

## HEARING

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

#### REASONS FOR DECISION

|                                      |   |
|--------------------------------------|---|
| <b>In the matter of:</b>             | <b>Miss Linfen Sun</b>  |
| <b>Heard on:</b>                     | <b>Monday, 15 February and Tuesday, 27 April 2021</b>   |
| <b>Location:</b>                     | <b>Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU using Microsoft Teams</b>   |
| <b>Committee:</b>                    | <b>Mr James Kellock (Chair)<br/>Mr Constantinos Lemonides (Accountant)<br/>Mr George Tranter (Lay)</b>  |
| <b>Legal Adviser:</b>                | <b>Mr Iain Ross (Legal Adviser)</b>   |
| <b>Persons present and capacity:</b> | <b>Mr Phillip Law (ACCA Case Presenter)<br/>Ms Nkechi Onwuachi (Hearings Officer)<br/>Miss Linfen Sun (Student member)<br/>Mr Yali Quan (Interpreter)</b> |
| <b>Observers:</b>                    | <b>None</b>   |
| <b>Summary</b>                       | <b>Removed from the student register</b>  |
| <b>Costs:</b>                        | <b>£3,000.00</b>  |

#### ACCA



+44 (0)20 7059 5000



info@accaglobal.com



[www.accaglobal.com](http://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 Sun. The hearing was conducted remotely via Microsoft teams to comply with the COVID 19 Regulations. Mr Law appeared for ACCA. Miss Sun was present by telephone and was not represented. The Committee had a main bundle of papers numbered pages 1 to 160, and a separate service bundle numbered pages 1 to 34. The Committee also had presentation slides from ACCA.

### **ALLEGATION / BRIEF BACKGROUND**

2. Miss Linfen Sun registered as a student member of ACCA on 16 January 2019. ACCA alleged that during a Financial Management Examination on 06 December 2019, Miss Linfen Sun was in possession of unauthorised materials in the form of notes, which she intended to use in order to gain an unfair advantage.

#### **Allegation 1**

1. During a Financial Management (FM) examination on 06 December 2019, Miss Linfen Sun:
  - 1.1 Was in possession of unauthorised material namely notes, contrary to Examination Regulation 4;
  - 1.2 Intended to use unauthorised material to gain an unfair advantage, contrary to Examination Regulations 6 and 11;
  - 1.3 Engaged in improper conduct designed to assist her in her exam attempt contrary to Examination Regulation 9.
2. Miss Linfen Sun's conduct at Allegations 1.1, 1.2 and/or 1.3 was:
  - 2.1 Dishonest, in that Miss Linfen Sun used or intended to use any or all of the unauthorised material to gain an unfair advantage in an examination; or in the alternative,
  - 2.2 Contrary to the Fundamental Principle of Integrity (as applicable in 2019);

3. By reason of her conduct, Miss Linfen Sun is:

- 3.1 Guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out in Allegations 1 and/or 2; or in the alternative
- 3.2 Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of Allegations 1.1, 1.2 and/or 1.3.

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

- 3 At the outset of the Hearing, Miss Sun admitted Allegation 1.1, which was therefore found proved. ACCA withdrew Allegation 1.3.
- 4. ACCA did not call any witnesses and relied on statements and reports from the witnesses, involved in the examination process and information from Miss Linfen Sun herself.
- 5. It was not disputed that Miss Sun attended the exam centre on 06 December 2019 to sit the Financial Management examination. Miss Sun admitted the facts of Allegation 1.1 in the Case Management Form and at the hearing, which the Committee found proved by virtue of her admission.
- 6. Allegation 1.3 was withdrawn by Mr Law and the Committee was only concerned with whether Allegations 1.2, 2 and 3 were proved.
- 7. The evidence of the exam Invigilator was that the unauthorised notes were discovered during the exam placed under a piece of scrap paper. Miss Sun accepted in her response to the Invigilator and in her correspondence with ACCA, that she had brought the notes into the examination; however, she maintained that she did not intend to use the notes and had not been dishonest.
- 8. In her oral evidence, Miss Sun told the Committee that, having brought the unauthorised material into the exam, at some point during the exam she had discovered these notes. However, she did not tell the Invigilator that she had the notes because she was scared as to what the consequences might be.

9. In the Examiner's Irregular Script Report, the Examiner confirmed that the material was relevant to the syllabus and to that particular examination. This was accepted by Miss Sun in her correspondence and in her oral evidence.
10. The Committee very carefully considered Miss Sun's explanation as to why she had revision notes with her in the exam. The Committee was of the view that if she had brought her notes into the exam accidentally as she claimed, Miss Sun would have had no good reason not to have declared that "*accident*" to the Invigilator.
11. The Committee came to the conclusion that in bringing revision notes which were relevant to the exam syllabus into the exam which were discovered concealed under a scrap paper, it was more likely than not that Miss Sun intended to use those notes should she need to. It also follows that Miss Sun intended to gain an unfair advantage in the exam.
12. The Committee also carefully considered whether Miss Sun had rebutted the presumption set out in Exam Regulation 6. The Committee took into account Miss Sun's evidence that the examination hall was under dense surveillance through CCTV cameras, but considered that was insufficient to rebut the presumption that she intended to obtain an unfair advantage. Likewise, the amount of preparation which Miss Sun had undertaken for the exam and the amounts spent by her and her family to obtain her qualification was also insufficient to rebut the presumption.
13. For all of the above reasons, the Committee found it proved, on the balance of probabilities that Miss Sun intended to use the unauthorised materials in order to obtain an unfair advantage and found Allegation 1.2 proved.
14. In considering whether Miss Sun had acted dishonestly, the Committee was quite satisfied that intending to cheat amounted to dishonest behaviour. Accordingly, the Committee found Allegation 2.1 proved and did not consider the alternative of the Fundamental Principle of Integrity.
15. Having found that she acted dishonestly, the Committee had no doubt that Miss Sun'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 3.1 proved and did not consider the alternative Allegation 3.2.

## **DECISION ON SANCTIONS AND REASONS**

16. The Committee heard submissions from Mr Law on behalf of ACCA and from Miss Sun. 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 Sun were very serious. The Committee considered the aggravating factors to be that Miss Sun's misconduct was premeditated, intended for her own benefit and undermined the trust which the public rightly have in ACCA and its examination process.
18. As mitigating factors, the Committee took into account that Miss Sun had fully co-operated with the investigation and process, had admitted Allegation 1.1 and was of previous good character.
19. The Committee was not satisfied that Miss Sun had demonstrated any meaningful insight and remorse, nor had she explained why she had attempted to cheat in an examination at a very early stage of her intended career.
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 most of the factors applicable to a Severe Reprimand were not applicable in this case, particularly, the lack of insight and remediation and the 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 on the student register. The Committee was satisfied that Miss Sun’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 impose any minimum period before which Miss Sun could re-apply for admission as a student member.

## **DECISION ON COST AND REASONS**

26. ACCA applied for costs in the sum of £6,393.00. The Committee was not provided with a statement of means, although it heard evidence from Miss Sun that she is a student and has no income, and that her family has very limited means.
27. The Committee was satisfied that ACCA's costs as set out in the costs schedule had been properly incurred and were reasonable. However, the Committee had regard to Miss Sun's limited ability to pay costs due to her lack of income and her family's limited means. In all of the circumstances, the Committee ordered that Miss Sun pay a contribution to ACCA's costs in the sum of £3,000.00.
28. The Committee did not deem it necessary to make any immediate orders.

**Mr James Kellock**  
**Chair**  
**27 April 2021**