



HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Zhaopeng Ma

Heard on: Thursday, 15 – Friday, 16 February 2024

Location: Hearing held remotely via MS Teams

Committee: Ms Ilana Tessler (Chair),
Mr George Wood (Accountant),
Mr Mark Mills (Lay Member)

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and Capacity:** Mr Kevin Saunders (Case Presenter on behalf of ACCA)
Miss Mary Okunowo (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a), 2(b) and 4 found proved. Member removed from the Affiliate Register with immediate effect.

Costs: £7,781.25

INTRODUCTION/SERVICE OF PAPERS

1. The Disciplinary Committee (“the Committee”) convened to consider a number of Allegations against Mr Ma, who did not attend, nor was he represented.

2. The papers before the Committee were in a main bundle numbered 1 to 322, an additional bundle of 70 pages and a mini bundle of 36 pages. The Committee was also provided with a service bundle and a costs schedule.
3. In light of Mr Ma not being in attendance, Mr Saunders made an application to proceed in Mr Ma's absence.
4. The Committee first considered whether the appropriate documents had been served in accordance with the Complaints and Disciplinary Regulations ("the Regulations"). The Committee took into account the submissions made by Mr Saunders on behalf of ACCA and also took into account the advice of the Legal Adviser.
5. Included within the service bundle was the Notice of Hearing, dated 18 January 2024, thereby satisfying the 28 day notice requirement, which had been sent to Mr Ma's email address as it appears in the ACCA register. The Notice included details about the time, date and remote venue for the hearing and also Mr Ma's right to attend the hearing, by telephone or video link, and to be represented, if he so wished. In addition, the Notice provided details about applying for an adjournment and the Committee's power to proceed in Mr Ma's absence, if considered appropriate. There was a receipt confirming the email had been delivered to Mr Ma's registered email address.

PROCEEDING IN ABSENCE

6. The Committee received and accepted legal advice on the principles to apply in deciding whether to proceed with the hearing in Mr Ma's absence. The Committee was satisfied that the Notice had been served in accordance with the Regulations. Having so determined, the Committee then considered whether to proceed in Mr Ma's absence. The Committee bore in mind that although it had a discretion to proceed in the absence of Mr Ma it should exercise that discretion with the utmost care and caution.
7. Mr Ma responded to the Notice of hearing sent on 18 January 2024, saying "*I have readed the documents, and I found the hearing will take a such of [PRIVATE]. So, I decide not to attened the hearing officially.*" [sic]
8. Notwithstanding that indication, on 14 February 2024 the Hearings Officer sent Mr Ma the link to join the hearing, if he changed his mind.

9. The Panel noted that on 09 March 2023, Mr Ma completed a Case Management Form and indicated that he would be attending the hearing but would not be represented. He also indicated that if he did not attend, he consented to the Committee dealing with the case in his absence.
10. The Committee was of the view that Mr Ma faced serious allegations, including an allegation of dishonesty, and that there was a clear public interest in the matter being dealt with expeditiously. Mr Ma had been given the option to apply for an adjournment and had not done so. There was nothing before the Committee to suggest that adjourning the matter to another date would secure Mr Ma's attendance. In light of his clear indication that he would not be attending and his consent to the Committee dealing with the case in his absence, the Committee concluded that Mr Ma had voluntarily absented himself from the hearing and thereby waived his right to be present and to be represented at this hearing.
11. In all the circumstances, the Committee decided that it was in the interests of justice and in the public interest that the matter should proceed, notwithstanding the absence of Mr Ma. No adverse inference would be drawn from his non-attendance and the Committee would take into account his written responses to ACCA during the investigation and in the Case Management Form.

APPLICATION TO AMEND

12. Mr Saunders made an application to make a minor amendment to the matters alleged in that the wrong pronoun had been used in Particulars 3(a) and (b) with reference being made to 'her' rather than 'his'. Mr Saunders submitted that such a minor amendment could not in any way prejudice Mr Ma.
13. The Committee considered the application with care and accepted the advice of the Legal Adviser. The Committee was satisfied that in light of the minor nature of the changes required, changing 'her' to 'his' in two of the Particulars would not prejudice Mr Ma. Accordingly, the Committee allowed the application.

ALLEGATIONS/BRIEF BACKGROUND

14. It is alleged that Mr Ma is liable to disciplinary action on the basis of the following Allegations (as amended):

Mr Zhaopeng Ma ('Mr Ma'), at all material times an ACCA trainee:

1. Applied for membership to ACCA on or about 21 January 2021 and in doing so purported to confirm in relation to his ACCA Practical Experience training record:
 - a) His Practical Experience Supervisor in respect of his practical experience training in the period from 03 January 2008 to 19 January 2021 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) He had achieved the following Performance Objectives:
 - Performance Objective 2: Stakeholder relationship management
 - Performance Objective 4: Governance, risk and control
 - Performance Objective 18: Prepare for and plan the audit and assurance process
 - Performance Objective 19: Collect and evaluate evidence for an audit or assurance engagement
2. Mr Ma's conduct in respect of the matters described in Allegation 1 above was: -
 - a) In respect of Allegation 1a), dishonest, in that Mr Ma sought to confirm his Practical Experience Supervisor did supervise his practical experience training in accordance with ACCA's requirements or otherwise which he knew to be untrue.
 - b) In respect of allegation 1b) dishonest, in that Mr Ma knew he 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 Mr Ma paid no or insufficient regard to ACCA's requirements to ensure:
 - a) His practical experience was supervised;
 - b) His Practical Experience Supervisor was able to personally verify the achievement of the performance objectives he 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. By reason of his conduct, Mr Ma is guilty of misconduct pursuant to ACCA by-law 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.
15. Mr Ma became a student of ACCA on 13 April 2016 and was admitted as an Affiliate on 18 January 2021.
16. Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. 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.
17. A person undertaking practical experience is often referred to as an ACCA trainee. An ACCA trainee's practical experience is recorded in that trainee's Practical Experience Requirement (PER) training record, which is completed using an online tool called 'MyExperience' which is accessed via the student's MyACCA portal.
18. As part of their practical experience, each trainee is required to complete nine performance objectives (POs) under the supervision of a qualified accountant. An accountant is recognised by ACCA as a qualified accountant if they are a qualified accountant recognised by law in the trainee's country and/or a member of an IFAC (International Federations of Accountants) body. Once a trainee believes they have completed a PO, they are required to provide a statement in their PER training record describing the experience they have gained in order to meet the objective. Given this is

a description of their own experience, the statement should be unique to them. Through the online tool, the trainee then requests that their practical experience supervisor approves that PO.

19. In addition to approval of their POs, the trainee must ensure 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 supervisor. This means the same person can, and often does, approve both the trainee's time and achievement of POs.
20. If the trainee's line manager is not qualified, 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.
21. 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.
22. 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 POs had apparently been approved by a particular supervisor, namely Person A (referred to as Person A in the Allegations).
23. A person purporting to be Person A registered as each trainee's supervisor on the basis of them being a member of the Chinese Institute of Certified Public Accountants (CICPA) - an IFAC registered body.
24. Person B, Manager of ACCA's Professional Development Team, provided a statement for the purposes of these cases. They stated they would not expect a supervisor to have more than 2-3 trainees at any one time.
25. 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 a 'Person A'.
26. In light of the above, ACCA contacted Person A via CICPA. Person A denied having supervised any ACCA trainees.

27. As a result of the above, all 100 trainees were referred to ACCA's Investigations Team. By this date many of these trainees had obtained ACCA membership.
28. During ACCA's investigation of these cases, Person A was contacted, and they agreed to provide a statement. In their statement (provided to the Committee) they stated that although initially they advised ACCA they had never supervised any ACCA trainees, they did then recall having supervised a single ACCA trainee. Person A provided ACCA with the name of the trainee, which was not Mr Ma.
29. The 'Person A' who was registered as supervisor for the 100 trainees under investigation provided a copy of a CICPA registration card. The 'Person A' ACCA has contacted has confirmed in their statement this is their registration card, but they did not provide this to ACCA.
30. Person C, Senior Administrator in ACCA's Member Support Team, provided a statement explaining ACCA's membership application process. They stated that once an application is received, this is recorded in ACCA's Prod database by an automated process. Person C exhibited to their statement a sample record. The corresponding record for Mr Ma was provided to the Committee and records his application being received on 21 January 2021. However, due to the matters which are the subject matter of this case, Mr Ma's application for membership was not granted.
31. Person B confirmed in their statement the following:
 - POs and ACCA's exams are closely linked so that the knowledge and techniques, the trainee develops through their studies, are relevant in their workplace. The tasks and activities a trainee will be asked to demonstrate in the POs are also closely related to the type of work they will undertake on a regular basis in an accounting or finance role.
 - Each PO comprises 3 parts; (i) a summary of what the PO relates to, (ii) 5 elements outlining the tasks and behaviours a trainee must demonstrate to be able to achieve the PO and (iii) a 200 to 500-word concise personal statement in which a trainee must summarise how they achieved the PO.

- In total a trainee is required to complete nine POs. The POs numbered 1 to 5 are compulsory. There are then a number of 'Technical' POs, from which the trainee needs to choose 4. ACCA recommends to trainees that they choose the technical POs that best align to their role so that it is easier to achieve the PO. In that regard the ACCA's requirements as published in the 2019 guide, and subsequently, explain the following:

'The performance objectives you choose should be agreed with your practical experience supervisor. You should consider the following points when selecting which performance objectives to target

... ..

Match any business objectives you have been set at work with the performance objectives. This will allow you to work towards your business objectives and your PER at the same time.'

- 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 exhibited 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:

'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.'

- ACCA's PER guides are available online in China. Although the Guides are printed in English, all Chinese trainees will have taken their exams in English and therefore it would follow that they have a reasonable command of the English language.

- A practical experience supervisor means a qualified accountant who has worked closely with the trainee and who knows the trainee's work. "Qualified accountant" means a member of an IFAC member body and/or a body recognised by law in the trainee's country.
- A practical experience supervisor is usually the trainee's line manager. However, where the trainee's manager is not IFAC qualified, the trainee can appoint an external supervisor who is. In all but one of the 100 cases, including this case, Person A was recorded as an external supervisor. ACCA's PER guide (as exhibited to Person B's statement) states:

'If your organisation does not employ a professionally qualified accountant who can sign-off your performance objectives then you could ask an external accountant or auditor who knows your work, to be your practical experience supervisor and work with your line manager to sign off your objectives.'

- Trainees must enter their practical experience supervisor's details using the MyExperience online recording tool which generates an invitation to their nominated supervisor to act as their supervisor. If the supervisor accepts that invitation, the supervisor is required to record their details using the same recording tool. On the dates Person B was allegedly appointed supervisor for these 100 trainees, there was no requirement for the supervisor to provide the name of their employer. Instead, they were only required to register their job title and provide their email address.
- All practical experience supervisors have to be registered with ACCA and as part of that registration process have to provide evidence that they are a qualified accountant. A 'Person A' apparently provided evidence to ACCA in the form of a registration card from CICPA. As such they were, from ACCA's point of view, a 'qualified accountant'.

32. Information has been obtained from one of ACCA's China offices in China about the support given to ACCA trainees in China, as follows:

- ACCA's Customer Services Team in China email all ACCA affiliates in China inviting them to regular webinars provided by ACCA staff who can advise on the PER process.
- The Committee was provided with a list of webinars (translated using Google translate) relating to ACCA's membership application process dated from 14 December 2016 to 27 August 2022. There are a number dated in 2019 including one dated 30 May 2019, further details of which were provided to the Committee. The details include reference to:

'...Record 36 months of accounting-related work experience in myACCA , and complete 9 Performance Objectives, which will be confirmed online by your Supervisor...'

- These are live webinars and therefore trainees can ask ACCA China staff questions.
- The webinar details refer to encouraging affiliates to join the ACCA WeChat group of their regional service group and provides details of how to join. All the webinars listed include the same details about these WeChat groups. ('WeChat' is a social media app available globally but used extensively in China). In these WeChat groups, ACCA trainees can ask ACCA China staff questions including about the PER process.
- In addition to the WeChat groups, ACCA China uploads to its WeChat platform articles relevant to the ACCA membership process. Provided with the papers for the Committee was a list of those articles (translated using Google translate). This included an article 'How to become an ACCA Member Series 1/ Practical Experience Requirement (PER) Quick Guide', dated 15 January 2020. A copy of the article was also provided. The article refers to a mentor, which is the same as a supervisor. Under the heading 'Find a mentor' the article states in particular:

'Your experience must be under the supervision of a mentor to count towards PER. You must find a mentor with real work experience to monitor and confirm your work hours and performance goals...'

- Under the heading 'Determine performance goals' the article states in particular:

You have to choose which performance goals to accomplish, here are some points to keep in mind:

- *You need to complete 9 performance goals, including all 5 core goals and any 4 technical goals;*
- *Work with your practical experience mentor to develop a plan to achieve performance goals;*
- *Choose technical goals that are relevant to your day-to-day work, as they are easier to achieve;....*

33. Mr Ma's PER training record indicates that he was employed by one firm, namely Firm A. In particular it records the following:

- Mr Ma claimed he worked at Firm A where he was employed in the role of auditor from 03 January 2008 to no specified end date. This suggests Mr Ma remained employed at least up to the date his time / experience was approved on 21 January 2021. (In fact, Mr Ma was later to admit he had only been an intern at this firm and only for a period of approximately 8 months in 2018-2019.)
- The PER records this as 157 months of relevant practical experience which relates to the period of employment referred to above.
- In this role, the training record refers to two supervisors, Person A, who was authorised to approve his POs only and a second supervisor, Person D, who was authorised to approve his experience / time claim only, which they did on 21 January 2021.
- The Supervisor details for Mr Ma record that Person D was a 'non IFAC qualified line manager' and hence why Person D did not approve Mr Ma's POs in his PER.
- In relation to the POs, the PER records that Mr Ma requested Person A to approve all nine POs on 19 January 2021 and Person A apparently approved all nine POs on the same day.

- The Supervisor details for Mr Ma records that Person A was an external practical experience supervisor, hence why Person A only approved Mr Ma's achievement of his POs and not the period of his employment in the firm referred to.
34. As referred to by Person B, all PO statements should be unique and must not be copied from other trainees or from templates as this undermines the PER element of the ACCA qualification.
 35. As part of ACCA's investigation a careful analysis was carried out comparing the POs 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 POs of any other trainee who claimed to have been supervised by Person A.
 36. Where PO statements were the same or significantly similar to the POs 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. Furthermore, the practical experience claimed, had not been supervised by a practical experience supervisor, who would or should have knowledge of the trainee's work.
 37. 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 POs downloaded from these 100 trainees. ACCA's investigating officers were then able to analyse these POs 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.
 38. 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.
 39. In relation to Mr Ma the analysis revealed:

- Four of his nine PO statements, not being the first in time, were identical or significantly similar to the POs contained in the PERs of other ACCA trainees who claimed to have been supervised by Person A.
40. During ACCA's enquiries into this matter there was email correspondence between Mr Ma and ACCA. A copy of the correspondence was provided to the Committee.
 41. On 27 January 2021, Mr Ma emailed ACCA seeking advice regarding a double payment after paying his membership fee of £258.
 42. On 29 January 2021, ACCA emailed Mr Ma, thanking him for confirming that he wished to transfer to ACCA membership, but indicating that his application had been selected for a practical experience audit.
 43. On 31 January 2021, Mr Ma emailed ACCA enquiring about the status of his application for membership.
 44. On 02 February 2021, ACCA emailed Mr Ma and confirmed that his application for membership was under review.
 45. The same day, Person E (ACCA's Professional Development Officer) wrote to Mr Ma stating, "*In order to verify the information provided within your PER, I would be grateful if you can provide written confirmation from your employer, on the organisation's headed notepaper, stating your dates of employment, the position(s) you have held, and giving an outline of your main responsibilities - please ensure that all accounting and finance related tasks are clearly highlighted.*" Person E added, "*I would also be grateful if you could confirm your relationship with your Practical Experience Supervisor, Person A as well as their relationship with your employer.*"
 46. On 20 February 2021, Mr Ma emailed ACCA saying his status was still on hold and asking what was going on. He also asked "*What additional documents you need? I want to obtain my certification as soon as possible, thank you.*"
 47. On 22 February 2021, ACCA responded in an email, noting that ACCA had already requested additional information from Mr Ma in support of his membership application and copying in the email sent by Person E on 02 February 2021 (as detailed above).

48. On 24 February 2021, Mr Ma sent an email stating, *"Here is my additional documents for PER, I have did each requirements. Please approve my certification as soon as possibile, thank you so much."* [sic] Attached to the email was a letter. It was not on headed notepaper but did have some form of official stamp in Chinese on it. Under the heading 'Relationship with my external supervisor' it said, *"I work in an auditing firm, and I often work as an intermediary for Person A's company."* It went on to say how he, Mr Ma, would report to Person A on the progress of his work and they would judge him on it or give advice. Mr Ma added, *"And in terms of the work itself, we had a very effective communication, and I had to report to Person A regularly, and Person A would be a good fit as an external supervisor."* From his stance taken later in the investigation it is apparent that this account was completely fictitious.
49. On 26 February 2022, Person E again emailed Mr Ma advising him that his letter was required to be on an official letterhead, and that: *'... it is not clear if this letter has come from your employer or from yourself due to the content regarding your supervisor'*. Mr Ma was also asked to clarify the relationship between Person A and his second supervisor, Person D and Person D's relationship and job title within the organisation.
50. Mr Ma did not respond directly to that request, but on 16 March 2021 sent an email stating, *"...I still not receive any response from ACCA members, could you tell me what's going on?"* ACCA responded the same day, copying in the email of 26 February 2021 that he had not responded to.
51. On 17 March 2021, Mr Ma explained by email that he had asked Person A to *"reply the email and attached the documents..."*. He attached a further 'confirmation document', including reference to his relationship with Person A as follows:

"Person A is the CFO (partner) of a Company A. The firm name is Company A, which provides independent certified public accounting services in accordance with relevant laws and regulation and is qualified to provide services related to securities and future industries.

Our company has a lot of cooperation with their company, such as a joint audit of the same project. Of course, Person A's company is a well-known domestic firms, out company are mainly responsible for a number of subsidiary's audit, and then report to their company audit process, audit task and audit results.

In the work, Zhaopeng Ma often needs to report work situation, work tasks. Person A also gives guidance and a weekly task, which they ask him to complete and then evaluates tasks.

Person A is a certified public accountant and professional, so there's enough reason that they can be IFAC Qualified external supervisor.”

52. Although the letter is dated and stamped with a Chinese stamp, there is no signature and no identity of the person who wrote it. Again, from his stance taken later in the investigation, it is apparent that this account was completely fictitious.
53. ACCA made enquiries with Company A China in 2021 and it was established that Person A did not work for Company A in China. Furthermore, ACCA also contacted Person A, asking whether they had worked at any Company A office in China to which they said they had not.
54. On 01 April 2021, ACCA wrote to Mr Ma and included a request for the employer's official letter-headed paper. The correspondence asked Mr Ma to “... *please advise of the name of Person A's employer as well as their job title within this organisation. From your letter, it is unclear if they are a client of your organisation or if your organisation is a client of theirs. I would also be grateful if you could please clarify the relationship between Person A and your second supervisor, Person D and Person D's relationship and job title within your organisation*”.
55. On 17 April 2021, Mr Ma again wrote expressing his concern that the situation had not been resolved. ACCA responded the same day saying they needed further clarity from his employer as per the email sent on 01 April 2021, that had not been responded to.
56. Mr Ma still did not respond to the email of 01 April 2021, but on 26 November 2021 he wrote again to ask about the progress of his case.
57. On 28 November 2021, ACCA wrote back repeating the request from 26 February 2021, that Mr Ma had not fully responded to and as reiterated in the email sent to Mr Ma on 01 April 2021.
58. Mr Ma responded the same day in an email stating, “*Thank you for your reply, but this issue has not been resolved for a long time. This is the first time for me to deal with this*

application, and I don't understand a lot of it, nor does the supervisor. Therefore, many problems cannot be solved. Could I apply for a replacement, so that I can better complete the application. Pleas give me a chance, thank you.” [sic]

59. On 29 November 2021, ACCA sent an email to Mr Ma providing a bullet pointed list of the information still required.
60. On 04 January 2022, Mr Ma wrote again to express concern he had not been able to contact Person A, saying their cellphone number was changed, thereby perpetuating the myth that Person A was his supervisor, a fact he was later to admit was a lie.
61. On 19 January 2022, Mr Ma emailed ACCA to request a change of supervisor. He said, *“I am trying to contact the ‘OLD PES’ and still no response, probably Person A met [redacted], which lead to no reply. For now, Zhengzhou is the main prevention and control area. So, can I change another PES that help me doing the process quickly.”* [sic]
62. On 20 August 2022, Mr Ma sent ACCA an email in which he referred to being cheated and refers to having made a ‘mistake’. In the attached document, entitled ‘The Experience of Being Cheated’, Mr Ma said:

“After I have finished my examination of professional stage in Jan 2021, I am going to apply PER. I have no idea how to apply the PER, and then I was trying to seek some information in WEIBO in ACCA talking communities. You may know students would like to share the experience to apply PER, and lots of advertising about applying PER. At that moment, I was trying to ask the people how to apply the PER, they told me they are the legal way, they have external and internal supervisors, I don't need to provide anything, just few things (the experience, what job I have done in the past, the working period of experience, the company name), and they will handle the left things. From my side, I was worried about cheating, but they told me “Don't worry, and lots of students was did like that, and they provided some picture of conversations, which shows the students have achieve the certification”. And they have told me, they are the CICPA, everything will be fine, just pay some money. So, I followed their instruction and provide my accounting experience. And also, they require me not to log in my account and don't do any actions on my PER portal.

“After several months, the process of PER was still on processing, and ACCA asked me to provide some extra documents, the people I paid the money told me to write a letter about the specific job I have done in Firm A accounting firm with stamp, and don’t ask other things just follow the instruction. Few month after, my PER still have problem, I was trying to contract them, but no one answer me, and they have block me. At that moment, I relished I was cheated. After that, I was trying to contract ACCA and reregister the PER, and change the “FAKE SUPERVISOR” to a new supervisor who is the partner of Firm A.

This is the experience of being cheated. All in all, I accept the punishment from ACCA, even though I was a victim.” [sic]

63. Mr Ma also provided responses to some of ACCA’s questions. In particular, he stated, *“I don’t know who is Person A... I even didn’t know who is Person A. They didn’t supervise me in that manner.... I ACCEPT that I am not supervised by Person A in accordance with the attached Guidance.”*
64. It was thus apparent that all his earlier correspondence referring to Person A as his PES he had fabricated.
65. On 30 August 2022, ACCA sent a further email to Mr Ma in light of the revelations he had provided on 19 August 2022, asking him to provide documentary evidence of his employment with Firm A and details of the third party he dealt with in relation to his PER.
66. Mr Ma responded in an email on 01 September 2022, attaching a separate document, in which he said he worked as an auditor assistant in Firm A as an intern in 2018-2019 for a period of about eight months. He went on to say:

“As you know the global encounter COVID-19 which last for years, during the period 2010 to 2021, large numbers of people worked at home. Under that situation, I was discussed with the leader that I need free time as necessary, because I want to find another job and put effort on my ACCA examinations, and the leader agreed my proposal. During that period, sometimes the leader gave me some tasks in busy time, and they pay me some cash. This is the reason why I didn’t sign the formal contract and keep the role like an intern. Actually, we don’t need the formal contact, because I just do some time-consuming work and get some money, it is more like

an oral contract. So, I only can provide the certificate of internship, and cannot provide the formal, wage slips.” [sic]

67. Mr Ma said he found he could not contact the people he had paid money to for dealing with his PER.

68. Mr Ma was asked to provide evidence of the claimed supervision by Person A but he was unable to, and was only able to provide a screenshot relevant to a financial transaction. He also recounted an attempt to change supervisors, as evidenced in his supervisor records. He stated:

“Here is the thing, I felt so worried after found I cannot contact the people who I paid money, and then I was trying to ask help from ACCA membership and stated my situation. The ACCA told me that “change your OLD PES to a NEW one”. I hear that the accountant who has CPA certification can be PES so I was trying to ask help from my leader. And I followed the instruction by ACCA and change the FAKE to the NEW PES (Person F) who is the partner of Firm A. My leader told me that [Person F] has applied for the PES and click some buttons, but this kind of thing is out of Person F ability, so Person F told me how to cancel, but I also don’t know what to do for next step...

I am sorry I cannot find the shop and people in [redacted] and Wechat APP, it disappeared. But I have the picture which is the transaction.”

69. On 25 November 2022, ACCA emailed Mr Ma and provided him with a copy of the report of the disciplinary allegation that would be referred to an assessor for review. He was invited to make any comments he wished to.

70. On 26 November 2022, Mr Ma responded in an email attaching a document entitled ‘Self-statement’, in which he said:

“I am really sorry that my conduct has made some negative impact on ACCA, and I totally understand the ACCA gives disciplinary action to me. But I really want to say, I have no intention to be dishonest. I have attached my internship experience and work experience at the bottom of the page, which shows I have the real experience. As a standard of ordinary people with real work experience won’t find the PER agency to apply PER who intent to make fake documents on PO statements.

Nobody paly joke on his career. I admit that I want to find easy way to complete my PER. This phenomenon is too usual in China. For example: the tenant ask help from the house agency who provide service and you paid the money, both save the time. Here is the thing, in the beging I don't know the agency is intention to make fake PER documents, I have asked many times that whether they are the legally way to apply PER, the agency told me 'No worry', we have the people who is qualified for reviewing the PER, the only thing I need to do is providing the working experience. If my PER process encounters any issues, they will handle it. And they show many affiliates have become ACCA members. So, I choice to believe the PER agency. Actually, one is intent to cheat another who is hard to find the real world. Afterwards, I found I was cheated, and my PO statements is fake, then I do my best to cooperate with the investigator on the issues.” [sic]

71. Mr Ma also provided a letter of reference from the Director of Company B in Hong Kong, dated 19 August 2018, describing Mr Ma as an outstanding student on the [PRIVATE] in the summer of 2018.

DECISION ON FACTS/ALLEGATION AND REASONS

72. The Committee considered with care all the evidence presented and the submissions made by Mr Saunders. The Committee 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(a) - proved

73. Admitted and found proved on the basis of the admission and the evidence before the Committee.

Allegation 1(b) - proved

74. Admitted and found proved on the basis of the admission and the evidence before the Committee.

Allegation 2(a) & 2(b) - proved

75. The Committee then considered whether the behaviour found proved in Allegations 1(a) and 1(b) was dishonest. Whilst it considered each separately, the Committee recognised that they were clearly linked. The Committee considered what it was that Mr Ma had done, what his intentions were and whether the ordinary decent person would find that conduct dishonest. The Committee took into account the explanations provided by Mr Ma and his good character.
76. Mr Ma initially claimed that Person A had indeed supervised him, but eventually, when faced with incontrovertible evidence that they had not done so, he admitted that he did not know Person A and they had not supervised him. In his document entitled 'The Experience of Being Cheated', Mr Ma said that he had no idea how to apply his PER and so looked on the internet and found somebody who would do it for him, with very few questions asked in exchange for money. Mr Ma said he followed their instruction and provided his accounting experience. He then claimed he felt he had been cheated when he was unable to get in touch with the people who had done this for him.
77. On the evidence, as detailed above, the Committee was satisfied, on the balance of probabilities, that Mr Ma knew the PER supervisor requirements and that he could not rely on a third party off the internet to complete his PER and provide details of his supervisor in his application for membership to ACCA. It was simply implausible for Mr Ma to have felt cheated when he must have been aware that this clandestine approach to qualifying as a member of ACCA was wholly inappropriate. He clearly knew, by his own admission, that Person A was not supervising him and that he could not, therefore, legitimately rely on Person A to sign off his POs. The only logical and reasonable inference to draw from this behaviour was that Mr Ma intended to deceive ACCA into believing Person A was his supervisor in order to gain membership of ACCA.
78. In relation to the POs, the Committee noted that four POs ACCA had identified were identical or significantly similar to many other trainees' POs purportedly approved by Person A. The Committee was satisfied on the evidence that Mr Ma must have done the same with those POs, namely copied or adopted them. The only realistic explanation was that someone had provided Mr Ma with stock responses, which had been used for many other students, and Mr Ma copied or adopted them and pretended they were his own or relied on a third party to do that for him. The only reason for doing so was to deceive ACCA into believing he had the relevant experience shown in those POs and thereby to allow him to apply to become a member of ACCA.

79. Furthermore, the Committee was satisfied that the aforementioned POs Mr Ma submitted, or that were submitted on his behalf, were not genuine and could not, therefore, reflect the work experience he had completed, but rather were stock answers provided by whoever was co-ordinating all these stock responses.
80. In addition, the Committee took into account the evidence of Person A that they had not acted as Mr Ma's supervisor, they had not signed off any of his POs, and they had never worked at Company A, as initially claimed by Mr Ma.
81. The Committee could not know the precise mechanics of how the PO statements were completed and the PER submitted. However, whatever process was followed it was clear from his own responses that Mr Ma was complicit in, and therefore aware of, the provision of false POs so that he, Mr Ma, could add those to his PER, or someone could do it on his behalf, and subsequently enable him to illegitimately apply to become an ACCA member.
82. Mr Ma knew that Person A had not supervised his work nor acted as his supervisor, in accordance with the necessary requirements. In addition, Mr Ma provided no evidence to demonstrate that he had achieved the four performance objectives he claimed, in the manner he claimed or at all, but rather relied on stock answers provided by a third party and, initially, lied about Person A being his supervisor. Indeed, he took the subterfuge further by providing ACCA with false documents purporting to show that Person A had been his supervisor and this, the Committee considered, was a clear indication of his true knowledge and state of mind at the time this process actually begun. Far from being the victim of some sort of cheat, as he claimed, Mr Ma had hoped to keep ACCA in the dark about the true position with the submission of fabricated documents until such time as his deceit was exposed, when Person A provided a statement confirming they had never supervised him.
83. The Committee was satisfied that Mr Ma knew that what he was doing was dishonest and was in no doubt that an ordinary decent member of the public, in full possession of the facts of the case, would find the entirety of this conduct to be dishonest. The Committee therefore found Allegations 2(a) and 2(b), on the balance of probabilities, proved.
84. Having found Allegations 2(a) and 2(b) proved it was not necessary for the Committee to consider Allegations 2(c) or 3(a),(b) and (c), which were alleged in the alternative.

Allegation 4 - proved

85. Having found the facts proved in Allegations 1(a), 1(b), 2(a) and 2(b), the Committee then considered whether they amounted to misconduct. The Committee considered there to be cogent evidence to show that Mr Ma sought the assistance of a third party to provide false POs and to act as his PES in order to allow him, Mr Ma, to, illegitimately, apply to become a member of ACCA. This premeditated and calculated, dishonest behaviour demonstrated a complete disregard for ACCA's membership process and allowed Mr Ma to apply to become a member of ACCA when not qualified to do so. Such behaviour seriously undermines the integrity of the membership process and the standing of ACCA. It brings discredit upon Mr Ma, the profession, and ACCA. The Committee considered this behaviour to be very serious; it would be considered deplorable by other members of the profession and the public and the Committee was in no doubt it amounted to misconduct.
86. The Committee therefore found Allegation 4 proved in relation to the matters set out in 1(a), 1(b), 2(a) and 2(b) inclusive.

SANCTION AND REASONS

87. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Saunders. 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 Mr Ma, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser.
88. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
89. The Committee considered the misconduct involved the following aggravating features:
- Deliberate, sustained dishonest acts for personal benefit at the expense of the public and the profession;
 - An element of premeditation, planning and collusion with a third party;

- Undermining the integrity, and thereby undermining public confidence, in acca's membership process;
- Attempts to cover up his dishonest behaviour by telling lies to acca and furnishing fabricated documentation in support of those lies;
- A lack of insight into his dishonest behaviour;
- No evidence of remediation, genuine regret or remorse for his dishonest conduct.

90. The Committee considered there to be the following mitigating factors:

- The absence of any previous disciplinary history with ACCA;
- Admissions to some of the matters alleged, but of limited mitigation given the initial deception and attempts to cover up his dishonest behaviour.

91. The Committee did not think it appropriate, or in the public interest, to take no further action or order an admonishment in a case where an Affiliate of ACCA had disregarded the membership requirements and acted dishonestly when submitting information in connection with his PER in an attempt to become a full member of ACCA.

92. The Committee then considered whether to reprimand Mr Ma. 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 conduct found proved. The Committee did not consider Mr Ma's misconduct to be of a minor nature and he had shown no insight into his dishonest behaviour. Dishonest behaviour is very serious. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of the misconduct in this case.

93. 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 Committee considered none of these criteria to be met. The guidance adds that this sanction may be appropriate where most of the following factors are present:

- The misconduct was not intentional and no longer continuing;
- Evidence that the conduct would not have caused direct or indirect harm;
- Insight into failings;
- Genuine expression of regret/apologies;
- Previous good record;
- No repetition of failure/conduct since the matters alleged;
- Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;
- Relevant and appropriate references
- Co-operation during the investigation stage.

94. The Committee considered that virtually none of these factors applied in this case and that accordingly a severe reprimand would not adequately reflect the seriousness of Mr Ma's behaviour. His misconduct was intentional, and he has not demonstrated any insight into his dishonest behaviour. He has offered no real expression of regret or apology. He does have a previous good record, but there has been no evidence of rehabilitative steps. He had provided no relevant references (the one he did provide was from 2018 and related to his attendance on a course). It is right to say that he did co-operate to a limited extent during the investigation stage, although it was clear that his accounts about his relationship with Person A were untrue and he attempted to deceive ACCA by submitting false documentation in support of his deceit.

95. To allow someone to remain as an Affiliate of ACCA who has lied about the identity of their personal experience supervisor and relied on false POs in an attempt to obtain membership of ACCA, would be contrary to the whole process of qualifying as a Member of ACCA. Furthermore, had Mr Ma been admitted as a member there was the potential to harm a substantial number of clients, given he may not have had the necessary experience to be qualified as a Member of ACCA. He also attempted to cover up his dishonesty by providing false documentation, thereby further exacerbating his dishonest behaviour.

96. The Committee noted that the Association provides specific guidance on the approach to be taken in cases of dishonesty, which is said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than striking off. The guidance also states that 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.”*
97. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Ma’s case that warranted anything other than removal from the Affiliate Register. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was removal. The Committee was cognisant of the severity of this conclusion. However, providing false information about one’s practical experience supervisor in order to satisfy one’s PER represents behaviour fundamentally incompatible with being an Affiliate of ACCA and undermines the integrity of ACCA’s membership process. The PER procedure is an important part of ACCA’s membership process, and the requirements must be strictly adhered to by those aspiring to become members.
98. In the Committee’s view, Mr Ma’s dishonest conduct was such a serious breach of by-law 8 that no other sanction would adequately reflect the gravity of his offending behaviour.
99. The Committee also considered that a failure to remove an Affiliate from the Register who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its Regulator. The public needs to know it can rely on the integrity, ability, and professionalism of those who aspire to be members of ACCA. In order to maintain public confidence and uphold proper standards in the profession it was necessary to send out a clear message that this sort of behaviour is unacceptable.

100. The Committee therefore ordered that Mr Ma be removed from the Affiliate Register.

COSTS AND REASONS

101. ACCA applied for costs in the sum of £9191.25 to cover the costs of bringing this case. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable. However, the costs of the Hearings Officer and Case Presenter included in the sum quoted were based upon two days when in fact the hearing took less than two days, albeit the drafting of the written determination took the case into the second day. Accordingly, the figure would be reduced to reflect this.

102. Mr Ma provided details of his means in a Statement of Means, indicating that [PRIVATE]. However, he also indicated that he had [PRIVATE]. Accordingly, the Committee considered there to be no justification for reducing the costs on the basis of Mr Ma's means. Also, the Committee took into account the fact that some of the costs incurred in this case during the investigation stage had been as a direct result of Mr Ma's behaviour in attempting to cover up his dishonest conduct.

103. The Committee had in mind the principle that members against whom an allegation has been found proved should pay the reasonable and proportionate cost of ACCA in bringing the case. This was because the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings.

104. In deciding the appropriate and proportionate Order for costs the Committee took into account the above factors and decided to make an Order for costs in the sum of £7,781.25.

EFFECTIVE DATE OF ORDER

105. In light of its decision and reasons to remove Mr Ma from ACCA's Affiliate Register and the seriousness of his misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect.

Ms Ilana Tessler
Chair

16 February 2024