

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Jia Ee Sharon Tan
Heard on:	Tuesday, 19 September 2023
Location:	Held remotely by video conference
Committee:	Mr Michael Cann (Chair), Mr Trevor Faulkner (Accountant), Ms Sue Heads (Lay)
Legal Adviser:	Mr Andrew Granville Stafford
Persons present and capacity:	Mr Alex Mills (Case Presenter on behalf of ACCA) Ms Lauren Clayton (Hearings Officer)
Summary:	Allegations 1 and 2 found proved; Removed from the student register; No order as to costs.

PRELIMINARY

1. The Disciplinary Committee of the ACCA ('the Committee') convened to consider a report in respect of Miss Jia Ee Sharon Tan.
2. The Committee had before it a report and bundle of documents (77 pages), a copy of Miss Tan's Case Management Form (14 pages), a supplementary

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bundle (17 pages), a tabled additional bundle (3 pages) and a service bundle (19 pages).

3. The hearing was held by video conference.

PROCEEDING IN ABSENCE

4. Miss Tan did not attend and was not represented. She is currently serving a sentence of imprisonment in Singapore for the offences which are the subject matter of the allegations in this case.
5. Notice of this hearing was sent to Miss Tan by international delivery on 31 July 2023. The notice was sent to her prison address which is her current registered address. Deemed service under the rules was on 4 August 2023.
6. There has been no reply to the notice of hearing from Miss Tan. However, she has previously been in correspondence with ACCA regarding these proceedings. Miss Tan completed and returned her Case Management Form in February 2023, indicating she did not intend to attend or be represented at the hearing and was content for it to proceed in her absence.
7. The case was originally listed for hearing in April 2023 but did not go ahead as the notice of that hearing had not been properly served on Miss Tan. The Committee on that occasion directed that 35 days' notice should be given of the next hearing date.
8. Miss Tan was sent a copy of that decision and in her reply she noted that there would be a new hearing date. She informed ACCA that she will remain in prison until April 2027. She did not say whether or not she remained content for the hearing to go ahead in her absence.
9. The Committee was satisfied that the requirements of Regulations 10(1) and 22(5) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations ('CDR') as to service had been complied with. It was also satisfied that the previous Committee's direction as to time for service had been complied with.
10. The Committee went on to consider whether to proceed in the absence of Miss Tan. The Committee bore in mind that the discretion to do so must be exercised with the utmost care and caution.
11. The Committee noted that there was no realistic prospect of Miss Tan being able to attend a hearing before her release in 2027. It would not, in the

Committee's view, be in the public interest to delay the hearing of serious allegations of the nature faced by Miss Tan for that length of time. It noted that she could have availed herself of the opportunity to be represented at the hearing but had not done so. Further, she had not requested that the hearing be postponed.

12. In all those circumstances, the Committee considered that, in the interests of justice, the hearing should proceed in Miss Tan's absence.

APPLICATION TO HOLD HEARING IN PRIVATE

13. Miss Tan made an application in her Case Management Form for the case to be heard in private, citing the impact a public hearing may have on third parties. Mr Mills on behalf of ACCA opposed the application.
14. Pursuant to CDR 11(1), hearings before the Disciplinary Committee are normally held in public. The Committee does have the power to hold all or part of the hearing in private if it considers that the particular circumstances of the case outweigh the public interest in holding a public hearing.
15. However, the Committee was unable to identify any circumstance which would outweigh the normal public interest in conducting a public hearing. The Committee noted that the allegations in this case were already in the public domain, having been the subject of court proceedings in Singapore. The Committee, therefore, rejected the application for a private hearing.

AMENDMENT

16. At the outset of the hearing, Mr Mills on behalf of ACCA applied to amend the allegations faced by Miss Tan. The proposed amendments are set out below, with proposed additions shown in bold type and deletions denoted by strikethrough.
 1. On 26 October 2021, ACCA student, Miss Jia Ee Sharon TAN, was convicted at the State Court of Singapore of:
 - a) Between 29 June 2020 and 30 April 2021, in Singapore, being an employee of [Company A], and in such capacity being entrusted with property, namely, money in the Malaysian Maybank account of [Company B] bearing account number [Private] ("the [Company B] bank account"), did commit criminal breach of trust, namely, by dishonestly misappropriating RM

3,114,517 (SGD \$1,004,689) from the [Company B] bank account, thereby she committed an offence punishable under Section 408 of the Penal Code (Cap 224, Rev Ed 2008), which is an amalgamated charge pursuant to section 124(2) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).

- b) Further to the conviction at 1(a) above, admitted the following offence which was taken into consideration, namely on 70 occasions between 1 March 2021 and 23 March 2021, in Singapore, did embark on a course of conduct of cheating one, namely [Person A], by deceiving him that she needed money from [Company C] to be transferred to the bank account of [Company B] for the purpose of paying for operational expenses via internet banking, a fact she knew to be false, and by manner of such deception, she dishonestly induced [Person A] to deliver cheques amounting to a total sum of RM1,043,550 (SGD337,566) to herself, which he would not have done had he not been so deceived, and she thereby committed an offence punishable under Section 420 of the Penal Code (Cap 224, Rev Ed 2008), which charge is amalgamated under section 124(4) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).

Which are discreditable to the Association or the accountancy profession;

2. By reason of her conduct ~~at 1~~ above, Miss Tan is liable to disciplinary action pursuant to byelaw 8(a)(ix) ~~and/or 8(d)(ii)~~.
17. Mr Mills submitted that the proposed amendment to Allegation 1(a) more accurately reflected the facts of Miss Tan's conviction. The amendments to Allegation 2 removed some unnecessary wording and a reference to byelaw 8(d)(ii), which does not of itself give rise to liability to disciplinary action.
18. Regulation 10(5) of the CDR allows the Committee at any stage, upon the application of either party or its own motion, to amend the allegations, provided that the relevant person is not prejudiced in the conduct of his defence.
19. The Committee was satisfied that the proposed changes were in the nature of tidying-up the allegations, and that to allow them would not cause any injustice to Miss Tan. It therefore granted the application.

ALLEGATIONS AND BACKGROUND

20. The allegations faced by Miss Tan, as amended, were as follows.
1. On 26 October 2021, ACCA student, Miss Jia Ee Sharon TAN, was convicted at the State Court of Singapore of:
 - a) Between 29 June 2020 and 30 April 2021, in Singapore, being an employee of [Company A], and in such capacity being entrusted with property, namely, money in the Malaysian Maybank account of [Company B] bearing account number [Private] (“the [Company B] bank account”), did commit criminal breach of trust, namely, by dishonestly misappropriating RM 3,114,517 (SGD \$1,004,689) from the [Company B] bank account, thereby she committed an offence punishable under Section 408 of the Penal Code (Cap 224, Rev Ed 2008), which is an amalgamated charge pursuant to section 124(2) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).
 - b) Further to the conviction at 1(a) above, admitted the following offence which was taken into consideration, namely on 70 occasions between 1 March 2021 and 23 March 2021, in Singapore, did embark on a course of conduct of cheating one, namely [Person A], by deceiving him that she needed money from [Company C] to be transferred to the bank account of [Company B] for the purpose of paying for operational expenses via internet banking, a fact she knew to be false, and by manner of such deception, she dishonestly induced [Person A] to deliver cheques amounting to a total sum of RM1,043,550 (SGD337,566) to herself, which he would not have done had he not been so deceived, and she thereby committed an offence punishable under Section 420 of the Penal Code (Cap 224, Rev Ed 2008), which charge is amalgamated under section 124(4) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).

Which are discreditable to the Association or the accountancy profession;
 2. By reason of her conduct above, Miss Tan is liable to disciplinary action pursuant to byelaw 8(a)(ix).

21. Miss Tan was admitted to student membership of ACCA in February 2013. At the material time she was working for Company A as an accountant. Company B and Company C were sister companies and she had access to their bank accounts.
22. In October 2021, it came to the attention of ACCA's office in Malaysia via a news report that Miss Tan had been imprisoned for embezzling money from her employer. The report said that between June 2020 and April 2021, Miss Tan had made 72 unauthorised transfers from Company B's bank account to her own account. Then, when funds in Company B's account were low, she cheated Person A, director of Company C, into signing cheques which were deposited into the account from which she then misappropriated funds. The report said that Miss Tan got away with this for almost a year until a fellow accountant conducted an audit and discovered the missing funds.
23. The Committee was provided with a certificate of conviction from the State Courts of Singapore. This showed that Miss Tan pleaded guilty to a charge of criminal breach of trust by an employee contrary to Section 408 of the Singapore Penal Code. She admitted to a second charge of deception contrary to Section 420 of the Singapore Penal Code by dishonestly inducing the payment of cheques, and this offence was taken into consideration. She was sentenced to 5 years 11 months imprisonment.
24. On 5 October 2022, ACCA informed Miss Tan that the allegations had been referred to the Disciplinary Committee. In a letter to ACCA, received on 29 November 2022, Miss Tan said:

'There is no further comment about my conviction and sentence in the Singapore Prison. Details and evidence are presented at the Singapore State Court. I have given my cooperation to all respective parties at the court, the investigation officers, district attorney and judge. At the end of the day, I have sentenced by the law accordingly. I have expressed my guilt, regret and remorse to the court. Until today, I am very regret {sic} and remorse {sic} towards my action.'

DECISIONS ON ALLEGATIONS AND REASONS

25. The Committee considered the documents before it, the submissions of Mr Mills 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.

26. The Committee had sight of the certificate of conviction from the court in Singapore. Under byelaw 8(e), that certificate is conclusive proof of the conviction. The Committee was satisfied, on the basis of the certificate of conviction, that Allegations 1(a) and 1(b) were proved
27. Byelaw 8(a)(ix) provides that a member is liable to disciplinary action if:
- 'before a court of competent jurisdiction in the United Kingdom or elsewhere, he or it has pleaded guilty to, been found guilty of, or has accepted a caution in relation to, any offence discreditable to the Association or to the accountancy profession'.*
28. The issue for the Committee on Allegation 2 was whether Miss Tan had pleaded guilty to or was found guilty of an offence discreditable to ACCA or the accountancy profession. This, the Committee noted, was a large-scale fraud committed over a lengthy period involving a breach of trust. The Committee was satisfied that both the offence for which Miss Tan was convicted and the offence which she had admitted, and which was taken into consideration, were discreditable to ACCA and the profession of accountancy. It therefore found Allegation 2 proved.

SANCTION AND REASONS

29. The Committee considered what sanction, if any, to impose taking into account ACCA's Guidance for Disciplinary Sanctions 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. It took into account the submissions of Mr Mills and the advice of the Legal Adviser.
30. The Committee was not informed that there were any previous disciplinary findings against Miss Tan, and therefore proceeded on the basis she had a hitherto unblemished disciplinary record. It also took into account by way of mitigation her expressions of remorse and the admissions she had made.
31. The Committee considered that there were no aggravating factors beyond the seriousness of the conduct itself.
32. The Committee considered the available sanctions in ascending order of seriousness. It was of the view that neither admonishment, reprimand nor severe reprimand would appropriately mark the public interest in this case, given the serious nature of Miss Tan's criminal offending.

33. Miss Tan had engaged in a pre-meditated and sustained course of dishonest conduct, resulting in the misappropriation of a substantial sum of money. Further, the offences had been committed in breach of the trust that had been placed in her by her employer. The Committee considered that her conduct was fundamentally incompatible with continued membership of a professional accountancy body. Further, it was satisfied that no lesser sanction than removal from the student register would meet the public interest in the circumstances of this case.
34. Therefore, pursuant to CDR 13(4)(c), Miss Tan is removed from the student register of ACCA.

COSTS AND REASONS

35. ACCA applied for costs in the sum of £6,208. The application was supported by a schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing.
36. The Committee considered ACCA's Guidance on Costs. It was of the view that, in principle, a member should meet the costs of the disciplinary proceedings. However, the Committee noted that the court in Singapore did not make a compensation order against Miss Tan on the basis of her inability to pay. Although Miss Tan had not provided a statement of means it was clear that she would have no earning capacity until she was released from prison in 2027. The Committee was drawn to the conclusion, based in particular on the fact the court found she was not able to pay any compensation, that Miss Tan does not have the means to pay a costs order.
37. The Committee therefore made no order for costs.

EFFECTIVE DATE OF ORDER

38. The order will come into effect from the date of expiry of the appeal period, namely after 21 days from service of this written statement of the Committee's reasons for its decision, unless Miss Tan gives notice of appeal in accordance with the Appeal Regulations prior to that.

Mr Michael Cann
Chair
19 September 2023