

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Yuchen Hu
Heard on:	Thursday, 19 October 2023
Location:	Heard remotely by Microsoft Teams
Committee:	Mr Martin Winter (Chair), Mr George Wood (Accountant), Ms Yvonne Walsh (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Mr Benjamin Jowett (ACCA Case Presenter) Miss Nicole Boateng (Hearings Officer)
Observers:	Mr Oliver Carr from the Financial Reporting Council Mr Adeel Khan from the Financial Reporting Council
Summary:	Allegations 1(a), 2(a), 4 and 5(a) proved Excluded from membership of ACCA
Costs:	£5,643.33.

PRELIMINARY

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1. The Disciplinary Committee of ACCA ('the Committee') convened to consider a report concerning Mr Yuchen Hu.
2. The Committee had before it a Bundle of documents (245 pages), an Additional Bundle (31 pages), a Supplementary Bundle (4 pages) and a Service Bundle (23 pages).
3. Mr Hu, who is a 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 21 September 2023 to the email address notified by Mr Hu to ACCA. The Committee was provided with a delivery receipt showing the email had been received by the addressee.
5. On 9 October 2023, the Hearings Officer attempted to contact Mr Hu by telephone on the number recorded for him on the register. The call was not answered and there was no opportunity to leave a message. Two further attempts with the same result were made on 13 and 16 October 2023. Those calls were followed up by emails from the Hearings Officer to Mr Hu, to which there has also been 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 consider whether to proceed in the absence of Mr Hu. 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. Mr Hu has not engaged at any stage since the investigation began and has not responded to the notice of hearing or subsequent emails sent by the Hearings Officer. There was no reason to think that he would attend if this case were to be relisted on a future date. The allegations were of a serious nature and the Committee considered that it was both in the interests of justice and the public interest that the hearing should proceed in Mr Hu's absence.

ALLEGATIONS AND BRIEF BACKGROUND

9. The allegations against Mr Hu are as follows:

Yuchen Hu ('Mr Hu'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 21 April 2020 and in doing so 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 31 October 2016 to 15 April 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 Objective which was not true:
 - Performance Objective 12: Evaluate management accounting systems.
2. Mr Hu's conduct in respect of the matters described in Allegation 1 above was: -
 - a) In respect of Allegation 1a), dishonest, in that Mr Hu 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 Hu knew he 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 Mr Hu 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 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 he 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 Hu 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 bye-law 8(a)(iii).
10. Mr Hu became a student member of ACCA in July 2011 and was admitted as an affiliate member on 14 January 2019. He was admitted to full membership on 24 April 2020, following an application submitted on or about 21 April 2020.
11. 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.
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 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.
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 his application for membership, Mr Hu submitted his PER Training Record to ACCA on or around 21 April 2020. He stated he had worked for Company C as 'ICBC Wealth Management' since 31 October 2016, and therefore had practical experience of over three years.
 15. Mr Hu'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. Person B, who was described as a 'non-IFAC qualified line manager', verified Mr Hu's period of employment.
 16. 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.
 17. 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 Mr Hu, the review showed:

- Eight of his PO statements were 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;
 - One of his PO statements, not being the first in time, was strikingly similar to another ACCA trainee, referred to as Trainee 24, who claimed to have been supervised by Person A.
18. Person A, who is a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body, was contacted by ACCA. They provided witness evidence stating they had only supervised one ACCA trainee, who they named as Person D, and who was not one of the 100 trainees referred to above.
 19. The matter was referred to ACCA's Investigations Team. A member of that team sent an encrypted email to Mr Hu's registered email address on 1 September 2022. Attached to the email was a letter which set out the complaint and requested that Mr Hu respond to a number of questions by 15 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 Mr Hu that the encrypted email had been sent.
 20. Mr Hu did not reply, so chaser emails were sent on 16 September 2022 and 3 October 2022. These emails stated that, should he fail to reply, an Allegation of breaching CDR 3(1) would be brought. There has been no response to any of this correspondence from Mr Hu.

DECISIONS ON ALLEGATIONS AND REASONS

21. The Committee considered the documents before it, the submissions of Mr Jowett 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(a)

22. The Committee had sight of Mr Hu's PER Training Record.
23. In respect of Allegation 1(a), it was clear that Mr Hu had named Person A as his PES in respect of his practical experience training in the period from 31 October 2016 to 15 April 2020. 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.

24. The Committee accepted the evidence of Person A contained in their witness statements dated 18 October 2022 and 12 September 2023. They stated that they had only acted as PES for one trainee, Person D. By necessary inference, therefore, they had not acted as PES for Mr Hu. They also explained how their CICPA identity card could have been uploaded, resulting in their being registered as a supervisor, without their permission.
25. In all the circumstances, the Committee was satisfied that Person A had not supervised Mr Hu's practical experience training. The Committee therefore found Allegation 1(a) proved.

Allegation 1(b)

26. In respect of Allegation 1(b), Mr Hu's PER stated he had achieved PO12. The issue for the Committee was whether ACCA had proved that this was not true.
27. The evidence relied on by ACCA in support of this Allegation was the similarities between his PO12 and that of Trainee 24 and the fact that Trainee 24's PO12 was approved by their supervisor two days before Mr Hu's version was approved.
28. During the hearing, at the invitation of the Committee, Mr Jowett informed the Committee that Trainee 24 is currently subject to disciplinary allegations. Those include an Allegation that they have plagiarised five out of his nine POs. This Allegation is yet to be determined by a Disciplinary Committee. The Committee was told that the five POs that Trainee 24 is alleged to have copied do not include PO12.
29. The relevance of this information is that it potentially undermines the suggestion that it is Mr Hu rather than Trainee 24 who is the plagiarist. Mr Jowett fairly conceded that, although Trainee 24's PO 12 was submitted two days before Mr Hu's, ACCA was not able to say when either of them was drafted.
30. Having taken instructions, Mr Jowett applied to withdraw this Allegation under CDR 9(6). The Committee considered the principal concerns in this case were encompassed in Allegations 1(a) and 2(a). In light of the evidential difficulties with this allegation and the overall public interest, it was satisfied that it had power under CDR 9(6) and/or 12(1) to allow the application and that, in the circumstances, it should do so.
31. Allegation 1(b) was therefore withdrawn.

Allegation 2(a)

32. The Committee considered the test for dishonesty, as set out in the case of *Ivey v Genting Casinos*.
33. The Committee was satisfied that Mr Hu knew that he had not been supervised by Person A. Therefore, he was clearly aware that what he was representing was untrue. There is no doubt that making a false representation to a professional regulator in order to gain a professional qualification would be regarded as dishonest by ordinary and honest people.
34. The Committee therefore found Allegation 2(a) proved.

Allegation 2(b)

35. As Allegation 1(b) had been withdrawn, this allegation fell away.

Allegation 2(c)

36. As Allegation 2(c) was put in the alternative, there was no need for the Committee to consider it.

Allegation 3

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

Allegation 4

38. 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.

39. The Committee found that ACCA had sent Mr Hu requests for information by email on 1 and 16 September 2022 and 3 October 2022 and, further, that those emails had been received by him. He had not responded to any of those emails. The Committee was satisfied that he was under a duty to do so and, by failing to do so, was in breach of CDR 3(1).

40. It therefore found Allegation 4 proved in its entirety.

Allegation 5

41. Having found Allegations 1(a), 2(a) and 4 proved, the Committee considered whether this conduct amounted to misconduct. The Committee reminded itself that it had, in charge 2(a), found Mr Hu had been dishonest in his application for membership of ACCA. Further, it considered that Mr Hu's failure to co-operate with his regulator, as set out in Allegation 4, was also a serious matter.

42. Such conduct clearly brings discredit to Mr Hu, the Association and the profession of accountancy. It would be regarded as deplorable by fellow accountants and constitutes a serious falling short of required standards. It therefore amounts to misconduct, rendering Mr Hu liable to disciplinary action under Byelaw 8(a)(i).

43. 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

44. 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 Mr Hu'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.

45. In mitigation, the Committee took into account that no previous disciplinary findings had been made against Mr Hu.

46. The Committee considered that the following were aggravating factors. Mr Hu's failure to co-operate has had the effect of hampering ACCA's investigation into a serious and widespread matter, and therefore also its ability to perform its functions as a regulator. It therefore compounded the other allegations. There was clearly a significant degree of planning and calculation involved in Mr Hu's misconduct. Furthermore, it was sustained over an extended period, was sophisticated and involved acting in concert with others.

47. The Committee considered the guidance in the GDS in relation to admonishment and reprimand. It considered that the reasons potentially

justifying an admonishment were not present in this case. Further, this was not misconduct of a minor nature and there was a continuing risk to the public and, accordingly, a reprimand was not an appropriate sanction.

48. The Committee considered whether a severe reprimand would meet the public interest in this case. Taking into account the guidance in the GDS, the Committee considered that a severe reprimand would not adequately mark the seriousness of the misconduct, particularly as it involved dishonesty. Such an order would allow Mr Hu to retain the benefit of the membership he 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.
49. The Committee concluded that Mr Hu's actions in this case were fundamentally incompatible with being a member of a professional association. They constituted a serious departure from relevant standards. The Committee did not feel that any order which allowed Mr Hu to retain his membership of ACCA, which had itself been gained by a deception, could possibly be justified. There was no place in the profession for a dishonest accountant who had deceived and then failed to co-operate with his regulator.
50. Therefore, the Committee made an order under CDR 13(1)(c) of the Disciplinary Regulations excluding Mr Hu from membership of ACCA.
51. 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 Mr Hu's ability to apply for readmission beyond the normal minimum period.

COSTS AND REASONS

52. ACCA applied for costs against Mr Hu in the sum of £5,643.33. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
53. The Committee found that there was no reason in principle not to make an order for costs in ACCA's favour. The Committee noted that one allegation had been withdrawn and that the costs for the hearing had been based on an estimated length of hearing time. However, neither of those factors in the Committee's view had had any significant effect on costs. In all the circumstances, it did not consider that the application was for an unreasonable amount.

54. The Committee had no information about Mr Hu's financial circumstances, and therefore had no basis on which a reduction in the costs claimed could be justified.
55. The Committee therefore ordered Mr Hu to pay ACCA's costs in the sum of £5,643.33.

EFFECTIVE DATE OF ORDER

56. The Committee determined that it would be in the interests of the public for the sanction to take immediate effect. Therefore, pursuant to CDR 20, the order removing Mr Hu from membership will take effect immediately.

Mr Martin Winter
Chair
19 October 2023