

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Chunqi Guo

Heard on: Thursday, 17 March 2022

Location: Held Remotely by Zoom via ACCA Offices, The Adelphi,
1-11 John Adam Street, London WC2N 6AU

Committee: Mr Martin Winter (Chair)
Mr Martin Davis (Accountant)
Ms Samantha Lipkowska (Lay)

Legal Adviser: Mr Andrew Granville-Stafford (Legal Adviser)

**Persons present
and capacity:** Ms Michelle Terry (ACCA Case Presenter)
Ms Nkechi Onwuachi (Hearings Officer)

Summary Removed from the student register

Costs: Student to pay costs to the ACCA in the sum of £5,449.00.

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PRELIMINARY

1. The Disciplinary Committee of ACCA (*the Committee*) convened to consider a report concerning Ms Chunqi Guo. Ms Guo is a student member of ACCA, having been admitted to student membership on 12 February 2018, and is resident in China.
2. The Committee had before it a bundle of documents (61 pages) and a service bundle (15 pages).
3. Ms Guo did not attend the hearing and was not represented.

PROCEEDING IN ABSENCE

4. The notice of hearing was sent by email to Ms Guo on 17 February 2022. ACCA produced a confirmation of delivery note. The notice was sent to Ms Guo's registered email address, which is also the email address she had used during the course of the investigation to communicate with ACCA.
5. ACCA sent a further email to Ms Guo on 14 March 2022 asking her to confirm whether she wished to attend. No response had been received from Ms Guo to either email.
6. The Committee was satisfied that the requirements of Regulations 10(1) and 22(1) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (*'CDR'*) as to service had been complied with. The Committee went on to consider whether to proceed in the absence of Ms Guo. The Committee bore in mind that the discretion to do so must be exercised with care and caution and in light of the public interest in dealing with matters such as this fairly, economically and expeditiously and without unnecessary delay.
7. The Committee considered that no useful purpose would be served by adjourning this hearing, as there was no reason to think that Ms Guo would attend on a future occasion. Ms Guo has been made aware of the hearing and, in the Committee's view, has made a voluntary decision not to take part. Although she had not been provided with the link which would enable her to join the Zoom link for this hearing, she had not requested it and she could have

done so. Also, she could have attended by telephone but did not take up this offer either. The Committee considered that, in the interests of justice, the hearing should proceed in Ms Guo's absence.

APPLICATION TO AMEND

8. At the outset of the hearing, Ms Terry applied to amend the allegation to correct the mis-spelling of Ms Guo's name from '*Chinqi*' to '*Chunqi*'. The Committee accepted this was in the nature of a typographical error and exercised its power under CDR 10(5) to allow that amendment, there being no prejudice to Ms Guo in doing so.

ALLEGATIONS AND BRIEF BACKGROUND

9. The allegations against Ms Guo, as amended, were as follows:

Allegation

Miss Chunqi Guo, a student member of the Association of Chartered Certified Accountants ('ACCA'):

1. On 04 March 2021, during a Financial Reporting Examination:
 - a. Was in possession of unauthorised materials, namely a piece of paper containing handwritten notes relevant to the syllabus being examined, contrary to Examination Regulation 4.
 - b. Intended to use the unauthorised materials set out at 1(a) above to gain an unfair advantage.
2. Ms Guo's conduct in respect of 1 above:
 - a. Was dishonest, in that Ms Guo intended to use the unauthorised materials to gain an unfair advantage; or in the alternative
 - b. Demonstrates a failure to act with integrity.
3. By reason of her conduct, Ms Guo is:

- a. Guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out above; or in the alternative
 - b. Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of 1(a) above.
10. ACCA's case was as follows. On 04 March 2021 Ms Guo attended an examination centre in China to sit the Financial Reporting examination.
11. Prior to examinations, all candidates receive an attendance docket which contains ACCA's Examination Regulations and Examination Guidelines. These include the following regulations:

Examination Regulation 4

You are not permitted during the exam to possess, use or attempt to use any notes, books or other written materials except those expressly permitted in the guidelines below. These are known as 'unauthorised materials'.

Examination Regulation 6(a)

If you breach Exam Regulation 4 and the 'unauthorised materials' are relevant to the syllabus being examined, it will be assumed that you intended to use them to gain an unfair advantage in the exam. In any subsequent disciplinary proceedings, you will have to prove that you did not intend to use the unauthorised materials to gain an unfair advantage in the exam.

12. ACCA's case was that Ms Guo was found to have handwritten notes at her desk, and that her intention was to use these to gain an unfair advantage.
13. ACCA relied on 'SCRS 1B', a report prepared by an Invigilator, Mr A. Mr A stated that at 10.12am, just over an hour after the exam had started, he found a small piece of paper with handwritten notes on both sides on Ms Guo's 'scratch paper'. He said he was alerted to this by his fellow Invigilator, Ms B. Ms B called the supervisor who took a copy of the notes.
14. Ms B also made a report, confirming Mr A's account. She stated: '*I found that the candidate's eyes were looking at me sometimes and she seems a little more*

nervous than other candidates. Besides, her hand often put on the scratch paper . . . I'm suspicious of the candidate (4259097 Chunqi Guo) and told the co-invigilator [Mr A] to pay attention to the candidate. [Mr A] patrolled the test venue at 10:12am he found the candidate was reading the unauthorised material.'

15. Ms Guo completed a SCRS 2B form on the day of the exam. In answer to the question whether she was in possession of unauthorised material she said, 'No. *The basis for the answer is my brain.*' However, when asked about the purpose for which she had the unauthorised materials she said, '*The sense of security*'.
16. When asked whether she attempted to use the materials, she replied '*No. It's unnecessary, so I didn't use it.*' Asked whether she agreed with the accounts given by the Invigilators, she answered '*I disagree. I didn't have any unfair benefits from the unauthorised materials.*'
17. Ms Guo was written to by ACCA on 07 April 2021 and invited to make any comment in relation to the allegation. She replied by email on 11 April saying:

'During the Financial Reporting exam on 04 March 2021, the invigilator found the note on me. When I wrote unauthorized note after the exam, I was very nervous and could not express my meaning accurately in English, so the answer was very simple. I have some details to state about this.

I prepared the note to review it on the subway to the exam room. After arriving at the examination room, the staff urged me to check in. I put my mobile phone and bag in the designated area but forgot to take out the note in my pocket. I didn't find out until after the exam started. I was extremely scared. I was afraid that the invigilator would find it in my pocket, and I wouldn't be able to explain it. In a panic, I put it under the draft paper. I had been considering whether to hand in the note voluntarily, and in the process, the invigilator found it. In my exams, I didn't use notes to get answers. Even if it's not discovered, I'm not going to use it. Please check the surveillance video to verify my above information.

First of all, I admit that it was my fault. Whatever the reason, I actually did something against the rules of the exam, for which I am really sorry and will always reflect. Secondly, I am willing to beg the teachers to give me a chance. Before this, I had never thought of cheating or made any mistakes in the ACCA or any other exams. With my own efforts, I obtained a first-class degree certificate in a British university, which was also recognized by all the teachers that my grades are true.

In conclusion, I will accept whatever punishment I get. I have always taken ACCA seriously. Please give me an opportunity to continue to study ACCA. I promise that I will never violate the rules again.'

18. ACCA made enquiries but were informed that there was no CCTV coverage of the exam hall.
19. Ms Guo's examination script and the notes seized from her were examined by an ACCA examiner. The examiner prepared an 'Irregular SCBE Case' report dated 05 April 2021 in which they stated that the material was relevant to both to the syllabus and the particular exam Ms Guo was sitting. They commented:

'The notes contain the working layout for a goodwill calculation relevant to QID7720. The candidate calculated this in script 610731941. In QID7326, the Candidate only noted the ratio formula (contained in notes) but not applied. It does not appear that the candidate benefited from the materials.'

DECISIONS ON ALLEGATIONS AND REASONS

20. The Committee considered the documents before it, the submissions of Ms Terry on behalf of ACCA and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities. However, where a student is found to be in possession of unauthorised material during an exam the burden is reversed, and the student is presumed to have intended to use the material to gain an unfair advantage unless the contrary is proved (Exam Regulation 6(a)).

Allegation 1(a)

21. The Committee was satisfied that Ms Guo was in possession of handwritten notes during the exam. Ms Guo did not dispute the evidence of Mr A and Ms B that they had found the notes, which were relevant to the syllabus, on her desk during the exam. These were clearly unauthorised material, as defined by Examination Regulation 4, and she was clearly in possession of them. The Committee therefore found Allegation 1(a) proved.

Allegation 1(b)

22. Having found that Examination Regulation 4 had been breached, the Committee went on to consider whether Ms Guo's intention in having the notes with her was to gain an unfair advantage, as alleged in Allegation 1(b). By virtue of Examination Regulation 6(a), the burden was on Ms Guo to prove that she did not intend to use them to gain an unfair advantage.
23. The Committee considered Ms Guo's account that she had these notes to revise on the way to the exam but had no intention to use it in the exam. She said that she forgot to take the note out of her pocket and then during the exam she removed it from her pocket and put it under her script. The Committee found that explanation implausible. It is more likely that the reason she took it out of her pocket and placed it on her desk was so that it was available for her to look at. The Committee also noted that one of the formulae on the notes had been used in the exam.
24. The Committee did not consider that Ms Guo had discharged the burden on her to prove she did not intend to use the notes. Indeed, the circumstances led the Committee to conclude that it was her intention to use the notes in the exam.
25. The Committee therefore found Allegation 1(b) proved.

Allegation 2(a)

26. In relation to Allegation 1, the Committee had found that Ms Guo had unauthorised material in the exam with the intent to use them to gain an unfair

advantage. She was, or ought to have been, aware that this was prohibited by the Exam Regulations.

27. The Committee was in no doubt that bringing revision notes into an exam room with the intent to gain an unfair advantage would be regarded as dishonest by ordinary and reasonable members of the public. The Committee therefore found that Ms Guo's actions were dishonest, and Allegation 2(a) proved.

Allegation 2(b)

28. As Allegation 2(b) was an alternative to 2(a), there was no need for the Committee to consider it.

Allegation 3(a)

29. Bringing notes into an exam in order to cheat falls seriously short of the standards expected of a member of ACCA, especially a student member. It clearly amounts to misconduct.
30. The Committee therefore found Allegation 3(a) proved.

Allegation 3(b)

31. As Allegation 3(b) was an alternative to 3(a), there was no need for the Committee to consider it.

SANCTION AND REASONS

32. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. Having found that Ms Guo's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
33. In mitigation, the Committee took into account that no previous findings had been made against Ms Guo. She had initially engaged with the investigation,

and had made some apology for her actions, though her admissions were limited and, in particular, she has never accepted that she intended to cheat in the exam.

34. Ms Terry submitted that the following were aggravating factors. Ms Guo's actions were dishonest and there was an element of planning and premeditation involved in them. The intention to cheat was for personal advancement. Cheating in an exam undermines the integrity of the exam process, and therefore the ACCA qualification, and thereby the trust the public places in the profession generally. The Committee accepted those submissions.
35. An admonishment is not generally appropriate when the conduct is deliberate and, further, would not adequately mark the gravity of the case. Similarly, a reprimand was not a sufficient sanction given that the misconduct is not at the minor end of the scale.
36. Nor did the Committee consider that a severe reprimand, either on its own or combined with some other sanction, was sufficient, particularly in light of the fact the conduct was intentional and there was no genuine expression of regret.
37. The Committee considered the factors set out in the GDS which indicate that removal from the student register may be the appropriate sanction.
38. Ms Guo's actions were a very serious departure from proper and acceptable standards, which have the effect of impacting on the reputation of the profession with the public. Further, Ms Guo's actions were dishonest, which is always regarded seriously given that honesty and trust are bedrocks of the profession. She had not demonstrated any insight into the seriousness of her actions, and she had maintained her denial of her misconduct.
39. The Committee concluded that Ms Guo's actions in this case were fundamentally incompatible with being a student member of a professional association. The Committee did not feel that any order which allowed Ms Guo to retain her student membership of ACCA could possibly be justified.

40. Therefore, the Committee made an order under CDR 13(4)(c) of the Disciplinary Regulations removing Ms Guo from the student register.
41. The Committee did not consider that it was necessary to additionally make an order under CDR 13(4)(c) restricting Ms Guo's right to apply for readmission beyond the normal minimum period. Any application for readmission will have to be considered by the Admissions & Licensing Committee in any event.

COSTS AND REASONS

42. ACCA applied for costs against Ms Guo in the sum of £6,289. The application was supported by a costs bundle (4 pages) including a schedule providing a breakdown of the costs incurred by ACCA in connection with the proceedings. Ms Terry accepted that some reduction may be appropriate to the estimated sums claimed for the hearing to reflect the amount of time actually taken.
43. The Committee had no information about Ms Guo's financial circumstances.
44. The Committee found that there was no reason in principle not to make an order for costs in ACCA's favour. Nor did it consider that the application was for an unreasonable amount, save that, adjustments should be made to the estimated figure for the hearing and the preparation time. It therefore made reductions to the costs for the case presenter's time in preparing and attending the hearing by a total of four hours and the hearing officer's time by three hours.
45. The Committee therefore ordered Ms Guo to pay ACCA's costs in the sum of £5,449.

EFFECTIVE DATE OF ORDER

46. The order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Ms Guo gives notice of appeal in accordance with the Appeal Regulations prior to that.

Mr Martin Winter
Chair
17 March 2022