

HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF  
CHARTERED CERTIFIED ACCOUNTANTS**

**REASONS FOR DECISION**

**In the matter of:** Miss Xinru Deng

**Heard on:** Thursday 01 February 2024

**Location:** Hearing held remotely

**Committee:** Mr Andrew Gell (Chair),  
Mr George Wood (Accountant),  
Ms Diane Meikle (Lay Member)

**Legal Adviser:** Mr James Keeley

**Persons present**

**and capacity:** Mr Adam Slack (ACCA Case Presenter)  
Miss Geraldine Murray (Hearings Officer)

**Summary:** Allegations 1(a) and (b), 2(a) and (b), 4(a) (b) and (c) and 5(a) found proved.

**Member excluded from Register with immediate effect**

**Costs:** £2500

## INTRODUCTION/SERVICE OF PAPERS

1. On 04 January 2024, notification of the hearing was served on Miss Deng to her registered email address. On 31 January 2024, Miss Deng sent an email to Ms Murray, the Hearings Officer, stating that due to work commitments she would not be attending the hearing. Ms. Murray asked, via email, if Miss. Deng was happy for the hearing to proceed in her absence. Miss. Deng confirmed in a further email that she was content for the hearing to continue on the scheduled date with her not attending.

2. The ACCA Guidance for Disciplinary Committee Hearings at paragraph 46 states the following:

*“CDR Regulation 10(7) confers discretion upon a committee hearing where the relevant person fails to attend a hearing, the case may be heard in his or her absence. Consideration of this must be a two-stage process. Firstly, the Committee must be satisfied that the relevant person has been served with a notice of hearing in accordance with the rules.*

CDR Regulation 10(1)(a) provides:

*‘On a case being referred to the Disciplinary Committee, the Association shall determine the date the case is to be heard...no later than 28 days before the date set, the relevant person shall be provided with a notice...and a paper summarising the procedure before the Disciplinary Committee and the Association’s disciplinary process’.*

3. The Committee was satisfied that effective notice had been sent to Miss Deng’s registered email address and that sufficient notice had been given.
4. The Committee then had to consider whether or not to exercise its discretion to proceed in Ms. Deng’s absence. The Committee applied the discretion with the upmost care and caution and the guidance in accordance the case of R v Jones and others (N02) [2002] UKHL 5.
5. The Committee decided that it would be fair to proceed in Miss Deng’s absence in particular taking into account:
  - (a) The nature and circumstances of Miss. Deng absenting herself. She had work commitments preventing her attending

- (b) Miss Deng had not asked for an adjournment and was happy for the hearing to proceed in her absence
- (c) These were serious allegations and it is in the public interest that a hearing should take place within a reasonable time
- (d) No adverse inference would be drawn from Miss. Deng's non-attendance.

## **THE ALLEGATIONS**

6. The burden is on the Appropriate Authority to prove the case. The standard being on the balance of probabilities.

7. The Committee considered the following:

Xinru Deng ('Miss Deng'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 17 June 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 03 June 2017 to 16 June 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:

- Performance Objective 1: Ethics and professionalism
- Performance Objective 4: Governance, risk and control
- Performance Objective 8: Analyse and interpret financial reports

2. Miss Deng's conduct in respect of the matters described in Allegation 1 above was-

a) In respect of Allegation 1a), dishonest, in that Miss Deng 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 Deng knew she had not achieved all or any of 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 Deng 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;
  - 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) 01 September 2022;
  - b) 16 September 2022;
  - c) 03 October 2022.
5. By reason of her conduct, Miss Deng is
- a) Guilty of misconduct pursuant to ACCA byelaw 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 byelaw 8(a)(iii)

## **BACKGROUND**

8. Mr Slack, on behalf of the ACCA provided the following background:

“Upon an ACCA student completing all of their ACCA exams, they become an ACCA affiliate (also known as an ACCA trainee). However, in order to apply for membership, they are required to obtain at least 36 months’ practical experience in a relevant role (practical experience). It is permissible for some or all of that practical experience to be obtained before completion of ACCA’s written exams.

The practical experience involves the completion of nine performance objectives (POs) under the supervision of a qualified accountant, which are recorded in a Practical Experience Requirement (PER) training record. In addition to approval of their POs, a trainee must ensure that their employment where they have gained relevant practical experience has been confirmed by the trainee’s line manager who is usually also the trainee’s qualified accountant supervisor. This means that the same person can and often does approve both the trainee’s time and achievement of POs.

If the trainee’s line manager is not a qualified accountant, the trainee can nominate a supervisor who is external to the firm to supervise their work and approve their POs. This external supervisor must have some connection with the trainee’s firm, for example as an external accountant or auditor.

Once all nine POs have been approved by the trainee’s practical experience supervisor (whether internal or external) and their minimum 36 months of practical experience has been signed off, the trainee is eligible to apply for membership of ACCA.

During 2021 it came to the attention of ACCA’s Professional Development team that between 16 December 2019 and 29 January 2021, 100 ACCA trainees had completed their PER training record in which they claimed their PO’s had apparently been approved by a particular supervisor, namely Person A.

A person purporting to be Person A registered as each trainee’s supervisor on the basis of her being a member of the Chinese Institute of Certified Public Accountants (CICPA), being an IFAC registered body.

Person B, Manager of ACCA’s Professional Development Team, has provided a statement for

the purposes of these cases. They state they would not expect a supervisor to have more than 2-3 trainees at any one time. It is accepted all these trainees had different periods of training and some periods overlapped, ACCA is unable to produce precise figures as to how many trainees Person A allegedly supervised at any one time. Someone claiming to be Person A had apparently supervised a very significant number of ACCA trainees at or about the same time.

A review was also carried out by the Professional Development Team which indicated the PO statements had been copied amongst a large number of these 100 trainees, who had all claimed to have been supervised by the same supervisor, namely Person A.

In light of the above, ACCA contacted Person A via CICPA who denied having supervised any ACCA trainees. During this contact Person A provided ACCA with their email address.

As a result of the above, all 100 trainees were referred to ACCA's Investigation Team. By this date many of these trainees had obtained ACCA membership.

During ACCA's investigation of these cases, Person A was contacted, they initially advised ACCA that they had never supervised any ACCA trainees, they subsequently recalled having supervised a single ACCA trainee.

Person A provided ACCA with the name of the trainee. ACCA's records confirm they did act as a supervisor for this one trainee who is not one of these 100 cases under investigation (including Miss Deng). In addition, they acted as supervisor for this trainee only to the limited extent of approving one of their nine performance objectives."

## **FINDINGS**

### **Allegation 1 (a)**

- (a) The Committee, having considered all of the material (including written representations by Miss Deng) applying the relevant caselaw, byelaws and regulations and burden and standard of proof, made the following findings: Miss. Deng in her application for ACCA membership had submitted that Person "A" had supervised her practical training from 03 June 2017 to 16 June 2020.
- (b) Miss Deng admitted, in her Case Management Form, that she asked a friend to help

her find a supervisor and that she did not know Person A.

(c) Miss Deng, in a letter dated 31 January 2024 stated to ACCA that she was “careless” in respect of the process.

(d) Person A confirmed, in a witness statement, that they had not supervised Ms Deng.

Therefore, based on Miss. Deng’s admission and the evidence of Person A the Committee found allegation 1 (a) proven.

### **Allegation 1 (b)**

9. Person B, a Professional Development manager from ACCA, provided a statement explaining:

“In their personal statement for each PO, a trainee needs to provide a summary of the practical experience they gained. They must explain what they did, giving an example of a task. They must describe the skills they gained which helped them achieve the PO and they must reflect on what they have learned including what went well or what they would have done differently”.

A trainee’s personal statement for each PO must be their own personal statement that is unique to them and their own experience. This has been consistently referred to in ACCA’s published guides which Person B exhibits to their statement. Trainees must not therefore use a precedent or template or another trainee’s personal statement, which would undermine the PER element of the ACCA qualification. The 2019 published guide concludes (page 186),

“Your situation and experience are unique to you, so we do not expect to see duplicated wording, whether from statement to statement, or from other trainees. If such duplication occurs, then it may be referred to ACCA’s Disciplinary Committee.”

10. Miss. Deng stated in her application for membership of ACCA that she had achieved the following Performance Objectives (PO):

- Performance Objective 1: Ethics and professionalism
- Performance Objective 4: Governance, risk and control

- Performance Objective 8: Analyse and interpret financial reports

11. However, the Committee found that Miss. Deng had copied other people's PO statements based on the following evidence:

*“As part of ACCA’s investigation a careful analysis was carried out comparing the PO’s of each trainee who claimed to have been supervised by [Person A]. The purpose of this analysis was to determine if the PO statements of any one trainee were identical or significantly similar to the PO’s of any other trainee who claimed to have been supervised by [Person A].*

Where PO statements were the same or significantly similar to the PO’s of any other trainees, this would suggest at the very least, the trainee had not met the objective in the way claimed or possibly at all. That further, the practical experience claimed, had not been supervised by a practical experience supervisor, who would or should have knowledge of the trainee’s work.

This analysis was made possible in part by the company which provides ACCA with the online PER tool providing an Excel spreadsheet with all the PO’s downloaded from these 100 trainees. ACCA’s Investigating Officers were then able to analyse these PO’s from that spreadsheet.

In carrying out this analysis, ACCA has been careful to record the PO statement for any one PO which was first in time, on the basis this statement may be original and therefore written by the trainee based on their actual experience, unless there is evidence suggesting otherwise.

The ‘first in time date’ is the date the trainee requested that Person A approve the PO in question within their PER. This is on the basis that as soon as the PO narrative had been uploaded to the PER, the trainee would have then requested approval from Person A.

In relation to Miss Deng the analysis revealed:

- Six of her PO statements were first in time and
- Three of her PO statements, not being the first in time were identical or significantly similar to the PO’s contained in the PERs of many other ACCA trainees who claimed to have been supervised by Person A.

The analysis relating to Miss Deng is summarised in the tables below.



Miss Deng's PO1 statement in her PER training record (**page 39**) is significantly similar to the PO1 statement in the PER training record for the following trainee:  
Trainee 31

Miss Deng's PO4 statement in her PER training record (**page 46**) is identical or significantly similar to the PO4 statement in the PER training record for the following trainee: Trainee 31

Miss Deng's PO8 statement in her PER training record (**page 57**) is identical or significantly similar to the PO8 statement in the PER training record for each of the following trainees:  
Trainee 20 and Trainee 21

12. Miss Deng states that she was careless about the process.
13. The Committee, having considered all of the material (including written representations by Miss. Deng applying the relevant caselaw, bye laws and regulations and burden and standard of proof, the Committee concludes that Miss. Deng had not achieved the Performance Objectives, as set out at 1 (b) she had claimed to have done.

**Allegation 2 (a)**

14. The Committee applying:
  - (a) The facts as found in respect of 1 (a) above.
  - (b) The case of Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 at para 74 since approved in R v Barton and another [2020] EWCA Crim 575

makes the following findings:

- (i) Miss Deng submitted her application for membership to ACCA when she knew that Person A had not supervised her.
- (ii) In so acting, applying the standards of ordinary, decent people her actions were dishonest.

Therefore, Allegation 2 (a) is Proven.

**Allegation 2 (b)**

15. The Committee applying the facts as found in respect of 1 (a) above.

(a) The case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 at para 74 since approved in *R v Barton and another* [2020] EWCA Crim 575

makes the following findings:

(i) Miss Deng submitted in her application for membership to ACCA that she had completed Performance Objectives 1, 4 and 8 when she knew that she had not.

(ii) In so acting, applying the standards of ordinary, decent people was dishonest.

Therefore Allegation 2 (b) is proven.

16. Given the findings above, Allegation 2 (c), it being in the alternative, does not need to be considered.

17. Given the findings above, Allegation 3 (a) to (c), it being in the further alternative, does not need to be considered.

**Allegation 4**

18. Allegation 4 states that Miss. Deng:

“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) 01 September 2022;

(b) 16 September 2022;

(c) 03 October 2022.

19. The Appropriate Authority submitted a member of ACCA's Investigations Team sent an email to Miss Deng on 01 September 2022 attached to which was a letter which clearly set out the complaint and requested that Miss Deng respond to a number of questions by 15 September 2022. A copy of the letter is on **page 66-72** with the covering email on **page 64-65**.

The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring the Miss Deng to cooperate with the investigation by responding to the questions by the deadline. This email was sent encrypted with a password which is recorded in the email on **page 64**.

Shortly after this encrypted email was sent, a non-encrypted email was sent to Miss Deng on the same day (**page 73**) asking her to check if she had received the encrypted email and if not to let ACCA know.

An extract taken from ACCA's records on the day the above emails were sent (**page 74**) records that the email address for Miss Deng used for these emails was the email address on ACCA's system on that day.

Given Miss Deng did not respond by the above deadline, a further encrypted email was sent on 16 September 2022 with a copy of the letter attached to the previous email. In the covering email she was reminded of her obligation to cooperate by responding to the questions in the letter and to do so by 30 September 2022 (**page 75-76**).

In relation to this first reminder, an extract taken from ACCA's records on the day the above emails were sent (**page 77**) records that the email address used for these emails was the email address on ACCA's system on that day.

No response was received to this first reminder and therefore a second and final email was sent to Miss Deng on 03 October 2022 with a copy of the letter attached to the initial email. In the covering email Miss Deng was again reminded of her obligation to cooperate by responding to the questions by 17 October 2022 and that if she failed to do so ACCA would raise an allegation of failure to cooperate against her (**page 78- 79**).

In relation to this second and final reminder, an extract taken from ACCA's records on the day the above emails were sent records that the email address used for these emails was the email address on ACCA's system on that day (**page 80**)."

20. Miss Deng, in a letter sent on 31 January 2024 in an email to Ms. Murray the ACCA Hearings Officer, says:

*“In addition, in China, we are not used to using email for daily communication, and my personal email box is full of all kinds of advertising emails, so I rarely check the email, I missed your email, [Private], so that I am too busy to give a thought to other things, Sorry for the inconvenience.”*

### **THE COMMITTEE’S FINDINGS**

21. The Committee, having considered all of the material (including written representations by Ms. Deng applying the relevant caselaw, bye laws and regulations and burden and standard of proof, make the following findings in respect of Miss Deng that she:

“Failed to respond fully or at all to any or all of ACCA’s correspondence dated:

- (a) 01 September 2022;
- (b) 16 September 2022;
- (c) 03 October 2022.”

Therefore, allegation 4 is proven.

### **Allegation 5**

22. Allegation 5 states:

“By reason of her conduct, Miss Deng is

- a) Guilty of misconduct pursuant to ACCA byelaw 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 byelaw 8(a)(iii)”

23. The Committee having considered all of the material (including written representations by Miss. Deng) applies:

(a) The relevant caselaw:

Roylance v. General Medical Council (No 2) [2000] 1 AC 311, at p330, it was said in this Privy Council decision:

*“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.”*

(b) Burden and standard of proof

makes the following findings in respect of Miss Deng’s actions:

- (i) Such omissions are serious as the investigation relates to her “apparent achievement of ACCA’s Practical Experience Requirement training record which formed the basis of her application for ACCA membership.”
- (ii) She significantly failed to uphold professional standards.
- (iii) She has acted dishonestly.
- (iv) Ultimately, she has undermined the public confidence in the profession and brought it into disrepute.

## **SANCTION**

- 24. Miss Deng is therefore guilty of misconduct in respect of Allegations 1 (a) and (b), 2 (a) and (b) and 4 (a) (b) and (c). As allegation 5 (b) was in the alternative the Committee did not consider it further
- 25. In setting the appropriate sanction the Committee has applied the following:
  - (a) The Guidance as set out in the ACCA Guidance for Disciplinary Sanctions The Principle of Proportionality:

*“B3.2 Any interference in a member’s professional standing and ability to practise must be no more than the minimum necessary to uphold the public interest. The Committee must strike a fair balance between the rights of the relevant person and the public interest. This is necessary in order to comply with Article 8 of the European Convention on Human Rights, which protects the right to private and family life.”*

- (b) Considered all sanctions available to them in ascending order of seriousness.
- (c) The Committee recognised that dishonesty in a professional setting is a most serious matter.

*“E2.1 Dishonesty, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, undermines trust and confidence in the profession. The Committee should consider all possible sanctions and/or combinations of sanctions available to it in every case, nevertheless the courts have supported the approach to exclude members from their professions where there has been a lack of probity and honesty.”*

26. The Committee applying all the material, the guidance, the regulations, the byelaws and the case law finds the following:

**Aggravating Factors:**

- Miss Deng showed a lack of insight.
- She was dishonest for personal gain.

**Mitigating Factors:**

- Partial Admissions.
- Testimonial of Person C.
- Previous clean record.

27. The Committee has applied the “bottom up” approach in terms of sanction.

(a) Given the circumstances of this case, taking no further action would be entirely inappropriate.

(b) Admonishment is inadequate:

- Deliberate behaviour. No insight.
- Too serious conduct.
- Potential continuing risk if stayed an ACCA member.

(c) Reprimand is insufficient:

- Deliberate behaviour
- No insight.
- Too serious conduct.
- Potential continuing risk if stayed an ACCA member.

(d) Severe Reprimand is also inappropriate:

- No insight in failings.
- Intentional behaviour
- No rehabilitative steps have been taken.
- Little co-operation with ACCA
- Too serious conduct.
- Potential continuing risk if stayed an ACCA member.

(e) Exclusion is the only adequate sanction:

- Serious departure from professional standards.
- Abuse of trust.
- Lack of understanding insight in failings.
- Intentional behaviour.
- No rehabilitative steps have been taken.
- Little co-operation with ACCA.
- Potential continuing risk if stayed an ACCA member.

- (f) Miss Deng is excluded from Membership from ACCA in order to:
- Protect the public.
  - Protect the profession as well and re-enforce that only upholding the highest standards will be expected.

## **COSTS**

28. The Committee noted that Miss Deng will be prevented from applying for readmission for a minimum period of 12 months and any such application would be considered at a hearing of an Admissions and Licencing Committee.
29. The Committee takes the following into account:
- (a) The Schedule of Costs.
  - (b) Miss Deng's means.
  - (c) The award of costs should not cause her severe financial hardship and should be proportionate.
  - (d) The reduced hearing time needed to decide the matter.
30. The Committee makes a Costs order in the sum of £2,500.

**Mr. Andrew Gell**  
**Chair**  
**01 February 2024**