

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Alan Chung Wah Tang

Heard on: Monday, 15 April 2024

Location: The hearing was conducted remotely by Microsoft Teams via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU via Microsoft Teams.

Committee: Mr Maurice Cohen (Chair)
Ms Andrea White (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Miss Juliet Gibbon

**Persons present
and capacity:** Mr Adam Slack (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Outcome: Allegations 1, 2 and 3 (misconduct) proved
Sanction: Severe Reprimand

Costs: Ordered to pay a contribution to ACCA's costs in the sum
of £7,000.00

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PRELIMINARY

1. Disciplinary Committee (“the Committee”) convened to hear a number of allegations of misconduct against Mr Alan Chung Wah Tang (“Mr Tang”). The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1-257 and a service bundle, numbered pages 1 to 16. The Committee was also provided with a detailed and a simple cost schedule.
2. Mr Adam Slack represented ACCA. Mr Tang did not attend the hearing and was not represented.

SERVICE AND PROCEEDING IN ABSENCE

3. The notice of hearing, containing all the requisite information about the hearing, was sent by email on 18 March 2024 to the email address notified by Mr Tang to ACCA. The Committee had sight of a receipt confirming delivery of the email to that address.
4. There had been no response to the notice of hearing from Mr Tang.
5. The Committee was satisfied that the requirements of Regulations 10(1) and 22(1) of the Regulations had been complied with.
6. 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 Mr Tang. It accepted the advice of the Legal Adviser. The Committee bore in mind that whilst it had a discretion to conduct a hearing in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee paid due regard to the factors set out in the cases of *Hayward & Others* [2001] 3 WLR 125 and *R v Jones* [2002] UKHL 5 and to the case of *The General Medical Council v Adeogba and Visvardis* [2016] EWCA Civ 162.

7. The Committee has been informed that the Hearings Officer wrote to Mr Tang on 5 and 12 April 2024 to ascertain if he would be attending the hearing but he had not responded to the emails. She also attempted to call Mr Tang, without success, on 11 and 12 April 2024. A link to today's hearing was sent to Mr Tang on 12 April 2024.
8. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that Mr Tang had not engaged with ACCA since December 2022. It also noted that Mr Tang had not asked for an adjournment, and there was no evidence before the Committee to suggest that an adjournment of today's hearing would result in his attendance on a future date.
9. The Committee determined that it was in the public interest for the hearing to proceed in Mr Tang's absence.

APPLICATION TO AMEND

10. Mr Slack made an application to amend the allegations to correct the date in Allegation 1. He informed the Committee that there was a typographical error in Allegation 1 and the date set out should be 30 December 2019 and not 30 December 2020 as currently pleaded.
11. The Committee accepted the advice of the Legal Adviser. It allowed ACCA's application to amend the allegations. The Committee considered that this was a typographical error and Mr Tang would not be prejudiced in the conduct of his defence by an amendment to correct the date set out in Allegation 1.

AMENDED ALLEGATIONS

Mr Alan Chung Wah Tang, a member of ACCA

- 1. Pursuant to bye-law 8(a)(vi), is liable to disciplinary action by virtue of the disciplinary action taken against him and concluded on 30**

December 2019 by the Hong Kong Institute of Certified Public Accountants being a professional and/or regulatory body.

- 2. Contrary to bye-law 10(b), failed to bring promptly to the attention of ACCA that he may have become liable to disciplinary action by reason of the action taken by the Hong Kong Institute of Certified Public Accountants as referred to in allegation 1 above.**
- 3. By reason of his conduct as referred to in allegation 2 above, is liable to disciplinary action pursuant to bye-law 8(a)(i) or, in the alternative bye-law 8(a)(iii).**

BACKGROUND

12. Mr Tang was admitted as a member of ACCA on 18 July 1985 and became a Fellow of ACCA on 18 July 1990.
13. ACCA received an anonymous complaint about Mr Tang on or about 01 October 2020. After initial contact with Mr Tang, the investigation was subsequently deferred pending the outcome of an appeal by Mr Tang against the action taken against him by the Hong Kong Institute of Certified Public Accountants (“the HKICPA”). Mr Tang’s appeal was dismissed on 22 September 2022 and ACCA’s investigation resumed thereafter.
14. The background to the case goes back to 05 November 2013 when Deputy High Court Judge Le Pichon (“DHCJ Le Pichon”) ordered Mr Tang and another partner of a firm (“the defendants”), in their capacity as joint and several liquidators of a company, to produce documents relating to three payments made by the company. Subsequently, on 07 February 2014 an application was made by the Trustees in bankruptcy (“the Trustees”) for orders that the defendants comply with the order of DHCJ Le Picon. The matter came before Deputy High Court Judge Anthony To (“DHCJ To”) on 18 March 2015 who granted an order that the defendants produce various documents within 21 days. (“the Disclosure Order”). The defendants, however, did nothing of any relevance to comply with the Disclosure Order.

15. The Trustees commenced committal proceedings against the defendants and DHCJ To delivered a judgement on 18 October 2016 finding both liable for contempt for their breach of the Disclosure Order. The matter was adjourned to 18 October 2016 for the defendants to be sentenced and DHCJ To warned the defendants that “*this is a bad case of contempt, and a starting point of six months’ imprisonment would be the minimum*”. At the sentencing hearing on 28 October 2016, the defendants produced the documents required under the Disclosure Order. The sentencing hearing was adjourned to 03 November 2016 to enable the defendants to purge their contempt. The matter was further adjourned on 03 November 2016 pending the defendants’ appeal to the Hong Kong Court of Appeal (“the CA”).
16. The appeal was heard by the CA on 24 January 2017 and on 16 February 2017 it upheld the finding of contempt in respect of one category of documents, being invoices and receipts, but not the other three categories for which Mr Tang had been found to be in contempt, and it allowed the appeal to the extent that the order for committal was set aside.
17. On 20 September 2017, DHCJ To, sitting at the High Court of The Hong Kong Special Administrative Region Court of First Instance, sentenced Mr Tang for contempt of court for his failure to produce the documents required under the Disclosure Order. DHCJ To handed down his reasons for the sentence on 11 October 2017. In his sentencing remarks, DHCJ To stated: “... *the Official Receiver expects a high degree of professional integrity and competency of those whom he appoints as liquidators or trustees in bankruptcy. Tang’s conduct of the disclosure application and his refusal to comply with the Disclosure Order not only fell far below the standard expected of a reasonable accountant but was also obstructive to the Trustees and counter-productive to the function of the Official Receiver ...*”. DHCJ took into account Mr Tang’s “... *contribution in the insolvency profession, his social and church services ...*” but indicated that such mitigating factors were only “*mildly useful where a fine is to be imposed*”. DHCJ To found that Mr Tang’s failure to comply with the Disclosure Order “*was not merely because of his obstinate view as to whether he should pay the charge, but was a determined and persistent refusal from the very beginning when there was no issue about those charges. He was*

determined that the court's order was subject to his pleasure. He deliberately treated the court's order with the utmost contempt ... While I accept that Tang has purged the contempt, that was not a reflection of his remorsefulness ... I find that he only made the disclosure for the purpose of mitigating the likely sentence he was going to receive and not out of remorsefulness. This finding reduces the possible discount purging a contempt would have on sentence".

18. *DHCJ To went on to say: "Given its history, this is a very bad case of contempt. It is an aggravating factor that the contemnor, being an experienced accountant and liquidator who is knowledgeable about the bankruptcy regime and liquidation regime, the purpose of the disclosure and that time is of the essence in any investigation into the affairs of a bankrupt suspected of having defrauded his creditors, was determined to obstruct the Trustees' investigation. It was against that background he made a determined refusal to comply with the Disclosure Order. There is a public interest element in this case. While Tang has purged the contempt, there was an unexplained delay of two and a half months which indicated that he did so only for the purpose of reducing his sentence and less out of remorsefulness. That reduces the discount which his purging of the contempt would otherwise have earned ... having regard to all the circumstances in this case, including the likely costs liability, I consider a starting point of [HK]\$400,000 appropriate for the seriousness of this case. I reduce it to [HK]\$300,000".*
19. The Hong Kong Institute of Certified Public Accountants ("the HKICPA") is the statutory body established by the Professional Accountants Ordinance and is responsible for the professional training, development and regulation of certified public accountants in Hong Kong.
20. On 02 November 2017 the complainant made a complaint to the HKICPA. Following a substantive hearing that took place on 22 July 2019, the Disciplinary Committee of the HKICPA handed down its decision on 06 September 2019. It found the following complaints established against Mr Tang:

1. Mr Tang, and another accountant, had failed to observe, maintain or otherwise apply sections 100.5(e) and 150.1 of the Code of Ethics for Professional Accountants (“COE”) to comply with relevant law and regulations and avoid any action that discredits the profession, when they were found to be in contempt of court by not complying with the March 2015 Order.
 2. Mr Tang’s contempt of court amounted to professional misconduct.
 3. Mr Tang’s contempt of court amounted to dishonourable conduct.
21. On 30 December 2019 the Disciplinary Committee of the HKICPA imposed the following sanctions and costs order against Mr Tang and the other accountant:
1. A reprimand under section 35(1)(b) of the Professional Accountants Ordinance, Cap. 50 (“the PAO”);
 2. Penalties of HK\$20,000, H\$20,000 and HK\$10,000 for the first, second and third complaints respectively under section 35(1)(c) of the PAO; and
 3. They are to jointly and severally pay the costs and expenses of the disciplinary proceedings in the sum of HK\$283,730.00.
22. In reaching its decision on sentence, the HKICPA was of the view that:
- a. The contempt of court had been purged (and the two respondents had already been fined and were liable to pay costs of the contempt proceedings);
 - b. There was no dishonesty or fraud involved;
 - c. There was no suggestion that Mr Tang, who remained a practising accountant, was unfit to remain in practice;
 - d. The contempt of court was occasioned by virtue of: i) the stubbornness of Mr Tang and the failure of the other respondent to pay heed to the Court Orders herself but leaving the matter to be dealt with by Mr Tang;

- e. Although Mr Tang was primarily responsible for not complying with the relevant court orders, the other respondent had a non-delegable duty owed to the Court and it could not be said that her breaches were less serious in respect of the three complaints.
23. In imposing the reprimand and fines the Disciplinary Committee of the HKICPA had also taken into consideration the practice histories, contributions to the society and positive comments from the professional acquaintances of the two respondents.
24. There is no evidence that Mr Tang informed ACCA of the disciplinary findings made against him by the HKICPA. The Committee was informed that Mr Tang would have been reminded of the duty to inform ACCA of any disciplinary findings made against him when he completed his annual Continuing Professional Development (“CPD”) return. The matter was brought to the attention of ACCA when an anonymous complaint was received by ACCA on 01 October 2020.
25. ACCA sent a letter to Mr Tang by email on 21 December 2020 advising him that it had received a complaint about his conduct from an anonymous complainant in respect of the finding that he had been in contempt of court.
26. Mr Tang responded by email on 02 February 2021 stating:

“Thank you for your email, which has now been “opened” and read.

Please note that the “contempt” ruling in 2016 was substantially over-ruled by the Court of Appeal (please see Decision dated 16.2.2017 attached), with the CoA concluding that the contempt was basically out of stubbornness. The anonymous complainant is clearly seeking to present only half a story. A similar complaint has been made to the HKICPA. Disciplinary proceedings have been commenced and concluded by the HKICPA, which is being subject to appeal to the Court of Appeal in Hong Kong.

I apologise for not reporting the matter earlier as I was not aware of the requirements to report. Let me know if you / ACCA require more details ...”.

27. ACCA sent a further letter by email to Mr Tang on 02 February 2021 to advise him that once the case was allocated an investigator the decision of the CA would be reviewed and asked him to provide ACCA with a copy of the decision of the Disciplinary Committee of the HKICPA and to keep ACCA updated about the outcome of the appeal.
28. A Senior Investigations Officer (“SIA”) wrote to Mr Tang on 15 February 2021 asking him questions about the finding that he was in contempt of court; the disciplinary action taken by the HKICPA and why he had failed to notify ACCA of the findings. Mr Tang was asked to provide a response by 01 March 2021. Mr Tang was also reminded of his duty to co-operate with the investigation under Regulation 3(1) of the Regulations.
29. Mr Tang requested an extension of two weeks to provide his responses and ACCA granted him an extension until 12 March 2021. He responded on that date stating:

“... I am sorry to raise this question now: I was initially advised by ACCA that the “complaint” made against me is on an anonymous basis. A similar complaint had been made of me over the same “contempt” incident to the HKICPA (hence their disciplinary action against me). I have every suspicion that the same complainant is now seeking a second bite of the cherry with the ACCA. As a matter of natural justice and fairness, this cannot be right; and I shall not be made subject to the same tedious investigation process etc .. twice by the same complainant.

I should therefore be most grateful if you would consider whether the ACCA should proceed with any investigations on the basis of this anonymous complaint under the circumstances.

30. Mr Tang advised ACCA that his appeal against the findings of the Disciplinary Committee of the HKICPA was due to be heard by the Hong Kong CA on 9 June 2021.
31. The SIA wrote to Mr Tang on 17 March 2021 informing him of his duty to co-operate with the ACCA investigation under Regulation 3(1) as he had not provided a response to ACCA's questions set out in the letter dated 15 February 2021. He was asked to provide answers by no later than 31 March 2021.
32. On 31 March 2021 Mr Tang responded to the letter of 17 March 2021 indicating that, having consulted his legal advisors, answers to some of the questions, *"in whatever way or form, is very likely to prejudice my position (apologies)"*. In relation to the duty to co-operate, Mr Tang stated: *"inasmuch as I wanted to fully co-operate with your investigations, I have been advised that I cannot (should not) prejudice my position by doing so for the time being. Counsel advice to me is that I am likely to win the Appeal; and I much prefer to wait the outcome of the Appeal before I respond to your enquiries"*.
33. On 13 May 2021 the SIA wrote to Mr Tang asking him to let him know the outcome of the appeal as soon as he was aware of it. Mr Tang responded on 11 June 2021 informing ACCA that the CA had reserved judgement at the appeal hearing on 09 June 2021.
34. On 06 January 2022 the SIA wrote to Mr Tang to inform him that ACCA's investigation of the complaint would continue to be deferred pending the outcome of his appeal.
35. The Hong Kong CA handed down its decision on Mr Tang's appeal on 22 September 2022. The Hong Kong CA rejected all Mr Tang's grounds of appeal against the finding of liability and the sanction and costs orders imposed by the Disciplinary Committee of the HKICPA and it dismissed the appeal. Costs were awarded to the Institute against Mr Tang on an indemnity basis.

36. The SIA wrote to Mr Tang on 28 September 2022 asking him to provide a full response to ACCA's original request for information. Mr Tang responded as follows:

"It's high time to close this saga for me once and for all. I assume you have read all published judgements relating to my "contempt" finding in 2016. All that it is was a mountain made out of a mole-hill by the Trustees-in bankruptcy of [Person 1] against me personally for ulterior motives (this you will not find in the judgements). In a nutshell, as a former partner of [Company A] the contempt was that, 5 years after the collapse of Company A in Hong Kong in 2000, I failed to produce a number of accounting vouchers of Company A (which were not under my control) for payments to Company A 10 years previously in relation to a liquidation case of which I was liquidator (the case had been practically closed in 2009). These payments were for litigation funding for that liquidation case around 2004/5.

Counsel for the [the bankrupt's] Trustees admitted in Court during my sentencing hearing that these accounting vouchers finally found from a godown and disclosed were useless to them! I was fined HK\$300,000 by the Court. On top of this, I had to pay legal costs of both sides (indemnity basis) for HK\$ millions. Then, the Official Receiver of Hong Kong challenged my "fitness" to act for new insolvency appointments. The Court of Appeal finally ruled that I was "fit and proper"; but for technical reasons, I had to pay costs of the Official Receiver.

Then the HKICPA grilled me with these Disciplinary Proceedings without demonstrating the "discredit or disrepute" allegedly brought by my contempt to the profession.

I am approaching 65 and are about to retire. I do not have the stamina to go through another "grilling" by the ACCA for the 4 time, maybe so as to "complete" your procedural formalities. This contempt and consequential proceedings have haunted me for the past 6 years. With utmost respect to the ACCA, I am no longer interested to continue with my membership. I shall not renew from 1

Jan. 2023. Trust you will understand that I am really, really tired of all these enquiries after enquiries

Yet, I reserve all rights" (sic).

37. On 24 October 2022 ACCA wrote to Mr Tang to inform him that a report of disciplinary allegations was being prepared with a view to referring it to an independent assessor. Mr Tang responded on the same date stating: *"As I said before, I do not plan nor wish to go through the hassle of another (the nth) round of interrogation on the "contempt" matter by the ACCA. I shall make no submissions. My rights are reserved" (sic).*
38. On 28 November 2022 ACCA sent Mr Tang a copy of a report of the disciplinary allegations that it was going to refer the independent assessor for review on 15 December 2022.
39. Mr Tang responded to ACCA on 01 December 2022 expressing his displeasure that the complaint against him was being pursued. He stated: *"I note with regret that matters have progressed to this stage, wasting time and resources of the ACCA and mine – but apparently seeking to gain no practical results or benefit to anyone ...".* Mr Tang asserted that *"These are but vague, unsupported if not outright untrue bare allegations. I regret that a professional institution like ACCA has seen it fit to report such unsubstantiated "findings" in such serious and solemn disciplinary proceedings ... I have been penalised 4 times over this trivial matter by those in power seeking to justify its own respective existence by taking on the opportunity to condemn me. I have become tired of responding and making any further submissions, which will be ignored anyway and regardless as part of the "standard" process and procedures. If the ACCA is so concerned about its self-imposed duties of "protecting the general public of Hong Kong" (whatever this may mean) as opposed to protecting one of its members for almost 40 years, I do not see any reason to maintain any relationship with ACCA anymore".*
40. Mr Tang was informed that the Disciplinary Committee would consider the allegations set out in the report to the assessor in a letter, dated 19 December

2022. A Case Management Form (“CMF”) was attached for Mr Tang to complete and return to ACCA. There was no response from Mr Tang.

41. On 09 February 2024 the Case Progression Officer wrote to Mr Tang requesting that he complete the CMF and attached a further copy of the form to the email. Mr Tang was also asked if he intended to attend the hearing and to provide dates that should be avoided. Mr Tang did not respond.
42. Mr Tang has not responded to recent emails sent to him by the Hearings Officer.

SUBMISSIONS

43. Mr Slack outlined the facts of the case to the Committee. In respect of Allegation 1, he submitted that the decision of the DC of the HKICPA, dated 06 September 2019, was proof that Mr Tang had been disciplined by another professional or regulatory body and that he was, therefore, liable to disciplinary action under bye-law 8(a)(vi).
44. In respect of Allegation 2, Mr Slack submitted that Mr Tang had not informed ACCA of the disciplinary action taken against him by the HKICPA and he was, therefore, in breach of bye-law 10(b). He reminded the Committee that Mr Tang had admitted this breach in his email to ACCA dated 02 February 2022.
45. Mr Slack submitted that Mr Tang’s conduct in failing to inform ACCA of the disciplinary action taken against him by the HKICPA was a serious departure from the standards expected of a member of ACCA. He submitted that Mr Tang was guilty of misconduct under bye-law 8(a)(i) as a result of his breach of bye-law 10(b). In the alternative, Mr Slack submitted that Mr Tang was liable to disciplinary action under bye-law 8(a)(iii).

DECISION ON FACTS

46. The Committee considered all of the documentary evidence presented to it and the submissions made by Mr Slack. The Committee accepted the advice of the

Legal Adviser and bore in mind that it was for ACCA to prove each of the allegations made against Mr Tang and that the standard of proof to be applied was on the balance of probabilities.

Allegation 1 - proved

47. The Committee was satisfied that at all material times Mr Tang was a fellow of ACCA. It noted that on applying for membership of ACCA, members sign an undertaking that if admitted and as long as they are members, they will observe ACCA's Charter, bye-laws and regulations for the time being in force. It also noted that bye-law 7(a) provides that the Charter, bye-laws and applicable regulations for the time being in force shall apply to each member on and following his admission.
48. The Committee noted the findings made by the Disciplinary Committee of the HKICPA, as set out in the decision document, dated 06 September 2019. This is evidence that disciplinary action was taken against Mr Tang by the HKICPA.
49. The Committee considered Bye-law 8(a)(vi), which provides that a member shall be liable for disciplinary action if he has been disciplined by another professional or regulatory body.
50. The Committee was satisfied that the HKICPA is a professional regulatory body for accountants in Hong Kong. It was also satisfied that the HKICPA had taken disciplinary action against Mr Tang and that the proceedings had concluded on 30 December 2019 with Mr Tang being reprimanded and fined a total sum of HK\$50,000.00. Accordingly, it found that Mr Tang was in breach of bye-law 8(a)(vi) and, therefore, liable to disciplinary action. The Committee found Allegation 1 proved.

Allegation 2 - proved

The Committee noted that Mr Tang had an obligation under Bye-law 10(b) to *'... bring promptly to the attention of the Secretary any facts or matters indicating that a member ... may have become liable to disciplinary action'*. Mr

Tang had failed to inform ACCA of the disciplinary findings made against him by the HKICPA. The Committee determined that as a member of ACCA Mr Tang is bound by its bye-laws and regulations and he should have been aware of his obligation under bye-law 10(b) to inform ACCA of the findings made against him by the HKICPA. The Committee noted that in an email to ACCA, dated 06 February 2020, Mr Tang admitted that he had failed to inform ACCA when he stated: *“I apologise for not reporting the matter earlier as I was not aware of the requirements to report. Let me know if you / ACCA require more details ...”*.

51. Having considered all the evidence before it, including the admission made by Mr Tang, the Committee was satisfied that Mr Tang had breached bye-law 10(b) in failing to inform ACCA of the disciplinary action taken against him by the HKICPA. The Committee found Allegation 2 proved.

Allegation 3 (misconduct) - proved

52. Having found Allegation 2 proved, the Committee went on to consider whether the facts found proved amounted to misconduct or, in the alternative, made Mr Tang liable to disciplinary action.
53. The Committee determined that Mr Tang’s conduct fell below the standards expected of a member of ACCA and had brought discredit to him, the accountancy profession and ACCA. The Committee noted that the misconduct had continued for a period of almost a year until there had been an anonymous complaint made to ACCA.
54. The Committee considered that Mr Tang’s conduct in failing to inform ACCA of the disciplinary action taken against him by the HKICPA was very serious and clearly amounted to misconduct.
55. The Committee, therefore, found Mr Tang guilty of misconduct by reason of the conduct found proved in relation to Allegation 2.

56. The Committee did not go on to consider whether Mr Tang was liable to disciplinary action as this was drafted in the alternative to misconduct.

SUBMISSIONS ON SANCTION AND COSTS

57. Mr Slack referred the Committee to ACCA's 'Guidance for Disciplinary Sanctions' and, in particular, section F which provides guidance on factors relevant to seriousness. Mr Slack informed the Committee that there were no previous findings against Mr Tang. He submitted, however, that this was a serious and ongoing failure to inform ACCA of the disciplinary action taken by the HKICPA and there was no evidence of any insight on the part of Mr Tang.

58. In respect of costs, Mr Slack referred the Committee to the two costs schedules. ACCA claimed costs in the sum of £7,989.00. Mr Slack reminded the Committee that all the allegations had been found proved against Mr Tang. He submitted that the costs claimed by ACCA had been reasonably incurred but accepted that there should be some adjustment as the hearing had taken less time than allowed for in the two cost schedules. Mr Slack informed the Committee that Mr Tang had not returned a completed statement of financial means to ACCA.

SANCTION AND REASONS

59. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Slack. The Committee referred to ACCA's Guidance for Disciplinary Sanctions (effective date 14 February 2024) and it had in mind the fact that the purpose of a sanction was not to punish Mr Tang, but to protect the public, maintain public confidence in the profession and proper standards of conduct, and that any sanction it imposed must be proportionate. The Committee accepted the advice of the Legal Adviser.
60. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features of the case.

61. The Committee considered whether there were any mitigating features. It noted that Mr Tang had no previous disciplinary findings recorded against him in the 38 years that he has been a member of ACCA. It also noted that Mr Tang had apologised for his failure to inform ACCA of the disciplinary action taken against him by the HKICPA in an email to ACCA dated 02 February 2021.
62. The Committee considered that Mr Tang's misconduct involved the following aggravating features:
 - a. there is no evidence of any insight on the part of Mr Tang.
 - b. the misconduct continued over a prolonged period of time of almost a year.
63. The Committee went on to consider what, if any, was the appropriate and proportionate sanction to impose in this case. It did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had disregarded ACCA's bye-laws and regulations.
64. The Committee then considered whether to reprimand Mr Tang. The guidance indicates that a reprimand would be appropriate in cases where the misconduct is of a minor nature; there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding; together with genuine insight into the misconduct found proved. The Committee did not consider Mr Tang's misconduct to be of a minor nature and there was no evidence of any insight into his behaviour or the impact thereof on the reputation of the profession and ACCA. The Committee noted that when addressing factors relevant to seriousness in specific case types, ACCA's Guidance indicates that being a failure to inform ACCA of relevant matters indicating that the member himself may be liable to disciplinary action is considered as '*serious*'. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the misconduct in this case.
65. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where 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. The guidance suggests that this sanction may be appropriate where most of the following factors are present:

- a. the misconduct was not intentional and no longer continuing;
- b. evidence that the conduct would not have caused direct or indirect harm;
- c. insight into failings;
- d. genuine expression of regret/apologies;
- e. previous good record;
- f. no repetition of failure/conduct since the matters alleged;
- g. rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- h. relevant and appropriate references;
- i. co-operation during the investigation stage.

66. The Committee determined the following factors were present:

- a. Mr Tang's misconduct had been reckless and not intentional and it was no longer continuing.
- b. There was no evidence of any direct or indirect harm.
- c. Mr Tang apologised to ACCA for his failure to inform it of the disciplinary action taken against him by the HKICPA.
- d. Mr Tang has a previous good record with ACCA.
- e. There is no evidence of repetition.
- f. There are no rehabilitative steps that could be taken by Mr Tang.
- g. Mr Tang co-operated with ACCA during the course of the investigation.

67. The Committee considered that in all the circumstances a Severe Reprimand would be the appropriate and proportionate Order to reflect the seriousness of Mr Tang's misconduct.

68. The Committee ordered that Mr Tang shall be severely reprimanded.

DECISION ON COSTS AND REASONS

69. The Committee was provided with two schedules of costs. ACCA applied for costs in the sum of £7,989.00 in respect of the investigation against Mr Tang and the hearing.
70. The Committee was satisfied that the costs sought by ACCA were appropriate and had been reasonably incurred. The Committee determined that the costs claimed should be reduced, however, to reflect the fact that the hearing had taken less time than accounted for in the two schedules of costs.
71. The Committee noted that Mr Tang had not completed a statement of financial position and so it had no information about his current financial circumstances. It took into account paragraph 28 of the Guidance for Costs Orders that states: *'If a relevant person does not provide proof of financial means, the Committee is entitled to infer that the relevant person is able to meet the costs that it orders'* and paragraph 29 of the guidance that states: *'In the absence of evidence or proof, Committees should not speculate as to the relevant person's means'*.
72. The Committee determined that, in all the circumstances, it would be fair and proportionate to order Mr Tang to pay ACCA's costs in the sum of £7,000.00.

EFFECTIVE DATE OF ORDER

73. The Order shall take effect from the date of the expiry of the appeal period referred to in the Appeal Regulations.

ORDER

- i. Mr Alan Chung Wah Tang shall be severely reprimanded.**
- ii. Mr Alan Chung Wah Tang shall pay a contribution to ACCA's costs in the sum of £7,000.00.**

Mr Maurice Cohen
Chair
15 April 2024