

# HEARING

## DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

### REASONS FOR DECISION

**In the matter of:** Mr Shilei Yang

**Heard on:** Tuesday, 09 July 2024

**Location:** Held remotely, via MS Teams

**Committee:** Mr Andrew Gell (Chair)  
Ms Andrea White (Accountant)  
Ms Sue Heads (Lay)

**Legal Adviser:** Ms Jane Kilgannon

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

**Summary:** Exclusion from membership

**Costs:** Mr Yang to pay £5,000 towards ACCA's costs

1. The Disciplinary Committee (the Committee) convened to consider the case of Mr Shilei Yang (Mr Yang).

#### ACCA



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2. Ms Michelle Terry (Ms Terry) represented the Association of Chartered Certified Accountants (ACCA). Mr Yang did not attend and was not represented.
3. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
4. In accordance with Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
5. The hearing was conducted remotely through Microsoft Teams.
6. The Committee had considered in advance the following documents:
  - a. A Hearing Bundle (pages 1 to 259);
  - b. A Bundle of 'Performance Objectives relating to complaint against Mr Yang' (pages 1 to 99);
  - c. An Additional Bundle (pages 1 to 11); and
  - d. A Service Bundle (pages 1 to 20).

### **SERVICE OF PAPERS**

7. The Committee considered whether the appropriate documents had been served on Mr Yang in accordance with the Regulations.
8. The Committee accepted the advice of the Legal Adviser, who referred it to Regulations 10 and 22 of the Regulations, and in particular the requirement that notice of the hearing must be served no later than 28 days before the date of the hearing unless there are exceptional circumstances.
9. The Committee noted the written notice of the hearing scheduled for today, 9 July 2024, that had been sent by electronic mail (email) to Mr Yang's registered email address on 11 June 2024. It also noted the subsequent emails sent to

him with the necessary link and password to enable him to gain access to the letter and the documents relating to this hearing.

10. As the Notice of Hearing was sent by email, the Committee noted that service may be proved by confirmation of delivery of the notice, which had been provided to the Committee, and that the notice would be deemed as having been served on the day that it was sent, that is, 11 June 2024. On the basis of that documentation, the Committee was satisfied that the notice of hearing had been served on Mr Yang on 11 June 2024, 28 days before the date of today's hearing.
11. The Committee noted the contents of the notice of hearing and was satisfied that it contained all of the information required by Regulation 10 of the Regulations.
12. The Committee concluded that service of the Notice of Hearing had been effected in accordance with Regulations 10 and 22 of the Regulations.

#### **PROCEEDING IN ABSENCE**

13. Ms Terry made an application that the hearing proceed in the absence of Mr Yang.
14. The Committee, having satisfied itself that the requirements of Regulations 10 and 22 of the Regulations had been complied with, went on to consider whether to proceed in the absence of Mr Yang.
15. The Committee took into account the submissions of Ms Terry. The Committee accepted and took into account the advice of the Legal Adviser, who referred it to Regulation 10(7) of the Regulations, the ACCA document 'Guidance for Disciplinary Committee hearings' and the relevant principles from the cases of *R v Jones* [2002] UKHL 5, and *GMC v Adeogba and GMC v Visvardis* [2016] EWCA Civ 162.

16. The Committee bore in mind that its discretion to proceed in the absence of Mr Yang must be exercised with the utmost care and caution.
17. The Committee noted that ACCA had sent a Notice of Hearing and further correspondence to Mr Yang at his registered email address, that being the email address from which Mr Yang had responded to other ACCA correspondence during the ACCA investigation. It also noted that ACCA had made attempts to contact Mr Yang by telephone on 26 June 2024 and 4 July 2024, but that on each occasion the person answering the call appeared not to speak or understand English and so appeared not to be able to understand what the ACCA member of staff was saying. The Committee noted that, after each of those calls, ACCA followed up with further email correspondence to Mr Yang asking him to confirm whether or not he planned to attend today's hearing, but it received no response.
18. On the basis of the evidence set out above, the Committee was satisfied that ACCA had made reasonable efforts to notify Mr Yang about today's hearing and that Mr Yang knew or ought to know about the hearing. The Committee noted that Mr Yang had not applied for an adjournment of the hearing and there was no indication that such an adjournment would secure his attendance on another date. Furthermore, there was no evidence that Mr Yang was absent due to incapacity or illness. The Committee therefore concluded that it was more likely than not that Mr Yang had voluntarily absented himself from the hearing.
19. The Committee considered that any disadvantage to Mr Yang in not being present at the hearing to provide his account of the relevant events could be addressed by the Committee's thorough assessment of the evidence presented by ACCA and the opportunity for Committee questions to test the evidence presented by ACCA.
20. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously.

21. Having balanced the public interest with Mr Yang's own interests, the Committee decided that it was fair, appropriate and in the interests of justice to proceed in Mr Yang's absence.

## **ALLEGATIONS**

### **Schedule of Allegations**

Shilei Yang (Mr Yang), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 17 February 2021 and in doing so claimed in his ACCA Practical Experience training record that he had achieved the following six Performance Objectives:
  - Performance Objective 3: Strategy and innovation
  - Performance Objective 4: Governance, risk and control
  - Performance Objective 9: Evaluate investment and financial decisions
  - Performance Objective 10: Manage and control working capital
  - Performance Objective 11: Identify and manage financial risk
  - Performance Objective 14: Monitor performance
2. Mr Yang's conduct in respect of the matters described in Allegation 1 above was:
  - a. Dishonest, in that Mr Yang knew he had not achieved all or any of the performance objectives referred to in Allegation 1 above in the manner claimed in the corresponding performance objective statements or at all.
  - b. In the alternative, 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 Mr Yang paid no or insufficient regard to ACCA's

requirements to ensure the corresponding statements to the performance objectives referred to in Allegation 1 accurately set out how each 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 he failed to respond fully or at all to any or all of ACCA's correspondence dated:
  - a. 13 September 2023;
  - b. 2 October 2023;
  - c. 17 October 2023.
  
5. By reason of his conduct, Mr Yang is
  - a. Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all 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**

22. Upon an ACCA student completing all of their ACCA exams, they become an ACCA affiliate (also known as an ACCA trainee). However, in order to apply for membership, they are required to obtain at least 36 months' practical experience in a relevant role (practical experience). It is permissible for some or all of that practical experience to be obtained before completion of ACCA's written exams.
  
23. The practical experience involves the completion of nine performance objectives (POs) under the supervision of a qualified accountant, which are recorded in a Practical Experience Requirement (PER) training record. In addition to approval of their POs, a trainee must ensure that their employment where they have gained relevant practical experience has been confirmed by the trainee's line manager who is usually also the trainee's qualified accountant

supervisor. This means that the same person can and often does approve both the trainee's time and achievement of POs.

24. If the trainee's line manager is not a qualified accountant, the trainee can nominate a supervisor who is external to the firm to supervise their work and approve their POs. This external supervisor must have some connection with the trainee's firm, for example as an external accountant or auditor.
25. Once all nine POs have been approved by the trainee's practical experience supervisor (whether internal or external) and their minimum 36 months of practical experience has been signed off, the trainee is eligible to apply for membership of ACCA.
26. Mr Yang became an ACCA affiliate on 18 January 2021. Following submission of a PER training record on 17 February 2021, Mr Yang became an ACCA member on 26 February 2021.
27. Mr Yang's PER training record included the following:
  - a. Employment by Firm A as an Analyst from 7 April 2017 to no specified date (but at least until 17 February 2021 when his time and experience was approved), gaining 46 months of relevant practical experience;
  - b. Person A approving all nine of Mr Yang's PO statements on 16 February 2021; and
  - c. Person B approving Mr Yang's period of employment at Firm A.
28. In respect of Mr Yang's nine PO statements, ACCA's analysis indicated that:
  - a. The content of three of the PO statements was the 'first in time' to be used in a membership application; and

- b. The content of the other six PO statements was not 'first in time' and was identical or significantly similar to the POs contained in the PER training records of other ACCA trainees.
29. Following the referral of this matter to the ACCA Investigation Team, emails were sent to Person A, Person B and to a general email address found for Firm A. ACCA sought confirmation that Person A and Person B had supervised Mr Yang as per his PER training record. No response was received.
30. ACCA sent a letter to Mr Yang by email on 13 September 2023 asking Mr Yang to respond to a number of questions related to the concern about his PER training record by 27 September 2023. No response was received and so a follow up letter was sent by email on 2 October 2023. Again no response was received.
31. On 6 October 2023 ACCA contacted Mr Yang using his registered telephone number. Mr Yang answered the call, said that he had not received the letters dated 13 September 2023 and 2 October 2023, provided an alternative email address and confirmed that he would reply to the letters if they were to be forwarded to that alternative email address. The letters were forwarded by ACCA (to both Mr Yang's registered email address and the alternative email address provided) on 6 October 2023 and Mr Yang responded on the same day (from his registered email address) as follows:

*"It is really happy to hear your voice, the voice from ACCA.*

*In the past 3 years, we all had been through a tough period as the epidemic disease is considerably influencing our lives. lots of people dead, and it is really lucky that some people just losing their job.*

*LIFE IS HARD, BUT WE ARE WORKING ON IT!*

*I do have kids to feed and parents to cure, dont u think should I spend the time just because of the similarities only? what ACCA doing when we been though all those hard time?"*

32. After a further email from ACCA on 6 October 2023, Mr Yang responded a second time that day as follows:



*“i will do what I can do but its been a long time people change the employment contract change as well(employment works only 3 years and had been renewed in 2021 as I remeber) the tutor I cant get intouch anymore, and I do have a new supervisor.*

*SO what I can do its to:*

*1. the new employment contract*

*2. the new tutor infor*

*besides that I am trying to find other useful information to prove I am working on the bank since 2015-2016or so but im not sure I can find any since its been a looong time*

*Finaly, I do think u guys should do this much more early than today if you think it is important”.*

33. As ACCA considered that Mr Yang had not fully answered the questions put to him, it sent a further letter by email on 17 October 2023 reminding him of his obligation to co-operate with the investigation and seeking a full response to the questions by 31 October 2023. No response was received.
34. On 17 October 2023 ACCA also attempted to speak to Mr Yang by telephone, using his registered telephone number. However, no-one answered the call and there was no facility to leave a voicemail message.
35. On 16 January 2024 ACCA’s China office sent a mobile text message to Mr Yang reminding him that important emails had been sent to him that required a response. No response was received.

#### **DECISION ON FACTS AND REASONS**

36. As no admissions had been made by Mr Yang, it was for ACCA to prove its case in relation to each of the allegations put forward.
37. The Committee considered with care all of the evidence presented and the submissions made by Ms Terry. It also took into account the written

representations of Mr Yang contained within his emails sent to ACCA on 6 October 2023.

38. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

#### **Allegation 1 – Proved**

39. The Committee noted that ACCA had received Mr Yang's PER training record on 17 February 2021, submitted to ACCA as part of his application for ACCA membership. It included a claim of 46 months of practical experience, approved by Person B, and nine POs, approved by Person A.
40. The Committee noted that the nine POs set out in Mr Yang's PER training record included the six POs referenced in Allegation 1, namely POs 3, 4, 9, 10, 11 and 14.
41. The Committee noted that nothing in Mr Yang's written representations in his emails dated 6 October 2023 indicated a denial by him that he had claimed to have achieved those six POs.
42. Taking all of those matters into account, the Committee was satisfied that when he applied for membership of ACCA Mr Yang had claimed to have achieved POs 3, 4, 9, 10, 11 and 14.
43. Accordingly, Allegation 1 was found proved.

#### **Allegation 2(a) – Proved**

44. The Committee considered whether Mr Yang had acted dishonestly when confirming the PO statements in his PER training record.
45. The Committee noted the advice set out for ACCA trainees in the ACCA guidance document 'PER – Practical experience requirements'. In particular, the Committee noted the statement at page 10 of that document "*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"* (page 207 of the Hearing bundle).

46. The Committee was provided with analysis by ACCA showing that six of Mr Yang's PO statements were the same or significantly similar to the POs of a number of other of those other individuals and were not 'first in time'. The Committee reviewed Mr Yang's PO statements and those of the other ACCA trainees and found six of Mr Yang's PO statements (namely, POs 3, 4, 9, 10, 11 and 14) to be the same or significantly similar to the PO statements of a number of other of those other ACCA trainees.
47. In those circumstances, the Committee considered it to be inherently unlikely that the content of the six PO statements was genuine and Mr Yang's own work, as is required. In the absence of any alternative explanation from Mr Yang, the Committee found, on the balance of probabilities, that the most likely explanation for the similarity between Mr Yang's six PO statements and those of the other ACCA trainees, was that Mr Yang had copied wording from that used in the PER training record of others or had drawn wording from a shared pool of sample PO statements. On that basis, the Committee found that the content of the six PO statements provided by Mr Yang was not true.
48. The Committee considered whether Mr Yang would have been aware that he was required to submit his own objectives and could not use those of others, even as templates or precedents. Copies of the documents that would have been available to Mr Yang prior to submission of his PER training record were reviewed. These documents included the 'PER – Practical experience requirements', referenced above. Having reviewed those documents, the Committee was satisfied that it would have been clear to Mr Yang, if he had read those guidance documents, that the PO statements provided must be his own.
49. The Committee considered that it was reasonable for ACCA to have expected Mr Yang to be able to understand the guidance provided in the English

language, given that ACCA examinations taken by ACCA trainees are in English. However, the Committee also noted that a number of pieces of relevant ACCA guidance on the PER had been provided in Mandarin, providing additional assistance to ACCA trainees who were Mandarin speakers. Therefore, there would have been no reason for Mr Yang to be under any misapprehension that he was permitted to copy or borrow from the PO statements of other ACCA trainees when submitting his own PO statements.

50. The Committee considered Mr Yang's written representations in his emails dated 6 October 2023, in particular his remark:

*"[...] dont u think should I spend the time just because of the similarities only? what ACCA doing when we been though all those hard time?"*

51. In saying this, the Committee considered that Mr Yang appeared to be asserting that the similarities between his POs and those of other ACCA trainees did not mean that he had not achieved the required practical training. The Committee gave this assertion careful thought but decided to dismiss it. Given its finding that the content of six of Mr Yang's POs was not true, the Committee concluded that the POs could not, and did not, properly reflect the practical training and experience actually achieved by Mr Yang.

52. Applying the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67, the Committee first considered what Mr Yang's subjective state of mind was at the relevant time. The Committee noted that Mr Yang was of previous good character. It also noted that it was Mr Yang that had submitted the relevant documentation to ACCA. Therefore, he was in a position to be fully aware of whether the PO statements listed on the ACCA documentation were a true reflection of his unique training experience or not. The Committee considered that, at the time that Mr Yang submitted his PER training record, he would have been aware that the wording he had used in six of his POs was not his own wording, and therefore did not amount to an accurate description of his own unique practical experience. Therefore, when he submitted his PER training record, Mr Yang would have been aware that the training record contained false information and that the false information could

mislead ACCA into believing that he had achieved the PO statements as set out in the training record, when he had not.

53. Applying the second stage of the test for dishonesty, the Committee considered whether an ordinary decent member of the public would find Mr Yang's conduct to be dishonest by objective standards. The Committee considered that the public expected members of the accountancy profession to be truthful in all of their conduct, in particular in the course of their professional communications. For that reason, the Committee found that Mr Yang's conduct, in knowingly providing his regulator with misleading information, was objectively dishonest.
54. Accordingly, Allegation 2(a) was found proved.
55. Given the Committee's finding in relation to Allegation 2(a), it was not necessary for it to consider the matters alleged in the alternative, namely Allegations 2(b) and 3.

#### **Allegations 4(a), 4(b) and 4(c) – Proved**

56. Copies of the letters sent by email to Mr Yang following the referral of the matter to ACCA's Investigation team were provided. The Committee noted that the letters were each sent to the email address provided to ACCA by Mr Yang as his registered email address. The Committee was provided with a file note setting out read receipts for the emails, showing that the emails sent to Mr Yang on 13 September 2023 and 2 October 2023 were first opened on 6 October 2023, and the email sent to Mr Yang on 17 October 2023 was first opened on 19 October 2023.
57. The Committee noted that reference is made in the emailed letters to the part of the Regulations that require ACCA members to cooperate fully with ACCA investigations.
58. Having reviewed the file note setting out the read receipts, alongside the file notes of telephone conversations that took place between ACCA and Mr Yang on 6 October 2023, the Committee was satisfied that Mr Yang did receive and

was aware of the contents of the letters dated 13 September 2023, 2 October 2023 and 17 October 2023.

59. The Committee noted Mr Yang's two emails in response to ACCA on 6 October 2023, and considered that the content of those emails indicated that Mr Yang had read and understood ACCA's concerns about the wording used in six of his POs.
60. The Committee noted that although Mr Yang had responded to ACCA on 6 October 2023, he had not provided specific answers to the eight numbered questions that had been put to him in all three of the ACCA letters. The Committee noted that Mr Yang had instead provided a generalised response, pointing to having worked for the same company for a long time but with an updated contract and a new supervisor, and stating that it was difficult to find information that would be useful to ACCA's investigation since it was a long time since he had submitted his POs. The Committee noted that Mr Yang also made reference to the Covid-19 pandemic and his own personal circumstances.
61. The Committee noted that Mr Yang was under a duty to cooperate fully with the ACCA investigation into his conduct. The Committee considered that full cooperation with ACCA required more than the generalised response provided by Mr Yang. It considered that Mr Yang should have provided specific answers to each of the eight specific questions put to him by ACCA. As such a response was not provided, the Committee considered that Mr Yang had failed to discharge his duty to fully cooperate with the ACCA investigation.
62. Accordingly, Allegations 4(a), 4(b) and 4(c) were found proved.

#### **Allegation 5(a) – Proved**

63. The Committee found that, in dishonestly submitting false information to ACCA in his PER training record, Mr Yang's conduct had fallen far short of what would be expected of an ACCA member and was serious enough to amount to misconduct. Mr Yang's dishonest behaviour enabled him to obtain ACCA

membership without completing the requisite practical experience. As such, the conduct had put members of the public, employers and clients at risk of harm and had the potential to undermine public confidence in ACCA qualifications and membership, and to bring the profession into disrepute.

64. The Committee found that, in failing to fully co-operate with ACCA's investigation into his conduct, Mr Yang's conduct had fallen far short of what would be expected of an ACCA member and was serious enough to amount to misconduct. Mr Yang's failure had the potential to undermine ACCA's ability to function effectively as a regulator and therefore risked bringing both ACCA and the profession into disrepute.
65. Accordingly, Allegation 5(a) was found proved in respect of Allegations 1, 2(a), 4(a), 4(b) and 4(c).
66. Given the Committee's finding in relation to Allegation 5(a), it was not necessary for it to consider the matter alleged in the alternative, namely Allegation 5(b).

## **SANCTION AND REASONS**

67. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry on behalf of ACCA. The Committee also referred to the ACCA document 'Guidance for Disciplinary Sanctions'. The Committee accepted the advice of the Legal Adviser including the following principles:
  - a. The purpose of a sanction is not to punish, but to protect the public, maintain public confidence in the profession and to maintain proper standards of conduct;
  - b. Any sanction must be proportionate, so the Committee must balance the interests of the member with the interests of wider ACCA membership and the public; and

- c. The Committee must consider the available sanctions in order of severity, starting with the least severe first.
68. The Committee considered the following to be aggravating features of this case:
- a. Mr Yang's PER training record contained multiple pieces of false and misleading information;
  - b. Mr Yang's dishonest conduct appeared to be pre-meditated and planned;
  - c. Mr Yang derived a personal benefit from his dishonest conduct (ACCA membership and the associated permission to undertake certain regulated work for remuneration);
  - d. Mr Yang's conduct had the potential to cause harm to the public and to clients, since he was able to hold himself out as an ACCA member, without the requisite approved practical experience;
  - e. The repeated nature of Mr Yang's failure to fully co-operate with ACCA's investigation, potentially frustrating that investigation; and
  - f. Mr Yang's generalised response to the ACCA investigation and his failure to engage with the disciplinary proceedings indicated a lack of insight into his wrongdoing.
69. The Committee considered that a mitigating feature of the case was the absence of any previous regulatory findings against Mr Yang.
70. The Committee considered taking no action against Mr Yang. However, given the seriousness of his conduct, including dishonesty, the Committee considered that it would be inappropriate to take no action.
71. The Committee considered imposing an admonishment on Mr Yang. The Committee noted that the guidance indicated that an admonishment would be appropriate in cases where most of the following are present: evidence of no loss or adverse effect on client / members of the public; early admission of the facts alleged; insight into failings; isolated incident; not deliberate; genuine expression of remorse/apology; corrective steps have been taken promptly; subsequent work satisfactory; and relevant and appropriate testimonials and



references. The Committee considered that this was not a case where most of these factors were present. It was not an isolated incident because the matters found proved included a dishonest act to obtain ACCA membership in addition to a repeated failure to fully cooperate with an ACCA investigation. Mr Yang had not provided any evidence of remorse/apology, insight, corrective steps, or satisfactory work and conduct since. There was no independent evidence indicating that Mr Yang had acted unwittingly and there were no positive testimonials or references provided. Taking these matters into account, together with the seriousness of the misconduct found, the Committee concluded that an admonishment would be an inappropriate response.

72. The Committee considered imposing a reprimand on Mr Yang. The Committee noted that the guidance indicated 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. None of these features were present in this case. The misconduct was of a serious nature, insufficient insight had been demonstrated by Mr Yang and so there remained a continuing risk to the public. For those reasons, the Committee concluded that a reprimand would be inappropriate.
73. The Committee considered imposing a severe reprimand on Mr Yang. The Committee noted that the guidance indicated that a severe reprimand would be appropriate in cases where the conduct is of a serious nature but where the circumstances of the case or mitigation advanced satisfies the Committee that there is no continuing risk to the public. The Committee considered that the conduct was of a serious nature but that there was no relevant mitigation or circumstances that removed the continuing risk to the public. On that basis, the Committee concluded that a severe reprimand would be inappropriate because it would not provide adequate protection for the public, and nor would it adequately address public confidence and the need to maintain proper professional standards.
74. The Committee considered whether to exclude Mr Yang from membership. The Committee noted that Mr Yang's misconduct included dishonest conduct and a

failure to co-operate with an ACCA investigation, both of which the Committee assessed to be very serious matters.

75. Taking into account the seriousness of the conduct and the resultant ongoing risk to the public, the Committee concluded that the most appropriate sanction was exclusion from membership. With reference to section E2.3 of the guidance document (which relates to sanctions appropriate in cases of dishonesty), the Committee considered that the mitigation advanced by Mr Yang (including reference to the difficulties of the Covid-19 pandemic period, his family circumstances, and the length of time that had passed since the submission of his ACCA membership application) was not so remarkable or exceptional that it would warrant anything other than exclusion from membership. The Committee considered Mr Yang's conduct found proved to be so serious as to be fundamentally incompatible with being an ACCA member.
76. The Committee considered that Mr Yang's misconduct represented a significant and immediate risk to the public, in that Mr Yang was currently able to present himself as an ACCA Member with all of the requisite approved experience, when he did not, in fact, possess such approved experience. As such, potential employers and clients could be misled, and Mr Yang may also have the opportunity to supervise ACCA trainees himself.
77. The Committee acknowledged that exclusion from membership was the most severe sanction available and had the potential to cause professional and financial hardship to Mr Yang. However, in the circumstances of this case, the Committee considered that the public interest (both in terms of public protection and in maintaining standards and confidence in the profession) outweighed Mr Yang's own interests, and therefore exclusion from membership was the only appropriate and proportionate sanction available.
78. Accordingly, the Committee decided that the only appropriate and proportionate sanction to impose was an order excluding Mr Yang from membership of ACCA.

79. The Committee decided that, given the circumstances of the case and the significant and immediate risk to the public, it was in the interests of the public that the order for exclusion from membership should have immediate effect.
80. The Committee considered that the circumstances of the case did not warrant an order restricting Mr Yang's right to apply for re-admission beyond the normal minimum period.

### **COSTS AND REASONS**

81. Ms Terry, on behalf of ACCA, applied for Mr Yang to make a contribution to the costs of ACCA in bringing this case. The application was supported by a schedule breaking down the costs incurred by ACCA in connection with the hearing. The schedule showed total costs in the sum of £5,861.00 but Ms Terry highlighted that those included a sum that had had to be estimated in relation to the length of today's hearing, and which could be reduced to reflect the fact that the hearing had taken less time than estimated.
82. Mr Yang had been invited to provide the Committee with a completed Statement of Financial Position, but had not done so.
83. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (September 2023).
84. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. Having reviewed the schedule, the Committee considered that the costs claimed appeared to have been reasonably and proportionately incurred.
85. In light of the absence of information as to Mr Yang's financial circumstances, the Committee decided that it had no reason to reduce the amount of costs claimed on the basis of ability to pay.

86. In light of the fact that the hearing today had taken less time than had been estimated in the ACCA schedule, the Committee determined that it would be appropriate to reduce the amount of costs awarded accordingly.
87. Taking all of the circumstances into account, the Committee decided that Mr Yang should be ordered to make a contribution to the costs of ACCA in the sum of £5,000.00.

### **ORDER**

88. The Committee made the following order:
- a. Mr Yang shall be excluded from ACCA membership; and
  - b. Mr Yang shall make a contribution to ACCA's costs in the sum of £5,000.00.

### **EFFECTIVE DATE OF ORDER**

89. In accordance with Regulation 20(1)(b) of the Regulations, the Committee decided that, in the interests of the public, the order relating to exclusion from ACCA membership shall take effect immediately.
90. In accordance with Regulation 20(2) of the Regulations, the order relating to costs shall take effect immediately.

**Mr Andrew Gell**  
**Chair**  
**9 July 2024**