

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Hongxuan Xiang

Heard on: Tuesday, 26 March 2024

Location: Remotely by Microsoft Teams

Committee: Mr Tom Hayhoe (Chair)
Ms Sue Gallone (Accountant)
Mr Geoff Baines (Lay)

Legal Adviser: Miss Juliet Gibbon

**Persons present
and Capacity:** Mr Kamran Khan (ACCA Case Presenter)
Miss Hongxuan (Hayley) Xiang (supported by Mr Chris Shepherd,
Audit Partner with PwC)
Miss Mary Okunowo (Hearings Officer)

Outcome: Allegations 1, 2(ii) and 3(i) (misconduct) – proved.
Allegation 2(i) (dishonesty) - not proved.

Sanction: Severe Reprimand

Costs: £1,600.00

PRELIMINARY

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Miss Hongxuan Xiang. The hearing was conducted remotely through Microsoft Teams. The Committee had a bundle of papers numbered pages 1 to 117, a supplementary bundle, numbered pages 1-43, a tabled additional bundle, numbered pages 1-47 and a service bundle, numbered pages 1 to 14. It also had two schedules of costs.
2. Mr Kamran Khan represented ACCA. Miss Xiang attended the hearing but was unrepresented. She was also supported by Mr Chris Shepherd, an Audit Partner at PricewaterhouseCoopers (PwC).

ALLEGATIONS

Miss Xiang who is an ACCA (Association of Chartered Certified Accountants) affiliate:

- 1 On or around 19 December 2021, used a questions and suggested answers document to assist her in the PricewaterhouseCoopers (PwC) internal training Assessment Remote Access Day 2 assessment.
- 2 Miss Xiang’s conduct in respect of Allegation 1 was:
 - i. Dishonest, in that she used a questions and suggested answers document to gain an unfair advantage in an internal assessment; or in the alternative;
 - ii. Failed to demonstrate integrity; or
 - iii. In the further alternative; reckless in that she paid no or insufficient regard to the fact that ‘Assessments for all training module, must be completed by individuals without the benefit of shared answers or other improper assistance’ as per PwC’s Code of Conduct and The Learning & Development: Audit Mandatory Technical Training Policy.

3 By reason of her conduct, Miss Xiang is:

- i. Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out above.

3. The allegations were read out by the Hearings Officer and Miss Xiang indicated that she admitted Allegations 1 and 2(ii) and the Chair announced the facts of those allegations proved by way of Miss Xiang's admission, in accordance with The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended ("the Regulations").

BACKGROUND

4. Miss Xiang registered as a student of ACCA on 07 July 2016. She became an affiliate of ACCA on 13 January 2020.
5. Miss Xiang has been employed by PwC as an audit associate since 29 March 2021. On 03 August 2022 she self-referred herself to ACCA for investigation following the conclusion of internal PwC disciplinary proceedings against her and a number of other employees in relation to the improper use of a questions and answers document when taking internal PwC assessments. A document labelled 'RAD2' was shared into a group chat on 11 October 2021. The document contained 121 questions and answers in relation to PwC's Remote Access Day 2. The document was viewed by Miss Xiang on 19 December 2021 which was the same day that she attempted the RAD2 assessments.
6. On 03 August 2022, Miss Xiang sent a letter to ACCA through Messrs [redacted], acting on behalf of PwC, in which she stated that she had used questions and suggested answers compiled and shared by other PwC employees when taking two internal PwC assessments on 19 December 2021. She indicated that PwC had become aware of the collaboration and had conducted an internal disciplinary investigation which had resulted in a disciplinary meeting at which she received a Final Written Warning to be held on her personnel file for a period of 12 months from the date of the meeting on 06 May 2022. Miss Xiang was also required to re-sit the associated assessments and pass without the assistance of colleagues or shared documents.

7. Miss Xiang attached a copy of the Final Written Warning letter which indicated that the investigator had found, on the balance of probabilities, that Miss Xiang had accessed the questions and answers file for the purposes of completing the assessment, that this had been *'a deliberate attempt to deceive the system, to appear that the assessments had been fairly passed and [Miss Xiang] had learned the associated materials'*. The investigator also found that Miss Xiang did not raise awareness of the two cheating documents to anyone else in PwC and this had been admitted by Miss Xiang. As a result of the findings made the Investigator found the following three allegations proven:
 - i. Breach of Section 2.1 of the PwC Employment Manual: Professional Standards and Conduct.
 - ii. Gross misconduct (Section 7 of the Employment Manual) specifically section 7.5.7: "Fraud, theft, deception and dishonesty".
 - iii. Failure to uphold the PwC UK Code of Conduct - "Act with integrity".
8. While dismissal was considered as a possible option, a decision was reached to issue a Final Warning Notice, allowing Miss Xiang to continue in her employment with PwC.
9. On 21 November 2022 a Senior Investigations Officer with ACCA ("SIO") sent a request for information to Miss Xiang. She responded on 02 December 2022 answering the questions asked of her by ACCA. She stated that the assessment was an internal PwC assessment which PwC associates and senior associates must complete after internal training days. These are set to measure the associate's understanding of the content covered during the training day and to allow PwC to track the associate's progress.
10. As part of the Remote Access Day 2 (RAD2), assessments must be completed. If Miss Xiang were to fail to complete the assessments within the relevant timeframe she would have *'had a meeting with her career manager to work out why this was the case and could be subject to disciplinary procedures'*.

11. Miss Xiang stated that prior to her taking the RAD2 assessments a peer at PwC, who had already completed the assessments, shared a document containing RAD2 questions and answers on a PwC 'Google Meet' group to which she had access. Other members of the group added additional questions and suggested answers to the shared document after taking the assessments themselves. Miss Xiang stated that she did not add any questions or answers to the shared document.
12. Miss Xiang stated that she felt under considerable pressure to pass the assessments due to the potential disciplinary consequence of not passing them within the required timeframe. She stated that as a result of this pressure, she had *'clicked on the link to view the shared document'*. The assessment was an internal PwC assessment which she did not perceive to have the same level of formality as external exams. She stated *'I believe I referred to the questions and suggested answers document to assist me in the assessment on 19 December 2021. I now realise that this was entirely wrong and undermined the purpose of PwC's assessment process'*. Miss Xian stated: *'I have no recollection of copying particular answers and in fact I have no particular recollection of the assessment itself but, on reflection, it seems to me unlikely I would have clicked on the file if I had not used the suggested questions and answers to assist me in the assessment ... I recognise that my conduct did not meet the obligation "to act appropriately even when facing pressure to do otherwise". I recognise that I behaved inappropriately and I apologise for my conduct'*.
13. On 23 May 2023 Messrs [redacted] responded to a request by ACCA for further information in relation to Miss Xiang's conduct. Messrs [redacted] provided copies of the RAD2 question and answer document, evidence of Miss Xiang accessing the RAD4 document on 05 December 2021 and the RAD2 document on 19 December 2021, which was the day she took the assessment. Also attached were examples of the group chat and details of Miss Xiang's assessment attempts on 19 December 2021 which showed that she had two unsuccessful attempts at the RAD2 assessment, taking 18 minutes to complete each assessment, before successfully passing in 11 minutes. She then passed the second assessment on her first attempt immediately thereafter, in 21 minutes.
14. Messrs [redacted] subsequently informed ACCA that *'If it takes more than 4 attempts (to complete the assessment) then the individual's coach is contacted and they are required to develop an action plan together in order to address any learning gaps. There is no further*

follow up or impact ... Individuals must keep completing the assessment until they pass. There is no impact on progression'. The information provided by PwC to Miss Xiang, however, states that 'Assessments will be monitored to identify individuals who have taken a significant number of attempts to pass. Such staff may be required to retake assessments and/or complete additional remediation training. Consideration will be given as to whether the firm's Disciplinary Procedure or Performance and Capability Management procedure (Employment Manual, Section 7) should be invoked; this may include formal action being taken against you, up to and including dismissal'.

15. It is also made clear in PwC's guidance document that it is *'unacceptable for you to use shared answers to complete assessment questions ... this kind of answer-sharing undermines the learning process and is misaligned with our values. Assessments for all training modules must be completed by individuals without benefit of shared answers or other improper assistance. Any actions deemed inconsistent with PwC's Code of Conduct or this guidance will be thoroughly investigated and addressed; such actions may include formal action being taken against you, up to and including dismissal'*.
16. On 07 September 2023, Messrs [redacted] wrote to the SIO and made submissions as to whether Miss Xiang's conduct was dishonest or amounted to a breach of the duty to act with integrity. It is stated: *'... If the duty of honesty is a separate obligation in the Code to the integrity standard that presumably must import an additional ethical weight to dishonesty beyond an intentional breach of the rules (for instance an intention to defraud) and it does not seem to us that Ms Xiang's actions have that moral gravity or that it would be appropriate to sanction Ms Xiang for dishonesty'*.
17. On 06 October 2023, Messrs [redacted] wrote again to ACCA referring to the decision of the Institute of Chartered Accountants in England and Wales (ICAEW), who had investigated a number of other individuals who had behaved in the same way as Miss Xian during the assessment. The sanction imposed by the ICAEW was either a Severe Reprimand or a Reprimand for *'unprofessional behaviour and a lack of integrity, but not dishonesty'*. Messrs [redacted] also provided a copy of decision published on the ICAEW's website in which a member had received a Severe Reprimand and a fine for sharing answers to questions with her colleagues.

18. Messrs [redacted] accepted that *'the weight, if any, to be ascribed to consistency of treatment between the individuals involved in these incidents is a matter for ACCA but we should be grateful if you were to ensure that this letter, and our letter of 7 September 2023, are made available to the Conduct Committee when it considers Ms Xiang's case'*.

ACCA SUBMISSIONS

19. Mr Khan took the Committee through the background to the case. In particular, he reminded the Committee of the times and the attempts made by Miss Xiang to pass the RAD2 on 19 December 2021. He stated that the first two attempts at the RAD2 had taken Miss Xiang 18 minutes but on the third attempt, when she was using the 'question and answer' document, she passed the assessment in 11 minutes. She then went on to pass the second part of the RAD2 at the first attempt. Mr Khan submitted that Miss Xiang accepted that it was likely that she had used the document to help her pass the assessment and that it was clear that her understanding was that failure could lead to disciplinary action, including dismissal from PwC. He submitted that the threat of the consequences was plain to see and that it was clear that Miss Xiang had benefitted from the shared document because she had passed the assessment.
20. Mr Khan further submitted that Miss Xiang's conduct was dishonest both objectively and subjectively, in accordance with the test set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67*.
21. Mr Khan further submitted that Miss Xiang's dishonest actions amounted to misconduct and the fact that she had admitted misconduct was both *'illuminating and insightful'*.

MISS XIANG'S EVIDENCE

22. Miss Xiang gave oral evidence to the Committee. She informed the Committee that she came to the United Kingdom five years ago and had joined PwC on the audit graduate programme in March 2021. She said she is now working as a Senior Associate with PwC in Manchester. She registered as a student of ACCA in 2016 and has now completed all her examinations and is an affiliate of ACCA.

23. Miss Xiang said that she joined PwC in March 2021 during Covid when employees were working from home and then transitioning to hybrid working. She said it was her first job and, as it was difficult to talk to other new employees with PwC across the country, someone had created a group chat to enable them to talk together and help each other if there were any problems in work or administration tasks.
24. Miss Xiang informed the Committee that as part of the training programme her and her graduate colleagues had to obtain knowledge of audit outside of her working experience by way of e-learning. She said this would be followed by a short assessment to help track their learning progress. This was done remotely and was not in examination conditions. She said that online research could be used to complete the assessment, including going back to the e-books or learning base.
25. Miss Xiang informed the Committee that when she joined the firm in 2021 the RAD2 was one of the first assessments that she undertook. She said she found the assessment difficult to complete and stressful, as had her cohort friends. She said, '*we were all doing it together*'. Someone in the group initiated and created the sheet which everyone had access to, and people had started to fill in questions and answers on the sheet. She said at that time a collaborative environment was encouraged and she had '*misjudged the process*'. She said she hadn't realised at the time how serious and wrong it was to use the questions and answers sheet during the assessment. She said that she had received a final written warning from PwC and that she was extremely remorseful for her behaviour and that she had '*learnt my lesson and can ensure you it will never happen again*'. Miss Xiang had then self-referred to ACCA and had engaged with the process.
26. Miss Xiang informed the Committee that she loves what she's doing in PwC. She said that she has worked hard since the first day and has performed well since this happened. She said that she had joined ACCA in 2016 as a student and has always looked forward to the day that she becomes a member. She said that she is proud to be part of ACCA and genuinely wishes to become a member and keep her professional career with ACCA.
27. Again, Miss Xiang reiterated that she was very sorry for what she had done. She said that she was inexperienced and had misjudged the process. She said she was very regretful.

28. Miss Xiang was cross-examined by Mr Khan. She was asked about the cohort and said that it was established during Covid and wasn't just limited to daily work. She said that everyone in the group was doing qualification study, and they were able to talk to each other about their progress over the platform. She described the group as '*university friends within PwC. We all literally did not know things. We were unfamiliar with things so it was a space where we could help each other*'.
29. Mr Khan put to Miss Xiang that she knew what she had done was wrong and she responded that at that time she did not realise that it was serious behaviour because the tests were designed to track their progress and were not in examination conditions and she had become used to the collaborative environment. She said, '*it didn't occur to me that it was some sort of serious behaviour*'.
30. Mr Khan suggested to Miss Xiang that she must have known when she decided to open the document that what she was doing was wrong. Miss Xiang replied that she appreciated that it was not right to use the document in the assessment but that she had only been with the firm for half a year, and she had not been familiar with those types of things. She said the assessment was not like any of the exams that she had done before because everything was remote. She said that she had admitted that it was wrong for her to have done so and that she was very sorry for doing so. Miss Xiang said, going back to that time, she knew that she needed to pass the assessments and that she was struggling and felt under pressure to pass them. She stressed, however, that as an '*inexperienced new joiner*' she was not familiar with what this meant and, from her point of view at that time, '*it was definitely not serious behaviour*'. She said it was more like the group helped each other because it was an internal assessment and not examination conditions. She said that she now knows that it was not the right thing to do.
31. Mr Khan suggested to Miss Xiang that her behaviour had been dishonest. She replied that she understood that PwC expected the assessment to be done on an individual basis and she knew that she shouldn't have done it, but she was just out of university, this was her first job, and to her, it was not serious behaviour that related to dishonesty. She said her and her cohort were just trying to help each other, as they did in their daily work, and not trying to gain any advantage over others. She said they were all struggling and under pressure and she had access to the group chat, but she had not initiated the idea of using

the 'question and answer' document. Miss Xiang accepted that, having failed it twice, the document had helped her pass the assessment.

32. Mr Khan referred Miss Xiang to PwC's written policy that shared answers should not be used in assessments. She replied that she understood what it says and had read it previously, but it hadn't been as detailed a reading as now.
33. The Committee members asked Miss Xiang questions. She was asked about the opening screen wording which states that '*... assessments for training modules should be completed by individuals without the benefit of shared answers or other improper assistance*'. Miss Xiang responded that she remembered there is always something on the screen before a test and she recalled reading that it should be done individually but not in much detail. Miss Xiang said that she thinks she clicked on the link in the group chat before she started the assessment, but she had attempted the test on her own. Having failed it twice, however, she had become stressed and had referred to the document.
34. Miss Xiang informed the Committee that PwC permitted employees to access other resources during the assessment. She said employees taking the assessment could refer to the e-learning or any accounting standard or audit guide internally or externally. She also said they could go online to seek help answering any questions. Miss Xiang reiterated that she knew what she was doing in opening the questions and answers document was wrong, but she did not think it was serious at the time.

CLOSING SUBMISSIONS

35. Mr Khan submitted that Miss Xiang must have known instinctively that it was wrong to use the questions and answers document to answer questions in the assessment. He referred the Committee to PwC's policy and what was written at the top of the screen in the assessment and submitted that Miss Xiang knew that she shouldn't be using shared answers in the assessment.
36. Mr Khan submitted that Miss Xiang was under pressure to pass the assessment and that the temptation to use the shared answers was too irresistible to ignore. He submitted that her conduct was clearly dishonest both subjectively and objectively.

37. Miss Xiang reiterated that she was truly remorseful and had learnt her lesson. She said it would never happen again. She said, however, that she was not experienced at the time of the assessment and didn't know exactly how things were. She informed the Committee that she had redone all the e-learnings and re-taken all the assessments with PwC. She said she had a good record prior to this incident and has been performing well since. Miss Xiang said that this was something that she will regret for her whole life. She said she was proud to be part of ACCA and wishes to remain with and further her career with ACCA.

DECISION AND REASONS

38. The Committee carefully considered the documentary evidence before it and the oral submissions made by Mr Khan and Miss Xiang. The Committee accepted the advice of the Legal Adviser.
39. The Committee bore in mind that the burden of proving an allegation in dispute rests on ACCA, and that the standard of proof is on the balance of probabilities.

ALLEGATION 1 – PROVED BY WAY OF ADMISSION

40. Allegation 1 was proved on the basis of Miss Xiang's admission.

ALLEGATION 2(i) - NOT PROVED

41. The Committee went on to consider whether Miss Xiang's conduct had been dishonest. It took into consideration that Miss Xiang was a new and inexperienced employee with PwC at the relevant time and was having to cope with remote working conditions due to the Covid pandemic. It also took into account that this appeared to be a more relaxed 'open book' type of assessment and that Miss Xiang was permitted to access documents online to assist her in answering the questions. It noted that Miss Xiang accepted that what she had done was wrong and that she had failed to demonstrate integrity by using the shared questions and answers document from the group chat. The Committee, however, took into account that Miss Xiang had felt stressed and under pressure, having failed the assessment twice. It accepted her explanation that she had used the questions and answers document in these

circumstances and that she had not considered, at the time, that what she was doing was either serious or dishonest. It also took into account that Miss Xiang's fellow cohort of employees were also doing the same.

42. The Committee considered that whilst Miss Xiang's conduct in using the questions and answers document during the RAD2 had been wrong, it had been a spur of the moment decision, made by her when she felt under pressure and stress, and whilst a reckless act, she had not acted dishonestly. The Committee was not, therefore, satisfied that ACCA had proved, on the balance of probabilities, that the test for dishonesty in Ivey had been met.
43. The Committee, therefore, found Allegation 2(i) not proved.

ALLEGATION 2(ii) – PROVED BY WAY OF ADMISSION

44. Allegation 2(ii) was proved on the basis of Miss Xiang's admission.

ALLEGATION 3(i) - MISCONDUCT FOUND

45. The Committee noted that Miss Xiang accepted that her conduct amounted to misconduct. The Committee was also satisfied that Miss Xiang had failed to demonstrate integrity and that her conduct amounted to misconduct. Miss Xiang's conduct in 'using the questions and answers document in an internal assessment fell below the standards expected of an ACCA affiliate. In the Committee's determination, Miss Xiang's conduct undermined the integrity of PwC's assessment process and had brought discredit to her, the Association, and the accountancy profession.

SANCTION AND REASONS

46. Mr Khan informed the Committee that there were no previous disciplinary findings against Miss Xiang.
47. The Committee accepted the advice of the Legal Adviser who referred it to Regulation 13(5) of the Regulations and to ACCA's Guidance for Disciplinary Sanctions. In considering what sanction, if any, to impose the Committee bore in mind the principle of proportionality and

the need to balance the public interest against Miss Xiang's own interests. The purpose of any sanction was not meant to be punitive but was to protect members of the public, maintain public confidence in the profession and ACCA and to declare and uphold proper standards of conduct and behaviour.

48. When considering the appropriate sanction, the Committee considered the aggravating and mitigating features of the case. The Committee considered the following to be mitigating features:
 - a. Miss Xiang made admissions to using the questions and answers document during the RAD2 assessment and, thereby, to failing to demonstrate integrity.
 - b. Miss Xiang has shown real insight into her misconduct.
 - c. Miss Xiang had expressed extreme remorse and has apologised for her actions.
 - d. This was a spur of the moment isolated incident. Miss Xiang had no previous disciplinary findings made against her, by ACCA or PwC, either prior to this incident or since.
 - e. Miss Xiang was a newly employed, inexperienced employee at the time of the misconduct.
 - f. The misconduct occurred in the context of remote working during the Covid pandemic which must have been challenging times for an inexperienced new employee.
49. The Committee did not find there to be any aggravating features.
50. The Committee considered each available sanction in ascending order of seriousness, having concluded that taking no further action was not appropriate due to the seriousness of the dishonest conduct. The Committee also considered that issuing an admonishment or a reprimand would not be sufficient or proportionate, given the gravity of the matters proved, and would not protect the public interest.

51. The Committee carefully considered whether a severe reprimand would be sufficient and proportionate, or whether removal from the Affiliate Register was required. It noted that the Sanctions Guidance suggests that a Severe Reprimand would usually be applied in situations where the conduct is of a serious nature but 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.

52. The Committee paid careful regard to the factors applicable to each of these sanctions as set out in the Sanctions Guidance. The Committee considered that most of the factors applicable to a severe reprimand were applicable in this case:
 - a. The misconduct was not intentional and is no longer continuing, though Miss Xiang may have acted recklessly.
 - b. There is no evidence that the conduct caused any direct or indirect harm.
 - c. Miss Xiang has demonstrated good insight into her failings.
 - d. There has been a genuine expression of regret and remorse.
 - e. Miss Xiang has a previous good record.
 - f. There has been no repetition of the misconduct. This was an isolated incident.
 - g. Miss Xiang has taken corrective steps to ensure this will not happen again in the future in that she has done the e-learning again with PwC and re-taken the assessments.
 - h. Miss Xiang has provided a glowing reference from an Audit Partner with PwC that attests to her character and describes her as '*an excellent and diligent employee who*

acknowledges the error of her conduct and has in all other respects shown the aptitude and integrity to proceed in her career as an auditor'.

- i. Miss Xiang has co-operated throughout the investigations stage, and she made admissions to all of the allegations except dishonesty, which was found not proved.
53. For the above reasons the Committee concluded that the appropriate and proportionate sanction was a Severe Reprimand.

EFFECTIVE DATE

54. The Severe Reprimand will come into effect from the date of the expiry of the appeal period referred to in the Appeal Regulations.

DECISION ON COSTS AND REASONS

55. The Committee was provided with two schedules of costs. ACCA applied for costs in the sum of £3,259.50. Mr Khan invited the Committee to consider whether there should be a reduction in the costs claimed as the hearing had not taken a full day, as claimed.
56. The Committee has been provided with a completed statement of financial position by Miss Xiang. She has a total monthly income of [PRIVATE] She also has [PRIVATE].
57. The Committee took into account Miss Xiang's [PRIVATE]. It also considered that there should be a small deduction for the hours claimed in respect of the Case Presenter and the Hearings Officer as the hearing had not taken a full day.
58. The Committee determined that in all the circumstances it would be fair and proportionate to order Miss Xiang to pay a contribution to ACCA's costs in the sum of £1,600.00.

ORDER

- i. Miss Hongxuan Xiang shall receive a Severe Reprimand.

- ii. Miss Hongxuan Xiang shall pay a contribution to ACCA's costs in the sum of £1,600.

Mr Tom Hayhoe
Chair
26 March 2024