

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mrs Fang Bao

Heard on: Friday, 15 November 2024

Location: Remotely via Microsoft Teams

Committee: Ms Wendy Yeadon (Chair)
Ms Nimra Syeda (Accountant)
Mr Geoffrey Baines (Lay)

Legal Adviser: Miss Judith Chrystie

**Persons present
and capacity:** Mr Stuart Brady (ACCA Case Presenter)
Ms Anna Packowska (Hearings Officer)

Summary Exclusion from membership

Costs: Awarded, as claimed, in the sum of £6498.50

SERVICE OF PAPERS

1. Mrs Bao was neither present nor represented.
2. The Committee considered a Service Bundle with pages numbered 1-16 in order to determine whether the Notice of the Hearing ('the Notice') dated 18 October 2024 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (amended 2020) ('the Regulations').

3. The Notice had been sent to Mrs Bao's registered address email and complied with the other requirements of the Regulations.
4. The Committee was satisfied that this was effective service under the Regulations.

PROCEEDING IN ABSENCE

5. The Committee considered whether it should proceed in Mrs Bao's absence and recognised that it could only do so with the utmost care and caution.
6. The Committee identified that, although there had been some limited interaction with ACCA's investigation by Mrs Bao in March/April 2024, there had been no communication since 22 April 2024. Given Mrs Bao had emailed ACCA, the Committee was confident that she could access correspondence from ACCA but had chosen to disengage. No request for an adjournment had been made and the Committee considered that there would be no purpose in adjourning the hearing; as it was highly unlikely that Mrs Bao would attend at a later date.
7. Further, the Committee recognised that there was a strong public interest in regulatory proceedings being considered and concluded expeditiously. The allegations were serious. If proved, Mrs Bao was practising accountancy as an ACCA member having attained membership without proper experience. The Committee considered that there was a potential for a public safety concern, which needed to be resolved and could not be further delayed.
8. In all the circumstances, the Committee determined that it was fair and just to proceed in Mrs Bao'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.

ALLEGATIONS

9. The Committee's papers were as follows:

- a. Disciplinary Committee report and bundle with page numbers 1-251
 - b. Separate Bundle with page numbers 1-91
 - c. Additional Bundles with page numbers 1-8
10. The Committee considered the allegations set out below.

Fang Bao ('Mrs Bao'), at all material times an ACCA trainee,

1. Whether by herself or through a third party applied for membership to ACCA on or about 16 January 2023 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 7: Prepare external financial reports
 - Performance Objective 9: Evaluate investment and financing decisions
 - Performance Objective 18: Prepare for and plan the audit and assurance process
2. Mrs Bao's conduct in respect of the matters described in Allegation 1 above was:
 - a) Dishonest in that Mrs Bao 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 Mrs Bao 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 to any or all of ACCA's correspondence dated,

- a) 8 March 2024
- b) 25 March 2024
- c) 9 April 2024

5. By reason of her conduct, Mrs Bao 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).

BRIEF BACKGROUND

Membership Regulations

11. To be eligible for membership in accordance with the Chartered Certified Accountants' Membership Regulations 2014, an individual must have:

- a. passed or obtained exemptions from the ACCA Qualification examinations; and then, having become an affiliate (or 'ACCA trainee')
- b. completed at least 36 months' approved experience in accordance with ACCA's Practical Experience Requirement (PER); and
- c. satisfactorily completed the Ethics and Professional Skills module; and

- d. satisfied the Admissions and Licensing Committee as to the individual's general character and suitability.

Practical Experience Requirement

12. The Committee's papers provided evidence setting out further details of ACCA's practical training requirements. The requirements set out the professional knowledge and values, ethics, and behaviours that ACCA specified were needed to become a professionally qualified accountant together with the process to be followed. The bundle included material publicly available about ACCA's PER including trainees' responsibilities and the need for, and role of, a practical experience supervisor.
13. The Committee's papers included the following information:
 - a. Trainees must achieve five 'Essential' and any four 'Technical' performance objectives (POs).
 - b. Trainees must gain the experience required to achieve the necessary elements, standard of work and level of competence for each PO.
 - c. A personal statement must be completed for each PO. These are concise explanation of 200-500 words summarising how the trainee has achieved the PO through their own work experience. Trainees must provide examples of tasks in which they have been involved with to illustrate their personal statement.
 - d. Trainee's statements must be signed off by the trainee's practical experience supervisor (PES). It is a trainee's responsibility to find a PES.
 - e. The PES must be a qualified accountant recognised by law in the trainee's country and/or a member of an international federation of accountancy bodies who has knowledge of the trainee's work.
 - f. A PES will usually be a trainee's line manager, or the person to whom the trainee reports on projects or activities. A PES cannot sign off experience

that a trainee has not been able to demonstrate to them in the workplace. If a PES is not a trainee's line manager, then the PES may consult with the trainee's line manager to validate their experience.

- g. Trainees must enter their PES's details into the 'MyExperience' recording tool and send their PES an invitation to register as their PES.
 - h. Trainees cannot submit anything to their PES until the PES is registered.
 - i. Trainees must complete 36 months experience in one or more accounting or finance-related role which is verified by their PES.
14. The Committee's bundle report stated that the guidance was available online in China. ACCA submitted that the material was disseminated and, although the material was printed in English, trainees would have completed their ACCA exams in English and would therefore have a reasonable command of the English language.
15. ACCA further advised that ACCA's Customer Services Team in China emailed ACCA trainees inviting them to regular live webinars by ACCA staff, which would provide information about the PER process. A list of the webinars during the period 14 December 2019 to 27 August 2022 was provided to the Committee. In addition, WeChat Groups with ACCA staff were available to allow questions to be raised, including about the PER process, and relevant articles about the ACCA membership process to be uploaded.

Background

16. Mrs Bao was admitted as an affiliate on 16 January 2023 and became a member on 26 January 2023. She registered with ACCA as residing in China.
17. Mrs Bao submitted her Practical Experience Requirement ('PER') record through an online tool called 'MyExperience' via her 'MyACCA' account. This claimed:

- a. Mrs Bao was employed at a finance and taxation consultancy from 1 January 2018 to 24 September 2021.
 - b. Her role was financial supervisor.
 - c. 44 months of practical experience.
 - d. Her supervisor was Person A.
 - e. Person A was her, '*IFAC qualified line manager*'
 - f. The supervisor's email address was 1614*****@qq.com
18. Mrs Bao requested that the PES approve her time and experience on 28 September 2021; it was approved the same day.
19. In 2023, ACCA discovered that Mrs Bao was one of 91 ACCA trainees whose registered PESs shared one of three email addresses despite the names of the supervisors being different. This triggered an investigation.
20. ACCA relied on evidence of Linda Calder, Professional Development Manager with ACCA's Professional Development Team set out in a witness statement dated 21 May 2024. In her statement, Ms Calder identified that her role involves the implementation and monitoring of ACCA's PER, including managing the online recording tool for ACCA trainees.
21. In summary, Ms Calder stated that during 2023, ACCA discovered that the PESs registered to 91 trainees ('the cohort') shared one of three email addresses even though the names of the supervisors were different. She said that it would not be expected that supervisors would share an email address. Further, within the cohort, many of the statements supporting the completion of a PO were the same, even though the statement should be a description of the individual trainee's unique experience.
22. Ms Calder stated that ACCA initiated an investigation.
23. The investigation in respect of Mrs Bao identified that:
 - a. Each of the nine PO statements submitted by Mrs Bao were identical or significantly similar to the PO statements contained in the PERs of many other ACCA trainees within the cohort.

- b. All of the PO statements contained in Mrs Bao's PER had been originally submitted by another trainee or trainees in the cohort – she was not the first individual to submit the particular text and so none of her statements were 'first in time'
24. The Committee's bundles contained copies of Mrs Bao's PER and copies of other trainees' statements. This allowed for direct comparison. Further ACCA had prepared a table to show that Mrs Bao's PO statements were either identical or significantly similar to other PO statements which had been submitted at an earlier date by another trainee or trainees in the cohort.
25. ACCA argued that analysis of the documents demonstrated that Mrs Bao had engaged in an organised and considered duplication of the PO text. The Case Presenter submitted that her conduct was in clear breach of the spirit of the process, amounted to fraudulent misrepresentation and would be plainly regarded as dishonest by an ordinary, decent individual.
26. In respect of the allegation that Mrs Bao had not cooperated with ACCA's investigation, the Committee's bundles contained communications showing that ACCA had sent a letter dated 8 March 2024 by email using the email address on ACCA's records for Mrs Bao. This letter set out the complaint, requested that Mrs Bao respond to a number of questions by 22 March 2024 and asked that receipt was acknowledged. The letter identified a member's duty to cooperate with ACCA's investigation.
27. No acknowledgement having been received, a mobile message was sent to Mrs Bao by ACCA's China office on 13 March 2024. On the same day, Mrs Bao responded to ACCA's email of 8 March 2024 with the words, 'WELL RECEIVED'.
28. No substantive response was received and on 25 March 2024 ACCA sent emails to Mrs Bao and extended the deadline for answers to the questions to 8 April 2024. No response was received. On 9 April, further communications were sent from ACCA to Mrs Bao and the deadline again extended to 23 April 2024. ACCA also attempted to contact Mrs Bao by telephone without success.

29. On 18 April 2024, Mrs Bao emailed ACCA stating, '*I just received the email 18 April [sic], what should i do next?*'. ACCA responded attaching a further copy of the letter on 8 March 2024.

30. On 22 April 2024, Mrs Bao emailed to state:

All the questions are based on Person A is a IFAC qualified line manager, and i am so sorry that i misunderstood the rule and uploaded Person A as my supervisor who was my line manager that can only prove my employment, she is not a IFAC member.

I am surely noted that i am not qualified for membership at that moment, and please let me know how to amend the information about qualified supervisor

31. ACCA requested Mrs Bao answer the questions regarding the allegations against her. No further communication has been received from Mrs Bao. ACCA's systems show that subsequent emails from ACCA have been opened.

32. The Case Presenter submitted that ACCA Mrs Bao had been given ample opportunity to engage with the investigation and failed to do so in that her communication with ACCA had been limited and superficial. He described the most substantive response from Mrs Bao dated 22 April 2024 as wilfully misrepresenting the nature of the allegations against her, making superficial reference to them only and not engaging with ACCA's questions regarding a fraudulent and significant manipulation of the system.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

Allegation 1

33. The Committee found allegation 1 proved.

34. Prior to the hearing, the Committee had reviewed the extensive written evidence set out in its Committee bundles. For the reasons set out below, the Committee considered the evidence - recognising it was hearsay - credible and reliable.

35. The Committee accepted ACCA's evidence that Mrs Bao's statements in support of her POs were not 'first in time' – in other words, she was not the first individual to submit the statements in the PER.
36. The Committee analysed Mrs Bao's PER together with those of the several other trainees in the cohort ACCA had submitted. The Committee identified that the text in Mrs Bao's PER was not bespoke drafting, as would be expected if it genuinely reflected Mrs Bao's own experience in gaining the professional knowledge and values, ethics and behaviours expected by ACCA for membership. Instead, the statements were the same or strikingly similar across each as those of other trainees, - even the most obvious of typographical errors were repeated, for example the error 'clients&rsques.'
37. The Committee concluded that the statements contained in Mrs Bao's PER were copied and could not therefore genuinely represent Mrs Bao's individual practical experience or achievement of the POs.

Allegation 2

38. The Committee found allegation 2(a) proved. It applied the two-stage test set out in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] to determine whether Mrs Bao was dishonest.
39. The Committee first sought to ascertain the actual state of Mrs Bao's knowledge or belief as to the facts. The Committee considered that the material published by ACCA made it clear what was expected of ACCA trainees in the PER process and of ACCA's requirements for the practical experience. The Committee considered that Mrs Bao must have known that the text against each of the nine PO statements was not original drafting and did not relate to experience that she had genuinely gained.
40. The Committee considered it was plain that the ordinary person would regard Mrs Bao's conduct as dishonest: she deliberately submitted an untrue formal training record to her regulator for the purposes of gaining membership.

41. Having found allegation 2(a) proved, the Committee did not go on to consider allegations 2(b) or 3 which were pleaded in the alternative.

Allegation 4

42. The Committee found allegation 4 proved.
43. Whilst the Committee acknowledge there had been some limited communication from Mrs Bao in response to ACCA's investigation officer, it did not consider that the nature of her emails could properly be described as fulfilling her duty to cooperate as required by the Regulations.
44. The Committee considered that in order to satisfy the duty Mrs Bao would have had to engage with the questions posed by ACCA. Instead, she offered an admission that Person A could not satisfy the expectations of a PES, but she failed to address the specific questions raised. She has never responded to ACCA's more fundamental concerns about whether she had properly obtained membership, nor engage within the investigative process.

Allegation 5

45. The Committee found allegation 5 proved.
46. The Committee judged that collectively and individually the allegations it had found proved fell far short of the standards expected of a member of the accountancy profession. The Committee considered honesty to be a fundamental tenet of professionalism and Mrs Bao had been dishonest in the way she had secured ACCA membership. Further, she had failed to engage with her regulator's concerns; superficially communicating in a way that actively ignored more fundamental questions from ACCA.
47. The Committee considered Mrs Bao conduct could not be regarded as anything than entirely unacceptable behaviour which brought the profession into disrepute and plainly constituted misconduct.

SANCTION AND REASONS

48. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
49. The Committee did not hear of any previous disciplinary history – although it considered that this offered limited mitigation given the short period of membership. Given Mrs Bao had not engaged in the process, the Committee had no other mitigating factors it could consider; there was no evidence before it of her insight, remorse, or regret.
50. The Committee also regarded Mrs Bao's misconduct and, in particular, the related dishonesty as extremely serious and considered an aggravating feature was that the misconduct was deliberate for personal gain. By falsifying the record of her practical training experience, Mrs Bao bypassed the eligibility requirements set out in the membership process; she gained membership without the necessary experience.
51. The Committee considered that it would be wholly insufficient to impose no order or to conclude this matter with an admonishment, a reprimand or a severe reprimand. None of these orders would provide the necessary restrictions on practice needed to protect the public interest in this matter. The Committee recognised paragraph E2 of the Guidance for Disciplinary Sanctions 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. The Committee considered that none of these sanctions would properly recognise the seriousness of Mrs Bao's deliberate and dishonest intentions, nor would they be sufficient to reflect the potential for harm or damage to public confidence.
52. Mrs Bao deceived ACCA by submitting false records and then failed to engage with her regulator in a straightforward and proper manner. Her misconduct was deliberate with the intention of gaining personal benefit through dishonest, deceptive steps. The Committee concluded that this behaviour was fundamentally incompatible with being an accountant and remaining a member of ACCA.

53. The Committee, therefore, ordered that Mrs Bao's name should be excluded from membership. It considered, but does not order, any extension of the timeframe before Mrs Bao can apply for readmission - recognising that any application will be considered by the Admissions and Licensing Committee and that Mrs Bao will be expected to demonstrate, among other matters, that she has remediated her dishonest conduct.

EFFECTIVE DATE OF ORDER

54. The Committee recognised that Mrs Bao had gained membership with misleading and false information. She was not entitled to be an ACCA member; she did not have the necessary experience and had not demonstrated she had achieved the requisite POs. Unless Mrs Bao was prevented from relying on her ACCA membership with immediate effect, members of the public and businesses could be placed at risk.
55. The Committee therefore ordered that it was in the interest of the public for Mrs Bao to be excluded from membership with immediate effect.

COSTS AND REASONS

56. The Committee had regard to the Guidance on Cost Orders.
57. ACCA claimed costs in the sum of £6498.50 set out in a schedule of costs. The Committee considered that this sum was reasonable and had been reasonably incurred. The Committee considered that additional work had been required owing to Mrs Bao's own failure to engage in the investigation.
58. The Committee recognised that it needed to consider 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. Mrs Bao had not supplied any evidence regarding her financial circumstances. The Committee was therefore unable to determine whether any reduction for costs should be made to reflect Mrs Bao's ability to pay an order for costs awarded to ACCA.

59. Having not received any documentary evidence as to the member's financial circumstances, and having considered ACCA's guidance as to costs, accordingly, the Committee has inferred that the member is able to meet the costs as assessed by the Committee.

60. The Committee considered that it would appropriate to make an order for costs and that it was reasonable and proportionate to impose a cost order that Mrs Bao pay ACCA's costs in the sum of £6498.50.

Ms Wendy Yeadon
Chair
15 November 2024