

**HEARING
DISCIPLINARY COMMITTEE OF THE
ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Miss Zhao Xinghan

Heard on: Tuesday, 10 December 2019, Thursday, 12 March 2020, Monday 05 and Tuesday 06 October 2020

Location: ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU and remotely on 05-06 October 2020

**Committee: Mrs Judith Way (Chair),
Mr William Hay (Accountant)
Dr Pamela Ormerod (Lay Member)**

Legal Adviser: Mr Richard Ferry-Swainson

Persons present

**and capacity: Miss Elizabeth Acker (Case Presenter on 10 December 19)
Miss Harriet Gilchrist (Case Presenter on 12 March 20)
Mr Phillip Law (Case Presenter on 05 and 06 October 2020)
Miss Geraldine Murray (Hearings Officer)
Mr Yali Quan (Mandarin interpreter for Miss Zhao)**

Observers: None

**Summary: All facts and misconduct found proved
Removed from the student register
Costs payable to ACCA of £2000.00**

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10 DECEMBER 2019

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider an Allegation against Miss Zhao, who attended by telephone and represented herself, assisted by an interpreter.
2. The papers before the Committee were in a bundle numbered 1 to 80, plus two additional bundles numbered 1 to 36 and 1 to 7. There was also a service bundle numbered 1 to 28.

PRELIMINARY MATTERS

3. ACCA relied on one witness, Person A, an Education Development Manager for ACCA in China. Up until shortly before the hearing, there had been no communication from Miss Zhao and it was not known whether she would participate in the hearing. On that basis, Person A had not been warned to attend the hearing because it was not anticipated that there would be any challenge to their evidence. On the Case Management Form, dated 27 November 2019, Miss Zhao indicated she would not be attending the hearing, but provided an explanation for her actions and a proposed defence. However, shortly before the hearing Miss Zhao indicated that, if possible, she wished to participate in the hearing by telephone.
4. On the day of the hearing, Miss Zhao was very keen to proceed but indicated that she had questions for Person A and wished to challenge some of what they said. It was, therefore, necessary for ACCA to arrange for Person A to be available to give evidence. Since it was clear the hearing would inevitably go part-heard and have to be adjourned to another date, Miss Acker indicated that on the day the case resumed ACCA would ensure Person A was available to give evidence by telephone. Miss Zhao indicated that she did not object to Person A giving evidence in this way.
5. The allegations were then put to Miss Zhao, who indicated that she denied all matters alleged against her.

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ALLEGATIONS/BRIEF BACKGROUND

6. It is alleged that Miss Zhao is liable to disciplinary action on the basis of the following Allegations:
 - 1) Miss Zhao Xinghan /赵星涵 a registered ACCA student between December 2018 and 11 February 2019, caused or permitted an advertisement to be placed on the Taobao web site in which she offered to sit one or more of the modules (units) of the ACCA Ethics and Professional Skills exam for others in exchange for a fee.
 - 2) Miss Zhao Xinghan /赵星涵, contrary to Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, failed to co-operate fully with the investigation of a complaint in that she failed to respond at all to all of ACCA's correspondence dated:
 - (a) 29 January 2019;
 - (b) 19 February 2019; and
 - (c) 13 March 2019.
 - 3) By reason of Miss Zhao's conduct in respect of Allegation 1 is guilty of misconduct, pursuant to byelaw 8(a)(i)
 - 4) By reason of Miss Zhao's conduct in respect of Allegation 2 is
 - (i) Guilty of misconduct, pursuant to byelaw 8(a)(i) or in the alternative
 - (ii) Liable to disciplinary action, pursuant to byelaw 8(a)(iii).
7. Miss Acker then opened the case on behalf of ACCA.
8. Miss Zhao first registered as an ACCA student on 25 January 2018 and remains an ACCA student.
9. In late December 2018/early January 2019, Person A, the Education Development Manager, ACCA China came across a Taobao webpage where they found ACCA

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student Miss Zhao Xinghan / 赵星涵 (ACCA ID: 424675) had, in an advertisement placed on the web page, offered to sit modules (more accurately units) of ACCA's Ethics and Professional Skills Module for others in exchange for a fee. Accordingly, Person A referred Miss Zhao to ACCA Investigations.

10. Person A explained that the seller referred to on the Taobao webpage had offered to *"provide long term paid service to take the online ACCA Ethics and Professional Skills modules (EPSM) exam for others"* and would charge RMB150 (Renminbi) for all EPSM modules or RMB25 for sitting each module. The ACCA Ethics and Professional Skills exam contains 7 units.
11. Person A believed the owner of the above Taobao webpage to be ACCA student Miss Zhao Xinghan / 赵星涵 ACCA ID: 4242675, as the seller indicated they had completed the EPSM themselves (this was confirmed by ACCA's records) and produced a copy of their EPSM certificate of success with their student number, all in the name of Xinghan Zhao.
12. On 29 January 2019, ACCA wrote to Miss Zhao at her registered mailing and email address to seek her comments in relation to the investigation and asked her to take down the Taobao webpage.
13. The mailing and e-mail address the initial correspondence was sent to matched Miss Zhao's registered mailing and e-mail addresses as they appeared in ACCA's member's databases on 29 January 2019. Miss Zhao was invited to respond by 15 February 2019.
14. ACCA did not receive a response from Miss Zhao. A chaser letter and email were sent to her on 19 February 2019 to her registered mailing and email address. Miss Zhao was also warned that an additional allegation of failure to cooperate may be brought against her if she did not respond to the letter by 12 March 2019. The address the letter was sent to matched Miss Zhao's registered e-mail address as it appeared in ACCA's member's database on 19 February 2019.
15. In addition, Miss Zhao was again asked to take down the Taobao webpage. As of 11 February 2019, the Taobao webpage containing the advertisement was still up.

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16. ACCA did not receive a response from Miss Zhao. A final chaser letter and email were sent to Miss Zhao on 13 March 2019, to her registered mailing and e-mail addresses. Miss Zhao was again warned that an additional allegation of failure to cooperate may be brought against her if she did not respond to this chaser by 03 April 2019. The address the chaser was sent to matched Miss Zhao's registered e-mail address as it appeared in ACCA's member's database on 13 March 2019.
17. In addition, Miss Zhao was again asked to take down the Taobao webpage. As of 13 March 2019, the Taobao webpage was still up.
18. As of 05 August 2019, ACCA had not received a response from Miss Zhao and none of the correspondence sent to Miss Zhao was returned to ACCA.
19. At the conclusion of Miss Acker's opening address to the Committee the case was adjourned to 12 March 2019. Due to unavoidable delay the case had not been able to commence until after 1pm, which for Miss Zhao was 9pm, China being 8 hours ahead of the UK. It was thus clear that the case could not be concluded within the time available and taking into account the late hour in China. Furthermore, as indicated in the preliminary matter above, Miss Zhao wished to asked questions of Person A and thus arrangements had to be made to secure their attendance.

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20. The hearing resumed on 12 March 2020, with the same people present, save for the Case Presenter on behalf of ACCA, who was Miss Gilchrist. Miss Zhao again attended by telephone. She was unrepresented and assisted by an interpreter.
21. In addition to the papers before the Committee on 10 December 2019, the Committee was provided with: a transcript of the hearing on 10 December 2019; a copy of the public and private reasons for the hearing in December 2019; tabled additional bundle 1, numbered 1 to 46; a service bundle numbered 1 to 9.
22. Person A, with the assistance of the interpreter, gave evidence over the telephone, as had been agreed at the hearing on 10 December 2019. They confirmed the content of their statement and stood by it. They were asked questions by Miss Zhao.

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They confirmed that the information for sale on the website had Miss Zhao's certificate and name. They added that they had seen the information on a platform called Xianyu, a subsidiary of the Taobao website. Taobao is an online shopping website and Xianyu is the customer to customer platform on Taobao's website. Person A said the advert stated the seller provided "long-term paid service to take the online EPSM exam for others" and that this was done "speedily and will guarantee passing the exam." Person A said that after they had seen this sale information on the website they were responsible for collecting the information and submitting it to the internal investigation department. They were not, however, responsible for the investigation of the seller's information.

MISS ZHAO'S CASE

23. In her response, dated 27 November 2019, to the Notice of Hearing, Miss Zhao denied the allegations and said:

"1. Firstly, I'm not intentionally don't fully cooperate with the investigation, but not received the mail and email as a junk mail, because there are too many fraud email messages in China, most people around lose their personal property because of this, so I didn't open link to download the related content and I have consulted my teacher at that time when she thought it was normal push email without care, and I don't know about this related content, though I feel deeply sorry for not timely reply to the mail of case investigation.

2. Secondly, I didn't cause or permitted this behaviour. At the end of 2018, I finished EPSM and saw many students discussing and asking about this module on social networks. I summarized as a short article (not including any unreasonable content) only related to the introduction content of the official website and various educational institutions. I shared it several times on the Internet. I also attached the screenshot of my completion certificate with the article. I encouraged students to persevere in learning all the learning contents of ACCA, which was recognised by students. When sharing for the first time, some students suggested adding my own name to prevent others from stealing my articles, so I added my own name, but I didn't expect that this would expose my multiple types of personal information, and make people with ulterior motives get the way to steal

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information. In today's social networks in China, information can be easily counterfeited, stolen and used. I often receive all kinds of fraud calls, but the other party knows my identity information like the palm of his hand. And when I receive the official email, I do not believe it easily, but repeatedly confirm it which may delay the response time.

3. At present I have reported the situation mentioned in this case to the relevant platforms and departments and asked the other party to stop stealing my various information and use my information to make false propaganda in exchange for a fee. The relevant platforms and departments have imposed severe penalties such as off the shelf and blocking and will hold this party responsible for stealing my information.

4. I have been reviewing examinations and taking care of my family step by step. I didn't expect this to happen when I was busy. I'm sorry that I couldn't attend the hearing due to the geographical and personal physical reasons. At the same time, I'm also the victim and I feel sorry for the problems caused by the stolen information to ACCA. Therefore, I hope that judges and officials will give a fair judgment on this matter. In the future, I will pay more attention to protecting my information security in the process of communication, and I hope to continue to complete the next study and examination of ACCA on the premise that conditions permit."

24. In an email dated 07 February 2020, Miss Zhao provided photographs of her Teacher Qualification Certificate of the People's Republic of China, dated 10 July 2018. She asserted that before being granted such a certificate, candidates are subjected to an ethics investigation which they have to pass.
25. Miss Zhao chose not to give evidence, but instead to make submissions to the Committee. As in her written submissions, she said that after she had completed the EPSM module she wrote a short article which she shared on the internet with "*kind intention for the benefit of the public and in the form of photos.*" She added that she used her certificate as an example and reminded people that they should download and keep safe their certificate after they had completed the module. She said she put her name on the article, which "*enabled people with unhealthy intentions to steal my information and use it to spread false advertising.*" She said

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that Person A's conclusion that she was responsible was based on the assumption that the advertisement information was genuine, when in fact the Xianyu website does not guarantee the truthfulness of the information placed on its website. She said the photo with her name was stolen from the photo she shared.

26. With reference to her failure to respond to ACCA's emails, she said that she had thought they were junk mail because the sender was not from the email address she normally saw and they just contained a link and a password. She apologised and said that it was not her intention not to cooperate. She said she consulted her teacher many times regarding the emails and what impact they would have upon her studies. She said her teacher's reply was that *"they were unsolicited official emails. You do not have to take notice."* However, once she had confirmed they were genuine she tried to contact, by email, the *"account of the advertisement"* and asked them to stop unlawfully using her information. However, she did not receive any reply to her email. Miss Zhao said that before she received the email from ACCA notifying her about the hearing she had not been aware of *"this serious situation, namely my personal information was falsely used to publish untrue advertisement."* She said she seldom used emails and relied on the opinion of her teacher and so did not contact ACCA to see if the emails were genuine.
27. When being asked questions of clarification by the Committee, Miss Zhao said that when she learned about her details being used, she tried to contact the account owner to ask them to stop using her personal information to publish the untrue advertisement, but she did not get any reply. She then lodged a complaint with customer services and received a call from the complaints centre, suggesting the two parties should either discuss and settle the matter, or settle it by legal action. Miss Zhao said that when she then tried again to contact the account owner, she could not even find the account on the platform because the account had been cancelled. When asked if she had a record of the contact she had described, Miss Zhao said that she did not know that she should have kept a record of the contact because she was not very experienced with legal matters. She said, however, that she did have the screenshot of the complaint she had made and that she would send that to the Hearings Officer.
28. When asked by a Committee member when she had spoken to her teacher about the ACCA emails received in January, February and March 2019, Miss Zhao said

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she consulted her teacher several times between April and November 2019. She said that after she received the notification of the hearing in November 2019, she consulted her teacher again. She said she could ask her teacher to provide a statement.

29. During Miss Zhao's submissions the Committee asked her whether she had any additional documentary support for her account. Miss Zhao said that she might have and she would look for it over the luncheon adjournment.
30. After the luncheon adjournment Miss Zhao provided two further pages of evidence she wished to rely on. However, they were written in Chinese and Miss Gilchrist objected to them being relied on at that stage without ACCA having the opportunity to translate them and to then know whether further enquires needed to be made and/or objection made to their relevance. She also referred the Committee to the Regulations which require a member to provide any documentary evidence they wish to rely on at least 21 days before the hearing date and she said that Miss Zhao had had many months to provide any documents she wished to rely on.
31. The Committee noted Miss Gilchrist's submissions that Miss Zhao had plenty of opportunity to provide documents she wished to rely on in advance of the hearing. However, it took into account the fact that she was not legally represented and the documents she had just provided were in effect at the invitation of the Committee. That said, the Committee accepted Miss Gilchrist's submissions that ACCA should be allowed time to have the documents translated in order to then be able to decide whether to object to their admissibility. That was not something that could be done straight away. The Committee was also aware that in China it was approaching midnight. It was clear, therefore, that this case could not be concluded at this sitting.
32. In addition, as referred to above, during her submissions the Committee had asked Miss Zhao if she had obtained a statement from her teacher about the conversation they had had about ACCA's emails. Miss Zhao said she had not done so but could try and do so if required.
33. The Committee, therefore, decided to adjourn the hearing and to resume on a date to be arranged, when Miss Zhao could conclude her case. It directed that

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Miss Zhao provide any further evidence such as a statement from her teacher and/or other evidence to show why she had not opened ACCA's emails to ACCA, or any other evidence she wished to rely on, by 09 April 2020 at the latest.

05-06 OCTOBER 2020

34. The case resumed on 05 October 2020 and because of the restrictions in place due to the COVID-19 pandemic, was heard remotely using Skype. The same people were present, save for the Case Presenter on behalf of ACCA, who was Mr Law. Miss Zhao again attended, she was unrepresented and assisted by an interpreter.
35. In addition to the papers before the Committee on 10 December 2019 and 12 March 2020, the Committee was provided with: a 2 page letter sent to Miss Zhao on 08 September 2020 informing her that the case would be resuming on 05 and 06 October 2020 and would be conducted remotely due to the current pandemic; an Additional bundle, numbered 1 to 75; a transcript of the proceedings from 12 March 2020; a Service bundle numbered 1 to 15; and a Costs bundle, numbered 1 to 4.
36. The Additional bundle contained a number of documents produced by Miss Zhao, which had been translated into English. It included a screen shot of an email exchange between Miss Zhao and a recipient "acca-rz02@gaodun.cn". The exchange was as follows:

11.41pm on 14 April 2019, from Miss Zhao to acca-rz02

Hello, Teacher! When I was checking my email recently, I found a few emails whose purpose I didn't understand, and they were sent a few months ago. I didn't notice it at that time, and I attached a screenshot below. Could I bother you to figure out what consequence this will have?

10.20am on 15 April 2019, from acca-rz02 to Miss Zhao

*Hello,
No consequence!*

1-24am on 15 April 2019 from Miss Zhao to acca-rz02

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Okay!

37. Miss Zhao added on the page containing the screenshot of that email exchange the following:

“The teacher who communicated with the students has been gone since 2019. Therefore, he cannot provide me with the relevant proof.

It can be proven from the screenshots above that the student, Zhao Xinghan, asked the relevant teachers in time after receiving the email, but because such problems are relatively rare, and neither the teachers nor the students paid attention to these emails sent by ACCA, this led to a series of subsequent problems. . I hope that the committee of the hearing can be more understanding and accommodating and handle everything leniently.”

38. In the same bundle, Miss Zhao produced a document entitled “1. Post Office Certificate” dated 17 March 2020 and which purported to be from the Dongying City Post Office Shida Sales Department. The original document, which had been translated into English, was not on any form of headed notepaper, but simply typed onto a plain piece of paper, although it did have some form of a stamp on it. The ‘Certificate’ stated:

“From January 2019 to March 2020, our sales department has not been distributing international standard letters addressed to Zhao Xinghan, which are sent from the UK to the recipient address: Room 401, House 2, Building 36, 2nd North Road 418, Dongying City, Shandong Province. This is hereby certified.”

39. No reason was given for why such specific letters sent from the UK were not being delivered to Miss Zhao during that period.

40. In the Additional bundle Miss Zhao also produced a further translated document, which in English stated:

“My email communication records with the teacher

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This section lists the mail records about my communication with the teacher. The mail record certificate and statement issued by the team to which the teacher belongs are in another file called "mail exchange certificate". As stated in the document, the teacher who replied to my email in April 2019 has been gone since leaving in 2019, so he cannot provide me with the relevant proof. Therefore, the teacher's team and I each sorted out the mail exchange records at that time and submitted them to the committee of the hearing who can contact the teacher's mailbox in the picture to confirm. It should be noted that I used my personal email to communicate with the teacher, and it is not convenient for me to disclose my personal email. Therefore, for my personal mailbox address, I have reached a consensus with the team to which the teacher belonged to protect my personal information. In addition, here I have listed all other relevant mail records of my communication with the teacher's team as a supplement."

41. Miss Zhao said that after seeing the email on 11 November 2019 from ACCA, she had the following email exchange with her teacher:

2.29pm on 11 November 2019, from 'My own mailbox' (Miss Zhao explained that this was her personal email address which she wished to keep private) to acca-rz02

Teacher, please look at the email I received in my ACCA mailbox (see the attachment below). What is the matter? A hearing?? -

4.46pm 11 November 2019, acca-rz02 to Miss Zhao

Dear,

Hello, can you provide any detail about the email? And when did you receive this email? Has there been any email about a "Hearing" before this email?

Hope to know

Thank you

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Person B

ACCA INTERNATIONAL CERTIFICATION SPECIALIST

Tel: 021-31765443

Mail: acca-rz02@gaodun.cn

Web: www.gaodun.cn

Add: Golden Education, Building A3, No 171 Huayuan Road, Hongkou District, Shanghai

5.20pm 11 November 2019, from 'My own mailbox' to acca-rz02

I received it on November 8th. There was no email about a hearing before, but there is an email with the same sender address, and the sender's name is very messy. I took a screenshot of the email in the attachment.

The last picture is this kind of mail that shows "forwarding", and also gave the password to give way to the link and the like

Looking forward to your reply

6.12pm 11 November 2019, from acca-rz02 to Miss Zhao

Dear,

Hello, the official PDF for you is in the attachment. Please read the relevant content carefully. I will write an email to the official for you later, asking about the Hearing. I will inform you as soon as possible after the official reply.

Hope to know

Thank you

GOLDEN FINANCE [etc]

8.34am 12 November 2019, from 'My own mailbox' to acca-rz02

Hello, Teacher! First of all, I made sure that I had never cheated or committed

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other violations. Secondly, I looked at the inbox, and now in the deleted mail. Please take a closer look at the screenshot in my attachment, which shows that I took a total of 4 quarter exams (1-5 free exams): 2018.6, 2019.3, 2019.6, and 2019.9. But I received all the emails that required the download file to be opened with a password in January, February, March, August, and September respectively. (Not a password change email) I got no response in my ACCA account, and I did not care, as there was no additional payment, etc. Thus, I was not in the disciplinary record on the official website.

When I checked my mailbox today, I didn't know why the email from Anna was gone. There were only two other ones left. Like the previous mail received in January, February, March, August, and September, there were only those two left. I did not succeed in cancelling the rejection in the mailbox, so they are still in the deleted emails. It is not clear to me what happened. If what I have reported is unclear, please call me to elaborate.

Looking forward to your reply

9.46am on 12 November 2019, from acca-rz02 to Miss Zhao

Dear,

Hello, I have emailed your problem to the official. Please wait for the official reply. You can also log in to check your email and follow up on the official reply progress in a timely manner.

Hope to know

Thank you

GOLDEN FINANCE [etc]

2.32pm on 14 November 2019, from 'My own mailbox' to acca-rz02

Teacher, once again I received an email with the same address saying that I should provide a phone number and email address.

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Could you please give me a call? Quite urgent

3pm on 14 November 2019, from 'My own mailbox' to acca-rz02

Teacher, don't click on the file link first. I don't know if it's true or false. There may be a virus. I didn't have an exam before January and February, and that address also sent me an email file that requires a password to open, and ACCA has not yet responded to me from the usual email address

11.58am on 15 November 2019, from acca-rz02 to Miss Zhao

Hello, I have already replied to one of the emails and asked the question about the hearing again. This problem is really rare. I hope to get an official reply as soon as possible.

In addition, I hope you can contact the official ACCA customer service (0044141 5822000) and ask them about this situation because the specific situation of the test is relatively clear to you. I hope ACCA customer service can help you.

Hope to know

Thank you

GOLDEN FINANCE [etc]

42. There followed two further emails from acca-rz02 to Miss Zhao, one in March 2020, where he said, *"Hello, I have helped you integrate our email exchanges into a pdf file. You can check it out. I hope it can help you. If you have any additional questions, please contact me by phone or email. In addition, I hope your third round of hearings will go well."* The second one was in April 2020, where he stated, *"Hello, the certification teacher who communicated with you has already resigned and cannot provide you with relevant proof, so I sorted out the emails with you at that time. I hope that it can help you."*

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43. Miss Zhao continued her submissions at the resumed hearing in October 2020 and explained the documents she had provided, as detailed above, and which, she said, supported her case.

DECISION ON FACTS/ALLEGATION AND REASONS

44. The Committee considered with care all the evidence presented and the submissions made by the parties. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.
45. The only witness to give live evidence in the case was Person A. The Committee found them to be a generally helpful witness, who was credible and able to provide evidence about the posting on the website and what had aroused their suspicions. Their evidence was limited to that extent, however, since she then referred the matter for investigation.
46. Miss Zhao, as is her right, chose not to give evidence, but rather to make submissions. She was aware that this might affect the weight to be attached to what she had to say. She also provided further documents which she said supported her case. For the reasons given below, the Committee found Miss Zhao's account to be largely implausible and the documents she provided did not provide the support for her version of events as she claimed.
47. There was clear evidence that an advertisement was placed on the Taobao website, or a subsidiary thereof, by someone purporting to be Xinghan Zhao, offering to sit the EPSM exam for others for a fee. The issue for the Committee to determine was whether, on the balance of probabilities, Miss Zhao caused or permitted the advertisement to be placed. Miss Zhao denied any responsibility for the advertisement, asserting that someone else, without her knowledge, had used her details from an article she had written and posted on the internet. She said she was not able to now provide a copy of that article. She said she had written to complain to the website but again was not now able to produce any documentary evidence to support that assertion. Instead she produced a generic page, but no evidence of a specific complaint. This, therefore, provided no assistance to the Committee. ACCA relied on the fact that the seller on the advertisement, named Xinghan Zhao, indicated they had completed the EPSM themselves and produced

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a copy of their EPSM certificate of success. ACCA records confirmed that Miss Zhao had indeed successfully completed the EPSM in December 2018 with a mark of 100. That result was recorded on 01 January 2019 and mirrored the Certificate of Success posted in the advertisement.

48. It was not until the November 2019 email and the mention of a hearing that Miss Zhao provided her explanation to the matters alleged, having not responded to the correspondence from ACCA sent in January, February and March 2019. Notwithstanding her account that she thought the three emails were junk mail, the Committee considered it dubious that she had not provided her explanation at the first possible opportunity had she been the innocent victim of identity theft she purported to be. It was also notable that she did not, on receiving those emails, contact ACCA, which would have been the obvious thing to do if she was in any doubt about their veracity. Furthermore, there followed further emails from ACCA in August and September 2019, which Miss Zhao did not respond to either.
49. Miss Zhao's explanation had not been given in oral evidence and so had not been tested by cross-examination and, accordingly, the Committee gave it less weight than would otherwise have been the case. It took into account the fact that she was not legally represented, that English was not her first language and that she had been assisted by an interpreter. However, she seemed quite capable of conveying her account in her submissions and answers to the Committee's questions. The Committee considered what possible motive someone unconnected with Miss Zhao might have for placing such an advertisement and using her details. It was possible that someone obtained Miss Zhao's certificate and photograph and then used it without her knowledge, but the Committee considered this possibility to be implausible. The more likely explanation was that Miss Zhao had provided the certificate and either placed the advertisement herself or arranged with someone else for it to be done. The Committee considered this to be a reasonable and appropriate inference to draw on the evidence and concluded that, on the balance of probabilities, Miss Zhao had indeed been responsible for placing the advertisement. Accordingly, the Committee found Allegation 1 proved.
50. Offering to sit one or more modules of the ACCA Ethics and Professional Skills exam for others brings discredit on Miss Zhao, the Association and the accountancy profession as a whole and is clearly an act which falls seriously short of what is to be expected of student members. Such behaviour was aggravated by the

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commercial element of Miss Zhao charging a fee for her service. The Committee was satisfied that other members of the profession would find such conduct deplorable and was in no doubt that it amounted to misconduct. Accordingly, the Committee found Allegation 3 proved.

51. The Committee was advised by the Legal Adviser that the duty to co-operate with an ACCA investigation is absolute, that is to say, every relevant person is under a duty to co-operate with any Investigating Officer and any Assessor in relation to the consideration and investigation of any complaint. A failure, or partial failure, to co-operate fully with the consideration or investigation of a complaint shall constitute a breach of the regulations and may render the relevant person liable to disciplinary action. Miss Zhao failed to respond to any of the correspondence sent to her by the Investigating Officer on the three dates specified in Allegation 2. She was asked in the correspondence to comment on the matters alleged and also to take down the Taobao webpage. In the correspondence sent in February and March 2019, Miss Zhao was also warned that a failure to respond might result in an allegation of failure to cooperate with ACCA. The Committee noted that the correspondence was sent by post to Miss Zhao's registered address and also by email to the email address provided by Miss Zhao when registering with ACCA.

52. With reference to Allegation 2, Miss Zhao said, *"First of all I want to express my deep regret for not responding to the ACCA emails promptly which resulted in waste of time and human resources by ACCA."* She added that it was never her intention not to cooperate with ACCA. She said that she was not trying to avoid responsibility, but that she did not receive any written correspondence from ACCA by post and the emails she thought were junk mail. The Committee considered the letter from the "Post Office" to be deeply odd, singling out specific post sent from the UK that would not be delivered, with no explanation for why this was the case or what prompted such a letter to be provided. However, whether or not she received the posted documents, Miss Zhao accepted she received the emails. She said the emails she received contained links and passwords, but because they were not from the normal ACCA address that she was used to, she thought it strange and so did not click to download the content of the emails. Miss Zhao said that she consulted with her teacher many times about the emails and her teacher said that because they were unsolicited emails, she did not have to take any notice of them. The Committee noted that this was not in fact reflected in the email exchange that she had provided to the Committee. However, once she confirmed that they were

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in fact genuine emails from ACCA, but only after being advised that there was to be a hearing, she said she tried to contact the account of the advertisement in response to the allegation in the report. She said she asked the account to immediately stop unlawfully using her information, however she did not receive a reply. She said she therefore reported this to the “platform” which did then take the account down and it was cancelled.

53. The Committee noted that she provided no independent evidence in support of this explanation, such as copies of her contact with the account holder or platform. When asked about this by the Committee, she said she did not know she should have kept a record of the contact as she was very inexperienced in legal matters. Her contact with the account had been by logging onto the platform and sending a message via the platform. She said she had not made a screen shot of that message. However, she thought she had a screen shot of the complaint she had made and she was asked to provide it. At the resuming hearing on 05 October 2020, Miss Zhao produced a screenshot: however, the screenshot she provided merely stated the below and did not identify any account or actual complaint:

Choose a reason for reporting the post

Sale of prohibited goods

Suspected fraud

Post content violates national laws and regulations

Pornographic, obscene, vulgar or other uncomfortable content

Release...

Confirm report?

The platform will deal with it according to the "Xianyu Convention"

Cancel Confirm

54. Miss Zhao said that because she did not have the experience of communicating in English and because she seldom used emails, she tended to rely on the opinion of her teacher. As a result, she did not contact ACCA to confirm whether the emails were genuine. This meant that she did not reply in time to the investigation emails. In support of this assertion, she provided the email exchanges in April 2019 and November 2019, referred to above.
55. By her own admission, Miss Zhao had received and failed to respond to the email correspondence sent to her by ACCA in January, February and March 2019.

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Accordingly, she had failed to co-operate with the investigation of a complaint as required by Paragraph 3(1) of the Complaints and Disciplinary Regulations 2014. The Committee, therefore, found Allegations 2(a), (b) and (c) proved.

56. Having found the facts proved in Allegation 2(a), the Committee then considered whether they amounted to misconduct. The Committee noted that Miss Zhao's initial position was that she thought the emails were junk mail and so she ignored them. However, in April 2019, when she contacted her teacher, what she wanted to know was what was the consequence of these emails on her membership and ability to sit further exams. She was told "*no consequence*" so she continued to ignore the emails. At no time prior to November 2019 did she consider contacting ACCA, either by email or telephone, to check the veracity of the emails or to enquire further about them. The Committee found her explanation to be implausible and considered it more likely that she chose not to respond because she knew she was in trouble for placing the advert referred to in Allegation 1.
57. The Committee is of the view that failing to co-operate fully with an investigation being carried out by her regulator into her alleged misconduct is a serious matter. A student member should not be able to frustrate, delay, or derail completely an investigation into their conduct. Being a student member of ACCA brings with it a duty to co-operate, both in relation to compliance with the Regulations and into the investigation of a complaint. The Committee was satisfied that such behaviour represented a serious falling short of professional standards and brought discredit upon Miss Zhao and also upon the profession and ACCA as regulator. It, therefore, decided that Miss Zhao's behaviour in failing to co-operate amounted to misconduct and that Allegation 4(i) was proved.
58. Having found Allegation 4(i) proved it was not necessary for the Committee to consider Allegation 4(ii), which was in the alternative.

SANCTION AND REASONS

59. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Law and those made by Miss Zhao. 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 Zhao, but to protect the public, maintain public confidence in the profession and maintain proper

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standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.

60. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
61. The Committee considered the following aggravating features: the degree of planning in producing the advert; the undermining of the integrity of ACCA's examination process; potential for harm to the public by others potentially passing an examination that they might otherwise not have passed, which meant they would not have been properly qualified; deliberate conduct motivated by personal financial gain; a repeated failure to cooperate with the investigation and to take down the advert over a period of many months; a lack of insight.
62. The Committee did not consider there to be any significant mitigating factors. Although Miss Zhao had expressed some remorse before the findings of fact it was not entirely clear what she was apologising for. The Committee noted that she had no previous disciplinary record with ACCA, but this carried little weight because her misconduct occurred so early in her association with ACCA.
63. The Committee considered all the options available from the least serious upwards with reference to the guidance issued by ACCA. The Committee considered Miss Zhao's deliberate and intentional misconduct to be particularly serious. Having successfully passed the EPSM exam, she decided to benefit financially from it by offering to sit the exam, or part of the exam, for others. It is not known whether anyone had actually taken up her offer, but had they done so they may have then passed the exam without the requisite knowledge. This behaviour seriously undermined the integrity of ACCA's examination process and may have resulted in persons obtaining ACCA qualifications that they were not entitled to. Miss Zhao's behaviour was aggravated by her failure to cooperate with the Investigating Officer's investigation of the complaint. Miss Zhao did not respond to the emails sent in January, February and March 2019 and did not arrange for the advert to be removed when requested. Consequently, the advert remained in place for many months. The Committee considered there was nothing remarkable or exceptional in Miss Zhao's case that warranted anything other than removal from the student register. She had shown very little insight into the seriousness of her behaviour and expressed limited remorse. No other sanction would adequately reflect the

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seriousness of her behaviour, which the Committee considered was fundamentally incompatible with membership of ACCA. Accordingly, the Committee concluded that the only appropriate and proportionate sanction was removal from the student register.

64. The Committee acknowledged the impact this decision would have on Miss Zhao and thought it was unfortunate that she had decided to behave in this way after having successfully passed the EPSM exam. However, this intentional conduct was such a serious breach of byelaw 8 that no other sanction would adequately reflect the gravity of her offending behaviour. The Committee considered that a failure to remove a student from the register who had set out to make money by assisting other students to cheat in their exams would seriously undermine public confidence in the profession and in ACCA as its regulator. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour would not be tolerated.
65. The Committee, therefore, ordered that Miss Zhao be removed from the student register.

COSTS AND REASONS

66. ACCA applied for costs in the sum of £11,946.50. The Committee was provided with a schedule of costs. However, Mr Law pointed out that the costs were wrong because of a miscalculation to his fees. The sum had been inflated by £2,060, giving the total costs of £11,946.50. Accordingly, the actual costs applied for by ACCA were £9,886.50. Mr Law said that ACCA were not claiming costs for the hearing in December 2019 and March 2020, but only for these two days in October 2020. The Committee was satisfied that the costs claimed were appropriate and reasonable.
67. Miss Zhao provided limited details of her income and expenditure in a statement of means, which indicated an income of £200 per month and outgoings of £150 per month. She had £1389 in savings, which had now decreased to approximately £1152. She said that her income and expenditure were not the same all the time, so she chose average figures. She said that at the moment she had about £67 left each month. In light of her limited means, the Committee decided to reduce the cost payable to £2,000.

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EFFECTIVE DATE OF ORDER

68. This order will have effect at the expiry of the appeal period, or at the conclusion of any appeal if one is made.

Mrs Judith Way

Chair

10 December 2019, 12 March 2020 and 05 and 06 October 2020

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SCHEDULE OF ANONYMISATION

Person A Miss Echo Jia

Person B Mr Scott Yan