

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Feier Guo

Heard on: Thursday, 22 and Friday, 23 February 2024.

Location: Held Remotely by Microsoft Teams

Committee: Mr Neil Dalton (Chair)
Dr David Horne (Accountant)
Mr Nigel Pilkington (Lay)

Legal Adviser: Ms Tope Adeyemi

Persons present

and Capacity: Mr Ryan Ross (Case Presenter on behalf of ACCA)
Mr Feier Guo (Member)
Miss Mary Okunowo (Hearings Officer)
Ms Junling Gao (Interpreter)

Summary: Removal from the affiliate register.

Costs: £7,500.00

INTRODUCTION

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1. The Disciplinary Committee (“the Committee”) met to hear allegations against Mr Guo. Mr Guo was present but not represented. ACCA was represented by Mr Ryan Ross. The papers before the Committee consisted of a main bundle numbered 1 - 248, an “additional” bundle numbered 1 – 120, a bundle of performance objectives numbered 1 – 116, a service bundle numbered 1 – 21 and a two-page memorandum and agenda.

AMENDMENT OF ALLEGATIONS

2. At the start of the hearing, ACCA made an application to amend the allegations. It was highlighted that the order of the names in the first line of the schedule of allegations had been mixed up. As a result, ACCA sought to change the order so that it would firstly read as “Mr Feier Guo” and thereafter “Mr Guo”. It was submitted that the proposed amendment was a technical change only and did not affect the evidence. Mr Guo did not object to the proposed amendment and stated that he agreed to it.
3. The Legal Adviser referred the Committee to Regulation 10(5) of the Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014 (‘CDR’). Regulation 10(5) allows the Committee at any stage, upon the application of either party or on its own motion, to amend the allegations provided the relevant person is not prejudiced in the conduct of their defence.
4. The Committee accepted that the proposed amendment was purely technical and would not cause prejudice to Mr Guo. Given this and in the absence of any objection from Mr Guo, the Committee agreed to make the amendment sought.

BACKGROUND

5. In 2021 the Professional Development team of ACCA became aware that 100 ACCA trainees had claimed in their completed PER training records that their Performance Objectives (‘PO’) had been approved by the same supervisor, Person A. Mr Guo 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.

6. A review of Mr Guo's PER logbook was conducted and it records that he was employed between 08 January 2018 and 18 January 2021 as Treasury Manager at Firm B. He refers to having two supervisors, one of whom (Person A) was authorised to approve his POs only. In relation to the POs, the training record confirms that Mr Guo asked Person A to approve all nine POs on 25 January 2021 and that Person A apparently approved all nine POs that day. When contacted, Person A denied having supervised any of the 100 trainees including Mr Guo. The matter was therefore referred to ACCA's investigations teams.
7. In respect of Mr Guo's own PO statements, the content of 7 of them were considered by ACCA to include identical or significantly similar content to the POs contained in the PERs of many other ACCA trainees who claimed to have been supervised by Person A.
8. Mr Guo applied for membership on 25 January 2021. ACCA initially sent him an email advising him that his application had been accepted. However, shortly afterwards he received a further email from ACCA advising that the membership acceptance email had been sent in error. His application had been selected for a practical experience audit on account of the issues identified concerning Person A, and, because of this, Mr Guo remained an ACCA affiliate.
9. Mr Guo provided responses to ACCA following being informed his PER was subject to audit. In March 2021 he provided a letter written on Firm B's headed paper which set out the dates of his employment, his work history and job role. The letter explained that Person A had a "very close business relationship" with Firm B, and asserted that:

"[...] Guo Feier has a lot of contact with [Person A] in business, often asks them questions or reports some financial related matters. At the same time, [Person A] knows our company's business situation and work content of Guo Feier very well. When Guo Feier invited them to be his external supervisor, they basically weekly communicated with each other about work. Person A would also teach Guo Feier what was missing and how to improve..."

10. Mr Guo provided a further response to ACCA in a letter dated 14 September 2022. In it, he apologised for his actions and stated that he didn't pay any attention to the PER guidance details and had the wrong idea of what was acceptable for PER. He stated: *"In my wrong idea, if I have been engaged in the accounting and financial relevant work for more than three years and have not deviated from this major and engaged in the work of other industries, the PER is done. But through your emails, I now know that these things are completely wrong."*

11. Mr Guo added that *"Although I was very busy at work, I was still very happy that I passed all the exams at the end of 2021 through my efforts, and in my opinion, all were done. Until one meeting (I can't remember which one it was), an external participant said that after passing all ACCA exams, there were a few additional steps to do requiring 36 months of work experience and know how to do it, and can help me with this. (Their purpose was to maintain a close relationship with me, aiming to obtain any project opportunities in the future, they didn't get any business actually). Because there were too many things to do, I did not read the requirements of the guide carefully. At the same time, I overlooked its importance and seriousness, and I didn't think it was that complicated. So I used or only made very few modifications to the expression shared with me, and they did the rest. I thought [Person A] was their colleague or their friend, therefore I didn't think too much even when I received the first mail."*

12. In response to questions posed by ACCA arising from his comment *"they did the rest"*, Mr Guo provided the following explanation:

"Person A asked me a few questions, including employment, business background, job description, working experience and so on, and even the login information. In my mind, Person A was like a journalist who turns what I said into words, which can save my time. It was my mistake not to have a clear understanding of the procedures and requirements of PER at that time."

ALLEGATIONS

13. Mr Guo, faced the following amended allegations:

Mr Feier Guo ('Mr Guo'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 25 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 08 January 2018 to 25 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 3: Strategy and innovation
- Performance Objective 4: Governance, risk, and control
- Performance Objective 5: Leadership and management
- Performance Objective 6: Record and process transactions and events
- Performance Objective 7: Prepare external financial reports
- Performance Objective 8: Analyse and interpret financial reports
- Performance Objective 9: Evaluate investment and financing decisions

2. Mr Guo's conduct in respect of the matters described in Allegation 1 above was: -

a) In respect of Allegation 1a), dishonest, in that Mr Guo 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 Guo knew he had not achieved all or any of the performance objectives referred to in paragraph 1b) 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 Guo 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 further 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 Guo 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

- 14. The Committee considered all the evidence presented and the submissions made by Mr Guo and Mr Ross. Mr Guo admitted allegations 1(a) and (b) and 3 (a), (b) and (c). Allegations 1(a) and (b) were found proved by reason of admission, however as allegations 3(a), (b) and (c) had been drafted in the alternative, the Committee could only note the admission as it was required to reach its own view on whether the facts were found proved or not. 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 (a) – Proved

15. This allegation was found proved by reason of admission.

Allegation 1 (b) – Proved

16. This allegation was found proved by reason of admission.

Allegations 2 (a) and (b) – Proved

17. The Committee considered whether Mr Guo acted dishonestly 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”). The test was expressed at paragraph 76 of the court’s judgement in the following terms:

“When dishonesty is in question the fact-finding tribunal must first ascertain(subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

18. In his written and oral evidence Mr Guo, in explaining what occurred with the submission of his PER record, stated that one of his customers had offered to help him with the work experience aspect of the ACCA membership qualification process. He accepted their help and thought what had been submitted on his behalf was appropriate. It was his position that he had not

been dishonest in doing this. Mr Guo also provided further details on his professional experience and qualifications, which included a master's degree at a UK Business School.

19. The Committee took into account the evidence provided by ACCA on the information that was available to ACCA trainees concerning the membership process and PER. Such information included written guidance documents, live webinars and articles that were uploaded to ACCA's China WeChat groups. The Committee considered it implausible that Mr Guo had not understood what he needed to do or that he was not aware of the requirements around Practical Experience Supervision and the achievement of performance objectives. It reached this view bearing in mind Mr Guo's academic experience and the extensive information on the process that was readily available. It concluded that Mr Guo had likely been aware of the expectations around the PER at the time and in particular that PO statements were supposed to be his own work. However, despite this knowledge, he chose to confirm that Person A was his Practical Experience Supervisor when Person A was not and to claim to have achieved the POs with the use of supporting statements which he knew had not been written by him.
20. The Committee were also mindful that in March 2021 Mr Guo had sent ACCA a letter confirming that he knew Person A. Mr Guo has since gone on to accept that he does not know Person A and therefore the content of the letter was incorrect. The Committee found there to be no good reason as to why Mr Guo would send ACCA such a letter and considered it to be demonstrative of his intention to deceive ACCA about his Practical Experience.
21. Overall, the Committee found that Mr Guo's actions in regard to the submission of his PER record to be deliberate and it was satisfied that such conduct was dishonest by the standards of ordinary decent people. It follows therefore that the Committee found allegations 2 (a) and (b) proved.

Allegation 2 (c) - N/A

22. As allegation 2 (a) and (b) were found proved, the Committee did not go on to consider allegation 2 (c) which was drafted in the alternative.

Allegation 3 (a), (b) and (c) - N/A

23. As allegations 2 (a) and (b) were found proved, the Committee did not go on to consider allegations 3 (a), (b) and (c) which were drafted in the alternative.

Allegation 4

24. The Committee considered that Mr Guo's dishonest actions in regard to his Practical Experience supervision and the achievement of his POs, fell far short of what was expected of a registered accountant. Further, the submission of the PER training record represents a fundamental part of becoming an ACCA member and as a result, Mr Guo's actions had the potential to undermine the integrity of the qualification process. It found the behaviour to be serious and discreditable to the accountancy profession and to amount to misconduct. The Committee therefore found Allegation 4 proved.

SANCTION AND REASONS

25. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Guo and by Mr Ross. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA effective from February 2024 and had in mind the fact that the purpose of sanctions was not to punish Mr Guo but to protect the public. 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.
26. 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 Mr Guo, and this was to his credit. It noted that Mr Guo had co-operated with ACCA: he had made early admissions in respect of key aspects of the matters alleged against him and had played a full part in the hearing, thereby assisting the process. Mr Guo had also expressed consistent

remorse for his actions and had demonstrated some insight into what he had done wrong. The Committee considered all these factors amounted to mitigation. The committee had regard to a testimonial letter from a Person B who commented positively about Mr Guo's work. However, the Committee were only able to place limited weight on the content of the testimonial as it was unclear whether Person B was aware of the allegations that Mr Guo faced.

27. The committee noted a number of aggravating features in this case. It considered that Mr Guo's dishonest conduct included elements of sophistication, in that he colluded with others, and there was pre-planning and premeditation. While there was some evidence of insight, the insight was limited. Moreover, the conduct had the potential to cause reputational harm to the profession as it may have resulted in his admission to ACCA membership in circumstances where he had not achieved the requirements, thereby posing a risk to the public.
28. Set against those mitigating and aggravating factors and taking into account all the circumstances of the case, the Committee did not think it was appropriate, nor in the public interest, to take no further action. Neither did it consider it would be appropriate to order an admonishment in a case where (as here) a member had disregarded aspects of the membership requirements and acted dishonestly.
29. The Committee then considered whether to reprimand Mr Guo. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature and there is sufficient evidence of an individual's understanding and genuine insight into the conduct found proved. The guidance goes on to state that a reprimand may be appropriate where the conduct was not in deliberate disregard of professional obligations, and the period of misconduct was stopped as soon as possible. The Committee did not find those factors to be present in the current instance. While Mr Guo demonstrated some insight into what had occurred, the Committee had found his conduct to be deliberate. It was also not considered to be minor in nature.

30. 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. No evidence had been marshalled of any rehabilitative steps that had been taken by Mr Guo to ensure the behaviour would not re-occur and, overall, the conduct was considered too serious for a severe reprimand.
31. The Committee went on to consider the guidance relating to removal from the affiliate register. Mr Guo had acted dishonestly, with the Committee reaching the view that such dishonesty had been serious. His misconduct had created a risk of reputational harm to the profession, as there was potential for Mr Guo to have been admitted to membership without having met the requirements. Further, Mr Guo had attempted to cover up his wrongdoing when, following being informed that his membership was on hold, he submitted a letter to ACCA falsely confirming he knew and worked with Person A. In all the circumstances the Committee considered removal from the affiliate register to be the most appropriate and proportionate sanction.

COSTS AND REASONS

32. ACCA applied for costs in the sum of £10,480.83. 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 Committee did not have any information on Mr Guo's means. He had been asked by ACCA prior to the hearing and during the course of the proceedings whether he wished to complete a statement setting out his means however he declined, explaining that he accepted he had acted wrongly and that he was willing to pay.

33. The Committee was satisfied that ACCA was entitled to claim its costs. However, it considered it appropriate to make a deduction to the amount claimed having regard to the time saved to the duration of the hearing. In the Committee's view, matters had been expedited due to Mr Guo's co-operation. It was noted, in particular, that Mr Guo had been willing for the hearing to continue on day one notwithstanding that it was late evening where he was. The Committee therefore ordered Mr Guo to pay ACCA's costs in the sum of £7,500.00.

EFFECTIVE DATE OF ORDER

34. In accordance with Regulation 20(1)(a) of the Regulations, the order relating to Mr Guo's exclusion from membership will take effect at the expiry of the appeal period. The Committee acknowledged that ACCA sought an immediate order, but it had not been established that there was a need for an immediate order nor that it was in the public interest.

Mr Neil Dalton
Chair
23 February 2024