

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Mengqiu Huang

Heard on: Friday, 28 March 2025

Location: Remotely via Microsoft Teams

Committee: Ms Ilana Tessler (Chair)
Ms Sue Gallone (Accountant)
Mr Geoffrey Baines (Lay)

Legal Adviser: Miss Judith Chrystie

**Persons present
and capacity:** Dr Lucie Danti (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary Removal from student register

Costs: Costs awarded to ACCA in the sum of £5000

SERVICE OF PAPERS

1. Miss Huang was neither present nor represented.
2. The Committee considered Service Bundle with pages numbered 1-16 in order to determine whether the Notice of the Hearing ('the Notice') dated 28 February 2025 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (as amended 2024) ('the Regulations').

3. The Committee noted the mode, the timeframe and the detailed content of the Notice and determined that the requirements of the Regulations had been satisfied. Further, although not technically required to meet the service provisions within the Regulations, the Committee recognised that ACCA had made efforts to alert Miss Huang to the disciplinary hearing date and time by both emailing and calling her using the contact details recorded on her ACCA record. The Committee had evidence that the emails had been successfully delivered but no response had been received and ACCA's calls were not answered.
4. The Committee was satisfied that the Notice and the case papers had been properly served under the Regulations.

PROCEEDING IN ABSENCE

5. The Committee considered whether it should proceed in Miss Huang's absence and recognised that it could only do so with the utmost care and caution.
6. The Committee was mindful that when ACCA initially wrote to Miss Huang on 11 January 2021, she responded. She communicated with ACCA on 18 January 2021 and 6 June 2021. There had been no other contact from Miss Huang; she had not responded to any correspondence about the hearing nor had she picked up calls when the Hearing Officer had attempted to call her on 27 March 2025.
7. However, the Committee noted that there was a gap in ACCA progressing the investigation: ACCA wrote to Miss Huang on 13 May 2022 but did not do so again until 10 January 2025 - a significant period of 2 years and 8 months. ACCA described the gap as, '*the clear delay*' and explained it was because of an '*exceptionally busy period*'.
8. Whatever the reason for, or reasonableness of, the gap, the Committee questioned whether Miss Huang might have changed contact details in this period of time. It identified that this might provide a reason why Miss Huang was no longer responding to ACCA's communication having initially done so. However, the Committee noted that Miss Huang appeared to have disengaged prior to the period of delay – for example, she had not returned the case

management form when requested to do so. Further, the Committee recognised that there was an expectation that Miss Huang would maintain the currency of her record with ACCA and update her contact details if needed. ACCA had properly used the contact details on Miss Huang's record to send communications to her and in attempting to call her. The Committee was satisfied that there was no obligation on ACCA to undertake further enquiries to check if the record was correct and that it was entitled to rely on the contact information supplied by Miss Huang.

9. On this basis, the Committee was satisfied that the correspondence from ACCA was being delivered to the email address on the student's record but that Miss Huang had chosen not to respond.
10. The Committee was satisfied Miss Huang could have engaged with ACCA's investigative and disciplinary processes, could have attended today's hearing remotely had she wished to do so and could have made a request for an adjournment. There had been no engagement, attendance or request and, in these circumstances, the Committee considered that there would be no purpose in adjourning the hearing as it was highly unlikely that Miss Huang would choose to attend should there be a hearing at a later date.
11. Further, the Committee recognised that there was a strong public interest in the regulatory proceedings proceeding. The case involved serious allegations, including of dishonesty, which had been unresolved for a number of years. The Committee considered that the matter should not be further delayed.
12. Finally, the Committee recognised it had the benefit of written material from Miss Huang which set out her position regarding the allegations, which it could take into account in her absence.
13. In all the circumstances, the Committee determined that it was reasonable, proportionate and appropriate to proceed in Miss Huang's absence in accordance with its discretionary power at regulation 10(7) of the Regulations and that a fair hearing could take place in her absence.

AMENDMENT TO ALLEGATIONS

14. The Committee noted that there appeared to be an incorrect pronoun used in paragraph 1(d) of the allegations: the word 'his' was used rather than 'her'. ACCA accepted that this appeared to be an error.
15. The Committee considered whether to exercise its discretion under regulation 10(5) of the Regulations to amend allegations of its own motion provided the student was not prejudiced in her defence. The Committee was satisfied the use of 'his' rather than 'her' was clearly a typographical error, which had no impact on the material facts of the case. Given this was a technical correction only, the Committee concluded that there could be no prejudice to Miss Huang in it being changed. The Committee ordered that 'his' should be replaced by 'her' in paragraph 1(d) of the allegations.

ALLEGATIONS

16. The Committee considered a Report and Bundle with page numbers 1-55 together with the case management form which had been completed by ACCA but not returned by Miss Huang.
17. The Committee considered the allegations set out below.

Allegation 1

- (a) During an TX examination on 8 December 2020, Miss Mengqiu Huang was in possession of:
 - (i) Unauthorised materials in the form of notes during the course of her exam, contrary to Examination Regulations 4.
- (b) Miss Mengqiu Huang intended to use any or all of the items set out in 1(a) above to gain an unfair advantage in the exam.
- (c) Miss Mengqiu Huang's conduct in respect of 1(b) above:
 - (i) Was dishonest, in that Miss Mengqiu Huang intended to gain an unfair advantage in the exam; in the alternative

(ii) Demonstrates a failure to act with integrity.

(d) By reason of her conduct, Miss Mengqiu Huang is:

(i) Guilty of misconduct pursuant to bye-law 8(a)(i), in respect of any or all of the matters set out at 1(a) to 1(c) above; or

(ii) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of 1(a) above.

BRIEF BACKGROUND

18. Miss Huang was registered as a student on 11 June 2020.
19. Miss Huang had not previously passed any ACCA examinations when she attempted the Taxation exam on 8 December 2020. The exam was 3 hours 20 minutes duration.

ACCA's Case

20. ACCA relied on evidence from the invigilator and the supervisor, who completed contemporaneous accounts on the day of the examination, together with an Irregular Script Report from the examiner.
21. The invigilator completed a SCRS1B form on the day of the exam, which stated that:
 - Miss Huang...*hid a cheating note under the scratch paper,*
 - She thought the note was used by Miss Huang because, *'the note was found flat under the scratch paper'*
 - The note was found, *'When I was trying to collect the student's scratch paper, she intended to stop me' and 'she was unwilling to hand it over, so I lift her scratch paper up and found a cheating note hidden flat under the scratch paper'*
 - The student, *'was nervous and worried about the cancellation of her results'*

22. The supervisor completed a SCRS1B form on the day of the exam, which stated that:

- The note, '*A piece of yellow paper with written characters on both sides*' and was found, '*Under her scrap paper*' at, '*21.01pm As soon as exam ended*'
- During the exam, '*nothing irregular was noticed by invigilators*'
- Miss Huang had confirmed that the note was hers and that she hadn't used it during the exam.
- Miss Huang had, '*cried for about 10 mins standing out of the test room. Both the invigilator and the supervisor believed that she had used the note because the note was open under the scrap paper [sic]*'

23. In an irregular script report dated 1 January 2021, the Examiner confirmed that material was both relevant to the syllabus and the examination but was uncertain as to whether the notes had been used. The report states:

There are a few points which relate to part C of the exam, although the student's performance here is quite poor – so maybe of little benefit. However, the notes also cover material which might have been examined in parts A and B of the exam, consisting of 60 objective test marks. I do not see these questions and there are no workings in any case. It is therefore not possible to comment on these sections, especially as a student could have simply guessed at the correct answer for any question where there is a one from four choice.

24. ACCA submitted that:

- Prior to every ACCA examination, candidates receive an attendance docket containing ACCA guidelines and Examination Regulations – so Miss Huang was aware that the note she had with her was unauthorised material.
- Miss Huang had breached Examination Regulation 4 by taking unauthorised materials into an examination and or being in possession of them during the exam to gain an unfair advantage.
- Given Miss Huang was in possession of unauthorised materials, Examination Regulation 6 was triggered and it was assumed she intended to use the unauthorised materials to gain an unfair advantage in the exam unless she proved otherwise; Miss Huang had not discharged that burden –

she had an unauthorised material which she had concealed, it was found open and flat beneath others papers and she had attempted to avoid its detection.

- Miss Huang was dishonest or, alternatively, had failed to act with Integrity the exam.
- Miss Huang was guilty of misconduct pursuant to bye-law 8(a)(i) or, in the alternative, that by breaching Examination Regulations 4, Miss Huang was liable to disciplinary action under bye-law 8(a)(iii).

Written material from Miss Huang

25. Miss Huang completed a SCRS2B form on the day of the exam, in which she stated that the unauthorised materials were not relevant to the syllabus but she put the note, *'under the working paper, but I didn't see it all the time'*. In addition, she denied that she:

- had used or attempted to use the materials:
 - *Because this is the first time I join the ACCA exam. I can't make sure that whether I could pass the exam. I write down it before exam and so it makes me feel more relaxed (sic).*
 - *"No. Because I found the time is limited. It just give me a comfort in the exam. And I didn't use it during the exam all (sic)."*
- intended to use the unauthorised materials or gain an unfair advantage:

"No. Because the tax table has been given in front of the exam (sic)." When asked whether she intended to gain an unfair advantage from the unauthorised materials, Miss Huang has stated, *"No."*

26. On 18 January 2021 and 6 June 2021, in response to communications from ACCA, Miss Huang said that she was sorry for taking the note into the exam which she described as *'bad behaviour'* and a *'mistake'*. She requested a further chance and submitted she would strictly abide by the exam rules in the future.

27. Miss Huang said that she did not see the note during the exam and noted her poor performance in the exam. She further stated:

..it's the first time I join the ACCA exam. After the exam I really deeply stricken. I really did deep and profound reflections. Please give me a more chance and don't remove my name from the Student Register. Please! I am really bitterly remorseful (sic)."

and

. After the exam, I have experienced the worst time in my life. From the exam to now, I have done a lot of soul-searching, I know I'm sorry for my parents, teachers and myself. ...These are the truest thoughts from my heart. Because of this problem, I've cried at night many times and suffered.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

28. The Committee found allegation 1(a)(i) proved. The Committee was satisfied that ACCA had demonstrated Miss Huang was in possession of the notes through the contemporaneous statements from the exam invigilator and the supervisor. These statements had not been challenged and, further, Miss Huang had never denied that she possessed unauthorised material during the examination on 8 December 2020. This admission was made in her SCRS 2B form on the day of the exam and her subsequent correspondence with ACCA during the investigation of the incident.
29. Further, the Committee was satisfied that the notes were unauthorised material. These were clearly in contravention of the Exam Regulations which set out clearly what a student was entitled to have in their possession during an examination. Whilst this was Miss Huang's first ACCA examination, she had been sent and was aware of the Exam Regulations.
30. The Committee considered allegation 1(b). Having found a breach of Exam Regulation 4 in possessing unauthorised material during the exam, the Committee considered whether Miss Huang intended, or attempted, to use the material. It was satisfied that it was more likely than not that she did intend to use the unauthorised material: the note had been hidden, it was lying flat and open under the scratch paper and Miss Huang had not wanted to hand it over at the end of the examination. Further, the Committee noted that the

unauthorised material related to taxation – the exam the student was sitting – and that Miss Huang had explained that she had the notes with her to provide her with comfort. The Committee considered that the circumstances in which the notes was found, the fact that they contained tax related content and Miss Huang’s evidence that the notes were for her comfort, meant that it was more likely than not that Miss Huang intended to use them. The Committee concluded that there was no other credible, alternative evidence for her having the notes in her possession.

31. The Committee considered whether Miss Huang intended to gain an unfair advantage. It recognised that, if the unauthorised materials were relevant to the syllabus being examined, the provisions of Exam Regulation 6 operated to reverse the burden of proof so that it would be assumed that Miss Huang intended to use the notes to gain an unfair advantage unless she rebutted this presumption and proved she did not intend to gain an unfair advantage. The Committee accepted the evidence of the Examiner in the Irregular Script report that the notes were relevant to the syllabus, as well as to the exam. Whilst there was some ambiguity about whether Miss Huang agreed that the notes were relevant to the syllabus, the Committee recognised that the notes related to taxation and accepted the expert advice from the Examiner. Having concluded that the note was relevant to the syllabus, the Committee was content that the reversal of the burden of proof was invoked.
32. The Committee considered Miss Huang had not discharged the burden of proof by providing an alternative explanation of the purpose for which she had the notes with her during the exam. The Committee was satisfied that the assumption remained that Miss Huang had formed an intention to cheat. The Committee again identified that the note was found concealed, open, flat and Miss Huang had not wanted to hand it over.
33. In relation to allegation 1(c)(i) – the allegation of dishonesty - the Committee applied the two-stage test set out in Ivey to determine whether Miss Huang had been dishonest. In seeking to ascertain the actual state of Miss Huang’s knowledge or belief as to the facts, the Committee considered her written communications with ACCA. It identified that, even on her own evidence Miss Huang described her conduct as ‘*bad behaviour*’. The Committee was satisfied

that Miss Huang knew what she was doing was wrong – she was hiding notes that she knew from the exam docket should not be in her possession.

34. Having identified the state of the Miss Huang's knowledge or belief as to the facts, the Committee considered the objective limb of the test for dishonesty, namely, whether her conduct was honest or dishonest by the standards of ordinary people. The Committee considered that it was plain that the ordinary person would regard intending to cheat in a professional exam as dishonest. They would regard the conduct as something that undermined the examination process and led to a question as whether the individual who had gained the unfair advantage had the necessary knowledge to pass the exam. The Committee found allegation 1(c)(i) proved.
35. Having found allegation 1(c)(i) proved, the Committee did not go on to consider allegation 1(c)(ii), which was charged in the alternative.
36. In relation to the allegation of misconduct at allegation 1(d)(i), the Committee considered that Miss Huang's dishonest conduct fell far short of the standards expected of a student member of the accountancy profession. It regarded the conduct as entirely unacceptable, which brought the profession into disrepute. The Committee considered that dishonesty could not be anything other than a serious departure from the standards expected. The Committee judged that Miss Huang's conduct clearly amounted to misconduct and therefore found allegation 1(d)(i) proved.
37. Having found allegation 1(d)(i) proved, the Committee did not go on to consider allegation 1(d)(ii), which was charged in the alternative.

SANCTIONS AND REASONS

38. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance') and noted the submissions by the Case Presenter.
39. The Committee reviewed the mitigation in the case. It was advised that Miss Huang had no previous disciplinary or complaint history – although it recognised that she had only been registered as a student about six months prior to taking the exam and that this was her first ACCA exam sitting. Further

the Committee recognised that Miss Huang had made early, partial admissions about the incident and had shown some degree of regret and remorse.

40. The Committee considered that the misconduct was premeditated and planned and this was an aggravating feature.
41. The Committee regarded Miss Huang's misconduct and related dishonesty as serious; Miss Huang attempted to cheat in a professional exam. Miss Huang might have passed an exam by virtue of cheating without demonstrating that she had, in fact, the requisite knowledge and understanding deemed appropriate and necessary to pass the exam. Miss Huang's cheating could detrimentally impact on the public's confidence in the integrity and credibility of ACCA's exams and qualifications.
42. The Committee acknowledged there was some limited mitigation in the case. However, it considered there was not sufficient mitigation, in a case involving dishonesty, for it to be in the public interest to impose no order or to conclude this matter with an admonishment or a reprimand. The Committee took account of paragraph E2 of the Guidance which stated that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. It did not consider that a high degree of probity was demonstrated by Miss Huang who had attempted, and had intended, to gain an unfair advantage in a professional exam. The Committee considered that Miss Huang's actions were intentional and premeditated: the notes were concealed. Further, she was aware of the requirement not to have unauthorised material at the exam desk. The Committee considered that making no order or imposing an admonishment or a reprimand would be insufficient. This was not a minor breach of the Exam Regulations or of the expectations placed on Miss Huang as an individual seeking admission to the accountancy profession. Neither of these orders would reflect the seriousness of Miss Huang's deliberate and dishonest intention that she formed when deciding to prepare the note and concealing it during the exam.
43. The Committee reviewed the Guidance in relation to a sanction of a severe reprimand. The Committee concluded that important factors that might indicate a severe reprimand was a reasonable and proportionate sanction were not present in this case. In particular, the Committee had not been able to assess

if Miss Huang had any genuine insight about the risks to the public and to ACCA and the integrity of its examination process and the reputation of the profession. Whilst Miss Huang had expressed remorse and regret and had advised she had been reflecting on the incident, there was no clear demonstration that she understood and appreciated the wider consequences of her misconduct, which was deliberate in nature.

44. The Committee recognised that ACCA's Examination Regulations expressly provide that if a student attempts to gain an unfair advantage in the exam, he or she is likely to be removed from the student register following disciplinary proceedings. The Committee found no exceptional circumstances in the case and considered that the only appropriate order in the public interest was to remove Miss Huang's name from the student register. It considered that this reflected the deliberate and premeditated attempt to cheat and the significance of her misconduct, which it considered was fundamentally incompatible with being an accountant and remaining on the student register.
45. The Committee, therefore, ordered that Miss Huang's name should be removed from the student register following the expiry of the appeal period. It made no order in relation to the period of time that should elapse before an application for readmission should be considered.

COSTS AND REASONS

46. ACCA claimed costs in the sum of £5,520.
47. The Committee recognised that under regulation 15(1) of the Regulations, it could direct that Miss Huang pay such sum by way of costs to ACCA as it considered appropriate. It considered that it was appropriate to impose a cost order.
48. The Case Presenter submitted that the sum claimed should be reduced in recognition that the hearing had not lasted the time estimate. The Committee considered that a reduction of costs was necessary to reflect the reduced hearing time and determined that an appropriate cost claim would be in the sum of £5,000.00. It considered that this sum reflected the amount properly incurred in investigating and hearing the allegation against Miss Huang.

49. In determining the level of costs to order, the Committee was satisfied that the delay in progressing the case following the completion of the investigation had not had any adverse impact on the costs incurred – nor had Miss Huang's conduct had an effect.
50. The Committee applied the principle that the majority of those paying ACCA's fees should not be required to subsidise the minority who, through their own misconduct, have found themselves subject to disciplinary proceedings. It considered there was no reason for this to be disapplied: Miss Huang had been found guilty of misconduct.
51. The Committee recognised that it should take into account the financial means of a member to pay costs. However, Miss Huang had not completed the statement of her means or provided any evidence about her financial position. As a consequence, the Committee had no insight into Miss Huang's ability to pay. The Committee was therefore unable to determine whether any further reduction for costs should be applied as there was no information about Miss Huang's ability to pay. Without any material about her financial circumstances, the Committee applied its guidance and inferred that Miss Huang was able to meet the costs as assessed by the Committee.
52. The Committee ordered that Miss Huang should pay costs in the sum of £5000.

Ms Ilana Tessler
Chair
28 March 2025