

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Zhiwei Kong
Heard on:	Wednesday, 8 November 2023
Location:	Remotely via Microsoft Teams
Committee:	Ms Carolyn Tetlow (Chair) Mr Ryan Moore (Accountant) Mr Nigel Pilkington (Lay)
Legal Adviser:	Mr Robin Havard (Legal Adviser)
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Lauren Clayton (Hearings Officer)
Summary:	Allegations 1(a) & (b), 2(a) & (b), 4(a), (b)& (c), & 5(a) were found proved. Sanction – Removal from ACCA's student register with immediate effect
Costs:	£5,700

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PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

1. The Committee had considered the following documents: a Hearing Bundle (pages 1 to 233); an Additional Bundles 1 (pages 1 to 7); an Additional Bundles 2 (pages 1 to 28); a mini bundle of Performance Objectives relating to the complaint against Mr Kong (pages 1 to 96) a witness statement of Person B (pages 1 to 4), and a Service Bundle (pages 1 to 19). The Committee had listened carefully to the submissions made by Ms Terry and also considered legal advice, which it had accepted.
2. The Committee had read the letter dated 11 October 2023 sent from ACCA by email to Mr Kong. It had noted the subsequent emails sent to him with the necessary link and password to enable him to gain access to the letter and the documents relating to this hearing.
3. The Committee was satisfied that such emails had been sent to Mr Kong's registered email address in accordance with Regulation 22 of the Complaints and Disciplinary Regulations 2014 as amended ("CDR"). The Committee had noted that the emails had been delivered successfully.
4. The emails and the documents to which Mr Kong had access also contained the necessary information in accordance with CDR10.
5. Consequently, the Committee decided that Mr Kong had been properly served with Notice of the proceedings.

PROCEEDING IN ABSENCE

6. Mr Kong failed to respond to the email of 11 October 2023.
7. On 2 November 2023, ACCA sent an email to Mr Kong, reminding him of the date of hearing and asking him once again to indicate whether he intended to attend. Mr Kong was reminded of his ability to join the hearing via telephone or video link which would be provided by ACCA. There was no response.

8. On 6 November 2023, ACCA called Mr Kong on the mobile number registered with ACCA. The caller from ACCA asked whether they were speaking to Mr Zhiwei Kong and the person confirmed that they were. They then introduced themselves as calling on behalf of ACCA. Mr Kong then terminated the call. ACCA tried to call back but the call was again terminated.
9. On 6 November 2023, ACCA sent an email to Mr Kong confirming their attempt to contact him by telephone, and again reminding him of the hearing on 8 November 2023, and of his ability to join by telephone or video. Mr Kong was also asked to confirm whether, if he did not attend, he was content for the hearing to proceed in his absence. There was no response.
10. On 7 November 2023, ACCA sent an email to Mr Kong containing the link to enable him to join the hearing, repeating the request for him to inform ACCA if he did not intend to attend and whether he agreed to the case proceeding in his absence. There was no response.
11. The Committee considered that ACCA had done everything possible to enable Mr Kong to attend the hearing. The Committee was satisfied that the emails had been sent to the address on ACCA's register and there was a record of the emails having been delivered successfully.
12. The Committee concluded that Mr Kong had voluntarily absented himself from the hearing, which he could have joined by telephone or video link.
13. The Committee was also satisfied that, taking account of the seriousness of the allegations, it was in the public interest to proceed. The Committee did not consider that any benefit would be derived in adjourning the hearing and no such application had been made.
14. Finally, the Committee considered that it was in a position to reach proper findings of fact on the written evidence presented to it by ACCA.
15. The Committee ordered that the hearing should proceed in the absence of Mr Kong.

ALLEGATIONS

Schedule of Allegations

Mr Zhiwei Kong ('Mr Kong'), at all material times an ACCA trainee,

1. Purported to confirm in relation to his ACCA Practical Experience training record:
 - a) His Practical Experience Supervisor in respect of his practical experience training in the period from 1 June 2011 to 16 July 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) 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 19: Collect and evaluate evidence for an audit or assurance engagement
 - Performance Objective 20: Review and report on the findings of an audit or assurance engagement
 - Performance Objective 21: Business advisory
 - Performance Objective 22: Data analysis and decision support
2. Mr Kong's conduct in respect of the matters described in Allegation 1 above was: -
 - a) In respect of Allegation 1a), dishonest, in that Mr Kong 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 Kong 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 Kong 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 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 Mr Kong failed to respond fully or at all to any or all of ACCA's correspondence dated:
- (a) 1 September 2022;
 - (b) 16 September 2022;
 - (c) 3 October 2022.
5. By reason of his conduct, Mr Kong 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)

DECISION ON FACTS, ALLEGATIONS AND REASONS

16. As stated above, and in reaching its decisions with regard to the allegations, the Committee had considered the following documents: a Report of Disciplinary Allegations and Evidence Bundle (1) (pages 1 to 233); an Additional Bundles Bundle 1 (pages 1 to 7); an Additional Bundles Bundle 2 (pages 1 to 28); a Mini Bundle of Performance Objectives relating to the complaint against Mr Kong (pages 1 to 96); a witness statement of Person B of ACCA (pages 1 to 4), and a Service Bundle (pages 1 to 19). The Committee had listened carefully to the submissions made by Ms Terry and also considered legal advice, which it had accepted.

Allegations 1(a) & (b)

17. On 18 June 2020, Mr Kong became a student member of ACCA and remains a student to date.
18. Allegation 1 concerns the improper conduct on the part of Mr Kong in relation to the completion of his practical experience training which is a prerequisite to applying for full membership of ACCA. Mr Kong has not been able to apply for full membership of ACCA as he has yet to pass the requisite examinations. He therefore remains a student member.
19. It is alleged that Mr Kong attempted to mislead ACCA in respect of the identity of his Practical Experience Supervisor and also the content of his Performance Objectives.

20. In reaching its findings of fact in respect of allegations 1(a) and (b), the Committee had considered carefully, and accepted, the evidence of the following witnesses:
- (i) Person A as contained in a statement dated 18 October 2022;
 - (ii) Person B, a Senior Administrator in ACCA's Member Support Team as contained in a statement dated 20 October 2022, and
 - (iii) Person C, Manager of ACCA's Professional Development Team, as contained in a statement dated 13 October 2022.
21. None of the above evidence had been challenged by Mr Kong.
22. The Committee had also considered the content of the documents provided by ACCA in support of its case, all of which were consistent with the written evidence of the witnesses.

THE PROCESS TO ACQUIRE RELEVANT PRACTICAL EXPERIENCE

23. The following sets out the process Mr Kong would have been required to follow.
24. The following abbreviations have been used:
- PER – Practical Experience Requirement;
 - PES – Practical Experience Supervisor;
 - PO – Performance Objective.
25. 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. As stated, Mr Kong has not applied for ACCA membership, and remains on the student register, as he has not completed his ACCA exams.

26. A person undertaking practical experience is often referred to as an ACCA trainee.
27. 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.
28. As part of their practical experience, each trainee is required to complete nine performance objectives (POs) under the supervision of a qualified accountant, who is their Practical Experience Supervisor (PES).
29. 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 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.
30. Through the online tool, the trainee then requests that their PES approves that PO.
31. 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 PES. This means the same person can, and often does, approve both the trainee's time and achievement of POs. The PES must have worked closely with the trainee and must know the trainee's work.
32. If the trainee's line manager is not qualified, the trainee can nominate a PES who is external to the firm to supervise their work and approve their POs. This external PES must have some connection with the trainee's firm, for example as an external accountant or auditor.
33. ACCA's PER guide 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.'

34. Once all nine POs have been approved by the trainee's PES (whether internal or external) and their minimum 36 months of practical experience has been signed off, the trainee is eligible to apply for membership.
35. 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.
36. 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.
37. The POs numbered 1 to 5 are compulsory. There are then a number of optional '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.'

38. 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.
39. A trainee's personal statement for each PO must be their own personal statement that is unique to them and their own experience. 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."
40. ACCA's PER guides are, and were at the material time, available online in China. Although the Guides are printed in English, all Chinese trainees will have taken their exams in English.
41. Trainees must enter their PES'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.
42. On the dates Person A was allegedly appointed supervisor for Mr Kong, 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.
43. All practical experience supervisors have to be registered with ACCA and as part of that registration process have to provide evidence that they are a qualified accountant. A Person A apparently provided evidence to ACCA in the

form of a registration card from the Chinese Institute of Certified Public Accountants (CICPA). As such, they were, from ACCA's point of view, a 'qualified accountant'.

44. Information from one of ACCA's China offices about the support given to ACCA trainees in China is as follows.
45. 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.
46. The Committee had noted 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. 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...'
47. These are live webinars and therefore trainees are able to ask ACCA China staff questions.
48. The webinar details refer to encouraging trainees to join the ACCA WeChat group of their regional service group and provides details 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.
49. In addition to the WeChat groups, ACCA China uploads to its WeChat platform articles relevant to the ACCA membership process, to include one entitled '*How to become an ACCA Member Series 1/ Practical Experience Requirement (PER) Quick Guide*', dated 15 January 2020. 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...*'

50. 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;...."*

51. The Committee was satisfied, therefore, that there was significant information available to Mr Kong to enable him to understand fully the process relating to ACCA's PER and the training that was involved.

THE INVESTIGATION

52. 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, including Mr Kong, had completed their PER training record in which they claimed their POs had been approved by a particular supervisor, namely Person A.

53. A person purporting to be Person A registered as each trainee's supervisor on the basis of her being a member of the Chinese Institute of Certified Public Accountants (CICPA), being an IFAC registered body.
54. Person C states, and the Committee found, that a supervisor would not be expected to have more than 2 to 3 trainees at any one time. All these trainees had different periods of training and some periods overlapped, and ACCA is unable to produce precise figures as to how many trainees Person A allegedly supervised at any one time. However, the Committee was satisfied that a person claiming to be Person A had purported to have supervised a very significant number of ACCA trainees, including Mr Kong, at or about the same time.
55. A review was also carried out by the Professional Development Team which showed that the PO statements had been copied amongst a large number of these 100 trainees, including Mr Kong, who had all claimed to have been supervised by the same supervisor, namely a Person A.
56. ACCA contacted Person A via the Chinese Institute of Certified Public Accountants (CICPA). Person A has been a member of the CICPA since 3 April 2019. Therefore, it is only from that date that Person A would be entitled to supervise an ACCA trainee. In any event, Person A denied having supervised any ACCA trainees. During this contact, Person A provided ACCA with her email address.
57. Although initially Person A advised ACCA they had never supervised any ACCA trainees, they subsequently recalled having supervised a single ACCA trainee.
58. Person A provided ACCA with the name of the trainee. ACCA's records confirm they did act as a supervisor for this one trainee. However, that one trainee 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 performance objectives.

59. 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 their details were different to the 'Person A' who purportedly supervised the 100 other trainees, including Mr Kong. This included their email address. The email address registered by 'Person A' in connection with these 100 trainees was [private], which is totally different to the email address provided by Person A to ACCA. Person A stated, and the Committee found, that they have never had an email address containing [private].
60. The Person A who was purportedly registered as supervisor for the 100 trainees under investigation provided a copy of a CICPA registration card to ACCA. This Person A had confirmed in their statement, and the Committee found, that this is their genuine registration card, but they had not provided this to ACCA.
61. ACCA's records show that Mr Kong's application for student membership was received on 18 June 2020.

THE PRACTICAL EXPERIENCE REQUIREMENT (PER) TRAINING RECORD FOR MR KONG

62. The PER training record submitted by Mr Kong referred to his practical experience being undertaken at a single firm.
- The firm in question was 'Company A' where he was employed from 1 June 2011 as a 'Financial Manager'. No end date had been recorded. This suggested he remained employed at least up to the date his time/experience was approved on 16 July 2020.
 - In red text, the PER training record confirmed that 109 months of relevant practical experience had been claimed, which related to the period of employment referred to in the paragraph immediately above. The period

corresponded with the period the training commenced i.e. 1 June 2011 to the date the record was downloaded by ACCA staff in or about August 2021.

- In this role, the training record referred to two supervisors, Person A, who was authorised to approve his POs only, and a Person D, who was authorised to approve his time claim only.
- In relation to the POs, the PER training record recorded that Mr Kong requested Person A to approve all nine POs on 16 July 2020 and Person A apparently approved all nine PO's on that same day.
- The Supervisor details for Mr Kong recorded that Person A was an 'IFAC qualified external supervisor'. Given they were external to the firm Mr Kong was working in, Person A was only permitted to approve Mr Kong's achievement of his POs and not the period of his employment in the firm referred to.
- Person D, recorded as "Manager", approved Mr Kong's period of his employment at the firm on 16 July 2020.
- The Supervisor details for Mr Kong recorded that Person D was a 'non IFAC qualified line manager' and hence why Person D only approved Mr Kong's time claim.

THE COMMITTEE'S DECISION

63. In the absence of any explanation from Mr Kong, or any other evidence, the Committee was satisfied, on the balance of probabilities, that Mr Kong knew that Person A had not acted as his PES.
64. In addition, there was no evidence at all of any contact taking place between Mr Kong and Person A throughout Mr Kong's training as would be expected if Person A had been acting as his supervisor as shown on Mr Kong's PER.

65. The Committee found that Person A did not provide the necessary supervision of Mr Kong's work during any of the period that he worked at Company A. As stated in the PER booklet, one of the three components of PER is to, *"regularly record your PER progress in your online My Experience record, which can be accessed via myACCA."* As stated, there was no such evidence.
66. To summarise, in reaching its finding, the Committee had taken account of the following:
- (a) There was no documentary evidence at all of any contact between Mr Kong and Person A, such as supervision notes, meeting notes, file reviews, text messages, appointments, or emails concerning work undertaken by Mr Kong when at Company A;
 - (b) Person A has stated that they did not act as PES to Mr Kong;
 - (c) The Committee had found that Mr Kong knew that Person A had not been acting as his PES during the relevant period.
67. On this basis, the Committee found the facts of allegation 1(a) proved.

ANALYSIS OF MR KONG'S POs AS CONTAINED IN HIS PER TRAINING RECORD WITH OTHER ACCA TRAINEES WHO CLAIMED TO HAVE BEEN SUPERVISED BY PERSON A

68. The Committee found that, in order to comply with the PER, all of a trainee's PO statements should be unique to them and must not be copied from other trainees or from templates as this undermines the PER element of the ACCA qualification.
69. The Committee had considered the careful analysis carried out by ACCA on the basis of information supplied by the company which provides ACCA with the online PER tool, providing an Excel spreadsheet with all the POs

downloaded from these 100 trainees. 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 one or more other trainees who claimed to have been supervised by Person A, including Mr Kong.

70. The Committee was satisfied that, where PO statements of Mr Kong were the same or significantly similar to the POs of any other trainees, it was appropriate to infer that Mr Kong had not met the objective in the way claimed or possibly at all. There was no basis on which, if the PO statements were the same or significantly similar, more than one trainee would, first, have had exactly the same training experience and, secondly, they would then use effectively the exact same terminology and wording to describe that work experience.
71. In carrying out this analysis, the Committee noted that ACCA had 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 was evidence suggesting otherwise.
72. The 'first in time date' was the date the trainee requested that Person A approve the PO in question within their PER. This was 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.
73. In relation to Mr Kong, the analysis revealed, and the Committee found:
 - Only one of his PO statements were first in time.
 - Eight of his PO statements as particularised in allegation 1(b) 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.
74. The following statements submitted by Mr Kong were the same, or effectively the same, as the trainees identified below:

75. PO1 – Trainees 16, 21, 28, 30, 38
PO2 - Trainees 16, 20, 21, 28, 33;
PO3 – Trainees 26, 28;
PO4 - Trainee 4, 21, 27, 29, 33;
PO19 – Trainees 27, 28, 41;
PO20 – Trainees 27, 28, 29, 41;
PO21 - Trainee 24;
PO22 – Trainees 30, 33, 40.
76. The Committee noted that the wording itself was almost identical, both in terms of the sort of experience outlined and also the typographical and grammatical errors.
77. The following are two examples of this approach. The examples selected by the Committee were statements submitted by Mr Kong and which were effectively identical to those of the other trainees listed above.

PO1

78. The Committee had considered the documentary evidence and, as stated, found that the words used by Mr Kong in his "Ethics and professionalism" PO statement ("PO1") were identical, or practically identical, to the words used by those trainees listed above for the same PO.

"Ethics and professionalism are the basic requirements of my current job, and I believe that ethics and professionalism are also the basic requirements of every job. A prominent problem in economic life now is that many Accounting networks and associations and accountants falsify accounts and issue false financial reports. Many corruption, tax evasion, misappropriation of public funds and other economic crimes, as well as a large number of corruption, accounting personnel are almost inseparable from false accounts. Therefore, our company is very concerned about improving the ability of accounting professional ethics, improve the staff follow-up education and training mechanism. In addition, the degree of professionalism also affects the business accounting can comply with

professional ethics. Some accountants have poor professional competence, do not pay attention to professional training and professional knowledge learning, neglect professional experience summary and accumulation, lack of communication ability, often easy to lose justice, objectivity, professional ethics. In the work, often meet some let you violate ethics, for example, let you revise certain financial data, may not have the very big influence to the financial report, but this matter is against professional ethics thing, because this matter violates the relevant accounting standards, contrary to the company's operating guidelines. When such a situation, I should adhere to their professional judgment, fairness and objectivity to reject such a thing. Therefore, we must maintain in the work of their own professional ethics, and constantly improve their professional competence."

PO4

79. The Committee had considered the documentary evidence and, as stated, found that the words used by Mr Kong in his "Governance, risk and control" PO statement ("PO4") were identical, or practically identical, to the words used by those trainees listed above for the same PO.

"Corporate Governance, risk and control is a very important task of the enterprise, in the work has a profound experience, if do not do this, the company is very bad impact, even make the company's operations difficult. Corporate governance refers to the relationship between many stakeholders, including shareholders, board of directors, managers, and these relationships determine the direction of enterprise development and performance. How to make the managers of the enterprises take the responsibility to the capital suppliers and make use of the structure and mechanism of corporate governance while making use of the assets provided by the capital suppliers to give full play to the use of the assets, define the power, responsibility and influence of different company stakeholders, and establish incentive compatible institutional arrangement between principal and agent. There's always something that can't be controlled. There's always a risk. As a manager, we will take all kinds of measures to reduce the possibility of risk events, or to control

the possible loss within a certain range, in order to avoid the risk of events when the loss of unbearable. The four basic methods of risk control are risk avoidance, loss control, risk transfer and risk retention. Therefore, only the company to do a good job of corporate governance and risk control in order to promote the company to have a good development."

80. The Committee found that the similarities in the description of the work experience described by Mr Kong and the other trainees meant that it was not remotely credible that all trainees would have undergone exactly the same work experience and then expressed it in effectively identical terms. The Committee was satisfied that the wording was taken from some sort of template and that it represented a pattern of behaviour, repeated in respect of eight of Mr Kong's POs.
81. The Committee was satisfied that this was a clear abuse of the process of validation and no weight could be placed on the description of the experience gained as described in the statements.
82. The Committee had found that Mr Kong had deliberately submitted PO statements which were identical to the PO statements of other trainees who had purported to be supervised by Person A, when Mr Kong knew they did not accurately reflect the work that he had undertaken.
83. No evidence had been provided to support the description of the work allegedly carried out by Mr Kong to satisfy POs 1, 2, 3, 4, 19, 20, 21 and 22 when working at Company A. The Committee found, on the balance of probabilities, that it was not true that he had achieved the POs in the manner, or based on the description, of the work alleged.
84. On this basis, the Committee found the facts of allegation 1(b) proved.

Allegations 2(a) and (b)

85. The Committee relied upon its findings of fact under allegations 1(a) and 1(b) above.
86. The Committee had found that Mr Kong knew that, in the period from 1 June 2011 to the date on which Mr Kong's record was downloaded in or about August 2021, Person A had not supervised his practical training but that he had held out that he had been supervised by Person A during that period.
87. The Committee had also found that Mr Kong had failed to write the statements in support of POs 1, 2, 3, 4, 19, 20, 21 and 22 in his own words. He had simply adopted words used by others and therefore there was no guarantee whatsoever that the description would match in any way his practical experience. He therefore knew that he had not achieved the performance objectives in respect of POs 1, 2, 3, 4, 19, 20, 21 and 22 in the manner described in the statements he had submitted.
88. The Committee was satisfied that, by the standards of ordinary decent people, such conduct would be considered to be dishonest.
89. Consequently, the Committee found allegations 2(a) and 2(b) proved.

Allegation 2(c)

90. On the basis that this allegation was pleaded in the alternative to allegation 2(a) and 2(b), the Committee made no finding in respect of it.

Allegations 3(a), (b) and (c)

91. On the basis that this allegation was pleaded in the alternative to allegation 2(a) and 2(b), the Committee made no finding in respect of it.

Allegation 4

92. On 1 September 2022, following referral of this matter to ACCA's Investigations Team, a member of that team sent an email to Mr Kong attached to which was a letter which clearly set out the complaint and requested that Mr Kong respond to a number of questions by 15 September 2022.
93. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Mr Kong to cooperate with the investigation by responding to the questions by the deadline.
94. This email was sent to the email address Mr Kong had registered with ACCA and which was the email address on the register on the day the email was sent.
95. Mr Kong failed to respond.
96. On 16 September 2022, ACCA sent another email to Mr Kong and attached the letter sent on 1 September 2022. Mr Kong was again reminded of his duty to cooperate and was given until 30 September 2022 to respond.
97. Mr Kong failed to respond.
98. On 3 October 2022, ACCA sent a further email to Mr Kong, again attaching the letter sent with the original email of 1 September 2022, and again reminding him of his duty to cooperate. He was warned that, if he did not respond by 17 October 2022, his failure to cooperate may form a separate allegation against him.
99. Mr Kong failed to respond.
100. The emails of 16 September 2022 and 3 October 2022 were also both sent to the email address registered with ACCA on those days.
101. The Committee was satisfied that the correspondence from ACCA to Mr Kong was sent to his correct email address. The Committee was also satisfied that, based on evidence taken from ACCA's case management system, all three of

the emails sent to Mr Kong's email address had been opened. The Committee found, on the balance of probabilities, that the emails had been opened by Mr Kong

102. The Committee noted that, via Microsoft Teams, attempts had been made to call many of the trainees who were being investigated but the telephone numbers have not been recognised. However, shortly after the initial email was sent to all trainees, ACCA's China office sent a mobile message to each trainee who had a recognisable mobile number recorded in ACCA's records. The extracts from ACCA's database for Mr Kong referred to above include a telephone number. The message sent by ACCA's China office using this mobile number read as follows:

"IMPORTANT: On 1 September 2022 ACCA sent a password protected email with a letter attached to your ACCA registered email address. The response deadline is 15 September 2022. If you cannot open the letter, please immediately email [private] providing your full name, ACCA ID and date of birth."

103. ACCA's China office had provided a spreadsheet recording when this message was sent and whether or not all the messages were successfully delivered.
104. ACCA's China office had confirmed, and the Committee found, that the message was sent on 4 September 2022 and was successfully delivered to Mr Kong's mobile number that day.
105. Mr Kong failed to respond to ACCA's emails of 1 September 2022, 16 September 2022 and 3 October 2022. On this basis, the Committee found that he had failed to cooperate with ACCA's Investigating Officer. Consequently, the Committee found allegations 4(a), (b) and (c) proved.

Allegation 5(a)

106. Taking account of its findings that Mr Kong had acted dishonestly, the Committee was satisfied that he was guilty of misconduct. Such conduct fell far below the standards expected of an accountant and member of ACCA and could properly be described as deplorable. In the Committee's judgement, it brought discredit to Mr Kong, the Association and the accountancy profession.
107. In respect of allegation 4, the Committee had found that, despite ACCA providing a number of reminders of his obligation to cooperate and warnings of potential consequences of his failure to do so, Mr Kong had failed to cooperate with ACCA and to respond to correspondence.
108. The Committee had taken into consideration that the email of 1 September 2022 contained a substantial amount of information and a significant number of detailed questions which Mr Kong was required to answer. The emails of 16 September 2022 and 3 October 2023 were designed to encourage Mr Kong to provide the information requested in the first email to enable ACCA to continue with its investigation.
109. The need for members to engage and cooperate with their regulator was fundamental. A failure by members to do so meant that ACCA's ability to regulate its members in order to ensure proper standards of conduct, protect the public, and maintain its reputation was seriously compromised.
110. The Committee found that the failure of Mr Kong to cooperate with his regulator also amounted to misconduct in that such failure brought discredit to himself, ACCA and the accountancy profession.
111. The Committee found allegation 5(a) proved.

Allegation 5(b)

112. On the basis that this allegation was pleaded in the alternative to allegation 5(a), the Committee made no finding in respect of it.

SANCTION AND REASONS

113. The Committee considered what sanction, if any, to impose taking into account all it had read in the bundle of documents, ACCA's Guidance for Disciplinary Sanctions, and the principle of proportionality. It had listened to submissions from Ms Terry, and to legal advice from the Legal Adviser, which it accepted.
114. The Committee considered the available sanctions in increasing order of severity having decided that it was not appropriate to conclude the case with no order.
115. The Committee was mindful of the fact that its role was not to be punitive and that the purpose of any sanction was to protect members of the public, maintain public confidence in the profession and in ACCA, and to declare and uphold proper standards of conduct and performance.
116. The Committee considered whether any mitigating or aggravating factors featured in this case.
117. The Committee accepted that there were no previous findings against Mr Kong. However, the Committee did not consider that this amounted to a mitigating factor as, at the time of his dishonest conduct, Mr Kong had only been a student member for approximately one month. There was no evidence of any other mitigating factors in this case. The Committee had not heard from Mr Kong nor had it received any references or testimonials.
118. As for aggravating features, on the basis of the Committee's findings, it had been established that Mr Kong's behaviour had been dishonest and the steps Mr Kong had taken involved a level of sophistication, planning and probable collusion with others, particularly in relation to the use of Person A's details as PES and the PO statements. His actions were designed to deceive his regulator. The Committee was entirely satisfied that his behaviour would undermine confidence in the profession and put at risk the reputation of ACCA.

119. The Committee also noted that, in failing to engage with the process, Mr Kong had shown neither insight nor remorse. The Committee was also concerned that Mr Kong's dishonest conduct was to enable him to derive a personal benefit.
120. There was also a risk that Mr Kong would have gained qualification as an accountant without the necessary competence or experience. In this way, he could have caused harm or had an adverse impact on members of the public.
121. When ACCA then corresponded with him in the course of its investigation, Mr Kong failed to cooperate with his regulator by failing to respond to correspondence regarding a very serious set of allegations.
122. The Committee concluded that neither an admonishment nor a reprimand would adequately reflect the seriousness of the Committee's findings.
123. The Committee then considered whether a severe reprimand would be an appropriate sanction. Again, taking account of the seriousness of its findings, the Committee did not consider that a severe reprimand would be sufficient or proportionate.
124. Mr Kong had been found to have acted dishonestly in his conduct. The Committee was also concerned that, based on its findings, the objective of his dishonest conduct was to gain an unfair advantage over those who had approached their practical training in an honest way. Due to the lack of legitimate evidence regarding his training, he may have become a member when he was not competent to do so. Therefore, this was conduct on Mr Kong's part which may have led to him achieving a level of success to which he was not entitled, and which was not merited. In this way, as stated, he presented a future risk to the accountancy profession and the public.
125. In the Committee's judgement, Mr Kong's overall conduct was fundamentally incompatible with being a member of ACCA and risked undermining the

integrity of ACCA membership. The Committee adopted the Guidance which stated that the reputation of ACCA and the accountancy profession was built upon the public being able to rely on a member, including a student member, to do the right thing in difficult circumstances. It noted this was a cornerstone of the public value which an accountant brings.

126. The Committee had considered whether there were any reasons which were so exceptional or remarkable that it would not be necessary to exclude Mr Kong as a member of ACCA but could find none.
127. The Committee concluded that the only appropriate, proportionate and sufficient sanction was to order that Mr Kong shall be removed from ACCA's student register.

COSTS AND REASONS

128. The Committee had been provided with a simple cost schedule (page 1) and a detailed cost schedule (pages 1 to 2).
129. The Committee concluded that ACCA was entitled to be awarded costs against Mr Kong, all allegations, including dishonesty, having been found proved. The amount of costs for which ACCA applied was £6,087.92. Taking account of the complexity of the case, the Committee did not consider that the costs incurred were unreasonable.
130. Mr Kong had failed to provide the Committee with details of his means. Mr Kong had chosen not to engage with the proceedings and had failed to respond either substantively or at all to any previous correspondence. However, the Notice of Proceedings had made it clear that, if ACCA proved any or all of the allegations, it would be applying for costs and that he should provide details of his means if he wished to suggest that he was not in a position to pay all or any of the costs claimed. In the absence of such information, the Committee approached the matter on the basis that Mr Kong was in a position to pay any amount of costs it was prepared to award.

131. The Committee noted that the amount of estimated time claimed in respect of today's hearing was greater than the time the hearing had actually taken.

132. In all the circumstances, the Committee exercised its discretion when determining the amount Mr Kong should be expected to pay. Taking account of what had been said by Ms Terry, the Committee considered that it was reasonable and proportionate to award ACCA costs in the reduced amount of £5,700.

EFFECTIVE DATE OF ORDER

133. Taking into account all the circumstances, and on the application of Ms Terry, the Committee decided that it was necessary, and in the interests of the public, for this order to take immediate effect.

134. In reaching its decision, the Committee took account of the fact that Mr Kong had acted dishonestly in holding himself out to ACCA as a person who had a level of experience in accountancy that was not accurate. The Committee decided that a risk remained that he may, for example, apply for a job or continue to represent himself to the public as a student member of ACCA.

135. Therefore, as stated, the Committee concluded that it was in the interests of the public for the order to take immediate effect.

Ms Carolyn Tetlow
Chair
8 November 2023