

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

### **REASONS FOR DECISION**

<b>In the matter of:</b>	<b>Miss Ziyu Wang</b>
<b>Heard on:</b>	<b>Thursday, 03 September 2020</b>
<b>Location:</b>	<b>Remotely via the Adelphi, 1-11 John Adam Street, London WC2N 6AU</b>
<b>Committee:</b>	<b>Ms Carolyn Tetlow (Chair) Ms Jo Royden-Turner (Accountant) Ms Jackie Alexander (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Iain Ross</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Miss Geraldine Murray (Hearings Officer)</b>
<b>Observer:</b>	<b>Mr James Walker (ACCA Appointments Board)</b>
<b>Outcome:</b>	<b>Removal from the Student Register Costs awarded to ACCA in the sum of £4000.00</b>

#### **ACCA**



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1. The Committee heard an allegation of misconduct against Miss Ziyu Wang. The hearing was conducted remotely through Skype for Business (Audio only) so as to comply with the COVID 19 Regulations. Ms Terry appeared for ACCA. Miss Ziyu Wang was not present and was not represented. The Committee had a main bundle of papers numbered pages 1 to 84, a schedule of anonymity consisting of 1 page and a separate service bundle numbered pages 1 to 20.

## **PRELIMINARY APPLICATIONS**

### **SERVICE OF PAPERS/PROCEEDING IN ABSENCE**

2. The Committee heard that notice of this hearing was sent to Miss Wang by email on 06 August 2020. The Committee was satisfied that the notice contained the required information and had been sent not less than 28 days before 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 Wang's absence. She informed the Committee that Miss Wang had engaged with ACCA. She had provided her account of the facts in the Case Management Form which she had returned. Further, Ms Wang had replied to the Notice of Hearing by email dated 08 August 2020 in which she confirmed receipt of the Notice of Hearing and stated that she would not be attending. In a further email sent to ACCA dated 28 August 2020, Ms Wang stated that, "*I am happy for the hearing to proceed in your [sic] absence*". Ms Terry submitted that Miss Wang had voluntarily absented herself and had not applied for the hearing to be adjourned.
4. Having accepted the advice of the Legal Adviser, Committee considered whether to proceed in the absence of Miss Wang with the utmost care and caution. It noted that Miss Wang had expressly consented to the hearing proceeding in her absence and had not applied for the hearing to be adjourned. She appeared to have voluntarily absented herself 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 Wang's absence.

## **ALLEGATION / BRIEF BACKGROUND**

5. Miss Ziyu Wang registered as a student member of ACCA on 03 January 2018. ACCA alleged that during a Financial Management Examination on 07 June 2019, Miss Ziyu Wang was in possession of unauthorised materials in the form of notes which she had at her desk and which she intended to use in order to gain an unfair advantage.

### **Allegation 1**

- (a) During a Financial Management examination on 07 June 2019, Miss Ziyu Wang was in possession of unauthorised materials which she had at her desk, contrary to Examination Regulations 4 and/or 5.
- (b) Miss Ziyu Wang intended to use any or all of the items set out at 1(a) above to gain an unfair advantage.
- (c) Miss Ziyu Wang's conduct in respect of 1(b) above was:
  - (i) Dishonest, in that Miss Ziyu Wang intended to use the unauthorised materials which she had in her possession while the exam was in progress to gain an unfair advantage; or alternatively
  - (ii) Contrary to the Fundamental Principle of Integrity (as applicable in 2019) in that such conduct demonstrates a failure to be straightforward and honest.
- (d) By reason of her conduct, Miss Ziyu Wang is:
  - (i) Guilty of misconduct pursuant to byelaw 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 byelaw 8(a)(iii), in respect of 1(a) above.

## **DECISION ON FACTS / ALLEGATION AND REASONS**

7. ACCA did not call any live witnesses. It relied on statements and reports from witnesses involved in the examination process and information from Miss Wang herself. It was not disputed that Miss Wang attended the exam centre on 07 June 2019 to sit the Financial Management examination. Miss Wang admitted the facts of Allegation 1 a) in an email and in the Case Management Form. Consequently, the Committee found proved Allegation 1(a) by virtue of her admission.
8. The evidence of the exam Invigilator was that Miss Wang had been seen putting a piece of paper which had been on her desk into a drawer. Miss Wang then removed the paper from the drawer and placed it back onto her desk under some scrap paper. At approximately 10.30am, 90 minutes into the 3-hour exam, the Invigilator seized the piece of paper which was described as being study notes and formulae.
9. When questioned by the exam Supervisor, Miss Wang accepted that the written notes which were at her desk, were her notes and that they were relevant to the exam. Miss Wang said that they were "study notes" which contained "*some formulas and words that I can't remember*". And the purpose for which she had the notes in her possession was, "*to avoid I forget the formula during the test*". Subsequently, in an email to ACCA dated 21 September 2019, Miss Wang stated, "*I admit that the notes are all related to the exam. They are important to me when preparing for the exam, and I am afraid that I can't remember. But I didn't look at it during the exam. I think it's more of a role in helping me to maintain a smooth mood. I can guarantee that I didn't use it to gain any test knowledge at least until I was discovered by the invigilator. Besides, this is the first time I have done this kind of behavior, and I really don't have the guts to use it.*"

10. The examiner's irregular script report identified that the unauthorised material consisted of two pages of "*detailed notes of Financial Management formulae and relationships and taxonomy*". There was no evidence, however, that they were used in the examination.
11. Taking into account all of the circumstances and the account given by Miss Wang, the Committee concluded that Miss Wang had intentionally brought unauthorised materials into the exam to use if necessary. The Committee also found that by taking unauthorised materials, namely notes containing formulae relating to relevant topics to her exam desk and keeping them with her until discovered by the Invigilator, Miss 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.
12. 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 she did not intend to use the unauthorised materials or item to gain such an unfair advantage. The Committee was satisfied that Miss Wang had not rebutted the presumption and had intended to use the unauthorised materials if she needed to, even though there was no direct evidence that she had actually done so.
13. The Committee found it proved, on the balance of probabilities that Miss Wang intended to use the unauthorised materials in order to obtain an unfair advantage and accordingly found Allegation 1(b) proved.
14. On the basis of the findings already made, the Committee was satisfied that Miss Wang intended to cheat in the exam if the need arose. It was quite satisfied that intending to cheat amounted to dishonest behaviour. Accordingly, the Committee found Allegation 1(c)(i) proved and did not consider the alternative.
15. Having found that she acted dishonestly, the Committee had no doubt that Miss 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**

16. 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.
17. The Committee noted that the matters found proved against Miss Wang were very serious. The Committee considered the aggravating factors to be that Miss Wang'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 which she had held for less than a year at the time.
18. As mitigating factors, the Committee took into account that Miss Wang had co-operated with the investigation and made proper admissions as a result of which ACCA did not need to call live witness evidence.
19. Whilst she has expressed remorse, the Committee was not satisfied that Miss Wang had demonstrated any meaningful insight into the potential impact of her actions on other students and the reputation of the profession.
20. 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.
21. 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.

22. 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 some of the factors applicable to a Severe Reprimand were applicable in this case, however it also noted a lack of insight and remediation and a lack of relevant testimonials.
23. 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.”*
24. 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 Wang’s misconduct reached that high threshold.
25. 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 increase the minimum period during which Miss Wang cannot re-apply for admission as a student member.

## **DECISION ON COSTS AND REASONS**

26. ACCA applied for costs in the sum of £5,922.00. The Committee was not provided with a statement of means or any other information as to Miss Wang's means. The Committee took into account the high level of Miss Wang's cooperation and that the hearing of this matter took less time than anticipated and reduced the costs award to take into account those factors. The Committee concluded that Miss Wang should pay a contribution to ACCA's costs in the sum of £4,000.
  
27. The Committee did not deem it necessary to make any immediate orders.

**Ms Carolyn Tetlow**  
**Chair**  
**03 September 2020**