

## HEARING

# DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

## REASONS FOR DECISION

<b>In the matter of:</b>	<b>Miss Harshi Bhalawat</b>
<b>Heard on:</b>	<b>Thursday, 08 May 2025</b>
<b>Location:</b>	<b>Remotely via Microsoft Teams</b>
<b>Committee:</b>	<b>HH Suzan Matthews KC (Chair) Mr Ryan Moore (Accountant) Mr Nigel Pilkington (Lay)</b>
<b>Legal Adviser:</b>	<b>Miss Helen Gower</b>
<b>Persons present and capacity:</b>	<b>Mr Kerruish-Jones (ACCA Case Presenter) Miss Anna Packowska (Hearings Officer)</b>
<b>Summary</b>	<b>Allegations 1(i), (ii), (iii), 2(a), (b), (c), 3(a), 4(a), (b), (c), (d), and 5(a) proved Removal from student register</b>
<b>Costs:</b>	<b>£6,600 to be paid by Miss Bhalawat to ACCA</b>

## INTRODUCTION

1. The Disciplinary Committee (“the Committee”) convened to consider allegations against Miss Harshi Bhalawat (‘Miss Bhalawat’). Miss Bhalawat was not present and was not represented. ACCA was represented by Mr Kerruish-Jones. The papers before the Committee consisted of a main bundle numbered 1-85, and a service bundle numbered 1-17, and a video recording.

## **PRELIMINARY MATTERS**

### **SERVICE OF PAPERS**

2. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations ('the Regulations'). The Committee took into account the submissions made by Mr Kerruish-Jones on behalf of ACCA and it also took into account the advice of the Legal Adviser.
3. The service bundle including the Notice of Hearing dated 10 April 2025, thereby satisfying the 28-day notice requirement, had been sent to Miss Bhalawat's email address as it appears on the ACCA register. The Notice included correct details about the time, date, and remote venue of the hearing, it also notified Miss Bhalawat of the option to attend the hearing by telephone or video-link, and to be represented if she wished, and the free use of an interpreter. Additionally, the Notice provided details about applying for an adjournment and the Committee's power to proceed in her absence if considered appropriate. A delivery receipt dated 10 April 2025, confirming delivery of the Notice, was also provided.
4. The Committee also had sight of an email dated 6 May 2025 from ACCA's hearing officer to Miss Bhalawat which reminded Miss Bhalawat of the notice of hearing and invited her to advise whether she would be attending the hearing. The service bundle also included a telephone attendance note which recorded a conversation between the hearings officer and Miss Bhalawat on 7 May 2025. This note recorded that the hearings officer assisted Miss Bhalawat to access the link with the service documents and that Miss Bhalawat advised that she would let the hearings officer know by email whether she would attend the hearing. The hearings officer confirmed to the Committee that she had not received any response from Miss Bhalawat.
5. The Committee, having considered the relevant documents, was satisfied that Notice had been served in compliance with the Regulations.

## **PROCEEDING IN ABSENCE**

6. Having concluded that proper notice had been served in accordance with the Regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Miss Bhalawat. Having considered the content of the telephone attendance note dated 7 May 2025, the Committee was satisfied that Mr Bhalawat was aware of today's hearing. It noted that Miss Bhalawat's engagement with ACCA has been minimal, and she gave no indication that she would or might attend today's hearing.
7. The Committee also noted that during ACCA's investigation Miss Bhalawat had stated on 18 March 2022 that had resigned and was no longer a student of ACCA, and she was advised that she was not able to resign while the investigation was ongoing. The Committee was of the view that Miss Bhalawat had voluntarily absented herself and that her attendance was unlikely to be secured by an adjournment. The Committee considered that it may be in Miss Bhalawat's interests for the disciplinary process to be concluded, and that it was in the interests of justice that the matter proceed expeditiously. The Committee therefore decided that it was fair and appropriate to proceed with the hearing notwithstanding the absence of Miss Bhalawat.

## **AMENDMENT**

8. The Committee noted that there was a minor typographical error in Allegation 2(a) in that "his" should read "her". The Committee granted Mr Kerruish-Jones' proposed amendment to correct this error as it was satisfied the amendment caused no injustice to Miss Bhalawat.
9. Mr Kerruish-Jones also made an application to amend Allegation 5(b) to delete the word "Exam". Allegation 5(b) referred to Allegations 2 and 4 and involved alleged breach of the Complaints and Disciplinary Regulations 2014 as well as the Exam Regulations.
10. The Committee also granted this application, as the proposed amendment was of a minor nature and it did not prejudice Miss Bhalawat.

## **ALLEGATIONS**

Miss Harshi Bhalawat ('Miss Bhalawat'), ACCA student on 12 September 2021, during a remotely invigilated Business and Technology examination ('the exam'):

1. Engaged in improper conduct designed to assist her in her exam attempt in that she:
  - i. Caused or permitted a third party to be present and/or
  - ii. Caused or permitted that third party to provide assistance to her and/or
  - iii. Communicated with that third party during all or part of the exam
2. Miss Bhalawat's conduct referred to in paragraph 1 above was in breach of:
  - a) Examination Regulation 2 by failing to comply with instructions issued by ACCA personnel (as per the Student Information Sheet) during the exam, in that she failed to ensure no one else was around her in the room where she sat her exam and/or
  - b) Examination Regulation 10 in that she did engage in improper conduct designed to assist her in her exam attempt (as stated in paragraph 1 (i)-(iii) above); and/or
  - c) Examination Regulation 16, in that she communicated with a person other than the exam proctor for the duration of the exam
3. Further, Miss Bhalawat's conduct as referred to in paragraphs 1 and/or 2 above was:
  - a) Dishonest, in that Miss Bhalawat sought to obtain an unfair advantage in the exam by obtaining assistance from a third party; or in the alternative,
  - b) Failed to act with integrity.

4. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), failed to co-operate fully with the investigation of a complaint, in that she did not respond to any or all of ACCA's correspondence dated:
  - a) 11 January 2022,
  - b) 26 January 2022,
  - c) 10 February 2022, and/or
  - d) 25 February 2022
5. By reason of her conduct, Miss Bhalawat is:
  - a) Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all of the matters referred to above; or, in the alternative,
  - b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of breach of the Regulations as referred to in allegations 2 and 4.

#### **BRIEF BACKGROUND**

11. Miss Bhalawat was admitted as a student member of ACCA on 28 January 2021. As such, she is bound by ACCA's Bye-laws and Regulations, including the Examination Regulations.
12. On 12 September 2021, Miss Bhalawat sat a Business and Technology examination (the 'Exam') remotely.
13. An Incident Report was filed by the proctor who recorded that:

*"During the exam, the proctor detected a second person in the testing area. This person was communicating with the test-taker in a different language....and assisting them with the exam"*
14. An investigation was commenced. This has involved obtaining documents and video footage relating to that Exam. ACCA submitted that the video footage obtained has revealed:

- *At 17:18 -18:05, a camera pan of the room is performed. At 17:20, the door to the testing room is seen closed.*
- *Between 24:00 and 25:00, the exam was launched.*
- *At 1:22:57-1:24:00, after Miss Bhalawat reads the exam content aloud, it appears a third-party whispers to her at 1:23:18-1:23:25 and 1:24:49-1:24:50.*
- *At 1:24:07-1:24:28, it appears Miss Bhalawat can be reading the exam content on screen and it appears a third party can be heard replying to her. More specifically, at:*
  - *1:24:13, after Miss Bhalawat appears to say, “true or false”, it appears a third party can be heard saying “true”.*
  - *1:24:26, after Miss Bhalawat appears to say, “should I put false”, it appears a third party says “false” in response. Miss Bhalawat selected “False” as the answer to the question on screen (Question 28) which was on or about the same time when it appears the word “false” is said by a third party.*
- *At 1:26:38-1:27:20, Miss Bhalawat appears to be reading the content on screen aloud as she appears to say, “which management?” at 1:26:47 and a third party appears to say “which management” at 1:26:50 in response.*
- *At 1:37:57-1:39:24, it appears Miss Bhalawat can be heard whispering with a third party.*
- *At 1:40:00-1:40:22, it appears Miss Bhalawat can be heard reading the exam content on screen aloud, and another person responds to her at 1:40:10.*
- *At 1:41:37-1:42:30, it appears Miss Bhalawat can be heard whispering with a third party. It appears at 1:42:00, a third party whispers the word “delegation”. At 1:42:15, it appears Miss Bhalawat says the words “delegation of”.*

- *At 1:43:23-1:43:30 and 1:43:45-1:43:52, it appears Miss Bhalawat can be heard whispering with a third party.*
  - *At 1:44:52-1:45:03, it appears a third party can be heard whispering with Miss Bhalawat.*
  - *At 1:45:30-1:47:20, a camera pan of the room is performed. At 1:45.55 and 1:45:59, the door to the testing room is seen partially open.*
  - *Between 2:00:00 and 2:02.00, the exam was submitted.”*
15. As part of the exams booking process students agree to ACCA’s terms and conditions on sitting exams remotely. The conditions are set out within the “Student Information Sheet” which contains the Examination Regulations and Guidelines.
  16. During the Exam set up, the proctor also correctly ensured that Miss Bhalawat agreed to abide by these Rules and Regulations as seen in the Chat Log. Miss Bhalawat was asked to type “*I agree*” to the exam rules sent to her via the chatbox. This included the Student Information Sheet. Miss Bhalawat responded by typing “*I agree*” at 9.53 am.
  17. ACCA sent correspondence to Miss Bhalawat on the following dates:
    - 11 January 2022;
    - 26 January 2022;
    - 10 February 2022;
    - 25 February 2022.
  18. As part of its investigation, in correspondence ACCA sought responses from Miss Bhalawat to a number of questions concerning her conduct during the exam and shared the video with her. No response was received from Miss Bhalawat.

## **DECISION ON FACTS AND REASONS**

19. The Committee accepted the advice of the Legal Assessor and considered the submissions of Mr Kerruish-Jones on behalf of ACCA.
20. 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.
21. The Committee heard that there had been no previous findings against Miss Bhalawat and accepted that it was relevant to put her good character into the balance in her favour.

### **Allegations 1(i), (ii) and (iii)**

22. The Committee carefully noted the video recording of the exam. A third party is not visibly seen to be present, but there were multiple occasions where whispering could be heard between Miss Bhalawat and a third party. The door to the testing room was also seen to be partially open during the second camera pan of the room. The Committee was satisfied that a third party was present in the room and that Miss Bhalawat had either caused or permitted the third party to be present.
23. The communication between Miss Bhalawat on the video recording included occasions when Miss Bhalawat was audibly reading the examination content, and an audible response was provided by the third party. An example is the occasion when the third party was heard to say “false” and this was the answer to question 28 which was visible on Miss Bhalawat’s screen at or around the same time. The Committee was satisfied that Miss Bhalawat either caused or permitted the third party to provide assistance to her.
24. The Committee was also satisfied that Miss Bhalawat communicated with the third party, which was audible during the video recording of the exam.
25. The Committee accepted the documentary evidence that Miss Bhalawat had agreed to the exam instructions, including those set out on the Information Sheet. These instructions required her ensure that she was in a room with no one else around. The Committee noted that there was audible communication



between Miss Bhalawat and the third party over a period of approximately 25 minutes and that at least some of the audible responses from the third party were relevant to the examination questions. The Committee considered it more likely than not that the reason for Miss Bhalawat's conduct was that it was designed to assist her in sitting her exam.

26. Accordingly, the Committee was satisfied that Allegations 1(a), (b), and (c) were proved.

**Allegations 2(a), (b) and (c)**

27. Regulation 2 of the Examination Regulations requires students to comply with any instructions issued by exam supervisors, invigilators, proctors, or ACCA personnel. Such instructions include the "Student Information Sheet" which states that the student must be in a private room "...*with no one else around you*". Miss Bhalawat acted in breach of Regulation 2 by causing or permitting a third party to be present with her in the exam.
28. Regulation 10 of the Examination Regulations states that students may not engage in any improper conduct designed to assist them in their exam attempt. The Committee was satisfied that Miss Bhalawat's conduct in Allegation 1(a), (b) and (c), was such improper conduct. It was improper for Miss Bhalawat to communicate with a third party during the exam and to cause or permit a third party to provide her with assistance.
29. Regulation 16 of the Examination Regulations states that students must not talk to or attempt to communicate with people other than exam supervisor/s, invigilator/s, or proctor/s during the exam. The Committee was satisfied that Miss Bhalawat's communication with a third party during the exam was a breach of Regulation 16.
30. Accordingly, the Committee found Allegations 2(a), (b) and (c) proved.

**Allegation 3 (a)**

31. The Committee considered the allegation of dishonesty in light of the test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
32. The Committee asked itself what Miss Bhalawat's belief was as to the facts. The Committee was satisfied that Miss Bhalawat knew that it was a requirement of the regulations that she be alone in the exam room and not receive assistance from a third party. She had indicated her agreement to the exam regulations, as evidenced within the Chat Log. It is also self-evident to any student sitting exams, that they should not receive assistance from a third party, which would amount to cheating in the exam. The Committee was satisfied, given its findings of fact, that Miss Bhalawat intended to use assistance from a third party to gain an unfair advantage, and in doing so to cheat in her exam. It found that Miss Bhalawat's permitting a third party to be in the room, receiving assistance from that third party, and communicating with that third party, was a deliberate, planned act.
33. There is no doubt that Miss Bhalawat's conduct would be regarded as dishonest by ordinary and honest people. Having found that both limbs of the test in *Ivey v Genting Casinos* were satisfied, the Committee therefore found Allegation 3(a) proved.
34. In the light of its conclusion on Allegation 3(a), the Committee made no finding on Allegation 3(b) which was pleaded in the alternative.

#### **Allegation 4**

35. The Committee was satisfied that under Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Miss Bhalawat to co-operate fully with ACCA in the investigation of any complaint. It was satisfied that Miss Bhalawat made no response to ACCA's correspondence requesting her co-operation on 11 January 2022, 26 January 2022, 10 February 2022, and 25 February 2022. This was despite ACCA contacting Miss Bhalawat by telephone on 18 March 2022 to ensure that she was aware of the investigation. In the telephone conversation Miss Bhalawat confirmed her registered email address. There was no evidence before the Committee in this case to amount

to a defence to the obligation on professionals to co-operate with their regulator as expressed in Regulation 3(1). The Committee was therefore satisfied that the absence of any response amounted to failures, as Miss Bhalawat had a duty to respond to ACCA's correspondence relating to its investigation.

36. The Committee therefore found that Allegation 4 was proved.

### **Allegation 5**

37. The Committee accepted the advice of the Legal Adviser. It had regard to the partial definition of misconduct in Regulation 8(c), together with the guidance in the cases of *Roylance v GMC* [2000] 1 AC 311 and *Nandi v GMC* [2004] EWHC 2317.
38. Having found the facts proved in Allegations 1, 2 and 3(a), the Committee then considered whether they amounted to misconduct. The Committee was satisfied that Miss Bhalawat's actions brought discredit on her, the Association and the accountancy profession. It was satisfied that dishonest conduct in a professional exam reached the threshold of seriousness for misconduct. Being honest and trustworthy is a fundamental tenet of the accountancy profession. Her conduct therefore had the potential to undermine the integrity of ACCA's examination system and public confidence in those taking the examinations and the profession.
39. The Committee was also satisfied that Allegation 4, Miss Bhalawat's failure to cooperate with ACCA, was serious and amounted to misconduct. It was an essential obligation of every professional to cooperate with their regulator to enable the regulator to properly investigate allegations brought before it and so that public confidence in the regulatory system can be maintained.
40. The Committee therefore found that the matters set out in 1, 2, 3(a), and 4 amounted to misconduct.
41. In the light of its judgment on misconduct, no finding was needed upon liability to disciplinary action.

## **SANCTION AND REASONS**

42. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Kerruish-Jones. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Miss Bhalawat, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
43. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
44. The Committee considered the misconduct involved the following aggravating features:
- This was deliberate, pre-planned misconduct involving dishonesty and collusion with a third party, breaching the trust placed in examinees, and was for personal benefit at the expense of the public and the profession;
  - No evidence of remorse or insight into the seriousness of the allegation and its impact on the reputation of the profession.
45. The Committee considered the misconduct involved one mitigating feature which was that Miss Bhalawat was of previous good character with no previous disciplinary record.
46. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case involving dishonesty relating to professional exams and failure to co-operate with ACCA.
47. Given the Committee's view of the seriousness of Miss Bhalawat's conduct, it was satisfied that a reprimand would be insufficient to highlight to the profession and the public the gravity of proven misconduct.

48. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that a severe reprimand would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered that none of these criteria were met and that a severe reprimand would not adequately reflect the seriousness of Miss Bhalawat's behaviour, nor protect the public.
49. The Committee considered the ACCA guidance on the approach to be taken in cases of dishonesty which is said to be regarded as a particularly serious matter because it undermines trust and confidence in the profession. The guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances.
50. The Committee considered that Miss Bhalawat's behaviour involved a number of features referenced in ACCA's guidance in relation to exclusion. In particular the conduct involved: dishonesty; abuse of the trust placed in Miss Bhalawat by ACCA; there was no evidence that Miss Bhalawat had developed understanding and insight into the seriousness of her acts and omissions; the potential for an adverse impact on the public; conduct over a period of time (failure to co-operate); and serious departure from professional standards. The Committee also considered that there was nothing exceptional in Miss Bhalawat's case that would warrant a lesser sanction than removal from the student register. Miss Bhalawat's dishonesty and her failure to co-operate with ACCA's investigation, considered alongside the absence of any evidence demonstrating her understanding of the seriousness of her behaviour, are fundamentally incompatible with her continued membership. The Committee concluded that the only appropriate and proportionate sanction was removal from the student register.

51. The Committee considered that the circumstances of this case did not require an order restricting Miss Bhalawat's right to apply for re-admission to the student register beyond the normal minimum period.

### **COSTS AND REASONS**

52. ACCA applied for costs in the sum of £6,925.67. The application was supported by schedules providing a detailed breakdown of the costs incurred by ACCA in connection with the hearing, and a simplified breakdown. It noted Miss Bhalawat has not provided a formal statement of means and the Committee had no information about her means.
53. The Committee had regard to ACCA's Guidance for Costs Orders and was satisfied that ACCA was entitled to claim its costs. The Committee considered that the costs of ACCA's investigation were reasonably and proportionately incurred, although the Committee agreed to make some reduction for the case taking less time than estimated.
54. The Committee considered that it was reasonable and proportionate to award ACCA's costs in the amount of £6,600.

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

55. Mr Kerruish-Jones did not make an application for an immediate order and the Committee did not consider that in this case the ground for imposing an immediate order was made out. It noted that Miss Bhalawat is a student member and that no interim order has been in place at any time since the events in September 2021.

**HH Suzan Matthews KC**  
**Chair**  
**08 May 2025**