

HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS
REASONS FOR DECISION**

In the matter of: Miss Huiyuan Zeng

Heard on: 26 October 2023

Location: ACCA, The Adelphi, 1-11 John Adam Street, London,
WC2N 6AU. Virtual hearing using Microsoft Teams.

Committee: Ms Ilana Tessler (Chair)
Mr Peter Brown (Accountant)
Mr Nigel Pilkington (Lay)

Legal Adviser: Mr David Marshall

Persons present

and Capacity: Ms Michelle Terry (ACCA Case Presenter)
Miss Mary Okunowo (Hearings Officer)

Summary: Dishonesty and misconduct proved. Failing to
cooperate proved. Sanction: exclusion with immediate
effect.

Costs: £5,600

1. The Committee heard an allegation of misconduct against Miss Zeng. Ms Terry appeared for ACCA. Miss Zeng was not present and not represented.

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2. The Committee had a main bundle of papers containing 246 pages, a 'Mini Bundle' containing 152 pages, an Additional Bundles (1) containing 6 pages, an Additional Bundles (2) containing 22 pages and a Service Bundle containing 25 pages.

PROCEEDING IN ABSENCE

3. The Committee was satisfied that Miss Zeng had been served with the documents required by Regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with Regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 27 September 2023 to an email address notified by Miss Zeng to ACCA as an address for all correspondence. That was at least 28 days ago.
4. The Committee noted that ACCA had sent numerous emails to Miss Zeng from the time when the complaint was first notified to her. Ms Terry informed the Committee that there had never been a response. There were four attempts to telephone Miss Zeng this month. Although the call was answered on two occasions it had not been possible to speak to Miss Zeng or to anyone else who spoke English. The Committee was satisfied that Miss Zeng knew or had the means of knowing that these proceedings were taking place but had chosen not to take part. The allegations in this matter were very serious and the Committee considered that the public interest required that a hearing take place without undue delay. The Committee considered that nothing would be gained by an adjournment. There was no reason to think that Miss Zeng would attend an adjourned hearing.
5. The Committee determined to proceed in Miss Zeng's absence.

ALLEGATION(S)/BRIEF BACKGROUND

6. Miss Zeng was registered as an ACCA student on 04 July 2017. On 01 August 2020 she became an ACCA Affiliate, having passed her ACCA exams. On 20 August 2020 she was admitted as a Member.

7. The step from Affiliate to Member is a big one. An Affiliate has passed the necessary exams but has not demonstrated experience in practice. An Affiliate is still a trainee. A Member has all the rights, responsibilities and respect that come with being a fully trained member of a prestigious profession.
8. Regulation 3(a) of ACCA's Membership Regulations 2014 (amended 01 April 2022) provides that one of the qualifications for membership is that the applicant has 'completed three years of approved experience in accordance with the Association's Practical Experience Requirement' ('PER'). The PER involves completing 36 months supervised practical experience in a relevant role and demonstrating that the trainee has achieved the required number of performance objectives ('POs'). These are benchmarks of effective performance describing the types of work activities they would have been involved in as a trainee accountant. A trainee has to achieve nine POs in total. 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.
9. The POs have to be completed under the supervision of a qualified accountant. A person is recognised by ACCA as a qualified accountant if that person is a qualified accountant recognised by law in the trainee's country and/or is a member of an IFAC body. (IFAC is the International Federation of Accountants). The supervisor would typically be the trainee's line manager but ACCA recognises that a line manager may not meet the definition of 'qualified accountant' so another person can be acceptable.
10. Miss Zeng applied for membership on or about 16 August 2020, relying on her PER training record. The supervisor named was 'Person A', said to be a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body. ACCA says that there are up to 100 similar cases in which trainees have applied for membership of ACCA on the basis of alleged supervision by Person A. ACCA's case is that although there is a Person A who is a member of CICPA, that person did not supervise any of the trainees. In particular ACCA alleges that Person A did not supervise Miss Zeng and has no

knowledge of her.

11. ACCA also alleged that Miss Zeng had failed to cooperate with the investigation into her case, by ignoring correspondence.
12. Miss Zeng faced the following allegations:

Schedule of Allegations

Huiyuan Zeng ('Miss Zeng'), at all material times an ACCA trainee,

1. *Applied for membership to ACCA on or about 16 August 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 01 August 2017 to 16 August 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 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 14: Monitor performance*
 - *Performance Objective 15: Tax computations and assessments*
 - *Performance Objective 17: Tax planning and advice*
 - *Performance Objective 18: Prepare for and plan the audit and assurance process*

2. *Miss Zeng's conduct in respect of the matters described in Allegation 1 above was:*
 - a) *In respect of Allegation 1a), dishonest, in that Miss Zeng 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 Zeng knew she had not achieved 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 Zeng 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) *05 September 2022;*

(c) 20 September 2022.

5. *By reason of her conduct, Miss Zeng 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)*

DECISION ON FACTS/ALLEGATION(S) AND REASONS

13. Ms Terry took the Committee through the documentary evidence including two witness statements from Person A. Person A stated that they had only ever supervised one ACCA trainee, a person who they named. That person was not Miss Zeng nor was it one of the people in the approximately 100 similar cases mentioned above. In those cases, the supervisor had been registered as Person A, supported by a CICPA membership card. An email address for the supervisor had been supplied. Person A confirmed that the membership card was genuine, but the email address was not. They knew nothing about these other cases. Person A said that they had been asked for a copy of their card by their (genuine) trainee and it was 'quite possible' that the trainee had misused it to facilitate these registrations.
14. Ms Terry also referred to witness statements from members of ACCA staff producing documents and explanations in relation to Miss Zeng's application. There was no oral evidence. One of the witnesses, a Professional Development Manager at ACCA, said that they would 'expect a practical experience supervisor to have usually no more than about 2 to 3 trainees at any one time'. In this case, if the supervision had been genuine, there would have been many more trainees than this simultaneously, spread over a number of different employers.
15. Miss Zeng had taken no part in the investigation so there was no evidence or account from her of any kind.

Allegation 1

16. It was clear from ACCA's records that Miss Zeng applied for ACCA membership on 16 August 2020 and submitted documents in support. She claimed 36 months of practical experience.
17. For each of the objectives (POs) Miss Zeng claimed, she stated that her supervisor was Person A. (She named a different person as supervisor to approve the time spent.)
18. Miss Zeng did not challenge the accuracy of Person A's statements and did not ask for them to be called as a witness. The Committee had no reason to doubt that what Person A said was true. The Committee was satisfied on the balance of probabilities that Person A did not supervise Miss Zeng for any of the claimed POs. **The Committee found Allegation 1(a) proved.**
19. Since the claimed POs had not been supervised as required the Committee was satisfied that they had not been 'achieved'. **The Committee found Allegation 1(b) proved.**

Allegation 2

20. Miss Zeng must have known that Person A was not her supervisor and that what she was telling ACCA was false. The purpose of the application was to advance her own interests by obtaining ACCA membership to which she was not entitled. This was clearly dishonest. **The Committee found Allegation 2(a) proved.**
21. A trainee's personal statement for each PO must be their own personal statement that is unique to them and their own experience. Ms Terry pointed out a number of striking similarities between Miss Zeng's statements and that of statements by other trainees which were earlier in time. The Committee concluded that the personal statements for some of the POs listed under Allegation 1(b) had been copied by Miss Zeng. This reinforced its view that Miss Zeng must have known that she had not completed the POs which she claimed

to have completed. **The Committee found Allegation 2(b) proved.**

22. Allegation 2(c) was in the alternative and did not have to be considered.

Allegation 3

23. Allegation 3 was also in the alternative and did not have to be considered.

Allegation 4

24. ACCA's Complaints and Disciplinary Regulations, Regulation 3, imposes a duty on relevant persons to co-operate with any Investigating Officer and any assessor in relation to the consideration and investigation of any complaint. ACCA sent an email dated 19 August 2022 to Miss Zeng at her registered email address. This attached a letter setting out the basis for the investigation and asking a number of specific questions. The Committee was satisfied that these were relevant to the investigation. An electronic receipt showed that the email was first opened on the day it was sent. Two reminders were sent, on 05 and 20 September 2022. They were also opened on the day they were sent. Each of these communications set out the duty to cooperate under Regulation 3b. Miss Zeng did not reply to any of them, or indeed to any subsequent correspondence.
25. The Committee was satisfied that Miss Zeng had failed to cooperate with the investigation. **The Committee found Allegation 4 proved.**

Allegation 5

26. The Committee had no doubt that deceiving one's professional body into granting membership by submitting false evidence of experience amounted to misconduct. **The Committee found Allegation 5(a) proved.** Allegation 5(b) was in the alternative and did not have to be considered.

SANCTION(S) AND REASONS

27. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2023). It first sought to identify mitigating and aggravating factors.
28. Ms Terry informed the Committee that there were no previous findings against Miss Zeng. That was a mitigating factor, but the misconduct in this case was committed at an early stage in her career so the mitigation carries less weight. The Committee had no information from which it could identify any other mitigating factors. A number of typical mitigating factors were absent in this case. There was no evidence of insight or remorse. There was no cooperation with the investigation.
29. There were several aggravating factors in Miss Zeng's conduct. The misconduct found proved was of a kind that was extremely serious. It involved deliberate dishonesty in relation to the system of qualification for ACCA membership. It enabled her to acquire a professional status to which she was not entitled. Membership gave her the ability to certify documents and give opinions on which the public would rely in important matters. Her misconduct would undermine public trust in ACCA. It was carried out entirely for Miss Zeng's own benefit. Miss Zeng's actions were deliberate and, to an unknown extent, premeditated.
30. The Committee was quite satisfied that a sanction was required in this case. It considered the available sanctions in order of seriousness having regard to ACCA's sanctions guidance.
31. The Committee first considered the sanctions of admonishment and then reprimand but the guidance made it clear that these were not sufficient. For reprimand, the guidance states 'This sanction would usually be applied in situations where the conduct is of a minor nature and there appears to be no continuing risk to the public'. Falsifying a practical experience record to obtain membership cannot be described as a minor matter.

32. The Committee next considered the sanction of severe reprimand. The guidance states that this sanction would usually be applied in situations where the conduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Committee that there is no continuing risk to the public, and there is evidence of the individual's understanding and appreciation of the conduct found proved. Those elements were not present in this case. The Committee went through the list of suggested factors in the guidance. Apart from previous good character, and the fact that this was an isolated incident, none of the factors supporting a severe reprimand was present. Even if combined with a fine, a severe reprimand would not be sufficient to mark the seriousness of the misconduct in this case.
33. The Committee considered that Miss Zeng's conduct was fundamentally incompatible with remaining as an ACCA Member and that the minimum sanction it could impose was exclusion from membership.
34. A member who has been excluded can normally apply to be re-admitted after one year. The Committee considered whether to extend this period but decided that it was not necessary. If Miss Zeng does apply for readmission her application will be scrutinised by the Admissions and Licensing Committee.
35. The Committee did not consider it necessary to impose a separate sanction in relation to the failure to cooperate, although it regarded it as a serious matter in itself.

COSTS AND REASONS

36. Ms Terry applied for costs totalling £5,950.83. She accepted that the hearing would probably conclude earlier than had been estimated so the time-based costs for Case Presenter and Hearings Officer could be reduced.
37. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. The Committee considered that the time spent and the sums claimed were reasonable, given the fact that

Miss Zeng had not cooperated at any stage. That would have required more time than normal to be spent. The Committee had no submissions from Miss Zeng and no information from about her means. It was not able to make any reduction to reflect her ability to pay. The Committee did make a reduction to reflect that the actual time spent today would be less than estimated. It decided to award £5,600.

EFFECTIVE DATE OF ORDER

38. The Committee considered that there was a significant risk to the public in allowing Miss Zeng to hold herself out as a member of ACCA during the appeal period, when she had not demonstrated her eligibility for membership. It decided that its order should have immediate effect.

ORDER

39. The Committee **ordered** as follows:
- (a) Miss Huiyuan Zeng shall be excluded from membership of ACCA.
 - (b) Miss Huiyuan Zeng shall pay a contribution to ACCA's costs assessed at £5,600.
 - (c) This order shall take immediate effect.

Ms Ilana Tessler
Chair
26 October 2023