

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Miss Chan Yi Ki

**Heard on:** Wednesday, 21 September 2022

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

**Committee:** Mr Maurice Cohen (Chair)  
Mr George Wood (Accountant)  
Mr Damian Kearney (Lay)

**Legal Adviser:** Ms Valerie Charbit (Legal Adviser)

**Persons present**

**and capacity:** Ms Afshan Ali (ACCA Case Presenter)  
Ms Nkechi Onwuachi (Hearings Officer)

**Summary** Severe Reprimand

**Costs:** Member to pay costs to ACCA in the sum of £4,000.00.

#### PRELIMINARY APPLICATIONS/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider one allegation against Miss Chan Yi Ki:

**ACCA**



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Miss Chan Yi Ki, a member of the Association of Chartered Certified Accountants ('ACCA'):

- a. On 18 June 2021, was convicted of Theft at the Hong Kong Special Administrative Region Eastern Magistrates' Courts (the 'Conviction'), which is discreditable to the Association and/or the accountancy profession.
  - b. By reason of her conduct in respect of Allegation 1(a), Miss Chan Yi Ki is liable to disciplinary action pursuant to bye-law 8(a)(ix).
2. Miss Chan Yi Ki attended, and she was not represented. She was supported by her husband Mr Chong.
  3. The Committee had before it a main bundle numbered 1-67, a tabled additional bundle dated 21 September 2022 of 10 pages, a second tabled additional bundle dated 21 September 2022 of 44 pages, a third tabled additional bundle dated 21 September 2022 of 14 pages and a service bundle of 19 pages. The Committee was also provided with costs bundle of 6 pages.

#### **APPLICATION TO HEAR THE CASE IN PRIVATE**

4. Miss Chan applied for parts of the hearing to be heard in private in relation to private medical and health matters relating to her and her son.
5. Ms Ali did not oppose the application.
6. The Committee was referred by the Legal Adviser to Regulation 11 of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (amended 01 January 2020), which states that

*Hearings of the Disciplinary Committee shall be conducted in public unless the Committee is satisfied:*

- (i) *Having given the parties, and any third party from whom the Disciplinary Committee considers it appropriate to hear, an opportunity to make representations; and*
  - (ii) *Having obtained the advice of the legal adviser, that the particular circumstances of the case outweigh the public interest in holding the hearing in public, which may include but is not limited to prejudice to any of the parties.*
7. It was also referred to the Guidance for Disciplinary Committee Hearings.
8. The Committee decided that those parts of the hearing and those parts of the Committee's decision that referred to Miss Chan or her son's health and medical records should be heard in private and not published due to the fact that Miss Chan and her son's private health records were private and personal matters that outweighed the public interest of ensuring that disciplinary hearings are dealt with publicly.

## **BACKGROUND**

9. On 12 June 2021, ACCA received a self-referral from Miss Chan that she would like to report that she had breached ACCA bye-laws and regulations. On 16 June 2021, Miss Chan informed ACCA that she would be convicted of theft on 18 June 2021.
10. Miss Chan became an ACCA student on 01 February 2008, an affiliate of ACCA on 01 August 2014, a member of ACCA on 31 October 2014 and then a fellow of ACCA on 31 October 2019.
11. On 12 June 2021 and on 16 June 2021, Miss Chan self-referred to ACCA stating that she had pleaded guilty to and would be convicted on 18 June 2021 for Theft by the Hong Kong Courts. This was in respect of shoplifting items worth approximately £48 (\$2,000 HKD). Following her conviction in Hong Kong she was ordered to pay a fine amounting to £192 (\$2,000.00 HKD).

12. The Certificate of trial relating to the conviction in Hong Kong, states Miss Chan was charged with Theft, contrary to section 9 of the Theft Ordinance Cap. 210, laws of Hong Kong. On 18 June 2021, Miss Chan pleaded guilty to and was convicted of theft and fined \$2,000.00 HKD by Hong Kong Special Administrative Region Eastern Magistrates' Courts.
13. The offence took place at Sogo shopping mall on 30 October 2020 shortly after Miss Chan had returned to work following the birth of her baby, who at the time of the offence was aged 5 months.
14. ACCA submitted that the conduct of shoplifting and the subsequent conviction of theft is discreditable to the Association and/or the accountancy profession as it undermines the standards and calibre that is expected of an ACCA Fellow. Furthermore, ACCA submitted that the commission of the offence by Miss Chan undermines public trust and confidence in ACCA and the accountancy profession in that the offence incorporates an element of dishonesty as referred to in bye-law 8(a)(ii). As such ACCA submitted that Miss Chan is liable to disciplinary action under bye-law 8(a)(ix).
15. Miss Chan explained that she had sufficient money with her at the time of the offence and that she had accidentally walked out of the shopping centre with the crowd when she was stopped by a security guard. (Private). She said she had offered to pay for the items when she was stopped by a security guard, but the security guard refused and called the police. She was informed by the police that if she cooperated, she would only be subject to a fine. She said she pleaded guilty because she was misled by the police and consequently made a wrong decision. She had since obtained legal advice and she explained that she was not able to overturn the conviction.
16. (Private)
17. Miss Chan has fully co-operated with the investigation by responding to ACCA's investigation and providing the certificate of trial and an account of the incident. Further she has provided details of mitigating factors surrounding the incident. She has expressed remorse and ACCA accepts that she has shown insight.

18. In her response to ACCA Miss Chan states: *"I must say no words can express how remorseful and regrettable I feel after this incident. Now that I fully understand a criminal record could impact not just to myself, but also to my family (as I just realise the criminal record could potentially impact my son's opportunity in the government sector in the future). I could never imagine the ripple effect that it can create for such a negligence act. I simply hope that I can retain my membership with ACCA so that I can at least continue working as professional and contribute to my family as much as possible."* (sic)
19. Miss Chan's husband provided a letter in which he described Miss Chan as a devoted wife, daughter, daughter in law and working mother. (Private). He also stated that they had begun to make charitable payments to a charity called Save the Children Hong Kong (Private).
20. (Private)
21. Miss Chan gave evidence before the Committee. She told them how sorry she was and how much she valued her membership of ACCA.
22. She also explained that at the time she was taken to the police station for shoplifting, she had not been able to obtain the advice of a solicitor prior to making a confession. She said that she left the shop without paying (Private) and she had sufficient money to pay for the items which she had offered to do when stopped by a security guard. (Private). She said that she was a finance manager but that she had not yet told her employer about her conviction or these disciplinary proceedings. She said she had not done so because she was waiting for the outcome of these proceedings before doing so. She agreed she should have spoken to her employer and disclosed the conviction at the time she disclosed it to ACCA.

## **ADMISSIONS AND DECISION ON ALLEGATION**

23. At the start of the hearing Miss Chan admitted both Allegation 1(a) and Allegation 1(b). She accepted that the offence of Theft, which she was convicted of, involved an element of dishonesty.
24. The Committee considered the Tabled Additional and concluded that the Offence of Theft that Miss Chan was convicted of in Hong Kong included the (legal) element of dishonesty.
25. In accordance with Regulation 12(3) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (amended 1 January 2020) the Committee found Allegation 1(a) and Allegation 1(b) proved.

## **DECISION ON SANCTION AND REASONS**

26. The Committee considered all of the evidence before it, including all the mitigation that Miss Chan had put before the Committee which included references, (Private).
27. The Committee referred to ACCA's Guidance for Disciplinary Sanctions (with effect from January 2021) ("*GDS*"). The Committee referred specifically to Section B, General Principles and Section E2 which refers to dishonesty offences.
28. It noted that even where the dishonesty does not result in direct harm and/or loss or is related to matters outside the professional sphere, dishonesty undermines trust and confidence in the profession. It noted that any mitigation must be remarkable or exceptional if it was to justify not excluding the member from the register.
29. Miss Ali on behalf of ACCA, accepted that Miss Chan had clearly shown insight and shown deep remorse and regret. She emphasised that Miss Chan was convicted of theft and that this was discreditable to ACCA and the accountancy profession. She said that it was important that these proceedings were pursued

so as not to undermine public trust and confidence in ACCA. She said the Committee should note that none of the referees from Miss Chan's employment had been informed about this conviction or these disciplinary proceedings.

30. Miss Chan's husband, who had written a reference on her behalf, was aware of these proceedings.
31. Miss Chan sought to persuade the Committee to impose a lesser sanction than exclusion from the register. (Private) and that she had not intended to act dishonestly.
32. The Committee firstly determined the seriousness of the matters it had found proved. It noted that it was important that the Committee did not make any findings that would 'go behind' the conviction but it noted that the conviction for theft was for a relatively small amount in monetary terms but that in Hong Kong Law theft included the legal element of dishonesty.
33. The Committee took into account that the offence took place against a background of (Private) and when Miss Chan had sufficient funds on her to be able to pay for the items she had stolen. It further noted that Miss Chan had not been able to seek legal advice prior to making a confession at the police station.
34. The Committee noted that Miss Chan had not told her employer about this conviction. Although she was fearful as to how it would affect her career, the Committee considered it was important that she demonstrated an ability to act with transparency when faced with difficult circumstances such as these. The Committee was satisfied that for a qualified accountant the conviction was a serious one notwithstanding the background circumstances and that Miss Chan should have informed her employer about it.
35. The Committee took into account the following mitigating factors:
  - This was an isolated incident which was completely out of character;
  - Miss Chan had no previous disciplinary findings against her;

- She had expressed remorse;
  - She had demonstrated good insight;
  - She had promptly informed ACCA about the conviction.
36. The Committee noted that the purpose of any sanction was not to punish Miss Chan but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. The Committee also took into consideration that any sanction it chose to impose must be proportionate.
37. When deciding on the appropriate sanction, the Committee considered the circumstances surrounding the conviction as set out above. It also took into account the fact that Miss Chan (Private).
38. The Committee did not consider it was appropriate or in the public interest, to take 'no further action' for a conviction involving dishonesty.
39. The Committee went on to consider whether an 'admonishment' was the appropriate sanction. It noted the factors indicating that such a sanction might be appropriate were that Miss Chan had made an early admission and she had insight into the seriousness of her conviction. She had also demonstrated remorse. She had also taken some corrective steps promptly; although she had not told her employer about the conviction, she had told ACCA. Her work references were good.
40. However, the Committee decided that a sanction of 'admonishment' was not a sufficient sanction due to the fact that the nature of a conviction for theft included an element of dishonesty even if it was low-level dishonesty; any type of dishonesty was particularly serious for an accountant.
41. The Committee went on to consider whether a 'reprimand' was the appropriate sanction. It decided that it was also not a sufficient sanction for a conviction for dishonesty. Further, the Committee considered the fact that Miss Chan had not yet told her employer about the conviction was a matter which it could take into account.



42. The Committee went on to consider whether a 'severe reprimand' was an appropriate sanction. It decided that a '*severe reprimand*' was the proportionate sanction having considered all of the above mitigating factors and the circumstances surrounding the conviction. The Committee considered that imposing too harsh a sanction would also be discreditable to ACCA. (Private). Miss Chan was unlikely to act similarly again in the future and that she did not pose a risk to the public in the future.
43. The Committee considered that the conviction was according to the GDS a serious matter and one which generally would attract a sanction of exclusion. However, the Committee determined that in this case, Miss Chan's mitigation and the surrounding circumstances allowed it to take an exceptional course and to not exclude Miss Chan from membership of ACCA. Miss Chan had fully cooperated with ACCA and its investigation, and she had demonstrated insight and remorse. (Private). For all these reasons, the Committee concluded that a severe reprimand was the appropriate sanction and that exclusion from ACCA's membership register would be disproportionate. The Committee was satisfied that a severe reprimand would protect the public interest and uphold the reputation of ACCA and the accountancy profession.

#### **COSTS AND REASONS**

44. ACCA applied for costs in the sum of £5963.50. ACCA invited the Committee to reduce the costs proportionately since the Hearings Officer and Case Presenter had not been involved in a full day's hearing.
45. Miss Chan confirmed that she had savings which would allow her to pay the costs in full. She asked the Committee to make any justifiable proportional reduction on the basis that the case did not last a full day.
46. The Committee was provided with a schedule of costs. It noted that Miss Chan had assisted ACCA's investigation by fully cooperating with it and providing documents including the certificate of conviction to it and that the hearing did not last a full day.

47. Accordingly, the Committee decided that it was just and proportionate to order that Miss Chan pay costs to ACCA of £4000.

**EFFECTIVE DATE OF ORDER**

48. Ms Ali invited the Committee to order that any sanction it imposed be effective at the end of the appeal period. The Committee decided that an immediate order was not necessary to protect the public and accordingly it ordered that the effective date of the order would be at the conclusion of the appeal period.

**Mr Maurice Cohen**  
**Chair**  
**21 September 2022**