

HEARING
DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Na Luo

Heard on: 26 January 2024

Location: Virtual hearing using Microsoft Teams.

Committee: Ms Valerie Paterson (Chair)
Mr Ryan Moore (Accountant)
Mr Andy Skelton (Lay)

Legal Adviser: Mr David Marshall

Persons present and capacity: Ms Michelle Terry (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)

Summary: Dishonesty and misconduct proved.
Exclusion with immediate effect.

Costs: £500

1. The Committee heard an allegation of misconduct against Miss Luo. Ms Terry appeared for ACCA. Miss Luo was not present and not represented.
2. The Committee had a Main Bundle of papers containing 242 pages, a Supplementary Bundle containing 60 pages, an Additional Bundles containing 47 pages and a Service Bundle containing 17 pages.

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PROCEEDING IN ABSENCE

3. The Committee was satisfied that Miss Luo had been served with the documents required by Regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 29 December 2023 to an email address notified by Miss Luo to ACCA as an address for all correspondence. That was 28 days ago.
4. There had been some engagement with Miss Luo during the investigation. She responded to the allegations in 2022 and on 1 April 2023 she completed a Case Management Form stating that she would not be attending the hearing. Nothing had been heard from her more recently. Since 21 January 2024 there have been several attempts to email and phone her to find out if she wished to attend but there has been no response. The Committee was satisfied that Miss Luo knew that these proceedings were taking place but had chosen not to take part. The allegations in this matter were very serious and the Committee considered that the public interest required that a hearing take place without undue delay. The Committee considered that nothing would be gained by an adjournment. There was no reason to think that Miss Luo would attend an adjourned hearing.
5. The Committee determined to proceed in Miss Luo's absence.

ALLEGATION(S)/BRIEF BACKGROUND

6. Miss Luo was registered as an ACCA student on 21 July 2014. On 14 October 2019 she became an ACCA Affiliate, having passed her ACCA exams. An Affiliate is entitled to work as an accountant to gain practical experience with a view to ultimately gaining full membership of ACCA. Such a person is commonly referred to as an ACCA trainee.
7. On or about 10 May 2020 Miss Luo applied for membership, which was granted on 14 May 2020. Regulation 3(a) of ACCA's Membership Regulations 2014 (amended 1 April 2022) provides that one of the qualifications for membership is that the applicant has 'completed three years of approved experience in accordance with the Association's Practical Experience Requirement' ('PER').

The PER involves completing 36 months supervised practical experience in a relevant role and demonstrating that the trainee has achieved the required number of performance objectives ('POs'). These are benchmarks of effective performance describing the types of work activities they would have been involved in as a trainee accountant. A trainee has to achieve nine POs in total. 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.

8. The POs have to be completed under the supervision of a qualified accountant. A person is recognised by ACCA as a qualified accountant if that person is a qualified accountant recognised by law in the trainee's country and/or is a member of an IFAC body. (IFAC is the International Federation of Accountants). The supervisor would typically be the trainee's line manager but ACCA recognises that a line manager may not meet the definition of 'qualified accountant' so another person can be acceptable.
9. When Miss Luo applied for membership she relied on her PER training record. The supervisor named was 'Person A', said to be a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body. ACCA says that there are up to 100 similar cases in which trainees have applied for membership of ACCA on the basis of alleged supervision by Person A. ACCA's case is that although there is a Person A who is a member of CICPA, that person did not supervise any of those trainees. In particular ACCA alleges that Person A did not supervise Miss Luo and has no knowledge of her.
10. Miss Luo faced the following allegations:

Schedule of Allegations

Na Luo ('Miss Luo'), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 10 May 2020 and in doing so purported to confirm in relation to her ACCA Practical Experience training record:
 - a) Her Practical Experience Supervisor in respect of her practical

experience training in the period from 17 February 2017 to 10 May 2020 was Person 'A' when Person 'A' did not supervise that practical experience training in accordance with ACCA's requirements as published from time to time by ACCA or at all.

- b) She had achieved the following Performance Objectives:
- Performance Objective 1: Ethics and professionalism
 - Performance Objective 4: Governance, risk and control
 - Performance Objective 5: Leadership and management
 - Performance Objective 18: Prepare for and plan the audit and assurance process
 - Performance Objective 20: Review and report on the findings of an audit or assurance engagement
2. Miss Luo's conduct in respect of the matters described in Allegation 1 above was: -
- a) In respect of Allegation 1a), dishonest, in that Miss Luo sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise which they knew to be untrue.
- b) In respect of Allegation 1b) dishonest, in that Miss Luo knew she had not achieved all or any of the performance objectives referred to in paragraph 1b) above as described in the corresponding performance objective statements or at all.
- c) In the alternative, any or all of the conduct referred to in Allegation 1 above demonstrates a failure to act with Integrity.
3. In the further alternative to Allegations 2a), 2b) and or 2c) above, such conduct was reckless in that Miss Luo 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 it 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 her conduct, Miss Luo 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/ALLEGATION(S) AND REASONS

11. Although Miss Luo appeared to admit the allegations in the Case Management Form, her responses during the investigation had not been entirely clear. The Committee decided that in fairness to Miss Luo it would treat her as having made no formal admissions. It required ACCA to prove the case.
12. Ms Terry took the Committee through the documentary evidence including two witness statements from Person A. Person A stated that they had only ever supervised one ACCA trainee, a person who they named. That person was not Miss Luo nor was it one of the people in the 100 similar cases mentioned above. In those cases, the supervisor had been registered as Person A, supported by a CICPA membership card. An email address for the supervisor had been supplied. Person A confirmed that the membership card was genuine, but the email address was not. They knew nothing about these other cases. Person A said that they had been asked for a copy of their card by their (genuine) trainee and it was 'quite possible' that they had misused it to facilitate these registrations.
13. Ms Terry also referred to witness statements from members of ACCA staff producing documents and explanations in relation to Miss Luo's application. There was no oral evidence.
14. One of the witnesses, a Professional Development Manager at ACCA, said that they would '*expect a practical experience supervisor to have usually no more than about 2 to 3 trainees at any one time*'. In this case, if the supervision had

been genuine, there would have been many more trainees than this simultaneously, spread over a number of different employers. It therefore appeared likely these trainees had not complied with ACCA's PER requirements. After investigating they had found that many of the POs from different trainees were identical or very similar, indicating that they had been copied. Each PO statement should be unique.

15. Ms Terry referred to evidence of the resources available to ACCA trainees in China to help them to understand exactly what was required to gain ACCA membership. This included written instructions and also interactive resources where trainees could ask questions such as webinars and a Wechat social media group. She submitted that so much information was available that it was not credible that an ACCA trainee might not understand what to do. The information was mainly in English, although some was in Mandarin. However, trainees always take their exams in English so would have sufficient fluency to understand the English language instructions. The instructions were not complex. For example, the PER booklet said *'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.'*

16. Miss Luo sent a detailed response to ACCA on 2 September 2022. She frankly admitted what she had done:

According to the regulations of ACCA, one of the requirements to become a member is 36 months of relevant work experience, and a supervisor is required to confirm your work experience. However, my supervisor is not familiar with ACCA-related operations and English ability, and will not carry out relevant operations, so I want to search for relevant registration experience on social networking sites. As an example to guide my supervisor to make some comments on my work experience. Then I saw the message posted by [Person A], who said they were FCCA and could help prospective members with their membership applications. Therefore, I approached them to consult on relevant registration experience, and they took the initiative to become my PER supervisor after learning about my relevant work experience.

17. In response to a question *'Please explain why a number of your PO's are*

identical or significantly similar to other ACCA students' she answered:

This part of the application process was completed with the assistance of [Person A]. When I received this email, I knew that they had helped more than 100 prospective members to complete this work in two years, so there were similarities and similarities.

18. She said that the same answer applied to the question why other trainees' later PER statements used the same wording as hers.

19. On 8 September 2022 in answer to further questions Miss Luo said:

The wording of my performance objectives is provided by [Person A] I once asked them if they need the contact information of my supervisor But they said there is no need to contact my supervisor they can in charge of the whole process as FCCA.

After contacting [Person A], they required us to pay them a certain amount of money (¥600) as their labor fee on the online platform, for their advice and help they would be provided. At first, I thought the money was reasonable, because as a FCCA, the help and advice they provided should be very valuable and worthy of our learning, but later found that my idea was obviously wrong.

20. She produced evidence of the payment of 600 Yen (believed to be less than £100).

Allegation 1(a)

21. It was clear from ACCA's records that Miss Luo applied for ACCA membership on or about 10 May 2020 naming Person A as her practical experience supervisor. The evidence of the genuine Person A, and indeed Miss Luo's own response, showed that this was not true. Person A did not supervise Miss Luo's work. They had been paid 600 yen to help Miss Luo complete the PER paperwork.

22. The Committee found Allegation 1(a) proved.

Allegation 1(b)

23. Miss Luo claimed to have met the five POs listed. It was clear from the evidence

that the experience claimed was not genuine. ACCA conducted a careful analysis of the POs submitted by all the 100 trainees under investigation and compared Miss Luo's statements to the others. Five of Miss Luo's PO statements were identical, or very similar, to those of other applicants. Miss Luo had told ACCA that the wording had been supplied by Person A. The Committee concluded that they were not genuine examples of her experience.

24. The Committee found Allegation 1(b) proved.

Allegation 2(a)

25. Miss Luo knew that Person A was not her supervisor and that her application to ACCA was false. The purpose of the application was to advance her own interests by obtaining ACCA membership to which she was not entitled.
26. Miss Luo blamed Person A for what had happened and she said Person A was dishonest. The person purporting to be Person A may well have been dishonest but it does not excuse Miss Luo from using Person A's services.
27. This was clearly dishonest. The Committee found Allegation 2(a) proved.

Allegation 2(b)

28. A trainee's personal statement for each PO must be their own personal statement that is unique to them and their own experience. Miss Luo knew that she had not completed the POs which she claimed to have completed.
29. This was clearly dishonest. The Committee found Allegation 2(a) proved.
30. Allegation 2(c) was in the alternative and did not have to be considered.

Allegation 3

31. Allegation 3 was also in the alternative and did not have to be considered.

Allegation 4

Miss Luo used dishonesty to secure membership of a profession which is grounded in honesty. Her actions in circumventing the assessment process tended to undermine the whole structure of ACCA's ability to regulate itself. The

Committee had no doubt that her actions amounted to misconduct.

32. The Committee found Allegation 4 proved.

SANCTION(S) AND REASONS

33. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2023). It first sought to identify aggravating and mitigating factors.
34. The finding itself was clearly a serious one. Dishonesty in applying for membership is a very serious matter. It tends to undermine confidence in the ACCA qualification. By its nature such an act is committed for personal gain and puts the public at risk by potentially allowing an unqualified person to claim the same status as a fully qualified one.
35. An aggravating factor was that the decision to take this route to qualification rather than an honest route was a premeditated one and that the misconduct continued over a lengthy period.
36. Ms Terry informed the Committee that there were no previous findings against Miss Luo. That was a mitigating factor.
37. Some typical mitigating factors were absent in this case. Miss Luo had displayed no insight and given no indication that she accepted that she had committed misconduct or the seriousness of it. In her final response, in the Case Management Form, she said 'I recognised my mistake and accepted the result. But [Person A] is dishonest, even if they are a CPA'. She was still not accepting her personal responsibility for meeting the ethical standards of ACCA.
38. The Committee was quite satisfied that a sanction was required in this case. It considered the available sanctions in order of seriousness having regard to ACCA's sanctions guidance.
39. The Committee first considered the sanctions of admonishment and then reprimand but the guidance made it clear that these were not sufficient. For reprimand, the guidance states '*This sanction would usually be applied in situations where the conduct is of a minor nature and there appears to be no*

continuing risk to the public'. Falsifying a practical experience record to obtain membership cannot be described as a minor matter.

40. The Committee next considered the sanction of severe reprimand. The guidance states that this sanction would usually be applied in situations where the conduct is of a serious nature but 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. Those elements were not present in this case. The Committee went through the list of suggested factors in the guidance. Apart from previous good character, hardly any of the factors supporting a severe reprimand was present. Even if combined with a fine, a severe reprimand would not be sufficient to mark the seriousness of the misconduct in this case.
41. The Committee considered that Miss Luo's dishonest conduct was fundamentally incompatible with remaining as an ACCA Affiliate and that the minimum sanction it could impose was exclusion from membership.
42. A member who has been excluded can normally apply to be re-admitted after one year. The Committee considered whether to extend this period but decided that it was not necessary. If Miss Luo does apply for readmission her application will be scrutinised by the Admissions and Licensing Committee.

COSTS AND REASONS

43. Ms Terry applied for costs totalling £5,498.75. She accepted that the hearing would probably conclude earlier than had been estimated so the time-based costs for herself and the Hearings Officer could be reduced.
44. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. The Committee considered that the time spent and the sums claimed were reasonable. It was appropriate to make a reduction for the fact that the hearing would last for less time than estimated. That would reduce the reasonable costs to about £5,000
45. The Committee considered Miss Luo's ability to make a contribution to costs of that order. She submitted a statement of financial position as part of her Case

Management Form. [Private] On that basis, the Committee concluded that she should be ordered to pay £500 towards ACCA's costs.

46. Under Regulation 3 of ACCA's Appeal Regulations 2014, Miss Luo may be able to appeal against the costs order if she can show that 'compliance with it would result in severe financial hardship' to her.

EFFECTIVE DATE OF ORDER

47. Ms Terry submitted that Miss Luo would represent a danger to the public during the period before which this order came into effect. The Committee agreed. Miss Luo was currently a full member of ACCA, although she had not met the requirements of membership. That would put her in a privileged position and enable her to obtain positions of trust to which she was not entitled. The Committee determined to order immediate removal.

ORDER

48. The Committee ordered as follows:
- (a) Miss Na Luo shall be excluded from membership of ACCA.
 - (b) Miss Na Luo shall pay a contribution to ACCA's costs assessed at £500.
 - (c) This order shall take immediate effect.

Ms Valerie Paterson
Chair
26 January 2024