

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

REASONS FOR DECISION

In the matter of:	Miss Wu Zhuoyi
Heard on:	Thursday, 20 January 2022
Location:	Held remotely by video conference
Committee:	Mrs Valerie Paterson (Chair) Mr Trevor Faulkner (Accountant) Ms Rachel O'Connell (Lay Member)
Legal Adviser:	Mr Richard Ferry-Swainson
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Nyero Abboh (Hearings Officer)
Summary:	Facts found proved Student removed from register
Costs:	£6,360.00

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee ("the Committee") convened to consider an Allegation against Miss Wu, who did not attend and was not represented.

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2. The papers before the Committee were in a bundle numbered 1 to 56, an Additional Bundle of two pages, a tabled additional bundle of 10 pages and a costs schedule. There was a service bundle numbered 1 to 15.
3. Ms Terry made an application to proceed in the absence of Miss Wu.

PROCEEDING IN ABSENCE

4. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Ms Terry on behalf of ACCA and also took into account the advice of the Legal Adviser.
5. Included within the service bundle was the Notice of Hearing dated 22 December 2021, thereby satisfying the 28-day notice requirement, which had been sent to Miss Wu’s email address as it appears in the ACCA register. The Notice included details about the time, date and remote venue for the hearing and also Miss Wu’s right to attend the hearing, by telephone or video link, and to be represented, if she so wished. In addition, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in Miss Wu’s absence, if considered appropriate. ACCA provided a statement from ACCA’s Hearings Team Leader confirming that they had sent the email to Miss Wu’s registered email address and that it had not been returned, indicating that it had been safely delivered.
6. The Committee was satisfied that the Notice had been served in accordance with the Regulations, which require ACCA to prove that the documents were sent, not that they were received. The Committee noted the absence of an email delivery receipt. However, the Committee was satisfied that the absence of such a delivery receipt was adequately dealt with by the statement of the Hearings’ Team Leader.
7. Having so determined, the Committee then considered whether to proceed in Miss Wu’s absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Miss Wu, it should exercise that

discretion with the utmost care and caution, particularly as Miss Wu was unrepresented.

8. Miss Wu was sent a number of emails by the Hearings Officer asking her if she would be attending the hearing. Miss Wu did not respond to any of those emails. Attempts were also made to telephone Miss Wu without success.
9. The Committee noted that Miss Wu faced serious allegations of dishonesty and that there was a clear public interest in the matter being dealt with expeditiously. The Committee considered an adjournment would serve no useful purpose, because it seemed unlikely that Miss Wu would attend on any other occasion and she had not applied for one. There is a burden on members and students of ACCA to engage with their Regulator. In light of Miss Wu's complete lack of engagement throughout the investigation of this matter, the Committee concluded that Miss Wu had voluntarily absented herself from the hearing and thereby waived her right to be present and to be represented at this hearing.
10. In all the circumstances, the Committee decided that it was in the interests of justice that the matter should proceed, notwithstanding the absence of Miss Wu. No adverse inference would be drawn from her non-attendance.

APPLICATION TO AMEND THE ALLEGATIONS

11. At the outset of the hearing Ms Terry made an application to amend three of the allegations as follows:
 - Allegation 1 referred to Financial Recording rather than Financial Reporting;
 - Allegation 2 omitted to make reference to the use of or intended use of unauthorised materials;
 - Allegation 3 made reference to 'he' rather than 'she'.
12. Ms Terry applied to change Recording to Reporting in allegation 1. She said this was a typographical error and it was clear from the body of the report that

the examination was Financial Reporting not Recording and that in fact there is not an examination called Financial Recording.

13. Ms Terry applied to add reference to the use of, or intended use of, unauthorised materials which had been omitted from allegation 2(a). She submitted that it was obvious from the way in which the case was put that these words should have been included.
14. With regard to allegation 3, Ms Terry said this was clearly simply a typographical error.
15. Ms Terry submitted that none of these requested amendments would cause any prejudice to Miss Wu, they did not make the case against Miss Wu more onerous and merely corrected typographical errors, in the case of allegation 1 and 3, and to make the allegation absolutely clear in allegation 2.
16. The Committee heard and accepted the advice of the Legal Adviser. It noted the nature of the requested amendments and was satisfied that each of them were appropriate and necessary. They did not affect the gravamen of the matters alleged against Miss Wu but rather clarified matters and it was important that the Allegations was correctly pleaded. The Committee therefore decided that it was in the interests of justice to allow the amendments requested.

ALLEGATIONS AND BRIEF BACKGROUND

17. It is alleged that Miss Wu is liable to disciplinary action on the basis of the following Allegations (as amended):

Allegation

Miss Wu Zhuoyi, a student of the Association of Chartered Certified Accountants ('ACCA'):

1. During a Financial Reporting (FR) examination on 04 March 2021:
 - (a) Was in possession of Unauthorised Material, namely

handwritten notes (the 'Unauthorised Material'), contrary to Examination Regulation 4;

- (b) Used, or intended to use, the Unauthorised Material to gain an unfair advantage contrary to Exam Regulations 6(a) and/or 10.

2. The conduct described in Allegation 1 was:

- (a) Dishonest, in that she used or intended to use the Unauthorised Materials to gain an unfair advantage in her exam attempt; or in the alternative
- (b) Contrary to the Fundamental Principle of Integrity (as applicable in 2021).

3. Contrary to Regulation 3(1)(a) of the Complaints and Disciplinary Regulations 2014 (2020), failed to cooperate with the investigation of a complaint in that she failed to respond to ACCA's correspondence of:

- a. 19 May 2021;
- b. 09 June 2021;
- c. 17 June 2021.

4. By reason of her conduct, Miss Wu is:

- (a) Guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out in Allegations 1, 2 and/or 3 above; or in the alternative.
- (b) Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of Allegations 1 and/or 3.

18. Miss Wu is currently an ACCA student. She was admitted into ACCA's student register on 24 May 2019.

19. ACCA records show Miss Wu passed the following exams and was exempt from Management Accounting and Business and Technology exams:

- Taxation - Accountant in Business
 - Financial Accounting
 - Performance Management
20. Her ACCA records also show that she had previously failed the Financial Reporting exam (September 2020 session), result date 14 October 2020.
21. On 04 March 2021, Miss Wu sat the Financial Reporting examination. At the end of the exam, Invigilator Ms 1 collected the exam papers and observed notes under Miss Wu's keyboard. The exam supervisor, Mr 2 was notified. Ms 1 confiscated the notes from Miss Wu's desk and Mr 2 made copies of the notes and supplied a SCRS 2B form for Miss Wu to fill in.
22. Miss Wu completed the SCRS 2B form, where:
- She admitted she was found in possession of an unauthorised material, which she described to be, "*pieces of paper with notes on it*" [sic];
 - She also admitted, "*I've cheated in the exam*" [sic];
 - She also accepted it was her intention to gain an unfair advantage.
23. Miss Wu's exam answers and the photos of the notes were reviewed by an irregular script reviewer. The reviewer commented that the material is relevant to the syllabus and this particular exam. The examiner also made the following observation:
- "... the notes have been used with the answer. Direct copies from the notes into the work space."*
24. Miss Wu was invited to provide any further comments/observations to this matter to ACCA Investigations. This was sent to Miss Wu's registered email address as it appeared in ACCA's register on 19 May 2021.
25. Miss Wu did not respond. Accordingly, two chasers were sent to her registered email address on 09 June 2021 and 17 June 2021. She did not respond to

these either. All these emails detailed her duty to co-operate with ACCA and how a failure to co-operate with the investigation may render her liable to disciplinary action.

DECISION ON FACTS/ALLEGATIONS AND REASONS

26. The Committee considered with care all the evidence presented and the submissions made by Ms Terry. The Committee accepted the advice of the Legal Adviser.

Allegations 1 (a) & (b)

27. The Committee accepted the cogent, compelling and unchallenged, indeed admitted, documentary evidence that Miss Wu, whilst sitting the Financial Reporting examination on 04 March 2021, was in possession of unauthorised material in the form of the handwritten notes. The Committee was also satisfied that the notes were clearly relevant to the syllabus of the exam and Miss Wu admitted as much. Furthermore, the Committee was satisfied that she had used the notes, as shown by her answers, and that in doing so she sought to gain an unfair advantage, contrary to the Exam Regulations. The Committee noted that Miss Wu admitted as much in her SCRS 2B form filled in on the day of the exam.
28. In all the circumstances, the Committee was satisfied, on the balance of probabilities, that allegations 1(a) and (b) were proved.

Allegation 2 (a)

29. The Committee then considered whether such behaviour was dishonest. During an exam, Miss Wu took handwritten notes she had taken into the exam and copied some of the content into her exam script. The Committee was satisfied that her only motive for such behaviour was to cheat in the exam and thereby gained an unfair advantage over those students acting honestly and Miss Wu admitted as much. The Committee noted that within the Examination Regulations there was a rebuttable presumption that if a student has with her an unauthorised item during an exam, her intention was to gain an unfair advantage and it is for the student to rebut that presumption. Miss Wu had not

at any stage sought to rebut that presumption, indeed quite the opposite as she accepted this was her intention. The Committee could not envisage any circumstances where cheating, or attempting to cheat, in an exam could be anything other than dishonest. It was premeditated, planned and done in order to gain an unfair advantage over other students and to assist the participant to pass the exam in circumstances where they might otherwise fail or get a lower mark.

30. The Committee therefore found allegation 2(a) proved.
31. Having found Miss Wu's conduct to have been dishonest the Committee did not have to consider allegation 2(b), which was alleged in the alternative.

Allegation 3

32. 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. The Committee was satisfied that Miss Wu had failed to respond to any of the correspondence sent to her by the Investigating Officer on the three dates specified in Allegation 3. The Committee noted that the correspondence was sent by email to the email address provided by Miss Wu when registering with ACCA.
33. The Committee therefore found allegation 3 proved.

Allegation 4(a)

34. Having found the facts proved in Allegations 1, 2 and 3, the Committee then considered whether they amounted to misconduct. The Committee was in no doubt that cheating in an exam would clearly be considered deplorable by fellow members of the profession and the public. It was behaviour which brought discredit upon Miss Wu, the profession and ACCA and amounted to misconduct.

35. In addition, the Committee was of the view that failing to co-operate at all with the 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 Wu and also upon the profession and ACCA as its Regulator. It therefore, decided that Miss Wu's behaviour in failing to co-operate amounted to misconduct.
36. The Committee therefore found Allegation 4(a) proved.

Allegation 4(b)

37. Having found the behaviour amounted to misconduct, it was not necessary for the Committee to also consider whether Miss Wu was liable to disciplinary action, since this was alleged in the alternative.

SANCTION AND REASONS

38. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry. Miss Wu had neither attended, nor had she provided any personal mitigation for the Committee to take into account. 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 Wu but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
39. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
40. The Committee considered the following aggravating features: premeditated, planned conduct; undermining the integrity of ACCA's examination process;

conduct motivated by personal gain; an absence of insight and/or remorse; repeated failure to engage with her Regulator.

41. The Committee considered the following mitigating factors: a lack of any previous disciplinary history with ACCA, in the limited time she had been a student member before being caught cheating in an exam; admissions made on the day of the exam when caught cheating.
42. The Committee considered all the options available from the least serious upwards. It noted that the Association provides specific guidance on the approach to be taken in cases of dishonesty. In Part E2 of the guidance it states that dishonesty is said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than striking off. The guidance also states that 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.”*
43. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Miss Wu’s case that warranted anything other than removal from the student register. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was removal from the student register. Cheating in an accountancy exam in order to gain an unfair advantage, and a qualification upon which the public will rely, is very serious and fundamentally incompatible with being a student of ACCA. Miss Wu had not demonstrated any remorse or insight into her offending behaviour and had chosen not to engage with her Regulator when caught cheating.

44. The Committee also considered that a failure to remove a student from the register who had cheated in this way would seriously undermine public confidence in the profession and in ACCA as its Regulator. Honesty and integrity go to the heart of the profession and in order to maintain public confidence and uphold proper standards it was necessary to send out a clear message that this sort of behaviour would not be tolerated. Miss Wu's behaviour was compounded by her failure to co-operate with ACCA's investigation and whilst such a failure to co-operate might not, on its own, warrant exclusion from membership of ACCA, when considered in conjunction with the dishonest behaviour found proved in this case, exclusion was inevitable.
45. The Committee therefore ordered that Miss Wu be removed from the student register.

COSTS AND REASONS

46. ACCA applied for costs in the sum of £7,035.00. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the case had been listed for a whole day and in the event took less than the whole day and the Committee considered it appropriate to make a small reduction to reflect this, since the Case Presenter and Hearings Officer could move on to other tasks. The other costs incurred were fixed costs and not affected by the slightly shorter day.
47. The Committee noted that the normal position is that a member against whom an allegation has been found proved, should pay the reasonable and proportionate costs of ACCA bringing the case. This is based on the principle that the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings.
48. Miss Wu did not provide any details of her means or provide any representations about the costs requested by ACCA, there was, therefore, no evidential basis upon which the Committee could make any reduction on that ground.

49. In light of its observations above, the Committee decided to make an order in the sum of £6,360.00. This reflected the reduction for the slightly shorter day.

EFFECTIVE DATE OF ORDER

50. In light of its decision that Miss Wu's behaviour was so serious she ought to be removed from the student register, the Committee decided that it was in the public interest that the order have immediate effect.

Mrs Valerie Paterson
Chair
20 January 2022