

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Ms Zhu Liling

Considered on: Friday, 25 November 2022

Location: Remotely via Microsoft Teams.

Chair: Mr Neil Dalton

Legal Adviser: Ms Tope Adeyemi

Summary Consent order approved.
Member admonished.

INTRODUCTION

1. This matter has been referred to a Chair of the Disciplinary Committee of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before them, whether to approve the draft Consent Order. Under CDR 8(8), a Consent Order is made by a Chair of the Disciplinary Committee in the absence of the parties and without a hearing.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

2. The Chair had before them a bundle of 101 pages ('the bundle') which included the Consent Order draft agreement.

CONSENT ORDER DRAFT AGREEMENT

3. The Consent Order draft agreement was signed by Ms Zhu Liling on 11 November 2022 and signed by a signatory on behalf of ACCA on the same day. It reads as follows:

'The Association of Chartered Certified Accountants (ACCA) and Ms Zhu Liling (the Parties) agree as follows:

Ms Zhu Liling (Ms Liling), at all material times an ACCA affiliate,

- 1) *As part of her ACCA Practical Experience Requirement (PER), drafted statements in support of her performance objectives, (the Statements).*
- 2) *Sent a work colleague (Person A) and also an ACCA affiliate, her completed PER training record so Person A could obtain information about their supervisor but who then mistakenly copied four of Ms Liling's Statements and uploaded them to her (Person A's) own ACCA PER training record claiming them to be her own.*
- 3) *That Ms Liling's conduct as described in 1 and 2 above was reckless in that she should have ensured no other person had access to the Statements as contained in her PER training record, given these are an important element of ACCA's Practical Experience Requirement which, if satisfactorily completed, is part of ACCA's qualifications leading to membership.*

4) *Given the above, Ms Liling is guilty of misconduct pursuant to byelaw 8(a)(i).*

1) *That Ms Liling shall be admonished.'*

BACKGROUND AND ALLEGATION

4. The relevant background and Facts are set out in the bundle and read as follows:

'[...] Relevant Facts, Failings and/or Breaches

4) *The Investigating Officer has conducted their investigation into the allegations against Ms Liling in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and is satisfied that:*

- a. *they have conducted the appropriate level of investigation as evidenced by the [...] bundle, and determined that there is a case to answer against Ms Liling and there is a real prospect of a reasonable tribunal finding the allegations proved; and*
- b. *the proposed allegations would be unlikely to result in removal from the affiliate register.*

5) *Membership Regulation 3 states,*

2. *Eligibility for membership*

Criteria

An individual shall be eligible for membership of the Association if the individual:

(a)

- *has passed or obtained exemptions from the ACCA Qualification examinations; and*
- *has completed three years of approved experience in accordance with the Association's Practical Experience Requirement [emphasis added]; and*
- *has satisfactorily completed the Ethics and Professional Skills module; and*
- *satisfies the Admissions and Licensing Committee as to the individual's general character and suitability.*

6) *Allegation 3 refers to Ms Liling's conduct as reckless in the ordinary sense of the word in that she paid no or insufficient regard to the fact that the statements supporting her performance objectives, being part of her ACCA Practical Experience Requirement training record, were not protected from access by third parties.*

7) *Allegation 4 describes the conduct as set out in Allegations 1 to 3 as 'misconduct' pursuant to byelaw 8(a)(i) which states, under the heading 'Liability to disciplinary action',*

8(a) A member, relevant firm or registered student¹ shall, subject to bye-law 11, be liable to disciplinary action if:

- (i) he or it, whether in the course of carrying out his or its professional duties or otherwise, has been guilty of misconduct;*

8) *Misconduct is defined under bye-law 8(c),*

For the purposes of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings, or is likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession.

- 9) *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*

Practical Experience Requirement

- 10) *Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. Ms Liling is an affiliate [...]. In order to apply for membership, they are required to obtain at least 36 months practical experience in a relevant role (practical experience), as per Membership Regulation 3 referred to above.*
- 11) *A person undertaking practical experience is often referred to as an ACCA trainee being the term used subsequently in this report.*
- 12) *An ACCA trainee's practical experience is recorded in that trainee's practical Experience Requirement (PER) training record.*
- 13) *As part of their practical experience, each trainee is required to complete nine performance objectives (POs) under the supervision of a qualified accountant. An accountant is recognised by ACCA as a qualified accountant if they are a qualified accountant recognised by law in the trainee's country and / or a member of an IFAC body. Once a trainee believes they have completed a PO, they are required to provide a statement in their training record describing the experience they have gained in order to meet that PO. Given this is a description of their own experience, the statement should be unique to them. The trainee then requests that their practical experience supervisor approves that PO.*
- 14) *In addition to approval of their POs, the trainee must ensure their employment where they have gained relevant practical experience has been confirmed by the trainee's line manager who is usually*

also the trainee's qualified supervisor. This means the same person can and often does approve both the trainee's experience and achievement of PO's.

- 15) *Once all nine POs have been approved by the trainee's practical experience supervisor, their minimum 36 months of practical experience has been signed off and they have completed the Ethics and Professional Skills module, the trainee is eligible to apply for membership.*
- 16) *On pages [...] is an extract from ACCA's Practical Experience Requirement guide referring to the performance objectives and how these should be completed. In particular it states [...],*
- *'...The statement allows you to summarise and reflect on your work activity, so that your supervisor can evaluate whether you have achieved the standard required for the performance objective you are trying to achieve...'*
 - *'...Each statement should be a concise explanation of how you achieved the performance objective description...'*
 - *'...Remember that your experience is unique and your statement should be unique too...'*

Academic Pathway to Membership

- 17) *In January 2022, ACCA launched a pilot route to membership in China referred to as 'the Academic Pathway to Membership'. This allowed trainees who had been lecturing to apply for membership using this experience. In that regard the standard rules regarding the use of lecturing experience for membership is capped at 12 months. This pilot therefore allowed a trainee to use the full 36*

months of lecturing experience to count as their practical experience.

- 18) *A trainee's PER logbook is usually completed using an online tool accessed via the trainee's My ACCA portal. However, as this was a pilot, such lecturing experience had to be recorded by the trainee in a pdf document created specifically for this pilot.*
- 19) *In addition, three additional POs were added relating to lecturing of which a trainee had to select at least one.*
- 20) *As with the online tool, once a trainee on the pilot scheme believed they had completed a PO, they were required to provide a statement in their PER training record describing the experience they had gained in order to meet that PO. They then requested that their supervisor sign off that PO as having been met. Given this PER training record was a pdf document, the supervisor approved each PO with their signature.*
- 21) *Once a trainee's time of 36 months as well as their POs had been approved, the trainee would submit the pdf form to ACCA's China team who would then forward the form on to Person B in ACCA's Professional Development team for review.*
- 22) *An email from Person B to ACCA's Complaint Assessment department [...] includes reference to this pilot scheme.*

Facts of the case

- 23) *Ms Liling adopted the academic pathway as described above, for her practical experience. Her PER training record [...] includes all the statements supporting her performance objectives as well as the following information,*

- *From 1 August 2014 to 'Now' she was employed by Firm 1 as a teacher, including providing advice to students for them to pass ACCA exams.*
- *Her Supervisor was Person C (an ACCA member and therefore a qualified accountant), who approved all Ms Liling's Performance Objectives on 24 June 2022.*

- 24) *Upon Ms Liling's PER training record having been completed and approved by her supervisor, she applied for membership of ACCA.*
- 25) *During a review of Ms Liling's PER training record, following her membership application, ACCA's Ms Mckenna noticed Ms Liling's statements in support of her POs 13, 14, 21 and 24 were the same as the statements in support of such POs of another ACCA trainee, (Person A as referred to in the Allegations), who shared the same supervisor and worked at the same organisation. Person B therefore referred this matter to ACCA's Professional Conduct Department. In the meantime, Ms Liling remains an ACCA affiliate.*
- 26) *A copy of [Person A's] PER training record is [in the bundle].*
- 27) *The statements supporting the performance objectives for both Ms Liling and Person A which are the same, namely POs 13, 14 21 and 24 [...].*
- 33) *Although all four PO statement are the same, it is accepted Ms Liling's statements supporting POs 13, 14 and 24, include a couple of extra lines of narrative at the end of each statement. In that regard ACCA's Professional Development team have produced each statement side by side which shows they are the same, save for these extra couple of lines of narrative.*

34) *ACCA has obtained confirmation from Person C that they supervised both trainees and approved their PER training records.*

35) *Following ACCA's investigating officer notifying Ms Liling of this complaint, her response included the following,*

'...Please allow me to explain the process of the whole thing. At that time, we Person A were applying for ACCA membership. On the PDF template given by the ACCA representative office, there was a piece of specific information (Name, Job title, Qualification, membership number) that needed to be filled in for the supervisor. Under normal circumstances, people do not know the membership number of the supervisor. Person A asked me for this information through WeChat (not email), [they are] my colleague, and we are the same supervisor, so without thinking deeply, I sent the entire PDF to her directly through WeChat, the chat software, not email ...'.

'...I really regret my original behavior. In my thinking, I thought it was a trivial matter. I just told my colleagues some information. I didn't expect a series of problems. My behavior was too rash and should not be for convenience, Send a whole file directly! Please forgive my rash behavior, I will definitely be more rigorous in the follow-up work...'.

36) *Attached to Ms Liling's response were various documents including those relating to her employment. These have not been included in the papers attached to this order but are available if required. In that regard it is accepted by ACCA she was employed by Firm 1 as claimed in her PER training record.*

37) *In an email to ACCA, Person A appears to confirm that they asked Ms Liling for a copy of her PER training record for the reasons given*

above by Ms Liling and that they Person A then mistakenly copied the four statements in question from Ms Liling's training record.

Sanction

- 37) *The appropriate sanction is admonishment.*
- 38) *In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions (Guidance) has been considered and particularly the key principles. One of the key principles is that of the public interest, which includes the following:*
- *Protection of members of the public;*
 - *Maintenance of public confidence in the profession and in ACCA; and*
 - *Declaring and upholding proper standards of conduct and performance.*
- 39) *Another key principle is that of proportionality, that is, balancing the member's, or as in this case affiliate's, own interests against the public interest.*
- 40) *In deciding an admonishment is the most suitable sanction, paragraph C2 of ACCA's Guidance has been considered and the following aggravating and mitigating factors have been noted:*

Aggravating Factors

- *The conduct which is the subject matter of this Consent Order fell below the standards expected of an ACCA affiliate in that Ms Liling should have ensured no other person had access to the statements supporting her performance objectives, not least someone she knew was also an ACCA affiliate. This is on the basis these statements should be unique in that they describe the practical experience undertaken by a trainee and as such are an important element of ACCA's Practical Experience Requirement which, if satisfactorily completed, is part of ACCA's qualification leading to membership.*
- *It follows that those who do not ensure the statements supporting their performance objectives are kept confidential, risk others accessing those statements and claiming them to be their own, thereby potentially subverting ACCA's Practical Experience Requirement and in turn undermining public confidence in the ACCA qualification process.*

Mitigating Factors

- *Ms Liling has no other disciplinary history with ACCA.*
- *Ms Liling has fully co-operated with ACCA's investigation.*
- *There is no evidence of any dishonest conduct or that which could be considered a breach of integrity.*
- *In her response to the offer of a Consent Order [...], Ms Liling has provided a description of challenging personal circumstances at the time she provided her training record to Person A.*

- *Ms Liling accepts this was reckless conduct for which she apologises [...]. This shows insight and therefore the likelihood of similar conduct being repeated in the future is unlikely.*

ACCA has considered the other available sanctions and is of the view that they are not appropriate. An admonishment proportionately reflects Ms Liling's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. [...].

DECISION

5. The powers available to the Chair are to:
 - (a) Approve the draft Consent Order, in which case the findings on the allegations and the orders contained in it become formal findings and orders (CDR 8(11) and 8(14));
 - (b) Reject the draft Consent Order, which they may only do if they are of the view that the admitted breaches would more likely than not result in exclusion from membership (CDR 8(12));
 - (c) Recommend amendments to the draft Consent Order, if they are satisfied it is appropriate to deal with the complaint by way of consent but wish the terms of the draft order to be amended (CDR 8(13)).
6. The Chair carefully considered the documents before them, the agreed background, the evidence relating to the allegations and the proposals in relation to sanction. The Chair agreed that the proposed sanction was appropriate and proportionate in all the circumstances, taking into account the *ACCA's Guidance for Disciplinary Sanctions*, the Chair was

satisfied it was appropriate to make a Consent Order in the terms agreed between the parties.

ORDER

7. The Chair made the following order:
 - i. The draft Consent Order is approved;
 - ii. Allegations 1-4 are proved by admission;
 - iii. Ms Liling is admonished.

8. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

Mr Neil Dalton
Chair
25 November 2022