

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Qingying Li
Heard on:	Tuesday, 20 February 2024 and Wednesday 21 February 2024.
Location:	Held Remotely via Microsoft Teams
Committee:	Ms Wendy Yeadon (Chair) Mr Ryan Moore (Accountant) Ms Samantha Lipkowska (Lay)
Legal Adviser:	Ms Tope Adeyemi
Persons present and capacity:	Miss Qingying Li (Member) Mr Adam Slack (ACCA Case Presenter) Miss Nicole Boateng (Hearings Officer)
Observers:	Mr Ashraf Khan (ACCA Legal Adviser)
Summary:	Exclusion from membership
Costs:	£1000

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INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Miss Li. Miss Li was present but not represented. ACCA was represented by Mr Adam Slack. The papers before the Committee consisted of a Main bundle numbered 1 – 233, an Additional bundle numbered 1 – 87, a Service bundle numbered 1 - 19 and a two-page Memorandum and Agenda.

PRELIMINARY MATTERS

Application for the hearing to be heard in private

2. Miss Li had requested prior to the hearing, within the Case Management form, that the entirety of the hearing be held in private on the basis that she was an introverted and nervous person who did not wish to expose her privacy. At the start of the hearing Miss Li reiterated her request for the proceedings to be conducted in private, adding that she was concerned unrelated people that she did not know may join the link. The application was opposed by ACCA who submitted that insufficient reasons had been given for the hearing to be heard in private.
3. The Legal Adviser referred the Committee to Regulation 11(1)(a) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (‘the Regulations’) which provides that hearings shall be conducted in public unless the Committee is satisfied that the particular circumstances of the case outweigh the public interest in holding the hearing in public, which may include but is not limited to prejudice to any of the parties.
4. Following deliberations, the Committee determined that the hearing should be heard in public. It did not consider that the particular circumstances set out by Miss Li outweighed the public interest in hearings being heard in public.

BACKGROUND

5. Miss Li became a member of ACCA on 5 March 2020. In order to apply for membership, she was required to obtain at least 36 months' practical experience in a relevant role ('practical experience'). The practical experience involves the completion of 9 performance objectives (POs). The experience obtained was to be recorded in a Practical Experience Requirement (PER) training record.
6. In 2021 the Professional Development team of ACCA became aware that 100 ACCA trainees had claimed in their completed PER training records that their PO had been approved by the same Supervisor, Person A. Miss Li was among the 100. During the course of the investigation a review of the available records was conducted. The review indicated that the PO Statements had been copied amongst a large number of the 100 trainees.
7. Person A when contacted denied having supervised any of the 100 trainees including Miss Li. The matter was therefore referred to ACCA's investigations team. By this point Miss Li had been admitted to ACCA membership.
8. Miss Li's training record refers to her practical experience being undertaken at a single firm, Firm B, between 1 January 2011 to 7 March 2018. It also stated that she had three Supervisors, one of which was Person A who was authorised to approve her POs only. Miss Li's PER training record sets out that Person A was requested to approve, and did approve, all 9 of her POs on 22 February 2020 which was nearly two years after Miss Li's employment at Firm B had come to an end. Further, ACCA allege that Miss Li registered Person A to be her practical experience Supervisor on the same day of the approvals.
9. In respect of the content of Miss Li's PO statements, ACCA state that Miss Li's are considered to be the first in time following analysis. Therefore, it is accepted by ACCA that in the absence of any other evidence, the PO statements were written by Miss Li and based on her experience. ACCA dispute however that Person A supervised Miss Li's practical experience and the achievement of the Performance Objectives and the manner they had apparently been achieved.

10. Miss Li responded to the allegations providing an explanation for what occurred. She explained that she had been introduced to Person A by a former work colleague. Miss Li had communicated with Person A via text message on WeChat and had sent her some of the work she had completed, receiving suggestions on areas of improvement. Miss Li expressed confusion around the situation and the identity of the person purporting to be her Supervisor.
11. Miss Li completed a number of Case Management forms ahead of the hearing. Within them, she set out that she believed she had followed the rules as her work experience was real and she had completed her tasks in accordance with the guidance provided to her by her previous employer and her Supervisor.
12. In regard to dishonesty Miss Li denied this and stated *“I didn’t know the signatory who doesn’t have the right to do it. First, I thought my experiences are real, and I finished my tasks and supervised by my supervisor, then I thought the signatory was legal. I think I have mistakes that I didn’t see the rules and details about the Practical Experience Supervisor. But I am not dishonest and did it on purpose”*. Further on in the form she stated *“I trusted my supervisor and signatory, I thought they communicated my works so that they can verify the performance objectives”*.
13. In an email dated 28 March 2023 to ACCA Miss Li stated that what had occurred was a *“big lesson”*. She provided some further information on her personal circumstances explaining matters in the following terms: *“And I stopped working for my family, which made me feel very confused during that time, so I hope my former company can help me complete my application for membership, which is the only things that makes me feel affirmed. Completing my acca exam is a moment when I feel confident in my life. It is not just a certificate to me, but a very, very important thing in my life, so I have never been dishonest with it or harmed the public interest”*.
14. In subsequent communications Miss Li stated that she may have been reckless in the process. She also highlighted that she has never made a mistake in her work.

ALLEGATIONS

15. Miss Li, faced the following allegations:

Qingying Li ('Miss Li'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 2 March 2020 and in doing so purported to confirm in relation to her ACCA Practical Experience training record her Practical Experience Supervisor in respect of her practical experience training in the period from 1 January 2011 to 7 March 2018 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.
2. Miss Li's conduct in respect of the matters described in Allegation 1 above: -
 - a. Was dishonest, in that Miss Li sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise and/or her Supervisor had personally verified the achievement of the performance objectives claimed and/or that they had been achieved in the manner claimed either or both of which she knew to be untrue.
 - b. Demonstrates a failure to act with Integrity.
3. In the further alternative to Allegations 2a) and 2b) above, such conduct was reckless in that Miss Li 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 they had been achieved in the manner claimed.
4. By reason of her conduct, Miss Li is guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.

DECISION ON FACTS AND REASONS

16. The Committee considered all the evidence presented and the submissions made by Miss Li and Mr Slack. The evidence of Miss Li included a two-page statement that she submitted at the start of the hearing. The Committee also accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

Allegation 1 – Proved

17. Miss Li had applied for membership on the basis that Person A was her Supervisor. The Committee had been provided with a statement from Person A in which they asserted that they had only supervised the practical experience training of one individual and that individual was not Miss Li. The Committee considered Person A's evidence to be clear and credible and found no reason to disbelieve them.
18. The Committee also took into account the statement of Person B, ACCA Professional Development Manager, in which they referred to ACCA's published guidance on PER in which a Practical Experience Supervisor is described as follows:

'...To be eligible to sign off your performance objectives they must be a qualified accountant recognised by law in your country and / or a member of an IFAC body; and they must have knowledge of your work. They should be someone with whom you work closely, who knows the type of work you are doing and the quality of your work...'

19. Miss Li didn't challenge the content of Person B's statement nor did she challenge the definition they set out regarding practical supervision. Miss Li accepted that she had never physically met the individual she believed to be Person A. And, while Miss Li stated she had shown her computer screen to Person A during calls, she admitted the work she was sharing when she did this had already been completed. In all the circumstances the Committee was satisfied that Person A had not supervised Miss Li and in any event the supervision that Miss Li stated she received from the individual she believed to be Person A, was not supervision in accordance with ACCA's published requirements. It follows therefore that the Committee found this allegation proved.

Allegation 2(a) – Not Proved

20. The Committee moved on to consider whether Miss Li acted dishonestly and considered her conduct having regard to the test for dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67* ("*Ivey*").
21. In evidence Miss Li stated that she had completed all the outstanding modules relevant to ACCA qualification and had written her PO statements herself. She had experienced difficulties however in finding a suitably qualified Accountant to verify her experience and so approached her former work colleague, who in turn introduced her to the individual she believed to be Person A. That individual had agreed to act as her Supervisor. Miss Li was clear that she did not pay the individual and she queried what they would have gained from the situation.
22. The Committee considered Miss Li's account to be plausible and formed the view based on her evidence, that she had genuinely believed that what she was doing was, at the relevant time, sufficient to fulfil the Practical Experience Requirements. It noted in particular that it was not disputed by ACCA that Miss Li had completed the PO statements included in her PER training record and the Committee acknowledged that Miss Li had given clear evidence on how long the Practical Experience Training process had taken her. In all the

circumstances the Committee did not find that Miss Li had been dishonest. It therefore found this allegation not proved.

Allegation 2 (b) – Not Proved.

23. ACCA allege in the alternative that if Miss Li was not dishonest her conduct demonstrated a failure to act with integrity.
24. In determining this allegation, the Committee accepted the advice of the Legal Adviser and took into account the definition of integrity set out in ACCA's Code of Ethics and Conduct. It also bore in mind the further explanation of integrity provided by the court in *Wingate and Evans v SRA; SRA V Malins [2018] EWCA Civ 366*.
25. Based on the Committee's acceptance that Miss Li had believed her actions in regards to the preparation and submission of her PER training record had been correct, it did not find that her behaviour demonstrated a lack of integrity. The Committee considered that Miss Li had been keen to progress to membership and had acted naively in the process. There was insufficient evidence however to demonstrate a lack of integrity.
26. For the reasons given, the committee did not find this allegation proved.

Allegation 3 (a) and (b) - Proved.

27. Miss Li accepted that having been given the WeChat contact for the individual she believed to be Person A, she did not check the publicly available guidance on PER to ascertain whether the person she was in contact with was suitable to act as her PER Supervisor. She also admitted that she had not checked the details around the proper process for completion of the PER and admitted that she had been reckless about the person she used as her personal experience supervisor being able to personally verify the achievement of her objectives.
28. The Committee had been provided with clear evidence that there was much guidance readily available on the PER process that Miss Li could have read.

By not reading any of it, the Committee found that Miss Li had been reckless in regard to ACCA's requirements to ensure her practical experience was supervised, that she was able to personally verify the achievement of the objectives she claimed and verify they had been achieved in the manner claimed. The Committee therefore found Allegations 3 (a) and (b) proved.

Allegation 4 – Proved

29. The Committee considered whether Miss Li's actions found proved amounted to misconduct.

30. The Committee were of the view that the PER was fundamental for membership to ACCA and that due to Miss Li's recklessness she had been able to secure membership in circumstances where she had not satisfied the requirements. Her behaviour was discreditable to the accountancy profession and jeopardised the effectiveness of the membership process. Such conduct fell short of what was required in the circumstances and was serious. For these reasons the Committee found that Miss Li's conduct that had been found proved did amount to misconduct.

SANCTION AND REASONS

31. In reaching its decision on sanction, the Committee took into account the submissions made by Miss Li and by Mr Slack on behalf of ACCA. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of sanctions was not to punish Miss Li but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.

32. The Committee turned first to consideration of the aggravating and mitigating features in this case. The Committee had not been made aware of any previous regulatory findings against Miss Li. It formed the view that Miss Li had demonstrated insight into her failings and had understood where she went

wrong. Miss Li had expressed remorse for her conduct and there was also no evidence that any direct harm had been caused to members of the public as a result of her actions. The Committee considered all these factors to amount to mitigation.

33. Aggravating features were also identified with the Committee taking into account that Miss Li's conduct occurred over a period of time, as it related to her practical experience between January 2011 and March 2018.
34. The Committee did not think it was appropriate, or in the public interest, to take no further action or order an admonishment in a case where a member had failed to comply with ACCA's codes and had gained admission to membership without being qualified.
35. The Committee then considered whether to reprimand Miss Li. The guidance indicates that a reprimand would be appropriate in cases where the misconduct is of a minor nature and there appears to be no continuing risk to the public. The Committee did not find those factors to be present in the current instance. While there was evidence that Miss Li had insight into what had occurred, the Committee had no information on the quality of the work she was currently undertaking, and it did not regard the misconduct to have been minor in nature.
36. The Committee moved on to consider 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 that corrective steps had been taken to cure the conduct and ensure such behaviour was not repeated. The Committee was not provided with evidence to show these criteria to be met for example the Committee was not provided with references or testimonials as to her previous or current work.
37. The Committee went on to consider the guidance relating to exclusion from membership. It was mindful that Miss Li had obtained membership to ACCA without fully complying with the PER process and this lack of compliance had

not been resolved. As a result, the Committee reached the view that there was a public risk involved in Miss Li's continued membership as it could not be established that she satisfied the necessary requirements to be a member.

38. Following legal advice the Committee did take into account that a power existed by virtue of Regulation 13(8) of the Regulations to make an order to refer Miss Li to the Admissions and Licensing Committee and that in doing so she would not be excluded but could be subject to suspension or subject to conditions in the interim, however such a step was deemed to be insufficient to protect the public and in the public interest given the lack of evidence identified that Miss Li met the requirements to be a member in the first instance.
39. In all the circumstances the Committee considered exclusion to be the most appropriate and proportionate sanction.

COSTS AND REASONS

40. ACCA applied for costs in the sum of £9,235.42. The application was supported by a Schedule providing a breakdown of the costs incurred by ACCA in connection with the hearing. A simplified breakdown was also provided.

The member submitted documents relating to their financial position, which the Committee considered. The financial details considered were as follows:
[Private].

41. The Committee was satisfied that ACCA was entitled to claim its cost, however it considered it appropriate to make a deduction to the amount claimed having regard to the reduced hearing length and the information on Miss Li's means. The Committee therefore ordered Miss Li to pay ACCA's costs in the sum of £1000.

EFFECTIVE DATE OF ORDER

42. In accordance with Regulation 20(1)(a) of the Regulations, the order relating to Miss Li's exclusion from membership will take effect at the expiry of the appeal

period. The Committee acknowledged that ACCA wished for an immediate but did not feel it was necessary to impose one as Miss Li had no practising certificate and the allegation related to matters some years previously.

Ms Wendy Yeadon
Chair
21 February 2024