

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

**In the matter of:** Miss Guo Xinyi

**Heard on:** Friday 12 January 2024

**Location:** Remotely via MS Teams

**Committee:** Mr Andrew Popat CBE (Chair)  
Mr David Horne (Accountant)  
Mr Damian Kearney (Lay)

**Legal Advisers:** Mr Alastair McFarlane

**Persons present  
and capacity:** Ms Michelle Terry (ACCA Case presenter)  
Ms Geraldine Murray (Hearings Officer)

**Summary:** Exclusion from membership with immediate effect

**Costs:** £5,840.00.

1. ACCA was represented by Ms Terry. Miss Xinyi did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1 – 260, and an additional bundle, numbered pages 1-30, and a service bundle numbered pages 1-21.

**SERVICE/PROCEEDING IN ABSENCE**

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Miss Xinyi in accordance with the Complaints and

Disciplinary Regulations 2014 (“CDR”).

3. Ms Terry, for ACCA, made an application for the hearing to continue in the absence of Miss Xinyi.
4. The Committee accepted the advice of the Legal Adviser.
5. The Committee noted that following the service of the Notice of Hearing on 15 December 2023, the Hearings Officer had sent chasing emails on 04, 10 and 11 January 2024 regarding whether Miss Xinyi would be attending the hearing. There has been no response. In addition, the Hearings Officer attempted to telephone Miss Xinyi on 10 and 11 January 2024. Whilst the call was answered on the first occasion no response was made and on the second occasion the telephone was not answered.
6. The Committee was satisfied that Miss Xinyi’s non-engagement with ACCA amounted to a voluntary waiving of her right to attend this hearing. It was satisfied that an adjournment would be very unlikely to secure her participation. It was mindful of the duty on all professionals to co-operate with their regulator and the public interest in the expeditious discharge of the Committee’s regulatory function. In all the circumstances it was just to proceed with the hearing in her absence.

#### **AMENDMENT**

7. Miss Terry made an application under Regulation 10(5) to make an amendment to the allegation by adding the words “in the alternative” between Allegations 2a and 2b.
8. The Committee accepted advice of the Legal Adviser. Whilst Miss Xinyi was unaware of the proposed amendment, the Committee was satisfied this could be made without any injustice to her as it clarified that allegations 2a and 2b were alternatives and therefore narrowed the scope of the allegations against her.

#### **ALLEGATIONS**

**Miss Guo Xinyi (‘Miss Xinyi’), at all material times an ACCA trainee,**

- 1. Applied for membership to ACCA on or about 29 December 2019 and in doing so purported to confirm in relation to her ACCA Practical Experience training record her Practical Experience Supervisor in respect of her practical experience training in the period from 03 September 2018 to 27 December 2019 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.**
  
- 2. Miss Xinyi's conduct in respect of the matters described in Allegation 1 above: -**

  - a) Was dishonest, in that Miss Xinyi sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise and/or her Supervisor had personally verified the achievement of the performance objectives claimed and/or that they had been achieved in the manner claimed in any or in all respects she knew to be untrue. In the alternative:**
  
  - b) 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 Xinyi 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.**

4. **By reason of her conduct, Miss Xinyi is guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.**

## **BACKGROUND**

9. Miss Xinyi became an ACCA member on 09 January 2020.
10. Regulation 3(a) of ACCA's Membership Regulations provides that an ACCA trainee cannot become a member of ACCA until they have completed three years of approved work experience, in accordance with ACCA's Practical Experience Requirement ("PER"). The PER requires trainees to achieve nine Performance Objectives ("POs"). For each PO the trainee must complete a personal statement. Each PO must be signed off by the trainee's Practical Experience Supervisor ("PES"). It is a trainee's responsibility to find a PES who must be a qualified accountant recognised by law in the trainee's country and/or a member of an IFAC body with knowledge of the trainee's work. A PES will therefore be either a trainee's line manager or an external, qualified accountant, who liaises with the employer about the trainee's work experience.
11. ACCA's primary case against Miss Xinyi is that she knew that Person A had not supervised her practical experience training in accordance with ACCA's requirements. ACCA's case was that between December 2019 and January 2021, 100 ACCA trainees had completed their PER training record in which they claimed their PO's had been approved by Person A. Miss Xinyi was one of these trainees. ACCA obtained a statement from Person A (an accountant registered with the Chinese Institute of Certified Public Accountants (CICPA)) who maintained that they had only acted as supervisor for 1 trainee, who was not Miss Xinyi, and who was not included in the 100 cases under investigation. They had only supervised that trainee in respect of signing off a single PO. They denied supervising any of the 100 trainees, pointing out that their email address was totally different to the one used by "Person A" for the 100 trainees, that they have never had an email address containing Email 1 (which was in the email address for the hundred trainees) and that whilst the CICPA registration card provided to ACCA was theirs, they had not provided it to ACCA and did not know how this had occurred.

## **ACCA'S SUBMISSIONS**

### **Allegation 1**

12. ACCA submitted that Allegation 1 is capable of proof by reference to the following:

- Person D's (Senior Administrator in ACCA's Member Support Team), statement explaining ACCA's membership application process
- Person E's (Manager of ACCA's Professional Development Team) statement which describes ACCA's Practical Experience Requirements
- Miss Xinyi's completed PER training record which was completed in or about December 2019 which then permitted Miss Xinyi to apply for membership. Miss Xinyi became registered as an ACCA member on 09 January 2020
- Miss Xinyi's Supervisor details which record Person A was her 'IFAC qualified external supervisor', and therefore her practical experience supervisor.
- Miss Xinyi's PER training record which records Person A approved all Miss Xinyi's PO's.
- The statements from Person A obtained by ACCA in which they deny acting as supervisor for any ACCA trainee being the subject of ACCA's investigation. The training record refers to only one supervisor, Person A, who was authorised to approve Miss Xinyi's PO's.
- In relation to the PO's, the PER training record records that Miss Xinyi requested Person A to approve all nine PO's on either 26 or 27 December 2019 and Person A apparently approved all nine PO's on or about 27 December 2019.
- The Supervisor details for Miss Xinyi records that Person A was an 'IFAC qualified external supervisor'. Given they were external to the firm Miss

Xinyi was working in, Person A was only permitted to approve Miss Xinyi's achievement of her PO's.

**Allegation 2(a) - Dishonesty**

13. ACCA's primary case was that Miss Xinyi was dishonest when she provided her Practical Experience Training Record to ACCA because Miss Xinyi sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise which she knew to be untrue. Given the extensive advice available online as to how an ACCA trainee must complete their PER, ACCA contended that it is not credible that Miss Xinyi was unaware her practical experience had to be supervised.
14. In order to achieve membership, it is submitted Miss Xinyi claimed to have been supervised by Person A in her PER training record, which she must have known was untrue.
15. ACCA therefore submitted this conduct would be regarded as dishonest by the standards of ordinary decent people.

**Allegation 2(b) – Integrity**

16. In the alternative, ACCA submitted that if the conduct of Miss Xinyi is not found to be dishonest, the conduct in the alternative fails to demonstrate Integrity.

**Allegation 3 – Recklessness**

17. ACCA submitted in the further alternative that Miss Xinyi's conduct was reckless in the ordinary sense of the word.
18. ACCA contended that Miss Xinyi was reckless in that she paid no or insufficient regard to the fact that she was required to ensure her practical experience was supervised, and that 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.

#### **Allegation 4 – Misconduct**

19. ACCA submitted that Miss Xinyi's conduct whether dishonest or lacking integrity or reckless was sufficiently serious to reach the threshold for misconduct.

#### **MISS XINYI'S SUBMISSIONS**

20. Miss Xinyi responded first to ACCA on 14 September 2022. In her response she indicated she had been supervised by Person A but was unable to provide any supporting evidence. She stated this was because she had since changed her phone and both firms were 'dissolution and bankrupted in 2020' due to Covid. In addition, Miss Xinyi was unable to provide any evidence relating to the name of Person A's employer or recall the name of Person A's employer.
21. One of the questions ACCA posed to Miss Xinyi was:

*"[Person A] as your practical experience supervisor should have had knowledge of the work carried out by you and should have been someone with whom you worked closely, who knew the type of work you were doing and the quality of your work. This would have enabled [Person A] as your supervisor to assess your work and ultimately decide whether or not to sign off your objectives in your PER. Please advise whether or not [Person A] supervised you in such a manner. If [they] did not supervise you in such a manner, please explain how [they] supervised your work, if at all."*

22. In her response Miss Xinyi stated:

*"[They] did not supervise me in such a close manner, but as a supervisor [they] helped me lot. [they have] profession skill and good disposition. Not only [they] helped me with my working problem but also encouraged me while I was down."(sic)*

23. ACCA therefore raised further enquiries in an email dated 30 September 2022 as follows:

*"1) You state [Person A] 'used to be a consultant for the firm a few years ago'.*

- i) *Please tell me which firm you mean.*
  - ii) *When [Person A] was a consultant to this firm, [were they] acting as your qualified supervisor?*
  - iii) *If [they were] acting as your qualified supervisor, did [they] have a business connection with your firm, for example as an external accountant, consultant or auditor appointed by your firm.*
- 2) *My understanding is that when you worked for [Employer 2], there was no connection between this firm and [Person A]. Is that correct? If not, please explain.”*

24. Miss Xinyi responded as follows:

“1)

i) *I know [Person A] is an experienced accounting practitioner and being a consultant for many firms a few years ago, but I am not sure the business relationship [Person A] with the firm I have worked. It was manager called [Person B] who introduced us at the first time. In order to make sure the information I provided, I was trying to get in touch with [Person B] during these months, but got no answers.  
(sic)*

ii) *[They] shared a lot of experience with me and helped me a lot.*

iii) *I am not sure [their] business connection with the firm I have worked. For this point I have to make a further confirmation. (sic)*

2) *I think your understanding is correct.”*

25. Miss Xinyi was also asked about the fact her non-qualified line manager, Person C, was the same person at both firms that she had worked at and to provide documentary evidence that Person C was employed at both firms. Miss Xinyi has explained that Person C worked for both firms ‘at the same time’ and they



had 'introduced' Miss Xinyi to Employer 2. However, Miss Xinyi went on to explain that both companies 'were bankrupted since Covid 19, it may take me some time to find the documentary evidence' ACCA observed that no such documentary evidence has since been provided to date.

## **DECISION ON ALLEGATIONS AND REASONS**

26. The Committee accepted the advice of the Legal Adviser. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the balance of probabilities. It reminded itself of Collins J's observations in Lawrance v. GMC [2015] EWHC 581(Admin) to the effect that in cases of dishonesty, cogent evidence was required to reach the civil standard of proof.
27. The Committee heard that there had been no previous findings against Miss Xinyi and accepted that it was relevant to put her good character into the balance in her favour.

## **DECISION ON FACTS**

28. The Committee accepted the advice of the Legal Adviser. It reminded itself to exercise caution as it was working from documents alone. It noted the submissions of Ms Terry for ACCA. It reminded itself that the burden of proof was on ACCA alone and that Miss Xinyi's absence added nothing to ACCA's case and was not indicative of guilt.

### **Allegation 1**

1. **Applied for membership to ACCA on or about 29 December 2019 and in doing so purported to confirm in relation to her ACCA Practical Experience training record her Practical Experience Supervisor in respect of her practical experience training in the period from 03 September 2018 to 27 December 2019 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.**

29. The Committee was satisfied on the basis of the practical experience training record contained in the bundle and produced from ACCA's records that Miss Xinyi had provided it to ACCA. Further, the Committee accepted on the face of the document that it purported to confirm that Person A was her PES and that Miss Xinyi had entered Person A as her supervisor. It was satisfied by Person A's statements, which it found to be credible and accurate, that they did not supervise Miss Xinyi. It noted that Person A was a registered professional accountant and that they had corrected themselves when, on reflection, they had recalled that they had supervised one ACCA trainee in respect of a single PO and that person was not Miss Xinyi. They confirmed that the email address Miss Xinyi provided as Person A's was not theirs. In addition, the Committee noted that Person A also had a different supervisor registration number to that of Miss Xinyi's purported supervisor. Further, the Committee rejected Miss Xinyi's assertion that Person A was indeed her supervisor as lacking credibility and implausible. While mindful that the burden of proof is on ACCA, it considered the limited details Miss Xinyi has been able to provide about Person A and the lack of any supporting documentation supplied as telling. These matters, in the Committee's view, further undermined the possibility that Person A was in fact Miss Xinyi's supervisor. In the Committee's judgment this added to Person A's credibility. Accordingly, the Committee was satisfied that Allegation 1 was proved.

**2. Miss Xinyi's conduct in respect of the matters described in Allegation 1 above: -**

**a) Was dishonest, in that Miss Xinyi sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise and/or her Supervisor had personally verified the achievement of the performance objectives claimed and/or that they had been achieved in the manner claimed in any or in all respects she knew to be untrue.**

30. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest.

31. In accordance with the case of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords [2017] UKSC67* the Committee first considered what Miss Xinyi's belief was, as to the facts.
32. The Committee accepted that there is manifold guidance as to the PER system published and online and the Committee had little doubt that Miss Xinyi would have been aware of those requirements. The Committee accepted that ACCA's guidance as to its requirements was widely available and that there was also extensive advice available in both English and Mandarin as to the requirements. Whilst mindful the burden of proof was on ACCA, it considered that Miss Xinyi had provided no details about what checks or enquiries she had made as to the suitability of Person A being a supervisor at the relevant time. Further, and in any event, the Committee rejected as implausible, the possibility that Miss Xinyi could have believed that Person A had in fact supervised her PE training in accordance with the requirements. Whilst mindful that the burden of proof was on ACCA, the Committee noted that Miss Xinyi had provided no information, despite it being requested by ACCA, about the alleged supervision. Further, there is no evidence of a relationship over a sustained period of time which is indicative of a proper supervisor. All 9 PO's were signed off by the purported supervisor and submitted together on the same day and all were dated on or about 27 December 2019.
33. In these circumstances the Committee considered it highly unlikely that Miss Xinyi could have genuinely believed that she had been supervised by Person A. The Committee in the circumstances was able to reasonably infer that the more likely scenario was that Miss Xinyi was taking a short cut to registration. In the circumstances the Committee was satisfied that Miss Xinyi knew that it was untrue to confirm that Person A did supervise her. The Committee rejected any other basis such as mistake or carelessness or recklessness as not credible. Applying the second limb of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords*, the Committee was satisfied that this conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2 a) was proved.

**2 b) Demonstrates a failure to act with Integrity.**

34. Given the Committee's findings in relation to Allegation 2 a) it did not consider the alternative of Allegation 2 b). This was therefore not proved.

**3. In the further alternative to Allegations 2a) and 2b) above, such conduct was reckless in that Miss Xinyi 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;**

35. Given the Committee's findings in relation to Allegation 2 a) it did not consider the alternative of Allegation 3. This was therefore not proved.

**4. By reason of her conduct, Miss Xinyi is**

**a) Guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.**

36. The Committee next asked itself whether, by providing a fraudulent Practical Experience Training Record, Miss Xinyi was guilty of misconduct?

37. The Committee had regard to the definition of misconduct in byelaw 8(c) and the assistance provided by the case law on misconduct. To dishonestly gain membership, was, in the Committee's judgment, deplorable conduct. It was satisfied that Miss Xinyi's actions brought discredit on herself, the Association, and the accountancy profession. It was satisfied that her conduct undermined one of the fundamental tenets of the profession – to be honest and not associate oneself with a false submission. Her conduct enabled Miss Xinyi to secure membership when she was not entitled and it undermined the reputation of the profession. Therefore, the Committee was satisfied that Miss Xinyi's conduct had reached the threshold for misconduct.

## **SANCTIONS AND REASONS**

38. The Committee noted its powers on sanction were those set out in Regulation 13(1). It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate.
39. The Committee accepted the advice of the Legal Adviser.
40. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The dishonest behaviour was serious. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.
41. The aggravating factors the Committee identified were:
  - The behaviour involved dishonesty which was pre-planned and designed to deceive her regulator with her seeking the help of a third party
  - Professional Membership was fraudulently obtained with a potential risk of harm to the public
  - The serious impact on the reputation of the profession
  - There was no real insight into the dishonesty or the seriousness of the conduct
42. The only mitigating factor the Committee identified was:
  - A previous good character with no disciplinary record
43. Given the Committee's view of the seriousness of the misconduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. It further noted that Miss Xinyi was not, in fact

qualified as an ACCA member as she had gained membership dishonestly, and that any sanction which would allow her to continue to practise would fail to protect the public.

44. The Committee reminded itself that it was dealing with a case of dishonesty. It had specific regard to Section E2 of the Guidance in relation to dishonesty and was mindful of the case law to the effect that dishonesty lies at the top of the spectrum of misconduct. The Committee determined that her dishonest behaviour was fundamentally incompatible with Miss Xinyi remaining on the register of ACCA and considered that the only appropriate and proportionate sanction was that she be excluded from membership.

### **COSTS AND REASONS**

45. ACCA claimed costs of £6,350.00 and provided a detailed schedule of costs. The Committee noted Miss Xinyi had not provided any statement of means. The Committee decided that it was appropriate to award costs to ACCA in this case and considered that the sum claimed by them was a reasonable one in relation to the work undertaken but made some reduction to £5,840 for the fact that the hearing did not take the one full day allocated. It did not have sufficient information as to Miss Xinyi's means to enable it to make any further reduction. Accordingly, the Committee concluded that the sum of £5,840 was appropriate and proportionate. It ordered that Miss Xinyi pay ACCA's costs in the amount of £5,840.00.

### **EFFECTIVE DATE OF ORDER**

46. The Committee was satisfied that, given the seriousness of the conduct and the potential risk to the public, an immediate order was necessary in the circumstances of this case.

**Mr Andrew Popat CBE**  
**Chair**  
**12 January 2024**