

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Shiyun Liang

Heard on: Thursday, 18 April 2019

Location: ACCA, The Adelphi, 1-11 John Adam Street, London, WC2N
6AU

Committee: Mr Graham White (Chairman)
Mr Constantinos Lemonides (Accountant)
Mr Grahame Owen (Lay)

Legal Adviser: Mr Mark Ruffell (Legal Adviser)

Persons present

and capacity: Mr Benjamin Jowett (ACCA Case Presenter)
Miss Rachael Davis (Hearings Officer)

Observers: None

Summary Removed from the student register

Costs: £3,750.00

ACCA



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SERVICE OF PAPERS

1. The Committee had read and considered the service bundle, pages 1-13, and hearing papers, pages 1-64. The Committee considered that there had been good service of the papers.

PROCEEDING IN ABSENCE

2. Mr Jowett, on behalf of ACCA, submitted that the Committee should proceed in Miss Liang's absence.
3. The Committee accepted the advice of the Legal Adviser. The Committee had regard to the public interest in the expeditious disposal of the case, as well as fairness to Miss Liang. The Committee had a discretion as whether to proceed in absence, which should be exercised with the utmost care and caution, having regard to the factors set out by Lord Bingham and endorsed by the House of Lords in *R. v. Jones (Anthony William)(No.2)[2002] UKHL 5.* The Committee noted that there was no application for an adjournment, and that there had been no engagement with ACCA since Miss Liang had been notified of the allegations. The Committee considered that Miss Liang had waived her right to attend, and was voluntarily absenting herself. The Committee determined to proceed in the absence of Miss Liang.

ALLEGATION

Allegation 1

- (a) During an AA (Audit and Assurance) examination on 3 September 2018, Miss Shiyun Liang was in possession of unauthorised materials which she had at her exam desk, contrary to Examination Regulations 4 and/or 5.

(b) Miss Shiyun Liang intended to use any or all of the items set out at 1(a) above to gain an unfair advantage, contrary to Examination Regulation 5 and/ or 7;

(c) Miss Shiyun Liang's conduct in respect of 1(b) above was:

- (i) Dishonest, in that Miss Shiyun Liang intended to use any or all of the unauthorised materials which she had at her exam desk to gain an unfair advantage;
- (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2018).

(d) By reason of her conduct, Miss Shiyun Liang is:

- (i) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1(a) to 1(c) above; or
- (ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of 1(a) above.

BRIEF BACKGROUND

4. Miss Liang first registered as an ACCA student on 11 September 2017. She has had no previous attempts at the AA exam, and has previously passed the F4, F7, FAB, FMA and FFA ACCA examinations. Miss Liang attended the ECNU 76494 exam centre on 3 September 2018, in order to sit the AA CBE examination. The examination commenced at 9.00am, and was due to last for 3 hours 20 minutes. Prior to an examination, all CBE candidates registering for CBE in advance of each CBE session receive their examination attendance docket, which contains the ACCA guidelines and Regulations. Before an examination commences, the supervisor's announcements draw candidates' attention to the regulations and guidelines outlined in the student information sheet. In particular, point 5 is a clear

instruction to all candidates to remove all unauthorised materials from their desks.

5. The examination centre Invigilator, Person A stated in her SCRS1B form, completed on the day of the exam, that *“When I was patrolling, I noticed that the student was staring at her notes hidden under the keyboard.”* The unauthorised item was found in the student’s possession at *“11.40”* and consisted of *“6 pages of notes related to the text...about 8cm in length 4cm in wide in shape of square (sic).”* *“When I uplifted the keyboard and exposed the notes she said nothing and did nothing.”*
6. Miss Liang was offered an opportunity to complete form SCRS2B after the examination. Miss Liang did not complete the questions asked on the form in relation to the incident and, instead, placed a tick in the box which states, *“Please tick this box if you do not wish to provide an explanation and do not wish to complete this form.”* The Examiner confirmed that the unauthorised material was relevant to the examination, and it appeared to have been used, in that some of the wording of answers in the examination matched some of the wording found on the material.
7. On 22 October 2018, ACCA’s Exam’s Conduct Department wrote to Miss Liang in relation to the irregularity that had occurred at the exam centre, and requested a response from her. Miss Liang did not provide a response. On 1 November 2018, ACCA’s Investigation Department, via the Investigations Officer, wrote to Miss Liang to advise her of the complaint which had been received, and requested her comments by 22 November 2019. No response was received from Miss Liang.
8. The Committee was shown the notes that Miss Liang had used.

DECISION ON ALLEGATION AND REASONS

9. The Committee accepted the advice of the Legal Adviser. The Committee noted that there was no challenge to the evidence that Miss Liang had the

unauthorised material in her position during the examination. Accordingly, the Committee found Allegation 1(a) proved.

10. The Committee noted that Regulation 7(a), which created a presumption that possession of unauthorised material was proof of an intention to use it. As there was no evidence from Miss Liang to discharge the burden of proof, the Committee found Allegation 1(b) proved.
11. The Committee was satisfied that an intention to use unauthorised material in an examination was dishonest by the standards of ordinary people, and it breached the Fundamental Principle of Integrity. The Committee found Allegation 1(c)(i) and Allegation 1(c)(ii) proved.
12. The Committee considered that the proved allegations, because they involved dishonesty, to be serious and, in its judgement, amounted to misconduct. The Committee found Allegation 1(d)(i) proved. In the light of its finding in relation to Allegation 1(d)(i), the Committee did not consider Allegation 1(d)(ii).

SANCTION AND REASONS

13. The Committee accepted the advice of the Legal Adviser, and had regard to ACCA's sanctions guidance. The Committee considered that taking No Further Action and or imposing a Reprimand were insufficient sanctions for the seriousness of the misconduct. The Committee noted that the misconduct was intentional and that, if undiscovered, would have undermined the integrity of the examination process. Miss Liang had not demonstrated remorse, provided no references, and had not engaged with ACCA during the investigation process. In the Committee's view, a Severe Reprimand was not appropriate.
14. The Committee considered that Miss Liang's actions were a serious departure from the standards expected of a student, involving dishonesty, and had an adverse effect upon the reputation of the profession. The

Committee had regard to the public interest, and the reputation of the profession. The Committee considered that the appropriate and proportionate sanction was Removal from the Student Register. The Committee ordered that Miss Liang be removed from the student register.

COSTS AND REASONS

15. ACCA applied for costs in the sum of £4,372.38. The Committee accepted the advice of the Legal Adviser, and had regard to ACCA's Guidance on Costs. The Committee recognised that ACCA's figure had over-estimated the length of the hearing, and as a consequence, the Committee considered that a fair and proportionate sum was £3,750.00. The Committee ordered that Miss Liang pay costs of £3,750.00.

EFFECTIVE DATE OF ORDER

16. The Committee directed that the order should take effect at the expiry of the appeal period referred to in the Appeal regulations.

HH Graham White
Chairman
18 April 2019