

## HEARING

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

**In the matter of:** Mr Junxian Ke

**Heard on:** Thursday, 11 July 2024

**Location:** Held remotely, via MS Teams

**Committee:** Mr Tom Hayhoe (Chair)  
Mr George Wood (Accountant)  
Ms Diane Meikle (Lay)

**Legal Adviser:** Ms Jane Kilgannon

**Persons present  
and capacity:** Ms Michelle Terry (ACCA Case Presenter)  
Ms Sofia Tumburi (Hearings Officer)

**Summary:** Exclusion from membership with immediate effect

**Costs:** Mr Ke to pay £5,446.25 towards ACCA's costs

1. The Disciplinary Committee (the Committee) convened to consider the case of Mr Junxian Ke (Mr Ke).
2. Ms Michelle Terry (Ms Terry) represented the Association of Chartered Certified Accountants (ACCA). Mr Ke did not attend and was not represented.

## ACCA



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3. The Committee confirmed that it was not aware of any conflicts of interest in relation to the case.
4. In accordance with Regulation 11(1)(a) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations), the hearing was conducted in public.
5. The hearing was conducted remotely through Microsoft Teams.
6. The Committee had considered in advance the following documents:
  - a) A Hearing bundle (pages 1 to 254);
  - b) A bundle of 'Performance Objectives relating to complaint against Mr Junxian Ke' (pages 1 to 66);
  - c) An Additional bundle (pages 1 to 142); and
  - d) A Service bundle (pages 1 to 23).

#### **SERVICE OF PAPERS**

7. The Committee considered whether the appropriate documents had been served on Mr Ke in accordance with the Regulations.
8. The Committee accepted the advice of the Legal Adviser, who referred it to Regulations 10 and 22 of the Regulations, and in particular the requirement that notice of the hearing must be served no later than 28 days before the date of the hearing unless there are exceptional circumstances.
9. The Committee noted the written notice of the hearing scheduled for today, 11 July 2024, that had been sent by electronic mail (email) to Mr Ke's registered email address on 13 June 2024. It also noted the subsequent emails sent to him with the necessary link and password to enable him to gain access to the letter and the documents relating to this hearing.
10. As the notice of hearing was sent by email, the Committee noted that service may be proven by confirmation of delivery of the notice, which had been provided to the Committee, and that the notice would be deemed as having

been served on the day that it was sent, that is, 13 June 2024. On the basis of that documentation, the Committee was satisfied that the notice of hearing had been served on Mr Ke on 13 June 2024, 28 days before the date of today's hearing.

11. The Committee noted the contents of the notice of hearing and was satisfied that it contained all of the information required by Regulation 10 of the Regulations.
12. The Committee concluded that service of the notice of hearing had been effected in accordance with Regulations 10 and 22 of the Regulations.

### **PROCEEDING IN ABSENCE**

13. Ms Terry made an application that the hearing proceed in the absence of Mr Ke.
14. The Committee, having satisfied itself that the requirements of Regulations 10 and 22 of the Regulations had been complied with, went on to consider whether to proceed in the absence of Mr Ke.
15. The Committee took into account the submissions of Ms Terry. The Committee accepted and took into account the advice of the Legal Adviser, who referred it to Regulation 10(7) of the Regulations, the ACCA document 'Guidance for Disciplinary Committee hearings' and the relevant principles from the cases of *R v Jones* [2002] UKHL 5, and *GMC v Adeogba and GMC v Visvardis* [2016] EWCA Civ 162.
16. The Committee bore in mind that its discretion to proceed in the absence of Mr Ke must be exercised with the utmost care and caution.
17. The Committee noted that ACCA had sent a notice of hearing and further correspondence to Mr Ke at his registered email address. The Committee noted that this was the same email address from which Mr Ke had been corresponding with ACCA during the ACCA investigation and earlier stages of these disciplinary proceedings, including as recently as March 2024. The Committee noted that ACCA had made a number of attempts to contact Mr Ke by telephone (on 21 June 2024, 03 July 2024 and 10 July 2024), using his registered telephone number, but that the calls had not been answered and

there was no opportunity to leave a message. On the basis of this evidence, the Committee was satisfied that ACCA had made reasonable efforts to notify Mr Ke about today's hearing and that Mr Ke knew or ought to know about the hearing.

18. The Committee noted that Mr Ke had not applied for an adjournment of today's hearing and there was no indication that such an adjournment would secure his attendance on another date. Furthermore, there was no evidence that Mr Ke was absent due to incapacity or illness. The Committee therefore concluded that Mr Ke had voluntarily absented himself from the hearing.
19. The Committee considered that any disadvantage to Mr Ke in not being present to provide his account of the relevant events could be addressed by the Committee's thorough assessment of the evidence presented by ACCA and the opportunity for Committee questions to test the evidence presented by ACCA.
20. The Committee was mindful that there is a public interest in dealing with regulatory matters expeditiously.
21. Having balanced the public interest with Mr Ke's own interests, the Committee decided that it was fair and in the interests of justice to proceed in Mr Ke's absence.

## **ALLEGATIONS**

### Schedule of Allegations

Mr Junxian Ke (Mr Ke), at all material times an ACCA trainee,

1. Applied for membership to ACCA on or about 26 July 2020 and in doing so purported to confirm in relation to his ACCA Practical Experience training record:
  - a) His Practical Experience Supervisor in respect of his practical experience training in the period from 25 July 2017 to 25 July 2020 was Person A when Person A did not supervise that practical experience training in accordance with ACCA's requirements as published from time to time by ACCA or at all.

b) He 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 5: Leadership and management
- Performance Objective 12: Evaluate management accounting systems
- Performance Objective 15: Tax computations and assessments
- Performance Objective 17: Tax planning and advice

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

- a) In respect of Allegation 1a), dishonest, in that Mr Ke sought to confirm his Practical Experience Supervisor did supervise his practical experience training in accordance with ACCA's requirements or otherwise which he knew to be untrue.
- b) In respect of Allegation 1b) dishonest, in that Mr Ke knew he had not achieved all or any of the performance objectives referred to in paragraph 1b) above as described in the corresponding performance objective statements or at all.
- c) 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), 2b) and or 2c) above, such conduct was reckless in that Mr Ke paid no or insufficient regard to ACCA's requirements to ensure:

- a) His practical experience was supervised;
- b) His Practical Experience Supervisor was able to personally verify the achievement of the performance objectives he claimed and/or verify they had been achieved in the manner claimed;
- c) That the performance objective statements referred to in paragraph 1b) accurately set out how the corresponding objective had been met.

4. By reason of his conduct, Mr Ke is guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all of the matters set out at 1 to 3 above.

#### **BRIEF BACKGROUND**

22. Upon an ACCA student completing all of their ACCA exams, they become an ACCA affiliate (also known as an ACCA trainee). 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.
23. The practical experience involves the completion of nine performance objectives (POs) under the supervision of a qualified accountant, which are recorded in a Practical Experience Requirement (PER) training record. In addition to approval of their POs, a trainee must ensure that their employment where they have gained relevant practical experience has been confirmed by the trainee's line manager who is usually also the trainee's qualified accountant supervisor. This means that the same person can and often does approve both the trainee's time and achievement of POs.
24. If the trainee's line manager is not a qualified accountant, 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.
25. 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 signed off, the trainee is eligible to apply for membership of ACCA.
26. Mr Ke registered as an ACCA student member on 05 July 2016. He became an ACCA trainee on 16 April 2018. Following submission of a PER training record on 26 July 2020, Mr Ke became an ACCA member on 30 July 2020.
27. In 2021 the ACCA Professional Development team became aware that 100 ACCA trainees had claimed in their completed PER training records that their POs had been approved by a particular supervisor, Person A. Mr Ke was

among the 100. A review of the records followed which indicated that PO statements appeared to have been copied amongst a large number of the 100 ACCA trainees.

28. When contacted by ACCA, Person A denied having supervised any of those 100 trainees but stated that they had supervised another ACCA trainee in relation to one of their nine POs. They explained that they had provided that ACCA trainee with a copy of their professional body (Chinese Institute of Certified Public Accountants) registration card. As a result, those trainees (including Mr Ke) were referred to ACCA's Investigation team.
29. Mr Ke's PER training record included the following:
  - a) Employment by Firm A in the role of 'Accounting' from 25 July 2017 to no specified date (but at least until 26 July 2020 when his time and experience was approved), gaining 36 months of relevant practical experience;
  - b) Person A approving all nine of Mr Ke's POs on 25 July 2020; and
  - c) Person B approving Mr Ke's period of employment at Firm A.
30. In respect of Mr Ke's nine PO statements, ACCA's analysis indicated that the content of seven of the PO statements was identical or significantly similar to the POs contained in the PER training records of other ACCA trainees. The other two of Mr Ke's PO statements were the 'first in time' to be used with their specific wording.
31. Following the referral of this matter to the ACCA Investigation team, a letter was sent to Mr Ke by email on 19 August 2022 asking Mr Ke to respond to a number of questions related to the concern about his PER training record. On 27 August 2022 Mr Ke responded as follows:

*"[...] When I read the contents of your letter, I was shocked. Next, I will tell you everything I know.*

*First, I will introduce my work experience and to answer your first question. From 2017, I started my internship in several companies. Since 2018, I have been working as an intern at [Firm A]. Because I was still in school at the same*

*time, we never signed a formal work contract. But due to my excellent work, we officially signed a formal employment contract in 2019 [...] From 2019 to 2022, I have been working in the accounting department of [Firm A]. Thanks to the ACCA learning experience, I excel in my day-to-day work and am able to apply much of what I have learnt in ACCA [...]. My employer also is Gold-Employer of ACCA, I really value my work.*

*The next part is also where I was shocked. I don't remember any people named [Person A]. Especial I am sure I have never uploaded any of material about PER or OP. At that time, my living and working place was in [...]. If you can check the IP address, you would find the material not uploaded by me. Obviously, I have been worked for a gold-employer approved by ACCA, I could make OP exemption. There is no reason I need to copy others OP.*

*As I reflect on the year 2020, I think I may find the cause. In 2020, I would like to start my PER project. Even my leader was experts in the field of accounting, but he not good at International accounting and not familiar with ACCA. It was then that I began to look for help and advice in internet. I want some people who expert in ACCA to help me develop my career, and give some advice about how to complete my PER. Then I meet a netizen called Person C, they say they were a Fellowship of Chartered Certified Accountant. Meanwhile they were a member of CPA. They say they had help many people to development practice. As soon as I accept their consult serviced, I would completed my PER successful. After building trust, I share my work experience and my duty job with them. I also gave the related personal information to them in better career development, not to violate the rules related to PER. When I received your letter, I realized that they had uploaded the material without asking my permission at all. I have never seen these materials and have not uploaded them. I feel very angry and ashamed. I should be concerned about the security of my account and should not disclose it to others. I wanted to assist you get the true, but I really don't sure Person A whether the person I told. After a long time has passed, I can't check the relevant chat records now.*

*I am very proud to be a member of ACCA. I believe ACCA has given me a great deal of expertise, which has greatly improved my professional skills and helped me to develop my career. I believe my years of working experience is enough to become a qualified member. Really, I am sorry to heard the case and I so regret that I was not careful enough. I hope you know I am so cherish the opportunity to become a member and I also want to contribute to the*



*association in future. I will help in any way I can. But I really don't know anything about the material relate to OP and PER and why they wrote it in such a way that deviates from my original intent. The only reason I can think of is that they may have tricked me into accepting their consulting services by reporting these materials without my permission. I have always adhered to strict professional standards, and I abhor fraud. I swear if I know these that, I would try to stop it. I should remain cautious enough, I apologize for that again. In order to make sure my work experience meet ACCA requirements, I would continue completed my CPD. I would keep study and enhance my professional skill. Please give me a chance to make thing right. I will prove that I am a qualified member [...]*

32. ACCA emailed Mr Ke again on 08 September 2022 to ask for further clarification of his responses. On 12 September 2022 Mr Ke responded to specific questions put by ACCA. This included him stating that he:
- a) Had paid a consulting fee to “*Person C*”;
  - b) Believed “*Person C*” to be a member of ACCA;
  - c) Told “*Person C*” about his work experience to check whether it met the requirements for the PER, not to submit POs;
  - d) Believed that he was exempt from submitting POs because he worked for a “*gold-employer of ACCA*”;
  - e) Provided “*Person C*” with his ACCA login and password details, and accepts that he was not vigilant about security;
  - f) Does not recall receiving an email prompted by the uploading of PO wording to his ACCA account but states that sometimes it is easy to ignore certain ACCA emails; and
  - g) Considers that “*Person C*” must have added PO wording without his permission.
33. Mr Ke also stated:

*“I am really sorry about this thing. I hope you understand that I don’t have any motivation to fake Performance Objectives. First, I know I work for a gold-employer certified by ACCA, I can exempt from Performance Objectives. Then my labor contract is a long-term contract, it means I would work in [Firm A] at least 3 years. I am fully qualified to certification of member. It was only a matter of time. Even I become the member of ACCA. In China, I can’t still have any legal right to sign any financial statement or audit document. And I would not change my job, I don’t need to use the certification of member to raise reputation. Become member early can’t bring any benefit for me. I also know any fake behaviour is high risk, it would be discovered one day. Why I would be willing to bear this risk, just to become member early? To me, it doesn’t make sense. The reason that I first touch related consulting just to prepare in advance for the completion of PER next year. To this day, I am still working hard as a good ACCA member. I also continue to learn new financial knowledge and skills to ensure that I can bring more contributions to society and become a well accounting professor. I sincerely hope that this matter can be resolved in a good way”.*

34. Throughout 2023 Mr Ke wrote to ACCA a number of times complaining about his case being referred to a Disciplinary Committee. He re-iterated his earlier points and complained that ACCA had failed to give adequate and reasonable attention to his representations, particularly his assertion that he had no knowledge of Person A (or the person claiming to be Person A) uploading documents to his ACCA online account. He considered that he had been blamed for a situation in which he was the victim. He also complained that ACCA did not appear to have taken action against Person A (or the person claiming to be Person A), and queried the legal basis for ACCA bringing disciplinary proceedings against him which could damage his reputation and result in him being ordered to contribute to the costs of ACCA. Mr Ke mentioned that his ability to express himself in English was limited.
35. On 22 March 2024, Mr Ke sent an email to ACCA providing a screenshot of a text message exchange (in Mandarin Chinese) that he said showed that he had received confirmation from ACCA China South on 23 July 2020 that he was “*exempted from PO*” and therefore would have had no reason to upload false materials to his ACCA online account to gain ACCA membership. ACCA later obtained a translation of the text message exchange which read as follows:

*“Where can I find the list of gold ACCA employers*

*Find an ACCA approved employer: [...]*

*23 July, 2020 18:16pm*

*[blurred document]*

*You withdrew a message*

*Our holding group is a gold employer, but I work for its wholly-owned subsidiary.*

*Does it have the same effect?*

*24 July, 2020 9:39am*

*Dear, could you please check on the website above? If it is countrywide, it's OK. However, while filling in the employer's information and the PO exemption form, please use the name on the approved employer certificate".*

36. ACCA later sent Mr Ke documentation that it said showed that, although Firm B had been “*Gold Approved*” for employees working at a specific address in China from 20 November 2019 onwards, it was not “*Gold Approved*” across the whole of China until 04 November 2022. ACCA considered that meant that, even if Firm A (the company that Mr Ke worked for at the relevant times) was a wholly-owned subsidiary of Firm B, Mr Ke could not have benefitted from Firm B’s “*Gold Approved*” status in order to claim a PO exemption until 04 November 2022 onwards.
37. On 07 April 2024 ACCA received an email from Mr Ke stating “*Apply for resignation*” with no other wording or attachments. ACCA responded to Mr Ke explaining that his request to resign could not be processed whilst the disciplinary proceedings against him remained outstanding.

## **DECISION ON FACTS AND REASONS**

38. As no formal admissions had been made by Mr Ke, it was for ACCA to prove its case in relation to each of the allegations put forward.
39. The Committee considered with care all of the evidence presented (including the written correspondence from Mr Ke) and the submissions made by Ms Terry.
40. The Committee accepted the advice of the Legal Adviser and bore in mind that it was for ACCA to prove its case and to do so on the balance of probabilities.

## **ALLEGATIONS 1(A) AND 1(B) – PROVED**

41. The Committee noted that ACCA had received Mr Ke's PER training record on 26 July 2020, submitted to ACCA as part of his application for ACCA membership. It included a claim of 36 months of practical experience training and nine POs supervised by Person A. Further, the Committee noted the ACCA record that included the listing of Person A as Mr Ke's qualified external supervisor and Person B as Mr Ke's line manager for his relevant period of employment at Firm A.
42. The Committee noted the two witness statements provided by Person A in which she asserted that she had supervised the practical experience training of one person only, and that was not Mr Ke. It accepted Person A's account as credible on the basis that: it had been provided as two formal witness statements; it included details of Person A's membership of a professional body recognised by ACCA; its content did not include any obvious discrepancies or inconsistencies with other verifiable evidence in the case; and it had not been challenged by Mr Ke (in that Mr Ke had not sought to assert that Person A had, in fact, been his external supervisor). The Committee noted that Person A had offered to attend the hearing to provide evidence in person.
43. The Committee noted Mr Ke's detailed written responses to ACCA. It noted that, although Mr Ke had not provided a formal admission or denial of Allegations 1(a) and 1(b), but had stated that the person he found on the internet, "*Person C*", must have uploaded the PO statements to his ACCA online account and added the approval of Person A because he did not do any of that himself. Indeed, Mr Ke stated that he was unaware that the uploading had happened and did not give his permission for it to happen.
44. The Committee noted that there was documentary evidence indicating that Mr Ke had made an enquiry with ACCA China on 23 and 24 July 2020 about whether he could benefit from an exemption from the PO requirements due to the "*Gold approved*" status of the holding company (Firm B) that owned the company that he worked for (Firm A). That documentation showed that he was told that the exemption would apply only if Firm B's "*Gold approved*" status was countrywide, across the whole of China. The Committee noted that Mr Ke was advised to check that status.
45. The Committee noted that there was no evidence, nor had Mr Ke asserted, that ACCA had informed Mr Ke that his employment for Firm B entitled him to an exemption from the PO requirements at or around the time that his PO

statements were submitted to ACCA. Furthermore, the Committee noted the unchallenged evidence of an ACCA witness who had provided a copy of an ACCA record showing that Firm B's "*Gold approved*" status was not countrywide for China until 04 November 2022. That is, more than two years after Mr Ke's POs were submitted to ACCA.

46. The Committee noted that the submission of Mr Ke's PO statements to ACCA was on 26 July 2020, only a few days after his enquiry about the "*Gold approved*" status of Firm A and Firm B. Given that proximity in timing, and the fact that Mr Ke had not been informed by ACCA that his employment by Firm B entitled him to an exemption from the PO requirements, the Committee considered it to be more likely than not that Mr Ke had understood that he was not entitled to an exemption from the PO requirements and decided to submit PO statements to ACCA in order to gain ACCA membership.
47. The Committee noted that Mr Ke had not provided any documentary evidence to support his assertion that he had been in touch with someone called "*Person C*" for advice and assistance in putting together his PER training record or that he had provided that person with his ACCA log on and password details. The Committee also noted that, if Mr Ke's account of events was true, Mr Ke had been granted ACCA membership without having knowingly submitted a membership application, but in response to which he had made no query. Mr Ke would therefore have been paying ACCA membership fees and benefitting from ACCA membership privileges without questioning how his membership came about. Without any documentary evidence in support, the Committee considered this to be an unlikely scenario.
48. The Committee found it to be improbable that an ACCA trainee would provide a person that they had found on the internet with the log on and password details for their ACCA account, compromising the security of their ACCA account, without then checking or being aware of how those details were then being used. On that basis, the Committee found that Mr Ke was aware of his own application for ACCA membership on 26 July 2020, and of the information provided in support of that application, including the nine PO statements (including POs 1, 2, 3, 5, 12, 15 and 17) and their approval by Person A.
49. Taking all of the evidence into account, the Committee was satisfied, on the balance of probabilities, that Mr Ke had purported to confirm that Person A had supervised his practical experience training in line with ACCA's requirements when, in fact, Person A had not supervised his practical experience training. It

was also satisfied, on the balance of probabilities, that Mr Ke had purported to confirm that he had achieved POs 1, 2, 3, 5, 12, 15 and 17.

50. Accordingly, Allegations 1(a) and 1(b) were found proved.

#### **ALLEGATION 2(A) – PROVED**

51. The Committee considered whether Mr Ke had acted dishonestly when confirming Person A as the supervisor of his PO statements in his PER training record.
52. The Committee noted that Mr Ke had not formally admitted or denied this matter, but had instead asserted that the ACCA membership application had been submitted without his knowledge or permission.
53. Applying the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67, the Committee first considered what Mr Ke's subjective state of mind was at the relevant time. The Committee noted the previous good character of Mr Ke. The Committee noted its earlier finding that Mr Ke had been aware of his membership application submitted to ACCA and the information provided in support of the application, including the listing of Person A as his external supervisor. As Person A had not supervised his practical experience training as set out in the POs, the Committee considered that Mr Ke would also have been aware at the relevant time that the training record contained false information and that the false information could mislead ACCA into believing that Person A had supervised his practical experience training, when they had not.
54. Applying the second stage of the test for dishonesty, the Committee considered whether an ordinary decent member of the public would find Mr Ke's conduct to be dishonest by objective standards. The Committee considered that the public expected members of the accountancy profession to be truthful in all of their conduct, in particular in the course of their professional communications. For that reason, the Committee found that Mr Ke's conduct, in knowingly providing his regulator with misleading information, was objectively dishonest.
55. Accordingly, Allegation 2(a) was found proved.

#### **ALLEGATION 2(B) – PROVED**

56. The Committee considered whether Mr Ke had acted dishonestly when confirming the PO statements in his PER training record.
57. The Committee noted that Mr Ke had not formally admitted or denied this matter, but had instead asserted that the ACCA membership application had been submitted without his knowledge or permission.
58. The Committee noted the advice set out for ACCA trainees in the ACCA guidance document 'PER – Practical experience requirements'. In particular, the Committee noted the statement at page 10 of that document "*Your situation and experience are unique to you, so we do not expect to see duplicated wording, whether from statement to statement, or from other trainees. If such duplication occurs then it may be referred to ACCA's Disciplinary Committee*" (page 202 of the Hearing bundle).
59. The Committee was provided with analysis by ACCA showing that seven of Mr Ke's PO statements were the same or significantly similar to the POs of a number of other individuals and were not 'first in time'. The Committee reviewed Mr Ke's PO statements and those of the other ACCA trainees, and found seven of Mr Ke's PO statements (namely, POs 1, 2, 3, 5, 12, 15 and 17) to be the same or significantly similar to the PO statements of a number of other ACCA trainees.
60. In those circumstances, the Committee considered it to be inherently unlikely that the content of the seven PO statements was genuine and Mr Ke's own work, as is required. Indeed, in his written responses to ACCA, Mr Ke had not sought to assert that the PO statements provided were his own. On that basis, the Committee found that the content of the seven of Mr Ke's PO statements referenced at Allegation 1(b) was not true.
61. The Committee considered whether Mr Ke would have been aware that he was required to submit his own objectives and could not use those of others, even as templates or precedents. Copies of the documents that would have been available to Mr Ke prior to submission of his PER training record were reviewed. These documents included the 'PER – Practical experience requirements', referenced above. Having reviewed those documents, the Committee was satisfied that it would have been clear to Mr Ke, if he had read those guidance documents, that the PO statements provided must be his own.

62. The Committee considered that it was reasonable for ACCA to have expected Mr Ke to be able to understand the guidance provided in the English language, given that ACCA examinations taken by ACCA trainees are in English. However, the Committee also noted that a number of pieces of relevant ACCA guidance on the PER had been provided in Mandarin, providing additional assistance to ACCA trainees who were Mandarin speakers. Therefore, there would have been no reason for Mr Ke to be under any misapprehension that he was permitted to copy or borrow from the PO statements of other ACCA trainees when submitting his own PO statements. The Committee also noted that it was clear from the evidence provided by Mr Ke that he was aware of how to raise queries with ACCA China should he have any uncertainty and that he was able to do so.
63. Applying the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67, the Committee first considered what Mr Ke's subjective state of mind was at the relevant time. The Committee noted the previous good character of Mr Ke. The Committee noted its earlier findings that (a) Mr Ke had been aware of his membership application submitted to ACCA and the information provided in support of the application, including the PO statements; and (b) seven of the PO statements submitted included content that was not true. Given his awareness of the documents submitted with the application, the Committee considered that Mr Ke would have been aware that his training record contained false information and that the false information could mislead ACCA into believing that he had achieved the POs as set out in the training record, when he had not.
64. Applying the second stage of the test for dishonesty, the Committee considered whether an ordinary decent member of the public would find Mr Ke's conduct to be dishonest by objective standards. The Committee considered that the public expected members of the accountancy profession to be truthful in all of their conduct, in particular in the course of their professional communications. For that reason, the Committee found that Mr Ke's conduct, in knowingly providing his regulator with misleading information, was objectively dishonest.
65. Accordingly, Allegation 2(b) was found proved.
66. Given the Committee's findings in relation to Allegations 2(a) and 2(b), it was not necessary for it to consider the matters alleged in the alternative, namely Allegations 2(c), 3(a), 3(b) and 3(c).



#### **ALLEGATION 4 – PROVED**

67. The Committee found that, in dishonestly submitting false information to ACCA in his PER training record, Mr Ke's conduct had fallen far short of what would be expected of an ACCA member and was serious enough to amount to misconduct. Mr Ke's dishonest behaviour enabled him to obtain ACCA membership without completing the requisite approved practical experience. As such, the conduct had put members of the public at risk of harm and had the potential to undermine public confidence in ACCA qualifications and membership, and to bring the profession into disrepute.
68. Accordingly, Allegation 4 was found proved in respect of Allegations 1(a), 1(b), 2(a) and 2(b).

#### **SANCTION AND REASONS**

69. In reaching its decision on sanction, the Committee took into account the submissions made by Ms Terry, on behalf of ACCA.
70. Mr Ke had not provided any written submissions specifically in relation to sanction. However, the Committee had regard to the written representations contained within Mr Ke's correspondence with ACCA throughout its investigation and the disciplinary proceedings. It noted in particular that Mr Ke's last engagement with ACCA was his written request, on 07 April 2024 to resign his ACCA membership.
71. The Committee also referred to the ACCA document 'Guidance for Disciplinary Sanctions'.
72. The Committee accepted the advice of the Legal Adviser including the following principles:
- a) The purpose of a sanction is not to punish, but to protect the public, maintain public confidence in the profession and to maintain proper standards of conduct;
  - b) Any sanction must be proportionate, so the Committee must balance the interests of the member with the interests of wider ACCA membership and the public; and

- c) The Committee must consider the sanctions in order of severity, starting with the least severe first.
73. The Committee considered the following to be aggravating features of this case:
- a) Mr Ke's PER training record contained multiple pieces of false and misleading information;
  - b) Mr Ke's dishonest conduct appeared to be pre-meditated and planned; and
  - c) Mr Ke derived a personal benefit from his dishonest conduct (ACCA membership and the associated permission to undertake certain regulated work for remuneration).
74. The Committee considered a mitigating feature of the case to be the absence of any previous regulatory findings against Mr Ke.
75. The Committee considered taking no action against Mr Ke. However, given the seriousness of his conduct, including dishonesty, the Committee considered that it would be inappropriate to take no action.
76. The Committee considered imposing an admonishment on Mr Ke. The Committee noted that the guidance indicated that an admonishment would be appropriate in cases where most of the following are present: evidence of no loss or adverse effect on client / members of the public; early admission of the facts alleged; insight into failings; isolated incident; not deliberate; genuine expression of remorse/apology; corrective steps have been taken promptly; subsequent work satisfactory; and relevant and appropriate testimonials and references. The Committee considered that this was not a case where most of these factors were present. Although Mr Ke had engaged during the ACCA investigation, there had been no admissions and neither had he provided any evidence of remorse/apology, insight, corrective steps, or satisfactory work and conduct since. The Committee had not been persuaded that Mr Ke had acted unwittingly and there were no positive testimonials or references provided. Taking these matters into account, together with the seriousness of the misconduct found, the Committee concluded that an admonishment would be an inappropriate and inadequate response.

77. The Committee considered imposing a reprimand on Mr Ke. The Committee noted that the guidance indicated that a reprimand would be appropriate in cases where the misconduct is of a minor nature, there appears to be no continuing risk to the public and there has been sufficient evidence of an individual's understanding, together with genuine insight into the conduct found proved. None of these features were present in this case. The misconduct was of a serious nature, no understanding or insight had been demonstrated by Mr Ke and so there remained a continuing risk to the public. For those reasons, the Committee concluded that a reprimand would be inappropriate.
78. The Committee considered imposing a severe reprimand on Mr Ke. The Committee noted that the guidance indicated that a severe reprimand would be appropriate in cases where the conduct is of a serious nature but where the circumstances of the case or mitigation advanced satisfies the Committee that there is no continuing risk to the public. The Committee considered that the conduct was of a serious nature but that there was no relevant mitigation or circumstances that removed the continuing risk to the public. On that basis, the Committee concluded that a severe reprimand would be inappropriate because it would not provide adequate protection for the public, and nor would it adequately address public confidence and the need to maintain proper professional standards.
79. The Committee considered whether to exclude Mr Ke from membership. The Committee noted that Mr Ke's misconduct included dishonest conduct.
80. Taking into account the seriousness of that conduct and the resultant ongoing risk to the public, the Committee concluded that the most appropriate sanction was exclusion from membership. With reference to section E2.3 of the guidance document (which relates to sanctions appropriate in cases of dishonesty), the Committee considered that the mitigation advanced by Mr Ke was not so remarkable or exceptional that it would warrant anything other than exclusion from membership. The Committee considered Mr Ke's conduct found proved to be so serious as to be fundamentally incompatible with being an ACCA member.
81. The Committee considered that Mr Ke's misconduct represented a significant and immediate risk to the public, in that Mr Ke was currently able to present himself as an ACCA Member with all of the requisite approved experience,

when he did not, in fact, possess such approved experience. As such, potential employers and clients could be misled, and Mr Ke may also have the opportunity to supervise ACCA trainees himself.

82. The Committee acknowledged that exclusion from membership was the most severe sanction available and had the potential to cause professional and financial hardship to Mr Ke. However, in the circumstances of this case, the Committee considered that the public interest (both in terms of public protection and in maintaining standards and confidence in the profession) outweighed Mr Ke's own interests, and therefore exclusion from membership was the only appropriate and proportionate sanction available.
83. Accordingly, the Committee decided that the only appropriate and proportionate sanction to impose was an order excluding Mr Ke from membership of ACCA.
84. The Committee decided that, given the circumstances of the case and the significant and immediate risk to the public, it was in the interests of the public that the order for exclusion from membership should have immediate effect.
85. The Committee considered that the circumstances of the case did not warrant an order restricting Mr Ke's right to apply for re-admission beyond the normal minimum period.

### **COSTS AND REASONS**

86. Ms Terry, on behalf of ACCA, applied for Mr Ke to make a contribution to the costs of ACCA in bringing this case. The application was supported by a schedule breaking down the costs incurred by ACCA in connection with the hearing. The total amount of costs set out in the schedule was £6,121.25. However, Ms Terry drew the Committee's attention to the fact that the total included a sum for the cost of the attendance of the Case Presenter and Hearings Officer at today's hearing based on a time estimate of five and six hours respectively, whereas it looked likely that the hearing would not take that length of time.
87. Mr Ke had not provided the Committee with a completed Statement of Financial Position. Neither had Mr Ke provided any submissions specifically in relation to this costs application. However, the Committee had regard to the written

representations contained within Mr Ke's correspondence with ACCA throughout its investigation and the disciplinary proceedings.

88. The Committee accepted the advice of the Legal Adviser who referred the Committee to Regulation 15(1) of the Regulations and the ACCA document 'Guidance for Costs Orders' (September 2023).
89. The Committee was satisfied that ACCA was entitled to costs in principle and had been justified in investigating these matters. Having reviewed the schedule, the Committee considered that the costs claimed appeared to have been reasonably and proportionately incurred.
90. In light of the fact that the hearing today had taken approximately three hours less than had been estimated in the ACCA costs schedule, the Committee determined that it would be appropriate to reduce the amount of costs awarded accordingly.
91. Without any information about Mr Ke's financial or personal circumstances, the Committee found no basis for reducing the costs payable on the grounds of Mr Ke's ability to pay or other personal circumstances.
92. Taking all of the circumstances into account, the Committee decided that Mr Ke should be ordered to make a contribution to the costs of ACCA in the sum of £5,446.25.

### **ORDER**

93. The Committee made the following order:
  - a) Mr Ke shall be excluded from ACCA membership; and
  - b) Mr Ke shall make a contribution to ACCA's costs in the sum of £5,446.25.

### **EFFECTIVE DATE OF ORDER**

94. In accordance with Regulation 20(1)(b) of the Regulations, the Committee decided that, for public protection and in the interests of the public, the order relating to exclusion from ACCA membership shall take effect immediately.

95. In accordance with Regulation 20(2) of the Regulations, the order relating to costs shall take effect immediately.

**Mr Tom Hayhoe**  
**Chair**  
**11 July 2024**