

## HEARING

**DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF  
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

<b>In the matter of:</b>	<b>Mr Yihuai Lin</b>
<b>Heard on:</b>	<b>Wednesday, 20 and Thursday, 21 November 2024</b>
<b>Location:</b>	<b>Remotely via MS Teams</b>
<b>Committee:</b>	<b>Ms Ilana Tessler (Chair) Mr Abdul Samad (Accountant) Mr Colin Childs (Lay)</b>
<b>Legal Advisers:</b>	<b>Mr Alastair McFarlane</b>
<b>Persons present and capacity:</b>	<b>Ms Michelle Terry (ACCA Case presenter) Miss Sofia Tumburi (Hearings Officer) Mr Lin (Member) Mr Quan (Interpreter)</b>
<b>Summary:</b>	<b>Exclusion from membership with immediate effect and costs awarded of £2,700.00.</b>

1. ACCA was represented by Ms Terry. Mr Lin attended but was not represented. Mr Quan was the ACCA provided interpreter. The Committee had before it a Bundle of Papers, numbered pages 1 – 248, a Separate Bundle, numbered pages

## ACCA



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1-96, an Additional Bundles, numbered pages 1-31, and a Service Bundle numbered pages 1-27.

## **SERVICE**

2. Having considered the Service Bundle, the Committee was satisfied that notice of the hearing was served on Mr Lin in accordance with the Complaints and Disciplinary Regulations 2014 ("CDR").

## **ALLEGATIONS**

Yihuai Lin ('Mr Lin'), at all material times an ACCA trainee,

1. Whether by himself or through a third party applied for membership to ACCA on or about 04 February 2022 and in doing so purported to confirm in relation to his ACCA Practical Experience training record he had achieved the following Performance Objectives:
  - Performance Objective 1: Ethics and professionalism
  - Performance Objective 2: Stakeholder relationship management
  - Performance Objective 3: Strategy and innovation
  - Performance Objective 4: Governance, risk and control
  - Performance Objective 5: Leadership and management
  - Performance Objective 6: Record and process transactions and events
  - Performance Objective 7: Prepare external financial reports
  - Performance Objective 9: Evaluate investment and financing decisions
  - Performance Objective 13: Plan and control performance
2. Mr Lin's conduct in respect of the matters described in Allegation 1 above was:
  - a) Dishonest in that Mr Lin knew he 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.
  - b) In the alternative, any or all of 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 Lin paid no or insufficient regard to ACCA's requirements to ensure that the statements corresponding with 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) 22 March 2024
  - b) 08 April 2024
  - c) 23 April 2024
5. By reason of his conduct, Mr Lin is:
  - a) Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any 4 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).

### **ADMISSIONS**

3. Mr Lin indicated in his Case Management Form that he admitted Allegations 1, 3 and 4. His case was that he authorised a third party to apply for membership and was unaware that the third-party had submitted plagiarised performance objective statements on his behalf. He denied that his conduct was dishonest or demonstrated a failure to act with integrity (Allegations 2a and 2b). He accepted that he had acted recklessly (Allegation 3) in that he had no or insufficient regard to ACCA's requirements to ensure that the statements accurately set out how each objective had been met. Mr Lin further accepted that he had failed to cooperate with ACCA's investigation officer (Allegation 4). He apologised and said this was because he thought the emails were spam.
4. Mr Lin repeated the same admissions and denials when the Chair put the

allegations to him. The Committee was concerned to ensure that Mr Lin understood the allegations, and any admissions were clear and unequivocal. It was mindful that Mr Lin was unrepresented, and that English was not his first language. It noted that he had the benefit of the interpretation services by Mr Quan, and that he had had the benefit of a discussion with the Legal Adviser and Ms Terry before the start of the hearing and that he wished to maintain the admissions.

5. The Committee was satisfied that Mr Lin understood the allegations and that his admissions to them were clear and unequivocal. Accordingly, the Committee exercised its power under Regulation 12 (3)(c) of the Complaints and Disciplinary Regulations 2014 (“CDRs”) and found the admitted allegations proved by virtue of the admissions. It noted however that Allegation 3 was an alternative to dishonesty and lack of integrity and that ACCA sought to pursue those allegations - its primary case being that Mr Lin’s conduct was dishonest.

## **BACKGROUND**

6. Mr Lin became an ACCA member on 10 February 2022.
7. 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.
8. ACCA’s primary case against Mr Lin is that he knew he had not achieved all or any of the performance objectives referred to in Allegation 1 as described in the corresponding performance objective statements.
9. During 2023 it came to the attention of ACCA’s Professional Development Team

that the practical experience supervisors registered to 91 ACCA trainees, shared one of three email addresses despite the names of such supervisors being different. It would not be expected for a supervisor to share an email address with any other supervisor or person. The three email addresses were as follows:

- [PRIVATE]
- [PRIVATE]
- [PRIVATE]

10. Further analysis of this cohort of 91 trainees confirmed the following:

- Most of these trainees were registered with ACCA as resident in China.
- Although each statement supporting a PO should be a description of a trainee's experience and therefore unique, many of such statements within this cohort of 91 trainees were the same.

11. It was ACCA's position that these ACCA trainees had therefore copied their PO statements from others. Of these 91 trainees, the earliest date a supervisor with one of these three email addresses is recorded as approving a trainee's PER training record was August 2021 with the latest date being March 2023.

## **ACCA'S SUBMISSIONS**

### **ALLEGATION 1**

12. ACCA referred to the following:

- Karen Watson's (Senior Administrator in ACCA's Member Support Team), statement explaining ACCA's membership application process;
- Linda Calder's (Manager of ACCA's Professional Development Team) statement which describes ACCA's Practical Experience Requirements. She details that although not compulsory at the time, most of these supervisors also went on to upload what they claimed was their CICPA

membership registration card. However, despite these supervisors providing different membership numbers when registering, the vast majority uploaded the same registration card with membership number [PRIVATE]. However, this membership number did not match with any of the CICPA membership numbers provided by the supervisors. Furthermore, the name recorded in this CICPA membership registration card is pixelated and therefore unidentifiable as is the photo. Exhibited to Ms Calder's statement is a copy of this registration card;

- Mr Lin's completed PER training record, which was completed on or about 24 January 2022, which then permitted Mr Lin to apply for membership which he did on or about 04 February 2022;
- Mr Lin's Supervisor details which record Person A was his 'IFAC qualified line manager', and therefore his practical experience supervisor;
- Mr Lin's PER training record which records Person A approved Mr Lin's time/ experience of 36 months;
- Mr Lin's PER training record which records Person A approved all Mr Lin's POs on the same day – 24 January 2022;
- That all nine of Mr Lin's PO statements are the same as many other trainees, suggesting at the very least, he had not achieved the objectives in the way claimed or possibly at all and none were the first in time.

#### **ALLEGATION 2(A) - DISHONESTY**

13. ACCA's primary case was that Mr Lin was dishonest when he completed his Practical Experience Training Record to ACCA, because Mr Lin sought to confirm he had achieved all nine POs when he knew he had not. The extensive advice available online as to how an ACCA trainee must complete their PER makes it clear the statements supporting their POs have to be written by trainees in their own words and as such must be unique. ACCA contended that it is not credible that Mr Lin was unaware his POs had to be in his own words and describe the experience he had actually gained to meet the relevant Performance Objective. In applying for ACCA membership, it is submitted Mr Lin claimed to have achieved

the POs with the use of supporting statements which he must have known had not been written by him. Mr Lin therefore knew he had not achieved the POs as described in these statements or at all. ACCA therefore submitted this conduct would be regarded as dishonest by the standards of ordinary decent people.

#### **ALLEGATION 2(B) – INTEGRITY**

14. In the alternative, ACCA submitted that if the conduct of Mr Lin is not found to be dishonest, the conduct demonstrates a failure to act with integrity.

#### **ALLEGATION 3 – RECKLESSNESS**

15. ACCA submitted in the further alternative that Mr Lin's conduct was reckless in the ordinary sense of the word in that he paid no or insufficient regard to the fact that his PO statements should truthfully and accurately set out how the relevant objective had been met. Mr Lin in not having any or sufficient regard to the matters referred to above must have appreciated the risk (which it was unreasonable in the circumstances for him to take) that he had not completed the practical experience element of his training correctly and was therefore ineligible for membership.

#### **ALLEGATION 4 – FAILURE TO CO-OPERATE**

16. ACCA submitted Mr Lin had a duty to cooperate under the regulations and by not responding to the correspondence had breached this duty.

#### **ALLEGATION 5 – MISCONDUCT/ LIABILITY TO DISCIPLINARY ACTION**

17. ACCA submitted that Mr Lin's conduct, whether dishonest or lacking integrity or reckless and his failure to cooperate, was sufficiently serious to reach the threshold for misconduct. The alternative for failing to co-operate only was liability to disciplinary action.

#### **MR LIN'S SUBMISSIONS**

18. Mr Lin made admissions to allegations 1,3 and 4. He set out his position in various documentation to ACCA including, his Case Management Form and emails dated 05 and 21 September 2024. In the former he stated:

*“On January 2022 I finished all ACCA exams and became an affiliate. Before this I had been interning and working at Company A as an auditor from January 2019 for three years. Company A is ACCA approved employers, which means my performance objectives can be exempted.*

*On January 2022 it was during the period of annual audit and I was so busy that I couldn't pay attention to the application of membership. In this case I told a third party about my personal experience and authorized him to finish the application as I knew I have accumulated three years auditing experience and my performance objectives can be exempted. However I paid no attention to how they fill the application materials. Only when I received the disciplinary allegations email I realize that the third party wrongly finished the po statements and the statements were significantly similar to statements of many of the other trainees.*

*I missed the emails in respect of the investigation on 22 March, 8 and 23 April 2024 as I thought they were spam emails because when I opened the emails, only a link showed. Only when I received a call from England I realized I had been involved into the disciplinary allegations.*

*I am very very sorry for this condition and inconvenience I have caused, I told the third party my true condition but did not pay attention to how they fill the application. I wrongly missed the emails you sent and missed the best time to explain. I am deeply aware my mistake and I promise such a mistake will not occur in the future.*

*I am always honored for my ACCA membership and benefited from this. As an ACCA member I paid the annual fee timely and actively participated into the activities ACCA organized, and I hope our path can cross again like before. I will actively participate into the investigation and try my best to remedy my mistake.*



*Attached please kindly find my Case Management Form and the Statement of Financial Position for your review. I have also attached my certificate of employment and the ACCA approved employer screenshot for your reference.”*

19. Mr Lin gave oral evidence before the Committee and made oral closing submissions which were all consistent with his explanation.

### **DECISION ON ALLEGATIONS AND REASONS**

20. The Committee accepted the advice of the Legal Adviser. 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.
21. The Committee heard that there had been no previous findings against Mr Lin and accepted that it was relevant to put his good character into the balance in his favour.

### **DECISION ON FACTS**

22. The Committee accepted the advice of the Legal Adviser. It noted the submissions of Ms Terry for ACCA and Mr Lin on his own behalf. It reminded itself that the burden of proof was on ACCA alone.

### **ALLEGATION 1**

23. Whilst this was proved by virtue of the admission, the Committee was also satisfied that it was established by ACCA's documentary evidence. The Committee was satisfied on the basis of the practical experience training record contained in the bundle and produced from ACCA's records that Mr Lin, whether by himself or through a third party, applied for membership to ACCA on or about 04 February 2022. The Committee was further satisfied that from the face of his PER, Mr Lin was purporting to confirm to ACCA that he had achieved the nine performance objectives listed in Allegation 1. Accordingly, the Committee was satisfied that Allegation 1 was proved.

## **ALLEGATION 2(A)**

24. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest.
25. In accordance with the case of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords* [2017] UKSC67 the Committee first considered what Mr Lin's belief was, as to the facts.
26. Mr Lin did not dispute the PO statements submitted on his behalf were plagiarised. The Committee examined the POs submitted by Mr Lin and was satisfied that they were identical or virtually identical to those submitted by other trainees in the cohort and as none of them was the first in time must have been copied. Mr Lin's contention was that he was not dishonest because he did not know that the third party he had engaged to assist him to gain membership had submitted those plagiarised POs. Mr Lin explained that he had engaged a third party whom he had found on the Internet and whom he paid [PRIVATE] for their services. There was no formal agreement and Mr Lin could not detail what services the third party was to provide other than to secure his membership of ACCA.
27. Mr Lin gave evidence before the Committee and it had to make its assessment of his credibility. The Committee found Mr Lin to be an intelligent man who was clearly hard-working and had risen at a young age to the position of Audit Director in his company. He had achieved a Masters degree in accountancy at Company B in English and his command of written English was good. Mr Lin stated that he had not read ACCA's guidance; that the process was a repetitive and complex procedure for applying for membership and that he was extremely busy at work. It was in those circumstances and in order to save time, he paid for the third party to secure his membership. He explained that [PRIVATE]. He repeated that he was unaware of the PO statements submitted on his behalf. Mr Lin further stated that his employer was an approved firm and in the circumstances he was exempted from submitting PO statements.
28. In making its assessment of Mr Lin's evidence, the Committee was assisted by documentation that was contemporaneous to the application for membership in

February 2022. In particular, it noted the email from ACCA dated 18 January 2022 to Mr Lin which stated:

*“Thank you for confirming that you wish to transfer to ACCA membership.*

*Upon reviewing your application, I note that we have not yet received confirmation that your performance objectives have been completed.*

*You are required to confirm that you have attained the 5 Learning Elements and then completed the Learning Statement for the 5 Essentials and 4 Technical Performance Objectives which must be verified by an IFAC qualified practical experience supervisor”.*

29. Mr Lin responded by email dated 04 February 2022. In this he stated:

*“Thank you for your guidance and this is very helpful for me to become an ACCA member.*

*As your requirement, I have completed the Learning Statement for the 5 Essentials and 4 Technical Performance Objectives, which have been confirmed by Person A, an IFAC qualified practical experienced supervisor.*

*Additionally, I have recorded my employment experience in ACCA website and this could verify I have 36 months of experience with the confirmation of my practical experienced supervisor.*

*I would like to be an ACCA membership as this could provide more resources for me to fulfil my career goals. I also fell excited for my future full of opportunity and promise with the support of ACCA member qualification. Could you please further review my application?*

*Do feel free to contract me if there are any update of my application. Thanks a lot.”*

30. The Committee considered this email exchange between ACCA and Mr Lin to be highly significant. It was contemporaneous with the application for membership. ACCA had specifically reminded him of the need for confirmation

that his performance objectives had been completed. Mr Lin's email response said nothing about the engagement of the third party and asserted that he had completed the nine PO statements. There was no mention whatsoever in the email that Mr Lin thought he was exempt from the requirement because his firm was an approved employer.

31. The Committee considered that a proper interpretation of the correspondence was to give the words their ordinary meaning. Given the Committee's view of Mr Lin's intelligence and his command of written communication, it considered it far more likely than not that Mr Lin knew what was referred to in his email of 04 February 2022 was false. He knew the POs were not unique to him and had not been signed off by his supervisor. The Committee rejected, as unlikely, his contention that he was unaware of the content of the PO statements and simply wrote what he was told to do by the third party. The Committee was strengthened in this view by the absence in Mr Lin's email of any reference to his contention that he was exempt from the requirements. He stated this was because he misunderstood the difference between completion and exemption. The Committee found this implausible, particularly given he completed his exams and completed a Master's Degree in English. If he had believed he was exempt, the Committee considered it would have been in the email or raised in communication with ACCA.
32. The Committee considered it unlikely that such an intelligent and driven individual would have commissioned the third party without a proper understanding of what he was paying the third party to do and without having checked what was submitted on his behalf. It concludes that it is a reasonable inference to make on the facts it has found that Mr Lin did read what had been submitted and therefore knew that the POs referred to in his email had not been achieved by him in the manner recorded. The Committee considered that Mr Lin's likely motivation was that he sought a short cut to membership.
33. The Committee accepted that there was manifold guidance as to the PER system published and online and the Committee had little doubt that Mr Lin would have been aware of those requirements. The Committee accepted that ACCA's guidance as to its requirements was widely available and that there was also extensive advice available in both English and Mandarin as to the

requirements. This makes it clear the statements supporting their POs have to be written by trainees in their own words, and as such must be unique.

34. The Committee was satisfied that it is not credible that Mr Lin was unaware his POs had to be in his own words and describe the experience he had actually gained to meet the relevant Performance Objective. It found that Mr Lin had seen those plagiarised POs, knew he had not written them himself and therefore knew they were not his own work and therefore that he had not achieved the POs as described in these statements.
35. The Committee in the circumstances was able to reasonably infer that the more likely scenario was that Mr Lin was taking a short cut to membership. In the circumstances the Committee was satisfied that Mr Lin knew that it was untrue to purport to confirm that he had achieved them in the manner recorded. The Committee rejected any other basis such as mistake or carelessness or recklessness as not credible. Applying the second limb of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords*, the Committee 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.

#### **ALLEGATION 2(B)**

36. Given the Committee's findings in relation to Allegation 2a) it did not consider the alternative of Allegation 2b). This was therefore not proved.

#### **ALLEGATION 3**

37. Given the Committee's findings in relation to Allegation 2a) it did not consider the alternative of Allegation 3, and Mr Lin's admission to this alternative is withdrawn. This was therefore not proved.

#### **ALLEGATION 4**

38. The Committee was satisfied that under paragraph 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Mr Lin to cooperate fully with ACCA in the investigation of any complaint. It was satisfied that Mr Lin made no response to ACCA's correspondence requesting his cooperation on 22

March 2024, 08 April 2024 and 23 April 2024. It was satisfied that these non-responses amounted to failures as Mr Lin had a duty to respond. Therefore, Mr Lin breached the obligation under the Regulations. Allegation 4 was proved on admission.

## **ALLEGATION 5**

39. The Committee next asked itself whether, by completing a fraudulent Practical Experience Record, Mr Lin was guilty of misconduct.
40. 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 was, in the Committee's judgment, deplorable conduct. It was satisfied that Mr Lin's actions brought discredit on himself, the Association and the accountancy profession. It was satisfied that his conduct undermined one of the fundamental tenets of the profession – to be honest and not associate oneself with a false submission. His conduct enabled Mr Lin to secure membership when he was not entitled to it, and it undermined the reputation of the profession. Therefore, the Committee was satisfied that Mr Lin's conduct had reached the threshold for misconduct.
41. Further, the Committee was satisfied that Mr Lin's duty to cooperate with his 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 Mr Lin's actions brought discredit on him, the Association and the accountancy profession. For these reasons the Committee was satisfied that Mr Lin's failure to cooperate was sufficiently serious to amount to misconduct.
42. Given the Committee's judgment that the failure amounted to misconduct, the Committee did not need to consider the alternative of liability to disciplinary action.

## **SANCTIONS AND REASONS**

43. 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. It took account of both Ms Terry and Mr Lin's submissions.

44. The Committee accepted the advice of the Legal Adviser.

45. 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.

46. The aggravating factors the Committee identified were:

- The behaviour involved dishonesty which was pre-planned and designed to deceive his regulator for personal benefit.
- Professional membership was fraudulently obtained with a potential risk of harm to the public.
- The serious impact on the reputation of the profession.
- By obtaining membership falsely there was a breach of the trust placed on him by ACCA

47. The mitigating factors the Committee identified were:

- A previous good character with no disciplinary record.
- He has apologised and made some early admissions.
- He has actively engaged with the regulator during the hearing.
- He has shown developing insight, a commitment to remediation and expressed remorse (whilst he does not accept the dishonesty).

48. 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. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the guidance were not present. It also considered the factors listed at C5 of the Guidance that may justify exclusion. The Committee noted that among other factors dishonesty and an abuse of trust were present here. It further noted that as Mr Lin had gained membership dishonestly, any sanction which would allow him to continue to practise would fail to protect the public. He had in addition failed to co-operate with his regulator, which was a fundamental obligation on any professional.
49. The Committee reminded itself that it was dealing with a case of dishonesty. It 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. The Committee was satisfied that his dishonest behaviour was fundamentally incompatible with Mr Lin remaining on the register of ACCA and considered that the only appropriate and proportionate sanction was that he be excluded from membership.

#### **COSTS AND REASONS**

50. ACCA claimed costs of £9,932.00 and provided a detailed schedule of costs. The Committee noted Mr Lin has provided a statement of means, [PRIVATE]. 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 but made a reduction in light of the fact that but for the time difference the case would have concluded in one day. Further, the Committee considered it appropriate to reduce the figure to take account [PRIVATE]. Accordingly, the Committee concluded that the sum of £2,700.00 was appropriate and proportionate. It ordered that Mr Lin pay ACCA's costs in the amount of £2,700.00.

#### **EFFECTIVE DATE OF ORDER**



51. The Committee was satisfied that, given the seriousness of the conduct and the potential risk to the public, an immediate order was necessary in the circumstances of this case.

**Ilana Tessler**  
**Chair**  
**21 November 2024**