

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Yi Qi Shen

Heard on: Tuesday, 12 December 2023

Location: Held remotely by MS Teams

Committee: Mrs Helen Carter-Shaw (Chair)
Ms Beth Picton (Accountant)
Mr Andrew Skelton (Lay)

Legal Adviser: Ms Helen Gower (Legal Adviser)

**Persons present
and capacity:** Mr Adam Slack (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Observers: Ms Caroline Robertson (Legal Adviser in training)

Summary Allegations 1a), 1b), 2a) and 2b) proved and those facts
amount to misconduct
Exclusion from membership with immediate effect

Costs: £3,015

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INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Yi Qi Shen. Mr Shen was not present and was not represented. ACCA was represented by Mr Slack. The papers before the Committee consisted of a main bundle numbered 1-258, an ‘additional’s’ bundle numbered 1-31, a bundle of performance objectives numbered 1-170, a service and correspondence bundle numbered 1-16, a ‘tabled additional’s’ bundle numbered 1-12, and a two-page memorandum and agenda.

PRELIMINARY MATTERS

SERVICE OF PAPERS

2. 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 it also took into account the advice of the Legal Adviser.
3. The service bundle included the Notice of Hearing dated 14 November 2023, thereby satisfying the 28-day notice requirement, which had been sent to Mr Shen’s email address as it appears on the ACCA register. The Notice included correct details about the time, date, and remote venue of the hearing, it also notified Mr Shen of the option to attend the hearing by telephone and to be represented if he wished. Additionally, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in his absence if considered appropriate. A delivery receipt dated 14 November 2023, confirming delivery of the Notice, was also provided.
4. The service bundle also included an email dated 6 December 2023 from ACCA’s hearing officer to Mr Shen. The e-mail followed up the Notice of Hearing and invited Mr Shen to advise whether he would be attending the hearing. In response to the notice of hearing Mr Shen sent an e-mail dated 8 December 2023 in which he stated that he had chosen to submit a written statement rather than attend the oral hearing.

He mentioned his limited proficiency in spoken English, personal work commitments and internet restrictions. ACCA's hearing officer acknowledged receipt of Mr Shen's written statement in an e-mail dated 8 December 2023. Mr Shen was advised that ACCA could arrange for an interpreter to assist him at the hearing and ACCA would cover the costs. He was also informed he could attend by phone. Mr Shen did not take up either opportunity.

5. The Committee, having considered the relevant documents, was satisfied that Notice had been served in compliance with the Regulations.

PROCEEDING IN ABSENCE

6. Having concluded that proper notice had been served in accordance with the Regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Mr Shen. The Committee took into account the correspondence from Mr Shen. On 3 March 2023 Mr Shen advised that he would not attend the hearing. On 8 December 2023 Mr Shen acknowledged receipt of the notice of hearing, stated that he would not attend the hearing, and provided written representations.
7. The Committee was of the view that Mr Shen had voluntarily absented himself and that his attendance was unlikely to be secured by an adjournment. The Committee carefully balanced Mr Shen's interests against the wider public interest and concluded that it was in the interests of justice that the matter proceed expeditiously notwithstanding the absence of Mr Shen.

ALLEGATIONS

Mr Yi Qi Shen ('Mr Shen'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 30 October 2020 and in doing so purported to confirm in relation to his ACCA Practical Experience record:

a) His Practical Experience Supervisor in respect of his practical experience training in the period from 2 May 2016 to 10 May 2020 was Person 'A' when Person 'A' did not supervise that practical experience training in accordance with ACCA's requirement as published from time to time by ACCA or at all

b) He 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 11: Identify and manage financial risk
- Performance Objective 14: Monitor performance
- Performance Objective 17: Tax planning and advice

2. Mr Shen's conduct in respect of the matters described in Allegation 1 above was:

a) In respect of Allegation 1a) dishonest, in that Mr Shen sought to confirm his Practical Experience Supervisor did supervise his practical experience training in accordance with ACCA's requirements or otherwise which he knew to be untrue.

b) In respect of allegation 1b) dishonest, in that Mr Shen knew he 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 Mr Shen paid no or insufficient regard to ACCA's requirements to ensure:
 - a) his practical experience was supervised;
 - b) his Practical Experience Supervisor was able to personally verify the achievement of the performance objectives he claimed and/or verify they had been achieved in the manner claimed;
 - c) that the performance statements referred to in paragraph 1b) accurately set out how the corresponding objective had been met.
4. By reason of his conduct, Mr Shen is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all of the matters set out at 1 to 3 above.

BRIEF BACKGROUND

8. Mr Shen was admitted as an affiliate member of ACCA on 19 October 2020. He was admitted as a full member on 13 November 2020 following an application for membership submitted on or about 30 October 2020.
9. 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.
10. 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.

11. Those undertaking the PER are known as trainees. The trainee's progress towards the PER is recorded online in their PER Training Record. The Training Record is completed using an online tool called 'MyExperience' which is accessed via the student's 'MyACCA' portal.
12. In support of his application for membership, Mr Shen submitted a PER Training Record to ACCA on or around 30 October 2020. He claimed he had achieved his practical experience by working for Company B. He stated that he had worked for Company B, initially as a risk manager, from 1 June 2017. No end date is recorded, indicating that he remained employed until the date he submitted his PER Training Record. In his application Mr Shen indicated that he had practical experience of 38 months with Company B. In relation to this role, his PER training record named a single supervisor Person B, who is recorded as authorised to approve Mr Shen's experience/time claim only. Person B is recorded as a 'non-IFAC qualified line manager'.
13. Mr Shen's training record referred to Person A as his 'IFAC qualified external supervisor'. On or around 6 November 2020, Person A approved all nine of Mr Shen's POs. Mr Shen's application for membership was granted on 13 November 2020.
14. 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.

15. 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 significantly similar to each other. In relation to Mr Shen, the review showed that none of the relevant PO statements were submitted first before any other of the 100 trainees ('first in time') and eight of his nine PO statements, which were not the first in time, were identical or significantly similar to the PO's contained in the PERs of many other ACCA trainees who claimed to have been supervised by Person A.
16. Person A, who is a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body, was contacted by ACCA. She provided witness evidence stating she had only supervised one ACCA trainee who was not one of the 100 trainees referred to above.
17. The matter was referred to ACCA's Investigations Team. A member of that team sent an email to Mr Shen's registered email address on 12 August 2022. Attached to the email was a letter which set out the complaint and requested that Mr Shen respond to a number of questions.
18. In an email dated 20 August 2022, Mr Shen provided a response. In particular he stated:

'I must admit that my per is flawed. I sincerely apologize to the association and the party concerned, [Person A]. At that time, because I didn't have a qualified supervisor, I found a person through the Internet, and then gave them Chinese information about PER, then they helped me fill in. At that time because I was in a hurry and didn't know any ACCA members around me, so I consulted this person how to be a member. They told me that it was ok, and they will help me fill the per, so I trust him. However, ... I didn't know there was a problem until today you sent me an email to notify me of this complaint and investigation. I am very willing to cooperate with your investigation'

19. Mr Shen was asked further questions and was sent reminders on 31 August 2022 and 14 September 2022. Mr Shen replied on 15 September 2022 and his response included the following:

'I have replied to you last month...

The identify of this third party I also didn't know. Because of the feature of the Internet-Anonymous. I find the person from the app xian yu. But now the person has deleted the account. I even couldn't find this person. It might be Person B (ACCA ID [REDACTED]) who is in your supervisor details. I still remember the person show me the ACCA certificate. But I have forgotten the exact information. And as I have specified in prior email all the information is filled in by the third person.

...I employed by [Company B] only from 07/2016 to 11/2016. And you can find the per I provided them is not same in your per record. So, we've been screwed. They haven't [sic] given me accurate information. And the person also distort [sic] the employment record.

POs are identical or significantly similar to other ACCA students. Just I say in the prior email. I have consulted the ACCA member how to be a member. If there are any other requirements. They ask [sic] me just wait for them after a while. I trusted them so much that they lied to me. You now in a circumstance that if don't know a member, the identity of an acca member will make me deeply believe him.'

20. In a further response to ACCA dated 22 September 2022 Mr Shen stated:

'I am very sorry for the large number of similar PO descriptions mentioned in your email and the inauthentic signatory information. Please allow me to make an explanation of the reason for this.

I don't know how to apply for ACCA membership when I have finished all the subjects, and I was very busy at work. Therefore, I want to complete the application process of ACCA membership with the help of my friends. Through the introduction of my colleagues, I found a friend to help me apply for ACCA membership, I gave my resume information and account information to this friend, but the bad thing is I don't know what they did, I don't know what PO

wrote. I don't know which signature will sign for me, I made a mistake. I trusted a stranger.

Now I can't find this friend who helped me apply for ACCA membership. I would like to express my sincerest apologies for the trouble brought to ACCA headquarters. At the same time, what do you need me to do, I will try my best. The learning content of acca tells me that as a qualified financial personnel, I need to have enough excellent ethics and professional ability, so I am very ashamed of the mistakes I made.'

DECISION ON FACTS AND REASONS

21. The Committee considered the documents before it, the submissions of Mr Slack on behalf of ACCA, the written submissions of Mr Shen and the advice of the Legal Adviser.
22. Mr Shen's written submissions for the Committee were contained in his email dated 8 December 2023 as follows:

'Firstly, I would like to express my gratitude for the opportunity to present my stance in written form. Due to my limited proficiency in English, which might hinder my ability to articulate my points effectively in an oral hearing, I have chosen to submit this written statement. Additionally, due to personal work commitments and internet restrictions, I am unable to participate in the online hearing. Nevertheless, I hold my ACCA membership in high regard and fully appreciate the seriousness of this hearing. Therefore, I wish to explain the events surrounding my application for ACCA membership in 2020 and to present my position on this matter.

Background of the Event

In 2020, I applied for ACCA membership, a decision based on my high regard for ACCA accreditation and its significance in the accounting field. However, the regular channels of communication and information gathering were severely limited due to the impact of the COVID-19 pandemic. Under these

circumstances, I was unable to connect with existing ACCA members of qualified mentors and thus turned to online paid consultation.

Interaction with the intermediary

Online, I encountered a professional claiming to be an ACCA member and holding CPA qualifications. Due to the interpersonal interaction restrictions during the pandemic, I was unable to verify this face-to-face and had to rely on the ACCA membership and CPA qualification certificates they provided. Trusting their professional capability and compliance, I decided to let this individual assist me with my ACCA membership application.

Confirmation of Compliance

Throughout the application process, I repeatedly inquired about the compliance of the application procedures with the intermediary. I have always valued compliance, believing that everything I was doing was within the legal and regulatory framework. However, I now realise that my excessive trust in this intermediary may have led to a lapse in judgment.

Current Predicament

Regrettably, due to the passage of time, I am unable to provide a complete record of our communications or other direct evidence to support my claims. But I wish to emphasize that I have always maintained honesty and professionalism, and my commitment to compliance has never wavered.

My Request and Expectations

I request that the hearing consider the context in which I found myself at the time - namely the asymmetrical information situation and the limitations on communication and information gathering brought about by the COVID-19 pandemic. I am willing to assume appropriate responsibility within a reasonable scope. However, due to my modest salary level and high debt burden, I am genuinely unable to afford the substantial fees required for this hearing.

Therefore, I earnestly request that the committee considers my financial situation when determining any potential financial penalties.

Conclusion

My respect for ACCA and my valuation of the membership remain unchanged. I sincerely thank the committee for your time and consideration, and I hope to continue as a member of ACCA, contributing to the accounting industry.'

23. 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 1a)

24. The Committee reviewed Mr Shen's PER Training Record. Mr Shen had named Person A as his PES in respect of his practical experience training. The issue for the Committee was whether ACCA had proved that Person A did not supervise that practical experience training in accordance with ACCA's requirements.
25. The Committee accepted the evidence of Person A contained in her witness statements dated 18 October 2022 and 12 September 2023. She stated that she had only acted as PES for one trainee, Person D. Therefore, she did not act as PES for Mr Shen. The Committee also noted that the email address given for Person A in Mr Shen's Training Record was not in fact Person A's email address.
26. In his correspondence with ACCA Mr Shen accepted that Person A had not supervised his training, and he also stated that he had little direct involvement in his application for membership of ACCA and that all information had been entered by an intermediary or friend.
27. In the circumstances, the Committee was satisfied that Mr Shen had no relationship at the relevant time with Person A and that she had not supervised

Mr Shen's practical experience training in accordance with ACCA's requirements.

28. The Committee therefore found Allegation 1a) proved.

Allegation 1b)

29. A copy of Mr Shen's PER training record that included statements describing the experience he gained to meet his POs was provided. The Committee was also provided with evidence of the wording of the performance objectives of other individuals who had named Person A as their supervisor.
30. The Committee reviewed the content of the documents outlined and noted that the statements provided by Mr Shen for POs 1, 2, 3, 4 5, 11, 14 and 17 contained wording that was significantly similar to the wording of the POs of other individuals supervised by Person A. In many cases the working and punctuation were identical. For example, the statement provided by Mr Shen for PO 17 copied the formatting errors which appeared at the end of the statement of other individuals. 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 not plausible.
31. In his response to ACCA Mr Shen has acknowledged that he did not write the information contained in the POs and that the information was entered by an intermediary or friend whom he trusted. The Committee concluded that the relevant POs put forward by Mr Shen had been copied or adopted and that the wording was not his own. Mr Shen has not provided evidence to demonstrate that he has legitimately achieved the eight performance objectives claimed in his training record.
32. The Committee concluded that the POs put forward by Mr Shen were not true and therefore found this allegation proved to the requisite standard.

Allegation 2a) & 2b)

33. The Committee considered whether Mr Shen acted dishonestly in confirming that Person A was his supervisor and in providing eight POs which were untrue. It considered this allegation in light of the test for dishonesty, as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
34. The Committee gave little weight to Mr Shen's assertions that he was unaware of ACCA's training requirements and that this was due to the circumstances relating to Covid-19. Mr Shen's assertions were unsupported by evidence, either documentary or witness evidence. The Committee noted that Mr Shen's description of his interaction with the third party has not been consistent over time. It was unable to accept that Mr Shen had entirely relied on a friend or intermediary and was deceived by that individual. Mr Shen's initial responses to ACCA indicated that he had some knowledge of the PER requirements and that that his PER was "flawed".
35. The Committee was satisfied that Mr Shen must have known what ACCA's training requirements are. They are widely published, as described in the witness statement of LC (ACCA's senior administrator in the member support team) and are available in his native tongue of Mandarin. The Committee also noted that webinars were offered to trainees during the pandemic to help with understanding the experience requirement. The Committee noted that information relating to the requirements is also readily available to applicants completing the online membership application form as explained in LC's witness statement. ACCA's online system required Mr Shen to complete a declaration in which he confirmed that if he provided false or misleading information, he may face disciplinary action.
36. The Committee was satisfied that Mr Shen's knew that he had not been supervised by Person A, and therefore claiming that he had was untrue. The Committee inferred that Mr Shen's actions were intended to deceive ACCA into believing that he had been appropriately supervised. There is no doubt that this would be regarded as dishonest by ordinary and honest people.

37. Mr Shen had also copied or adopted POs, or allowed another individual to do so, knowing that they were not unique or in his own words and that he had not completed the required PER. The Committee inferred that Mr Shen's actions were intended to deceive ACCA into believing that the POs described his own experience. Again, there is no doubt that this would be regarded as dishonest by ordinary and honest people.
38. The Committee therefore found Allegation 2(a) and 2(b), on the balance of probabilities, proved.
39. 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

40. 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 that Mr Shen had sought the assistance of an unknown third party to act as his PES and provide false POs to allow him to qualify as a member of ACCA. This dishonest behaviour demonstrated a complete disregard for ACCA's membership process and allowed Mr Shen to become a member of ACCA when he was not qualified to be so. Such behaviour seriously undermines the integrity of the membership process and the standing of ACCA. It brings discredit upon Mr Shen, the profession and ACCA. The Committee considered this behaviour to be very serious and the Committee was in no doubt that it amounted to misconduct.
41. The Committee therefore found that the matters set out in 1(a), 1(b), 2(a) and 2(b) amounted to misconduct.

SANCTION AND REASONS

42. 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 Mr Shen, 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.

43. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
44. The Committee considered the misconduct involved the following mitigating features:
 - The absence of any previous disciplinary history with ACCA;
 - Early partial admissions in respect of some of the facts.
45. The Committee considered the misconduct involved the following aggravating features:
 - Undermining the integrity, and thereby undermining public confidence in ACCA's membership process;
 - No evidence of insight.
46. The Committee was of the view that Mr Shen's dishonesty was serious involving deliberate dishonesty for his own personal gain. Such conduct undermines the confidence placed by members of the public in ACCA members who have legitimately qualified for membership and thereby obtained that 'badge of honour'. In the Committee's judgment such conduct fell towards the higher end of the scale of severity for dishonest conduct.
47. 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 a member had

disregarded the membership requirements and acted dishonestly when submitting information in connection with his PER.

48. The Committee then considered whether to reprimand Mr Shen. 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 Mr Shen's misconduct to be of a minor nature and he had shown no insight into his dishonest behaviour. ACCA's Guidance indicates that dishonest behaviour is considered to be very serious. The Committee concluded that a reprimand would not adequately reflect the seriousness of the misconduct in this case.
49. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that a severe reprimand 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 that none of these criteria were met and that a severe reprimand would not adequately reflect the seriousness of Mr Shen's behaviour.
50. The Committee considered the ACCA guidance on the approach to be taken in cases of dishonesty which is said to be regarded as a particularly serious matter because it undermines trust and confidence in the profession. 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.
51. The Committee considered that Mr Shen's behaviour involved a number of features referenced in ACCA's guidance in relation to exclusion. In particular the conduct involved dishonesty, an adverse impact on the public, and lack of

understanding and insight into the seriousness of the misconduct. The Committee also considered that there was nothing exceptional in Mr Shen's case that would allow it to consider a lesser sanction than Mr Shen's exclusion from membership. Mr Shen's dishonesty, coupled with the absence of any evidence demonstrating Mr Shen's understanding of the seriousness of his behaviour and any steps taken to remediate his conduct are fundamentally incompatible with his continued membership. The Committee concluded that the only appropriate and proportionate sanction was exclusion.

COSTS AND REASONS

52. ACCA applied for costs in the sum of £9,971.25. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. A simplified breakdown was also provided.
53. The Committee was satisfied that ACCA was entitled to claim its costs. The Committee considered that the costs of ACCA's investigation were reasonably and proportionately incurred. The Committee considered it appropriate to make a deduction to the amount claimed having regard to the reduced hearing length. It assessed the reasonable and proportionate costs in the sum of £6,031.25.
54. The Committee also took into account the written information provided by Mr Shen relating to his financial circumstances. Mr Shen stated that his total expenditure exceeded his monthly income of [REDACTED]. Mr Shen provided evidence of his income, but not of his expenditure or debt.
55. The Committee considered that Mr Shen's ability to pay ACCA's costs was limited, but it also had regard to the principle that ACCA's members should not subsidise the minority who find themselves within the disciplinary process. The Committee decided that it was appropriate to reduce ACCA's costs by 50% to take into account Mr Shen's financial circumstances. The Committee therefore ordered Mr Shen to pay ACCA's costs in the sum of £3,015.

EFFECTIVE DATE OF THE ORDER

56. The Committee determined that it would be in the public interest for the order to take immediate effect in light of the fact Mr Shen is potentially able to practise as an ACCA qualified accountant having gained that qualification dishonestly. Therefore, pursuant to Regulation 20(1)(b) the order removing Mr Shen from membership will take effect immediately.

Mrs Helen Carter-Shaw
Chair
12 December 2023