

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Rong Li

Heard on: Thursday, 22 June 2023

Location: Held remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Ms Wanda Rossiter (Accountant)
Mr Geoffrey Baines (Lay)

Legal Adviser: Ms Tope Adeyemi (Legal Adviser)

**Persons present
and capacity:** Mr Benjamin Jowett (ACCA Case Presenter)
Miss Geraldine Murray (Hearings Officer)

Summary: Exclusion from membership

Costs: Costs awarded in the sum of £4,043.75

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Miss Rong Li (“Miss Li”). Miss Li was not present and was not represented. The papers before the Committee consisted of a main bundle numbered 1 to 244, a mini bundle, numbered 1-125, an additional bundle numbered 1 -12, a tabled

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additional bundle numbered 1-1, a service bundle numbered 1 – 24 and a two-page memo 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 Jowett on behalf of ACCA and it also took into account the advice of the Legal Adviser.
3. Included within the bundle was the Notice of Hearing dated 24 May 2023, thereby satisfying the 28-day notice requirement, which had been sent to Miss Li’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 Miss Li of the option to attend the hearing by telephone or video link and to be represented if she wished. Additionally, the Notice provided details about applying for an adjournment and the Committee’s power to proceed in her absence if considered appropriate. A delivery receipt dated 24 May 2023, confirming delivery of the Notice, was also provided.
4. The Committee also had sight of 4 emails and 3 call notes. The emails were sent on 29 March 2023, 13 June 2023 and 20 June 2023 to Miss Li’s email address, and they advised her again of the date and time of the hearing.
5. The Committee, having considered the relevant documents, was satisfied that Notice had been served in accordance 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 Miss Li. The Committee took into account that Miss Li had been sent a number of emails by ACCA’s Hearings

Officer asking if she would be attending the hearing with no response being received. There was also evidence in the form of a series of notes which recorded that Miss Li had been called on several occasions by ACCA's Hearings Officer (including on the morning of the hearing) and that those calls had not been answered.

7. The Committee was of the view that Miss Li's attendance was unlikely to be secured through an adjournment as she had not engaged at all. Balancing the interests of Miss Li against the interest of ACCA, the Committee concluded that it was in the interests of justice that the matter proceed expeditiously notwithstanding the absence of Miss Li.

APPLICATION TO AMEND

8. An application was made by ACCA to amend allegation 4(c). It was proposed that the date be changed from 15 September 2022 to 14 September 2022. Mr Jowett submitted that the amendments were intended to correct a simple error and did not amount to a substantive change to ACCA's case. Reference was made to the relevant email in the bundle to which the correct date related.
9. Regulation 10(5) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') allows the Committee at any stage, upon the application of either party or on its own motion, to amend the allegations provided the relevant person is not prejudiced in the conduct of their defence.
10. The Committee was satisfied that the proposed amendments did not cause prejudice or unfairness to Miss Li and it was therefore content to accede to the application.

ALLEGATIONS

11. The amended allegations faced by Miss Li are set out below.

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

1. *Applied for membership to ACCA on or about 24 November 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 23 March 2017 to 23 November 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 6: Record and process transactions and events*
 - *Performance Objective 7: Prepare external financial reports*
 - *Performance Objective 8: Analyse and interpret financial reports*
 - *Performance Objective 9: Evaluate investment and financing decisions*
-
2. *Miss Li's conduct in respect of the matters described in Allegation 1 above was: -*
 - a) *In respect of Allegation 1a), dishonest, in that Miss Li 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 Li 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 Li 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 they 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. *Failed to co-operate with ACCA's Investigating Officer in breach of Complaints and Disciplinary Regulation 3(1) in that she failed to respond fully or at all to any or all of ACCA's correspondence dated:*

(a) *12 August 2022;*

(b) *30 August 2022;*

(c) *14 September 2022.*

5. *By reason of her conduct, Miss Li is*

a) *Guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all the matters set out at 1 to 4 above; in the alternative in respect of allegation 4 only*

b) Liable to disciplinary action pursuant to byelaw 8(a)(iii)

BACKGROUND

12. Miss Li registered as a student with ACCA in 2015. In order to apply for membership, Miss Li was required to obtain at least 36 months' practical experience in a relevant role ('practical experience'). The practical experience involves the completion of 9 performance objectives (PO's). The experience obtained was to be recorded in a Practical Experience Requirement (PER) training record.
13. In 2021 the Professional Development team of ACCA became aware that 100 ACCA trainees had claimed in their completed PER training records that their PO had been approved by the same supervisor, Person A. Miss Li was among the 100. A review of the records followed which indicated that the PO Statements had been copied amongst a large number of the 100 trainees.
14. Person A when contacted denied having supervised any trainees and as result the trainees, which included Miss Li, were referred to ACCA's investigations. The trainees, which included Miss Li, had at this point obtained ACCA membership. In respect of Miss Li's PO statements, it was found that the content was identical or significantly similar to the PO's contained in the PER's of many other ACCA trainees who claimed to have been supervised by Person A.
15. Miss Li was sent a letter in August 2022 following the referral of the matter to ACCA's Investigations Team. In the letter she was asked questions relating to her conduct. She did not respond to the letter or the subsequent reminders.

DECISION ON FACTS AND REASONS

16. The Committee considered with care all the evidence presented and the submissions made by Mr Jowett. It also 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

17. The Committee had been provided with a statement from Person A in which she asserted that she had not supervised the practical experience training of Miss Li. The Committee also bore in mind the evidence presented by ACCA that Person A had been named as supervisor for 99 other people. It was considered unlikely that Person A could have properly acted as a supervisor to so many people. Taking the evidence together, the Committee was satisfied that Person A did not supervise Miss Li. This allegation was therefore found proved.

Allegation 1 (b) – Proved

18. The Committee was provided with evidence to show that 99 individuals who had named Person A as their supervisor all had the same or significantly similar performance objectives to Miss Li. As a result, the Committee concluded that the objectives put forward by Miss Li had most likely been copied and therefore were not her own.
19. Consideration was given as to whether Miss Li was aware that she was required to submit her own objectives. Copies of the documents that would have been available to Miss Li prior to submission of her training record were reviewed. These documents included the “practical experience trainee guide” and “PER Practical experience requirements”. Both documents provide guidance on the completion of the performance objectives. The Committee was satisfied that from them it could be clearly inferred that the objectives were to be the trainees own. Overall, the Committee was satisfied that this charge was proved to the requisite standard.

Allegation 2 (a) In respect of Allegation 1a) – Proved

20. The Committee moved on to consider whether Miss Li acted dishonestly in confirming Person A was her supervisor. Having found that Person A was not Miss Li’s supervisor, and that Miss Li was likely aware of what was expected

when confirming the name of her supervisor, the Committee was satisfied that Miss Li's actions were dishonest. The Committee therefore found the allegation proved.

Allegation 2 (b) In respect of Allegation 1 b) – Proved

21. The Committee also considered whether Miss Li acted dishonestly in confirming that she had achieved all or any of the performance objectives set out in the training record. The Committee was satisfied, having found that the performance objectives were not Miss Li's own, that it was unlikely she had met them. It followed therefore, that in confirming she had met them, Miss Li had acted dishonestly. The Committee was satisfied that there was sufficient evidence to find the allegation proved.

Allegation 2 (c) – N/A

22. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour demonstrated a failure to act with integrity, since this was alleged in the alternative.

Allegations 3(a) – (c)

23. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour was reckless, since this was alleged in the alternative.

Allegation 4 (a), (b) and (c) - Proved

24. Copies of letters sent by email to Miss Li following the referral of the matter to ACCA's investigation team were provided. The first letter dated 12 August 2022 sets out the nature of the complaint and requests that Miss Li respond to a series of questions by 26 August 2022. Reference is made in the letter to the Regulations which require members to cooperate with ACCA's investigations by the deadline's specified. Copies were also provided of reminder emails sent to Miss Li on 30 August 2022 and 14 September 2022. The screenshots from

ACCA's records show that all the emails were sent to the address Miss Li had provided ACCA with. Additionally, the Committee noted the evidence that all of the emails were accessed and opened.

25. The Committee was of the view that considerable efforts had been made to contact Miss Li using the details she had provided. There was a duty upon her to co-operate and by not replying to the emails sent to her she had failed in that duty. It was noted that some of the emails had been encrypted requiring a password to open them. The Committee considered it reasonable to expect Miss Li to contact ACCA for assistance if she was experiencing any difficulty opening the encrypted emails. In any event not all the emails sent to her were encrypted. Overall, the Committee was satisfied that the Miss Li had received the correspondence and failed to respond. This allegation was therefore found proved.

Allegations 5 - Proved

26. The Committee was satisfied Miss Li's behaviour in confirming Person A was her supervisor when she was not and in stating that she had achieved performance objectives she had not, amounted to misconduct. Such behaviour which the Committee had found to be dishonest, fell far below what was expected of a registered member. The behaviour was serious and was of a nature that fellow members of the profession would regard as deplorable.
27. The Committee also found that Miss Li's failure to co-operate fully with the ACCA investigation amounted to misconduct. The ACCA relies on the co-operation of its members to carry out its functions as a regulator. A failure to co-operate not only undermines the ACCA's ability to function effectively as a regulator but also undermines its standing as a body.

SANCTION AND REASONS

28. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Jowett on behalf of ACCA. 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 Li, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.

29. The Committee turned first to consideration of the aggravating and mitigating features in this case. It considered the existence of numerous instances of dishonesty to amount to an aggravating factor. Miss Li had not only dishonestly claimed Person A to be her supervisor, but she also claimed to have achieved numerous performance objectives when she had not, supplying dishonest content in respect of each of them. In respect of Miss Li's failure to co-operate, the Committee considered it an aggravating factor that this was repeated conduct.
30. The Committee was informed that there were no previous disciplinary findings against Miss Li. The Committee found this to be a mitigating feature.
31. The Committee did not think it was appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had failed to comply with ACCA's bye laws and regulations and had acted dishonestly.
32. The Committee then considered whether to reprimand Miss Li. 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 find those factors to be present in the current instance.
33. The Committee moved on to consider 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.

34. The Committee went on to consider the guidance relating to exclusion from membership. Miss Li's misconduct involved failure to co-operate with her regulator, dishonesty and included aspects that were repeated. These features, coupled with the absence of any evidence demonstrating Miss Li's understanding of the seriousness of her behaviour and any steps taken to remediate her conduct are fundamentally incompatible with her continued membership. In all the circumstances the Committee considered exclusion to be the most appropriate and proportionate sanction.

COSTS AND REASONS

35. ACCA applied for costs in the sum of £4,043.75 The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. A simplified schedule was also provided.
36. The Committee was satisfied that ACCA was entitled to claim its costs. The costs appeared to have been reasonably and proportionately incurred, with no evidence being supplied to justify a reduction in them. In all the circumstances the Committee was satisfied the costs should be awarded in full.

EFFECTIVE DATE OF ORDER

37. The Committee decided that the order shall take effect immediately. Immediate imposition was considered appropriate to protect the public, given the risk that Miss Li as a current registered member, may be working.

Ms Ilana Tessler
Chair
22 June 2023