

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Miss Muzi Yan
Heard on:	Tuesday, 11 February 2025
Location:	Remotely via MS Teams
Committee:	Mr Andrew Gell (Chair) Ms Fiona MacNamara (Accountant) Mr Nigel Pilkington (Lay)
Legal Advisers:	Mr Alastair McFarlane
Persons present and capacity:	Mr Mazharul Mustafa (Case presenter on behalf of ACCA) Ms Anna Packowska (Hearings Officer)
Observer:	Mr Bill Matthews (Appointments Board)
Summary:	Exclusion from membership with immediate effect and costs awarded of £500.00

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1. ACCA was represented by Mr Mustafa. Miss Yan did not attend and was not represented. The Committee had before it a bundle of papers, numbered pages 1-244, a Separate bundle, numbered pages 1-42, an Additional bundle, numbered pages 1-8, a Tabled Additional bundle, numbered pages 1-37, a Service bundle numbered pages 1-18 and a one-page e mail.

SERVICE

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

PROCEEDING IN ABSENCE

3. The Committee noted the submissions of Mr Mustafa 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 14 January 2025, Miss Yan completed a re-sent Case Management Form ("CMF"), which she signed on 22 January 2025 and sent to ACCA. In that form, she ticked the boxes confirming that she did not intend to attend the hearing and would not be represented and that she consented to the Disciplinary Committee dealing with the case in her absence. In answer to question 3 as to her availability, where the form states "ACCA strongly encourages you to attend your hearing, though you have the right not to", Miss Yan indicated in answer that she would not be available within the next six months. In addition, having been asked in an email from the Hearings Officer, dated 10 February 2025, whether she would be attending, Miss Yan responded by email of the same date stating, "Due to personal reasons, I have decided not to participate." In a further email, dated 11 February 2025 Miss Yan stated: "I am content for the Disciplinary Committee to proceed in my absence".
5. The Committee was mindful of the observations of Sir Brian Levenson 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 Miss Yan 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 Miss Yan had voluntarily waived her right to attend the hearing and had indicated that she was content for it to proceed in her absence. The Committee was not persuaded when balancing Miss Yan's interests and the public interest, that any adjournment was likely to secure her attendance. The allegations were serious, involving dishonesty and a risk to the public. She has been given every opportunity to engage and participate and has decided not to do so. The Committee was satisfied in all the circumstances that it was in the public interest and in the interests of justice overall to proceed in the absence of Miss Yan.

ALLEGATIONS

Muzi Yan ('Miss Yan'), at all material times an ACCA trainee,

1. Whether by herself or through a third party applied for membership to ACCA on or about 6 August 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 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 9: Evaluate investment and financing decisions

- Performance Objective 13: Plan and control performance
- Performance Objective 22: Data analysis and decision support

2. Miss Yan's conduct in respect of the matters described in Allegation 1 above was:

- a. Dishonest in that Miss Yan knew she 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 Miss Yan 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. 05 April 2024
- b. 22 April 2024
- c. 07 May 2024

5. By reason of her conduct, Miss Yan 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).

ADMISSIONS

6. Miss Yan indicated in her Case Management Form that she admitted Allegation 1, but did not admit that her conduct was dishonest (Allegation 2 a); lacking in integrity (Allegation 2 b). She admitted reckless conduct (Allegation 3). She did not admit the non-cooperation allegation (Allegation 4).
7. The Committee was concerned to ensure that Miss Yan understood the allegations and any admissions were clear and unequivocal. In relation to Allegation 1, Miss Yan stated in the CMF:

*"I'm sorry, please allow me to explain what happened in the past here:
This happened 2 years ago. I just saw ACCA's email. Before that, all emails were automatically blocked as spam
In this matter, I did make a mistake. I was too careless and easily trusted a third party.
At that time, I met a friend (that is, a third party) on the Internet who claimed to study ACCA. I have not considered applying for membership as my company does not require the use of ACCA qualifications. He repeatedly suggested that I apply for membership because I was busy with work. One time, I accidentally told him my account, and later, he helped me apply for membership without my knowledge.
Because I am not familiar with the process of applying for membership, I thought it was a very procedural thing to do, just click the apply button. Therefore, even after obtaining membership, I was not aware of the issue.
Until recently, I accidentally came across ACCA's email and realized that I had been deceived."*

8. The Committee considered that although Miss Yan stated: *"he helped me apply for membership without my knowledge"* this is still consistent with a clear and unequivocal admission. This is because Allegation 1 relates to applying for admission for membership "whether by herself or through a third party", and it simply refers to the application purporting to confirm that she had achieved the listed POs. There is no allegation of culpability in Allegation 1. It is simply objective factual background.

9. Accordingly, the Committee exercised its power under Regulation 12(3)(c) of the Complaints and Disciplinary Regulations 2014 (“CDRs”) and found the admitted allegation 1 proved by virtue of the admission.

BACKGROUND

10. Miss Yan became an ACCA member on 11 August 2022.
11. 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.
12. A person undertaking practical experience is often referred to as an ACCA trainee being the term used to describe Miss Yan’s status in the allegations, the report and the supporting evidence bundle.
13. 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.
14. 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 performance 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.

15. 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.
16. 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 - assuming they have also passed all their ACCA exams and successfully completed ACCA's Ethics module.
17. 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]
18. Further analysis of this cohort of 91 trainees confirmed the following:
 - Most of these trainees were registered with ACCA as resident in [PRIVATE].
 - 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. 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.
19. Consequently, all 91 trainees were referred to ACCA's Investigations Team. Miss Yan is one such trainee.
 20. ACCA's primary case against Miss Yan is that she knew she had not achieved all or any of the performance objectives referred to in Allegation 1 as described in the corresponding performance objective statements.

ACCA'S SUBMISSIONS

Allegation 1

21. ACCA relied on the following:
 - Karen Watson's (Senior Administrator in ACCA's Member Support Team) statement explaining ACCA's membership application process. She produces Miss Yan's record which shows her application being made on 24 July 2022. However, ACCA notified Miss Yan on 27 July 2022 that her PO statements were insufficient and did not go to enough detail. Miss Yan emailed ACCA on 31 July 2022, saying she had completed her POs. ACCA emailed Miss Yan on 1 August 2022 notifying her PO statements 17, 21 and 22 remained declined as they needed to contain examples of relevant activities. On 6 August 2022, Miss Yan emailed ACCA stating she had completed all her PO statements. These were then accepted by ACCA which resulted in her being granted membership on 11 August 2022. For the purposes of Allegation 1, the date of 6 August 2022 has therefore been taken as the date she completed her PER and successfully applied for membership.

- Linda Calder's (Manager of ACCA's Professional Development Team) statement which describes ACCA's Practical Experience Requirement. She details that although not compulsory at the time, most of these supervisors also went on to upload what they claimed was their Chinese Institute of Certified Public Accountants (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.
22. ACCA also relied on documentary evidence as to the support given to ACCA trainees in [PRIVATE], as follows:
- ACCA's Customer Services Team in [PRIVATE] email all ACCA affiliates in [PRIVATE] inviting them to regular webinars provided by ACCA staff who can advise on the PER process.
 - These are live webinars and therefore trainees can ask ACCA staff based in China any questions they may have.
 - The webinar details refer to encouraging affiliates to join the ACCA WeChat group of their regional service group and provides details how to join. All the webinars listed include the same details about these WeChat groups ('WeChat' is a social media app available globally but used extensively in China). In these WeChat groups, ACCA trainees can ask ACCA China staff questions including about the PER process.
 - In addition to the WeChat groups, ACCA China uploads to its WeChat platform articles relevant to the ACCA membership process. This includes an article 'How to become an ACCA Member Series 1 Practical Experience Requirement (PER) Quick Guide', dated 15 January 2020.

23. ACCA also referred to the following:

- Miss Yan's completed PER training record which was completed on or about 30 July and 6 August 2022 which then permitted Miss Yan to apply for membership which she did on or about 6 August 2022, which was granted on 11 August 2022.
- Miss Yan was employed from 10 March 2018 to 10 May 2021 in the role of 'Accountant'.
- At page 35 of the PER training record, in red text, 38 months of relevant practical experience has been claimed. This is therefore in excess of the minimum requirement of 36 months.
- Miss Yan's Supervisor details record that Person 1 was her 'IFAC qualified line manager', and therefore her practical experience supervisor;
- The Supervisor details also record that Person 1 registered with one of the three common email addresses shared amongst this cohort of 91 cases, being [PRIVATE].
- Miss Yan's PER training record which records that Person 1 approved all of Miss Yan's PO statements on the same day – 24 July 2022. These PO statements were initially declined by ACCA, so Miss Yan resubmitted these with revised statements which were approved by Person 1. There were therefore various dates when her PO statements were approved by Person 1 namely between 24 July and 6 August 2022.
- That all nine of Miss Yan's PO statements were identical or significantly similar to those of many other trainees, suggesting at the very least, she had not achieved the performance objectives in the way claimed or possibly at all and none were the first in time. Examples are provided in the documents.

Allegation 2(a) - Dishonesty

24. ACCA's primary case was that Miss Yan was dishonest when she submitted her Practical Experience Training Record to ACCA because Miss Yan sought to confirm she had achieved all nine POs when he knew she had not. The extensive advice available online as to how an ACCA trainee must complete their PER makes it clear that 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 Miss Yan was unaware that her PO statements had to be in her own words and describe the experience she had actually gained to meet the relevant Performance Objective. In applying for ACCA membership, it is submitted Miss Yan claimed to have achieved the POs with the use of supporting statements which she must have known had not been written by her. Miss Yan therefore knew she 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

25. In the alternative, ACCA submitted that if the conduct of Miss Yan is not found to be dishonest, the conduct demonstrates a failure to act with integrity.

Allegation 3 – Recklessness

26. ACCA submitted in the further alternative that Miss Yan's conduct was reckless in the ordinary sense of the word in that she paid no or insufficient regard to the fact that her PO statements should truthfully and accurately set out how the relevant performance objective had been met. Miss Yan 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 her to take) that she had not completed the practical experience element of her training correctly and was therefore ineligible for membership.

Allegation 4 – Failure to co-operate

27. ACCA submitted Miss Yan had a duty to cooperate under the Complaints and Disciplinary Regulations 2014 and by not responding to the correspondence had breached this duty.

Allegation 5 – Misconduct/ Liability to disciplinary action

28. ACCA submitted that Miss Yan's conduct whether dishonest or lacking integrity or reckless and her 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.

MISS YAN'S SUBMISSIONS

29. Miss Yan made an admission to Allegation 1 and denied dishonesty and lack of integrity (Allegations 2 a) and 2 b)) and admitted the alternative reckless conduct in Allegation 3. Finally, she denied failing to co-operate, as set out in Allegation 4, at all. The only account of her position is set out in her Case Management Form.
30. Her position in relation to Allegation 1 has been set out at paragraph 7 above.
31. In relation to Allegation 2 (a) – dishonesty – Miss Yan stated:

"I have provided a detailed explanation of the entire situation in the first question, and I admit that my mistake was due to negligence. This was a mistake, and I will do my best to make up for it. I also accept ACCA's accusations and criticisms. But I don't think this is dishonest, it's more like it's due to ignorance. Because I didn't know at the time that applying for membership required these steps, which led to my mistake. If I had known, I would never have done this".

32. In relation to Allegation 4 – non-corporation– Miss Yan stated:

"I have already explained, it's not that I am not cooperating with ACCA. I didn't even notice ACCA's email before

We are in different countries, each with its own culture and customs. In [PRIVATE] we are more accustomed to using WeChat and less likely to use email. In [PRIVATE], spam emails and spam messages are very common, with a large amount of harassing messages every day.”

DECISION ON ALLEGATIONS AND REASONS

33. 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 586 (Admin)* to the effect that in cases of dishonesty, cogent evidence was required to reach the civil standard of proof.
34. The Committee heard that there had been no previous findings against Miss Yan and accepted that it was relevant to put her good character into the balance in her favour.

DECISION ON FACTS

35. The Committee accepted the advice of the Legal Adviser. It noted the submissions of Mr Mustafa for ACCA and Miss Yan's written observations in her CMF. 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

Whether by herself or through a third party applied for membership to ACCA on or about 6 August 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 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 9: Evaluate investment and financing decisions**
- **Performance Objective 13: Plan and control performance**
- **Performance Objective 22: Data analysis and decision support**

36. 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 Miss Yan, whether by herself or through a third party, applied for membership to ACCA on or about 06 August 2022. The Committee was further satisfied that from the face of her PER training record, Miss Yan was purporting to confirm to ACCA that she had achieved the nine performance objectives listed in Allegation 1. Accordingly, the Committee was satisfied that Allegation 1 was proved.

Allegation 2

Miss Yan's conduct in respect of the matters described in Allegation 1 above was:

- a. Dishonest in that Miss Yan knew she 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.**

37. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest.

38. In accordance with the case of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords [2017] UKSC 67* the Committee first considered what Miss Yan's belief was, as to the facts.

39. The Committee examined the PO statements submitted by Miss Yan 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. Miss Yan's contention was that she was not dishonest but rather was careless and had made a mistake having met the third party on the Internet. She stated: *"One time, I accidentally told him my account, and later, he helped me apply for membership without my knowledge."* She only realised later that she had been *"deceived"*. In other words, she did not know that the third party to whom she had given her account details, and who had repeatedly suggested that she join ACCA, had submitted those plagiarised PO statements.

40. Miss Yan chose not to attend to give evidence before the Committee and it had to make its assessment of the credibility and reliability of her brief written account. Miss Yan stated that she was unaware of ACCA's guidance and was busy at work. She was unaware of the PO statements submitted on her behalf.
41. In making its assessment of Miss Yan's written submission, the Committee was assisted by documentation that was contemporaneous to the application for membership. ACCA notified Miss Yan on 27 July 2022 that her PO statements were insufficient and did not go to enough detail. Miss Yan emailed ACCA on 30 July 2022, saying she had completed her POs, ACCA emailed Miss Yan on 1 August 2022 notifying her PO statements 17, 21 and 22 remained declined as they needed to contain examples of relevant activities. On 6 August 2022, Miss Yan emailed ACCA stating she had completed all her PO statements.
42. The Committee considered this email exchange between ACCA and Miss Yan to be highly significant. It was contemporaneous with the application for membership. She received these e-mails, and this undermines any assertion from her that she did not receive e-mails from ACCA and that she had no knowledge of ACCA requirements for PER. ACCA had specifically reminded her of deficiencies with some of the PO statements and Miss Yan responded and resubmitted them. This was to her registered email address and the Committee rejected her assertion that all her email was blocked as spam or that she was unaware of the involvement of the third party, as incredible.

43. The Committee rejected Miss Yan's proffered explanations as implausible. It considered there was an inconsistency in her explanations contained in the CMF - she was "*deceived*" by a friend and was unaware that the friend applied for membership. Yet she responded to ACCA's emails and re-submitted the PO statements. She then asserted she was careless or negligent and had "*accidentally*" told her friend her account details. The Committee rejected any such suggestion of accidentally giving a friend her account details as incredible. Given this, it considered it far more likely than not that Miss Yan knew that the PO statements were not unique to her. The Committee rejected as unlikely her contention that she was unaware of the content of the PO statements, and this was all done without her knowledge or consent by the third party. The Committee found Miss Yan's explanations to be implausible.
44. The Committee concludes that it is a reasonable inference to make on the facts it has found that Miss Yan did read what had been submitted and therefore knew that the POs referred to in her emails had not been achieved by her in the manner recorded.
45. The Committee accepted that there was manifold guidance as to the PER system published online and the Committee had little doubt that Miss Yan 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 [PRIVATE] 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.
46. The Committee was satisfied that it is not credible that Miss Yan was unaware that her PO statements had to be in her own words and describe the experience she had actually gained to meet the relevant Performance Objective. It found that Miss Yan knew that the PO statements were not her own work as she had not written them and therefore that she had not achieved the POs, as described in these statements.
47. The Committee in the circumstances was able to reasonably infer that the more likely scenario was that Miss Yan was taking a short cut to membership. In the circumstances the Committee was satisfied that Miss Yan knew that it

was untrue to purport to confirm that she 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.

b. In the alternative, any or all of the conduct referred to in Allegation 1 above demonstrates a failure to act with Integrity.

48. Given the Committee's findings in relation to Allegation 2 a) it did not consider the alternative of Allegation 2 b).

Allegation 3

In the further alternative to Allegations 2a) and 2b) above, such conduct was reckless in that Miss Yan 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.

49. Given the Committee's findings in relation to Allegation 2 a) it did not consider the alternative of Allegation 3 and Miss Yan's admission to this alternative is withdrawn.

Allegation 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. 5 April 2024**
- b. 22 April 2024**
- c. 7 May 2024**

50. The Committee was satisfied that under Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Miss Yan to cooperate fully with ACCA in the investigation of any complaint. It was satisfied that Miss Yan made no response to ACCA's correspondence requesting her cooperation on 5 April 2024, 22 April 2024 and 7 May 2024. It was satisfied that these non-responses amounted to failures as Miss Yan had a duty to respond. It rejected Miss Yan's assertion that she was unaware of these emails as they were delivered and opened. Therefore, Miss Yan breached the obligation under the Regulations. Allegation 4 was proved.

5. By reason of her conduct, Miss Yan 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).

51. The Committee next asked itself whether by submitting a fraudulent Practical Experience Training Record, Miss Yan was guilty of misconduct.

52. 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 Miss Yan's actions brought discredit on herself, the Association and the accountancy profession. It was satisfied that her conduct undermined one of the fundamental tenets of the profession – to be honest and not associate oneself with a false submission. Her conduct enabled Miss Yan to secure membership when she was not entitled to it, and it undermined the reputation of the profession. Therefore, the Committee was satisfied that Miss Yan's conduct had reached the threshold for misconduct.

53. Further, the Committee was satisfied that Miss Yan's duty to cooperate with her 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 Miss Yan's actions brought discredit on her, the Association and the accountancy profession. For these reasons the Committee was satisfied that Miss Yan's failure to cooperate was sufficiently serious to amount to misconduct.

54. 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

55. The Committee noted its powers on sanction were those set out in Regulation 13(1) 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 Mr Mustafa's submissions.
56. The Committee accepted the advice of the Legal Adviser.
57. 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.
58. The aggravating factors the Committee identified were:
- The behaviour involved dishonesty which was pre-planned and designed to deceive her 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 in her by ACCA.
 - No insight shown into the impact on the profession and public of such conduct.
59. The mitigating factors the Committee identified were:
- A previous good character with no disciplinary record.
 - Miss Yan has shown limited remorse.
60. 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 Miss Yan had gained membership dishonestly, any sanction which would allow her to continue to hold herself out as an ACCA member would fail to protect the public. She had in addition failed to co-operate with her regulator, which was a fundamental obligation on any professional.
61. 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 her dishonest behaviour was fundamentally incompatible with Miss Yan remaining on the register of ACCA and considered that the only appropriate and proportionate sanction was that she be excluded from membership.

COSTS AND REASONS

62. ACCA claimed costs of £6,373.00 and provided a detailed schedule of costs. The Committee noted Miss Yan 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 as the case lasted less time than anticipated. Further, the Committee considered it appropriate to reduce the figure to take account of [PRIVATE]. Accordingly, the Committee concluded that the sum of £500 was appropriate and proportionate. It ordered that Miss Yan pay ACCA's costs in the amount of £500.

EFFECTIVE DATE OF ORDER

63. 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.

Mr Andrew Gell
Chair
11 February 2025