

**HEARING**  
**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF**  
**CHARTERED CERTIFIED ACCOUNTANTS**

**REASONS FOR DECISION**

**In the matter of:** Mr Vinh Le Trung

**Heard on:** Thursday, 21 & Friday, 22 March and Thursday, 23 & Friday, 24 May 2024

**Location:** Virtual hearing using Microsoft Teams

**Committee:** Ms Valerie Paterson (Chair)  
Ms Fiona MacNamara (Accountant)  
Ms Victoria Smith (Lay)

**Legal Adviser:** Mr Alastair McFarlane 21 & 22 March 2024, and  
Mr Charles Apthorp 23 & 24 May 2024

**Persons present and Capacity:** Mr Leonard Wigg (ACCA Case Presenter)  
Miss Nicole Boateng (Hearings Officer) 21 & 22 March 2024  
Miss Mary Okunowo (Hearings Officer) 23 & 24 May 2024

**Summary:** Removed from Student Register.

**Costs:** £2,000

1. The Committee heard an allegation of misconduct against Mr Vinh Le Trung. Mr Wigg appeared for ACCA. Mr Le Trung was present, but not represented. The hearing commenced on 21 and 22 March 2024 and was adjourned to 23 and 24 May 2024.

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2. The Committee were provided with the following bundles: hearing bundle [1-164], an additional Bundle (1-4), a second additional Bundle (1-26), the Examination Video, a 4 page document from Mr Le Trung, Transcripts from the hearing which took place on 21 and 22 March 2024 and the Case Management Form. In addition, a service bundle for the adjourned hearing was provided (1-20).
3. At the commencement of the hearing on 21 March 2024, Mr Wigg made an application to amend charges 1a) to add the word 'or', 1(b) to add 'in accordance with' and 5(b) to add 'in respect of any or all of allegations 1 to 4 above'. Mr Wigg informed the committee Mr Le Trung was notified of the proposed amendment by letter on 02 February 2024 and the application was to make minor amendments which did not affect the ACCA case.
4. The Committee heard submissions from both Mr Wigg and Mr Le Trung and received legal advice from the Legal Advisor. The Committee retired to consider the application. It determined to permit the ACCA application to amend the charges as there was no unfairness to Mr Le Trung. It also accepted the submission that the amendments were minor and clarified how the case was being put.

#### **BRIEF BACKGROUND**

5. Mr Le Trung registered as an ACCA student on 19 October 2016. On 10 September 2021 he took the session based Pearson VUE AA Audit and Assurance exam. During the exam the proctor, an online invigilator, noted a number of concerning behaviours and, after warning Mr Le Trung, the proctor ended the exam early.
6. The 'SCRS' incident report filed later that day stated that there are other people in the property, but not in the exam room, and there was 'lots of talking' in the background. It went on to report that Mr Le Trung was speaking to someone when he went on his break and was warned by the proctor, however the talking in the background continued to be heard. The report stated that the proctor warned Mr Le Trung not to talk to anyone when he returned from his break.

7. The report went on to state Mr Le Trung informed the proctor he was telling his roommate not to talk. The proctor reported that they were not speaking in English so he could not verify what was said by Mr Le Trung and let him continue with the exam. However, the proctor immediately heard voices outside the room. The proctor then informed Mr Le Trung that this was a violation of exam policy and he would be ending the examination.
8. Following the report an investigation was commenced, which included obtaining the video footage and documents, which included the 'chat log'. On the video a mobile phone can heard to ring during the examination and Mr Le Trung is seen to look to one side and the ringing his heard to stop.
9. ACCA attempted to contact Mr Le Trung about the investigation five times between 08 November 2021 and 14 February 2022 (date amended in the allegation from 2021) by both email and registered post. ACCA submitted that Mr Le Trung was in breach of his obligations to provide to ACCA his registered address and he had failed, by not responding to correspondence, to cooperate with an ACCA investigation.
10. Mr Le Trung faced the following amended allegations:

## **ALLEGATIONS**

Mr Vinh Le Trung, ACCA student member:

1. On 06 September 2021, during a remotely invigilated AA Audit and Assurance exam:
  - a) Contrary to Exam Regulations 5(a) and / or 5(b) and the Exam Guidelines, had at his desk or about his person an 'unauthorised item', namely a mobile phone;
  - (b) Intended to use the 'unauthorised item' to gain an unfair advantage in the exam, in accordance with Examination Regulation 6(b).

2. Between 08 November 2021 to 29 June 2023 Mr Vinh Le Trung failed to provide ACCA with an accurate registered address or failed to notify ACCA of any change to his registered address, contrary to Membership Regulation 8(6).
3. Contrary to Regulation 3(1) of the Complaints and Disciplinary Regulations 2014 (as amended), Mr Le Trung failed to co-operate with the investigation of a complaint, in that he did not respond to any or all of ACCA's correspondence sent on:
  - 08 November 2021 (email)
  - 24 November 2021 (email)
  - 23 December 2021 (post)
  - 20 January 2021 (post)
  - 14 February 2021 (post) (amended to 2022)
4. Further, Mr Le Trung's conduct as referred to in allegation 1 above:
  - (a) Was dishonest, in that Mr Le Trung intended to use the 'unauthorised item' to gain an unfair advantage or in the alternative,
  - (b) Failed to demonstrate integrity,
5. By reason of his conduct Mr Le Trung is:
  - (a) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out in 1 to 4 above; or in the alternative,
  - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of any or all of allegations 1 to 4 above.

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

11. Mr Wigg relied on the documentary evidence and the video/audio recording. He did not call any witnesses. Mr Le Trung made written submissions in relation

to the issues in this case, initially in an email and subsequently updated in a document that the Committee has read. The Committee considered these carefully.

12. Mr Le Trung in his written submissions stated that *'My roommate left his phone in a work bag under the desk when he went outside'*. He stated that this was unintentional and his roommate *'cannot keep quiet outside and my room cannot meet soundproofing requirements ..'* He also asserted that he did not use the phone during the exam or talk to another person to gain any unfair advantage during the exam. He accepted in respect of allegation 2 that he was unaware that his registered address needed to be updated with ACCA. He also stated that the HR department of the firm at which he had previously worked had an updating schedule with ACCA.
13. In respect of allegation 3 he stated he took some time to find another role and once he had employment, he contacted ACCA Vietnam for assistance in re-activating his account.
14. He denied that he had been dishonest as alleged.

#### **Allegations 1a) and b)**

15. The Committee find Allegation 1a) proved.
16. The Committee viewed the whole video and audio recording. It is not in dispute that a mobile phone was present in the room where the remote exam was taking place. It can be observed on the video of the exam and at one point heard ringing.
17. The Committee notes that the relevant Exam Regulation 5(a) states that *"You are not permitted... to use in your examination room ... any ... item with smart technology functionality or mobile phones (unless the exam is being conducted remotely in which case it must only be used in accordance with ACCA's Exam Guidelines)"*.
18. The Committee accepts the ACCA's submission that a mobile telephone was

within arm's reach and it was an unauthorised item during an exam. This is prohibited by the Examination Regulations by Regulation 5(a) and 5(b).

19. The Committee also took account of the Chat Log at 09.44.14 where the proctor (Person A) stated "*I saw you read something to your left when that phone went off?*" At 09.45.29 Mr Le Trung informed the proctor "*thank you, it in behind my laptop*". The Committee, having viewed the video evidence found that the mobile phone was not in the bag under the desk as originally stated by Mr Le Trung and his account in this regard was not credible.
20. The Committee find Allegation 1(b) proved.
21. The Committee having found at Allegation 1a) that an 'unauthorised item', was present during Mr Le Trung's AA Audit and Assurance exam determined that this was conduct designed to assist him gain an unfair advantage in the exam.
22. The Committee had regard to Regulation 6(b) of the ACCA exam Regulations set out below:

*6(b) "If you breach exam regulation 5(a) and/or 5(b), or permit another person to act contrary to those exam regulations, it will be assumed that you, and/or the other person, intended to use the 'unauthorised items' to gain an unfair advantage for you or others in the exam and/or a future exam. In any subsequent disciplinary proceedings, you will have to prove that you, and/or the other person, did not intend to use the 'unauthorised items' to gain an unfair advantage for you, or others, in the exam and/or a future exam."*

23. The Committee therefore approached Allegation 1(b) on the basis that having found there was a breach of Regulation 5(a) and (b) that there was a rebuttable presumption that there was an intention to use the mobile phone to gain an unfair advantage and the burden of proving that was not the case on the balance of probabilities lay upon Mr Le Trung.
24. As set out above, the Committee found Mr Le Trung's account of where the phone was positioned in the room was not credible and the proctor noticed him looking at the phone when it rang, which is not consistent with his account. The Committee found that the phone was within arm's reach. The Committee find

that Mr Le Trung appeared to look away from the exam screen for in excess of 15 seconds to an area from which he was later seen to pick up the phone. The Committee drew the inference that Mr Le Trung was looking at the phone. The Committee found that he had sought to mislead when he stated the phone was under the desk in a bag.

25. The Committee concluded that Mr Le Trung had not discharged the burden of proof and found allegation 1(b) proved.

### **Allegation 2**

26. The Committee found allegation 2 proved. It is an essential requirement of being a regulated professional that the regulator is provided with an accurate registered address and/or notify ACCA of any change. The Committee found that Mr Le Trung had failed in this obligation in breach of Membership Regulation 8(6) to update his details with ACCA after leaving his role. This was proved not only by his failure to respond to correspondence between November 2021 and 14 February 2022 but also by his own account that his registered email became inactive and he had taken no steps to correct the situation until recently.

### **Allegation 3**

27. The Committee found allegation 3 proved. The Committee found that on 08 November 2021, ACCA wrote to Mr Le Trung to tell him that they were investigating alleged breaches of the Examination Regulations and asked him various questions. Mr Le Trung did not reply. The Committee noted that until recently he had not replied to any correspondence or telephone conversations since the exam. The Committee accepted ACCA's submission that he ignored three letters specifically chasing for a reply to the 08 November 2021. It was the Committee's view that he was aware that there were concerns about the exam on 06 September 2021 and was aware he had an obligation to keep his contact details up to date. The Committee find he had not cooperated with the investigation; therefore Allegation 3 is found proved.

### **Allegation 4 (a) and (b)**

28. The Committee finds allegation 4 (a) proved. In reaching this finding the Committee took into account the fact Mr Le Trung was of previous good character, having no previous regulatory findings made against him. The Committee at allegation 1(a) and (b) have previously found that Mr Le Trung had an unauthorised item, a mobile phone, within arm's reach during the examination and that this was to gain an unfair advantage in the exam.
29. In consequence it found that Mr Le Trung was aware that the phone was within his reach and in his view and that he intended to gain an unfair advantage in the exam. Having established his state of mind and knowledge at the relevant time the Committee went on to consider whether this would be considered by a member of the public to be 'cheating' in a professional exam and as such dishonest conduct. The Committee found that this was dishonest conduct by the standards of ordinary decent people and therefore found allegation 4(a) proved.
30. The Committee did not go on to consider allegation 4(b) whether there was a lack of integrity as this had been put as an alternative allegation if allegation 4(a) was not proved.

### **Misconduct and Liability to Disciplinary Action**

31. In relation to allegations 1 and 2, the Committee considered that the presence of the mobile phone within reach of Mr Le Trung and engaging in conversations when instructed not to do so by the proctor was a clear breach of the Exam regulations. His dishonest conduct undermined the validity of the examination process. This was in the Committee's view a serious breach of the regulations striking at the core role of the Regulator, to maintain standards and public confidence in the profession. It found that allegations 1(a) and (b) and 4 taken together amounted to misconduct.
32. 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 Mr Le Trung could provide, some



cooperation would have been of assistance. His complete failure to communicate was a sufficiently serious matter to warrant a finding of misconduct.

33. The Committee concluded that Mr Le Trung was liable to disciplinary action pursuant to bye-law 8(a)(iii) in respect of allegations 1, 2, 3 and 4 and found misconduct proved in respect of Allegation 5.

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

34. Mr Wigg and Mr Le Trung made submissions on the appropriate and proportionate sanction. The Committee received advice from the Legal Adviser and in determining the appropriate and proportionate sanction considered the least restrictive sanctions first before moving onto the more serious ones.
35. 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.
36. Mr Le Trung had no previous disciplinary findings against him. That was a mitigating factor, although not a strong one given his status as an ACCA student of less than five years standing. It also took account of his engagement in the disciplinary hearings and his previous good character. In the Committee's view there was limited mitigation.

### **Allegations 1(a), (b) and 4**

37. In relation to these allegations in the Committee's view it was an aggravating factor that there was no evidence of remorse or insight into what the Committee considered to be serious breaches. It took into account that the dishonesty was a one off over a short period of time. It took into account of section E2 of the ACCA Guidance for Disciplinary Sanctions regarding findings of dishonesty. The Committee considered that taking no further action or imposing an admonishment did not reflect the seriousness of the conduct and noted that there was no evidence of insight or early admissions.
38. In respect of a reprimand the Committee considered the dishonest conduct to

be serious and not minor. Given the lack of insight the Committee considered that a Severe Reprimand was not a sufficient sanction as there was a continuing risk to public confidence and the risk to validity of the ACCA examination process.

39. The Committee considered the factors listed at C4.1 in the guidance. It noted that in addition to showing no insight or remorse there was no reflection. It took into account the importance of protecting the integrity of the profession's examinations and therefore determined that the only proportionate sanction was to direct that Mr Le Trung be removed from the Student Register.

### **Allegations 2 and 3**

40. This again was a serious matter and the Committee had found that it amounted to professional misconduct.
41. 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 Mr Le Trung's failure to cooperate with his 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.
42. The Committee looked at the next sanction up the scale, removal from the student register, and considered that this would be proportionate. Mr Le Trung's failure to cooperate by not replying to any correspondence was serious and in the context of the other misconduct justifies removing him from the student Register. The Committee concluded that the appropriate sanction was removal from the register.

### **COSTS AND REASONS**

43. Mr Wigg applied for costs totalling £15,868. He acknowledged that this was based on an estimated hearing time of four days whereas the actual time was one day less. He invited the Committee to make an appropriate reduction.

44. 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 £14,500.
45. There was information before the Committee about Mr Le Trung's means, [PRIVATE]. [PRIVATE]. The Committee having taken all matters into account including the members' interests and Mr Le Trung's earning capacity in Vietnam, the Committee directed that he pay £2,000 towards ACCA's costs.

### **INTERIM ORDER**

46. Mr Wigg applied for an interim order to cover the period between the hearing and the expiry of the appeal period. He submitted it was necessary to protect the public and in the public interest, he referred to the findings of the Committee in support. Mr Le Trung made no submissions on this application. The Committee took the advice of the Legal Adviser.
47. The Committee directed that Mr Le Trung be suspended pending the expiry of the Appeal period. The Committee determined that it was necessary to impose an interim order given their finding of dishonesty and other serious breaches, impact on public confidence in the profession and public protection.

### **ORDER**

48. The Committee **ordered** as follows:
- (a) Mr Vinh Le Trung shall be removed from the Student Register.
  - (b) An interim suspension order for the period of the Appeal.
  - (c) Mr Vinh Le Trung shall make a contribution to ACCA's costs of £2,000.

**Ms Valerie Paterson**  
**Chair**  
**24 May 2024**