

## HEARING

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

#### REASONS FOR DECISION

**In the matter of:** Ms Jia Chen Lei

**Heard on:** Wednesday, 27 November 2024

**Location:** ACCA, The Adelphi, 1-11 John Adam Street, London,  
WC2N 6AU  
Held Remotely by Microsoft Teams

**Committee:** Mr Andrew Popat CBE (Chair)  
Ms Wanda Rossiter (Accountant)  
Ms Deborah Fajoye (Lay)

**Legal Adviser:** Ms Tope Adeyemi

**Persons present  
and capacity:** Mr Kamran Khan (Case Presenter)  
Ms Anna Packowska (Hearings Officer)

**Summary:** Allegations 1, 2(a), 4 and 5(a) proved  
Exclusion from membership with immediate effect

**Costs:** £6,000.00

#### ACCA



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## **INTRODUCTION**

1. The Disciplinary Committee (“the Committee”) met to hear allegations against Ms Lei. Ms Lei was not present and not represented. ACCA was represented by Mr Kamran Khan. The papers before the Committee consisted of a main bundle numbered 1 – 249, an “Additional Bundle” numbered 1 – 8, a service bundle numbered 1 – 16, a further “Separate Bundle” numbered 1 – 60 and a two-page memorandum and agenda.

## **SERVICE OF PAPERS**

2. The Committee first considered whether the appropriate documents had been served on Ms Lei in accordance with the Complaints and Disciplinary Regulations (“the Regulations”). The Committee took into account the submissions made by Mr Khan on behalf of ACCA and it also took into account the advice of the Legal Adviser.
3. Included within the Service Bundle was the Notice of Hearing dated 30 October 2024 (thereby satisfying the 14-day notice requirement) which had been sent to Ms Lei’s address as it appears on ACCA’s register. The Notice included the correct details of the date, time and remote venue for the hearing and also Ms Lei’s right to attend the hearing by telephone or video link, to be represented and to request an adjournment if she wished. The service bundle also included two emails that had been sent to Ms Lei dated 30 October 2024 which provided the secure link to the documentation regarding the hearing and the password.
4. The Committee also had sight of a telephone attendance note which recorded two attempts made by ACCA’s Hearings Officer on 26 November 2024 to speak to Ms Lei. The notes set out that the calls were not answered and there was no option to leave a voice message.
5. Having considered the relevant documents, the Chair was satisfied that Notice had been served in accordance with the Regulations.

## **PROCEEDING IN ABSENCE**

6. Having concluded that proper notice had been served in accordance with the regulations, the Committee went on to consider whether to exercise its discretion to proceed in the absence of Ms Lei. The Committee took into account that Ms Lei had been sent a number of emails by ACCA's Hearings Officer asking if she would be attending the hearing with no response being received. There was also evidence in the form of the note which recorded that Ms Lei had been called by ACCA's Hearings Officer and that those calls had not been answered. She had also not responded to any communications sent to her by ACCA in respect of the investigation.
7. The Committee was of the view that Ms Lei's attendance was unlikely to be secured through an adjournment as she had not engaged at all. Balancing the interests of Ms Lei against the interest of ACCA, the Committee concluded that it was in the interests of justice that the matter proceeds expeditiously notwithstanding the absence of Ms Lei.

## **BACKGROUND**

8. Ms Lei became an ACCA affiliate in October 2019 and a registered ACCA member on 31 March 2022. In order to apply for membership, Ms Lei was required to obtain at least 36 months' practical experience in a relevant role ('practical experience'). The practical experience involves the completion of 9 performance objectives (POs). The experience obtained was to be recorded in a Practical Experience Requirement (PER) training record.
9. In 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. ACCA allege that further analysis of the cohort confirmed that most of the 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 the statements within the cohort of 91 trainees were the same, as a result ACCA concluded that the trainees had

copied their PO statements from others. Consequently, all 91 trainees were referred to ACCA's investigation. Ms Lei is one of the trainees.

10. ACCA assert that once an application for membership is received, this is recorded in ACCA's database by an automated process. The corresponding record for Ms Lei records her application for membership was received on 18 March 2022. ACCA emailed Ms Lei on 22 March 2022 to advise that her application was on hold as the statements in her PER training record supporting POs 3, 4, 6 and 7 were declined due to not being specific and relevant to the activities or tasks she undertook. On 24 March 2022, Ms Lei emailed ACCA to advise *'I have updated the relevant Performance Objectives. Could you help to review my application again?'* The following day ACCA emailed Ms Lei to advise that her application had been approved. ACCA's records show Ms Lei was admitted to membership six days later on 31 March 2022.
11. In respect of the POs, ACCA state that in their personal statement for each PO, a trainee needs to provide a summary of the practical experience they gained. They must explain what they did, giving an example of a task. They must describe the skills they gained which helped them achieve the PO and they must reflect on what they have learned including what went well or what they would have done differently. The document is to be unique and refer to their own experience. A practical experience supervisor is to be a qualified accountant who has worked closely with the trainee and who knows the trainee's work. All practical experience supervisors have to be registered with ACCA. During the period the practical experience supervisors approved the POs for the 91 trainees, the requirement was for an International Federation of Accountants (IFAC) qualified supervisor to record the name of their IFAC member body, and their membership number issued by that body. Most of the IFAC qualified line managers within the cohort of 91 trainees claimed to be members of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC body, and, as required, went on to provide their membership number.
12. Most of the 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]. This membership number is said by ACCA to 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.

13. A copy of the PER training record for Ms Lei records she was employed by Bard China Co Ltd from 11 July 2016 to 10 March 2022 in the role of 'Accountant'. Within her PER training records she sets out that she has 68 months of relevant practical experience and records that Person A is her supervisor. Person A had registered as Ms Lei's 'IFAC qualified line manager' and approved Ms Lei's time and experience within all of her POs. ACCA say that it is apparent from Ms Lei's PER training records that Person A registered with one of the three common email addresses.
14. ACCA state that an analysis of Ms Lei's PO statement reveals that they were identical or significantly similar to the PO's contained in the PER's of many other ACCA trainees in the cohort of 91.
15. Following referral of this matter to ACCA's Investigations Team, a member of that team sent an email to Ms Lei on 15 April 2024 attaching a letter and other documents, which set out the complaint and requested that Ms Lei respond to a number of questions by 29 April 2024. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Ms Lei to cooperate with the investigation by responding to the questions by the deadline.
16. On 18 April 2024, ACCA's investigating officer emailed Ms Lei attaching a version of her PER training record containing the ACCA ID numbers for her supervisor. Ms Lei did not respond by the deadline of 29 April and therefore a further encrypted email was sent on 30 April 2024 (the first reminder) with a copy of the letter attached to the previous email. In the covering email Ms Lei was reminded of her obligation to cooperate by responding to the questions in the letter and to do so by 14 May 2024.

17. No response was received to the first reminder and therefore a second and final email was sent to Ms Lei on 15 May 2024 (page 82-83) with a copy of the letter attached to the initial email. In the covering email Ms Lei was again reminded of her obligation to cooperate by responding to the questions by 29 May 2024 and that if she failed to do so ACCA would raise an allegation of failure to cooperate against her. No response was received.
18. ACCA's investigations officer attempted to telephone Ms Lei on 16 May 2024 using her number as registered with ACCA. No one is said to have answered the call. On 17 April 2024, ACCA's China Office sent a mobile message to Ms Lei. ACCA state that no response to the message was received.

## **ALLEGATIONS**

19. Jiao Chen Lei ('Miss Lei'), at all material times an ACCA trainee,
  1. Whether by herself or through a third party, applied for membership to ACCA on or about 18 March 2022 and in doing so purported to confirm in relation to her ACCA Practical Experience training record she had achieved the following Performance Objectives:
    - 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 9: Evaluate investment and financing decisions
    - Performance Objective 13: Plan and control performance
  2. Miss Lei's conduct in respect of the matters described in Allegation 1 above was:
    - a) Dishonest in that Miss Lei knew she had not achieved all or any of the performance objectives referred to in paragraph 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 Miss Lei 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 she failed to respond fully or at all to any or all of ACCA's correspondence dated:

a) 15 April 2024

b) 30 April 2024

c) 15 May 2024

5. By reason of her conduct, Miss Lei is:

a) Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any or all the matters set out at 1 to 4 above; in the alternative in respect of allegation 4 only;

b) Liable to disciplinary action pursuant to bye-law 8(a)(iii).

## **DECISION ON FACTS AND REASONS**

20. The Committee considered with care all the evidence presented and the submissions made by Mr Khan. It also accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

### **Allegation 1 – Proved**

21. A copy of the completed PER training record, which permitted Ms Lei to apply for membership was provided to the Committee. In addition, the Panel had sight of the correspondence exchanged between Ms Lei and ACCA during the period of submission.
22. The PER training record, received by ACCA on 18 March 2022, included a claim of 38 months experience and the completion of 9 POs all approved by Person A. Of those POs, 6 were as set out in allegation 1 namely, PO 2, 3, 4, 5, 9, and 1. In an email dated 22 March 2022 ACCA contacted Ms Lei to inform her that her application was on hold as the statements given in her PER training records supporting a number of the POs were declined. Ms Lei emailed ACCA the same day to advise that she had updated her records and requested her record be reviewed again. She was subsequently admitted to membership on 31 March 2022.
23. Having reviewed the information outlined, the Committee was satisfied that when Ms Lei applied to ACCA for membership she claimed to have achieved POs 2, 3, 4, 5, 9, and 1. Consequently, the Committee found Allegation 1 proved.

### **Allegations 2 (a) - Proved**

24. The Committee considered whether Ms Lei's conduct in allegation 1 was dishonest having regard to the test for dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 ("Ivey"). The test was expressed at paragraph 76 of the court's judgement in the following terms:

*"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as*



*to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”*

25. The Committee was satisfied that Ms Lei would have been aware of what was required regarding the submission of her Practical Experience record and that the POs were to be her own work. It formed this view having regard to the advice set out for ACCA trainees in the ACCA guidance document “*PER – Practical experience trainee guide*”. Under the section titled practical experience the following is included: “*Your situation and experience are unique to you, so we do not expect to see duplicated wording, whether from statement to statement, or from other trainees...*”
26. The committee then went on to consider the analysis provided by ACCA showing that 6 of Ms Lei’s PO statements were the same or significantly similar to the POs of a number of other ACCA trainees and that her POs were not the first in time to be produced. In particular it was noted that much of the wording of the POs provided by Ms Lei were exactly the same as those submitted by other trainees, this included errors and typos. Given the significant similarities, the Committee was satisfied that the POs were not Ms Lei’s own work.
27. In all the circumstances the Committee determined that Ms Lei was aware she had not achieved six of the performance objectives referred to in the PER training record she submitted in the manner described. The Committee found such conduct to be clearly dishonest by the standards of ordinary decent people. As a result, the Committee found allegation 2 (a) proved.

**Allegation 2 (b) – N/A**

28. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour demonstrated a failure to act with integrity, since this was alleged in the alternative.

### **Allegation 3 – N/A**

29. As the Committee found the conduct was dishonest it was not necessary for it to consider whether the behaviour was reckless as this was alleged in the further alternative.

### **Allegation 4 (a), (b) and (c) – Proved**

30. Copies of letters sent by email to Ms Lei following the referral of the matter to ACCA's investigation team were provided. The letters dated 15 April 2024, 30 April 2024 and 15 May 2024 contained information on the nature of the concerns about her conduct and requested that she respond to ACCA by specific dates. There is no evidence that any responses were received from Ms Lei. The screenshots from ACCA's records show that all the emails were sent to the address Mr Lei had provided ACCA with and there is no information that any were returned in error as successful delivery receipts have been provided in relation to each email. The Committee further noted that the emails were sent to the same address provided by Ms Lei as set in ACCA's register. Further it was the same address Ms Lei had used to correspond with ACCA previously. Overall, the Committee was satisfied that Ms Lei had received the correspondence.
31. The Committee was of the view that consistent efforts had been made to contact Ms Lei using the details she had provided to ACCA. There was a duty on her to co-operate and by not replying to the emails sent to her she had failed in that duty. It followed therefore that allegation 4 was found proved.

### **Allegation 5 (a) – Proved**

32. The Committee considered that Ms Lei's dishonest actions in regards to the submission of her PER training record together with her failure to co-operate with the investigation of her conduct fell far short of what was expected of a member of ACCA. It found her behaviour to be serious, of a nature that other members of the profession would find deplorable and to amount to misconduct. The Committee therefore found allegation 5 (a) proved.

### **Allegation 5 (b) – N/A**

33. Given the Committee's finding in relation to Allegation 5(a), it was not necessary for it to consider the matter alleged in the alternative, namely Allegation 5(b).

### **SANCTION AND REASONS**

34. In reaching its decision the Committee took into account the submissions made by Mr Khan. The Committee referred to the Guidance for Disciplinary Sanctions issued by ACCA effective from February 2024 and had in mind the fact that the purpose of a sanction was not to punish Ms Lei but to protect the public. Furthermore, any sanction must be proportionate. The Committee accepted the advice of the Legal Adviser and considered the sanctions, starting with the least serious sanction first.
35. The Committee turned first to consideration of the aggravating and mitigating features in this case. The Committee was made aware that Ms Lei had not been subject to any previous disciplinary findings, and this was to her credit although the Committee was mindful that Ms Lei had only been an ACCA Member for a short time.
36. The Committee noted a number of aggravating features in this case. Ms Lei had acted dishonestly and there was no evidence of insight or remorse. Her conduct represented a serious departure from the standards expected of her and it also had the potential to have an adverse impact on members of public. In respect of the latter point, members of the public may have sought to engage her services on the basis of her ACCA membership in circumstances where she had not obtained the requisite approved practical experience. Ms Lei's conduct in failing to co-operate also represented a breach of the regulations and was sustained over a period of time.
37. Set against those mitigating and aggravating factors and taking into account all the circumstances of the case, the Committee did not think it was appropriate, nor in the public interest, to take no further action. Neither did it consider it

would be appropriate to order an admonishment in a case where (as here) a member had acted dishonestly and failed to co-operate with their Regulator.

38. The Committee then considered whether to reprimand Ms Lei. The guidance indicates that a reprimand would be appropriate in cases where the conduct is of a minor nature, and there is sufficient evidence of an individual's understanding and genuine insight into the conduct found proved. The guidance goes on to state that a reprimand may be appropriate where the conduct was not in deliberate disregard of professional obligations and the period of misconduct was stopped as soon as possible. The Committee did not find those factors to be present in the current instance. Ms Lei had demonstrated no insight and had failed to co-operate with her regulator. Her conduct was also not considered to be minor in nature.
39. The Committee moved on to consider whether a severe reprimand would adequately reflect the seriousness of the case. The guidance indicates that such a sanction would usually be applied in situations where the conduct is of a serious nature but where there are particular circumstances of the case, or mitigation advanced, which satisfy the Committee that there is no continuing risk to the public and that corrective steps had been taken to cure the conduct and ensure such behaviour was not repeated. The Committee was not provided with evidence to show these criteria to be met. No evidence had been marshalled of any rehabilitative steps that had been taken by Ms Lei to ensure the behaviour would not re-occur and overall, the conduct was considered too serious for a severe reprimand.
40. The Committee went on to consider the guidance relating to exclusion from Membership. Ms Lei had acted dishonestly and failed to co-operate with her regulator. Such conduct was considered to be fundamentally incompatible with membership. In all the circumstances the Committee considered exclusion from membership to be the most appropriate and proportionate sanction. Further, the Committee considered that there was no need to extend the minimum period of 12 – months before Ms Lei could apply for re- admission to ACCA.

## **COSTS AND REASONS**

34. ACCA applied for costs in the sum of £6,399.50. The application was supported by a schedule providing a detailed breakdown of the costs incurred by ACCA in connection with the hearing. No information on Ms Lei's means were provided to the Committee.
  
35. The Committee was satisfied that ACCA was entitled to claim its costs and, in its discretion, considered £6,000 to be a suitable and proportionate amount in the circumstances.

## **EFFECTIVE DATE OF ORDER**

36. The Committee determined that in the interests of the public the sanction of exclusion from membership should take effect immediately in accordance with Regulations 20(1)(b) of the Regulations.

**Mr Andrew Popat CBE**  
**Chair**  
**27 November 2024**