

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Milan Prasad Pandey
Heard on:	Friday, 25 April 2025
Location:	Remotely via Microsoft Teams
Committee:	Mrs Colette Lang (Chair) Ms Sue Gallone (Accountant) Mr Andrew Skelton (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Mr James Halliday (Case Presenter on behalf of ACCA) Miss Nicole Boateng (Hearings Officer)
Summary:	Allegations 1(a), 1(b), 2(a) and 3(a) proved Removed from the student register
Costs:	£5,500

PRELIMINARY

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Milan Prasad Pandey.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

2. The Committee had before it a Bundle of documents (pages 1 to 63) and a Service Bundle (pages 1 to 15).
3. Mr Pandey did not attend the hearing and was not represented.

PROCEEDING IN ABSENCE

4. The Notice of Hearing was sent to Mr Pandey's registered email address on 26 March 2025. The Committee was provided with a receipt confirming delivery.
5. Mr Pandey replied the following day by email, saying:

'I am not intending to attend the Hearing and am happy for the committee to proceed in my absence.'

6. The Notice of Hearing was sent 28 days prior to the hearing, and set out in it the matters required by the Regulations. The Committee was satisfied that the requirements of Regulations 10(1) and 22(1) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') as to service had been complied with.
7. The Committee therefore went on consider whether to proceed in the absence of Mr Pandey. The Committee bore in mind that the discretion to do so must be exercised with care and in light of the public interest in dealing with matters such as this fairly, economically and expeditiously.
8. The Committee considered that no useful purpose would be served by adjourning this hearing. Mr Pandey had clearly stated he did not intend to attend the hearing and had therefore voluntarily absented himself. In all the circumstances, the Committee considered that it was in the public interest that the hearing should proceed in Mr Pandey's absence.

APPLICATION

9. Mr Pandey completed a Case Management Form ('CMF') on 18 November 2024. He ticked the box indicating that he wished his case to be heard in private. He gave the following reason in support of that application:

'I don't think it is necessary to include public at the hearing.'

10. The application was opposed by Mr Halliday on behalf of ACCA. He referred the Committee to ACCA's Guidance for Disciplinary Committee Hearings, which makes it clear that the principle of open justice should only be departed from where there is good reason to do so.
11. CDR 11(1)(a) gives the Committee a discretion to hear all or part of a case in private if it satisfied that the particular circumstances of the case outweigh the public interest in holding the hearing in public. In the Committee's view Mr Pandey had not provided any reason which outweighed the public interest in an open hearing, or which would justify holding the hearing in private. The Committee refused this application.

ALLEGATIONS AND BRIEF BACKGROUND

12. The allegations against Mr Pandey were as follows.
 1. Mr Milan Pandey, an ACCA student, in relation to his Performance Management exam on 7 June 2023:
 - (a) Used an unauthorised item, namely a mobile phone with a camera, to take a photograph or photographs of exam content, contrary to Exam Regulations 5a and 11; and/or
 - (b) Shared the said photograph or photographs with a third party or third parties unknown contrary to Exam Regulation 13.

2. Mr Milan Pandey's conduct in respect of allegations 1(a) – 1(b) was:
 - (a) Dishonest in that he took and/or shared the said photographs to gain an unfair advantage in a potential future sitting of the exam and/or to assist other ACCA students who are yet to sit the exam; or, in the alternative;
 - (b) Demonstrates a lack of integrity.
3. By reason of the above, Mr Milan Pandey is:
 - (a) Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of any or all the conduct referred to above; or, in the alternative
 - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) (in respect of Allegations 1(a) – (b) only).
13. Mr Pandey is a student member of ACCA, having been admitted to the student register on 8 April 2019. On 7 June 2023, Mr Pandey sat ACCA's Performance Management ('PM') exam. This is a computer-based examination, which is remotely invigilated by a proctor via the camera on the candidate's computer.
14. This was Mr Pandey's first attempt at the PM exam. He scored a mark of 42, which is below the level necessary for a pass. Mr Pandey re-sat the exam on 6 September 2023 and passed with a score of 53.
15. Prior to an ACCA exam, all students are provided with a copy of ACCA's Examination Regulations. They contain the following:

5(a) You are not permitted to use a dictionary or an electronic device or translator of any kind or have on or at your desk a calculator which can store or display text. You are also not permitted to use in your examination room an electronic communication device, camera, smart watch, any other item with smart technology functionality or mobile phones (unless the exam is being

conducted remotely in which case it must only be used in accordance with ACCA's Exam Guidelines). These are regarded as 'unauthorised items' and are taken into the examination room at the candidate's own risk.

5(b) 'Unauthorised items' must not be worn, or be placed on your desk, in pockets of clothing, in your bag or personal belongings, or be kept anywhere else on or about your person or desk. If you bring 'unauthorised items' to the exam you must declare them to the exam personnel prior to the start of the exam. For Centre-Based exams, mobile phones (or communication devices of any type), smartwatch or other wearable technology, must be switched off and stored as directed by the examination personnel.

. . .

6(b) If you breach exam regulation 5(a) and/or 5(b), it will be assumed that you intended to use the 'unauthorised items' to gain an unfair advantage in the exam. In any subsequent disciplinary proceedings, you will have to prove that you did not intend to use the 'unauthorised items' to gain an unfair advantage in the exam.

. . .

10. You may not engage in any irregular conduct designed to assist you in your exam attempt or provide any improper assistance to any other exam entrant in their exam attempt.

11. If you are taking a computer-based exam you are not permitted to copy exam content in any manner or take photograph(s) or videos of your screen or permit any other person to do the same. other reason, copies of exam questions or scenarios to any person including other ACCA registered candidates.

16. On 3 June 2024, ACCA received an email from a whistleblower stating the following:

'Dear Sir/ma'am

With respected ACCA Ethics of code and conduct. The person name Milan pandey is found cheating in remote based exam. He is in guilty of breaching rules and regulations. ACCA should take action against him.

Please find supporting evidence.'

17. Attached to the email were six photos showing a computer screen. Person A, Exam Production Technician, has provided a signed witness statement confirming that the content shown on the photographs is from the Performance Management exam that Mr Pandey attempted on 7 June 2023. Person A also confirmed that Mr Pandey's unique access code can be seen on the photographs. Therefore, they must have been taken during this exam.
18. ACCA notified Mr Pandey on 19 June 2024 that an investigation into his conduct during the exam had been commenced. He was asked to provide answers to a number of questions.
19. Mr Pandey replied by email on 1 July 2024. He admitted using his mobile phone to '*capture the examination question*'. He said he had not shared them with anyone but had saved them on his social media '*for further examination*'. He said:

'I have clicked the photograph to find the solution after the exam thinking that this will be helpful for the next attempt because at the June attempt my exam was not good.'

20. Mr Pandey said that he had now deleted the photographs from his mobile phone and his social media account. He concluded his email by saying:

'I admit that this is my mistake and I have overcome the ACCA examination guidance. But I have not taken any direct benefit from this activity. After that examination I have not conducted any such type of activity.'

21. On 29 July 2024, the investigations team asked Mr Pandey to confirm on what platform he saved the photographs and whether they were accessible to others. Mr Pandey replied on 30 July 2024, saying that he had saved them to *'one of my fake Facebook accounts'* but that he had now deleted the account. He also said that the photos were *'not posted publicly they are only sent in inbox.'*

22. Mr Pandey was also asked how the photos came into possession of a third-party. He replied:

'I am also not sure how photos came in the possession of a third party. They may have taken those photographs from my facebook id if they have hacked my fake account or from my real account. Also they have taken directly from my mobile phone before i deleted them if a third party member is any of my friends and works with me.'

23. The investigations team followed up with an email the same day, asking Mr Pandey to explain why he sent the photos to his Facebook account given they were already saved on his phone. Mr Pandey replied:

'To see those photos in my laptop and save them more securely I have sent them to my private facebook account which I can open in my laptop. and later i have deleted all photos from my mobile phone as they are saved in my facebook account.'

ACCA'S CASE

24. ACCA submitted that the photographs provided by the whistleblower were clearly taken by Mr Pandey during his examination attempt on 7 June 2023. This constitutes a breach of Exam Regulation 5(a).

25. ACCA also relied on Exam Regulation 6(b), which provides that a student who is found to be in possession of unauthorised material during an exam will be assumed to have intended to gain an unfair advantage unless the contrary is proved. ACCA submitted that Mr Pandey had failed to discharge that burden,

and that the only possible explanation for him taking photographs of the exam questions was to gain such an advantage.

26. ACCA did not accept Mr Pandey's assertion that he did not share the photographs with any third party, nor his explanation for uploading them to his Facebook account. He had, ACCA submitted, failed to provide any evidence to support this account. The fact that the photographs came into the possession of the whistleblower, ACCA contended, demonstrated that they must have been shared with third parties.
27. The conduct in question was, ACCA submitted, dishonest or in the alternative lacking in integrity. ACCA further submitted that Mr Pandey had acted in a manner which brought discredit to himself and the accountancy profession, and his conduct amounts to misconduct pursuant to Bye-law (8)(a)(i).

MEMBER'S CASE

28. Mr Pandey completed a Case Management Form ('CMF') on 18 November 2024.
29. He stated that he admitted Allegations 1(a) and 1(b). He did not provide any further explanation in his CMF, and he provided no written submissions for the Committee to consider at this hearing.

DECISIONS ON ALLEGATIONS AND REASONS

30. The Committee considered the documents before it, the submissions of Mr Halliday on behalf of ACCA 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 of proof to be applied is on the balance of probabilities. However, where a student is found to be in possession of unauthorised material during an exam the burden is reversed, and the student is presumed to have intended to use the material to gain an unfair advantage unless the contrary is proved (Exam Regulation 6(b)).

Allegation 1(a)

31. Mr Pandey admitted Allegation 1(a) in his CMF. In the Committee's view, that admission was properly made. It was consistent with the evidence, including Mr Pandey's own account in correspondence in which he admitted taking the photographs in question with his mobile phone.
32. The Committee therefore found this allegation proved by admission.

Allegation 1(b)

33. Mr Pandey admitted Allegation 1(b) in his CMF. However, the Committee noted that this admission was not consistent with the accounts given by him in his correspondence with ACCA. In his emails, he had throughout denied providing the photographs to any third party. The Committee therefore considered the admission was equivocal and required ACCA to prove its case on this Allegation.
34. The Committee considered the account given by Mr Pandey that he had uploaded the photographs to social media in order to securely save them. In the Committee's view, it lacked credibility. The principal purpose of uploading something to social media is to share it. The Committee considered Mr Pandey's explanations as to why he had done so convoluted and nonsensical.
35. Moreover, the simple and inescapable fact was that a third party, namely the whistleblower, had come into possession of the photographs. As a matter of fact, therefore, they must have been shared with a third party.
36. This constitutes a breach of Exam Regulation 13, which prohibits both copying and photographing exam content and distributing it for any reason to any person. Mr Pandey had accepted that he had taken the photographs of PM exam questions, and the Committee was satisfied that he had also distributed them to a third party or parties.

37. It therefore found Allegation 1(b) proved.

Allegation 2(a)

38. The Committee had found, in relation to Allegation 1, that Mr Pandey had taken covert photographs during an ACCA exam and had shared them with a third party. There was no doubt in the Committee's mind that Mr Pandey knew what he was doing was wrong and, indeed, he had accepted in correspondence that he knew he was breaching the Exam Regulations.

39. Further, Mr Pandey admitted his motivation for taking and storing the photographs was to improve his chances in a future exam. The Committee was satisfied that his purpose therefore was to gain an advantage which, in the circumstances, was an unfair advantage.

40. The Committee was also satisfied that Mr Pandey's motivation for sharing the photographs, whether via social media or allowing others access to his mobile phone, could only be to assist other ACCA candidates to gain an unfair advantage.

41. There is no doubt that this conduct would be regarded as dishonest by ordinary and honest members of the public.

42. The Committee therefore found that Mr Pandey's actions as set out in Allegations 1(a) and 1(b) were dishonest. Accordingly, it found Allegation 2(a) proved.

Allegation 2(b)

43. As Allegation 2(b) was put in the alternative, there was no need for the Committee to consider it.

Allegation 3(a)

44. In relation to Allegation 2(a), the Committee had found Mr Pandey had acted dishonestly by seeking to gain an unfair advantage in a future exam and to assist other candidates in their exams. This would be regarded as deplorable by members of the profession. It falls far short of what would be acceptable and brings discredit on Mr Pandey and the ACCA.
45. The Committee was therefore satisfied that Mr Pandey's conduct amounted to misconduct and found Allegation 3(a) proved.

Allegation 3(b)

46. As Allegation 3(b) was put in the alternative, there was no need for the Committee to consider it.

SANCTION AND REASONS

47. 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 Pandey'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.
48. In mitigation, the Committee took into account that no previous findings had been made against Mr Pandey. He had made some admissions to the matters alleged against him, although in the Committee's view that had to be weighed against the fact that some of his explanations had been designed to obfuscate rather than clarify.

49. The Committee found the following to be aggravating factors. This was deliberate conduct of a nature which undermines the integrity of the examination system, and which carries with it a risk of harm to the public. Further, there was little if any insight on the part of Mr Pandey into his misconduct.
50. Mr Pandey's actions constituted a very serious departure from proper and acceptable standards. There is obvious potential for harm to the public interest where students cheat and as a result pass exams that they should not have passed.
51. Taking into account the guidance in the GDS and the seriousness of the misconduct, it was not in the Committee's view appropriate to admonish or reprimand Mr Pandey. His actions were dishonest and in deliberate disregard of his professional obligations. Neither admonishment nor reprimand would be a sufficient sanction.
52. In respect of severe reprimand, the Committee accepted that this was an isolated incident, and that Mr Pandey has a previous good record. However, Mr Pandey's actions were dishonest. They were not only a very serious departure from proper and acceptable standards, but there was a lack of any proper insight into his misconduct.
53. The Committee considered that Mr Pandey's behaviour in this case was fundamentally incompatible with being a student member of a professional association. The Committee did not feel that any order which allowed him to retain his student membership of ACCA could be justified. Therefore, a severe reprimand was not an appropriate or proportionate sanction. The only sanction which could, in the Committee's view, satisfy the public interest was removal from the student register.
54. Therefore, the Committee made an order under CDR 13(4)(c) of the Disciplinary Regulations removing Mr Pandey from ACCA's student register.

COSTS AND REASONS

55. ACCA applied for costs from Mr Pandey in the sum of £6,250. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the investigation and hearing.
56. The Committee found that there was no reason in principle not to make an order for costs in ACCA's favour. Nor did it consider that the application was for an unreasonable amount, save that some reduction was appropriate to reflect the actual rather than estimated length of the hearing.
57. Mr Pandey provided the Committee with no information about his financial circumstances.
58. The Committee considered the appropriate amount for ACCA's costs was £5,500 and ordered Mr Pandey to pay that sum.

EFFECTIVE DATE OF ORDER

59. The Committee determined that the sanction should have immediate effect in order to protect the public. Therefore, pursuant to Regulation 20 of the Disciplinary Regulation, the order removing Mr Pandey from student membership will take effect immediately.

Mrs Colette Lang
Chair
25 April 2025