costs: Costs awarded to ACCA in sum of £5500

ACCA



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SERVICE OF PAPERS

1. Mr Badhniwalla was neither present nor represented.
2. The Committee considered Service Bundle with pages numbered 1-23 in order to determine whether the Notice of the Hearing ('the Notice') dated 26 March 2025 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (as amended 2025) ('the Regulations').
3. The Committee was satisfied that the Notice had been sent to the student's registered email address and that the detailed content of the Notice complied with the Regulations. The Committee was satisfied that the Notice had been provided no later than 28 days prior to the hearing in accordance with the timeframe for service by email set out in the Regulations.
4. Further, although not necessary for the service provisions within the Regulations to be met, the Committee recognised that ACCA had made further efforts to alert Mr Badhniwalla to the disciplinary hearing date and time. ACCA's Hearings Officer emailed him as well as called him on 09 April and 16 April 2025 using the mobile contact details recorded on his ACCA record. The Committee had evidence that the emails had been successfully delivered, but no response had been received, and that the Hearings Officer's calls were either answered and then disconnected or were declined.
5. The Committee was satisfied that the Notice and the case papers had been properly served under the Regulations.

PROCEEDING IN ABSENCE

6. The Committee considered whether it should proceed in Mr Badhniwalla's absence and recognised that it could only do so with the utmost care and caution.
7. When ACCA initially wrote to Mr Badhniwalla on 19 January 2022 at his registered email address, he responded from the same address. The Committee considered that Mr Badhniwalla had access and could use the registered email address. This appeared to be the only time Mr Badhniwalla

communicated with ACCA during the investigation. Further, Mr Badhniwalla had not replied to any of the communications from ACCA about the hearing nor, as identified above, had he taken calls to his registered mobile number from the Hearing Officer.

8. Within the Committee's main bundle, the Committee noted that there had been a gap of over 2 years and 4 months in ACCA's communication with Mr Badhniwalla. ACCA had written to Mr Badhniwalla on 01 September 2022 to advise that the complaint would be referred to a Disciplinary Committee and had not contacted him again until 21 January 2025. In the latter letter, ACCA apologised for the '*clear delay*' and explained that the delay was because of an '*exceptionally busy period*'.
9. Although the Committee acknowledged that Mr Badhniwalla might have changed his contact details during the delay, the Committee was satisfied that ACCA was not required to undertake further enquiries to confirm if his record remained accurate. ACCA was entitled to rely on the contact information supplied by Mr Badhniwalla and he was obliged to keep his details up to date. The Committee was satisfied that ACCA had contacted Mr Badhniwalla using the contact details he had placed on his records and was not obliged to take further steps. Further, the Committee understood that none of ACCA's communications had resulted in a 'bounce back' or non-delivery message.
10. On this basis, the Committee concluded Mr Badhniwalla had deliberately chosen not to engage with ACCA's investigative and disciplinary processes or ask for an adjournment. In these circumstances, the Committee considered an adjournment would serve no purpose as it was highly unlikely that Mr Badhniwalla would choose to attend a future hearing.
11. The Committee considered that the issues in the case were serious. These had been unresolved for a number of years and there was a strong public interest in the regulatory proceedings being concluded without further delay. Further, the Committee recognised that the evidence in the case was documentary in nature or video footage. Whilst it appreciated such evidence would not be detrimentally affected by an adjournment, it also considered that the fact the evidence would not change meant Mr Badhniwalla was not disadvantaged by the Committee proceeding.

12. The Committee considered that there was no reason for it to introduce further delay by adjourning and that a fair hearing could take place in Mr Badhniwalla's absence. The Committee determined that it would be proportionate and appropriate to proceed in Mr Badhniwalla's absence and that it should exercise its discretionary power at regulation 10(7) of the Regulations.

ALLEGATIONS

13. The Committee considered the following allegations.

Mr Kaizer Badhniwalla, a student member of the Association of Chartered Certified Accountants ('ACCA'):

1. On 10 January 2022, during a remotely invigilated Corporate and Business Law (LW) exam ('the exam'):
 - (a) Used and/or had at his desk or about his person an unauthorised item, namely a mobile telephone contrary to Examination Regulations 5(a) and 5(b) and the Exam Guidelines;
 - (b) Was speaking out loud before the beginning of his exam but after logging into the remote proctoring platform contrary to Examination Regulation 16;
2. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Mr Badhniwalla failed to co-operate with the investigation of this complaint, in that he did not respond to any or all of ACCA's correspondence sent on:
 - (a) 20 February 2022 (email)
 - (b) 29 March 2022 (email)
 - (c) 30 April 2022 (email)
 - (d) 20 May 2022 (email)
 - (e) 30 May 2022 (email)

3. By reason of his conduct, Mr Badhniwalla is:
 - (i) 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 2 above; or, in the alternative.
 - (ii) 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.
14. The Committee considered the following:
 - a. Committee bundle with page numbers 1-63,
 - b. Video recording of the exam with a duration of 50:04 mins.

BRIEF BACKGROUND

15. Mr Badhniwalla registered as a student on 7 September 2021.
16. On 10 January 2022, Mr Badhniwalla sat the Corporate and Business Law (LW) GLO exam ('the exam'). The exam was online and was remotely proctored/invigorated.
17. ACCA's terms and conditions for sitting remote exams included an information sheet containing ACCA's Examination Regulations and Guidelines and the CBE announcements.
18. In summary, the Examination Regulations include the following:
 - a. *Regulation 5(a)/(b)* – prohibition on using unauthorised items, including mobile phones (other than in accordance with ACCA's Exam Guidelines for remote exams). Phones could not be worn or kept anywhere on or about the person or desk.
 - b. *Regulation 16* – prohibition on whispering or speaking out loud during the exam or communicating or attempting to communicate with any person other than remote invigilator(s) or proctor(s) from logging into the remote proctoring platform until 5 minutes after an exam was submitted or terminated.

19. The Proctor ended the exam early for Mr Badhniwalla owing to concerns that the academic integrity of the exam had been breached. In January 2022, the Proctor submitted an incident report which identified the concerns about Mr Badhniwalla's conduct during the exam, including that he had used his mobile phone while the exam was in progress.
20. ACCA initiated an investigation.
21. On 19 January 2022, ACCA emailed Mr Badhniwalla at his registered email address to notify him of the Proctor's incident report and that his conduct may have breached ACCA's examination regulations and/or guidelines. The same day Mr Badhniwalla responded, '*[I] had taken the phone for my id purpose.*'
22. On 20 February 2022, ACCA emailed Mr Badhniwalla informing him of the complaint against him. No response was received.
23. On 21 February 2022, ACCA emailed Mr Badhniwalla with video footage of the exam. No response was received.
24. On 29 March 2022, ACCA emailed Mr Badhniwalla with further questions about the complaint and asking for his reply by 12 April 2022. No response was received.
25. On 30 April 2022, ACCA emailed Mr Badhniwalla reminding him of his obligation to co-operate with the investigation and seeking his reply by 20 May 2022. No response was received.
26. On 20 May 2022, ACCA emailed Mr Badhniwalla with a reminder of his obligation to co-operate and extending the deadline to reply to 27 May 2022. No response was received.
27. On 30 May 2022, ACCA emailed Mr Badhniwalla again reminding him of his obligation to co-operate and requesting a response by 08 June 2022. No response was received.

28. On 30 May 2022, ACCA attempted to call Mr Badhniwalla using the telephone number he registered with ACCA. The phone call was not answered and it was not possible to leave a message.

ACCA'S SUBMISSIONS

29. ACCA submitted that:
- a. The documents and video footage relating to the exam demonstrated that:
 - i. On numerous occasions, Mr Badhniwalla raised his hands above his head, whilst holding a mobile phone, and appeared to take photographs of the exam content;
 - ii. Mr Badhniwalla spoke out loud after logging into the remote proctoring platform;
 - b. Mr Badhniwalla's conduct was deliberate and intentional;
 - c. ACCA contacted Mr Badhniwalla using the email address he registered with ACCA, which had never been changed and none of the emails sent by ACCA were returned or triggered a bounce back notification;
 - d. By not responding to any of ACCA's correspondence during the course of the investigation, Mr Badhniwalla:
 - i. Was in breach of his duty to cooperate under regulation 3(1) of the Regulations;
 - ii. Had failed to explain why he possessed a mobile phone in the exam and why he appeared to be photographing exam content using his mobile phone contrary to the Exam Regulations and Guidelines and advice from the Proctor;
 - iii. Prevented ACCA from fully investigating a serious matter.

30. ACCA argued that Mr Badhniwalla was guilty of misconduct.

MR BADHNIWALLA'S SUBMISSIONS

31. Other than his email dated 19 January 2022, Mr Badhniwalla had not provided any evidence or submissions to ACCA.

DECISION ON FACTS/ALLEGATIONS AND REASONS

32. The Committee found allegation 1(a) proved. The Committee was satisfied that the video of the exam clearly evidenced Mr Badhniwalla possessing and using a mobile phone. The video footage showed the student holding the mobile in his hands and then lifting it above his head and appearing to take a photo of his laptop screen. The Committee was satisfied that Mr Badhniwalla was prohibited from possessing and using a mobile phone under Regulation 5(a) and (b) of the Examination Regulations and that his actions on the video were in breach of these provisions.
33. The Committee found allegation 1(b) proved. The video recorded Mr Badhniwalla speaking out loud prior to the start of the exam. The Committee was satisfied that having seen and heard evidence of Mr Badhniwalla speaking out loud contrary to Regulation 16 of the Examination Regulations, he was in breach of this provision.
34. The Committee found allegation 2(a)-(e) proved. The Committee was satisfied that, as a registered student with ACCA, Mr Badhniwalla was under a duty to cooperate with ACCA's investigation under regulation 3(1) of the Regulations. ACCA had communicated with Mr Badhniwalla using the contact details he had added to his ACCA record. The Committee considered that it was more likely than not that Mr Badhniwalla had received the five emails that ACCA sent to him over the period February – May 2022. In this regard, the Committee noted that none of the emails had bounced back or been flagged as undelivered. Moreover, Mr Badhniwalla replied to an email in January 2022 from the same email address, which the Committee considered demonstrated that he had access to, and was using, his registered email address in close proximity of time to the emails set out in allegation 2. The Committee concluded that Mr Badhniwalla had not engaged in any of the communications from ACCA set out

in allegation 2; he had not responded to ACCA's emails or requests for information at any point and was in clear breach of his duty to cooperate under the Regulations.

35. In relation to the allegation of misconduct at allegation 3(i), the Committee considered that in respect of both allegations 1(a) and 2, Mr Badhniwalla's conduct fell far short of the standards expected of a student member of the accountancy profession. The Committee did not consider that Mr Badhniwalla's breach of the Exam Regulations in allegation 1(b) amounted to misconduct. It regarded this conduct as a minor breach given that it occurred prior to the start of the exam and stopped following the intervention of the Proctor.
36. However, in respect of Mr Badhniwalla's conduct in allegations 1(a) and 2, the Committee considered that the student showed a clear disregard for the Exam Regulations and his duty to cooperate with his regulator. The Committee considered that ACCA went to great lengths to alert students, including Mr Badhniwalla, to the Exam Regulations and what was prohibited. The Committee also noted Mr Badhniwalla had accepted to be bound by the Exam Regulations. Further ACCA alerted the student to his duty to cooperate with its investigation. However, Mr Badhniwalla breached the Exam Regulations and then disregarded his regulator's attempts to investigate.
37. The Committee judged this conduct as deplorable and entirely unacceptable. It considered that his actions had placed the integrity of ACCA's exam system and qualifications at risk (both in Mr Badhniwalla having access to exam content but also the potential for dissemination of exam questions to others). The breaches brought discredit on the student and had the potential to detrimentally impact ACCA and the accountancy profession by undermining its exams and qualifications. The Committee judged Mr Badhniwalla's conduct as clearly amounting to misconduct and therefore found allegation 3(i) proved.
38. Having found allegation 3(i) proved, the Committee did not go on to consider allegation 3(ii), which was charged in the alternative.

SANCTIONS AND REASONS

39. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance') and noted the submissions by the Case Presenter.
40. The Committee reviewed the mitigation in the case. It was advised that Mr Badhniwalla had no previous disciplinary or complaint history but, in the absence of any cooperation from the student, it did not consider that there was any further mitigation to be taken into account. The Committee considered that there were no aggravating features in the case.
41. The Committee considered that making no order or imposing an admonishment or a reprimand would be insufficient. Possessing and using a mobile phone to take photos of ACCA's exams was not a minor breach of the Exam Regulations or of the expectations placed on Mr Badhniwalla as an individual seeking admission to the accountancy profession. None of these orders would reflect the seriousness the student's conduct in the exam and his subsequent failure to cooperate with ACCA which hampered the regulator's ability to investigate a serious matter.
42. The Committee reviewed the Guidance in relation to a sanction of a severe reprimand. The Committee concluded that important factors that might indicate a severe reprimand was a reasonable and proportionate sanction were not present in this case. In particular, the Committee had no evidence that Mr Badhniwalla had any insight into, or remorse for, his behaviours and that he understood and appreciated the wider consequences of the misconduct on the integrity of ACCA's examination system, its investigation process, and the reputation of the profession.
43. The Committee considered that Mr Badhniwalla's disregard for the Exam Regulations and for his responsibilities and obligations as a student attempting to become a member of ACCA, was fundamentally incompatible with being an accountant and remaining on the student register.
44. The Committee, therefore, ordered that Mr Badhniwalla's name should be removed from the student register.

EFFECTIVE DATE OF ORDER

45. The Committee ordered that the removal should have immediate effect. It considered that in the absence of any such order, Mr Badhniwalla could continue to hold himself out as an ACCA student and could potentially sit ACCA's exams – further risking the integrity of ACCA's examination system, processes and content. The Committee considered that this would be contrary to the interests of the public given the serious misconduct and disregard shown for ACCA's Exam Regulations.

COSTS AND REASONS

46. ACCA claimed costs in the sum of £6,053.50.
47. The Committee recognised that under regulation 15(1) of the Regulations, it could direct that Mr Badhniwalla pay such sum by way of costs to ACCA as it considered appropriate. It considered that it was appropriate to impose a cost order.
48. The Case Presenter submitted that the sum claimed should be reduced in recognition that the hearing had not lasted the time estimate. The Committee considered that a reduction of costs was necessary to reflect the reduced hearing time and determined that an appropriate cost claim would be in the sum of £5,500.00. It considered that this sum reflected the amount properly incurred in investigating and hearing the allegation against Mr Badhniwalla.
49. The Committee applied the principle that the majority of those paying ACCA's fees should not be required to subsidise the minority who, through their own misconduct, have found themselves subject to disciplinary proceedings. It considered there was no reason for this to be disapplied: Mr Badhniwalla had been found guilty of misconduct and each of the factual allegations alleged by ACCA had been found proved.
50. The Committee recognised Mr Badhniwalla had not completed the statement of his means or provided any evidence about his financial position. As a consequence, the Committee had no insight into his ability to pay and had no evidence on which it could decide whether any further reduction for costs

should be made. In the absence of any material about his financial circumstances, the Committee applied ACCA's guidance and inferred that Mr Badhniwalla was able to meet the costs as assessed by the Committee.

51. The Committee ordered that Mr Badhniwalla should pay costs in the sum of £5500.00

Ilana Tessler
Chair
24 April 2025