

HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS
REASONS FOR DECISION

In the matter of: **Mr Sichuang Wang**

Heard on: **Tuesday, 12 May 2020**

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

Committee: **Ms Carolyn Tetlow (Chair)**
 Mr Edward Weiss (Accountant)
 Mr Gerry McClay (Lay)

Legal Adviser: **Mr Iain Ross**

Persons present

and capacity: **Mr Phillip Law (ACCA Case Presenter)**
 Mr Jonathan Lionel (Hearings Officer)

Observers: **None**

Summary: **Removal from the student register**

Costs: **£2750.00**

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1. The Committee heard an allegation of misconduct against Mr Wang. The hearing was conducted remotely through Skype for Business (audio only) so as to comply with the current COVID 19 Regulations. Mr Law appeared for ACCA. Mr Wang was not present and was not represented. The Committee had a main bundle of papers, numbered pages 1 to 95, and a separate service bundle, numbered pages 1 to 14.

PRELIMINARY APPLICATIONS

PRIVATE HEARING

2. Mr Law informed the Committee that in his response form, Mr Wang had requested that the hearing be held in private so as to remain anonymous. Mr Law opposed the application for the hearing to be in private and referred the Committee to rule 11 of the Complaints and Disciplinary Rules.
3. The Committee considered that there was no good reason proffered to depart from the general position that hearings should be in public and that Disciplinary findings be published. Accordingly, the Committee refused the application for the hearing to be in private and directed that the hearing proceed in public.

SERVICE OF PAPERS/PROCEEDING IN ABSENCE

4. Notice of hearing was sent to Mr Wang at his notified email address dated 14 April 2020. The Committee was satisfied that Mr Wang had been given at least 28 days' notice of this hearing. The Committee was also satisfied that the notice contained all of the prescribed material and had been properly served.
5. Mr Law applied for the hearing to proceed in Mr Wang's absence. He referred the Committee to Mr Wang's reply to the notice form, in which Mr Wang had stated that he did not intend to attend the hearing and was content for the hearing to proceed in his absence.
6. The Committee received the advice of the Legal Adviser and noted that it had a discretion to proceed in Mr Wang's absence which it should exercise only with

the utmost care and caution. The Committee noted that as well as stating in his reply form that he would not be attending the hearing, and that he consented to it proceeding in his absence, Mr Wang had also confirmed that he would not attend in an email sent by him to ACCA dated 06 May 2020. The Committee further noted that Mr Wang had been offered the opportunity to attend the hearing by telephone or videoconferencing facility, which he had declined.

7. The Committee was satisfied that Mr Wang was aware of this hearing and voluntarily absented himself from attending. The Committee considered that no useful purpose would be served by adjourning this hearing. In all the circumstances, having regard to the public interest in the hearing taking place expeditiously, the Committee determined to proceed in Mr Wang's absence.

8. **ALLEGATION / BRIEF BACKGROUND**

Mr Sichuang Wang registered as a student member of ACCA on 04 July 2018. ACCA alleged that during a Financial Management Examination on 07 June 2019, Mr Wang was in possession of unauthorised materials in the form of handwritten notes whilst at his exam desk, which he intended and attempted to use in order to gain an unfair advantage.

Allegation 1

- (a) During a Financial Management examination on 07 June 2019, Mr Sichuang Wang was in possession of:
 - (i) Unauthorised materials in the form of handwritten notes whilst at his exam desk, contrary to Examination Regulations 4 and/or 5.
- (b) Mr Sichuang Wang intended and attempted to use any or all of the items set out at 1(a) above to gain an unfair advantage.
- (c) Mr Sichuang Wang's conduct in respect of 1(b) above was:

- (i) Dishonest, in that Mr Sichuang Wang intended and attempted to use any or all of the unauthorised materials which he had at his exam desk to gain an unfair advantage; or in the alternative
 - (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2019) in that such conduct is not straightforward and honest.
- (d) By reason of his conduct, Mr Sichuang Wang 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)(i) above.

DECISION ON FACTS / ALLEGATION AND REASONS

9. ACCA did not call any witnesses. It relied on statements and reports from officials involved in the examination process and information from Mr Wang himself. It is not disputed that Mr Wang attended the Hangzhou exam centre on 07 June 2019 in order to sit the Financial Management examination. The exam commenced at 9.00 am and was due to last for 3 hours and 20 minutes.
10. The exam centre Invigilator stated in her SCRS1B form, completed on the day of the exam, that the unauthorised material was found in the student's possession at "10.57." The Invigilator confirmed that the unauthorised material consisted of "*a piece of paper on which there is test related content.*"
11. The Invigilator further confirmed that the unauthorised material was found "*on the desk under the scrap paper*" and was found by the "*Supervisor*". When asked whether the unauthorised material was believed to have been used, the Invigilator asserts "*When I found the material it was placed under the scrap paper so I highly suspect that the candidate has used it.*" The Invigilator also stated that when the scrap paper was discovered, Mr Wang asked her, "*whether I could pretend that I haven't seen it and let this case go.*"

12. In his SCRS 2B form, Mr Wang was asked to confirm whether he had attempted to use the unauthorised materials found in his possession. He answered, *“yes...I did attempt to find something relevant to my exam”*.
13. In the Examiner’s Irregular Script Report signed and dated 25 June 2019, the Examiner confirms that the material was relevant to the syllabus and was relevant to the examination. In relation as to whether the material had been used when the student was attempting the exam, the Examiner had stated, *“The material is relevant to both the FM syllabus and the FM exam, consisting of short formulae of ratios and relationships. There is a no indication that the material has been used in answering the exam.”*
14. On 08 July 2019, Mr Wang provided a response to Exams Conduct, giving an explanation of the unauthorised materials that were in his possession, asserting,
“I have to explain what I did on my FM exam in 6th June this year. I took a unauthorized materials. On the FM exam on 9.00am. The invigilator in the exam center found my slip on the table and this was considered cheating. I admit my bad behaviour and am willing to bear the consequences for what I have done...With uncertainty and lucky mentality with unknown questions I brought a small note with some uncertain formulas and a writing for NPV topics. I have to admit that I want to use it to give me an advantage... I’m so sorry to my behaviour in exam and I sincerely admit my cheating (sic).”
15. On 09 July 2019, Mr Wang sent a further email to Exams Conduct in which he asserted:
“I’m so sorry for holding an unauthorised material when I attend the FM exam on June with a sense of luck. My conduct is obviously wrong and deserve punishment.....when I started my exam I found the exam was not difficult like what I thought. I finished my exam by myself as you can see from the surveillance video of the examination video of the examination room, I didn’t use it at that time. And you can see my unauthorised material was found and taken by exam center when the

exam was just beginning and the invigilators behaviour could also prove I didn't use the cheat sheet otherwise it would be impossible for me to continue to finish the exam (sic)."

16. On this evidence, the Committee had no doubt that Mr Wang brought unauthorised materials into the exam. The Committee also found that by taking unauthorised materials, namely formulae and notes relating to relevant topics to his exam desk, and keeping them with him during most of the exam, Mr Wang was in breach of Examination Regulations 4 and 5. It also found that the notes were relevant both to the syllabus and to the particular exam.
17. Examination Regulations 7(a) and (b) state that where such breaches have taken place, it is assumed that the student intended to use the materials or item to gain an unfair advantage in the exam, unless the student proves that he did not intend to use the unauthorised materials or item to gain such an unfair advantage. Mr Wang has admitted in his emails to ACCA that he intended to use the unauthorised materials, even though he may not in fact have done so because they were not helpful.
18. The Committee found it proved, on the balance of probabilities, that Mr Wang had intended to use and had attempted to use the unauthorised materials in order to obtain an unfair advantage.
19. On the basis of the findings already made, the Committee was satisfied that Mr Wang intended to cheat in the exam and had attempted to do so. It was quite satisfied that either intending to cheat or attempting to cheat amounted to dishonest behaviour. Accordingly, the Committee found Allegation 1(c)(i) proved. The Committee found Allegation 1(b) proved in its entirety and did not consider the alternative.
20. Having found that he acted dishonestly, the Committee had no doubt that Mr Wang's conduct amounted to misconduct. Cheating/intending to cheat in exams is one of the most serious breaches of professional behaviour that a student can commit. The Committee, therefore, found Allegation 1(d)(i) proved and did not consider the alternative.

DECISION ON SANCTION AND REASONS

21. The Committee heard submissions from Mr Law on behalf of ACCA. The Committee received advice from the Legal Advisor and had regard to the Guidance for Disciplinary Sanctions.
22. The Committee noted that the matters found proved against Mr Wang were very serious. The Committee considered the aggravating factors to be that Mr Wang's misconduct was premeditated, intended for his own benefit and undermined the trust which the public rightly have in ACCA. Mr Wang's dishonest conduct was directly related to his student registration. As mitigating factors, the Committee took into account that Mr Wang had fully engaged with the investigation and had made early admissions.
23. The Committee was satisfied that in his replies and emails, Mr Wang had demonstrated some insight and remorse, although he had not fully explained why he had attempted to cheat in an examination at a very early stage of his intended career.
24. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate given the gravity of the matters proved.
25. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from the Student Register was required, and had careful regard to the factors applicable to each of these sanctions set out in the Sanctions Guidance.
26. The Committee had particular regard to C4.2 of the indicative Sanctions Guidance which states, "*having considered the general principles and factors set out above, the Committee must decide whether a Severe Reprimand (on its own or combined with any other order it could impose) is sufficient, it should*

stop at this point and impose this sanction”.

27. The Committee considered the other orders which it could impose in combination with a severe reprimand and concluded that such a course of action would not be appropriate or sufficient to protect the public interest. The Committee had regard to E 2.2 of the Guidance for Disciplinary Sanctions which states:

“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. It is a cornerstone of the public value which an accountant brings.”

28. The Committee was mindful that the sanction of removal from the student register is the most serious sanction which could be imposed. The Committee also took into account the guidance that this sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a member. The Committee was satisfied that Mr Wang’s misconduct reached that high threshold.
29. For all of the above reasons, the Committee concluded that the only appropriate and proportionate sanction was removal from the student register.

DECISION ON COSTS AND REASONS

30. ACCA applied for costs in the sum of £5,411.00. Taking into account the reduced cost of a remote hearing, and Mr Wang’s early admissions and cooperation with the investigation, the Committee considered that a reasonable amount of costs should be £2,750.00. The Committee was not provided with any information from Mr Wang as to his ability, or otherwise, to pay those costs. The Committee ordered that Mr Wang pays ACCA’s costs in the sum of £2,750.00.

31. The Committee did not deem it necessary to make any immediate orders.

Ms Carolyn Tetlow
Chair
12 May 2020