

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Miss May Zon Chit

**Heard on:** Tuesday, 12 March 2024

**Location:** ACCA, The Adelphi, 1-11 John Adam Street,  
London, WC2N 6AU. Virtual hearing using Microsoft  
Teams.

**Committee:** Ms Carolyn Tetlow (Chair)  
Ms Sue Gallone (Accountant)  
Ms Sam Lipkowska (Lay)

**Legal Adviser:** Mr David Marshall

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

**Summary:** Severe Reprimand

**Costs:** £5,300

1. The Committee heard an allegation of misconduct against Miss Chit. Mr Slack appeared for ACCA. Miss Chit was not present and not represented.

2. The Committee had a main bundle of papers containing 87 pages and a service bundle containing 16 pages. It also had a video recording of the examination with which this hearing was concerned, lasting 2 hours, 44 minutes.

#### **PROCEEDING IN ABSENCE**

3. The Committee was satisfied that Miss Chit had been served with the documents required by regulation 10(7) of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 in accordance with regulation 22. The required documents were contained in the papers before the Committee. There was evidence that they were sent by email on 13 February 2024 to an email address notified by Miss Chit to ACCA as an address for all correspondence. That was 28 days ago.
4. The Committee noted that nothing had been heard from Miss Chit since 10 December 2021, the date of the exam in question. During the investigation and subsequent process, ACCA had sent numerous emails to Miss Chit but there had been no response. ACCA also attempted to telephone her on several occasions, including yesterday, without success. The Committee had no reason to doubt that Miss Chit was aware that there were ACCA proceedings against her and that she knew, or had the means of knowing, of this hearing. The Committee concluded that she had decided not to exercise her right to attend. The Committee considered that the public interest required that a hearing take place and that nothing would be gained by an adjournment.
5. The Committee determined to proceed in Miss Chit's absence.

#### **ALLEGATION(S)/BRIEF BACKGROUND**

6. Miss Chit registered as an ACCA student in April 2020. On 10 December 2021 she took ACCA's Diploma in International Financial Reporting (DIP IFR) examination. This was a remotely invigilated computer-based exam taken in a place of Miss Chit's choosing. The invigilator was not present but had video and audio access through the camera mounted on Miss Chit's screen and communicate with her directly if required either through chat messages or by phone. The invigilator formed the view that there was another person or persons present in the room during the exam and that Miss Chit had

communicated with a third party.

7. Miss Chit faced the following allegations:

***Allegation 1***

*Miss May Zon Chit, a student of ACCA in respect of her Diploma in International Financial Reporting (DIP IFR) exam on 10 December 2021 ('the Exam')*

1. *Contrary to Exam Regulation 16, Miss May Zon Chit was:*

- a) Speaking aloud during the exam and/or*
- b) Communicating with a third party during the exam*

2. *Contrary to Exam Regulation 20, Miss May Zon Chit was not the only person in the room where she sat her exam.*

3. *Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Miss May Zon Chit failed to co-operate with the investigation of a complaint, in that she did not respond to any or all of ACCA's correspondence sent on:*

- (a) 11 August 2022;*
- (b) 02 September 2022; and*
- (c) 28 September 2022*

4. *By reason of her conduct above, Miss May Zon Chit is:*

- (a) Guilty of misconduct pursuant to bye-law 8(a)(i) or, in the alternative,*
- (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii)*

**DECISION ON FACTS/ALLEGATION(S) AND REASONS**

8. Mr Slack relied on the documentary evidence and the video/audio recording. He did not call any witnesses. The Committee considered these carefully. Miss Chit had not made any written submissions at any time in relation to the issues in this case.

## **Allegations 1 and 2**

9. The Committee viewed the whole video and audio recording. There could be no doubt that there were instances where Miss Chit talked to another person who was off camera. The conversation was in Burmese and ACCA had obtained a translation.
10. At two hours and twenty minutes into the recording (timestamp 2:20:19) Miss Chit can be seen and heard initiating a brief conversation (about 40 seconds) with a man. It seems clear that the man is not in the room and Miss Chit is using a hands-free device of some kind. The translation shows that she was seeking advice or assistance about the fact that the online exam system was not working properly. The Committee inferred that this person was the invigilator and therefore not a 'third party'. The man asked where Miss Chit was taking the test and she gave him an address, a hotel room. A little later the man says 'They said they were coming' and 'I let them know and they are coming'.
11. At 2:21:33 a slight noise can be heard and then Miss Chit turns her head to the left and leans back. The Committee concluded that someone had come into the room. Miss Chit speaks, loudly and clearly with no attempt at concealment, and the other person (a woman) answers. There is then a conversation between them intermittently until 2:28:15. From the translation it is clear that Miss Chit is seeking technical help. She complains that she can't communicate with (it seems) the invigilator and that she can't complete a spreadsheet which is part of the exam. The woman in the room seems to be familiar with the remote exam process. For example, she says 'The test kits are getting worse'. She advised Miss Chit to shut down her computer. The Committee considered that the person who entered the room was most likely to have been a technical support person from the hotel.
12. At one point this is reported in the translation:

*... Did you write the code down?*

*Code. What code?*

*The code that you saw as soon as you enter the test.*

*No, I didn't write it down. IT took care of that part and then my sister took over.*

13. The reference to her 'sister' was concerning but the Committee took account of cultural and linguistic differences between Burma and the UK and did not regard this as significant. ACCA did not put this as part of its case.
14. There were other instances of Miss Chit speaking. Some of these appear to be her reading the questions out loud, but to herself. This is prohibited by the Examination Regulations.
15. After the exam, still on 10 December 2021 Miss Chit sent a message to ACCA:

*To whom it may concern*

*Today I am facing a technical error during my exam time. I can't click my No.1 spreadsheet and question. And I can't pick up the call from Invigilator. I would like to reschedule my exam for the next exam session.*

16. This was consistent with the Committee's view that the recorded conversations were simply about resolving technical problems. The Committee noted that the invigilator had apparently requested someone to come to Miss Chit's room to assist her (*'I let them know and they are coming'*). This is consistent with someone subsequently entering the room and therefore being present with Miss Chit during the exam.
17. Although the Committee accepted that there were reasons for the communications and another person being present, the Examination Regulations are strict. They prohibit speaking out loud, communicating with a third party and not being alone in the room. The Committee concluded that there was a breach of these provisions. **Allegations 1(a) and (b) and 2 were found proved.**

### **Allegation 3**

18. This raised completely different issues. On 11 August 2022 ACCA wrote to Miss Chit to tell her that they were investigating alleged breaches of the Examination Regulations and to ask various questions. Miss Chit did not reply. She has not replied to any correspondence or telephone conversations since the exam. She ignored three letters specifically chasing for a reply to the 11 August questions.

She had clearly not cooperated with the investigation. **Allegation 3 was found proved.**

### **Misconduct and liability to disciplinary action**

19. In relation to Allegations 1 and 2 the Committee considered that the reason for the conversations and the presence of another person in the room was to seek help for technical problems with taking the exam. Mr Slack made it clear that there was no allegation of dishonesty or cheating in this case and accepted that the conversations concerned technical support. The Committee had some sympathy with Miss Chit's position. It must be a student's worst nightmare to sit for an exam and find that you are prevented by technical problems from answering the questions. There was no evidence that Miss Chit was responsible for another person being in the room when someone else had been asked by the invigilator to go to her assistance. This is consistent with her conversing quite openly with that person and with the content of the conversation. While the breach of regulations clearly rendered her liable to disciplinary action, its seriousness fell far short of what was required for a finding of misconduct.
20. Allegation 3 was a different matter although it arose out of the same investigation. One of the essential elements of professional regulation is that members, and students, must cooperate with their regulator. Although ACCA's case did not depend on information that only Miss Chit could provide, some cooperation would have been of assistance. Her complete failure to communicate was a sufficiently serious matter to warrant a finding of misconduct.
21. **The Committee concluded that Miss Chit was liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of allegations 1 and 2 and guilty of misconduct in respect of Allegation 3.**

### **SANCTION(S) AND REASONS**

22. The Committee considered what sanction, if any, to impose in the light of its findings, having regard to ACCA's Guidance for Disciplinary Sanctions (2024). It first sought to identify aggravating and mitigating factors.

23. Miss Chit had no previous disciplinary findings against her. That was a mitigating factor, although not a strong one given her status as an ACCA student of less than two years standing.

### **Allegations 1 and 2**

24. In relation to these allegations there was strong mitigation. Miss Chit was essentially seeking assistance to enable her to complete the exam when faced by technical problems which do not seem to have been of her making or in her power to resolve herself. She reported the problem directly to ACCA in her email after the exam and asked to reschedule the exam as soon as possible. There is no suggestion that she was acting for improper motives in committing these breaches. Indeed, they are understandable in the circumstances. If these had been the only allegations, the Committee would have concluded that the right course was to take no further action. In the very unusual circumstances of this case, the finding of liability to disciplinary action would have been sufficient to meet the public interest.

### **Allegation 3**

25. This was a more serious matter and the Committee had found that it amounted to professional misconduct. The Committee was satisfied that it required a sanction. The Committee considered the sanctions of admonishment and reprimand but concluded that these would not be sufficient to mark the seriousness of Miss Chit's failure to cooperate with her regulator. The Committee next considered the sanction of severe reprimand. The guidance says that this can be applied 'in situations where the conduct is of a serious nature'. Most of the suggested factors were not satisfied. However, this was an unusual case and as the guidance recognises the list is not exhaustive. The Committee looked at the next sanction up the scale, removal from the student register, and considered that this would be disproportionate. Miss Chit clearly failed to cooperate and failed completely. However, this was not a case where ACCA required her cooperation in order to make a case. All the evidence needed was already contained in the video recording. The non-cooperation might have increased the costs but that could be reflected in any costs order. Her failure to cooperate by not replying to any correspondence was serious but not so serious as to justify removing her from the register. The Committee

concluded that the appropriate sanction was severe reprimand.

### **COSTS AND REASONS**

26. Mr Slack applied for costs totalling £6,079.50. He acknowledged that this was based on an estimated hearing time of a day whereas the actual time was much less. He invited the Committee to make an appropriate reduction.
27. The Committee was satisfied that the proceedings had been properly brought and that ACCA was entitled in principle to its costs. The Committee considered that the time spent, and the sums claimed were reasonable. It was appropriate to make a reduction for the fact that the hearing would last for less time than estimated. That would reduce the reasonable costs to about £5,300.
28. There was no information before the Committee about Miss Chit's means, so it was not able to make a reduction on that basis.

### **EFFECTIVE DATE OF ORDER**

29. The order will take effect at the normal time, after the expiry of the appeal period.

### **ORDER**

30. The Committee **ordered** as follows:
  - (a) Miss May Zon Chit shall be severely reprimanded.
  - (b) Miss May Zon Chit shall make a contribution to ACCA's costs of £5,300.

**Mrs Carolyn Tetlow**  
**Chair**  
**12 March 2024**