

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Miss Honglian Dai</b>
<b>Heard on:</b>	<b>Thursday, 9 November 2023</b>
<b>Location:</b>	<b>Remote video hearing via MS Teams</b>
<b>Committee:</b>	<b>Mr Maurice Cohen (Chair) Dr David Horne (Accountant) Mr Andrew Skelton (Lay)</b>
<b>Legal Adviser:</b>	<b>Miss Judith Chrystie</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case Presenter) Ms Lauren Clayton (Hearings Officer)</b>
<b>Summary</b>	<b>Facts found proved; Dishonesty; Misconduct; Exclusion from membership; Immediate Effect.</b>
<b>Costs:</b>	<b>£5,000.</b>

#### ACCA



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## **SERVICE OF PAPERS**

1. Miss Dai was neither present nor represented.
2. The Committee considered a Service Bundle ~~(1)~~ with pages numbered 1-18 in order to determine whether the Notice of the Hearing ('the Notice') dated 12 October 2023 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (amended 2020) ('the Regulations').
3. The Notice had been sent to Miss Dai's registered ~~address~~ email address and complied with the other requirements of the Regulations.
4. The Committee was satisfied that there was effective service under the Regulations.

## **PROCEEDING IN ABSENCE**

5. The Committee considered whether it should proceed in Miss Dai's absence and recognised that it could only do so with the utmost care and caution.
6. The Committee noted that ACCA had not received any form of communication or contact from Miss Dai throughout the investigation process nor during the correspondence in anticipation of today's hearing. Following the issuing of the Notice, on 6 November 2023, the Hearings Officer attempted to call Miss Dai; the call went unanswered with no option to leave a voicemail message. The call was followed up with an email to Miss Dai to her registered email address; there had been no response. A further email containing the link to join the hearing was sent by the Hearings Officer on 8 November 2023; there had been no response.
7. The Committee considered it was relevant that at no point had Miss Dai engaged with ACCA during its investigation, she had not contacted ACCA, she had not sought to participate in the proceedings before the Disciplinary Committee through any mode (telephone or through MS Teams) and had not

indicated she wished to attend the hearing nor that she needed an adjournment of today's proceedings. Given this history, the Committee determined that there would be no purpose in adjourning the hearing. Therefore, in the Committee's view, it was unlikely that she would attend at a later date if it adjourned the hearing. The Committee considered that Miss Dai had chosen to disengage with the process and had voluntarily waived her right to attend the hearing.

8. Further, the Committee recognised that there was a strong public interest in regulatory proceedings being considered and concluded expeditiously, particularly given the serious nature of the allegations, which related to whether Miss Dai had secured membership on a false premise.
9. In all the circumstances, the Committee determined that it was fair and just to proceed in Miss Dai's absence in accordance with its discretionary power at Regulation 10(7) of the Regulations.

## **ALLEGATIONS**

10. The Committee considered the allegations set out below.

Miss Honglian Dai ('Miss Dai'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 15 January 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 7 August 2016 to 15 January 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 2: Stakeholder relationship management
- Performance Objective 3: Strategy and innovation

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

- a) In respect of Allegation 1a), dishonest, in that Miss Dai 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 Dai 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 Dai 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) 1 September 2022;
  - (b) 16 September 2022;
  - (c) 3 October 2022.
  
- 5. By reason of her conduct, Miss Dai 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).
  
- 11. In considering the allegations, the Committee had regard to the following papers:
  - a. Disciplinary Committee report and bundle with page numbers 1-245,
  - b. Additional bundle with page numbers 1-33,
  - c. Mini bundle with page numbers 1-58.

## **BRIEF BACKGROUND**

### **Miss Dai's PER training record and membership**

- 12. In January 2020 Miss Dai submitted her PER training record, which:

- a. Specified that from 7 August 2016 she had been employed by Company A in the role in 'accounting',
  - b. Claimed 41 months of relevant practical experience,
  - c. Referred to two supervisors:
    - i. Person A, who was authorised to approve Miss Dai's POs only having been specified as an external practical experience supervisor,
    - ii. Person B, who was authorised to approve Miss Dai's experience / time claim only having been detailed as a 'non-IFAC qualified line manager'
  - d. Stated that Miss Dai requested Person A to approve all nine POs on 15 January 2020
  - e. Showed Person A apparently approved all nine POs on that day
13. Based on the PER training record, on 23 January 2020, Miss Dai became an ACCA member.

## **INVESTIGATION**

14. During 2021 ACCA's Professional Development team became aware that between 16 December 2019 and 29 January 2021, 100 ACCA trainees had completed their PER training record claiming that their POs had been approved by Person A.
15. In a statement dated 18 October 2022 Person A stated as follows.

- a. They recalled supervising a single ACCA trainee to the limited extent of approving one of the nine POs – this trainee was not one of the 100 trainees identified in paragraph 14 above.
  - b. They had never had an email address containing the word [private] which was the address registered by the individual purported to supervise Miss Dai and the other trainees.
16. In a supplementary statement dated 12 September 2023, Person A stated that the CICIPA registration card registered for the 100 trainees was their card but they had not provided it to ACCA. They explained that they had passed it to the single ACCA trainee they had supervised (as mentioned in 15(a) above).
17. ACCA relied on evidence of Person C Manager of ACCA's Professional Development Team. In a statement dated 13 October 2022, Person C stated as follows.
  - a. To complete their ACCA qualification and to be eligible for membership an individual must complete relevant practical experience consisting of professional objectives (POs) – including 9 ~~essential~~ POs - and at least 36 months supervised ~~ing~~ practical experience in a relevant accounting and/or finance role, in addition to passing the necessary ACCA exams.
  - b. All PO statements contained in a PER training record should be unique and must not be copied from other trainees or from templates as this undermines the PER training record element of the ACCA qualification because statements that were the same or significantly similar to the POs of any other trainees, would suggest:
    - i. The trainee had not met the objective in the way claimed or possibly at all,

- ii. The practical experience claimed, had not been supervised by a practical experience supervisor, who would or should have knowledge of the trainee's work.
  - c. A supervisor would not normally be expected to have more than 2-3 trainees at any one time and, although all these trainees had different periods of training and some periods overlapped, it appeared Person A has supervised a very significant number of ACCA's training about the same time.
18. As part of its investigation, ACCA conducted an analysis of a spreadsheet setting out all the POs from 100 trainees who purported to be trained by Person A. In relation to Miss Dai, the analysis revealed:
- a. Three of her nine PO statements were identical or similar to the PO statements contained in the PER training records of other ACCA trainees but Miss Dai's were the first in time, which suggested that they may be original and written by the trainee based on their actual experience, unless there was evidence to the contrary.
  - b. Four of her PO statements were not shared by any other ACCA trainees.
  - c. Two of her nine PO statements were identical or significantly similar to the PO statements contained in the PER's of other ACCA trainees who claimed to have been supervised by Person A and were not the 'first in time'.

## **DECISION ON FACTS/ALLEGATION(S) AND REASONS**

### **Allegation 1**

19. The Committee found allegation 1 (a) and (b) proved.



20. In advance of the hearing, the Committee had received and had carefully scrutinised the extensive written evidence set out in its Committee bundles. Whilst recognising that the evidence was hearsay and had not been given in oral evidence or tested through questioning, the Committee judged it to be highly credible and considered significant weight could be attached to it. The Committee concluded that the evidence demonstrated:
- a. Person A had not supervised Miss Dai as purported in the PER training record;
  - b. The personal statements of experience made in connection with Performance Objectives 2 and 3 were not unique to Miss Dai but used standardised, template text adopted by more than one trainee, which made it more likely than not that Miss Dai had not genuinely gained the experience.
21. Further, given the credibility of the evidence submitted by ACCA, the Committee considered that it was fair, in the circumstances, for it to draw an adverse inference which it had been invited to do by ACCA. It concluded that Miss Dai's failure to provide any explanation or provide alternative evidence demonstrating she had been appropriately supervised could only sensibly be attributed to her having no answer to the allegations or none that would stand up to cross examination.

### **Allegation 2**

22. The Committee found allegations 2(a) and 2(b) proved. It applied the two-stage test set out in *Ivey* to determine whether Miss Dai was dishonest.
23. The Committee first sought to ascertain the actual state of Miss Dai's knowledge or belief as to the facts. The Committee considered that it was clear there was considerable material published by ACCA to ensure that, as individuals transitioned from ACCA students to ACCA trainees in an effort to become ACCA members, they were fully aware of the process for the PER and of ACCA's requirements for the practical experience. Finally, the Committee

found that Miss Dai must have known that Person A as an external supervisor had not worked with her and had not supervised her in relation to all nine of the POs. Further, the Committee concluded that Miss Dai must have known that the text in respect of POs 2 and 3 were not her original drafting and did not relate to experience that she had genuinely gained.

24. Having identified the state of Miss Dai's knowledge or belief as to the facts, the Committee considered the objective limb of the test for dishonesty, namely, whether her conduct was honest or dishonest by the standards of ordinary people. The Committee considered it was plain that the ordinary person would regard Miss Dai's conduct as dishonest. She deliberately submitted an untrue formal training record to her regulator for the purposes of gaining membership.
25. Having found allegations 2(a) and 2(b) proved, the Committee did not go on to consider allegation 2(c) as it was pleaded in the alternative.

### **Allegation 3**

26. The Committee did not consider allegation 3 as this was pleaded in the alternative.

### **Allegation 4**

27. The Committee found allegation 4 proved. ACCA had plainly sent emails to Miss Dai on 1 September 2022, 16 September 2022 and 3 October 2022. There was evidence that these had been opened by Miss Dai but that she had failed to respond in any way to this correspondence.

### **Allegation 5**

28. The Committee found allegation 5 proved in respect of the facts found proved at allegations 1, 2 and 4. The Committee considered that Miss Dai's dishonest conduct together with her repeated failure to cooperate with ACCA fell far short of the standards expected of a member of the accountancy

profession and could not be regarded as anything other than serious departures from the standards expected.

29. It regarded Miss Dai's conduct as entirely unacceptable and considered it brought the profession into disrepute.
30. Having found misconduct proved the Committee did not go on to consider allegation 5(b) which was charged in the alternative.

### **SANCTION AND REASONS**

31. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
32. The Committee considered that the only element of mitigation was that Miss Dai had no previous disciplinary history. The Committee considered there were aggravating circumstances. These being the significance of a regulated professional dishonestly engaging in multiple pre-meditated breaches, which were conducted over an extensive period of time, as well as failing to cooperate with their regulatory body.
33. The Committee regarded Miss Dai's misconduct and, in particular, her related dishonesty as extremely serious; Miss Dai attempted to undermine the integrity of ACCA's training requirements and membership process. This could have detrimentally impacted on the public's confidence in the integrity and credibility of ACCA's membership, the public's trust in its members and could have caused financial loss given that Miss Dai gained membership without the necessary practical experience.
34. The Committee considered that it would be wholly insufficient to impose no order or to conclude this matter with an admonishment, a reprimand or a severe reprimand. The Committee took account of paragraph E2 of the Guidance which stated 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 Committee considered that none of these orders would properly recognise the seriousness

of Miss Dai's deliberate and dishonest intentions nor would they be sufficient to reflect the damage to public confidence.

35. Miss Dai had sought to deceive ACCA by submitting false records. This was planned, pre-meditated conduct that had endured over a number of years with the single intention of gaining personal advantage through dishonest, deceptive steps. The Committee concluded that this behaviour, coupled with non-cooperation with her regulator in disregard of her obligations as a member, were fundamentally incompatible with being an accountant and remaining a member of ACCA.
36. The Committee, therefore, ordered that Miss Dai should be excluded from membership.

#### **EFFECTIVE DATE OF THE ORDER**

37. The Committee considered that it was necessary to protect the public for the order to exclude Miss Dai to have immediate effect. Miss Dai's membership was obtained under false pretences as she had not gained the experience needed for membership. This created a risk of harm to the public and, through the dishonest conduct, the potential that she could be supervising other trainees in the same circumstances.

#### **COSTS AND REASONS**

38. The Committee had regard to the Guidance on Cost Orders.
39. ACCA claimed costs in the sum of £5,959.58 set out in a schedule of costs. The Committee considered that this sum was reasonable and had been reasonably incurred but that it could be reduced to reflect that the hearing had concluded in less time than had been allocated in the schedule of costs.
40. The Committee had no evidence regarding Miss Dai's financial circumstances such that it could consider her ability to pay an order for costs awarded to ACCA but recognised that it needed to consider the principle that the majority of those

paying ACCA's fees should not be required to subsidise the majority who, through their own failings, have found themselves subject to disciplinary proceedings.

41. Balancing all these considerations, the Committee considered that it would be appropriate to make an order for costs and that it was reasonable and proportionate to impose a cost order that Miss Dai pay ACCA's costs in the sum of £5000.~~00~~.

**Mr Maurice Cohen**  
**Chair**  
**9 November 2023**