

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Li Yi

Heard on: Monday, 11 December 2023

Location: Heard remotely by video conference

Committee: HH Graham White (Chair)
Ms Wanda Rossiter (Accountant)
Ms Victoria Smith (Lay)

Legal Adviser: Mr Andrew Granville Stafford

Persons present

and Capacity: Mr Benjamin Jowett (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a), 2(b) and 4 proved
Excluded from membership with immediate effect.

Costs: £5,000

PRELIMINARY

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Miss Li Yi.

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2. The Committee had before it a bundle of documents (255 pages), three additional bundles (30 pages, 27 pages and 2 pages) and a service bundle (23 pages).
3. Miss Yi, who is resident in China, did not attend the hearing and was not represented.

PROCEEDING IN ABSENCE

4. The notice of hearing was sent by email on 13 November 2023 to Miss Yi's email address as notified by her to ACCA. The Committee was provided with a delivery receipt showing the email had been received by the addressee.
5. On 22 November 2023, the Hearings Officer attempted to contact Miss Yi by telephone on two numbers recorded for her on the register. One was answered by a male voice who did not respond in English. On the other the call rang once and was disconnected.
6. The Hearings Officer made further calls to both numbers on 04 December 2023 and 08 December 2023, but again was unsuccessful in speaking to Miss Yi or leaving a message for her.
7. These calls were followed up by emails from the Hearings Officer to Miss Yi on 22 November 2023, 04 December 2023, and 08 December 2023, to which there has also been no response.
8. 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.
9. Having satisfied itself that service had been effected in accordance with the regulations, the Committee went on to consider whether to proceed in the absence of Miss Yi. The Committee bore in mind that the discretion to do so must be exercised with care and in light of the public interest in dealing with matters such as this fairly, economically and expeditiously.
10. The Committee considered that no useful purpose would be served by adjourning this hearing. Miss Yi has not responded to the notice of hearing or subsequent emails and phone calls from the Hearings Officer. She has not applied for an adjournment. There was no reason to think that she would attend if this case were to be relisted on a future date. The Committee considered that

it was both in the interests of justice and the public interest that the hearing should proceed in Miss Yi's absence.

ALLEGATIONS AND BRIEF BACKGROUND

11. The allegations against Miss Yi are as follows:

Li Yi ('Miss Yi'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 07 July 2020 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 01 November 2012 to 05 July 2013 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 Objective which was not true:

- 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 6: Record and process transactions and events
- Performance Objective 8: Analyse and interpret financial reports

2. Miss Yi's conduct in respect of the matters described in Allegation 1 above was: -

a) In respect of Allegation 1a), dishonest, in that Miss Yi 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 Yi knew she had not achieved the performance objective referred to in paragraph 1b) above as described in the corresponding performance objective statement 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 Yi 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 Yi 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.

- 12. Miss Yi became a student member of ACCA in July 2008 and was admitted as an affiliate member on 04 February 2012. She was admitted as a full member on 09 July 2020, following an application for membership that she made on or about 07 July 2020.

- 13. Part of the requirement of becoming an ACCA member, in addition to passing the relevant exams, is the completion of practical experience. ACCA's practical experience requirement ('PER') is a key component of the ACCA qualification.

- 14. ACCA's PER is designed to develop the skills needed to become a professionally qualified accountant. There are two components to the PER:

- Completion of nine performance objectives ('POs'). Each PO includes a statement of 200 to 500 words, in which the student explains how they have achieved the objective. They should, therefore, be unique to that student. The PO must be signed off by a practical experience supervisor ('PES'), who must be a qualified accountant recognised by law in the relevant country and/or a member of an IFAC body. They must have knowledge of the student's work in order to act as a PES. The PES is typically the student's line manager, though if their line manager is not suitably qualified, they can nominate an external supervisor provided the external supervisor has sufficient connection with the trainee's place of work.
 - Completion of 36 months practical experience in accounting or finance related roles, verified by a PES. The period of practical experience may be verified by a non-IFAC qualified line manager.
15. Those undertaking the PER are known as trainees. The trainee's progress towards the PER is recorded online in their PER Training Record.
 16. Miss Yi first submitted an application for membership of ACCA in 2012. ACCA informed her by email on 21 November 2012 that her POs had not been verified and her time experience was insufficient. She was informed where she would find guidance on how to properly complete the PER. She was told that her application for membership would be put on hold.
 17. On or around 07 July 2020, in support of her application, Miss Yi submitted her PER Training Record to ACCA. She stated she had three relevant periods of employment.
 18. The PER Training Record said she had worked for Company C as an Accountant from 01 November 2012 to 05 July 2013. She claimed 13 months of practical experience in relation to this employment, although this period was in fact only eight months.
 19. In relation to this employment, Miss Yi's PER Training Record named two supervisors, Person A, an external PES and Person B.
 20. Person A was authorised to approve her POs only. The PER Training Record recorded that Person A had been asked by Miss Yi to approve all nine of her POs on 05 July 2020 and had apparently signed them off two days later, on 07 July 2020.

21. Person B, who was described as a 'IFAC qualified line manager', was appointed as PES to approve both Miss Yi's POs and her time/experience claim. However, in fact no request had been made of them to do either in respect of this period of employment.
22. The second and third periods of employment were with the same employer, Company C, working as an Accountant. They were stated to be from 07 July 2013 to 05 August 2013 and from 16 September 2013 to 28 February 2016. This provided Miss Yi with a total of 38 months experience.
23. In relation to these two periods of employment, the PER Training Record names one PES, Person B, who was authorised to approve both Miss Yi's POs and her time/experience claim. However, Person B had only been requested to approve Miss Yi's time/experience claim, which they did on 03 March 2017. They had not been asked to approve her POs.
24. During 2021 it came to the attention of ACCA's Professional Development team that between December 2019 and January 2021, around 100 ACCA trainees had submitted PER Training Records in which they claimed their POs had been approved by Person A. ACCA's case, supported by evidence from Person C, Manager of ACCA's Professional Development Team, was that it would not be expected that a PES had more than two to three trainees at any one time.
25. A review was carried out by ACCA's Professional Development Team. It noted that a number of POs submitted by the trainees Person A had allegedly supervised were identical or strikingly similar to each other. In relation to Miss Yi, the review showed:
 - Three of her PO statements were first in time, meaning that the date Person A approved the statement was before that for any of the other trainees, and therefore may be original;
 - The other six of her PO statements, not being the first in time, were identical or strikingly similar to other ACCA trainees who claimed to have been supervised by Person A.
 - Of those six, Miss Yi's PO2, PO3, PO4 and PO6 statements were identical or significantly similar to that of Trainee 32. For example, the only difference in the PO3 statement was that there was an extra paragraph in Trainee 32's version; otherwise, they were identical. In

addition, Ms Yi's PO4 statement was also significantly similar to that of Trainee 31. Miss Yi's PO5 and PO8 statements were significantly similar to, respectively, those of Trainee 25 and Trainee 15.

26. Person A, who is a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body, was contacted by ACCA. They provided witness evidence stating they had only supervised one ACCA trainee, who they named as Person D, and who was not one of the 100 trainees referred to above.
27. The matter was referred to ACCA's Investigations Team. On 25 August 2022, the Investigations Team emailed Miss Yi setting out the matters being investigated and asking for a response.
28. Miss Yi replied by email on 23 September 2022, saying:

'Because my work and life are too busy, I did not pay proper regard to the Guidance that is complicated, and I found a person on the Internet to guide me how to apply for membership. [PRIVATE] asked me to provide my account and password of ACCA, saying that [PRIVATE] would log in to check the application progress, but I really didn't know [PRIVATE] treated as a PER supervisor of mine.

. . . I can not provide the name of [Person A]'s firm and the type of work.

i) Why was it necessary to have [Person A] as an external supervisor who went on to approve all your objectives?

To be honest, I'm not familiar with the guidelines for applying for membership and did not know need a supervisor to approve my PO's. Therefore, I found a person online to guide me how to do. But [PRIVATE] asked me to provide my account and password of ACCA, saying that [PRIVATE] would log in to check the application progress, but I really didn't know [PRIVATE] treated as an external supervisor who went on to approve all my objectives.

ii) Why did [Person B] not approve any of your objectives?

Because I didn't know it is necessary to a supervisor to approve my objectives during the process of ACCA application. The person I found to guide me to apply approved my objectives without telling me. Therefore, I did not asked [Person B] who is my ex-leader approve my objectives

I would like to express my sincere regret. I really did not know that there was a requirement in this regard. In the future, I will devote more time and energy to learning ACCA requirements.

Because I didn't know it is necessary to a supervisor to approve all my PO's. The person I found to guide me to apply approved all my objectives without telling me. I highly doubt that [PRIVATE] did not want to take too much time to guide me and complete that without telling me. But for me, this consequence is not on purpose.

I can not provide you with documentary evidence in relation to [Person A]'s supervision of mine. First of all, [PRIVATE] is not my real supervisor. Secondly, I don't even know if this person I found to guide me online is [Person A]

Because I don't know the requirements of ACCA application, the person completed PO's and did not tell me the requirement. I feel very regret about that and sincerely hope have an opportunity to fix it.

Because I didn't know the requirements of ACCA application, the person completed PO's and did not tell me the requirement. I feel very regret about that and sincerely hope have an opportunity to revise it.

I have to admit that I am not supervised by [Person A] in accordance with the attached Guidance which I really not familiar with.

For the above matter, I have to admit that I really feel regret not to pay proper regard to the guidance so that I found a person to guide me and [PRIVATE] did not do a correct guidance. Now, I highly hope that you will give me an opportunity to revise my inappropriate action and I guarantee that I will never do the wrong action again.'

29. ACCA submitted that the contents of this email amounted to a clear admission by Miss Yi that she had not been supervised by Person A and had not achieved the POs that she claimed to have achieved in her PER Training Record.

DECISIONS ON ALLEGATIONS AND REASONS

30. The Committee considered the documents before it, the submissions of Mr Jowett 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.

Allegation 1

31. The Committee had sight of Miss Yi's PER Training Record. It was clear that she had applied for membership on or about 07 July 2020.
32. In respect of Allegation 1(a), it was clear that Miss Yi had named Person A as her PES in respect of her practical experience training for the period from 01

November 2012 to 05 July 2013. The issue for the Committee was whether ACCA had proved that Person A did not, in fact, supervise that practical experience training in accordance with ACCA's requirements.

33. It was of significance, in the Committee's view, that Miss Yi had been informed in 2012 what the PER requirements were when she had originally submitted her membership application.
34. The Committee accepted the evidence of Person A contained in their witness statements dated 18 October 2022 and 12 September 2023. They stated that they had only acted as PES for one trainee, Person D. By necessary inference, therefore, they had not acted as PES for Miss Yi.
35. Further, Miss Yi admitted in her email to ACCA on 23 September 2022 that Person A was 'not my real supervisor' and that she was 'not supervised by [Person A] in accordance with the . . . Guidance . . .'
36. It was clear to the Committee, therefore, that Person A had not supervised Miss Yi in accordance with ACCA's requirements.
37. In respect of Allegation 1(b), Miss Yi's PER Training Record stated she had achieved nine POs. The issue for the Committee was whether ACCA had proved that this was not true.
38. The evidence shows that the majority of Miss Yi's POs had been copied from those used by other trainees who were allegedly supervised by Person A.
39. Further, in her email to ACCA dated 23 September 2022, Miss Yi admitted that the person she had contacted via the internet, and who purported to be Person A, had completed all of her POs and submitted them 'without telling me'.
40. The Committee was in no doubt that Miss Yi had not achieved the POs that she claimed to have achieved in her PER Training Record.
41. The Committee therefore found Allegations 1(a) and 1(b) proved.

Allegation 2

42. The Committee considered the test for dishonesty, as set out in the case of *Ivey v Genting Casinos*.
43. Miss Yi has admitted she was not supervised by Person A. Therefore, submitting a PER Training Record claiming that she had been was untrue, and

she clearly knew it was untrue. There is no doubt that this would be regarded as dishonest by ordinary and honest people.

44. The Committee was further satisfied that Miss Yi had submitted her PER Training Record knowing that she had not achieved the POs in question in the manner claimed. The Committee was in no doubt that this would be regarded as dishonest by the standards of ordinary and honest people.
45. The Committee therefore found Allegation 2(a) and 2(b) proved. As Allegation 2(c) was put in the alternative, there was no need for the Committee to consider it.

Allegation 3

46. As Allegation 3 was an alternative to Allegation 2, there was no need for the Committee to consider it.

Allegation 4

47. Having found charges 1, 2(a) and 2(b) proved, the Committee considered whether this conduct amounted to misconduct. The Committee reminded itself that it had, in charge 2(a), found Miss Yi had been dishonest in her application for membership of ACCA.
48. Such conduct clearly brings discredit to Miss Yi, the Association, and the profession of accountancy. It was therefore misconduct, rendering her liable to disciplinary action under bye-law 8(a)(i).
49. The Committee therefore found Allegation 4 proved.

SANCTION AND REASONS

50. 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 Miss Yi'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.

51. In mitigation, the Committee took into account that no previous findings had been made against Miss Yi.
52. The Committee considered that the following were aggravating factors. The misconduct involved pre-planned and sophisticated dishonesty. It was designed, with the use of a third party, to obtain ACCA membership when the requirements for that had not been achieved. That would have a serious impact on the public as it damages the integrity of the qualification system. Further, there was no evidence that Miss Yi had insight into her conduct or any genuine remorse for it.
53. The Committee considered the guidance in the GDS in relation to admonishment and reprimand. It considered that none of the factors potentially justifying either of those sanctions were present in this case.
54. The Committee considered whether a severe reprimand would be an appropriate sanction. Taking into account the guidance in the GDS, the Committee considered that a severe reprimand would not adequately mark the seriousness of the misconduct nor satisfy the public interest. This was intentionally dishonest conduct maintained over a lengthy period of time, carrying with it a real risk of harm to the public.
55. Dishonest behaviour undermines the trust and confidence the public places in the profession. The GDS indicates that exclusion may be appropriate where a finding of dishonesty has been made.
56. The Committee concluded that Miss Yi's actions in this case were fundamentally incompatible with being a member of a professional association. The Committee did not feel that any order which allowed Miss Yi to retain her membership of ACCA could possibly be justified.
57. Therefore, the Committee made an order under CDR 13(1)(c) of the Disciplinary Regulations excluding Miss Yi from membership of ACCA.
58. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(1)(c) restricting Miss Yi's ability to apply for readmission beyond the normal minimum period.

COSTS AND REASONS

59. ACCA applied for costs against Miss Yi in the sum of £5,746.25 The application was supported by a schedule providing a breakdown of the costs incurred by

ACCA in connection with the hearing. Mr Jowett accepted some reduction would be appropriate to reflect the actual rather than the estimated time the hearing had taken.

60. 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, subject to an adjustment based on the length of the hearing.
61. The Committee had no information about Miss Yi's financial circumstances, and therefore had no basis on which a reduction in the costs claimed could be justified.
62. The Committee ordered Miss Yi to pay ACCA's costs in the sum of £5,000.

EFFECTIVE DATE OF ORDER

63. The Committee determined that it would be in the interests of the public for the order to take immediate effect. Therefore, pursuant to CDR 20, the order removing Miss Yi from membership will take effect immediately.

HH Graham White
Chair
11 December 2022