

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Jin Shanshan
Heard on:	Wednesday, 18 October 2023
Location:	Remotely by video conference
Committee:	Mr Martin Winter (Chair), Mr George Wood (Accountant), Mr Nigel Pilkington (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Ms Michelle Terry (ACCA Case Presenter) Miss Geraldine Murray (Hearings Officer)
Summary:	Allegations 1, 2(a), 4(a), 4(b), 4(c), 5(a) found proved Removal from membership with immediate effect Costs of £3,265.83

PRELIMINARY

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

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2. The Committee had before it a bundle of documents (246 pages), two additional bundles (9 and 22 pages) and a service bundle (24 pages).
3. Miss Shanshan, 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 20 September 2023 to the email address notified by Miss Shanshan to ACCA. ACCA produced a receipt confirming delivery of the email to that address.
5. There had been no response to the notice of hearing from Miss Shanshan. On 27 September 2023, the Hearings Officer placed a call to Miss Shanshan's registered telephone number but there was no reply and no opportunity to leave a message. A further call on 11 October 2023 was answered but there was silence on the line and no response when the Hearings Officer identified herself. A further call was made on 17 October 2023 but again there was no answer. Follow up emails were sent after the phone calls to which there was also no response.
6. 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.
7. 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 Shanshan. 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.
8. The Committee considered that no useful purpose would be served by adjourning this hearing. Miss Shanshan has not engaged at all during these proceedings and therefore there was no reason to think that she would do so if this case were to be relisted on a future date. The Committee considered that, in the public interest, the hearing should proceed in Miss Shanshan's absence.

ALLEGATIONS AND BRIEF BACKGROUND

9. The allegations against Miss Shanshan are as follows:

Jin Shanshan ('Miss Shanshan'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 17 December 2019 and in doing so purported to confirm in relation to her ACCA Practical Experience training record her Practical Experience Supervisor in respect of her practical experience training in the period from 01 July 2013 to 16 December 2019 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.
2. Miss Shanshan's conduct in respect of the matters described in Allegation 1 above: -
 - a) Was dishonest, in that Miss Shanshan sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise and/or her Supervisor had personally verified the achievements of the performance objectives claimed and/or that they had been achieved in the manner claimed either or both of which she knew to be untrue.
 - b) Demonstrates a failure to act with Integrity.
3. In the further alternative to Allegations 2a) and 2b) above, such conduct was reckless in that Miss Shanshan 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;
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) 25 August 2022;

- b) 09 September 2022;
- c) 26 September 2022.

5. By reason of her conduct, Miss Shanshan 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).
10. Miss Shanshan became a student member of ACCA in July 2009 and was admitted as an affiliate member on 11 August 2011. She was admitted to full membership on 27 December 2019 following an application she made for membership on or about 17 December 2019.
11. Part of the training to become an ACCA member, apart from passing the relevant exams, involves the completion of practical experience. ACCA's practical experience requirement ('PER') is a key component of the ACCA qualification.
12. 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 International Federation of Accountants ('IFAC') body. They must have knowledge of the student's work in order to act as a PES. It 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 a connection with the trainee's place of work.
 - Completion of 36 months practical experience in accounting or finance related roles, verified by a PES.

13. Those undertaking the PER are known as trainees. The trainee's progress towards the PER is recorded online in their PER Training Record.
14. In support of her application for membership, Miss Shanshan submitted her PER Training Record to ACCA in December 2019. She stated she had worked for Company C from 01 July 2013 to 16 December 2019 in the role of Accountant, and therefore had practical experience of over three years.
15. Miss Shanshan's PER Training Record names two supervisors. One was Ms A, who was authorised to approve her POs only. The second was Mr B, who was authorised to approve her practical experience time claim. Ms A had signed-off all nine of the POs on 16 December 2019. Mr B, who was described as a 'non-IFAC qualified line manager', approved Miss Shanshan's period of employment at Company C, also on 16 December 2019.
16. During 2021 it came to the attention of ACCA's Professional Development team that between December 2019 and January 2021, 100 ACCA trainees had completed their PER training record in which they claimed their POs had been approved by Ms A. ACCA's case, supported by evidence from Ms C, Manager of ACCA's Professional Development Team, was that it would not be expected that a PES would have more than two to three trainees at any one time.
17. A review was carried out by the Professional Development Team. It noted that a number of POs of the trainees Ms A had allegedly supervised were identical to each other or strikingly similar, indicating that they had been copied. In relation to Miss Shanshan, however, ACCA accepted that her POs were written by her and were based on her own experience.
18. Ms 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 that she has only ever supervised one ACCA trainee, who was not one of the 100 trainees referred to above, and who she named as Mr D.
19. As part of the process for Ms A to be registered with ACCA as an approved supervisor, a copy of her CICPA membership card was provided to ACCA. Ms A, however, denied that she had provided her CICPA card to ACCA. She said she believed Mr D may have used a photograph of her card without her knowledge, because he was the only person she had ever shared it with.

20. The matter was referred to ACCA's Investigations Team. A member of that team sent an encrypted email to Miss Shanshan's registered email address on 25 August 2022. Attached to the email was a letter which set out the complaint and requested that Miss Shanshan respond to a number of questions by 8 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 Shanshan that the encrypted email had been sent.
21. Miss Shanshan did not reply so chaser emails were sent on 09 September 2022 and 26 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 from Miss Shanshan.
22. ACCA produced evidence showing that each of the three emails referred to above had been opened by the recipient on the date that they were sent.

DECISIONS ON ALLEGATIONS AND REASONS

23. 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

24. The Committee had sight of Miss Shanshan's PER Training Record, which she had submitted to ACCA in support of her membership application.
25. It was clear that Miss Shanshan had named Ms A as her PES in respect of her practical experience training in the period from 1 July 2013 to 16 December 2019. The issue for the Committee was whether ACCA had proved on the balance of probabilities that Ms A did not supervise that practical experience training in accordance with ACCA's requirements.
26. The Committee was satisfied it had. The Committee had evidence before it in the form of two witness statements from Ms A, which it accepted. Ms A stated that she had only ever supervised one ACCA trainee, Mr D, and therefore by necessary inference she could not have supervised Ms Shanshan.

27. On the basis of this evidence the Committee found that Ms A had not supervised Miss Shanshan's practical experience and accordingly Allegation 1 was proved.

Allegation 2(a)

28. The Committee considered the test for dishonesty, as set out in the case of *Ivey v Genting Casinos*.
29. The Committee was satisfied that Miss Shanshan knew that she had not been supervised by Ms 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.
30. The Committee therefore found Allegation 2(a) proved.

Allegation 2(b)

31. As Allegation 2(b) was an alternative to Allegation 2(a) there was no need for the Committee to consider it.

Allegation 3

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

Allegation 4

33. 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.*

34. The Committee found that ACCA had sent Miss Shanshan requests for information by email on 25 August 2022, 09 September 2022 and 26 September 2022 and, further, that those emails had been received by her. She had not responded to any of those emails. 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). The Committee also noted that Miss Shanshan had failed to answer telephone calls made by the Hearings Officer which, whilst not the subject of this allegation, was indicative of Miss Shanshan's general lack of co-operation with her regulator.
35. It therefore found Allegation 4 proved in its entirety.

Allegation 5

36. Having found charges 1, 2(a) and 4 proved, the Committee considered whether this conduct amounted to misconduct. The Committee reminded itself that it had, in allegation 2(a), found Miss Shanshan had been dishonest in her application for membership of ACCA.
37. Such conduct clearly brings discredit to Miss Shanshan, the Association and the profession of accountancy. It was therefore misconduct, rendering her liable to disciplinary action under byelaw 8(a)(i).
38. The Committee therefore found Allegations 5(a) proved. As Allegation 5(b) was in the alternative, it was not necessary for the Committee to consider it.

SANCTION AND REASONS

39. 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 Shanshan'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.
40. The Committee took into account that no previous disciplinary findings had been made against Miss Shanshan and accepted that this provided some

mitigation, although that had to be weighed against the fact that her membership had been gained by dishonesty in the first place.

41. The Committee found that Miss Shanshan's persistent and ongoing failure to co-operate was an aggravating factor, particularly in light of the fact that such failure was likely to frustrate the investigation process and the ability of ACCA to regulate the membership.
42. The Committee also considered that an aggravating factor was that, by virtue of a dishonest application, Miss Shanshan had been able to gain membership of ACCA which she was not entitled to and, potentially therefore, the benefit of that membership for almost the last four years.
43. 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.
44. The Committee was also satisfied that a severe reprimand would not satisfy the public interest. Such an order would allow Miss Shanshan to retain the benefit of the membership she had obtained by deception. There would, in those circumstances, be a clear risk of harm to the public and the public interest if a severe reprimand were imposed.
45. Miss Shanshan's actions were not only a very serious departure from proper and acceptable standards but were quite deliberate. Furthermore, her refusal to co-operate with ACCA had demonstrated a lack of insight on her behalf. The Committee considered that continued membership of the Association could not be justified given that the membership had been obtained dishonestly. It was satisfied that Miss Shanshan's conduct in this case was fundamentally incompatible with her remaining a member of a professional accountancy body.
46. Therefore, the only appropriate and proportionate sanction was an order under CDR 13(1)(c) removing Miss Shanshan from membership of ACCA.
47. The Committee did not consider that the public interest in this case required it to additionally make an order under CDR 13(1)(c) restricting Miss Shanshan's right to apply for readmission beyond the normal minimum period.

COSTS AND REASONS

48. ACCA applied for costs against Miss Shanshan in the sum of £3,265.83. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the investigation and hearing.
49. 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.
50. The Committee had no information about Miss Shanshan's financial circumstances. There was no basis, therefore, for reducing the costs payable on the grounds of means.
51. In the circumstances, the Committee ordered Miss Shanshan to pay ACCA's costs in the sum of £3,265.83.

EFFECTIVE DATE OF ORDER

52. The Committee determined that it would be in the interests of the public for the sanction to take immediate effect. Therefore, pursuant to Regulation 20 of the Disciplinary Regulation, the order removing Miss Shanshan from membership will take effect immediately.

Mr Martin Winter
Chair
18 October 2023