

HEARING

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

In the matter of:	Mrs Yining Sun
Heard on:	Thursday 3 April 2025
Location:	Remotely via MS Teams
Committee:	Ms Kathryn Douglas (Chair) Mr George Wood (Accountant) Ms Victoria Smith (Lay)
Legal Adviser:	Mr Alastair McFarlane
Persons present and capacity:	Ms Emily Mitchell (Case presenter on behalf of ACCA) Ms Lauren Clayton (Hearings Officer)
Summary:	Severe Reprimand, any current or future application for membership to be referred to the Admissions and Licensing Committee and costs awarded against Mrs Sun of £5,650.00

1. ACCA was represented by Ms Mitchell. Mrs Sun did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1 – 145, and a service bundle numbered pages 1-26.

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SERVICE

2. Having considered the service bundle, the Committee was satisfied that notice of the hearing was served on Mrs Sun in accordance with the Complaints and Disciplinary Regulations 2014 (“CDR”).

PROCEEDING IN ABSENCE

3. The Committee noted the submissions of Ms Mitchell and accepted the advice of the Legal Adviser.
4. The Committee reminded itself that the discretion to proceed in absence must be exercised with the utmost care and caution. The Committee noted that following the service of the Notice of Hearing on 5 March 2025, the Hearings Officer sent chasing emails, dated 19 and 21 March 2025, asking Mrs Sun to confirm whether she would be attending the hearing. Mrs Sun did not respond. The Hearings Officer then attempted to telephone Mrs Sun on 25 March 2025 to confirm the position on the telephone number Mrs Sun had registered with ACCA. The call was not answered. The Hearings Officer also tried another telephone number ACCA had on its database, but this was also not answered. The Hearings Officer sent a further chasing email on the same date (25 March 2025) again asking Mrs Sun to confirm her attendance. There was no response from Mrs Sun. A further chasing email was sent on 28 March 2025 asking Mrs Sun to advise urgently on her attendance. Mrs Sun did not respond. The Hearings Officer made further attempts to telephone Mrs Sun on 1 April 2025. Again, the calls were not answered and there was no opportunity to leave a voice message. Again, the Hearings Officer sent a chasing email to Mrs Sun on 1 April 2025 following the unsuccessful telephone attempts. There was no response to this email from Mrs Sun or to a final request sent with the hearing link on 2 April 2025.
5. The Committee was mindful of the observations of Sir Brian Leveson in *Adeogba v. General Medical Council* [2016] EWCA Civ 162 as to the burden on all professionals subject to a regulatory regime to engage with the regulator both in relation to the investigation and the ultimate resolution of allegations made against them. The Committee specifically considered the issue of fairness to Mrs Sun of proceeding in her absence, but also fairness to the ACCA and the wider

public interest in the expeditious discharge of the Committee's function. The Committee was satisfied that Mrs Sun had voluntarily absented herself from the hearing. The Committee was not persuaded when balancing Mrs Sun's interests and the public interest, that any adjournment was likely to secure her attendance at a future date. The Committee was satisfied that Mrs Sun has been given every opportunity to engage and participate in the proceedings and has decided not to do so. Accordingly, in all the circumstances the Committee was satisfied that it was in the public interest to proceed in the absence of Mrs Sun.

ALLEGATIONS

Yining Sun (Mrs Sun), at all material times an ACCA affiliate

- 1. Submitted or caused to be submitted to ACCA on or about 19 May 2022 a Practical Experience Requirement training record which purported to confirm she had achieved Performance Objectives 23, 24 and 25**
- 2. Mrs Sun's conduct in respect of Allegation 1 above was reckless in that she had not achieved the Performance Objectives referred to in Allegation 1 above in the manner she claimed in the corresponding Performance Objective Statements as she should have known**
- 3. By reason of her conduct, Miss Sun is guilty of misconduct pursuant to ACCA bye-law 8(a)(i).**

PRELIMINARY ISSUE

6. The Committee, of its own volition, raised with Ms Mitchell ACCA's rationale for charging recklessness as opposed to dishonesty.
7. Ms Mitchell indicated that the circumstances had been carefully considered including whether or not to allege dishonesty. ACCA was satisfied that this was not a dishonesty case and that an allegation of recklessness met the correct level of culpability.
8. The Committee accepted the advice of the Legal Adviser. It was mindful of its

duty to act in the public interest to ensure that the allegations were sufficient to reflect the gravity of the alleged conduct and that there was a proper prosecution of relevant allegations in the proper discharge of the public interest and its regulatory function. The Committee accepted ACCA's contentions and was satisfied in the particular circumstances of this case that the allegations were sufficient.

BACKGROUND

9. Mrs Sun became an ACCA affiliate on 19 October 2020.
10. Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. However, in order to apply for membership, they are required to obtain at least 36 months' practical experience in a relevant role ('practical experience'). It is permissible for some or all of that practical experience to be obtained before completion of ACCA's written exams.
11. A person undertaking practical experience is often referred to as an ACCA trainee being the term used to describe Mrs Sun's status in the allegations, the report and the supporting evidence bundle.
12. An ACCA trainee's practical experience is recorded in that trainee's Practical Experience Requirement training record (PER), which is completed using an online tool called 'MyExperience' which is accessed via the student's MyACCA portal.
13. As part of their practical experience, each trainee is required to complete nine performance objectives (POs) under the supervision of a qualified accountant. An accountant is recognised by ACCA as a qualified accountant if they are a qualified accountant recognised by law in the trainee's country and or a member of an IFAC body (International Federation of Accountants). Once a trainee believes they have completed a PO, they are required to provide a statement in their PER training record describing the experience they have gained in order to meet the objective. Given this is a description of their own experience, the statement should be unique to them. Through the online tool, the trainee then requests that their practical experience supervisor approves that PO.

14. In addition to approval of their POs, the trainee must ensure their employment where they have gained relevant practical experience (being a minimum of 36 months) has been confirmed by the trainee's line manager who is usually also the trainee's qualified supervisor. This means the same person can and often does approve both the trainee's time and achievement of POs. If the trainee's line manager is not qualified, the trainee can nominate a supervisor who is external to the firm to supervise their work and approve their POs. This external supervisor must have some connection with the trainee's firm, for example as an external accountant or auditor.
15. Once all nine POs have been approved by the trainee's practical experience supervisor (whether internal or external) and their minimum 36 months of practical experience has been approved, the trainee is eligible to apply for membership.

ACADEMIC PATHWAY TO MEMBERSHIP

16. In January 2022, ACCA launched a pilot route to membership in China referred to as 'the Academic Pathway to Membership'. This allowed trainees who had been lecturing to apply for membership using this experience. In that regard the standard rules regarding the use of lecturing experience for membership is capped at 12 months. This pilot therefore allowed a trainee to use the full 36 months of lecturing experience to count as their practical experience.
17. A trainee's PER logbook is usually completed using an online tool accessed via the trainee's My ACCA portal. As this was a pilot, such lecturing experience had to be recorded by the trainee in a pdf document created specifically for this pilot.
18. In addition, three additional POs were added relating to lecturing of which a trainee had to select at least one.
19. As with the online tool, once a trainee on the pilot scheme believed they had completed a PO, they were required to provide a statement in their PER training record describing the experience they had gained in order to meet that PO. They then requested that their supervisor sign off that PO as having been met. Given this PER training record was a pdf document, the supervisor approved each PO with their signature.

20. Once a trainee's time of 36 months as well as their POs had been approved, the trainee would submit the pdf form to ACCA's China team who would then forward the form on to Dawn McKenna in ACCA's Professional Development team for review.
21. During this review process of Mrs Sun's PER training record, Ms McKenna noticed her statements in support of her POs 23, 24 and 25 were the same as the statements in support of such POs of another ACCA trainee, Person A, who shared the same supervisor, namely Person B.
22. Ms McKenna raised enquiries with Mrs Sun who advised she had mistakenly copied these three statements from Person A.
23. The matter was referred by Ms McKenna via ACCA's Complaint Assessment team to ACCA's Investigations Team.

ACCA'S SUBMISSIONS

Allegation 1 - Submitting a Practical Experience Requirement training record which purported to confirm she had achieved Performance Objectives 23, 24 and 25

24. Mrs Sun submitted three PER training records to ACCA. The first version was attached to an email dated 7 May 2022. ACCA has no evidence to suggest that the statements supporting the POs in this training record were anything other than those drafted by Mrs Sun.
25. However, upon receipt of this PER training record, ACCA's China office pointed out some omissions to Mrs Sun following which she submitted a further PER training record attached to an email dated 19 May 2022. This training record was significantly different in that she had replaced POs 8, 15 and 17 with 23 and 25 and the statement supporting PO 24 had entirely changed.
26. Due to some administrative issues highlighted by the China Office, Mrs Sun resubmitted this PER training record in an email dated 20 May 2022, albeit with the statements supporting POs 23, 24 and 25 unchanged.

27. ACCA contend that the statements supporting Mrs Sun's POs 23, 24 and 25 are the same as those of Person A's, being Mrs Sun's colleague, and that Mrs Sun has admitted this.

Allegation 2 - Mrs Sun's conduct was reckless in that she had not achieved the Performance Objectives referred to in Allegation 1 above in the manner she claimed in the corresponding Performance Objective Statements as she should have known

28. Although Mrs Sun initially submitted to ACCA a PER training record with unique statements supporting all her POs, she subsequently provided a different version to ACCA with three statements copied from a colleague.
29. In Mrs Sun's initial response to Ms McKenna she explains that she and Person A *'discussed how to write it together. I wrote another file but the two files' name are so similar. So I sent the wrong one. This is a mistake'*.
30. Whilst ACCA noted that Mrs Sun's subsequent responses to ACCA, may suggest that she may have deliberately copied these three POs because she was *'too busy'* and *'did not want this to take up too much time'*, ACCA is prepared to accept her first explanation that this was a mistake, though it contended that in the circumstances clearly serious.
31. ACCA submitted that Mrs Sun's conduct was reckless in the ordinary sense of the word in that she paid no or insufficient regard to the fact that her statements in her PER training supporting three of her POs, which she submitted to ACCA on 19 and 20 May 2022, were copied from another affiliate and therefore did not reflect her own unique experience. This reckless conduct is reflected in Mrs Sun's comments that she was *'too busy'* and *'did not want this to take up too much time'* and the fact she sent several versions of her PER training record to ACCA without checking she was sending the correct version.

Allegation 3 - Misconduct

32. ACCA submitted that Mrs Sun's reckless conduct was sufficiently serious to reach the threshold for misconduct.

MRS SUN'S RESONSES/ SUBMISSIONS

33. During the investigation Mrs Sun sent a series of emails to ACCA's China office. These emails revealed Mrs Sun had provided ACCA with three versions of her PER training record.

34. The first email from Mrs Sun is dated 7 May 2022, which states:

'PER Record for Academic pathway to membership. Thank you very much'.

35. Attached to that email was the first version of Mrs Sun's PER training record received by ACCA. It recorded, in particular, the following:

i) From '08/2020' to 'now' Mrs Sun was employed by the Company A as an 'Accounting teacher'.

ii) The training record contains a box in which the practical experience supervisor has to provide their name and signature. The name of the practical experience supervisor is given as Person B and a signature has been included in the relevant box dated 7 May 2022.

iii) The 'Performance Objectives Summary' records Mrs Sun had completed POs 1 to 5 (being the compulsory POs) and five others, namely:

7 - Prepare external financial reports',

8 - Analyse and interpret financial reports

15 - Tax computations and assessments

17 - Tax planning and advice

24 - Teaching and research (the sole PO relating to the Academic Pathway).

iv) For each PO, Mrs Sun had signed a confirmation (each dated 25 April 2022) which stated:

'I confirm that this is a true and accurate reflection of my practical experience and the work undertaken personally by me'.

- v) Also, for each PO, there was a 'Practical Experience Supervisor's sign off' at the end of the above pages which states, *'I confirm that the statement given and the experience obtained reflects the work undertaken by the trainee, as evidenced by me, and meets the performance objective requirements'*. In relation to each PO, the name of the supervisor has been given as Person B with a signature. All these signatures are dated 7 May 2022.

36. ACCA's China office responded on 8 May 2022. The email referred to Mrs Sun having contacted ACCA through a non-ACCA registered email and that it was necessary for her to provide some personal details, as set out in the email. The email further stated:

'we found that your form has the following omissions: Among the 9 POs you filled in, some Elements in some POs are not satisfied, and these Elements need to be reflected and satisfied in your daily work...'

37. Mrs Sun then provided the personal details requested as evidenced in an email of 8 May 2022. Mrs Sun then sent an email, dated 19 May 2022, attaching a second version of her PER training record. There was no narrative to the email. The details relating to her employer, her job title and supervisor all remained the same as the earlier version of her PER training record. Similarly, statements in support of the compulsory POs 1 to 5 remained the same. However, three of the optional POs had changed. In place of POs 8, 15 and 17, she had completed POs 23 and 25. In addition, the wording of the statement for PO 24 had entirely changed.
38. ACCA's China office emailed Mrs Sun the same day (19 May 2022) confirming receipt while pointing out there were in effect some administrative errors. The email did not make any reference to the POs having changed.
39. Mrs Sun responded the following day (20 May 2022) attaching a revised PER training record addressing the administrative errors. This was

therefore the third and final version of her PER. However, the POs remained unchanged from the second version of her PER training record.

40. ACCA's China office emailed Mrs Sun the same day confirming receipt and advising the PER training record would be submitted to ACCA's UK headquarters for review.
41. Ms McKenna from ACCA's Professional Development team reviewed Mrs Sun's PER training record, and on 24 May 2022 emailed Mrs Sun again advising that following a further review she had noticed that her statements in support of POs 23, 24 and 25 were identical to another affiliate's and requesting an explanation.
42. Mrs Sun responded the same day (24 May 2022) stating:

'...I'm sorry. We are colleagues and we discussed how to write it together. I wrote another file but the two files' name are so similar. So I sent the wrong one. This is a mistake. I'm very sorry. I should sent you this file, but I sent you the wrong one...'

Attached to this email was a copy of the first version of her PER training record she had sent to the China office.

43. Ms McKenna emailed Mrs Sun again as follows:

'...You have noted that you wrote another file that you have attached however this is also signed by your supervisor and appears to claim different objectives to the file submitted previously. Can you confirm that you requested your supervisor to sign both versions of these documents and if so, why both versions of these were submitted for approval? While I appreciate you would have discussed this with your colleague, can you also explain why your written statements were identical?...'

44. Mrs Sun responded on 24 May 2024:

'...We met our supervisor in office that day, she is very busy. I didn't finish my content that day, so I copied my colleague's content then requested my

supervisor to sign for me (we teach similar subjects). I changed the content some days later and my supervisor agreed with that. But I sent you the wrong file to you. I'm so sorry...'

45. Further, in her response to ACCA's Investigating Officer dated 25 August 2022, Mrs Sun stated:

"I copied [Person A]'s document and just wanted the leader to sign it as soon as possible, because I was too busy at ordinary times and did not want this to take up too much time. I admit that it was an inappropriate behavior, but later I changed the content and my leader agreed.

I deeply regret my actions and would like to know what the consequences will be if I am deemed dishonest.

I sincerely hope ACCA can forgive me for my inappropriate behavior because I was in a hurry to get the leader to sign. I am really sorry

This matter has brought a lot of trouble to me and my leader. I hope it can be resolved as soon as possible. Thank you ! ...'

DECISION ON ALLEGATIONS AND REASONS

46. 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.
47. The Committee heard that there had been no previous findings against Mrs Sun and accepted that it was relevant to put her good character into the balance in her favour.

DECISION ON FACTS

48. The Committee accepted the advice of the Legal Adviser. It noted the submissions of Ms Mitchell for ACCA and those of Mrs Sun contained in her correspondence. It reminded itself that the burden of proof was on ACCA alone

and that her absence added nothing to ACCA's case and was not indicative of guilt.

Allegation 1

Submitted or caused to be submitted to ACCA on or about 19 May 2022 a Practical Experience Requirement training record which purported to confirm she had achieved Performance Objectives 23, 24 and 25

49. The Committee was satisfied on the balance of probabilities that this was established by ACCA's documentary evidence. Accordingly, Allegation 1 was proved.

Allegation 2

Mrs Sun's conduct in respect of Allegation 1 above was reckless in that she had not achieved the Performance Objectives referred to in Allegation 1 above in the manner she claimed in the corresponding Performance Objective Statements as she should have known.

50. The Committee had specific regard to Lord Bingham's observations in *The Queen v G [2003] UKHL 50* as to the approach and meaning on recklessness.
51. The Committee noted the history of the submissions of Mrs Sun's PER training record. It noted Mrs Sun's explanation as to how she came to submit copied statements for three of her POs. It accepted as credible that she had made a "mistake" in sending the wrong version of her POs again. However, this was a significant omission when dealing with such important and significant documents. These were documents which she knew or ought to have known had to be treated with extreme care and caution and she did not do that. The Committee were satisfied she took an unreasonable level of risk and that the threshold for it to be categorised as reckless behaviour was met. It was reckless conduct in the ordinary sense of the word in that she paid no or insufficient regard to the fact that her statements in her PER training supporting three of her POs, which she submitted to ACCA on 19 May 2022, were copied from another affiliate and therefore did not reflect her own unique experience. Accordingly, Allegation 2 was proved.

Allegation 3

By reason of her conduct, Miss Sun is guilty of misconduct pursuant to ACCA bye-law 8(a)(i).

52. The Committee next asked itself whether by recklessly submitting a copied Practical Experience Record, Mrs Sun was guilty of misconduct.
53. 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 Mrs Sun's actions brought discredit on herself, the Association and the accountancy profession. Her conduct could have enabled Mrs Sun to secure membership when she was not entitled to it and her conduct undermined the reputation of the profession. Therefore, the Committee was satisfied that Mrs Sun's conduct had reached the threshold for misconduct.

SANCTIONS AND REASONS

54. The Committee noted its powers on sanction were those set out in Regulation 13(4) of the Complaints and Disciplinary Regulations 2014. 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 Ms Mitchell's submissions.
55. The Committee accepted the advice of the Legal Adviser.
56. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The reckless conduct was serious given the importance and significance of these documents.
57. The Committee did not identify any aggravating factors.
58. The mitigating factors the Committee identified were:
 - A previous good character with no disciplinary record
 - There was an apology and expressions of remorse

- The behaviour was not a pattern of misconduct over a period of time
 - She has demonstrated some insight
59. Given the Committee's view of the seriousness of the misconduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. In relation to Reprimand the Committee did find that three factors listed in the Guidance were present (the period of time was short; there had been no or little adverse consequences and there was early admission). Nonetheless, it considered that such a disposal was insufficient to reflect the gravity of the misconduct. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the Guidance were present. It also considered the factors listed at C5 of the Guidance that may justify removal. The Committee noted that most of the factors for removal were not present and in any event such a disposal would be disproportionate.
60. The Committee was accordingly satisfied that the appropriate and proportionate sanction is that of a severe reprimand. In the circumstances it also considered it appropriate to make a direction that any current or future application for membership should be referred to the Admissions and Licensing Committee, given the risk that Mrs Sun could make similar errors.

COSTS AND REASONS

61. ACCA claimed costs of £5,886 and provided a detailed schedule of costs. The Committee noted that Mrs Sun has not provided any statement of means. 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 as the hearing lasted less time than anticipated. Accordingly, the Committee concluded that the sum of £5,650 was appropriate and proportionate. It ordered that Mrs Sun pay ACCA's costs in the amount of £5,650.

Ms Kathryn Douglas
Chair
03 April 2025