

HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of:	Miss Jia Yu Ban
Heard on:	Wednesday, 31 January – Thursday, 01 February 2024
Location:	Held remotely by Microsoft Teams
Committee:	Ms Valerie Paterson (Chair) Ms Andrea White (Accountant) Ms Rachel O'Connell (Lay)
Legal Adviser:	Ms Helen Gower (Legal Adviser)
Persons present and Capacity:	Miss Jia Yu Ban Ms Elaine Skittrell (Case Presenter) Miss Mary Okunowo (Hearings Officer)
Summary	Allegations 1a), 1b), 2a), 2b), 4a), 4b) 4c), 5a) proved. Exclusion from membership with immediate effect
Costs:	£150

INTRODUCTION

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Miss Jia Yu Ban. ACCA was represented by Miss Skittrell. Miss Ban was

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present and represented herself. The papers before the Committee consisted of a main bundle numbered 1-263, an “additional” bundle numbered 1-64, a bundle of performance objectives numbered 1-21, a service bundle numbered 1-26, and a two-page memorandum and agenda.

ALLEGATIONS

Jia Yu Ban (‘Miss Ban’), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 19 January 2021 and in doing so purported to confirm in relation to her ACCA Practical Experience record:
 - a) Her Practical Experience Supervisor in respect of her practical experience training in the period from 19 January 2016 to 19 January 2021 was Person ‘A’ when Person ‘A’ did not supervise that practical experience training in accordance with ACCA’s requirement as published from time to time by ACCA or at all.
 - b) She had achieved the following Performance Objectives:
 - Performance Objective 4: Governance, risk and control
 - Performance Objective 10: Manage and control working capital.
2. Miss Ban’s conduct in respect of the matters described in Allegation 1 above was:-
 - a) In respect of Allegation 1a) dishonest, in that Miss Ban sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA’s requirements or otherwise which she which she knew to be untrue;
 - b) In respect of allegation 1b) dishonest, in that Miss Ban 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) and 2b) above, such conduct was reckless in that Miss Ban 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 Ban is

a) Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all of 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 bye-law 8(a)(iii)

BRIEF BACKGROUND

2. Miss Ban was admitted as an affiliate member of ACCA on 13 April 2020. She submitted an application for full membership on or about 19 January 2021.
3. Part of the requirement of becoming an ACCA member, in addition to passing the relevant exams, is the completion of practical experience. ACCA's practical experience requirement ('PER') is a key component of the ACCA qualification.
4. ACCA's PER is designed to develop the skills needed to become a professionally qualified accountant. There are two components to the PER:
 - Completion of nine performance objectives ('POs'). Each PO includes a statement of 200 to 500 words, in which the student explains how they have achieved the objective. They should, therefore, be unique to that student. The PO must be signed off by a practical experience supervisor ('PES'), who must be a qualified accountant recognised by law in the relevant country and/or a member of an IFAC body. They must have knowledge of the student's work in order to act as a PES. The PES is typically the student's line manager, though if their line manager is not suitably qualified, they can nominate an external supervisor provided the external supervisor has sufficient connection with the trainee's place of work.
 - Completion of 36 months practical experience in accounting or finance related roles, verified by a PES. The period of practical experience may be verified by a non-IFAC qualified line manager.
5. Those undertaking the PER are known as trainees. The trainee's progress towards the PER is recorded online in their PER Training Record. The Training Record is completed using an online tool called 'MyExperience' which is accessed via the student's MyACCA portal.

6. In support of her application for membership, Miss Ban submitted a PER Training Record. She claimed she had achieved her practical experience by working for Company B and Company C.
7. Miss Ban stated that she had worked for Company B as an Accountant from 19 January 2016 to 31 March 2020. Miss Ban indicated that she had practical experience of 50 months with Company B. In relation to this role, Miss Ban's experience/time was authorised by Person B. Person B is recorded as a 'non-IFAC qualified line manager'.
8. Miss Ban also stated that she worked for Company C from 01 April 2020 as a Financial Assistant. No end date was recorded, suggesting that Miss Ban remained employed up to the date she submitted her application for membership (a period of 9 months). Miss Ban's experience/time was authorised by Person C.
9. Miss Ban's training record referred to Person A as her 'IFAC qualified external supervisor' in respect of her employment with Company B and Company C. On 19 January 2021, Person A approved all nine of Miss Ban's POs, the same day they were submitted by Miss Ban.
10. During 2021 it came to the attention of ACCA's Professional Development team that between December 2019 and January 2021, around 100 ACCA trainees had submitted PER Training Records in which they claimed their POs had been approved by Person A. ACCA's case, supported by evidence from Person D, Manager of ACCA's Professional Development Team, was that it would not be expected that a PES had more than two to three trainees at any one time.
11. A review was carried out by ACCA's Professional Development Team. It noted that a number of POs submitted by the trainees Person A had allegedly supervised were identical or strikingly similar to each other. In relation to Miss Ban, the review showed that seven of her PO statements were first in time. ACCA therefore accepts that in the absence of any other evidence, those PO statements were written by Miss Ban and based on her experience. However,

PO 4 and PO 10 were not first in time and were strikingly similar to POs submitted by other trainees.

12. Person A, who is a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body, was contacted by ACCA. They provided witness evidence stating they had only supervised one ACCA trainee who was not one of the 100 trainees referred to above.
13. On 02 March 2021, a member of ACCA's Professional Development Team sent an email to Miss Ban asking her to provide written confirmation from her employers of the dates of her employment, and the relationship between the employer and Person A. On 06 April 2021, Miss Ban provided an attachment on what purported to be her employer's letter-headed paper. This letter stated that Person A was a partner of Company A, accounting advisers to Miss Ban's employers, and that Person A knew Miss Ban's work well.
14. ACCA made enquiries with Company A and provided details from Person A's registration card. The HR Manager for Company A advised that there was no record of Person A, and that a person born in 1990 could not be a partner. ACCA also contacted Person A who stated that they had not worked at any office of Company A. They confirmed this in their statement.
15. The matter was referred to ACCA's Investigations Team. A member of that team sent an email to Miss Ban's registered email address on 01 September 2022. Attached to the email was a letter which set out the complaint and requested that Miss Ban respond to a number of questions by 15 September 2022. The letter also referred to the Complaints and Disciplinary Regulation 3(1) requiring Miss Ban to cooperate with the investigation by responding to the questions by the deadline. This e-mail was sent encrypted with a password and a non-encrypted email was sent to Miss Ban the same day asking her to check if she had received the encrypted email and if not to let ACCA know.
16. ACCA did not receive a response from Miss Ban and further encrypted emails were sent on 16 September 2022 and 03 October 2022, with a copy of the letter attached to the previous email. In the 03 October 2022 e-mail Miss Ban was

again reminded of her obligation to cooperate and was advised that if she failed to respond to the questions by 17 October 2022 ACCA would raise an allegation of failure to cooperate against her.

17. ACCA's China office sent a mobile message to each trainee who had a recognisable mobile number recorded in ACCA's records. A spreadsheet provided by ACCA's China office records that a message was successfully delivered to Miss Ban's mobile number on 04 September 2022. The message read as follows:

"IMPORTANT: On 1 September 2022 ACCA sent a password protected email with a letter attached to your ACCA registered email address. The response deadline is 15 September 2022. If you cannot open the letter, please immediately email complaintassessment@accaglobal.com providing your full name, ACCA ID and date of birth."

18. On 28 March 2023 Person E, a Paralegal involved in the preparation of the case, recorded a telephone conversation with Miss Ban. Miss Ban informed Person E that she had not received the case management form that had been sent on 15 February 2023. The same day Person E arranged for another copy of the case management form to be sent to Miss Ban, and she confirmed that she had received it.
19. Miss Ban completed the case management form on 03 April 2023. In this form she stated that she had not received the e-mails dated 01 September 2022, 16 September 2022, or 03 October 2022.
20. On 26 May 2023, Person E informed Miss Ban that ACCA's case management system showed that all three e-mails had been opened. Person E invited Miss Ban to comment, but they did not receive a reply from Miss Ban.

DECISION ON FACTS AND REASONS

21. The Committee considered the documents before it, the submissions of Ms Skittrell on behalf of ACCA and the advice of the Legal Adviser. The Committee

bore in mind that the burden of proving an allegation rests on ACCA and the standard to be applied is proof on the balance of probabilities.

22. Miss Ban did not challenge the evidence in the witness statements of Person A or any of the ACCA witnesses and the Committee accepted that evidence.
23. Miss Ban chose to make submissions to the Committee rather than to give evidence and be cross-examined. The Committee considered Miss Ban's submissions carefully, but it decided to give them little weight in the context of the documentary evidence available. Her brief statements were not subject to testing or probing. Within ACCA's investigation Miss Ban had provided information which was contradicted by Person A's evidence.

Allegation 1a)

24. The Committee noted that Miss Ban admitted allegation 1(a).
25. The Committee also reviewed Miss Ban's PER Training Record. It was clear that Miss Ban had named Person A as her PES in respect of her practical experience training. The Committee accepted the evidence of Person A contained in their witness statements dated 18 October 2022, 20 October 2022, and 12 September 2023. They stated that they had only acted as PES for one trainee, Person F. The Committee also noted that the email address given for Person A in Miss Ban's Training Record was not in fact Person A's email address.
26. In the circumstances, the Committee was satisfied that Person A had no relationship at the relevant time with Miss Ban and that they had not supervised Miss Ban's practical experience training in accordance with ACCA's requirements.
27. Further, Miss Ban had not been supervised by any individual in accordance with ACCA's training requirements. ACCA's guidance requires that the supervisor was someone with whom Miss Ban worked closely, knew the type of work she was undertaking and knew the quality of her work. The letter from

Company C provided by Miss Ban on 06 April 2021 which purported to state that Miss Ban had worked with Person A had been entirely undermined by the evidence of Person A and information provided by Company A. Miss Ban could not be supervised by an external supervisor who had no connection with her place of work and had not liaised with her manager about her work.

28. The Committee therefore found Allegation 1a) admitted and proved.

Allegation 1b)

29. The Committee noted that Miss Ban admitted Allegation 1b).
30. A copy of Miss Ban's PER training record that included statements describing the experience she gained to meet her POs was provided. The Committee was also provided with evidence of the wording of the performance objectives of other individuals who had named Person A as their supervisor.
31. The Committee reviewed the content of the documents outlined and noted that the statements provided by Miss Ban for POs 4 and 10 contained wording that was strikingly similar, and identical in places, to the wording of POs of other individuals supervised by Person A. Each student's practical experience should be unique to them and the possibility of recording exactly or nearly exactly the same as another student is not plausible.
32. The Committee therefore found Allegation 1b) admitted and proved.

Allegation 2a) and 2b)

33. Miss Ban did not admit that her conduct in Allegations 1a) or 1b) was dishonest. In her submissions she told the Committee that obtaining her qualification had consumed a significant amount of her time and resources. She said that she did not intend to fake material in order to gain membership of ACCA. She said that she mistakenly believed that it was sufficient for one other ACCA member to authenticate her materials and that she now realises that this behaviour was reckless. She said that she did have help on-line with the submission of her

POs, but that this was just to prepare the materials for submission and that the materials she had submitted were genuine. She submitted that she was a victim. The circumstances arose due to the dishonest behaviour of the individual who assisted her, but she was not dishonest.

34. The Committee considered whether Miss Ban acted dishonestly in confirming that Person A was her supervisor and in providing two PO statements which were untrue. It considered this allegation in light of the test for dishonesty, as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.
35. Although Miss Ban submitted that she was not fully aware of ACCA's training requirements, the Committee did not accept this. It was satisfied that Miss Ban must have been aware of ACCA's training requirements. They are widely published, are available in Mandarin, and there were numerous training and discussion events made available through ACCA's WeChat group for students. Miss Ban had obtained the qualification and had worked for Company B as an Accountant for several years. Accountancy is a rules based profession, and the Committee did not consider that it was credible that Miss Ban would take no steps to inform herself of ACCA's training requirements.
36. Miss Ban was responsible for submitting her application for membership and could only do so through her MyACCA portal. The Committee did not accept that it was credible that Miss Ban was a victim of another individual who had deceived her or that she did not know the content of her application.
37. The Committee was satisfied that Miss Ban knew she had not been supervised by Person A, and therefore claiming that she had been was untrue. The Committee inferred that Miss Ban's actions were intended to deceive ACCA into believing that she had been appropriately supervised during her practical experience. The Committee was satisfied that this would be regarded as dishonest by ordinary and honest people.
38. Miss Ban had also copied or adopted two POs provided to her, knowing that they were not her own words and that she had not completed the required PER.

The Committee inferred that Miss Ban's actions were intended to deceive ACCA into believing that the POs described her own experience. Again, the Committee was satisfied that this would be regarded as dishonest by ordinary and honest people.

39. The Committee therefore found Allegation 2(a) and 2b), on the balance of probabilities, proved.
40. Having found Allegations 2(a) 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

41. Miss Ban did not admit Allegation 4. In her submissions she told the Committee that she was sure that she had not read the three emails dated 01 September 2022, 16 September 2022, and 03 October 2022. She submitted that she had no reason to ignore the emails and that if she had wanted to ignore communication from ACCA, she would not have answered the telephone call in March 2023 or responded to other email correspondence. She suggested that the emails might have been in her junk mail and deleted after thirty days.
42. The Committee reviewed the documentary evidence. ACCA's records show that the e-mails were sent to the email address that Miss Ban had provided to ACCA. This remains Miss Ban's registered email address. Some of the emails sent to Miss Ban had been encrypted, requiring a password to open them. However, an unencrypted email was also sent to Miss Ban, and the Committee considered that it would be reasonable to expect an ACCA member receiving correspondence from ACCA and having any difficulty opening it, to contact ACCA and ask for assistance. The Committee noted that no such communication had been received by ACCA from Miss Ban.
43. The Committee was provided with evidence that each of the e-mails to Ms Ban's e-mail address had been opened. The screenshots from ACCA's case management system recorded that the e-mail dated 01 September 2022 was

opened on 07 September 2022, and the e-mails dated 16 September and 03 October 2022 were both opened on 08 October 2022. The Committee also noted the text message sent to Miss Ban on 04 September 2022 using her registered telephone number and informing her that she had been sent important email correspondence by ACCA to which she was required to respond.

44. The Committee concluded that ACCA had sent the e-mails and that Miss Ban had received and opened them. The Committee noted Miss Ban's assertion that she had not read the emails. However, it considered that this was not a reasonable excuse for Miss Ban's lack of knowledge of the content of the correspondence and her failure to respond as required. As a Member of ACCA, it was Miss Ban's responsibility to read any correspondence sent to her by her regulator and to respond to any questions posed. Whilst the Committee noted Miss Ban's assertion that she had not been aware of the correspondence from ACCA it concluded that on the balance of probabilities the evidence suggested otherwise.
45. The Committee noted that Miss Ban was under a duty to cooperate fully with the ACCA investigation into her conduct and found that, by not responding to the letters sent to her in any way, she had failed to discharge that duty.
46. Accordingly, Allegations 4(a), 4(b) and 4(c) were found proved.

Allegation 5

47. Having found the facts proved in Allegations 1(a), 1(b), 2(a), 2(b) and 4, the Committee then considered whether they amounted to misconduct. The Committee found that, in dishonestly submitting false information to ACCA in her PER training record, Miss Ban's conduct had fallen far short of what would be expected of an ACCA member and was serious enough to amount to misconduct. Miss Ban's dishonest behaviour demonstrated a complete disregard for ACCA's membership process and could have allowed her to become a member of ACCA when she was not qualified to be so. Such behaviour seriously undermines the integrity of the membership process and

the standing of ACCA. It brings discredit upon Miss Ban, the ACCA, and the profession. The Committee considered this behaviour to be very serious and the Committee was in no doubt that it amounted to misconduct.

48. The Committee found that, in failing to fully co-operate with ACCA's investigation into her conduct, Miss Ban's conduct had fallen far short of what would be expected of an ACCA member and was serious enough to amount to misconduct. Miss Ban's failure had the potential to undermine ACCA's ability to function as a regulator and therefore risked bringing both ACCA and the profession into disrepute.
49. The Committee therefore found 5a) proved in respect of Allegations 1(a), 1(b), 2(a), 2(b), 4(a), 4(b) and 4(c).

SANCTION AND REASONS

50. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Skittrell and Miss Ban's submissions. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind that the purpose of sanctions was not to punish Miss Ban, 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. It noted its powers in respect of sanctions for an affiliate member as summarised in the Guidance for Disciplinary Sanctions.
51. The Committee considered that Miss Ban had demonstrated limited insight into the seriousness and implications of her behaviour. In April 2021 Miss Ban's initial response to ACCA's concerns was to provide ACCA with information, purportedly from her employer, that appeared to support the false information she had provided in her membership application form. In her later responses to ACCA, Miss Ban made some admissions, but she denied that her behaviour was dishonest. The Committee considered that she had demonstrated little understanding of the importance of honesty and integrity to the accountancy profession. In her submissions to the Committee Miss Ban attributed the

responsibility for the submission of incorrect material in her membership application to the individual who had assisted her, rather than taking responsibility herself.

52. The Committee noted that in her submissions Miss Ban apologised for her behaviour, but the Committee considered that she had not demonstrated genuine remorse.
53. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features in this case.
54. The Committee considered the misconduct involved the following aggravating features:
 - A deliberate dishonest course of action for personal benefit at the expense of public trust in ACCA and the profession as a whole;
 - Limited insight into the impact of her behaviour and the lack of genuine remorse.
55. The Committee considered the misconduct involving the following mitigating features:
 - The absence of any previous disciplinary history with ACCA;
 - Limited admissions.
56. The Committee was of the view that there is a continuing risk to the public, because of the Committee's finding that Miss Ban had acted dishonestly. Members of the public have an expectation that affiliate members of ACCA are honest and trustworthy and will comply with its ethical principles. This trust could not be placed in Miss Ban given the nature and seriousness of her dishonesty and her limited insight.

57. 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 a member had disregarded the membership requirements and acted dishonestly when submitting information in connection with her PER.
58. The Committee then considered whether to reprimand Miss Ban. 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 Miss Ban's misconduct to be of a minor nature and she had shown limited insight into her dishonest behaviour. ACCA's Guidance indicates that dishonest behaviour is considered to be very serious. The Committee concluded that a reprimand would not adequately reflect the seriousness of the misconduct in this case.
59. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that a severe reprimand 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 that none of these criteria were met and that a severe reprimand would not adequately reflect the seriousness of Miss Ban's behaviour.
60. The Committee considered the ACCA guidance on the approach to be taken in cases of dishonesty which is said to be regarded as a particularly serious matter because it undermines trust and confidence in the profession. 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.

61. The Committee considered that Miss Ban's behaviour involved a number of features referenced in ACCA's guidance in relation to exclusion. In particular the conduct involved dishonesty, failure to cooperate with the regulator, an adverse impact on the public, conduct over a period of time, and a serious departure from professional standards. The Committee also considered that there was nothing exceptional in Miss Ban's case that would allow it to consider a lesser sanction than exclusion from affiliate register. Miss Ban's dishonesty, coupled with the absence of any evidence demonstrating Miss Ban's understanding of the seriousness of her behaviour and any steps taken to remediate her conduct are fundamentally incompatible with her continued membership as an affiliate. The Committee concluded that the only appropriate and proportionate sanction was exclusion from the affiliate register.

COSTS AND REASONS

62. ACCA applied for costs in the sum of £5,717.75. 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.
63. The Committee was provided with information about Miss Ban's financial circumstances. On the information provided, [PRIVATE].
64. The Committee was satisfied that ACCA was entitled to claim its costs. The Committee carefully considered the information provided by Miss Ban about her [PRIVATE]. It had regard to the important principle that in disciplinary proceedings the majority of 'members' should not subsidise the minority who find themselves within the disciplinary process. Nevertheless, in this case, the Committee considered that it was appropriate to order that Miss Ban should pay costs of £150.00. It considered that this order was appropriate because a higher award of costs would cause severe financial hardship to Miss Ban.
65. The Committee therefore ordered Miss Ban to pay ACCA's costs in the sum of £150.00.

EFFECTIVE DATE OF THE ORDER

66. Miss Skittrell invited the Committee to make an order under Regulations 20(1)(b) that the order excluding Miss Ban should have immediate effect. She submitted that this would be in the public interest, due to the findings made by the Committee.
67. Miss Ban submitted that an order for immediate effect should not be made. She did not suggest any reasons and she did not wish to comment on Miss Skittrell's submission that an order would be in the public interest.
68. The Committee determined that it would be in the public interest for the order to take immediate effect. In its decision on sanction the Committee explained the reasons it had concluded that there is an ongoing risk to the public. The Committee was of the view that those risks apply during the appeal period, and therefore an immediate order was required to protect the public. The Committee was also of the view that public confidence in the profession would be undermined if Miss Ban were permitted to hold herself out as an affiliate member of ACCA during the appeal period, given the serious nature of the Committee's finding of dishonesty.
69. Therefore, pursuant to Regulation 20(1)(b) the order removing Miss Ban from membership will take effect immediately.

Ms Valerie Paterson
Chair
01 February 2024