

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Zhenwei Zheng
Heard on:	Thursday 27 June 2024
Location:	Remotely via MS Teams
Committee:	Mr David Tyme (Chair) Ms Joanne Royden-Turner (Accountant) Ms Samantha Lipkowska (Lay)
Legal Advisers:	Mr Alastair McFarlane
Persons present and capacity:	Ms Elaine Skittrell (Case presenter) Ms Anna Packowska (Hearings Officer) Ms Joy Julien (Appointments Board)
Summary:	Exclusion from membership with immediate effect and costs awarded of £5,500

1. ACCA was represented by Ms Skittrell. Miss Zheng did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1-259, an additional bundle, numbered pages 1-12, a separate bundle numbered pages 1-106, and a service bundle, numbered pages 1-16.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

SERVICE/PROCEEDING IN ABSENCE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Miss Zheng in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).
3. Ms Skittrell, for ACCA, made an application for the hearing to continue in the absence of Miss Zheng.
4. The Committee accepted the advice of the Legal Adviser.
5. The Committee noted that following the service of the Notice of Hearing on 30 May 2024, the Hearings Officer had made repeated attempts to telephone Miss Zheng on 26 June 2024 without success and had sent chasing e mails on 20 and 26 June 2024 regarding whether she would be attending the hearing. There has been no response. It also noted that Miss Zheng has not engaged with the case at all.
6. The Committee was satisfied that Miss Zheng’s non-responses and her 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.

ALLEGATIONS

Zhenwei Zheng (‘Miss Zheng’), at all material times an ACCA trainee,

1. **Applied for membership to ACCA on or about 8 March 2021 and in doing so claimed in her ACCA Practical Experience training record that she had achieved the following nine Performance Objectives:**

- **Performance Objective 1: Ethics and professionalism**

- **Performance Objective 2: Stakeholder relationship management**
- **Performance Objective 3: Strategy, innovation and sustainable value creation**
- **Performance Objective 4: Governance, risk and control**
- **Performance Objective 5: Leadership and management**
- **Performance Objective 6: Record and process transactions and events**
- **Performance Objective 8: Analyse and interpret financial reports**
- **Performance Objective 17: Tax planning and advice**
- **Performance Objective 19: Collect and evaluate evidence for an audit or assurance engagement**

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

a) dishonest, in that Miss Zheng knew she 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 Miss Zheng paid no or insufficient regard to ACCA's requirements to ensure the performance objective statements referred to in Allegation 1 accurately set out how the corresponding objective had been met.

4. Failed to co-operate with ACCA's Investigating Officer in breach of Complaints and Disciplinary Regulation 3(1) in that she failed to respond fully or at all to any or all of ACCA's correspondence dated:

(a) 14 September 2023;

(b) 2 October 2023;

(c) 17 October 2023

5. By reason of her conduct, Miss Zheng 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)

BACKGROUND

7. Miss Zheng became an ACCA member on 11 March 2021.
8. 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.
9. During 2023 it came to ACCA's attention that a number of ACCA trainees had had their POs approved by the same practical experience supervisor, namely Person A. For all these trainees, Person A was recorded as their IFAC qualified external supervisor. Person A registered as each trainee's supervisor on the basis of her being a member of the Chinese Institute of Certified Public Accountants (CICPA), being an IFAC registered body.
10. An initial review was carried out on the PER training records for these trainees which indicated some of the PO statements, which should be unique to each trainee, were identical or similar to those of other ACCA trainees. Those trainees supervised by Person A and whose PO statements were identical or

similar to others were referred to ACCA's Investigations Team. One such trainee was Miss Zheng.

11. ACCA's primary case against Miss Zheng is that Miss Zheng requested Person A approve all nine of her performance objectives on 8 March 2021 and Person A is recorded as approving all Miss Zheng's performance objectives the same day. A careful analysis was carried out on the PER training records of those trainees recorded as being supervised by Person A. This analysis revealed many of their PO statements were identical or similar to the PO statements of other ACCA trainees. These 'other trainees' were part of a cohort of 100 trainees all of whom had previously been referred to ACCA's investigations team given their PO statements within this cohort were also, similar or identical. In relation to Miss Zheng the analysis revealed:

- None of her PO statements were first in time and
- All nine of her PO statements were identical or significantly similar to the PO statements contained in the PERs of many of the other ACCA trainees previously referred to ACCA's Investigations Team.

ACCA's SUBMISSIONS

Allegation 1

Applied for membership to ACCA on or about 8 March 2021 and in doing so claimed in her ACCA Practical Experience training record that she had achieved the following nine Performance Objectives:

- **Performance Objective 1: Ethics and professionalism**
- **Performance Objective 2: Stakeholder relationship management**
- **Performance Objective 3: Strategy, innovation and sustainable value creation**
- **Performance Objective 4: Governance, risk and control**
- **Performance Objective 5: Leadership and management**
- **Performance Objective 6: Record and process transactions and events**
- **Performance Objective 8: Analyse and interpret financial reports**

- **Performance Objective 17: Tax planning and advice**
 - **Performance Objective 19: Collect and evaluate evidence for an audit or assurance engagement**
12. ACCA submitted that Allegations 1 is capable of proof by reference to the following:
- Person Z (Manager of ACCA's Professional Development Team's) statement which describes ACCA's Practical Experience Requirements.
 - Miss Zheng's completed PER training record which was completed on or about 8 March 2021 which then permitted Miss Zheng to apply for membership. Miss Zheng became registered as an ACCA member on 11 March 2021.
 - Miss Zheng's Supervisor details which record Person A was her 'IFAC qualified external supervisor', and therefore her practical experience supervisor.
 - Miss Zheng's PER training record which records Person A approved all Miss Zheng's PO's as set out in Allegation 1.
 - That all nine of Miss Zheng's PO statements was the same or significantly similar as other trainees suggesting at the very least, she had not achieved the objective in the way claimed or possibly at all.

Allegation 2

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

- a) dishonest, in that Miss Zheng knew she 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.

13. ACCA's primary case was that Miss Zheng was dishonest when she submitted her Practical Experience Training Record to ACCA because Miss Zheng knew she had not achieved all or any of the performance objectives referred to in Allegation 1 above as described in the corresponding performance objective statements or at all. 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 Zheng was unaware her practical experience had to be supervised or the statements supporting her PO's had to be in her own words and describing the experience she had actually gained to meet the relevant Performance Objective.
14. In order to achieve membership, it is submitted Miss Zheng claimed to have been supervised by Person A in her PER training record and claimed to have achieved the PO's with the use of a supporting statements, which she must have known had not been written in her own words. She therefore knew she had not achieved the PO as described in the statement or at all.
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 Zheng is not found to be dishonest, it will be submitted, that the conduct in the alternative fails to demonstrate Integrity.

Allegation 3 – Recklessness

17. ACCA submitted in the further alternative Miss Zheng's conduct was reckless in the ordinary sense of the word in that she paid no or insufficient regard to the fact that she was required to ensure her to the fact that her PO statements should truthfully and accurately set out,

how the relevant objective had been met.

Allegation 4 – Failure to Co-operate

18. ACCA contended that by not responding to ACCA's correspondence dated 14 September 2023, 2 October 2023 and 17 October 2023, Miss Zheng breached her duty to co-operate under Regulation 3(1) of the Complaints and Disciplinary Regulations.

Allegation 5 – Misconduct

5. By reason of her conduct, Miss Zheng 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)

19. ACCA contended Miss Zheng's conduct at allegations 1-4 amounted to misconduct. As an alternative, in relation to allegation 4 only, the failure to co-operate rendered her liable to disciplinary action.

MISS ZHENG'S SUBMISSIONS

20. There were no submissions from Miss Zheng.

DECISION ON ALLEGATIONS AND REASONS

21. The Committee accepted the advice of the Legal Adviser.
22. 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.

23. The Committee heard that there had been no previous findings against Miss Zheng and accepted that it was relevant to put her good character into the balance in her favour.

DECISION ON FACTS

24. The Committee reminded itself to exercise caution as it was working from documents alone. It noted the submissions of Ms Skittrell for ACCA. It reminded itself that the burden of proof was on ACCA alone and that Miss Zheng'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 8 March 2021 and in doing so claimed in her ACCA Practical Experience training record that she had achieved the following nine Performance Objectives:**

- **Performance Objective 1: Ethics and professionalism**
- **Performance Objective 2: Stakeholder relationship management**
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25. 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 Zheng had submitted it to ACCA on or around 8 March 2021. Further, the Committee accepted on the face of the document that it purported to confirm that that she had achieved the nine Performance Objectives set out in Allegation 1. Accordingly, the Committee was satisfied that Allegation 1 was proved.

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

a) dishonest, in that Miss Zheng knew she 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.

26. The Committee accepted ACCA's evidence that the Training Record that Miss Zheng submitted to ACCA contained PO statements for all nine POs. The Committee undertook a comparison between the statements submitted by Miss Zheng and the statements submitted by other students as set out in the PO bundle. The Committee thought it more likely than not that the significant similarities between them, and the fact that none of Miss Zheng's statements were the first in time, indicated that Miss Zheng had copied her statements from other trainees' records. It rejected as implausible that separately and properly compiled statements could be so similar. The Committee noted that the requirements for such statements are that they "should be in your own words". In all the circumstances the Committee therefore concluded that it was more likely that Miss Zhang had not achieved the PO's listed.

27. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest on the basis that she knew the stated PO's had not in fact been achieved in the manner claimed in the corresponding performance objective statements or at all.

28. The Committee considered what Miss Zheng's belief was, as to the facts. It was satisfied that Miss Zheng's statements for all nine PO's were nearly the same as the statements of other trainees who claimed to be supervised by Person A and which were submitted before Miss Zheng's submission of her POs accompanying statements. It compared Miss Zheng's statements with those of the other trainee contained in the records and noted that they were nearly identical in content. The Committee was therefore satisfied that Miss Zheng knew her statements were not her original work and did not reflect her work experience. The statements were therefore false and had, more likely than not, been copied from others. It made the reasonable inference on these finding of facts that Miss Zheng had not done the work for or "achieved" the PO as described. It 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 in relation to all nine POs.

Allegations 2 b and 3

- 2 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 Miss Zheng paid no or insufficient regard to ACCA's requirements to ensure the performance objective statements referred to in Allegation 1 accurately set out how the corresponding objective had been met.**
29. Given the Committee's findings in relation to Allegation 2 a) it did not consider the alternatives of Allegation 2 b) and Allegation 3. These were therefore not proved.

Allegation 4

- 4. Failed to co-operate with ACCA's Investigating Officer in breach of Complaints and Disciplinary Regulation 3(1) in that she failed to respond fully or at all to any or all of ACCA's correspondence dated:**

(a) 14 September 2023;

(b) 2 October 2023;

(c) 17 October 2023

30. The Committee was satisfied that under paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Miss Zheng to cooperate fully with ACCA in the investigation of any complaint. It was satisfied that Miss Zheng made no response to ACCA's correspondence requesting his cooperation on the 14 September 2023; 2 October 2023 and 17 October 2023. It was further satisfied that these non-responses amounted to failures as Miss Zheng had a duty to respond and that therefore she breached the obligation under the Regulations and that Allegation 4 was proved.

Allegation 5

5. By reason of her conduct, Miss Zheng 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)

31. The Committee next asked itself whether, by submitting a fraudulent Practical Experience Training Record, Miss Zheng was guilty of misconduct.
32. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. To dishonestly gain membership and not undertake the work claimed, was, in the Committee's judgment, deplorable conduct. It was satisfied that Miss Zheng's actions brought discredit on her, 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 false and

misleading statements – and therefore had reached the threshold for misconduct.

33. The Committee was satisfied that Miss Zheng's duty to cooperate with her regulator is an important one, both to enable the regulator to properly and fairly discharge its regulatory function and to uphold public confidence in the regulatory system. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Miss Zheng's actions brought discredit on her, the Association, and the accountancy profession. For these reasons the Committee was satisfied that her failure to cooperate was sufficiently serious to amount to misconduct. Given the failure amounted to misconduct the Committee did not need to consider the alternative of liability to disciplinary action.

SANCTIONS AND REASONS

34. 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.
35. The Committee accepted the advice of the Legal Adviser.
36. 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. Engagement with your regulator is a fundamental obligation on all professionals.
37. The aggravating factors the Committee identified were:

- The behaviour involved dishonesty which was designed to deceive her regulator and was for personal gain
 - The conduct was pre-planned and amounted to an abuse of the trust imposed on student members seeking membership
 - There was a potential risk to the public as Miss Zheng was not properly qualified
 - The serious impact on the reputation of the profession
 - There was no evidence of insight into the seriousness of the conduct
38. The only mitigating factor the Committee identified was:
- A previous good character with no disciplinary record
39. 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.
40. The Committee reminded itself that it was dealing with a case of dishonesty and 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. There was no exceptional mitigation before the Committee. The Committee determined that Miss Zheng's dishonest behaviour and the non-cooperation were fundamentally incompatible with Miss Zheng remaining on the register of ACCA and considered that the only appropriate and proportionate sanction in the public interest was that she be excluded from membership.

COSTS AND REASONS

41. ACCA claimed costs of £5,952.50 and provided a detailed schedule of costs. The Committee noted Miss Zheng has 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. It was appropriate to make some reduction as the case has not taken as long as expected. Accordingly, the Committee concluded that the sum of £5,500 was appropriate and proportionate. It ordered that Miss Zheng pay ACCA's costs in the amount of £5,500.

EFFECTIVE DATE OF ORDER

42. The Committee was satisfied that, given the seriousness of the conduct and the potential risk to the public that an immediate order was necessary in the circumstances this case in order to protect the public as Miss Zheng was not properly qualified.

Mr David Tyme
Chair
27 June 2024