

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Yun Ke Xiao
Heard on:	Thursday, 06 February 2025
Location:	Remotely via Microsoft Teams
Committee:	Mr Andrew Popat CBE (Chair) Dr David Horne (Accountant) Mr Geoffrey Baines (Lay)
Legal Adviser:	Miss Judith Chrystie (Legal Adviser)
Persons present and Capacity:	Mr Mazharul Mustafa (ACCA Case Presenter) Miss Mary Okunowo (Hearings Officer)
Summary	Exclusion from membership.
Costs:	£6696.00

SERVICE OF PAPERS

1. Mr Xiao was neither present nor represented.
2. The Committee considered Service Bundle with pages numbered 1-23 in order to determine whether the Notice of the Hearing ('the Notice') dated 06 January 2025 had been served in accordance with the provisions of the Complaints and Disciplinary Regulations 2014 (as amended 2024) ('the Regulations').

3. The Committee noted the mode, the timeframe and the detailed content of the Notice and determined that the requirements of the Regulations had been satisfied. Further, the Committee recognised that ACCA had made considerable efforts to alert Mr Xiao to the disciplinary hearing date and time by both emailing and calling him using the contact details recorded on his ACCA record. The Committee had evidence that the emails had been successfully delivered.
4. The Committee was satisfied that service of the papers had been appropriately effected under the Regulations.

PROCEEDING IN ABSENCE

5. The Committee considered whether it should proceed in Mr Xiao's absence and recognised that it could only do so with the utmost care and caution.
6. The Committee identified that at no point had Mr Xiao fully engaged with ACCA's communications. ACCA had emailed Mr Xiao on numerous occasions and had not received a response. The Notice had been emailed to Mr Xiao on 06 January 2025 and follow up emails sent on 28 January, 30 January, and 03 February 2025. In addition, ACCA had attempted to call Mr Xiao to discuss the hearing on 03 and 05 February 2025. On each occasion, the call rang out, an automated voice message said, '*The number you have dialled is busy. Please try again later*' and there was no opportunity to leave a voicemail message.
7. The Committee noted that Mr Xiao's conduct regarding the communication about the hearing date appeared to follow a similar pattern to his lack of responsiveness to ACCA's communication in earlier stages of the process. Within its bundles, the Committee noted that ACCA had emailed Mr Xiao on several occasions and had received no reply and that they had attempted to call Mr Xiao on:
 - a. 19 April 2024 - when the number rang out, connected to a message and, again, there was not an opportunity to leave a voicemail message;
 - b. Twice on 05 September 2024 - when the first call was not answered and no opportunity to leave a voicemail was available, but the second call

connected, and male individual answered. This individual was likely to be Mr Xiao: he confirmed the ACCA ID, his email address and appeared to advise that he would complete the outstanding case management forms. The forms were never returned.

8. The Committee was satisfied that the correspondence from ACCA was being delivered to the email address on the member's record but that Mr Xiao had chosen not to respond. The Committee noted that Mr Xiao had not made a request for an adjournment. It considered that there would be no purpose in adjourning the hearing as, given his previous lack of engagement, it was highly unlikely that Mr Xiao would choose to attend should there be a hearing at a later date. The Committee was satisfied that Mr Xiao had ample opportunity to engage with ACCA's investigative and disciplinary processes and to attend today's hearing remotely and had made an active decision not to do so.
9. 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, Mr Xiao would have been practising accountancy as an ACCA member having attained membership without proper experience; he would be unqualified and holding ACCA membership on a false basis. The Committee considered that there was a potential for a public safety concern, which needed to be resolved and the matter should not be further delayed.
10. In all the circumstances, the Committee determined that it was fair and just to proceed in Mr Xiao's absence in accordance with its discretionary power at regulation 10(7) of the Regulations and that a fair hearing could take place in his absence.

ALLEGATIONS

11. The Committee's papers were as follows:
 - a. Disciplinary Committee Report and Bundle with page numbers 1-238
 - b. Separate Bundle with page numbers 1-33
 - c. Additional Bundle with page numbers 1-15

12. The Committee considered the allegations set out below.

Mr Yun Ke Xiao ('Mr Xiao'), at all material times an ACCA trainee,

1. Whether by himself or through a third party applied for membership to ACCA on or about 20 November 2021 and in doing so purported to confirm in relation to his ACCA Practical Experience training record 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 4: Governance, risk and control
 - Performance Objective 5: Leadership and management
 - Performance Objective 7: Prepare external financial reports
 - Performance Objective 8: Analyse and interpret financial reports
 - Performance Objective 14: Monitor performance
 - Performance Objective 18: Prepare for and plan the audit and assurance process
2. Mr Xiao's conduct in respect of the matters described in Allegation 1 above was: -
 - a. Dishonest in that Mr Xiao knew he had not achieved all or any of the performance objectives referred to in paragraph 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 Mr Xiao 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 he failed to respond fully or at all to any or all of ACCA's correspondence dated: -
 - a. 15 March 2024
 - b. 02 April 2024
 - c. 17 April 2024

5. By reason of his conduct, Mr Xiao 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 and Practical Experience Requirement

13. To be eligible for membership in accordance with the Chartered Certified Accountants' Membership Regulations 2014 ('Membership Regulations'), 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.

14. The Committee's papers provided evidence setting out further details of ACCA's PER. The requirement sets 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.

15. 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. Trainees should not use a precedent or template; the statement should be unique to them and their own experience. ACCA's published guidance – for example guidance from 2019 specifies:

'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.'
 - e. 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.
 - f. The PES must be a qualified accountant recognised by law in the trainee's country and/or a member of an International Federation of Accountants body who has knowledge of the trainee's work.

- g. 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.
 - h. Trainees must enter their PES's details into the 'MyExperience' recording tool and send their PES an invitation to register as their PES.
 - i. Trainees cannot submit anything to their PES until the PES is registered.
 - j. Trainees must complete 36 months experience in one or more accounting or finance-related role which is verified by their PES.
16. The Committee's bundle report stated that the guidance was available online in China in both English and Mandarin. ACCA submitted that the material was disseminated and, although the PER guides were printed in English, trainees would have completed their ACCA exams in English and would therefore have a reasonable command of the English language.
17. 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 2016 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 uploaded.

Background

18. Mr Xiao became an ACCA member on 25 November 2021 having been admitted as an affiliate on 17 July 2017.
19. Mr Xiao's Practical Experience Requirement ('PER') record stated that he was employed by a single firm, ('the Firm') in the role of accountant from 03 July 2017 to 15 October 2021 and claimed:

- a. he had 51 months of relevant practical experience (which represented the period of his employment with the Firm);
 - b. a named individual was his PES;
 - c. that the PES was an '*IFAC qualified line manager*';
 - d. that the PES's email address was [REDACTED].
20. On 20 November 2021, Mr Xiao requested that the PES approve his time, experience and all his POs. These were approved by the PES the same day.
21. In 2023, ACCA discovered that Mr Xiao 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.
22. In seeking to prove the case involving Mr Xiao, ACCA relied on evidence of:
 - a. Karen Watson, Senior Administrator in ACCA's Member Support Team whose statement dated 20 October 2022 set out the process for gaining and applying for ACCA membership; and
 - b. Linda Calder, Professional Development Manager with ACCA's Professional Development Team whose evidence was set out in witness statements dated 21 May 2024 and 08 August 2024. In her statements, Ms Calder identified that her role involves the implementation and monitoring of ACCA's PER, including managing the online recording tool for ACCA trainees.
23. Through her statements, 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 PESs 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 statements should be a description of the individual trainee's unique experience.
24. Ms Calder stated that ACCA initiated an investigation.
25. The investigation in respect of Mr Xiao identified that:

- his PES was registered with one of the three email addresses common to the cohort;
 - the particular email address used – [Private] – was shared by 72 other purported PESs;
 - the registration card provided for the PES had been pixelated so that the name on the card could not be read and the photo obliterated the face of the individual
 - the registration number of the PES with the Chinese Institute of Certified Public Accountants (CICPA) on the registration card was different to the CIPCA number given in Mr Xiao's PER record;
 - the same CIPCA registration card had been submitted by 67 other trainees;
 - none of his PO statements were first in time;
 - All nine of his PO statements were identical or significantly similar to the POs contained in the PERs of two other ACCA trainees in the cohort whose POs predate those of Mr Xiao's; and
 - as with most of the cohort, the PES approved the POs on the same day (or very soon after).
26. The Committee's bundles contained copies of Mr Xiao's PER and copies of other trainees' statements. This allowed for direct comparison. Further, ACCA had prepared tables to show that Mr Xiao'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.
27. ACCA argued that analysis of the documents demonstrated that Mr Xiao had engaged in a deliberated and planned duplication of the PO statements. ACCA submitted that there was extensive advice available online specifying that PO statements must be bespoke and written by trainees. Further, there was a declaratory notice within 'MyExperience' specifying that the PO statements needed to be original and reflect the trainee's experience. ACCA argued that it was not credible that Mr Xiao was not aware his PO statements had to be in his own words and had to describe the experience he had genuinely gained to meet the relevant POs. ACCA argued that Mr Xiao must have known that his PO statements were not written by him, he had not gained the experience

described and, therefore, had not achieved the POs as claimed – he was therefore dishonest.

28. In addition, ACCA relied on the discrepancies regarding the PES's identity and argued Mr Xiao's PES was unable to supervise him in accordance with the expectations and Membership Regulations.
29. In respect of the allegation that Mr Xiao had not cooperated with ACCA's investigation, the Committee's bundles contained communications showing that ACCA had sent a letter dated 15 March 2024 by encrypted email, with a password. The letter detailed the complaint, asked Mr Xiao to provide responses to a number of questions by 29 March 2024 and asked that receipt was acknowledged. The letter identified a member's duty to cooperate with ACCA's investigation.
30. No substantive response was received and on 02 April 2024, ACCA sent a further encrypted email to Mr Xiao and extended the deadline for answers to the questions to 16 April 2024. No response was received.
31. On 17 April 2024, a final email was sent from ACCA to Mr Xiao and the deadline extended to 01 May 2024.
32. On each occasion an encrypted email was sent, ACCA also sent an Outlook email the same day to inform Mr Xiao of the encrypted email. The email address used each time was that on ACCA's records for Mr Xiao.
33. ACCA also attempted to contact Mr Xiao by telephone on 19 April 2024. No one answered the call and there was no option to leave a voicemail message.
34. In addition to the email communications, on 18 March 2024, ACCA's China office sent a mobile message using the mobile number recorded on ACCA's database for Mr Xiao. The text message alerted Mr Xiao to the encrypted email sent by ACCA and was confirmed as being successfully delivered; no response has been received.
35. The Case Presenter submitted that ACCA had made every effort to contact Mr Xiao and to ask him to engage with his regulator - but he had not done so.

DECISION ON FACTS/ALLEGATION(S) AND REASONS

Allegation 1

36. The Committee found allegation 1 proved. This is a factual allegation.
37. Prior to the hearing, the Committee had reviewed the extensive written evidence set out in its bundles. For the reasons set out below, the Committee considered the evidence - recognising it was hearsay - credible and reliable.
38. The Committee accepted ACCA's evidence that Mr Xiao's statements in support of his POs were not 'first in time' – in other words, he was not the first individual to submit the statements in the PER record.
39. The Committee compared the copy of Mr Xiao's PER record with PO statements supplied by ACCA from several other trainees in the cohort. The Committee accepted that the PO statements in Mr Xiao's PER record were identical or strikingly similar to the statements in other trainees' records. It was clear to the Committee that Mr Xiao had not provided bespoke PO statements, as would be expected if the statements reflected Mr Xiao's own experience in gaining the professional knowledge and values, ethics and behaviours expected by ACCA for membership.
40. The Committee determined that the statements contained in Mr Xiao's PER record were copied either by the member or someone on his behalf. As a consequence, the Committee was satisfied that the PER record did not, and could not, genuinely represent Mr Xiao's individual practical experience or achievement of the POs.

Allegation 2

41. 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] UKSC 67 to determine whether Mr Xiao was dishonest.
42. The Committee first sought to ascertain the actual state of Mr Xiao'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 Mr Xiao must have known that the text of each of the nine PO statements was not original drafting and did not relate to experience that he had genuinely gained.

43. The Committee considered it was plain that the ordinary, decent person would regard Mr Xiao's conduct as dishonest: he deliberately submitted an untrue formal training record to his regulator for the purposes of gaining membership.
44. Having found allegation 2(a) proved, the Committee did not go on to consider allegations 2(b), which was pleaded in the alternative.

Allegation 3

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

Allegation 4

46. The Committee found allegation 4 proved.
47. Given the delivery receipts, the phone calls and ACCA's efforts to communicate with Mr Xiao using the contact details he had supplied on his ACCA record, the Committee was satisfied that it was more likely than not that the emails from ACCA were received and came to Mr Xiao's attention. Save for one brief and inconsequential conversation on 05 September 2024, Mr Xiao had not engaged in any communication with ACCA, and he had not responded to ACCA's emails or requests for information at any point.
48. The Committee considered that in order to satisfy the duty to cooperate as required by the Regulations, Mr Xiao would have had to engage with ACCA regarding their investigation. He failed to engage at all. The Committee found that Mr Xiao has not ever cooperated and was in clear breach of his duty under the Regulations.

Allegation 5

49. The Committee found allegation 5 proved.
50. The Committee judged that collectively and separately the allegations it had found proved amounted to a significant falling short of the standards expected of a member of the accountancy profession. The Committee regarded Mr Xiao's actions and omissions as being deplorable and discreditable in nature. Mr Xiao has been deliberately dishonest in the way he had secured ACCA membership and had then not engaged or cooperated with his membership duties in plain disregard for ACCA as the regulator. Further, he had failed to engage with his regulator's fundamental concerns.
51. The Committee considered Mr Xiao's conduct clearly brought the profession into disrepute and his actions constituted serious misconduct.

SANCTION AND REASONS

52. The Committee had regard to the Guidance for Disciplinary Sanctions ('the Guidance').
53. The Committee was advised that Mr Xiao had no previous disciplinary history. It considered that this was the only point of mitigation and that it had limited weight given the serious nature of the misconduct and the significant aggravating features in the case.
54. In this regard, the Committee had no evidence that Mr Xiao had any insight or remorse. He has engaged in a deliberate and planned course of dishonest conduct for personal gain. By gaining ACCA membership by fraudulent means and without the requisite practical experience, Mr Xiao exposed the public to harm and damaged the reputation of the profession and its regulation. Further, Mr Xiao failed to cooperate with his regulator for a long period, which in the Committee's view demonstrated a heightened disregard for the investigation and disciplinary process.
55. The Committee considered that it would be wholly insufficient to impose no order or to conclude the 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 the matter. By falsifying the record of his practical training experience, Mr Xiao bypassed the eligibility requirements set out in the membership process; he gained membership without the necessary experience. In other words, there was no evidence that he should be a member of ACCA – his dishonesty related to multiple PO statements; there was wholesale falsification of his experience.

56. In addition, 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 Mr Xiao's deliberate and dishonest intentions, nor would they be sufficient to reflect the potential for harm or damage to public confidence. Further, Mr Xiao demonstrated no insight, remorse or understanding of his conduct. He deceived ACCA by submitting a false record and then failed to engage with his regulator. His misconduct was premeditated and deliberate. He intended to gain personal benefit through his dishonesty. The Committee concluded that the behaviour was fundamentally incompatible with being an accountant and remaining a member of ACCA.
57. The Committee, therefore, ordered that Mr Xiao should be excluded from membership. It considered, but does not order, any extension of the timeframe before Mr Xiao can apply for readmission - recognising that any application will be considered by the Admissions and Licensing Committee and that Mr Xiao will be expected to demonstrate, among other matters, that he has remediated his dishonest conduct and had the necessary genuine experience to meet the requirements of the Membership Regulations.

EFFECTIVE DATE OF ORDER

58. The Committee determined that it was in the interest of the public for Mr Xiao to be excluded from membership with immediate effect.
59. The Committee had found Mr Xiao gained ACCA membership with false information. He was not entitled to be an ACCA member; he had not demonstrated he had the necessary genuine experience to achieve the requisite POs. The Committee considered that unless Mr Xiao was prevented

from relying on his ACCA membership with immediate effect, members of the public and businesses could be placed at risk.

INTERIM ORDER

60. Given the Committee's order that Mr Xiao should be excluded with immediate effect, it determined that the Interim Order imposed on 05 September 2024 should be rescinded. This was no longer needed to protect the public having been superseded by the exclusion taking place with immediate effect.

COSTS AND REASONS

61. The Committee had regard to the Guidance for Cost Orders.
62. ACCA claimed costs in the sum of £7036.00 set out in a schedule of costs. The Committee considered that the sum was reasonable and had been reasonably incurred save for a small reduction of £340 to reflect the fact that both the Case Presenter and the Hearing Officer would spend less time in the hearing than estimated.
63. The Committee found no basis on which it should disapply 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. Mr Xiao had been found guilty of misconduct which the Committee had found to be a significant departure from the standards expected of members of the accountancy profession.
64. The Committee recognised that it should take into account the financial means of a member to pay costs. However, Mr Xiao had chosen not to supply any evidence regarding his financial circumstances. The Committee was therefore unable to determine whether any reduction for costs should be made to reflect Mr Xiao's ability to pay an order for costs awarded to ACCA.
65. With no documentary evidence being received about the member's financial circumstances, and recognising the guidance set out in ACCA's guidance as to costs, the Committee inferred that the member was able to meet the costs as assessed by the Committee.

66. 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 Mr Xiao pay ACCA's costs in the sum of £6696.00.

Andrew Popat CBE
Chair
06 February 2025