

HEARING

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

In the matter of: Mr Haisheng Hu

Heard on: 03 December 2024

Location: Remotely via MS Teams

Committee: Ms Ilana Tessler (Chair)
Ms Sue Gallone (Accountant)
Ms Alison Sansome (Lay)

Legal adviser: Mr Alastair McFarlane

**Persons present
and capacity:** Mr Ben Jowett (ACCA Case Presenter)
Miss Sofia Tumburi (Hearings Officer)

Summary: Student removed from register and costs awarded to
ACCA in the sum of £5,840

1. ACCA was represented by Mr Jowett. Mr Hu did not attend and was not represented. The Committee had before it a Bundle of papers, numbered pages 1 – 86, and a Service Bundle numbered pages 1-24.

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

PROCEEDING IN ABSENCE

3. The Committee noted the submissions of Mr Jowett 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. It was mindful that despite repeated attempts by ACCA to contact Mr Hu in relation to his attendance at this hearing, no reply has ever been received and that there has been no substantive engagement from Mr Hu on the case since 28 March 2022. The Committee noted that following the service of the Notice of Hearing on 05 November 2024, the Hearings Officer had made attempts to telephone Mr Hu on 19 November 2024 and on 26 November 2024 to see if he would be attending the hearing. Both phone numbers held by ACCA caused an automated message: “number is incorrect.” The Hearings Officer also sent chaser emails on 13, 19 and 26 November 2024. There has been no response. The Committee also noted that in his email of 28 March 2022 Mr Hu had stated:

“But no matter! Either way you're all going to disagree with me out of your suspicions that this unfair review, and I'm not cooperating!”

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 Mr Hu of proceeding in his 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 Mr Hu has voluntarily disengaged from the process. The Committee was not persuaded when balancing Mr Hu’s interests and the public interest, that any adjournment was likely to secure his attendance and would not outweigh the public interest in proceeding with this hearing today. The allegations were serious, involving dishonesty and a risk to

the public. 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 Mr Hu.

ALLEGATION

Allegation 1

- (a) On or around 08 February 2021 and 08 March 2021, Mr Haisheng Hu submitted or caused to be submitted to ACCA the documents listed in Schedule A all or any of which purported to have been issued by the Company A when in fact they had not;
- (b) Mr Haisheng Hu's conduct as set out in paragraph 1(a) above was:
 - (i) Dishonest in that Mr Haisheng Hu knew that any or all the documents referred to at 1(a) above were false and were submitted in order to gain exam exemptions to which he was not entitled or in the alternative by his conduct in the above respect
 - (ii) Failed to demonstrate Integrity.
- (c) By reason of his conduct in relation to any or all of the matters set out at 1(a) – 1(b) above Mr Haisheng Hu is:
 - i) Guilty of misconduct pursuant to Byelaw 8(a)(i).

BACKGROUND

- 6. Mr Hu registered as an ACCA student on 19 February 2021.
- 7. On 02 June 2021, ACCA's Investigations Department received a referral from ACCA's Exemptions Team stating that the certificates purported to have been issued by the Company A ('the University') and submitted by Mr Hu to ACCA had not been issued by the University.

8. Alistair Cameron, an Exemptions Specialist at ACCA, in his “False Documents Referral Form” confirmed that the certificate, transcript and offer letter purporting to have been issued by the University were submitted to ACCA via email on 08 February 2021 and 08 March 2021 in support of a request for exemptions and the University had confirmed that they were false.

9. On 29 November 2021, ACCA emailed Mr Hu and invited him to provide his comments / observations in relation to the false certificate complaint. Mr Hu responded on the same day and stated:

“I’m shocked to hear from you!”;

“It wasn’t my registration or mention, I’m not sure of any details! I don’t have any accounting background either”;

“I lost my email once, but I didn’t notice anything out of the ordinary! I have all my details in my email for easy storage!”;

“Eager for your independent investigation!”

10. On 06 January 2021, Mr Hu emailed ACCA and further stated:

“Not submitted by me personally! I don’t work in the accounting profession and I don’t know what’s going on”.

11. On 09 January 2021, Mr Hu emailed ACCA and stated:

“I have looked into it. Before I left my job I offended a former colleague by making a complaint and he submitted an application in my name. At the moment, he has not admitted it, however, I have a lead, including the fact that my bank card was stolen, and I am currently dealing with the police”;

“With regard to your matter, I am deeply sorry and accept that you have followed disciplinary action. I reiterate that I am not an accountant, but a practitioner in the cultural field and I graduated from the Company B.”

12. On 10 January 2021 ACCA requested from Mr Hu the contact details of the colleague who allegedly submitted this application in his name, the full details of the police station dealing with this matter and a copy of all the correspondence between himself and the police on this matter. Mr Hu responded to ACCA's email on the same day and stated:

"Please forgive me for not being able to provide any information given that the results are not final yet!";

"Please follow your procedures. Also if there is a signature, can I please have a scanned copy of the signature? I will apply for a forensic examination".

13. ACCA emailed Mr Hu on 13 January 2022 and asked him to confirm that he did not have the contact details of the person he thinks submitted the false documents nor does he have any correspondence between himself and the police on this matter. Mr Hu responded on the same day and stated:

"I have contact information and a police record, but I can't release it at this time because of other issues involved";

"Need the police to make progress with the courts before I can provide".

14. On 23 January 2022 Mr Hu emailed ACCA and stated:

"I have new information about my case.

My former colleague helped me to find an agent who promised to help exempt 9 exams and he paid 5,000 RMB for me. And provided this agent with all my information.

Although I currently have no plans to practice accountancy, a good reputation is important to everyone. I am willing to keep in touch with you to clarify my experience as much as possible. In the meantime, I am willing to accept penalties for the consequences of the misuse of personal information.

My former colleague's email is: [PRIVATE]

I am still asking him to be able to testify on my behalf and I am fighting hard”.

15. On 24 January 2022, ACCA emailed Person A and requested confirmation of what Mr Hu had informed ACCA regarding their involvement in this. In an email received by ACCA on 31 March 2022, Person A stated:

“My name is Person A. I learned from my former manager, Mr. Haisheng Hu, that he is under investigation by you, and I apologize!

Mr. Haisheng Hu used to be my manager. I was trying to get his help in terms of salary. I found a company through Company C, they promise to have strong connections and can help with professional qualification exemptions, I saw from their WeChat promotion including AIA, CPA Australia, ACCA, etc.

At first they didn't give me any information about exemptions for a particular practice. I provided them with 5000 RMB, and Mr. Haisheng Hu's passport, contact information, email address, credit card, etc.

After I received the exemption information, I realized it was ACCA. they said the exemption was based on work experience and good relationship.

And they were told that they could have more exemptions and they need to provide another 10,000 RMB. I helped pay another 2,000 for this and the rest will be paid when they get more exemptions.

After it happened, I learned from my friend that ACCA is not officially recognized by the Chinese Ministry of Personnel Commission, but it is not possible to have exemptions through connections and experience. It was not until Mr. Haisheng Hu found out the problem that I confessed everything.

I approached the agent's attendant for a negotiated refund and theory, but he didn't reply positively! I went to the Public Security Bureau to register, but it was unsuccessful because I could not identify the other party.

I am responsible for my statement! If there is anything else you need assistance with, please let me know!

Yours,

Person A”

ACCA’S SUBMISSIONS

ALLEGATION 1(A)

16. ACCA relied on the written evidence of Alastair Cameron to confirm that the documents (the degree certificate, the transcript and enrolment letter) were submitted to ACCA from Mr Hu’s registered email address. It also relied on the email confirmation from the University that it had no records for Mr Hu and that these documents were fraudulent. ACCA submitted that these documents were more likely than not either submitted by Mr Hu or he caused them to be submitted on his behalf.

ALLEGATION 1(B)(I) - DISHONESTY

17. ACCA submits that the conduct set out at Allegation 1 amounts to dishonesty in that Mr Hu knew that the documents submitted to ACCA for exemptions were false and that he submitted them, or allowed them to be submitted on his behalf, in order to obtain exemptions to which he knew he was not entitled. It is further submitted that in doing so, Mr Hu has been dishonest when judged by the standards of ordinary decent people.

ALLEGATION 1(B)(II) - INTEGRITY

18. ACCA submitted in the alternative that Mr Hu’s conduct demonstrated a failure to act with integrity.

ALLEGATION 1(C)(I) - MISCONDUCT

19. ACCA submitted that if any or all of the facts set out at Allegations 1a or 1b are found proved, Mr Hu has acted in a manner which brings discredit to himself, ACCA and to the accountancy profession and his conduct amounts to misconduct pursuant to bye-law 8(a)(i).

MR HU'S SUBMISSIONS

20. Mr Hu had made no written submissions, but the Committee noted all of his email responses to ACCA including those set out at paragraphs 9 to 15 above and his email received by ACCA on 28 March 2022 when he stated:

"I do not acknowledge your accusations! It is not true!

Before you contacted me, I was unaware that my friend had commissioned an agent to help me apply for the ACCA. all I knew was that he said the agent had a way to use his experience to get an exemption.

I only provided my email, password, information and credit card. I have sent the specific documents via email.

I do not acknowledge your allegations! It is unfortunate that you are relying on inferences to determine a person's dishonesty. This is something that cannot be admitted with any respect for the law and the facts.

I do not accept your determinations!"

21. It was clear to the Committee that Mr Hu denied he was dishonest.

DECISION ON ALLEGATIONS AND REASONS

22. The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that the burden of proving the allegations is on ACCA alone and that Mr Hu's absence adds nothing to ACCA's case. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the 'balance of probabilities. It reminded itself of Collins J's observations in *Lawrance v. GMC* [2015] EWHC 581(Admin) to the effect that in cases of dishonesty, cogent evidence was required to reach the civil standard of proof.
23. The Committee heard that there had been no previous findings against Mr Hu and accepted that it was relevant to put his good character into the balance in his favour.

DECISION ON FACTS

24. The Committee carefully considered all the documentary evidence it had received, as well as the submissions of Mr Jowett on behalf of ACCA. It reminded itself to exercise caution as it was working from documents alone and carefully considered the weight to attach to the evidence and submissions it had received.

ALLEGATION 1(A)

25. The Committee had sight of the documents that purported to come from Company A and the confirmation from the University that it had not issued them and that it had no records of Mr Hu. The Committee was satisfied that this evidence was reliable and accurate and therefore that the documents had not been issued by Company A. The Committee also noted the inconsistencies in the documents submitted from Mr Hu's email account to ACCA. The degree referred to a Bachelor of Accounting whereas the statement of academic record referred to a Bachelor of Commerce and there was a reference on the purported documents to special conditions that applied in 2020 for a degree that was reportedly granted in 2017. Further, the University confirmed that the professor referred to was not working at the University at the material time. In the circumstances the Committee had no doubt that the documents were false and had not been issued by Company A.
26. Further, the Committee was satisfied that those false documents were submitted from Mr Hu's email address. It noted a significant number of emails to ACCA during the investigation stage from that email address. The Committee noted that anything sent from that address was acknowledged back to that address by ACCA. The Committee was satisfied on the balance of probabilities that Mr Hu was regularly using this email address. It further noted that the only beneficiary from gaining exemptions to ACCA exams was Mr Hu. The Committee considered it highly implausible that Mr Hu was unaware that his friend had commissioned an agent to help him apply for the ACCA exemptions (as he contended in his email received by ACCA on 28 March 2022). It considered it unlikely that Person A would have provided the agent with Mr Hu's "passport, contact information, email address, credit card

etc" without Mr Hu's knowledge. The Committee was satisfied in those circumstances that either Mr Hu submitted the documents to ACCA himself, or he caused them to be submitted to ACCA. Accordingly, Allegation 1a is proved.

ALLEGATION 1(B)

27. The Committee next asked itself whether submitting the false documents was dishonest.

28. The Committee considered, as far as it was able, what Mr Hu's belief was as to the facts. It was satisfied that Mr Hu submitted or caused to be submitted the false documents for verification to his professional body. It was satisfied that he knew he had not gained the degree qualification, sat the exams or attended the University and therefore he knew that the documentation was false. The Committee was satisfied for the reasons given above that Mr Hu either sent the documents to ACCA himself or caused another to do so. The Committee rejected as implausible that he would have not known what the documents submitted to ACCA were. He knew he was not entitled to any exemptions on the basis of those false documents. Had this all been a mistake, Mr Hu had plenty of opportunity to correct the situation and progress any police action. There is no evidence that he did so and these facts speak to his knowledge that he knew the documents were false as did the fact that he was the only potential beneficiary from the submission of such false documents.

29. It was an objectively dishonest act to submit a false education document. The Committee had no hesitation in determining that Mr Hu's belief at the time was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 1(b)(i) was proved and did not consider the alternative of Allegation 1(b)(ii).

ALLEGATION 1(C)(I) - MISCONDUCT

30. The Committee next asked itself whether the proven dishonest conduct in submitting a false degree certificate for verification with his professional body amounted to misconduct.

31. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Mr Hu's actions brought discredit on him, the Association and the accountancy profession. Trust and honesty are fundamental tenets of the profession required from all members. It was satisfied that this conduct was serious and would be considered deplorable conduct by fellow professionals. The Committee had no hesitation therefore in determining that the conduct reached the threshold for misconduct.

SANCTIONS AND REASONS

32. The Committee noted its powers on sanction were those set out in Regulation 13(4). 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 accepted the advice of the Legal Adviser.
33. The Committee considered that the conduct in this case was very serious. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. 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.
34. The Committee had no evidence of any insight or understanding into the seriousness of Mr Hu's behaviour. There were no mitigating factors before the Committee, other than his previous good character, albeit the Committee noted that he was at the very start of his association with ACCA. It considered that the conduct was planned dishonest conduct, which was for unjustified personal gain. It had the potential to undermine the reputation of ACCA. There was a lack of insight and remorse, as well as a prolonged period of the non-co-operation from 2022. These were all considered to be aggravating factors.
35. Given the Committee's view of the seriousness of his conduct 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.

36. The Committee determined that his behaviour was fundamentally incompatible with Mr Hu remaining on the student register of ACCA and considered that the only appropriate and proportionate sanction was that he be removed from the student register.

COSTS AND REASONS

37. ACCA claimed costs of £6,845.50 and provided a detailed schedule of costs. It noted Mr Hu was a student, but he has not provided a statement of means. The Committee decided that it was appropriate to award costs in this case and that the costs claimed were reasonable, but made some reduction as the case did not last the full day. It concluded that the sum of £5,840 was appropriate and proportionate. Accordingly, it ordered that Mr Hu pay ACCA's costs in the amount of £5,840.00.

EFFECTIVE DATE OF ORDER

38. The Committee was not satisfied that that it was in the interests of the public to impose an immediate order, so this order will take effect following the relevant appeal period.

Ilana Tessler
Chair
03 December 2024