

HEARING

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

In the matter of: Ms Yun Hao

Heard on: Thursday, 3 April 2025

Location: Remotely via Microsoft Teams

Committee: HH Suzan Matthews KC (Chair)
Mr Trevor Faulkner (Accountant)
Mr Damian Kearney (Lay)

Legal Adviser: Ms Giovanna Palmiero

**Persons present
and capacity:** Mr Mazharul Mustafa (ACCA Case Presenter)
Miss Nicole Boateng (Hearings Officer)

Summary Removed from the student register

Costs: £6,000.00

INTRODUCTIONS

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Ms Yun Hao (Ms Hao).
2. Mr Mazharul Mustafa (Mr Mustafa) presented the case on behalf of ACCA.
3. Ms Hao did not attend and was not represented.

4. The Committee had confirmed that it was not aware of any conflicts of interest in relation to the case.
5. 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.
6. The hearing was conducted remotely via Microsoft Teams.
7. The Committee was provided with, and considered in advance, the following documents:
 - (i) A Report & Hearing Bundle with pages numbered 1-50.
 - (ii) A Service Bundle numbered with pages numbered 1-20.
 - (iii) Cost Schedules were provided to the Committee at the sanction stage.

PRELIMINARY APPLICATIONS

SERVICE OF PAPERS

8. The Committee was informed that Ms Hao had been served with a notice of today's hearing, together with the necessary papers via electronic mail on 6 March 2025.
9. The Committee was satisfied that notice had been sent to Ms Hao's registered email address in accordance with Regulation 22 of the 2014 Regulations as amended. The Committee noted that the email had been delivered successfully. Regulation 22(8) stipulates that, when a notice has been sent by email, it is deemed to have been served on the day it was sent. Accordingly, the Committee was satisfied that Ms Hao had been given 28 days' notice with the necessary information required in accordance with Regulation 10.
10. The Committee decided that Ms Hao had been properly served with Notice of Proceedings.

PROCEEDING IN ABSENCE

11. The Committee was informed that the ACCA Hearings Officer (HO) called Ms Hao on 25 March 2025, on the telephone number provided on her ACCA registration, to request confirmation as to whether she would be attending at the hearing. This call was not answered and there was no opportunity to leave a voice message. This was followed up with an email sent the same date. Ms Hao did not respond to this email.
12. On 1 April 2025 the HO attempted to call Ms Hao on the same telephone number. This call was answered, but there was no verbal response, and the call ended. This call was followed up with an email reiterating the request for confirmation of Ms Hao's attendance at the hearing.
13. The Committee considered that all reasonable steps to encourage Ms Hao to attend the hearing had been taken. The Committee was satisfied that the emails had been sent to the email address on the ACCA's register and that there was a record of the emails having been delivered successfully. The Committee noted that Ms Hao had been given sufficient notice of the hearing and notified that if she did not attend then the Committee could proceed in her absence. The Committee concluded, on the balance of probabilities, that Ms Hao was aware of today's hearing, had voluntarily absented herself from the hearing and had not engaged with the process.
14. The Committee was also satisfied that taking the seriousness of the allegations into account, it was in the public interest to proceed expeditiously. The Committee did not consider that any benefit would be obtained by adjourning the hearing and in any event no such application was made by Ms Hao who had failed to engage with the process.

ALLEGATIONS

15. Ms Yun Hao, a student of the Association of Chartered Certified Accountants ('ACCA'):
 1. During a TX examination held on 8 March 2022:

- (a) Was in possession of unauthorised material, namely written notes (the 'Unauthorised Material'), contrary to Examination Regulation 4;
 - (b) Used, or attempted to use, the Unauthorised Material to gain an unfair advantage in the exam
2. The conduct described in Allegation 1 was:
 - (a) Dishonest, in that Ms Yun Hao intended to gain an unfair advantage in her exam attempt; or in the alternative;
 - (b) Demonstrates a failure to act with integrity.
3. By reason of her conduct, Ms Yun Hao is:
 - (a) Guilty of misconduct pursuant to bye-law 8(a)(i); or in the alternative
 - (b) Liable to disciplinary action pursuant to bye-law 8(a)(iii), in respect of Allegation 1 (a) only.

BRIEF BACKGROUND

16. Ms Yun Hao ("Ms Hao") first registered as an ACCA student on 28 April 2021.
17. Ms Hao attended the exam centre on 8 March 2022 in order to sit the TX examination. The exam commenced at 9 am and was due to last for 3 hours.
18. All candidates for ACCA examinations are made aware of the Examination Regulations as follows:
 - Before an examination, all candidates receive an attendance docket which contains the ACCA examination guidelines and regulations;
 - Before an examination starts, the Supervisor's announcements draw candidates' attention to the regulations and guidelines outlined in the

attendance docket. In particular Exam Regulation 4 warns candidates that they are not permitted to possess, use or attempt to use unauthorised materials in the examination.

19. The Exam Invigilator Person A, states in their SCRS 1B form completed on the day of the exam that, when they were walking / patrolling the test room, they noticed that Ms Hao was reading something under the calculator. They added that they stopped by Ms Hao and found about 3 pieces of paper in about B4 size folded twice with notes written on them between Ms Hao's scrap paper and calculator. Person A took the unauthorised material to Person B and they both waited for the Supervisor that was away from their desk and then the Supervisor (Person C) took photos of the unauthorised material. The Exam Centre Supervisor, Person C, states in their SCRS 1B form, completed on the day of the exam that whilst on their return from a break, Person A, the Invigilator reported to them that they found Ms Hao with unauthorised material. They took and photographed the unauthorised materials, got Ms Hao to complete an SCRS 2B form and informed Ms Hao that her case would be referred to ACCA for consideration of disciplinary proceedings.
20. The other Invigilator Person B also in attendance confirmed in their SCRS 1B form completed on the day of the exam that she did not witness Ms Hao reading the notes but was told by the other invigilator that Ms Hao was using the unauthorised material during the exam.
21. On the day of the examination, Ms Hao completed an SCRS 2B form and admitted that she was in possession of unauthorised material during the exam. She also admitted to attempting to use the unauthorised material.
22. A copy of the unauthorised material can be found in the Bundle of evidence. The unauthorised material consists of a photocopy of 3 double-sided pieces of paper with written contents on it.
23. In the Examiner's irregular script report, the Examiner, Person D, confirmed that the material is relevant to the syllabus and this examination. They concluded that the material may have been used by Ms Hao.

24. On 28 November 2022 ACCA's Investigation Department asked for Ms Hao's comments regarding the incident in question. No response was provided.
25. On 5 January 2023, ACCA sent an email to Ms Hao's registered email address reminding her of her obligation to co-operate with the investigation and seeking her response by 19 January 2023.
26. On 30 January 2023, ACCA sent a final email to Ms Hao's registered email address reminding her again of her obligation to co-operate with the investigation and again, seeking her response by 13 February 2023. No response was provided. ACCA stated that as they had gathered sufficient information from other sources, a further complaint has not been brought against Ms Hao's in respect of her failure to cooperate with ACCA.

ACCA SUBMISSIONS

27. It is submitted that the allegations referred to above are capable of proof by reference to the factual summary above and the documents in the Bundle of evidence.

Dishonesty:

28. In *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 the following comment was made on dishonesty:

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the factfinder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

29. Ms Hao's relevant state of mind was that knowing that she was not permitted to possess during the exam, unauthorised materials, she had in her possession such materials with the intention of using them in order to gain an unfair advantage in the exam. Such conduct is objectively dishonest. In the alternative, it is alleged that Ms Hao's conduct did not demonstrate integrity.

Integrity:

30. In *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, the Court of Appeal addressed what was required in a professional disciplinary context by the standard of integrity. At paras 95-97, Jackson LJ expressed the matter in a way that applied to regulated professions generally and said this:

'95. Let me now turn to integrity. As a matter of common parlance and as a matter of law, integrity is a broader concept than honesty...

96. Integrity is a more nebulous concept than honesty. Hence it is less easy to define, as a number of judges have noted.

97. In professional codes of conduct, the term "integrity" is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards.'

31. ACCA submits that having been found to be in possession of unauthorised material, Ms Hao, was under a duty to demonstrate that she did not intend to use the unauthorised materials to gain an unfair advantage in the examination.

Misconduct:

32. Bye-law 8(a)(i), 8(c) and 8(d) refer to misconduct and *Roylance v General Medical Council* [2001] 1 AC 311 says: *'Misconduct is a word of general effect,*

involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a ... practitioner in the particular circumstances.'

33. It is submitted that the conduct alleged amounts to misconduct under Bye-law 8(a)(i). Misconduct is a matter for the Disciplinary Committee's professional judgment.

Alternative basis for liability to disciplinary action:

34. The conduct alleged amounts in any event, to a breach of the Examination Regulations and on this basis alone, establishes disciplinary liability.

DECISION ON ALLEGATIONS AND REASONS

35. The Committee considered ACCA's Bundle of evidence and the written representations which were supplemented by Mr Mustafa orally. The Committee considered the legal advice from the Legal Adviser, which it accepted.
36. The Committee was aware that the burden of proving the facts was on ACCA. Ms Hao did not have to prove anything, and the allegations could only be found proved if the Committee was satisfied on the balance of probabilities. The Committee had been advised specifically by the Legal Advisor in relation to the reverse burden of proof created under Examination Regulation 6(a), and to balance this with the presumption of innocence. The standard of proof on this reverse burden was also on a balance of probabilities.

Allegation 1 (a) & (b)

37. The issues for the Committee to determine in respect of these allegations was, firstly whether Ms Hao was in possession of unauthorised material during her exam on the 8 March 2022 and secondly was this in order to gain an unfair advantage.

38. In reaching its findings of fact in respect of Allegation 1(a) and 1(b), the Committee had considered carefully, and accepted, the Examiners irregular script report of Person D and Forms SCRS 1B completed by Person A, Person C and Person B. The Committee had also considered the content of the documents provided by ACCA in support of its case.
39. The Committee had reference to the Form SCRS 2B which was completed by Ms Hao on 8 March 2022. At question 6, she confirmed that she was in possession of unauthorised materials and accepted that the unauthorised material was relevant to the syllabus being examined. At question 11 of this form, Ms Hao's response was admitting that she attempted to use the unauthorised materials. However, at question 13, Ms Hao denied that she intended to gain an unfair advantage from the unauthorised materials.
40. The Committee also considered the contents of Forms SCRS 1B completed by the Invigilators and Supervisor, particularly Person A who saw Ms Hao in possession and reading the unauthorised materials, which were subsequently confiscated from her.
41. The three pages of double-sided script, confiscated from Ms Hao contained extensive information which was not authorised material.
42. The Committee concluded that there was sufficient evidence to prove on a balance of probabilities that Ms Hao was in possession of unauthorised materials during her exam.
43. With this in mind, the Committee had to determine whether Ms Hao had this unauthorised material in order to gain an unfair advantage in her exam.
44. The three pages of double-sided script, confiscated from Ms Hao contained information, which was clearly linked to the exam being undertaken, as submitted by Person D.
45. At Paragraph 6 to 9 of Ms Hao's Form SCRS 2B, she stated that the unauthorised material was relevant to syllabus being examined; she explained

why she had it in these terms: *“Because I still don’t remember them”* and *“Help me remember them”*.

46. The Committee noted that Ms Hao denied having this unauthorised material to gain an unfair advantage at question 13 of Form SCRS 2B.

47. The Committee were aware of Examination Regulation 6(a):

“6. (a) If you breach exam regulation 4 and the ‘unauthorised materials’ are relevant to the syllabus being examined; it will be assumed that you intended to use them to gain an unfair advantage in the exam. In any subsequent disciplinary proceedings, you will have to prove that you did not intend to use the unauthorised materials to gain an unfair advantage in the exam.”

48. The Committee were aware of an email received from Ms Hao on 7 March 2023 where she stated: *“I have received the relevant documents and have no further comments”*.

49. The Committee noted that the onus was upon Ms Hao to show that she *“did not intend to use the unauthorised materials to gain an unfair advantage in the exam.”* The Committee noted that Ms Hao had not provided any information on Form SCRS 2B or during the investigation on this point.

50. The Committee considered Ms Hao’s argument that possession of the unauthorised material was not to gain an unfair advantage was unconvincing and directly contradicted her other responses.

51. The Committee concluded that due to the fact that the unauthorised material contained extensive information directly linked to the exam, and that Ms Hao had not rebutted the reverse burden of proof upon her, on a balance of probabilities, that the unauthorised material would have assisted her undertaking the exam and therefore gain an unfair advantage.

52. In relation to Allegations 1 (a) and (b) the Committee was satisfied that there was sufficient evidence on a balance of probabilities for these allegations to be found proved.

Allegation 2 (a) - Dishonesty

53. The Committee relied upon its findings of fact under Allegation 1(a) and (b) above in assisting with the determination of dishonesty.
54. The Committee could infer that Ms Hao more than likely knew what ACCA's exam requirements were.
55. The Committee noted that following the Supreme Court decision in *Ivey v Genting Casinos* [2017] UKSC 67 in applying the test for dishonesty the Committee first had to determine Ms Hao's actual knowledge or belief and then determine whether her acts or omission were, on the balance of probabilities, dishonest by the standards of ordinary decent people.
56. In reaching its decision in respect of this allegation, the Committee applied the first part of the test for dishonesty. In relation to Allegation 1(a) and (b), the Committee determined that if Ms Hao knew she was in possession of unauthorised material and it was to gain an unfair advantage in the exam, then she must have known that what she was doing was wrong and dishonest.
57. This could be interpreted as trying to cheat the system, as she was not able to pass the exam without the assistance of the unauthorised material.
58. The Committee was also satisfied that, by the standards of ordinary decent people, such conduct would be viewed as being dishonest.
59. The Committee therefore found Allegations 2(a) proved on the balance of probabilities.
60. On the basis that Allegation 2(b) was pleaded in the alternative to Allegation 2(a) the Committee made no finding in respect of this allegation as it was not necessary for the Committee to consider this Allegation.

Allegation 3 - Misconduct

61. In relation to Allegation 3, the Committee applied the test for misconduct, as per the case of *Roylance v General Medical Council* [2001] 1 AC 311, in which it was decided that '*Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a ... practitioner in the particular circumstances.*'.
62. The Committee had found that Ms Hao's behaviour had been dishonest. Her actions were serious and fundamentally fell short of the standards required of a professional person, including its student members. Such conduct fell far below the standards expected of an accountant and member of ACCA and student member and could properly be described as deplorable. In the Committee's judgement, it brought discredit to Ms Hao, the Association and the accountancy profession and undermines the examination process.
63. In the Committee's judgement, this amounted to very serious professional misconduct. It brings discredit upon the profession and ACCA. The Committee considered Hao's behaviour to be very serious and the Committee was in no doubt that it amounted to misconduct.
64. The Committee therefore found that the matters set out in Allegation 1 (a), (b) and 2(a) amounted to misconduct, and that Ms Hao was liable to disciplinary action through her misconduct.
65. Having found Allegation 3(a) proved it was not necessary for the Committee to consider Allegation 3(b), which was alleged in the alternative.

SANCTION AND REASONS

66. In reaching its decision on sanction, the Committee considered the oral submissions made by Mr Mustafa on behalf of ACCA. Mr Mustafa made no submission as to the actual sanction but referred to ACCA Guidance for Disciplinary Sanctions (GDS) and in particular the summary of the general

principles. He confirmed that Ms Hao had no other known previous disciplinary findings. Mr Mustafa requested that any sanction order should be immediate as Ms Hao could hold herself out as a part qualified member of the ACCA and her behaviour was fundamentally incompatible with being a student member.

67. The Committee noted its powers on sanction were those set out in Regulation 13(4). It had regard to ACCA's GDS 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.

68. The Committee considered that the conduct in this case was very serious. The Committee had regard to Section F of the GDS. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. Being honest is a fundamental requirement of any accountant.

69. The Committee assessed the aggravating and mitigating features:

Aggravating features:

- This was a premeditated and deliberate act for personal gain.
- Potential for harm if Ms Hao had obtained membership by dishonesty.
- No evidence of insight, remorse or reflection.

Mitigating features:

- There were no previous disciplinary findings against Ms Hao.
- Ms Hao made admissions on the day of the exam.

There was no evidence of any other mitigating factors in this case.

70. Given the Committee's view of the seriousness of Ms Hao's conduct, it was satisfied that the sanctions of No Further Action, Admonishment and Reprimand were insufficient to highlight to the profession, and the public the gravity of the proven misconduct. In considering a Severe Reprimand, the

Committee noted that a majority of the factors listed in the GDS were not present and, in particular, there was no evidence of insight or remorse.

71. The Committee considered the GDS on the approach to be taken for removal from the student register. The GDS also states 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 reputation of ACCA and the accountancy profession is built upon the public being able to rely on a student being honest.
72. The Committee had regard to Section E2 of the GDS on the finding of dishonesty and the seriousness of such a finding on a professional. The Committee was satisfied that Ms Hao's conduct was fundamentally incompatible with remaining on the register. The Committee was satisfied that only removal from the register was sufficient to mark the seriousness to the profession and the public.
73. The Committee ordered Ms Hao's removal from the student register.

EFFECTIVE DATE OF ORDER

74. The Committee weighed up the balance between the Regulations providing for a period of appeal for the member and whether the interests of the public required an immediate order. The Committee was of the view that there was no evidence to suggest that an immediate order was necessary and noted that no interim order had been sought.

COSTS AND REASONS

75. ACCA applied for costs in the sum of £6,782.00. The Committee was provided with a Schedule of Costs. The Committee considered the ACCA Guidance for Cost Orders and was satisfied that the costs claimed were appropriate and reasonable but considered there should be a reduction due to the fact that the hearing took less time to complete than listed.
76. Despite being given the opportunity to do so, Ms Hao did not provide any details of her means or provide any representations about the costs requested by

ACCA. There was, therefore, no evidential basis upon which the Committee could make any reduction on this ground.

77. The Committee had in mind the principle that members against whom an allegation has been proven should pay the reasonable and proportionate cost of ACCA in bringing the case. This was because the majority of members should not be required to subsidise the minority who, through their own failings, have found themselves subject to disciplinary proceedings.
78. In light of the above, the Committee made an order for costs against Ms Hao in the sum of £6,000.00.

HH Suzan Mathews KC
Chair
3 April 2025