

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Jiaqi Li
Heard on:	Thursday, 05 November 2020
Location:	Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU
Committee:	Mr Andrew Popat CBE (Chair) Ms Joanne Royden-Turner (Accountant) Ms Sue Heads (Lay)
Legal Adviser:	Mr Iain Ross (Legal Adviser)
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Nkechi Onwuachi (Hearings Officer)
Observers:	None
Summary	Removed from the student register
Costs:	£5,160.50

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

1. The Committee heard an allegation of misconduct against Miss Jiaqi Li. The hearing was conducted remotely through Skype for Business so as to comply with the COVID 19 Regulations. Ms Terry appeared for ACCA. Miss Jiaqi Li was not present and was not represented. The Committee had a main bundle of papers numbered pages 1 to 41, a schedule of anonymity consisting of 1 page and a separate service bundle numbered pages 1 to 14.

PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

2. The Committee heard that notice of this hearing was sent to Miss Li by email on 07 October 2020. The Committee was satisfied that the notice contained the required information and had been sent more than 28 days in advance of the hearing as required by the Regulations. Accordingly, the Committee was satisfied that notice of the hearing had been properly served.
3. Ms Terry applied for the hearing to proceed in Miss Li's absence. She informed the Committee that Ms Li had not replied to the Notice of Hearing and had not engaged with ACCA. Ms Terry submitted that Miss Li appeared to have voluntarily absented herself and had not applied for the hearing to be adjourned.
4. The Committee considered whether to proceed in the absence of Miss Li with the utmost care and caution. It noted that Miss Li had provided no reason for her non-attendance and had not applied for the hearing to be adjourned. She appeared to have absented herself voluntarily and had not indicated a willingness to attend any adjourned hearing. Taking into account the public interest in the hearing proceeding expeditiously, the Committee decided to proceed in Miss Li's absence.

ALLEGATION / BRIEF BACKGROUND

5. Miss Jiaqi Li registered as a student member of ACCA on 05 June 2017. ACCA alleged that during a Financial Management Examination on 06 December 2019, Miss Jiaqi Li was in possession of unauthorised materials, namely a piece of paper containing formula which she intended to use in order to gain an unfair advantage.

Allegation

1. During a Financial Management examination on 06 December 2019, Miss Jiaqi Li was in possession of unauthorised materials, namely, a piece of paper containing formula and notes relevant to the syllabus being examined, contrary to Examination Regulation 4.
2. Miss Jiaqi Li intended to use the unauthorised materials set out at 1 above to gain an unfair advantage.
3. Miss Jiaqi Li's conduct in respect of 1(b) above was:
 - 3.1. Dishonest, in that Miss Jiaqi Li intended to use the unauthorised materials to gain an unfair advantage; or in the alternative.
 - 3.2. Contrary to the Fundamental Principle of Integrity (as applicable in 2019);
4. By reason of her conduct, Miss Jiaqi Li is:
 - 4.1. Guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out at 1 and 2 above; or
 - 4.2. Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of 1 above.

DECISION ON FACTS / ALLEGATION AND REASONS

6. ACCA did not call any live witnesses and relied on statements and reports from the witnesses involved in the examination process and information from Miss Li herself in the form which she filled in after the discovery of the unauthorised material. It was not disputed that Miss Li attended the exam centre on 06 December 2019 to sit the Financial Management examination. Miss Li admitted the facts of Allegation 1 and Allegation 2 in the SCR 2B Form provided to her by the Invigilator after the unauthorised material was discovered.
7. The evidence of the exam Invigilator was that the unauthorised material which contained detailed formulae and written notes was found in Ms Li's possession during the course of the exam.
8. When questioned by the exam Invigilator, Miss Li accepted that she had brought the unauthorised material into the exam and that she intended to use the material to obtain an unfair advantage.
9. In the Examiner's Irregular Script Report, the Examiner confirmed that the material was relevant to the syllabus and to that particular examination.
10. On the basis of the witnesses' evidence and the admissions made by Ms Li, the Committee concluded that Miss Li had intentionally brought unauthorised materials into the exam. The Committee also found that by having unauthorised materials, namely notes containing formulae relating to relevant topics at her exam desk, she was in breach of Examination Regulation 4. It also found that the notes were relevant both to the syllabus and to the particular exam.
11. Examination Regulation 6 states 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 she did not intend to use the unauthorised materials or item to gain such an unfair advantage. The

Committee was satisfied that Miss Li had not rebutted the presumption and she admitted that she intended to use the unauthorised materials to obtain an unfair advantage.

12. The Committee found it proved, on the balance of probabilities that Miss Li intended to use the unauthorised materials in order to obtain an unfair advantage. The Committee found Allegations 1 and 2 proved in their entirety.
13. On the basis of the findings already made, the Committee was satisfied that Miss Li intended to cheat in the exam. It was satisfied that intending to cheat amounted to dishonest behaviour. Accordingly, the Committee found Allegation 3.1 proved and did not consider the alternative.
14. Having found that she acted dishonestly, the Committee had no doubt that Miss Li'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 4.1 proved and did not consider the alternative.

DECISIONS OF SANCTIONS AND REASONS

15. The Committee heard submissions from Ms Terry on behalf of ACCA. The Committee received advice from the Legal Adviser and had regard to the Guidance for Disciplinary Sanctions.
16. The Committee noted that the matters found proved against Miss Li were very serious. The Committee considered the aggravating factors to be that Miss Li's misconduct was premeditated, intended for her own benefit and undermined the trust which the public rightly have in ACCA. Her dishonest conduct was directly related to her student registration. Further, apart from her initial admissions, Ms Li had failed to co-operate with ACCA's investigation or engage with the disciplinary process. She had, therefore, failed to show any remorse or insight into the effect which her conduct had on the reputation of ACCA and her intended profession.

17. As mitigating factors, the Committee took into account that Miss Li had made initial admissions although she subsequently did not engage with ACCA. Further, she has no previous disciplinary record,
18. 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.
19. 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.
20. 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”*. The Committee considered that most of the factors applicable to a Severe Reprimand were not applicable in this case, particularly the lack of insight and remediation, lack of relevant testimonials and Miss Li’s failure to co-operate or engage with ACCA.
21. 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.”

22. 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 Miss Li's misconduct reached that high threshold.
23. For all of the above reasons, the Committee concluded that the only appropriate and proportionate sanction was removal from the student register. The Committee did not deem it necessary to impose any minimum period before which Miss Li can re-apply for admission as a student member.

DECISIONS ON COSTS

24. ACCA applied for costs in the sum of £5,753.00. The Committee was not provided with a statement of means or any information as to Miss Li's means. The Committee took into account that the hearing of this matter took less time than anticipated and reduced the Case Presenter's and Committee Officer's costs to take that into account. The Committee concluded that Miss Li should pay a contribution to ACCA's costs in the sum of £5,160.50.
25. The Committee did not deem it necessary to make any immediate orders.

Mr Andrew Popat CBE
Chair
05 November 2020