



HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Mingzhu Nie

Heard on: Wednesday, 6 December 2023

Location: Remotely via Microsoft Teams

Committee: Mr Neil Dalton (Chair)
Dr Beth Picton (Accountant)
Mr Colin Childs (Lay Member)

Legal Adviser: Mr Richard Ferry-Swainson

Persons present

and capacity: Mr Adam Slack (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a), 2(b) and 4 found proved
Member removed from the affiliate register

Costs: £6,000

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Miss Nie, who did not attend, nor was she represented.
2. The papers before the Committee were in a Main Bundle numbered 1 to 318, an Additional Bundle of 34 pages and a Supplementary Bundle of 152 pages.

The Committee was also provided with a Service Bundle and a Costs Schedule.

3. Mr Slack made an application to proceed in Miss Nie's 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 Mr Slack 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 8 November 2023, thereby satisfying the 28-day notice requirement, which had been sent to Miss Nie'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 Nie'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 Nie's absence, if considered appropriate. There was a receipt confirming the email had been delivered to Miss Nie's registered email address.

PROCEEDING IN ABSENCE

6. The Committee received and accepted legal advice on the principles to apply in deciding whether to proceed with the hearing in Miss Nie's absence. 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. Having so determined, the Committee then considered whether to proceed in Miss Nie's absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Miss Nie it should exercise that discretion with the utmost care and caution.
7. Miss Nie did not respond to the Notice of Hearing sent on 8 November 2023. She was also sent an email on 8 November 2023 providing the link to access the documents in the case and asking her to confirm whether or not she would be attending the hearing. Miss Nie did not respond to that email either. The Committee noted that when Miss Nie sent emails to ACCA, during the

investigation, she used the same email address as held by ACCA. Accordingly, the Committee was reassured that Miss Nie should have received the Notice of Hearing and subsequent emails sent by ACCA. For each email sent there was a corresponding delivery receipt.

8. On 1 December 2023, the Hearings Officer attempted to call Miss Nie on the telephone number held by ACCA. The call went unanswered and there was no option to leave a voice message. The same day, the Hearings Officer sent an email to Miss Nie, indicating that she had tried to call her and again asking her if she would be attending the hearing. No reply was received.
9. On 4 December 2023, the Hearings Officer went through the same process with the same result. Again, Miss Nie did not respond to the email sent to her asking her if she would be attending.
10. In an email sent on 5 December 2023, the Hearings Officer provided Miss Nie with the link to join the hearing if she wished to do so. She was again asked to confirm whether she would be attending. No response was received.
11. The Committee noted that Miss Nie faced serious allegations, including an allegation of dishonesty, and that there was a clear public interest in the matter being dealt with expeditiously. Miss Nie had been given the option to apply for an adjournment and had not done so. There was nothing before the Committee to suggest that adjourning the matter to another date would secure Miss Nie's attendance. In light of her almost complete lack of engagement with ACCA in connection with this hearing, the Committee concluded that Miss Nie had voluntarily absented herself from the hearing and thereby waived her right to be present and to be represented at this hearing.
12. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Miss Nie. No adverse inference would be drawn from her non-attendance and the Committee would take into account her written responses to ACCA during the investigation.

ALLEGATIONS/BRIEF BACKGROUND

13. It is alleged that Miss Nie is liable to disciplinary action on the basis of the following Allegations:

Miss Mingzhu NIE ('Miss Nie'), at all material times an ACCA trainee:

1. Applied for membership to ACCA on or about 19 January 2021 and in doing so purported to confirm in relation to her ACCA Practical Experience training record:
 - a) Her Practical Experience Supervisor in respect of her practical experience training in the period from 3 July 2017 to 11 December 2020 was Person 'A' when Person 'A' did not supervise that practical experience training in accordance with ACCA's requirements as published from time to time by ACCA or at all;
 - b) She had achieved the following Performance Objectives which was not true:
 - Performance Objective 1: Ethics and professionalism
 - Performance Objective 2: Stakeholder relationship management
 - Performance Objective 3: Strategy and innovation
 - Performance Objective 4: Governance, risk and control
 - Performance Objective 5: Leadership and management
 - Performance Objective 9: Evaluate investment and financing decisions
 - Performance Objective 14: Monitor performance
 - Performance Objective 17: Tax planning and advice
2. Miss Nie's conduct in respect of the matters described in Allegation 1 above was: -
 - a) In respect of Allegation 1a), dishonest, in that Miss Nie sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise which she knew to be untrue.

- b) In respect of Allegation 1b) dishonest, in that Miss Nie knew she had not achieved all or any of the performance objectives referred to in paragraph 1b) above as described in the corresponding performance objective statements or at all.
 - c) In the alternative, any or all of the conduct referred to in Allegation 1 above demonstrates a failure to act with Integrity.
- 3. In the further alternative to Allegations 2a), 2b) and or 2c) above, such conduct was reckless in that Miss Nie paid no or insufficient regard to ACCA's requirements to ensure:
 - a) Her practical experience was supervised;
 - b) Her Practical Experience Supervisor was able to personally verify the achievement of the performance objectives she claimed and/or verify it had been achieved in the manner claimed;
 - c) That the performance objective statements referred to in paragraph 1b) accurately set out how the corresponding objective had been met.
- 4. By reason of her conduct, Miss Nie is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.
- 14. Miss Nie became a student of ACCA on 18 December 2016 and was admitted as an affiliate on 18 January 2021.
- 15. Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. However, in order to apply for membership, they are required to obtain at least 36 months' practical experience in a relevant role ('practical experience'). It is permissible for some or all of that practical experience to be obtained before completion of ACCA's written exams.
- 16. A person undertaking practical experience is often referred to as an ACCA trainee. An ACCA trainee's practical experience is recorded in that trainee's

Practical Experience Requirement (PER) training record, which is completed using an online tool called 'MyExperience' which is accessed via the student's MyACCA portal.

17. 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 (International Federations of Accountants) body. Once a trainee believes they have completed a PO, they are required to provide a statement in their PER training record describing the experience they have gained in order to meet the objective. Given this is a description of their own experience, the statement should be unique to them. Through the online tool, the trainee then requests that their practical experience supervisor approves that PO.
18. 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 time and achievement of POs.
19. If the trainee's line manager is not qualified, the trainee can nominate a supervisor who is external to the firm to supervise their work and approve their POs. This external supervisor must have some connection with the trainee's firm, for example as an external accountant or auditor.
20. Once all nine POs have been approved by the trainee's practical experience supervisor (whether internal or external) and their minimum 36 months of practical experience has been signed off, the trainee is eligible to apply for membership.
21. During 2021 it came to the attention of ACCA's Professional Development team that between 16 December 2019 and 29 January 2021, 100 ACCA trainees had completed their PER training record in which they claimed their POs had apparently been approved by a particular supervisor, namely Person A.

22. A person purporting to be Person A registered as each trainee's supervisor on the basis of their being a member of the Chinese Institute of Certified Public Accountants (CICPA) - an IFAC registered body.
23. Person B, Manager of ACCA's Professional Development Team, provided a statement for the purposes of these cases. They stated they would not expect a supervisor to have more than 2-3 trainees at any one time. It is accepted all these trainees had different periods of training and some periods overlapped. ACCA is unable to produce precise figures as to how many trainees Person A allegedly supervised at any one time. A person claiming to be Person A had apparently supervised a very significant number of ACCA trainees at, or about, the same time.
24. A review was also carried out by the Professional Development Team which indicated the PO statements had been copied amongst a large number of these 100 trainees, who had all claimed to have been supervised by the same supervisor, namely Person A.
25. In light of the above, ACCA contacted Person A via CICPA. Person A denied having supervised any ACCA trainees. During this contact Person A provided ACCA with their email address.
26. As a result of the above, all 100 trainees were referred to ACCA's Investigations Team. By this date many of these trainees had obtained ACCA membership.
27. During ACCA's investigation of these cases, Person A was contacted, and they agreed to provide a statement. In their statement (provided to the Committee) they stated that although initially they advised ACCA, they had never supervised any ACCA trainees, they did then recall having supervised a single ACCA trainee. Person A provided ACCA with the name of the trainee, which was not Miss Nie.
28. ACCA's records confirm Person A did act as a supervisor for this one trainee, who is not one of the 100 cases under investigation. In addition, they acted as supervisor for this trainee only to the limited extent of approving one of their nine POs, which they confirmed in their statement.

29. The reason this ACCA trainee was not included in these 100 cases under investigation is because Person A had been issued with a different supervisor registration number by ACCA and her details were different to Person A who had apparently supervised these 100 other trainees. This included their email address. The email address that was registered by 'Person A in connection with these 100 trainees was Email1. This was different to the email address provided by Person A to ACCA. In their statement to ACCA Person A stated they have never had an email address containing Email1.
30. Person A who was registered as supervisor for the 100 trainees under investigation provided a copy of a CICPA registration card. Person A who ACCA has contacted has confirmed in their statement this is their registration card, but they did not provide this to ACCA.
31. Person C, Senior Administrator in ACCA's Member Support Team, provided a statement explaining ACCA's membership application process. They stated that once an application is received, this is recorded in ACCA's Prod database by an automated process. Person C exhibited to their statement a sample record. The corresponding record for Miss Nie was provided to the Committee and records her application being received on 19 January 2021. However, due to the matters which are the subject matter of this case, Miss Nie's application for membership was not granted.
32. Person B confirmed in their statement the following:
- POs and ACCA's exams are closely linked so that the knowledge and techniques the trainee develops through their studies are relevant in their workplace. The tasks and activities a trainee will be asked to demonstrate in the POs are also closely related to the type of work they will undertake on a regular basis in an accounting or finance role.
 - Each PO comprises 3 parts; (i) a summary of what the PO relates to, (ii) 5 elements outlining the tasks and behaviours a trainee must demonstrate to be able to achieve the PO and (iii) a 200 to 500-word concise personal statement in which a trainee must summarise how they achieved the PO.

- In total a trainee is required to complete nine POs. The POs numbered 1 to 5 are compulsory. There are then a number of 'Technical' POs, from which the trainee needs to choose 4. ACCA recommends to trainees that they choose the technical POs that best align to their role so that it is easier to achieve the PO. In that regard the ACCA's requirements as published in the 2019 guide, and subsequently, explain the following:

'The performance objectives you choose should be agreed with your practical experience supervisor. You should consider the following points when selecting which performance objectives to target

... ..

Match any business objectives you have been set at work with the performance objectives. This will allow you to work towards your business objectives and your PER at the same time.'

- In their personal statement for each PO, a trainee needs to provide a summary of the practical experience they gained. They must explain what they did, giving an example of a task. They must describe the skills they gained which helped them achieve the PO and they must reflect on what they have learned including what went well or what they would have done differently.
- A trainee's personal statement for each PO must be their own personal statement that is unique to them and their own experience. This has been consistently referred to in ACCA's published guides (which Person B exhibited to their statement). Trainees must not, therefore, use a precedent or template or another trainee's personal statement, which would undermine the PER element of the ACCA qualification. The 2019 published guide concludes:

'Your situation and experience are unique to you, so we do not expect to see duplicated wording, whether from statement to statement, or from other trainees. If such duplication occurs, then it may be referred to ACCA's Disciplinary Committee.'

- ACCA's PER guides are available online in China. Although the Guides are printed in English, all Chinese trainees will have taken their exams in

English and therefore it would follow that they have a reasonable command of the English language.

- A practical experience supervisor means a qualified accountant who has worked closely with the trainee and who knows the trainee's work. "Qualified accountant" means a member of an IFAC member body and/or a body recognised by law in the trainee's country.
- A practical experience supervisor is usually the trainee's line manager. However, where the trainee's manager is not IFAC qualified, the trainee can appoint an external supervisor who is. In all but one of the 100 cases, including this case, Person A was recorded as an external supervisor. ACCA's PER guide (as exhibited to Person B's statement) states:

'If your organisation does not employ a professionally qualified accountant who can sign-off your performance objectives then you could ask an external accountant or auditor who knows your work, to be your practical experience supervisor and work with your line manager to sign off your objectives.'

- Trainees must enter their practical experience supervisor's details using the MyExperience online recording tool which generates an invitation to their nominated supervisor to act as their supervisor. If the supervisor accepts that invitation, the supervisor is required to record their details using the same recording tool. On the dates Person A was allegedly appointed supervisor for these 100 trainees, there was no requirement for the supervisor to provide the name of their employer. Instead, they were only required to register their job title and provide their email address.
- All practical experience supervisors have to be registered with ACCA and as part of that registration process have to provide evidence, they are a qualified accountant. Person A apparently provided evidence to ACCA in the form of a registration card from CICPA. As such they were, from ACCA's point of view, a 'qualified accountant'. (A copy of this registration card is exhibited to Person B's statement)

33. Information has been obtained from one of ACCA's China offices in China about the support given to ACCA trainees in China, as follows:

- ACCA's Customer Services Team in China email all ACCA affiliates in China inviting them to regular webinars provided by ACCA staff who can advise on the PER process.
- The Committee was provided with a list of webinars (translated using Google translate) relating to ACCA's membership application process dated from 14 December 2016 to 27 August 2022. There are a number dated in 2019 including one dated 30 May 2019, further details of which were provided to the Committee. The details include reference to:

'...Record 36 months of accounting-related work experience in myACCA, and complete 9 Performance Objectives, which will be confirmed online by your supervisor...'

- These are live webinars and therefore trainees can ask ACCA China staff questions.
- The webinar details refer to encouraging affiliates to join the ACCA WeChat group of their regional service group and provides details of how to join. All the webinars listed include the same details about these WeChat groups. ('WeChat' is a social media app available globally but used extensively in China). In these WeChat groups, ACCA trainees can ask ACCA China staff questions including about the PER process.
- In addition to the WeChat groups, ACCA China uploads to its WeChat platform articles relevant to the ACCA membership process. Provided with the papers for the Committee was a list of those articles (translated using Google translate). This included an article 'How to become an ACCA Member Series 1/ Practical Experience Requirement (PER) Quick Guide', dated 15 January 2020. A copy of the article was also provided. The article refers to a mentor, which is the same as a supervisor. Under the heading 'Find a mentor' the article states in particular:

'Your experience must be under the supervision of a mentor to count towards PER. You must find a mentor with real work experience to monitor and confirm your work hours and performance goals...'

- Under the heading 'Determine performance goals' the article states in particular:

You have to choose which performance goals to accomplish, here are some points to keep in mind:

- *You need to complete 9 performance goals, including all 5 core goals and any 4 technical goals;*
- *Work with your practical experience mentor to develop a plan to achieve performance goals;*
- *Choose technical goals that are relevant to your day-to-day work, as they are easier to achieve;....*

34. Miss Nie's PER training record indicates that she was employed by one firm, namely Company A. In particular it records the following:

- Miss Nie was employed by the above firm from 3 July 2017 to no specified date in the role of Analyst. This suggests she remained employed at least up to the date her time/experience was approved on 11 December 2020.
- The PER records this as 41 months of relevant practical experience which relates to the period of employment referred to in the paragraph immediately above.
- In this role, the training record refers to two supervisors, Person A, who was authorised to approve her POs only and a second supervisor, Person D, who was authorised to approve her experience/time claim only.
- In relation to the POs, the PER records that Miss Nie requested Person A to approve all nine POs on 10 December 2020 and Person A apparently approved all nine POs on the same day.

- The Supervisor details for Miss Nie records that Person A was an external practical experience supervisor, hence why Person A only approved Miss Nie's achievement of her POs and not the period of her employment in the firm referred to.
 - Person D approved Miss Nie's period of employment at the firm on 11 December 2020.
 - The Supervisor details for Miss Nie record that Person D was a 'non IFAC qualified line manager' and hence why Person D only approved Miss Nie's time / experience claim.
35. As referred to by Person B, all PO statements should be unique and must not be copied from other trainees or from templates as this undermines the PER element of the ACCA qualification.
36. As part of ACCA's investigation a careful analysis was carried out comparing the POs of each trainee who claimed to have been supervised by Person A. The purpose of this analysis was to determine if the PO statements of any one trainee were identical or significantly similar to the POs of any other trainee who claimed to have been supervised by Person A.
37. Where PO statements were the same or significantly similar to the POs of any other trainees, this would suggest at the very least, the trainee had not met the objective in the way claimed or possibly at all. That further, the practical experience claimed, had not been supervised by a practical experience supervisor, who would or should have knowledge of the trainee's work.
38. This analysis was made possible in part by the company which provides ACCA with the online PER tool providing an Excel spreadsheet with all the POs downloaded from these 100 trainees. ACCA's investigating officers were then able to analyse these POs from that spreadsheet. In carrying out this analysis, ACCA has been careful to record the PO statement for any one PO which was first in time, on the basis this statement may be original and therefore written by the trainee based on their actual experience, unless there is evidence suggesting otherwise.

39. The 'first in time date' is the date the trainee requested that Person A approve the PO in question within their PER. This is on the basis that as soon as the PO narrative had been uploaded to the PER, the trainee would have then requested approval from Person A.
40. In relation to Miss Nie the analysis revealed:
- Only one of her PO statements was first in time; and
 - Eight of her PO statements, not being the first in time, were identical or significantly similar to the POs contained in the PERs of many other ACCA trainees who claimed to have been supervised by Person A.
41. Prior to this matter being referred to investigations, there was email correspondence between Miss Nie and ACCA. A copy of the correspondence was provided to the Committee.
42. On 22 January 2021, a member of ACCA's team emailed Miss Nie advising her that her application had been selected for PER audit. On 25 January 2021, Miss Nie was advised that a membership acceptance email had been sent in error, and she was asked to confirm further details about her supervisor and job role.
43. On 26 January 2021, Miss Nie provided some information on her supervisor and job role. She stated that *"Person A is my Line Manager. They are the head of our department... and I reported my weekly work to them. They gave me a lot of guide when I first joined the company and we have a close relationship on the work."* (sic)
44. On 2 February 2021, ACCA emailed Miss Nie to confirm that ACCA had contacted her supervisor and was awaiting a response.
45. On 3 February 2021, Miss Nie contacted ACCA stating that her supervisor had not received any contact from ACCA. Miss Nie provided a certificate of employment in her local language.

46. On 13 April 2021, after several further requests from ACCA regarding supervisor details, Miss Nie provided an employment letter and a supervisor confirmation letter. In particular, the 'Confirmation Letter', dated 4 January 2021, stated:

"This is to certify that Person A, is our firm's partner, Person A was worked in our firm since 04/08/2011 to current, the position is partner. Now they are Minzhu Nie's external supervisor, whose ACCA number is [Private]. Person A is a certified public accountant and professional, also they work closely with her, knows her work. so, there's enough reason that she can be IFAC Qualified external supervisor.

Relationship with 'company

Person A is the CFO (partner) of Company D. The firm name is Company B, which provides our company with due diligence, financial advice and so on.

Minzhu Nie's Firm is Company A

Our firm provides their company with an annual audit, and every year we audit their company. Minzhu Nie, who is an analyst, and provides the data. Her work is very important to our audit report, directly affects my audit result. So Person A has to be clear about how she works, what she does, and even whether there are major mistakes to check.

So there's enough reason that she can be IFAC Qualified external supervisor."
[sic]

47. Although the letter is on letter-headed paper and dated, there is no signature and no identity of the person who wrote it. The Supervisor details for Miss Nie also makes no reference to Company B.
48. ACCA made enquiries with Company B China in May 2021. A copy of the CICPA registration card for Person A was provided to Company B during the email exchange. The email exchange was between ACCA's investigating officer and Company B's China's HR manager for Company B's headquarters in China.

49. In summary, the HR manager advised that the Chinese characters in the CICPA registration card were clear enough to allow them to inquire in their HR system and that there was *'no such person in all Company B's offices throughout China'*. The CICPA registration card included a date of birth with the year of birth being 1990. The HR manager advised that a person born in 1990 could not be a partner.
50. ACCA also contacted Person A, asking whether they had worked or works at any Company B office in China to which they said they had not. They provided a statement to ACCA to that effect.
51. On 25 August 2022, ACCA emailed Miss Nie notifying her of this matter. Attached to the email was a covering letter which set out in detail the matters being investigated and asked for a response to a number of questions.
52. There were also other documents attached to the email including (i) Miss Nie's Practical Experience Requirement (PER) training record, (ii) details of her supervisors and (iii) the Separate Bundle (as referred to above) with the covering letter including reference to the tables indicating how the eight POs she had submitted were identical or significantly similar to the PO statements of many other trainees.
53. Because no response had been received from Miss Nie, on 9 September 2022, Miss Nie was sent a first formal reminder to co-operate with the investigation.
54. Because no response had been received, on 26 September 2022, Miss Nie was sent a second formal reminder of her duty to co-operate.
55. Later on 26 September 2022, Miss Nie wrote to advise that she had not seen the email of 25 August 2022. She requested that it be resent. ACCA sent a further copy of the correspondence shortly after receiving this email
56. On 24 October 2022, Miss Nie responded by asking for *"two more weeks to prepare the documents you required."*

57. On 8 November 2022, Miss Nie emailed ACCA, attaching text messages, an employment contract (in local language) and a document outlining her responses to the complaint.

58. Regarding how she came to register Person A as her PER supervisor, Miss Nie stated:

“They were an external accountant from Company B and was the manager of the first program since I started working. I met them when I first arrived at the company and they gave me a lot of work guidance, so I invited them as my PER supervisor... Company B has done audit and tax program in our company, as well as internal management consulting program. The cooperation with Company B ended in the previous 2 years and changed to Company C. I haven’t contacted them much since my company changed accounting firm.”

59. She also stated:

“After about three months we worked together, I invited them to be my ACCA supervisor. In the early time, because I was preparing for the ACCA exams and we were busy with work. I didn’t want to disturb them when got off the work, so I didn’t write POs. After the exam was almost passed, I asked Person A about my POs. They agreed, and we roughly discussed the content. After that, I filled in POs according to my working experience and submitted it to them. I don’t think there is any problem here. There is no rule that I can’t submit POs on 49 months.

I wrote my POs according to my own experience and Person A’s advice. I’m not aware it’s similar to others. As I mentioned above, I think I was supervised by Person A. If you need any other evidence which I can provide, please contact me anytime.”

60. Miss Nie did not provide any further representations, nor did she attend her hearing.

DECISION ON FACTS/ALLEGATION AND REASONS

61. The Committee considered with care all the evidence presented and the submissions made by Mr Slack. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

Allegation 1(a) - proved

62. The Committee considered there was ample evidence in the papers to prove that Miss Nie had applied to ACCA to become a member on or about 19 January 2021. In doing so she purported to confirm, in relation to her PER, that her Practical Experience Supervisor in respect of her practical experience training in the period from 3 July 2017 to 11 December 2020 was Person 'A' when Person 'A' did not supervise that practical experience training in accordance with ACCA's requirements as published from time to time by ACCA, or at all.
63. The Committee noted the content of Person B's statement that describes ACCA's Practical Experience Requirements. The Committee was satisfied that Miss Nie must have known the requirements of a practical experience supervisor from all the clear information provided by ACCA.
64. The Committee was provided with Miss Nie's PER training record which was completed on or about 11 December 2020 and which permitted Miss Nie to apply for membership. Miss Nie's Supervisor record shows Person A was her 'IFAC qualified external supervisor', and therefore her practical experience supervisor.
65. Miss Nie's PER training record purports to show Person A approved all of her POs, as set out in Allegation 1b). However, contrary to this assertion, the statements from Person A, obtained by ACCA, make it clear that they deny acting as supervisor for any of the ACCA trainees, the subject of ACCA's investigation. They also deny ever having worked for Company B and this has been confirmed by Company B. Significantly, eight of Miss Nie's nine PO statements were the same as or significantly similar to other trainees, suggesting at the very least, that she had not achieved the objectives in the way she claimed or possibly at all.

66. Furthermore, the Committee considered it inherently unlikely that Person A could have supervised 100 trainees during a similar period.
67. In addition to the above, it is apparent from Miss Nie's responses that she was not supervised during her training in accordance with ACCA's requirements or at all by Person A given:
- She says Person A worked at Company B and was her line manager. However, Miss Nie never worked at Company B, so even if what she said about Person A was true, her account was inconsistent;
 - She has not addressed the issue of eight of her POs being identical to significant numbers of POs submitted prior to her own;
 - She has not provided any evidence regarding Person A's contact details.
68. Accordingly, for all these reasons the Committee found Allegation 1(a) proved on the balance of probabilities.

Allegation 1(b) - proved

69. Miss Nie's training record confirmed that she had achieved the POs stated when, at the very least, she cannot have achieved them in the way recorded since they were apparently fictitious accounts and not her own. There was no evidence provided by Miss Nie to show that she had legitimately achieved the eight identified performance objectives claimed in her training record. The Committee noted that:
- a) Miss Nie's PO1 statement was identical or significantly similar to another trainee whose PO1 statement was purportedly approved by Person A;
 - b) Miss Nie's PO2 statement was identical or significantly similar to five other trainees whose PO2 statements were purportedly approved by Person A;

- c) Miss Nie's PO3 statement was identical or significantly similar to five other trainees whose PO3 statements were purportedly approved by Person A;
 - d) Miss Nie's PO4 statement was identical or significantly similar to five other trainees whose PO4 statements were purportedly approved by Person A;
 - e) Miss Nie's PO5 statement was identical or significantly similar to five other trainees whose PO5 statements were purportedly approved by Person A;
 - f) Miss Nie's PO9 statement was identical or significantly similar to five other trainees whose PO9 statements were purportedly approved by Person A;
 - g) Miss Nie's PO14 statement was identical or significantly similar to five other trainees whose PO14 statements were purportedly approved by Person A;
 - h) Miss Nie's PO17 statement was identical or significantly similar to three other trainees whose PO17 statements were purportedly approved by Person A.
70. Each student's practical experience should be unique to them and the possibility of recording exactly or nearly exactly the same as another student is simply not plausible. The only likely explanation is that they were copied from some template. Furthermore, the Committee took into account Person A's statement that they had not acted as supervisor to Miss Nie.
71. In addition to the above, it appears that Miss Nie is unsure about whether she was supervised in accordance with ACCA's guidelines and she has not addressed the issue of eight of her POs being identical or significantly similar to many POs submitted prior to her own.
72. Given the near identical nature of the eight identified PO statements to other trainees purportedly approved by Person A, Miss Nie's lack of explanation for

how this occurred and the evidence from Person A, the Committee found Allegation 1(b) proved.

Allegation 2(a) & 2(b) - proved

73. The Committee then considered whether the behaviour found proved in Allegations 1(a) and 1(b) was dishonest. Whilst it considered each separately, the Committee recognised that they were clearly linked. The Committee considered what it was that Miss Nie had done, what her intentions were and whether the ordinary decent person would find that conduct dishonest.
74. The Committee noted that eight POs ACCA had identified were identical or significantly similar to many other trainees' POs purportedly approved by Person A. The Committee was satisfied on the evidence that Miss Nie must have done the same with those POs, namely copied or adopted them. The only realistic explanation was that someone had provided Miss Nie with stock responses, which had been used for many other students, and Miss Nie copied or adopted them and pretended they were her own. The only reason for doing so was to deceive ACCA into believing she had the relevant experience shown in those POs and thereby to allow her to apply to become a member of ACCA.
75. On the evidence, therefore, the Committee was satisfied, on the balance of probabilities, that Miss Nie knew the PER supervisor requirements and that Person A was not supervising her and that she could not, therefore, legitimately rely on Person A to sign off her POs. Furthermore, the Committee was satisfied on the balance of probabilities, that the aforementioned POs Miss Nie submitted were not genuine, as she claimed, and could not, therefore, reflect the work experience she had completed, but rather were stock answers provided by whoever was coordinating all these stock responses.
76. In addition, the Committee took into account the evidence of Person A that they had not acted as Miss Nie's supervisor, they had not signed off on any of her POs and they had never worked at Company B as claimed by Miss Nie.
77. The Committee could not know the precise mechanics of how the PO statements were completed. However, whatever process was followed it was clear from her own response that Miss Nie was complicit in, and entirely aware

of, the provision of false POs so that she, Miss Nie, could add those to her PER and subsequently illegitimately apply to become an ACCA member.

78. Miss Nie must have known that Person A had not supervised her work and or acted as her supervisor, in accordance with the necessary requirements. In addition, Miss Nie provided no evidence to demonstrate that she had achieved the eight performance objectives she claimed, in the manner she claimed or at all, but rather relied on stock answers provided by a third party and lied about Person A being her supervisor. The Committee was in no doubt that an ordinary decent member of the public, in full possession of the facts of the case, would find the entirety of this conduct to be dishonest. The Committee therefore found Allegations 2(a) and 2(b), on the balance of probabilities, proved.
79. Having found Allegations 2(a) and 2(b) proved it was not necessary for the Committee to consider Allegations 2(c) or 3(a),(b) and (c), which were alleged in the alternative.

Allegation 4 - proved

80. Having found the facts proved in Allegations 1(a), 1(b), 2(a) and 2(b), the Committee then considered whether they amounted to misconduct. The Committee considered there to be cogent evidence to show that Miss Nie sought the assistance of a third party to provide false POs and to act as her PES in order to allow her, Miss Nie, to, illegitimately, apply to become a member of ACCA. This premeditated and calculated dishonest behaviour demonstrated a complete disregard for ACCA's membership process and allowed Miss Nie to apply to become a member of ACCA when not qualified to do so. Such behaviour seriously undermines the integrity of the membership process and the standing of ACCA. It brings discredit upon Miss Nie, the profession and ACCA. The Committee considered this behaviour to be very serious; it would be considered deplorable by other members of the profession and the public and the Committee was in no doubt it amounted to misconduct.
81. The Committee therefore found Allegation 4 proved in relation to the matters set out in 1(a), 1(b), 2(a) and 2(b) inclusive.

SANCTION AND REASONS

82. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Slack. 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 Nie, 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.
83. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
84. The Committee considered the misconduct involved the following aggravating features:
- A deliberate, repeated, dishonest act for personal benefit at the expense of the public and the profession;
 - An element of premeditation, planning, and collusion with a third party;
 - Undermining the integrity, and thereby undermining public confidence, in ACCA's membership process;
 - A complete lack of insight into her behaviour;
 - No evidence of remediation, regret or remorse.
85. The Committee considered there to be one mitigating factor, namely the absence of any previous disciplinary history with ACCA.
86. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where an affiliate of ACCA had disregarded the membership requirements and acted dishonestly when submitting information in connection with her PER.
87. The Committee then considered whether to reprimand Miss Nie. The guidance indicates that a reprimand would be appropriate in cases where the misconduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. The Committee did not consider Miss Nie's misconduct to be of a minor nature and she had shown no

insight into her dishonest behaviour. Dishonest behaviour is very serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the misconduct in this case.

88. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The Committee considered none of these criteria to be met. The guidance adds that this sanction may be appropriate where most of the following factors are present:

- The misconduct was not intentional and no longer continuing;
- Evidence that the conduct would not have caused direct or indirect harm;
- Insight into failings;
- Genuine expression of regret/apologies;
- Previous good record;
- No repetition of failure/conduct since the matters alleged;
- Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- Relevant and appropriate references
- Co-operation during the investigation stage.

89. The Committee considered that virtually none of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Miss Nie's behaviour. Her misconduct was intentional, and she has not demonstrated any insight into her dishonest behaviour. She has offered no expression of regret or apology. She does have a previous good record, but there has been no evidence of rehabilitative steps. She had provided no references. It is right to say that she did co-operate to a limited extent during the investigation stage, although it was clear that her accounts about her relationship with Person A were untrue. To allow someone to remain as an affiliate of ACCA who has lied about the identity of their personal experience supervisor and relied on false POs in an attempt to obtain membership of ACCA, would be contrary to the whole process of qualifying as a member of

ACCA. Furthermore, had Miss Nie been admitted as a member there was the potential to harm a substantial number of clients given she may not have had the necessary experience to be qualified as a member of ACCA. She also attempted to cover up her dishonesty by providing false documentation, thereby further exacerbating her dishonest behaviour.

90. The Committee noted that the Association provides specific guidance on the approach to be taken in cases of dishonesty, which 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.”*
91. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Miss Nie’s case that warranted anything other than removal from the affiliate 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. The Committee was cognisant of the severity of this conclusion. However, providing false information about one’s practical experience supervisor in order to satisfy one’s PER represents behaviour fundamentally incompatible with being an affiliate of ACCA and undermines the integrity of ACCA’s membership process. The PER procedure is an important part of ACCA’s membership process, and the requirements must be strictly adhered to by those aspiring to become members.
92. In the Committee’s view, Miss Nie’s dishonest conduct was such a serious breach of bye-law 8 that no other sanction would adequately reflect the gravity of her offending behaviour.

93. The Committee also considered that a failure to remove an affiliate from the Register who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its regulator. The public needs to know it can rely on the integrity, ability and professionalism of those who aspire to be members of ACCA. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour is unacceptable.
94. The Committee therefore ordered that Miss Nie be removed from the affiliate register.

COSTS AND REASONS

95. ACCA applied for costs in the sum of £10,046.25 to cover the costs of bringing this case. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable, except for the fact that the DC fixed hearings costs of £2,350.00 had been claimed twice. Accordingly, it was necessary to deduct £2,350.00 from the figure applied for. In addition, the costs of the Hearings Officer and Case Presenter included in the sum quoted were based upon a full day when in fact the hearing took less than a whole day. Accordingly, the figure would be reduced to reflect this.
96. Despite being given the opportunity to do so, Miss Nie 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 this ground.
97. The Committee had in mind the principle that members against whom an allegation has been found proved should pay the reasonable and proportionate cost of ACCA in bringing the case. This was because the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings.

98. In deciding the appropriate and proportionate Order for costs the Committee took into account the above factors and decided to make an Order for costs in the sum of £6,000.00

EFFECTIVE DATE OF ORDER

99. In light of its decision and reasons to remove Miss Nie from ACCA's affiliate register and the seriousness of her misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect.

Mr Neil Dalton
Chair
6 December 2023