

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Huey Huey Poh
Heard on:	Friday, 12 May 2023
Location:	Remotely via Microsoft Teams
Committee:	Ms Ilana Tessler (Chair) Mr Ryan Moore (Accountant) Ms Sue Heads (Lay)
Legal Adviser:	Ms Tope Adeyemi (Legal Adviser)
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Anna Packowska (Hearings Officer)
Summary:	Exclusion from membership Costs awarded in the sum of £5,500

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Miss Huey Huey Poh. Ms Poh was not present and was not represented. The papers before the Committee consisted of a main bundle numbered 1-254, a

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memorandum and agenda numbered 1-2, and a service bundle numbered 1-36.

PRELIMINARY MATTERS

Application for an adjournment

2. This matter was initially listed to be heard on 14 and 15 March 2023. ACCA informed Miss Poh on 10 March 2023 that it proposed to seek an adjournment due to the Case Presenter's ill health. In an email dated 10 March 2023 Miss Poh confirmed that she did not object to the proposed adjournment by stating "Sure, that's fine with me". On 13 March 2023 a formal application was made to adjourn the hearing which was successful.

Service of papers

3. 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 Ms Terry on behalf of ACCA and it also took into account the advice of the Legal Adviser.
4. The Committee had sight of a Notice of Hearing letter dated 14 February 2023 in respect of the hearing that had originally been listed to take place on 14 March 2023 (therefore satisfying the 28-day requirement). The notice had been sent to Miss Poh's address as it appears on ACCA's register. It included correct details of the date, time, and remote venue for the hearing and also Miss Poh's right 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.
5. Following the adjournment, ACCA wrote to Miss Poh to make arrangements for the matter to be re-listed. The email dated 14 March 2023 set out a number of

alternatives dates which included 12 May 2023. Miss Poh responded the same day stating, “Hi 12th May will be good”.

6. Following the email exchange on 14 March 2023 a second Notice of Hearing was sent to Miss Poh’s email address on 02 May 2023 notifying her that the hearing would now take place on 12 May 2023. The Notice included correct details of the time and remote venue for the hearing and also Miss Poh’s right 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. The service bundle also included two emails addressed to Miss Poh. Both emails were dated 02 May 2023 and provided the secure link to the documentation regarding the hearing and the password to access those documents.
7. The Committee was mindful that notice is to be served 28 days prior to a hearing. However, it noted that Complaints and Disciplinary Regulation 10(8)(d) specifies that adjourned cases do not require re-service of the documents 28 days beforehand:

“8(d) For the avoidance of doubt, where the relevant person has already been served with the documents listed in regulation 9(1) and/or 10(1), an adjournment does not give rise to a requirement to re-serve them either 28 days before the date set or at all, save that the relevant person shall be notified of the time and place fixed for the adjourned hearing as soon as practicable.”

8. Furthermore, it was clear from the correspondence that Miss Poh was aware of the re-listed hearing date and had indicated that it was a convenient date for her. In all the circumstances the Committee was satisfied that service had been provided in good time and in accordance with the Regulations.

Proceeding in absence

9. In considering whether to proceed in the absence of Miss Poh, the Committee had regard to the further correspondence between ACCA and Miss Poh. It

noted that in response to an email from ACCA dated 10 May 2023 enquiring about her attendance, Miss Poh stated: “hi, I think it can proceed without my absence”. A note of a call made to Miss Poh on 10 May 2023 by a member of ACCA staff was also considered. The note records that Miss Poh stated she had decided she would not attend the hearing and that she had confirmed she was happy for the hearing to go ahead in her absence.

10. The Committee was satisfied that Miss Poh had voluntarily absented herself from the hearing and that an adjournment would serve no useful purpose as there was nothing to indicate that Miss Poh would attend on a different date and no application for an adjournment had been made. The Committee also considered that there was a strong public interest in the matter being dealt with expeditiously. In all the circumstances, it was decided that it was in the public interest and in the interests of justice that the matter should proceed notwithstanding the absence of Miss Poh.

ALLEGATIONS

11. The allegations faced by Miss Poh are set out below.

Miss Huey Huey Poh, an ACCA member:

1. Engaged in sharing answers to certain assessment questions by improperly forwarding the answer sets, to prospective candidates, in relation to a mandatory audit training course namely the mandatory, quarterly ‘Update for Auditors web-based training’.
2. On 04 February 2021 Miss Poh was summarily dismissed on the grounds of gross misconduct by her former employer KPMG LLP, for improperly claiming personal expenses as business costs, between 06 October 2019 and 6 October 2020, amounting to £5,490.01. This conduct amounted to a breach of KPMG LLP’s Expenses Policy and resulted in Miss Poh having to repay that sum to KPMG LLP.

3. Submitted altered documents (namely a bank account snippet from a bank statement, a receipt, and a contract) to her employer during an investigation, by them, in an attempt to conceal her breaches of KPMG LLP's Expenses Policy.
4. Miss Poh's conduct in respect of the matters described above was:
 - a. Dishonest, in that Miss Poh shared answers to questions, as alleged in allegation 1, to enable prospective candidates taking that assessment to obtain an unfair advantage; furthermore, she claimed personal expenses from her former employer, as business costs amounting to £5,490.01, which she knew she was not entitled to and also submitted altered documents to KPMG LLP in an attempt to conceal her breaches of KPMG LLP's expenses policy.
 - b. In the alternative, any or all of the conduct referred to in allegations 1 to 3 above demonstrates a failure to act with integrity.
5. By reason of the above Miss Poh is guilty of misconduct pursuant to byelaw 8(a)(i) in respect of any or all of the above.

BACKGROUND

12. Miss Huey Huey Poh has been a member of ACCA since August 2018. In January and March 2021 ACCA received complaint forms in relation to Miss Poh from her former employer, KPMG LLP ("KPMG"). Miss Poh had joined KPMG's audit practice in November 2019.
13. KPMG had suspected that a number of employees within the company may have shared answers via email to assessment questions in mandatory internal audit training courses. Following an investigation, which involved a review of staff email data, Miss Poh was identified by KPMG as having engaged in such conduct. In September 2020 she received a final written warning from KPMG for her behaviour.

14. A further issue came to light in respect of Miss Poh's expenses claims. A spot check of her expenses claims identified several anomalies which in turn triggered further investigation. At the conclusion of the investigation KPMG concluded that Miss Poh had breached the company's expenses policy by claiming for expenses, amounting to £5,490.01, that she was not entitled to claim for. Concerns were also raised that Miss Poh had submitted false documentation in the form of receipts, a contract and bank account information when requested to substantiate the claims she had made. KPMG decided to dismiss Miss Poh for gross misconduct. The money alleged to have been improperly claimed was to be repaid to KPMG by way of a deduction from Miss Poh's salary.
15. Miss Poh provided ACCA with a response to the allegations. She admitted to forwarding the answer sets, stating that her intention was to help her colleagues. In respect of the expenses claims allegations, Miss Poh accepted that she had breached KPMG's expenses policy. She explained that she had not read the policy in detail and so was unfamiliar with the correct procedure. Her decision to submit altered documents was described as being made when she was panicking, she added "I thought I can alter the documents to cover up".

DECISION ON FACTS AND REASONS

16. The Committee considered with care all the evidence presented, the submissions made by Ms Terry and the information provided by Miss Poh which included a number of admissions within the Case Management Form. It 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- Proved

17. The Committee considered there to be clear evidence that the answer sets had been shared by Miss Poh. The relevant evidence included a copy of an email sent by Miss Poh in November 2019 to prospective candidates with an attachment containing the mandatory audit training assessment.

18. The Committee also took into account that Miss Poh had admitted to the conduct. In August 2020 she admitted to KPMG that she shared the answers and in November 2021 she admitted the same to ACCA, providing the following explanation: “At that point of time, I was with the intention of helping my colleagues as they were not able to answer the questions...”. This allegation was therefore found proved.

Allegation 2 – Proved

19. The Committee had sight of the expenses claimed by Miss Poh, the reports setting out the specific anomalies identified within them and KPMG’s expenses policy. Having reviewed the documentation the Committee was satisfied that Miss Poh had improperly claimed personal expenses as business costs, noting as an example her submission of a receipt from Primark for an item that did not appear to be a business expense.
20. The Committee also noted Miss Poh’s responses provided to both KPMG and ACCA. Those responses included an acknowledgement that she had claimed the expenses and that £5,490.01 had been repaid to KPMG. In her responses to ACCA, Miss Poh stated that she had not read the expense policy in detail and had no knowledge that the expenses claimed by her were anomalies. The Committee however had sight of documentation that recorded that Miss Poh had been warned in January 2020 that she had been claiming expenses incorrectly yet continued with the behaviour. Furthermore, the Committee was satisfied that on balance, the expenses policy had been brought to Ms Poh’s attention. Overall, the Committee was satisfied that this charge was proved to the requisite standard.

Allegation 3 – Proved

21. The Committee took into account the documents that had formed part of the initial investigation conducted by KPMG. These included photographs of the altered documents. Miss Poh also admitted to KPMG and ACCA that she had submitting the altered documents specified in the allegations. In response to ACCA in this regard Miss Poh stated the following “was already panicking when

they told me that the expense claim was an offence, hence I thought I can alter the documents to cover up”. In light of the evidence the Committee found this allegation proved.

Allegation 4 (a) – Proved

22. The Committee was satisfied that Miss Poh’s conduct in respect of the matters outlined: the sharing of the answer sets, the claiming of expenses she was not entitled to and the altering of documentation, was dishonest. Miss Poh had admitted that she had shared the answer sets in order to help her colleagues answer the questions. Such action would have provided them with an unfair advantage. In regard to the claiming of personal expenses as business expenses, the Committee considered that Ms Poh’s conduct in submitting false documentation when challenged about her behaviour revealed that she was aware that what she had been doing was wrong. Furthermore, the Committee considered there could be no other explanation aside from dishonesty for the submission of the false documentation and noted in particular Miss Poh’s comments that she had submitted those documents in order to “cover up”. The Committee found this allegation proved.

Allegation 4 (b) – N/A

23. As allegation 4 (a) was found proved, the Committee did not go on to consider allegations 4 (b) which was drafted in the alternative.

Allegation 5 – Proved

24. The Committee considered that Miss Poh’s actions in dishonestly sharing answers to mandatory assessment questions, making claims for expenses that she knew she was not entitled to and submitting altered documents in an attempt to conceal her breaches of the expenses policy was conduct that fell far below what was expected of a registered accountant. It found the behaviour to be serious and was of the view that fellow members of the profession would regard Miss Poh’s actions as deplorable.

25. In all the circumstances the Committee concluded that the behaviour amounted to misconduct as described under bye – law 8(a)(i). Allegation 5 was therefore found proved.

SANCTION AND REASONS

26. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry 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 Poh, 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.
27. The Committee turned first to consideration of the aggravating and mitigating features in this case.
28. The Committee found the following aggravating factors to be present: the absence of evidence of insight, the lengthy period of time the improper expenses claims were made, and the factual aspects of the conduct appeared to be deliberate and premeditated. The Committee also considered that Miss Poh's behaviour in claiming personal expenses as business claims amounted to a breach of trust.
29. The Committee went on to consider mitigation. It had regard to Miss Poh's lack of disciplinary history, although it noted that she had only been a member of ACCA since 2018. The Committee also considered Miss Poh's admissions, co-operation with the internal investigation conducted by KPMG and her engagement with ACCA, to amount to mitigation.
30. 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 codes and regulations and had acted dishonestly.

31. The Committee then considered whether to reprimand Miss Poh. 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.
32. 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. In particular it noted that the behaviour was deliberate and in disregard of Miss Poh's obligations. There was a risk of financial harm to KPMG arising from it and the behaviour was repetitious as the improper claiming of expenses occurred repeatedly over the course of a year. Regard was had to the fact the £5,490.01 obtained by Miss Poh had been repaid. However, the Committee noted that the amount was deducted from Miss Poh's salary with there being no evidence to show she had any choice in the matter. As a result, the Committee placed no weight on the repayment. Overall, the conduct did not meet the guidance for a severe reprimand.
33. The Committee went on to consider the guidance relating to exclusion from membership. Miss Poh's misconduct involved dishonesty, was deliberate and included aspects that were repeated. These features, coupled with the absence of any evidence demonstrating Miss Poh'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

34. ACCA applied for costs in the sum of £6,519.00. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
35. The Committee found that in principle ACCA was entitled to claim its costs however it considered that a reduction to the amount sought was required in order to reflect the shorter amount of time the hearing had lasted. The Committee determined the appropriate order was that Miss Poh pay £5,500.00.

EFFECTIVE DATE OF ORDER

36. The Committee decided that the order shall take effect immediately. Immediate imposition was considered appropriate in order to protect the public, given the information that indicated Miss Poh was working.

Ms Ilana Tessler
Chair
12 May 2023