

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

### **REASONS FOR DECISION**

<b>In the matter of:</b>	<b>Mr CHEW Teck Cheng</b>
<b>Heard on:</b>	<b>Tuesday, 20 April 2021</b>
<b>Location:</b>	<b>Remotely via Microsoft Teams</b>
<b>Committee:</b>	<b>Mr Michael Cann (Chair) Ms Beth Picton (Accountant) Ms Yvonne Walsh (Lay)</b>
<b>Legal Adviser:</b>	<b>Mr Iain Ross</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Ms Anna Packowska (Hearings Officer)</b>
<b>Summary:</b>	<b>Excluded from membership.</b>
<b>Costs:</b>	<b>£6.000</b>

1. The Committee heard an allegation of misconduct against Mr CHEW Teck Cheng. The hearing was conducted remotely through Microsoft Teams so as to comply with the COVID 19 Regulations. Ms Terry appeared for ACCA. Mr CHEW Teck Cheng was not present and was not represented. The Committee had a main bundle of papers numbered pages 1 to 64, a separate service bundle numbered pages 1 to 19 and a costs schedule.

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## **PRELIMINARY APPLICATIONS**

### **Service of Papers/Proceeding in Absence**

2. The Committee heard that notice of this hearing was sent to Mr CHEW Teck Cheng by email on 23 March 2021. 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 Mr CHEW Teck Cheng's absence. She informed the Committee that, other than an email sent to ACCA dated 15 April 2021, Mr CHEW Teck Cheng had not engaged with ACCA and had not returned the Case Management Form. Ms Terry submitted that Mr CHEW Teck Cheng appeared to have voluntarily absented himself and had not applied for the hearing to be adjourned.
4. The Committee considered whether to proceed in the absence of Mr CHEW Teck Cheng with the utmost care and caution. It noted that Mr CHEW Teck Cheng had provided no reason for his non-attendance and had not applied for the hearing to be adjourned. The Committee noted the content of his very short email to ACCA dated 15 April 2021 in which he stated that, *"in this regard I would resign as ACCA with immediate effect"*.
5. The Committee concluded that Mr CHEW Teck Cheng had voluntarily absented himself 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 Mr CHEW Teck Cheng's absence.

### **6. ALLEGATION / BRIEF BACKGROUND**

Mr CHEW Teck Cheng, a Fellow of the Association of Chartered and Certified Accountants (FCCA);

1. Pursuant to byelaw 8(a)(vi), Mr CHEW Teck Cheng is liable to disciplinary action by virtue of the disciplinary finding against him on 16 July 2018 by the Disciplinary Committee of the Malaysian

Institute of Accountants.

2. Between 16 July 2018 and 17 July 2020, contrary to 3(1)(d) of the Global Practising Regulations (as applicable in 2018, 2019 and 2020), carried on public practice in Malaysia without notifying the ACCA and was therefore not placed on the register of practitioners.
3. Contrary to Paragraph 3(1) of the Complaints & Disciplinary Regulations (2014), failed to co-operate with the investigation of a complaint, in that he failed to respond to any or all of the ACCA's correspondence dated;
  - (a) 11 July 2019;
  - (b) 06 August 2019;
  - (c) 21 August 2019;
  - (d) 05 September 2019;
  - (e) 19 May 2020;
  - (f) 06 July 2020.
4. By reason of his conduct in respect of any or all matters set out at allegations 2 and 3 above, Mr Chew is:
  - (a) Guilty of misconduct pursuant to byelaw 8(a)(i), or in the alternative;
  - (b) Liable to disciplinary action pursuant to byelaw 8(a)(iii).
7. Mr CHEW Teck Cheng became an ACCA member on 15 September 1983 and a fellow on 15 September 1988. On 21 September 2018, ACCA was informed by letter from the Malaysia Institute of Accountants (MIA) that a disciplinary finding had been made against Mr CHEW Teck Cheng as a result of which he had been fined and required to attend an audit quality enhancement programme.

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

8. ACCA relied on the Investigator's report. Mr CHEW Teck Cheng did not provide any information for the Committee to consider. The Committee had no reason to doubt the veracity of the information provided to ACCA by the MIA. The Committee was satisfied that Mr CHEW Teck Cheng was subject to a disciplinary finding by MIA on 16 July 2018 and was therefore liable to disciplinary action by virtue of ACCA byelaw 8(a)(6). Accordingly, it found Allegation 1 proved.
9. In respect of Allegation 2, the Committee took into account that the ACCA Global Practising Regulations required Mr CHEW Teck Cheng to inform ACCA that he was carrying on public practice in Malaysia so that he could be added to the Register of Practitioners, which he had not done. Accordingly, the Committee found Allegation 2 proved.
10. In respect of Allegation 3, the Committee had regard to the letters sent by ACCA to Mr CHEW Teck Cheng on the six dates set out in the charge. As a matter of fact, Mr CHEW Teck Cheng did not reply to any of these letters and therefore failed to cooperate with ACCA's investigation. Accordingly, the Committee found Allegation 3 proved.
11. In respect of Allegation 4(a), the Committee found that Mr CHEW Teck Cheng's failure to cooperate with ACCA's investigation was a serious failing on his part. The Committee noted that ACCA had written to Mr CHEW Teck Cheng on six different dates over the course of a year. On each occasion Mr CHEW Teck Cheng was asked to respond by a certain date and failed to do so and was also warned that his failure to respond could result in disciplinary action.
12. The Committee considered that Mr CHEW Teck Cheng's persistent non-cooperation had the effect of frustrating ACCA's investigation and was damaging to ACCA's regulatory role in protecting the public and maintaining public confidence in it and the profession.

13. For the above reasons the Committee was satisfied that misconduct had been established in relation to Allegation 3. Given the wording of Allegation 4 which refers to “*any or all matters set out at allegations 2 and 3*”, the Committee found it proved even though the facts of Allegation 2 did not amount to misconduct.

#### **DECISION ON SANCTION AND REASONS**

14. 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.
15. The Committee noted that the matters found proved against Mr CHEW Teck Cheng, particularly his non-cooperation with ACCA’s investigation, were serious. The Committee considered the aggravating factors to be that Mr CHEW Teck Cheng’s non-cooperation with ACCA’s investigation was deliberate and persistent. The Committee also noted that the disciplinary matter found by the MIA involved an unsatisfactory audit visit and may have had a public protection element which ACCA had been unable to ascertain due to Mr CHEW Teck Cheng’s non-cooperation.
16. As mitigating factors, the Committee took into account that Mr CHEW Teck Cheng was of previous good character save for the MIA matter, the sanction for which had been completed.
17. The Committee considered that Mr CHEW Teck Cheng had not demonstrated any insight or remorse, nor had he explained why he had failed to respond to any of the letters from ACCA seeking information. Indeed, in his only communication with ACCA consisting of his very short email dated 15 April 2021, other than stating that he wished to resign his membership, Mr CHEW Teck Cheng still did not provide any information as to the investigation/allegations.
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 Reprimand/Severe Reprimand would be sufficient and proportionate or whether exclusion from membership 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 Reprimand and a Severe Reprimand were not applicable in this case particularly, the lack of insight and remediation, lack of relevant testimonials and Mr CHEW Teck Cheng’s persistent non-cooperation with the investigation.
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.
22. The Committee was mindful that exclusion from membership 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 CHEW Teck Cheng’s misconduct reached that high threshold, given the potential of harm being caused to the public and the damage to the reputation of ACCA and the profession when ACCA is unable to investigate concerns properly.
23. For all of the above reasons, the Committee concluded that the only appropriate and proportionate sanction was exclusion from membership. The Committee did not deem it necessary to impose any minimum period before which Mr CHEW Teck Cheng could re-apply for admission.

## **DECISION ON COSTS AND REASONS**

24. ACCA applied for costs in the sum of £6,481.50. The Committee was not provided with a statement of means or any information as to Mr CHEW Teck Cheng's means. The Committee took into account that the hearing of this matter took less time than anticipated and concluded that Mr CHEW Teck Cheng should pay a contribution to ACCA's costs in the sum of £6,000.00.
  
25. The Committee did not deem it necessary to make any immediate orders.

**Mr Michael Cann**  
**Chair**  
**20 April 2021**