

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Weixian Wu

Heard on: Thursday, 20 February 2020

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

Committee: HH Suzan Matthews (Chair)
Mr David Horne (Accountant)
Mr Barry Picken (Lay)

Legal Adviser: Mr Alastair McFarlane (Legal Adviser)

Persons present

and capacity: Miss Georgina Luscombe (Case Presenter on behalf of ACCA)
Mr Jonathan Lionel (Hearings Officer)
Ms Sophie Sanders (Interpreter)

Outcome: Removed from the student register

Costs: £1,000

ACCA



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1. ACCA was represented by Miss Luscombe, Miss Wu attended by telephone, with the assistance of an ACCA provided interpreter, and was unrepresented. The Committee had before it a bundle of papers, numbered pages 1 – 356, and a service bundle, numbered pages 1-14.

ALLEGATIONS

Allegation 1

1. During an F4 (ENG) Corporate and Business Law computer-based exam (CBE) on 20 December 2017:
 - a. Miss Wu Weixian used and/or was in possession of an unauthorised item, namely a mobile phone, which she had at or on her desk contrary to Exam Regulation 7.
 - b. Miss Wu Weixian took photographs of exam question(s) using the mobile phone referred to in 1 a. above, which she shared with Person B (Annie).
 - c. Miss Wu Weixian's conduct in respect of any or all of the matters set out at 1(a) and/or 1(b) above was:
 - (i) Dishonest in that she attempted to obtain assistance from Person B in order to gain an unfair advantage during her F4 (ENG) Corporate and Business Law computer based exam on 20 December 2017, or in the alternative
 - (ii) Reckless in that Person B could and/or was likely to cause them to be published or otherwise shared with entrants for the same exam who would thereby obtain an unfair advantage; and /or
 - (iii) Contrary to the Fundamental Principle of Integrity (as applicable in 2017) in that such conduct demonstrates a failure to be straightforward and honest

- d. By reason of her conduct Miss Wu Weixian is:
- (i) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of 1(a) and/or 1(b) and/or 1(c) above;
 - (ii) Liable in the alternative to disciplinary action pursuant to byelaw 8(a)(iii), in respect of 1(a) only.

Allegation 2

2. Contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, Miss Wu Weixian has failed to co-operate fully with the investigation of a complaint in that:
- a. She failed to respond at all to any to all of ACCA's correspondence dated:
 - (i) 11 September 2018;
 - (ii) 08 October 2018; and
 - (iii) 01 November 2018;
 - b. By reason of her conduct in respect of any or all of the matters set out at 2(a) above, Miss Wu Weixian is:
 - (i) Guilty of misconduct, pursuant to bye-law 8(a)(i);
 - (ii) Liable to disciplinary action, pursuant to bye-law 8(a)(iii)

BACKGROUND

2. Miss Wu registered as an ACCA student on 22 May 2017.

3. The case concerns an allegation of cheating during the ACCA F4 Exam on 20 December 2017. Miss Wu took a mobile phone into the exam when she was not authorised to do so, having been warned not to do so. She used the mobile phone during the exam to take many photographs of the exam questions. Miss Wu accepted that she took the photographs with the intention of obtaining assistance from another person – Person B.

MISS WU'S ADMISSIONS

4. Miss Wu admitted Allegations 1(a), 1(b) and 1(c)(i) at the outset of the hearing and that her conduct amounted to misconduct as alleged under Allegation 1(d)(i). Further, as Allegation 1(c)(i) was admitted, the alternatives of 1(c)(ii) and (iii) were not put.

ACCA'S RESPONSE

5. ACCA submitted that these admissions met the mischief of their case and in the light of this and Miss Wu's engagement with this hearing, it did not pursue Allegation 2. Further, as Allegation 1(c)(i) was admitted the alternatives of 1(c)(ii) and (iii) were not put.

DECISION ON ALLEGATIONS AND REASONS

6. The Committee accepted the advice of the Legal Adviser. The Committee accepted the admissions given were clear and unequivocal and under Regulation 12(3), found the facts proved on the basis of Miss Wu's admissions.

MISCONDUCT

7. The Committee asked itself whether, by reason of her proved dishonest conduct, Miss Wu was guilty of misconduct. It noted that she accepted she was guilty of misconduct and took this into account in its judgment on this issue. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was

satisfied that Miss Wu's actions brought discredit on her, the Association and the accountancy profession. It was satisfied that illicitly and dishonestly taking photographs of exam questions intending to cheat was deplorable conduct and reached the threshold for misconduct.

SANCTIONS AND REASONS

8. The Committee noted its powers on sanction were those set out in Regulation 12(4). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It accepted the advice of the Legal Adviser.
9. The Committee had regard to Miss Wu's written and oral submissions.
10. The Committee considered that the dishonest conduct here was serious. The Committee had regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.
11. The mitigating factors before the Committee were:
 - Miss Wu's previous good character;
 - Her admission of dishonesty;
 - Her repeated expressions of remorse and regret for her conduct, and her sincere apologies for her conduct;
 - She had shown insight into the impact of dishonesty on the reputation of ACCA and the profession;
 - She had submitted a supportive testimonial from her University Professor;
 - She had reflected on her behaviour and undertaken never to repeat such conduct.

12. The aggravating factors the Committee identified were:
- That Miss Wu's actions were deliberate and planned;
 - The conduct was dishonest and challenged the integrity of the examination system.
13. The Committee was mindful that not every case of dishonesty must result in the most serious sanction, and that each case is fact specific. Nonetheless, it accepted that a finding of dishonesty ordinarily lies at the top of the spectrum of misconduct.
14. Given the Committee's view of the seriousness of her conduct, which was dishonest, and its detrimental effect upon the reputation of the profession, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession, and the public, the gravity of the proven conduct.
15. The Committee determined that Miss Wu's behaviour was fundamentally incompatible with her remaining on the student register of ACCA. The conduct was dishonest and is a serious departure from professional standards. The Committee was satisfied that the only appropriate and proportionate sanction was that she be removed from the student register. The Committee did not consider that it was necessary to combine this with an order that Miss Wu may not apply for readmission for a further period beyond the minimum period.

COSTS AND REASONS

16. ACCA claimed costs of £7,859.50 and supplied a schedule of its costs. Miss Wu provided a statement of her means and explained that these are very limited as a student. The Committee decided that it was appropriate to award costs in this case, as it was properly brought, and was persuaded that the costs claimed by ACCA were justified. However, taking into account Miss Wu's very limited means, it determined that it was fair and proportionate to

make a significant reduction. It concluded, in these circumstances, that the sum of £1,000 was appropriate and proportionate. Accordingly, it ordered that Miss Wu pay ACCA's costs in the amount of £1,000.

EFFECTIVE DATE OF ORDER

17. This order shall take effect from the date of the expiry of the appeal period unless notice of appeal is given prior to the expiry of that period, in which case it shall become effective as described in the Appeal Regulations. The Committee determined it was not necessary to impose an immediate order.

HH Suzan Matthews QC
Chair
19 February 2020