

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

In the matter of: Mr Yang Di

Heard on: Tuesday, 30 January 2024

Location: The hearing was conducted remotely by Microsoft Teams via ACCA's Offices, The Adelphi, 1-11 John Adam Street, London, WC2N 6AU

Committee: Mr Andrew Popat CBE (Chair)
Ms Jo Royden-Turner (Accountant)
Dr Jackie Alexander (Lay)

Legal Adviser: Miss Juliet Gibbon

**Persons present
and capacity:** Mr Adam Slack (ACCA Case Presenter)
Ms Lauren Clayton (Hearings Officer)

Outcome: Allegations 1a, 1b, 2a, 2b and 4 (misconduct) proved
Sanction: Exclusion from membership of ACCA with immediate effect
Costs: Order to pay a contribution to ACCA's costs in the sum of
£2,000.00

PRELIMINARY

1. The Disciplinary Committee ("the Committee") convened to hear a number of allegations of misconduct against Mr Yang Di. The hearing was conducted remotely through Microsoft TEAMS. The Committee had a bundle of papers numbered pages 1-248, a mini bundle of performance objectives, numbered pages 1-116, and an additional bundle, numbered

pages 1-54. It also had a service bundle, numbered pages 1 to 24. The Committee was also provided with detailed and simple cost schedules.

2. Mr Slack represented ACCA. Mr Yang Di, who is resident in China, did not attend the hearing and was not represented.

APPLICATION BY MR DI FOR THE HEARING TO BE HELD IN PRIVATE

3. Mr Slack informed the Committee that in the CMF Mr Di had requested that the hearing be held in private. The application was made pursuant to Rule 11 of the Regulations. Mr Slack told the Committee that the application was opposed by ACCA because Mr Di had given no reason as to why the hearing should be held in private.
4. The legal assessor reminded the panel that Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended ('the Regulations') provides that hearings shall be conducted in public unless the Committee is satisfied that the particular circumstances of the case outweigh the public interest in holding the hearing in public, which may include but is not limited to prejudice to any of the parties.
5. The Committee rejected Mr Di's application. It determined that the hearing should be held in public as Mr Di had provided no good reason for the hearing to be held in private session. The Committee considered that it was in the public interest for the hearing to be held wholly in public.

SERVICE AND PROCEEDING IN ABSENCE

6. The notice of hearing, containing all the requisite information about the hearing, was sent by email on 02 January 2024 to the email address notified by Mr Di to ACCA. The Committee had sight of a receipt confirming delivery of the email to that address.
7. There had been no response to the notice of hearing from Mr Di.
8. The Committee was satisfied that the requirements of Regulations 10(1) and 22(1) of the Regulations had been complied with.

9. Having satisfied itself that service had been effected in accordance with the Regulations, the Committee went on to consider whether to proceed in the absence of Mr Di. It accepted the advice of the Legal Adviser. The Committee bore in mind that whilst it had a discretion to conduct a hearing in the absence of the relevant person, it should exercise that discretion with the utmost care and caution. The Committee paid due regard to the factors set out in the cases of *Hayward & Others* [2001] 3 WLR 125 and *R v Jones* [2002] UKHL 5 and to the case of *The General Medical Council v Adeogba and Visvardis* [2016] EWCA Civ 162.
10. The Committee noted that Mr Di had completed a case management form (“CMF”) which he returned to ACCA on 10 April 2023. Mr Di indicated in the CMF that he would not attend the hearing or be represented. He also indicated that he consented to the case being heard in his absence. It further noted that Mr Di had confirmed this position in both a conversation with the Hearings Officer and by email on 25 January 2024.
11. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously. It noted that Mr Di had agreed for the hearing to be heard in his absence; he had not asked for an adjournment and the Committee was of the view that there was no evidence before it to suggest that an adjournment of today’s hearing would result in Mr Di’s attendance on a future date.
12. The Committee determined that it was in the public interest for the hearing to proceed in Mr Di’s absence.

ALLEGATIONS

Mr Yang Di (‘Mr Di’), at all material times an ACCA trainee:

1. **Applied for membership to ACCA on or about 19 October 2020 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 20 September 2013 to 20 September 2016 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 which was not true:

- Performance Objective 1: Ethics and professionalism
- Performance Objective 2: Stakeholder relationship management
- Performance Objective 3: Strategy and innovation
- Performance Objective 4: Governance, risk and control
- Performance Objective 5: Leadership and management
- Performance Objective 12: Evaluate management accounting systems
- Performance Objective 20: Review and report on the findings of an audit or assurance engagement

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

a. In respect of Allegation 1a, dishonest, in that Mr Di sought to confirm his Practical Experience Supervisor did supervise his 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 Mr Di knew he had not achieved all or any of the performance objectives referred to in paragraph 1b above as described in the corresponding performance objective statements or at all

c. In the alternative, in respect 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 Di paid no or insufficient regard of ACCA's requirements to ensure:

a. His practical experience was supervised;

- b. **His Practical Experience Supervisor was able to personally verify the achievement of the performance objectives he claimed and/or verify they had been achieved in the manner claimed**
 - c. **That the performance objective statements referred to in Allegation 1b accurately set out how the corresponding objective had been met;**
4. **By reason of his conduct, Mr Di 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.**

ADMISSIONS MADE BY MR DI

- 13. Mr Slack informed the Committee that Mr Di had made admissions to Allegations 1a and 2a in the CMF.
- 14. In accordance with Regulation 12(3)(c) of the Regulations the Chair announced that Allegations 1a and 2a have been found proved.

BACKGROUND

- 15. Mr Di became a student of ACCA on 29 December 2010 and an affiliate of ACCA on 13 October 2020. Mr Di was admitted as a member of ACCA on 29 October 2020.
- 16. Once an ACCA student has completed all their ACCA examinations, they become an ACCA affiliate. Regulation 3(a)(ii) of ACCA's Membership Regulations provides that an affiliate 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").
- 17. ACCA's PER is based on the International Federation of Accountants' ("IFAC") International Education Standard 5, PER. ACCA's PER develops the professional knowledge, values, ethics and behaviours required to become a professionally qualified accountant.

18. ACCA's PER has three components: First, to achieve five "Essential" Performance Objectives ("POs") and any four "Technical" POs by gaining the experience required to achieve the necessary elements and to complete a statement for each PO, which is signed off by the trainee's Practical Experience Supervisor ("PES"). Secondly, to complete 36 months' work experience in one or more accounting or finance-related roles, which must be verified by the trainee's PES. Thirdly, to regularly record their PER progress in the online "MyExperience" recording tool, which is accessed via ACCA's online portal "myACCA".
19. Once all nine POs have been approved by the trainee's PES and their minimum three years of practical experience has been signed off, the trainee can apply for ACCA membership.
20. A PES has the personal responsibility of approving or signing-off the trainee's POs, if the trainee has met the required standard. A qualified supervisor means a qualified accountant who has worked closely with the trainee and who knows the trainee's work. A qualified accountant means a member of an IFAC member body and/or a body recognised by law in the trainee's country. If a trainee's line manager is not a qualified accountant, they can sign off or approve the trainee's time in their relevant role, but the trainee must nominate a qualified PES to sign off their POs. If a PES is not a trainee's line manager, then the PES should consult with the trainee's line manager to validate their experience.
21. Trainees must enter the PES's details into the MyExperience recording tool and send their PES an invitation to register as their PES. Trainees cannot submit anything to their PES until the PES is registered.
22. POs are designed to set the minimum standard of work that a trainee is expected to achieve and the level of competence they will need to demonstrate to their qualified supervisor. They set out the kind of work activities a trainee may carry out and highlight the values and attitudes ACCA trainees are expected to possess and to demonstrate as a trainee accountant.
23. Each PO is comprised of three parts. First, a summary of what the PO relates to. Secondly, five elements outlining the tasks and behaviours that a trainee must demonstrate to be able to achieve the objective. Thirdly, a 200 to 500-word concise personal statement in which the trainee must summarise how they have achieved the PO. Trainees must provide

examples of tasks they have been involved with to illustrate their personal statement. Trainees' statements should be unique to their own work experience. ACCA's PER guidance is available online in China. The 2019 published guidance states:

'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'.

24. Support is also provided to ACCA affiliates in China by ACCA's Customer Services Team in China. An email is sent to all affiliates inviting them to regular Webinars provided by ACCA staff who are able to advise them on the PER process. Affiliates are encouraged to join the ACCA WeChat group, which is used extensively in China. ACCA China also uploads articles to its WeChat platform relevant to ACCA's membership process.
25. During 2021 it came to the attention of ACCA that between 16 December 2019 and 29 January 2021, one hundred ACCA trainees had completed their PER training records in which they claimed their POs had been approved by a particular supervisor, Person A. A person purporting to be Person A was registered as each trainee's supervisor, as a member of the Chinese Institute of Certified Public Accountants ("the CICPA"), which is an IFAC registered body. A review was carried out by ACCA which indicated that the PO statements of a large number of the one hundred trainees, who claimed to have been supervised by Person A, had been copied from the statements of other trainees.
26. Person A was contacted by ACCA and has provided two witness statements. They have been a member of the CICPA since 03 April 2019. They confirmed that they had never supervised Mr Di or any of the other trainees or signed off any of their POs, save for one trainee who was not subject to ACCA's investigation. The email address for Person A provided to ACCA by Mr Di, and the other trainees under investigation, was not their actual email address.
27. Mr Di's PER training record shows that he was employed by one firm, Firm A. It is recorded that he was employed by Firm A from 20 September 2013 in the role of Client Manager.

28. Mr Di's PER training record records this as '*36 months claimed*' of relevant practical experience which relates to his period of employment with Firm A. Three supervisors are recorded on the PER training record: Person B and Person C who are recorded as authorised to approve Mr Di's experience / time claim only, which was done on 25 October 2020, and Person A. Person B is recorded as a '*non IFAC qualified line manager*' and hence why they did not approve Mr Di's POs. The supervisor details do not refer to Person C. The PER record indicates that Person C was nominated to sign off Mr Di's POs and time, but he did not accept Mr Di's invitation. He did not, therefore, verify any of the information submitted by Mr Di.
29. Mr Di's PER record shows that he submitted nine POs for the approval of Person A on 25 October 2020 and these were all purportedly approved by Person A on the same date. Person A is recorded as an external practical experience supervisor, hence why they only approved Mr Di's achievement of his POs and not the period of his employment in Firm A.
30. ACCA carried out an analysis comparing the POs of each trainee who claimed to have been supervised by Person A. In relation to Mr Di, the analysis revealed that:
 - a. Two of his PO statements were first in time, and
 - b. Seven of his nine PO statements were not the first in time and were either identical or significantly similar to the PO statements contained in the PERs of many of the other ACCA trainees who also claimed to have been supervised by Person A.
31. In particular, Mr Di's PO1 statement was identical or strikingly similar to those of five other trainees; his PO2 statement was identical or strikingly similar to those of five other trainees; his PO3 statement was identical or strikingly similar to those of five other trainees; his PO4 statement was identical or strikingly similar to those of five other trainees; his PO4 statement was identical or strikingly similar to those of five other trainees; his PO12 statement was identical or strikingly similar to those of three other trainees and his PO20 statement was identical or strikingly similar to those of five other trainees.
32. The matter was referred to ACCA's Investigations Team and on 12 August 2022 Mr Di was sent a letter via email which set out the complaint and asked him to respond to a number of

questions by 26 August 2022. Mr Di responded by email on 26 August and 30 August 2022 in which he stated:

'[Person A] was indeed not an employee of our company and had no actual business dealings with our company. After passing all ACCA course exams, a "friend" of mine told me that he could help complete my PER and PO records, and fill in the information required in the system. As for why my "friend" suggested that I register the name "[Person A]" as my supervisor, I am sorry that I have no clue since I filled in the form under my "friend's" guidance.

Since I do not know [Person A], I cannot provide the name of the company [Person A] worked for and his work type. Based on my complete trust in my "friend" that guided me and helped me complete the PER and PO records and fill in the information this way.

Indeed, [Person A] did not supervise my work. My "friend" suggested me to write "[Person A]" to accomplish the above goals ...

... I learned in October 2020 that I had passed all ACCA exams ... Similar to the previous problem, in order to get the ACCA membership at an early date, I contacted my "friend" after passing the exams and asked him to guide me and fill in the above records. I should have double-checked the material but I did not ...

I am very sorry that I cannot provide documentary evidence related to [Person A's] supervision over me.

I have written PO-related materials by myself and sent them to my "friend" for revision. For your reference, the attached "History record" is some PO materials I wrote, I completed PO records based on the suggestion of my "friend", without figuring out the source of these suggestions. Again, I apologize for my indiscretion, for which I am very ashamed.

As for the above work experience in the bank, [Person A] did not supervise me in accordance with the attached guidance. It was under the guidance of my "friend" that I completed the above records" [sic].

33. In an email sent to ACCA on 28 September 2022 Mr Di stated in relation to the POs that:
“... In fact I have already completed all the goals required in the PO since my graduation from college in 2013. I should have filed it out independently in accordance with my actual situation, rather than easily trust in my “friend’s advice. Looking back I completed ACCA’s learning and examinations all by myself, it is my fault for being indiscreet in the last step of membership application, for which I feel ashamed ... the above records were filled out under my friend’s guidance. Unfortunately, I cannot find my chatting records with him since I changed my phone during this period ... I contacted my “friend” after passing the exams and asked him to guide me and fill in the above records. I should have double-checked the material but I did not. I am very ashamed of my gullibility and imprudence ... I have written PO-related materials by myself and sent them to my “friend” for revision ... I completed PO records based on the suggestions of my “friend”, without figuring out the source of these suggestions ..[sic].”
34. Mr Di indicated in the CMF that he admitted Allegation 1a but denied Allegation 1b because *“I have actually achieved these performance objectives, but no supervisor recognized by ACCA has confirmed it. I can not to provide additional evidence because my work experience in the bank was too long time ago” [sic]*. He also admitted Allegation 2a, which related to dishonesty in respect of his conduct as set out at Allegation 1a. Mr Di did not, however, admit Allegation 2b, which related to dishonesty in respect of his conduct as set out at Allegation 1b. Mr Di also denied that his conduct in respect of Allegation 1b demonstrated a failure to act with integrity. Mr Di stated the following:

“I have actually achieved these performance objectives, but no supervisor recognized by ACCA has confirmed it. I have written PO-related record by myself and sent them to my “friend” for revision. I completed PO records based on the suggestions of my “friend”, without figuring out the source of these suggestions. I admit that I did not submit these records without rechecking them. I was not failure to integrity, but negligent and trusting to the advice of my friends [sic].”

SUBMISSIONS

35. Mr Slack took the Committee through the PER requirements and ACCA’s membership application process as set out in the witness statements of a Professional Development

Manager with ACCA and a Senior Administrator in ACCA's Member Support Team. Mr Slack also referred the Committee to the two witness statements of Person A.

36. Mr Slack informed the Committee that Mr Di had presented a false PER record to ACCA. He submitted that the record was false in so far as it claimed to accurately and truthfully record Mr Di's PER. Mr Slack submitted that Person A was not Mr Di's PES and that it was clear from Mr Di's emails to ACCA that he knew this to be the case and he had admitted Allegations 1a and 2a.
37. Mr Slack further submitted that Mr Di also knew that Person A had not approved his POs when he submitted them to ACCA. He referred the Committee to the fact that seven of the PO statements were identical or strikingly similar to those submitted by other trainees and submitted that Mr Di must have known that the PO statements had been copied from other trainees and were not statements relating to his own experience when he submitted them to ACCA.
38. Mr Slack suggested that the Committee should take the following into consideration:
 - a. That the supporting statements for Mr Di's POs 1, 2, 3, 4, 5, 12 and 20 must have been copied from the statements of other trainees. The PER guidance for trainees states that 'your experience must be unique, and your statement should be unique too' and that '*we do not expect to see duplicated wording whether from statement to statement or from other trainees*';
 - b. Person A had never used the email address provided to ACCA by Mr Di and the other trainees under investigation.
 - c. Person A has stated that they had only ever acted as the PES for one trainee, who was not Mr Di.
 - d. Mr Di has admitted that Person A had not acted as his PES in accordance with ACCA's PER guidance and that he had, in fact, completed the POs under the guidance of his "friend".

39. Mr Slack also referred the Committee to the responses received from Mr Di and submitted that it was clear from these that he had not been supervised during his training in accordance with ACCA's requirements, or at all, by Person A and they had not signed off his POs. Mr Slack referred to Mr Di's admission that he had asked his "friend" to help him complete his PER training record.

40. In respect of Allegations 2a and 2b, Mr Slack reminded the Committee that Mr Di had admitted Allegation 2a. He submitted that Mr Di's conduct was dishonest as he knew that Person A had not acted as his PES at the material time and that they had not approved his POs. He further submitted that to say Person A had done so on his PER record was not true. Mr Slack also submitted that Mr Di would have known that he had not achieved the POs that he claimed, as described in his PO statements, because he must have copied the PO statements from another trainee's text or arranged for them to be copied by his "friend". Mr Slack submitted that such conduct would clearly be regarded as dishonest by the standards of ordinary decent people.

41. In respect of Allegation 4, Mr Slack submitted that Mr Di's deliberate dishonest conduct in claiming that Person A had acted as his PES and submitting false PO statements in order to gain membership of ACCA when he was not qualified to do so, fell far below the standards expected of an ACCA member and undermined public confidence in ACCA's membership qualification process. He submitted that the public would be put at risk of harm if individuals could become members of ACCA without having the required skills and qualifications. He submitted that misconduct, as defined by bye-law 8(c), was clearly made out in respect of Mr Di's conduct.

DECISION ON FACTS

42. The Committee considered all of the documentary evidence presented to it, including the witness statements of a Professional Development Team Manager at ACCA; a Senior Administrator in ACCA's Member Support Team and Person A. It also considered the submissions made by Mr Slack. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove each of the allegations made against Mr Di and that the standard of proof to be applied was on the balance of probabilities.

Allegation 1a – proved by way of Mr Di’s written admission

43. Allegation 1a is proved by the written admission made by Mr Di in the completed CMF.

Allegation 1b – proved

44. The Committee noted that Mr Di had denied this allegation in the CMF. It was satisfied, however, that Mr Di had submitted a PER training record that purported to confirm he had achieved the seven POs set out in Allegation 1b. The Committee noted that these POs had not been first in time and that the supporting statements for each of the POs were either identical or strikingly similar to the POs submitted by other trainees, who had also falsely named Person A as being their PES. The Committee was, therefore, satisfied that Mr Di had not achieved the seven POs, as claimed by him, and, accordingly, it found Allegation 1b proved on the balance of probabilities.

Allegation 2a – proved by way of Mr Di’s written admission

45. The Committee was also satisfied that the conduct found proved in Allegation 1a was dishonest, applying the test set out by the Supreme Court in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*. The Committee was satisfied that Mr Di had sought to confirm to ACCA that Person A had supervised his PER training in accordance with ACCA’s requirements when, on his own admission, he knew that to be untrue. It also found that such conduct would be considered dishonest by the standards of ordinary, decent people.

Allegation 2b - proved

46. The Committee next considered whether the conduct that it had found proved in Allegation 1b was dishonest, applying the test set out in *Ivey*. It was satisfied that Mr Di would have known that he had not completed seven of the PO statements himself and that he had not, therefore, achieved POs 1, 2, 3, 4, 5, 12 and 20, as claimed by him. The Committee was also satisfied that an ordinary decent member of the public, in full possession of the facts, would consider Mr Di’s conduct to be dishonest. The Committee therefore found Allegation 2b proved on the balance of probabilities.

47. Having found Allegations 2a and 2b proved, the Committee did not go on to consider Allegation 2c or Allegations 3a, 3b or 3c, which were all pleaded in the alternative.

Allegation 4 – misconduct found

48. Having found Allegations 1a, 1b, 2a, and 2b proved, the Committee then considered whether the facts found proved amounted to misconduct.
49. In the Committee's view, Mr Di's dishonest conduct demonstrated a clear disregard for ACCA's qualification and membership process. The Committee considered that such dishonest conduct undermined the integrity of the membership process and the reputation of ACCA and the accountancy profession. It also meant that Mr Di had become a member of ACCA and was holding himself out as an accountant when he was not qualified to do so. There was, therefore, a risk of harm to members of the public.
50. The Committee determined that Mr Di's conduct had brought discredit to him, the accountancy profession and ACCA. The Committee determined that Mr Di's dishonest conduct was very serious and clearly amounted to misconduct.
51. The Committee, therefore, found misconduct pursuant to ACCA bye-law 8(a)(i) in respect of all the matters set out in Allegations 1 and 2.

SUBMISSIONS ON SANCTION AND COSTS

52. Mr Slack informed the Committee that Mr Di had no previous findings recorded against him. Mr Slack submitted, however, that dishonesty lies at the top of the spectrum of misconduct. He further submitted that Mr Di's dishonesty involved an element of premeditation and planning and that the dishonest conduct was solely for Mr Di's own benefit.
53. Mr Slack referred the Committee to ACCA's 'Guidance for Disciplinary Sanctions' and, in particular, section E2 which provides guidance for cases of dishonesty. He submitted that were the Committee to make an order excluding Mr Di from membership of ACCA then it would be in the interests of the public for the order to have immediate effect.

54. In respect of costs, Mr Slack referred the Committee to the two costs schedules. ACCA claimed costs in the sum of £5,161.25. Mr Slack reminded the Committee that all the allegations had been found proved against Mr Di. He submitted that the costs claimed by ACCA had been reasonably incurred but that there should be some adjustment as the hearing had taken less time than allowed for in the two cost schedules. Mr Slack informed the Committee that Mr Di had completed and returned a statement of financial means to ACCA but had provided no supporting documentary evidence in relation to his current income and expenditure.

SANCTION AND REASONS

55. In reaching its decision on sanction, the Committee took into account the submissions made by Mr Slack. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA and had in mind the fact that the purpose of a sanction was not to punish Mr Di, but to protect the public, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction it imposed must be proportionate. The Committee accepted the advice of the Legal Adviser.
56. When deciding on the appropriate sanction, the Committee carefully considered the aggravating and mitigating features of the case.
57. The Committee considered that the mitigating features were that Mr Di had no previous disciplinary findings recorded against him; he had co-operated with ACCA during the investigation and he had expressed some shame and remorse for his actions.
58. The Committee considered that Mr Di's misconduct involved the following aggravating features: this was dishonest conduct over a period of time that involved a degree of planning; Mr Di's dishonest misconduct had the potential to undermine the integrity of, and public confidence in, ACCA's membership process. It also had the potential to place members of the public at risk of harm as Mr Di had gained membership of ACCA when he was not properly qualified to do so.

59. The Committee went on to consider what, if any, was the appropriate and proportionate sanction to impose in this case. It did not think it appropriate, or in the public interest, to take no further action or to order an admonishment in a case where a member had disregarded the membership requirements and had acted dishonestly when submitting their PER, which had led to them wrongly being admitted as a member of ACCA.
60. The Committee then considered whether to reprimand Mr Di. 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 misconduct found proved. The Committee did not consider that Mr Di's misconduct was of a minor nature and there was no evidence of any insight on his part into his dishonest behaviour or the impact thereof on the reputation of the profession and ACCA, as the regulator. The Committee noted that when addressing factors relevant to seriousness in specific case types, the guidance indicates that misleading/deceiving ACCA is considered to be '*very serious*'. Accordingly, the Committee concluded that a reprimand would not adequately reflect the seriousness of Mr Di's misconduct in this case.
61. The Committee then considered whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case, or mitigation advanced, which satisfy the Committee that there is no continuing risk to the public and there is evidence of the individual's understanding and appreciation of the conduct found proved. The guidance suggests that this sanction may be appropriate where most of the following factors are present:
- a. The misconduct was not intentional and no longer continuing;
 - b. Evidence that the conduct would not have caused direct or indirect harm;
 - c. Insight into failings;
 - d. Genuine expression of regret/apologies;
 - e. Previous good record;
 - f. No repetition of failure/conduct since the matters alleged;
 - g. Rehabilitative/corrective steps taken to cure the conduct and ensure future errors do not occur;

- h. Relevant and appropriate references;
- i. Co-operation during the investigation stage.

62. The Committee considered that the only applicable factors were Mr Di's previous good record, his co-operation with ACCA and his expression of some remorse. None of the other factors were present, save that there had been no repetition of the conduct, but there had also not been any opportunity for repetition. Accordingly, the Committee considered that a severe reprimand would not adequately reflect the seriousness of Mr Di's dishonest misconduct.

63. The Committee considered the factors that it should take into account when considering exclusion from membership of ACCA. It noted that this particular case included the following factors:

- a. Dishonesty on the part of Mr Di in purporting that Person A was his PES and that he had achieved the seven POs claimed, when he had not;
- b. Limited insight on the part of Mr Di into the seriousness of his misconduct or the consequences thereof;
- c. No evidence of any remediation on the part of Mr Di;
- d. The conduct had the potential to affect a substantial number of members of the public as Mr Di had obtained membership of ACCA and had been able to hold himself out as an accountant when he was not properly qualified to do so;

64. The Committee also noted that ACCA provides specific guidance on the approach to be taken in cases of dishonesty, which is regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, because it undermines trust and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than exclusion. 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 professional accountant to do the right thing in difficult circumstances. It is 'a cornerstone of the public value which an accountant brings'.

65. The Committee bore in mind these factors when considering whether there was anything remarkable or exceptional in Mr Di's case that warranted anything other than exclusion from membership of ACCA. The Committee was of the view that there were no exceptional circumstances that would allow it to consider a lesser sanction and concluded that the only appropriate and proportionate sanction was to exclude Mr Di from membership of ACCA, particularly as he should never have obtained membership in the first place.
66. Mr Di had provided ACCA with the name of a PES who had not, in fact, supervised him or approved his POs and he had also provided ACCA with seven POs that had been copied from other trainees' PO statements. This had led to him being admitted as a member of ACCA when he was not properly qualified to be a member and, as a result, there was also a potential risk of harm to members of the public. In the Committee's determination Mr Di's conduct was fundamentally incompatible with him being a member of ACCA. The PER process is an important part of ACCA's membership requirements and must be strictly adhered to by those aspiring to become members of ACCA.
67. The Committee was mindful that the sanction of exclusion from membership was the most serious sanction that could be imposed. The Committee took into account the guidance that this sanction was likely to be appropriate when the behaviour of the member was fundamentally incompatible with being a member of ACCA. The Committee was satisfied that Mr Di's dishonest misconduct had reached that high threshold.
68. The Committee also considered that a failure to exclude a member who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its regulator. The public needs to know that it can rely on the integrity, ability and professionalism of those who are properly qualified members of ACCA.
69. The Committee therefore ordered that Mr Di be excluded from membership of ACCA.

70. The Committee did not deem it necessary to impose a specified period before which Mr Di can make an application for readmission as a member of ACCA.

DECISION ON COSTS AND REASONS

71. The Committee was provided with two schedules of costs. ACCA applied for costs in the sum of £5,161.25 in respect of the investigation against Mr Di and the hearing.
72. The Committee was satisfied that the costs sought by ACCA were appropriate and had been reasonably incurred. The Committee determined that the costs claimed should be reduced to £4,831.25, however, to reflect the fact that the hearing had taken less time than accounted for in the two schedules of costs.
73. The Committee noted that Mr Di had completed a statement of financial position. On the form Mr Di indicated that he had an income [private]. Mr Di had not, however, provided any documentary evidence of his income and expenditure. The Committee, however, noted that whilst Mr Di had been informed that it may be helpful to the Committee to have such supporting evidence, it had not been made clear to Mr Di that he must provide evidence to support his current financial circumstances. The Committee, therefore, decided to give Mr Di 'the benefit of the doubt' and to reduce the sum of costs that he should pay to ACCA.
74. The Committee determined that, in all the circumstances, it would be fair and proportionate to order Mr Di to pay ACCA's costs in the sum of £2,000.00.

ORDER

- i. Mr Yang Di shall be excluded from membership of ACCA.
- ii. Mr Yang Di shall pay a contribution to ACCA's costs in the sum of £2,000.00.

EFFECTIVE DATE OF ORDER

75. The Committee directed that it was in the interests of the public for the order for Mr Di to be excluded from membership of ACCA to have immediate effect, subject to the order being varied or rescinded on appeal as described in the Appeal Regulations.

Mr Andrew Popat CBE
Chair
30 January 2024