

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Yuhan Lin
Heard on:	Wednesday, 29 November 2023
Location:	Heard remotely by video conference
Committee:	Mr Andrew Gell (Chair), Mr Ryan Moore (Accountant), Mrs Diane Meikle (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Ms Anna Packowska (Hearings Officer)
Summary:	Allegations 1(a), 1(b), 2(a), 2(b) and 4 and 5(a) proved. Excluded from the affiliate register with immediate effect. Costs of £5,700 awarded to ACCA

PRELIMINARY

1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Miss Yuhan Lin.

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2. The Committee had before it a bundle of documents (245 pages), three additional bundles (123, 30 and 2 pages) and a service bundle (16 pages).
3. Miss Lin, who is resident in China, did not attend the hearing and was not represented.

PROCEEDING IN ABSENCE

4. The notice of hearing was sent by email on 1 November 2023 to Miss Lin's registered email address. The Committee was provided with a delivery receipt showing the email had been received by the addressee.
5. On 24 and 27 November 2023, the Hearings Officer sent emails to Miss Lin inviting her to confirm whether she intended to attend the hearing. There has been no response to those emails.
6. The Committee was also informed that the Hearings Officer also attempted to contact Miss Lin by telephone on 27 November 2023 on the number recorded for her on the register. However, the call was not answered and there was no opportunity to leave a message.
7. The Committee was satisfied that the requirements of regulations 10(1) and 22(1) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 ('CDR') as to service had been complied with.
8. Having satisfied itself that service had been effected in accordance with the regulations, the Committee went on to consider whether to proceed in the absence of Miss Lin. The Committee bore in mind that the discretion to do so must be exercised with care and in light of the public interest in dealing with matters such as this fairly, economically, and expeditiously.
9. The Committee had information before it showing that emails sent by ACCA to Miss Lin's registered address had been opened in March and October this year. It also noted that, in March 2023, an ACCA Investigation Officer had spoken to Miss Lin on the telephone, and she had confirmed her email address. The

Committee was therefore satisfied that Miss Lin had received by email notification of this hearing, was aware of it and had taken a voluntary decision not to participate in it.

10. The Committee considered that no useful purpose would be served by adjourning this hearing. There was no reason to think that Miss Lin would attend if this case were to be relisted on a future date. Further, these are serious allegations and the public interest in proceeding outweighs Miss Lin's interests in the circumstances of this case.
11. The Committee was satisfied that it was in the interests of justice that the hearing should proceed in Miss Lin's absence.

ALLEGATIONS AND BRIEF BACKGROUND

12. The allegations against Miss Lin are as follows:

Ms Yuhan Lin ('Miss Lin'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 19 January 2021 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 1 November 2011 to 19 January 2021 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 Objective 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 Lin's conduct in respect of the matters described in Allegation 1 above was:

a) In respect of Allegation 1a), dishonest, in that Miss Lin 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 Lin knew she had not achieved the performance objective referred to in paragraph 1b) above as described in the corresponding performance objective statement 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 Lin 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 it 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) 19 August 2022;
 - b) 5 September 2022;
 - c) 20 September 2022.

5. By reason of her conduct, Miss Lin is:
 - a) Guilty of misconduct pursuant to ACCA bye-law 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 bye-law 8(a)(iii).

13. Miss Lin became a student member of ACCA in March 2019 and was admitted as an affiliate member on 18 January 2021. The following day she made an application for full membership of ACCA.

14. Part of the requirements of becoming an ACCA member, in addition to passing the relevant exams, is the completion of practical experience. ACCA's practical experience requirement ('PER') is a key component of the ACCA qualification.

15. ACCA's PER is designed to develop the skills needed to become a professionally qualified accountant. There are two components to the PER:
 - Completion of nine performance objectives ('POs'). Each PO includes a statement of 200 to 500 words, in which the student explains how they have achieved the objective. They should, therefore, be unique to that student. The PO must be signed off by a practical experience supervisor ('PES'), who must be a qualified accountant recognised by law in the relevant country and/or a member of an IFAC body. They must have knowledge of the student's work in order to act as a PES. The PES is typically the student's line manager, though if their line manager is not suitably qualified, they can nominate an

external supervisor provided the external supervisor has sufficient connection with the trainee's place of work.

- Completion of 36 months practical experience in accounting or finance related roles, verified by a PES. The period of practical experience may be verified by a non-IFAC qualified line manager.
16. Those undertaking the PER are known as trainees. The trainee's progress towards the PER is recorded online in their PER Training Record.
 17. In support of her application for membership, Miss Lin submitted her PER Training Record to ACCA on or around 19 January 2021. She stated she had worked for Company A, from 1 November 2011, and therefore had practical experience of over three years. She claimed her role was that of Credit Officer.
 18. Miss Lin's PER Training Record names two supervisors, Person A, an external PES, and Person B. Person A had signed-off all nine of the POs on 19 January 2021, the same day they were submitted to her by Miss Lin. Person B, who was described as a 'non-IFAC qualified line manager', verified Miss Lin's period of employment.
 19. During 2021 it came to the attention of ACCA's Professional Development team that between December 2019 and January 2021, around 100 ACCA trainees had submitted PER Training Record in which they claimed their POs had been approved by Person A. ACCA's case, supported by evidence from Person C, Manager of ACCA's Professional Development Team, was that it would not be expected that a PES had more than two to three trainees at any one time.
 20. The Committee was informed that, due to these concerns having arisen, Miss Lin's application for membership was not granted.
 21. A review was carried out by ACCA's Professional Development Team. It noted that a number of POs submitted by the trainees Person A had allegedly supervised were identical or strikingly similar to each other. In relation to Miss Lin, the review showed:

- All nine of her PO statements were identical or significantly similar to other POs submitted by trainees who claimed Person A was their PES.
 - One of her PO statements was first in time, meaning that the date Person A approved the statement was before that for any of the other trainees, and therefore may be original.
 - The other eight of her PO statements were not first in time, meaning they post-dated PO statements which were the same or significantly similar to those of other trainees.
 - With the exception of PO3 and PO8, Miss Lin's PO statements were the same as or similar to at least three other trainees.
22. Person A, who is a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body, was contacted by ACCA. She provided witness evidence stating she had only supervised one ACCA trainee, who she named as Person D, and who was not one of the 100 trainees referred to above.
23. The matter was referred to ACCA's Investigations Team. A member of that team sent an encrypted email to Miss Lin's registered email address on 19 August 2022. Attached to the email was a letter which set out the complaint and requested that Miss Lin respond to a number of questions by 2 September 2022. The letter also referred to CDR 3(1), which requires a member to cooperate with an ACCA investigation. A further email was sent the same day, unencrypted, to inform Miss Lin that the encrypted email had been sent.
24. Miss Lin did not reply, so chaser emails were sent on 5 September and 20 September 2022. These emails stated that, should she fail to reply, an allegation of breaching CDR 3(1) would be brought. There has been no response to any of this correspondence from Miss Lin.
25. On 31 March 2023 an ACCA Investigations Officer called Miss Lin on her registered telephone number. She confirmed that the email address ACCA was

using for her was correct but said she had not received any emails from ACCA on this matter. Following that call, ACCA sent Miss Lin by email a copy of a Case Management Form to complete in respect of this hearing. Miss Lin confirmed she received that email the same day.

DECISIONS ON ALLEGATIONS AND REASONS

26. The Committee considered the documents before it, the submissions of Ms Terry on behalf of ACCA and the advice of the Legal Adviser. The Committee bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.

Allegation 1

27. The Committee had sight of Miss Lin's PER Training Record.
28. In respect of Allegation 1(a), it was clear that Miss Lin had named Person A as her PES in respect of her practical experience training in the period from 1 November 2011 to 19 January 2021. The issue for the Committee was whether ACCA had proved that Person A did not supervise that practical experience training in accordance with ACCA's requirements.
29. The Committee accepted the evidence of Person A contained in her witness statements dated 18 October 2022 and 12 September 2023. She stated that she had only acted as PES for one trainee, Person D. By necessary inference, therefore, she had not acted as PES for Miss Lin.
30. It was not realistically possible that one person could have supervised as many as 100 trainees. The Committee further noted Person A's evidence was that that the email address used for her on the PER Training Record was not her email address. It was quite clear that Person A's details had been used to support a false application for membership.

31. In respect of Allegation 1(b), Miss Lin's PER stated she had achieved POs 1 to 9. The issue for the Committee was whether ACCA had proved that this was not true.
32. All nine of Miss Lin's POs were identical or nearly identical to other POs from trainees who also claimed they were supervised by Person A. It was not conceivable, in the Committee's view, that they could in the circumstances be genuine. Furthermore, they had all been signed off the same day, which is in itself highly suspicious. Given the Committee's finding in relation to Allegation 1(a), namely that Person A did not supervise Miss Lin's PER, it follows that she could not have signed off the POs.
33. The Committee therefore found Allegations 1(a) and 1(b) proved.

Allegation 2

34. There was no doubt in the Committee's mind that Miss Lin knew the requirements of ACCA PER and that she had deliberately not complied with them in order to obtain a qualification to which she was not entitled.
35. The Committee considered the test for dishonesty, as set out in the case of *Ivey v Genting Casinos*.
36. The Committee was satisfied that Miss Lin knew that she had not been supervised by Person A, and therefore claiming that she had been – was untrue. There is no doubt that this would be regarded as dishonest by ordinary and honest people.
37. The Committee was further satisfied that Miss Lin had submitted her PER Training Record knowing that she had not achieved the POs in question. The Committee was in no doubt that this would be regarded as dishonest by the standards of ordinary and honest people.

38. The Committee therefore found Allegation 2(a) and 2(b) proved. As Allegation 2(c) was put in the alternative, there was no need for the Committee to consider it.

Allegation 3

39. As Allegation 3 was an alternative to Allegation 2, there was no need for the Committee to consider it.

Allegation 4

40. CDR 3(1) reads:

(1). Duty to co-operate:

(a) Every relevant person is under a duty to co-operate with any investigating officer and any assessor in relation to the consideration and investigation of any complaint.

(b) The duty to co-operate includes providing promptly such information, books, papers or records as the investigating officer or assessor may from time to time require.

41. The Committee was satisfied that ACCA had sent Miss Lin requests for information by email on the dates set out in Allegation 4. The Committee had evidence before it confirming that the email address used for communications with Miss Lin was a valid one. It therefore concluded that she had received those emails.

42. She had not responded to any of them. The Committee was satisfied that she was under a duty to do so and, by failing to do so, was in breach of CDR 3(1). It therefore found Allegation 4 proved in its entirety.

Allegation 5

43. Having found charges 1(a), 1(b), 2(a), 2(b) and 4 proved, the Committee considered whether this conduct amounted to misconduct. The Committee reminded itself that it had, in charges 2(a) and 2(b), found Miss Lin had been dishonest in her application for membership of ACCA. It had further found that she had failed to co-operate with her regulator.
44. Such conduct clearly brings discredit to Miss Lin, the Association, and the profession of accountancy. It was therefore misconduct, rendering her liable to disciplinary action under Bye-law 8(a)(i).
45. The Committee therefore found Allegation 5(a) proved. As Allegation 5(b) was in the alternative, it was not necessary for the Committee to consider it.

SANCTION AND REASONS

46. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions ('GDS') and the principle of proportionality. The Committee bore in mind that the purpose of sanctions was not punitive but to protect the public, maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour. Having found that Miss Lin's actions amounted to misconduct, taking no further action was clearly not appropriate. The Committee therefore considered the available sanctions in ascending order of seriousness.
47. In mitigation, the Committee took into account that no previous findings had been made against Miss Lin.
48. The Committee considered that the following were aggravating factors. This was pre-meditated dishonest conduct carried out for reasons of personal gain. Furthermore, it was sustained over a period of time. In light of Miss Lin's lack of co-operation and engagement, the Committee was bound to conclude that she had shown neither insight nor remorse.

49. The Committee considered the guidance in the GDS in relation to admonishment and reprimand. It considered that none of the reasons potentially justifying an admonishment were present in this case. Further, this was not misconduct of a minor nature and therefore a reprimand was not appropriate.
50. The Committee considered whether a severe reprimand would be an appropriate sanction. Taking into account the guidance in the GDS, the Committee was satisfied that it was not, given in particular that the conduct in question was deliberate and there was no evidence of genuine regret, remorse, or insight.
51. The GDS indicates that removal from the affiliate register is likely to be appropriate where a finding of dishonesty has been made. The Committee considered that any lesser sanction in this case would not provide the public with the necessary degree of protection. Miss Lin's actions in trying to gain membership by dishonest means were fundamentally incompatible with being a member of the Association.
52. Therefore, the Committee made an order under CDR 13(5)(c) removing Miss Lin from the affiliate register of ACCA.
53. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(5)(c) restricting Miss Lin's ability to apply for readmission beyond the normal minimum period. The Committee noted such an application would in any event have to be considered by the Admissions & Licensing Committee.

COSTS AND REASONS

54. ACCA applied for costs against Miss Lin in the sum of £6,211.25. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the investigation and hearing. Ms Terry accepted some reduction would be appropriate to reflect the actual rather than the estimated time the hearing had taken.

55. The Committee found that there was no reason in principle not to make an order for costs in ACCA's favour. Nor did it consider that the application was for an unreasonable amount, subject to an adjustment based on the length of the hearing.
56. The Committee had no information about Miss Lin's financial circumstances, and therefore had no basis on which a reduction in the costs claimed could be justified.
57. The Committee ordered Miss Lin to pay ACCA's costs in the sum of £5,700.

EFFECTIVE DATE OF ORDER

58. The Committee determined that it would be in the interests of the public for the order to take immediate effect. Therefore, pursuant to CDR 20, the order removing Miss Lin from the affiliate register will take effect immediately.

Mr Andrew Gell
Chair
29 November 2023