



**HEARING
ADMISSIONS AND LICENSING COMMITTEE OF THE
ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Miss Xian Zhang

Heard on: Tuesday 19 September 2023

Location: Remote, Via Microsoft Teams

Committee: Mrs Helen Carter-Shaw (Chair)
Ms Susan Gallone (Accountant)
Ms Victoria Smith (Lay)

Legal Adviser: Mr Richard Ferry-Swainson

Persons present

and capacity: Miss Nicole Boateng (Hearings Officer)
Mr Benjamin Jowett (Case Presenter)
Ms Min Xiu (Interpreter)

Summary: Application for readmission rejected

INTRODUCTION

1. The Admissions and Licensing Committee (“the Committee”) convened to consider an application by Miss Zhang for re-admission to ACCA’s student register. Mr Jowett appeared on behalf of ACCA. Miss Zhang attended and represented herself. She was assisted by an interpreter.
2. Miss Zhang had made an application in advance to adjourn the hearing. This was rejected by the Chair. At the hearing Miss Zhang was asked if she wished to renew her application to adjourn or to continue to hear the case. She said

she was content to continue with the hearing. She was also content for the Committee's decision to be declared in her absence, since at that stage she will have left to attend her university classes.

APPLICATION/BRIEF BACKGROUND

3. Miss Zhang was on ACCA's student register until removed on 29 September 2021, as a result of the findings of the Disciplinary Committee in respect of the following allegation:

(a) *During a Taxation UK (TX UK) examination on 07 July 2020, Ms Xian Zhang was in possession of:*

(i) *unauthorised materials in the form of two handwritten notes, contrary to Examination Regulations 4.*

(b) *Ms Xian Zhang intended to use one/ both notes set out at 1(a) above to gain an unfair advantage.*

(c) *Ms Xian Zhang's conduct in respect of 1(b) above was:*

(i) *Dishonest, in that Ms Xian Zhang intended to use one/ both notes, being unauthorised materials to gain an unfair advantage; in the alternative*

(ii) *Contrary to the Fundamental Principle of Integrity (as applicable in 2020) in that such conduct is not straightforward and honest.*

(d) *By reason of her conduct, Ms Xian Zhang is:*

(i) *Guilty of misconduct pursuant to byelaw 8(a)(i), in respect of any or all of the matters set out at 1(a) to 1(c) above; or*

(ii) *Liable to disciplinary action pursuant to byelaw 8(a)(iii), in respect of 1(a) above.*

4. Miss Zhang first joined ACCA's student register on 1 December 2019.

5. Miss Zhang attended the C803/3 Chengdu exam centre on 7 July 2020, to sit the TX UK CBE Examination. The exam commenced at 09:00 hours and was due to last 3 hours 20 minutes. Miss Zhang had no previous attempts at sitting this exam.
6. ACCA's investigation concluded that during the TX UK CBE Examination, Miss Zhang was in possession of unauthorised materials in the form of two sheets of notes, which she had at her desk, underneath her calculator, and which she intended to use to gain an unfair advantage.
7. At the Disciplinary Committee hearing on 29 September 2021, the Committee found the allegations proved. Notwithstanding Miss Zhang's co-operation with the investigation and her admissions to being in possession of the unauthorised materials, the Committee considered that her conduct was premeditated, intended for her own benefit, and undermined the trust the public have in ACCA. The Committee was not satisfied that Miss Zhang had demonstrated meaningful insight into the seriousness of her actions and the potential impact on other students and the reputation of her intended profession. The Committee considered this dishonest behaviour was serious and amounted to misconduct.
8. Miss Zhang was removed from the student register. In reaching this decision the Disciplinary Committee considered Miss Zhang's behaviour to be fundamentally incompatible with being a member of ACCA and quoted paragraph E2.2 of the Guidance for Disciplinary Sanctions, which states:

“The public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. It is a cornerstone of the public value which an accountant brings.”
9. Miss Zhang was ordered to pay £500 costs to ACCA in respect of the case. Miss Zhang was unable to make any application for readmission for a minimum period of 12 months in accordance with Regulation 14(2) of ACCA's Membership Regulations.

10. On 22 October 2021, Miss Zhang's registration administratively ceased, following the Disciplinary Committee hearing on 29 September 2021.
11. In January 2022, Miss Zhang submitted an application for readmission to ACCA's student register. She was administratively re-instated to the student register in error, on 15 March 2022.
12. On 1 April 2022, ACCA wrote to Miss Zhang informing her that *'her right to apply for readmission to ACCA will start from 29 September 2022, twelve months after your hearing'*. Miss Zhang was subsequently removed from the student register, for a second time.
13. In December 2022, Miss Zhang submitted another application for readmission to ACCA's student register. In her application, Miss Zhang explained the circumstances which led to her removal from the student register. She stated: *'It is considered a violation of discipline to accidentally leave out personal belongings in the TX exam. After being judged by the disciplinary committee, I realized my problem and paid the fine ...'*
14. When asked why she believes that in similar circumstances in the future the conduct would not be repeated and/or she will not commit a similar breach of ACCA rules, Miss Zhang stated:

'With the experience of this computer-based exam, I will strictly abide by the examination discipline, clean up my personal belongings and calmly deal with the exam in the future...I also know that accounting is a rigorous discipline that requires good professional ethics, So I will be strict with myself in the future and this situation will not happen again'
15. When asked why she should be readmitted as a student, Miss Zhang stated:

'My undergraduate major is accounting. I know ACCA is an authoritative organization in the field of accounting, so I hope to get the qualification certificate and improve my professional skills through my own efforts. Therefore, I hope I can continue to study ACCA.'

16. Further in her application Miss Zhang expressed her attitude towards her removal, she stated *'I have submitted the fine in accordance with the requirements of the disciplinary Committee. I am aware of my problems and hope to continue my study with ACCA'*
17. Miss Zhang is currently unemployed. In her application she states *'still at university'* in respect of her current work circumstances.
18. On 8 June 2023, ACCA wrote to Miss Zhang requesting a personal/professional reference and further information in support of her application. Miss Zhang was asked to *'expand on what you have learnt and what you would do differently to avoid committing a similar breach of ACCA regulations'* and was asked to explain what her future intentions are should she be readmitted to the student register.
19. On 13 July 2023, Miss Zhang responded to ACCA stating, *'Now I have been at home and have no job, so I have no way to give relevant proof or have a reference person to give proof'*.
20. In expanding on what she has learnt, Miss Zhang stated, *'Through this regrettable incident, I deeply realized that it is very necessary to have a full examination before any exam, and it is particularly important to have a good attitude. This is not only responsible for oneself but also respect for others'*.
21. Further, in response to her future intentions she stated, *'If I can join the association again and become a student of the association, I will feel greatly honoured. And I will study every skill more carefully and try my best to take part in every exam. In the future work, I will continue to implement the rigorous and serious attitude of accounting'*.
22. On 27 July 2023, ACCA wrote to Miss Zhang again, requesting a professional and personal reference in support of her application. Miss Zhang has not provided ACCA with references.

ACCA's POSITION ON THE APPLICATION

23. Mr Jowett said that it was for Miss Zhang to satisfy the Committee as to her general character and suitability to be on the student register. He said that in all other respects Miss Zhang fulfilled the criteria for readmission.
24. In his oral and written submissions, Mr Jowett detailed the following.
25. Miss Zhang had unauthorised materials concealed in her possession during an exam and intended to use these materials to gain an unfair advantage in the exam, as found by the Disciplinary Committee. The allegations, as proved against Miss Zhang were particularly serious, involving behaviour that was dishonest, demonstrated a disregard for ACCA's examination process and raised public interest concerns.
26. Miss Zhang was found to have acted dishonestly. Cheating and/or intending to cheat in an exam is one of the most serious breaches of professional behaviour that a student can commit. Therefore, a finding of dishonesty, that is directly related to the student's registration, is behaviour that is fundamentally incompatible with being an ACCA member and is capable of undermining the trust the public have in the profession.
27. In circumstances where dishonesty is concerned, and as cited in Bolton v Law Society [1994] 1 WLR 512, 519, the then Master of the Rolls Sir Thomas Bingham said, "*the reputation of the profession is more important than the fortunes of the member. Membership of a profession brings many benefits, but that is a part of the price.*"
28. There is considerable importance in the public knowing that, save for in the most exceptional circumstances, they are dealing with members and potential members of a profession who have never been guilty of any dishonesty at all. Therefore, in cases of behavioural misconduct such as dishonesty, public confidence will be a stronger factor in weighing any decision with regard to readmission. If allowing an individual to return to the register can undermine the public's trust in the profession, readmission is unlikely to meet the overarching objective.
29. It is ACCA's position that based on the finding of dishonesty, readmission in these circumstances is not compatible with ACCA's overarching objectives of

upholding the reputation and confidence in the profession and protecting the public.

30. Further, in cases where dishonesty is concerned (as referenced in Bolton v Law Society, *ibid*) less weight should be given to insight and references. It was held that a professional's personal mitigation will count for significantly less in these cases, in contrast to other contexts, because of the imperative need to uphold and maintain public confidence in the profession.
31. Although Miss Zhang has been sanctioned for her misconduct, she has demonstrated limited insight into the seriousness of her behaviour and has not shown adequate reflection on her actions. Miss Zhang has demonstrated little evidence of having taken any rehabilitative steps since the Disciplinary proceedings and has not provided references in support of her application. She has not demonstrated any remorse or regret. In the absence of this information, ACCA was unable to make a determination on Miss Zhang's suitability or character.
32. Therefore, it is ACCA's position, said Mr Jowett, that Miss Zhang has not demonstrated that she has been sufficiently rehabilitated to no longer be considered a risk to the public and uphold the integrity of the accounting profession if she once again becomes an ACCA student.
33. The burden is on Miss Zhang to establish that she meets the eligibility requirements for membership in accordance with Regulation 9 of the Membership Regulations, which requires an individual to "[satisfy]...*the Admissions and Licensing Committee as to his general character and suitability*".
34. Taking all the above into account, Miss Zhang has not, Mr Jowett submitted, discharged that burden. Therefore, ACCA opposed the application for Miss Zhang's readmission to ACCA's student register.
35. Miss Zhang told the Committee that she had attended all the hearings. She disagreed with Mr Jowett's assertion that she had not shown any activity over the last two years. She said she applied to be readmitted in 2022 and ACCA accepted her application. She then took part in a couple of exams, before

ACCA told her that a mistake had been made and she was removed. She said until she received that email, she thought she had successfully joined ACCA and she had made a lot of effort to rejoin ACCA and continue her study. She said that after the hearing she accepted the punishment, but the fact that she has subsequently sat two exams and passed them shows that she can pass them.

THE APPLICANT'S EVIDENCE

36. Miss Zhang gave oral evidence to the Committee. She said she realised the seriousness of her behaviour, she was sorry and it would not happen again. She disagreed with Mr Jowett when he said that she had shown no remorse. With reference to integrity she said, *"there is not a standard so it is difficult to assess the standard."* She said she would have liked to have provided a reference but is not working at the moment so does not have an employer.
37. In answer to Committee questions, Miss Zhang said it was the first time she had taken part in this kind of exam, which was *"not like options to tick."* She said the category of the questions were completely different. She said that during her preparation for the exam she was very nervous. Before the exam she did a lot of preparation, like taking down notes and a lot of revision. Miss Zhang said that because of her nerves during the exam, there was some *"relevant material on me that is not supposed to be inside the exam room. After that I really hated myself, left all that stuff, why not empty everything before I entered the exam room because it was first time to have this type of exam I wanted to get there early, sit down calm myself down and prepare to answer questions. Whatever happened it was my own problems my own reasons to cause this incident. What happened has happened, after that I try my best to work it out and to sort it out. I studied accounting in my undergraduate course. I understand every symbol and number is very important in these kind of studies for future. What happened to me has caused a lot of problems to me, my study and future. It is really unfortunate and I regret it."*
38. When asked why she had not provided references from anybody she said there was no detailed information about what was required but *"if this is what I have to do to rejoin ACCA I will do my best to get it done."*

39. When asked if anybody else might be affected by her dishonest behaviour other than herself, Miss Zhang said *“apart from me of course it will affect other people who I don’t know, it will affect the world. But I have had consequences I got punishment because of this. I realise that this is wrong and it will not happen in the future. I believe anyone can make unwanted mistakes in terms of day-to-day life or during your study life. In any circumstances, I would like to say I hope I can be forgiven, give me a chance to change my future, but not to be terminated from now on.”*
40. Miss Zhang added, *“For the past 2 years I have never forgotten the reason I first chose this subject to study. Although my current subject study is not accounting anymore, but for my first choice to study in ACCA I will never change my choices. If my previous behaviour affected anyone else, I am sorry. But I am trying to change myself and try to be better, to study more from the subject I am studying. Also, in day-to-day life I learn doing things more serious and careful details. So, I guarantee and promise it will not happen in the future. I hope the Committee can give me another chance to prove myself.”*

ORDERS AND REASONS

41. The Committee considered with care the application by Miss Zhang. It took into account the contents of the documents provided, the evidence given by Miss Zhang and the submissions made. The Committee also took into account the fact that English is not Miss Zhang’s first language, however she did have the benefit of an interpreter for this hearing. The Committee accepted the advice of the Legal Adviser and took into account the Guidance for Regulatory Orders.
42. The Committee also took into account that the burden of satisfying the Committee as to her general character and suitability rested with Miss Zhang. She was removed from the student register because she cheated in an exam. Honesty and integrity go to the heart of what it means to be a professional accountant and member of ACCA. Unsurprisingly, the Disciplinary Committee found her behaviour to be incompatible with being on ACCA’s student register. Crucial to her rehabilitation, therefore, was for her to demonstrate insight into her dishonest behaviour, to acknowledge that she had acted dishonestly and to satisfy the Committee that she would not do so again.

43. In her application for readmission, Miss Zhang referred to having accidentally left out personal belongings in the exam and that in future she would make sure she cleaned up her personal belongings. In her oral evidence she referred to making “*unwanted mistakes*”. She did say after the exam she hated herself but did not say why. She did not say why it is important not to cheat in exams and the impact of her cheating. Although she had expressed some remorse and regret, Miss Zhang’s focus was almost entirely on the impact on herself of being excluded from the student register. In the Committee’s view Miss Zhang demonstrated a near complete lack of insight. This was no accidental leaving out of personal belongings. These were cribs notes on a piece of paper that had been designed to fit between her calculator and its cover and which the Disciplinary Committee found she had intentionally taken into the exam to use, if necessary, to help her pass the exam.
44. In the Committee’s view, Miss Zhang is not accepting that she had acted dishonestly. She provided no insight into her dishonest behaviour and the impact of such behaviour on the profession and the public. She provided no insight into how her behaviour undermined ACCA’s examination process and how this would be viewed by other students, colleagues and the public. Notwithstanding her assertions that it would not happen again, by not acknowledging that her behaviour was dishonest and by failing to demonstrate any insight into her behaviour, the Committee could not be satisfied that it would not be repeated.
45. The Committee noted that Miss Zhang had also been unable to provide any references attesting to her general character and suitability to be a student member of ACCA.
46. In all the circumstances, Miss Zhang had failed to discharge the burden of satisfying the Committee as to her general character and suitability to be readmitted to the Register. Accordingly, the Committee rejected her application.

Mrs Helen Carter-Shaw
Chair
19 September 2023