

## HEARING

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

**In the matter of:** Miss Zexi Xian

**Heard on:** Friday 28 February 2025

**Location:** Remotely via MS Teams

**Committee:** Mr Maurice Cohen (Chair)  
Mr Abdul Samad (Accountant)  
Ms Diane Meikle (Lay)

**Legal Adviser:** Mr Alastair McFarlane

**Persons present  
and capacity:** Ms Emily Mitchell (Case presenter on behalf of ACCA)  
Miss Sofia Tumburi (Hearings Officer)

**Summary:** Exclusion from membership with immediate effect and  
costs awarded of £6,000.00

1. ACCA was represented by Ms Mitchell. Miss Xian did not attend and was not represented. The Committee had before it a Bundle of papers, numbered pages 1 – 243, a Separate Bundle, numbered pages 1-75, an Additional Bundle, numbered pages 1-8, and a Service Bundle numbered pages 1-22.

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## **SERVICE**

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

## **PROCEEDING IN ABSENCE**

3. The Committee noted the submissions of Ms Mitchell and accepted the advice of the Legal Adviser.
4. The Committee reminded itself that the discretion to proceed in absence must be exercised with the utmost care and caution. The Committee noted that following the service of the Notice of Hearing on 31 January 2025, the Hearings Officer then sent a chasing email on 07 February 2025 asking Miss Xian to confirm her attendance. Miss Xian responded by an email dated 08 February 2025, where she stated:

*“Dear Miss Tumburi,*

*I confirm that I am content for the Disciplinary Committee to proceed in my absence.*

*Thank you! Sorry for the delayed response.*

*Zexi Xian”*

5. The Hearings Officer acknowledged Miss Xian’s response with an email on 10 February 2025 and wrote again to Miss Xian on 27 February 2025 sending her the hearing link in case she should change your mind about attendance.
6. The Committee was mindful of the observations of Sir Brian Leveson in *Adeogba v. General Medical Council* [2016] EWCA Civ 162 as to the burden on all professionals subject to a regulatory regime to engage with the regulator both in relation to the investigation and the ultimate resolution of allegations made against them. The Committee specifically considered the issue of fairness to Miss Xian of proceeding in her absence, but also fairness to the ACCA and the

wider public interest in the expeditious discharge of the Committee's function. The Committee was satisfied that Miss Xian had voluntarily waived her right to attend the hearing. The Committee was not persuaded that any adjournment was likely to secure her attendance at a future date. The allegations were serious, involving dishonesty and, if proven, a risk to the public.

7. The Committee was satisfied that Miss Xian has been given every opportunity to engage and participate in the proceedings and has decided not to do so. Accordingly, in all the circumstances the Committee was satisfied that it was in the public interest to proceed in the absence of Miss Xian.

## **ALLEGATIONS**

Miss Zexi Xian ('Miss Xian'), at all material times an ACCA trainee:

1. Whether by herself or through a third party applied for membership to ACCA on or about 08 August 2022 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 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 13: Plan and control performance
2. Miss Xian's conduct in respect of the matters described in Allegation 1 above was:
  - a. Dishonest in that Miss Xian 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 Miss Xian 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 or at all to any or all of ACCA's correspondence dated:
  - a. 28 March 2024
  - b. 16 April 2024
  - c. 01 May 2024
5. By reason of her conduct, Miss Xian 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).

## **BACKGROUND**

8. Miss Xian became an ACCA affiliate on 15 April 2019 and an ACCA member on 11 August 2022.
9. Upon an ACCA student completing all their ACCA exams, they become an ACCA affiliate. 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.
10. A person undertaking practical experience is often referred to as an ACCA trainee being the term used to describe Miss Xian's status in the allegations, the

report and the supporting evidence bundle.

11. An ACCA trainee's practical experience is recorded in that trainee's Practical Experience Requirement training record (PER), which is completed using an online tool called 'MyExperience' which is accessed via the student's MyACCA portal.
12. As part of their practical experience, each trainee is required to complete nine performance objectives ("POs") under the supervision of a qualified accountant. An accountant is recognised by ACCA as a qualified accountant if they are a qualified accountant recognised by law in the trainee's country and or a member of an IFAC body (International Federation of Accountants). Once a trainee believes they have completed a PO, they are required to provide a statement in their PER training record describing the experience they have gained in order to meet the objective. Given this is a description of their own experience, the statement should be unique to them. Through the online tool, the trainee then requests that their practical experience supervisor approves that PO.
13. In addition to approval of their POs, the trainee must ensure their employment where they have gained relevant practical experience (being a minimum of 36 months) has been confirmed by the trainee's line manager who is usually also the trainee's qualified supervisor. This means the same person can and often does approve both the trainee's time and achievement of POs. If the trainee's line manager is not qualified, 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.
14. 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 approved, the trainee is eligible to apply for membership - assuming they have also passed all their ACCA exams and successfully completed ACCA's Ethics module.
15. During 2023 it came to the attention of ACCA's Professional Development Team that the practical experience supervisors registered to 91 ACCA trainees, shared one of three email addresses despite the names of such supervisors being

different. It would not be expected for a supervisor to share an email address with any other supervisor or person. The three email addresses were as follows:

- [PRIVATE]
- [PRIVATE]
- [PRIVATE]

16. Further analysis of this cohort of 91 trainees confirmed the following:

- Most of these trainees were registered with ACCA as resident in China.
- Although each statement supporting a PO should be a description of a trainee's experience and therefore unique, many of such statements within this cohort of 91 trainees were the same. These ACCA trainees had therefore copied their PO statements from others.
- Of these 91 trainees, the earliest date a supervisor with one of these three email addresses is recorded as approving a trainee's PER training record was August 2021 with the latest date being March 2023.

17. Consequently, all 91 trainees were referred to ACCA's Investigations Team. Miss Xian is one such trainee.

18. ACCA's primary case against Miss Xian is that she knew she had not achieved all or any of the performance objectives referred to in Allegation 1 as described in the corresponding performance objective statements.

## **ACCA'S SUBMISSIONS**

### **ALLEGATION 1**

19. ACCA relied on the following:

- Karen Watson's (Senior Administrator in ACCA's Member Support Team) statement explaining ACCA's membership application process. She states that once an application is received, this is recorded in ACCA's PROD database by an automated process. Ms Watson exhibits to her statement

the corresponding record for Miss Xian showing that her application was made on 16 June 2022. However, ACCA emailed Miss Xian on 17 June 2022 to advise her that none of her POs had been completed and that no work experience had been recorded. On 08 August 2022 Miss Xian emailed ACCA saying that she had completed the required fields and intended to apply for membership. Therefore, for the purposes of Allegation 1, the date of her completed application has been taken as 08 August 2022. Miss Xian's application was processed, and she was granted membership on 11 August 2022.

- Linda Calder's (Manager of ACCA's Professional Development Team) statement which describes ACCA's Practical Experience Requirements. She details that although not compulsory at the time, most of these supervisors also went on to upload what they claimed was their Chinese Institute of Certified Public Accountants (CICPA) membership registration card. However, despite these supervisors providing different membership numbers when registering, the vast majority uploaded the same registration card with membership number [PRIVATE]. However, this membership number did not match with any of the CICPA membership numbers provided by the supervisors. Furthermore, the name recorded in this CICPA membership registration card is pixelated and therefore unidentifiable as is the photo. Attached to Ms Calder's statement is a copy of this registration card.
- Miss Xian's completed PER training record which was completed on 07 August 2022 which resulted in Miss Xian applying for membership on 08 August 2022. Her PER was then accepted and she was admitted to membership on 11 August 2022.
- Miss Xian's Supervisor details which record that Person A was her 'IFAC qualified line manager', and therefore her practical experience supervisor.
- Miss Xian's PER training record which records that Person A approved Miss Xian's time/ experience of 36 months.

- Miss Xian's PER training record which records that Person A approved all Miss Xian's POs.
- That eight of Miss Xian's PO statements are the same as many other trainees, suggesting at the very least, she had not achieved the objectives in the way claimed or possibly at all. Examples are provided in the documents.

### **ALLEGATION 2(A) - DISHONESTY**

20. ACCA's primary case was that Miss Xian was dishonest when she submitted her Practical Experience Training Record to ACCA because Miss Xian sought to confirm she had achieved eight of her POs when she knew she had not. The extensive advice available online as to how an ACCA trainee must complete their PER makes it clear that the statements supporting their POs have to be written by trainees in their own words and as such must be unique. ACCA contended that it is not credible that Miss Xian was unaware that her PO statements had to be in her own words and describe the experience she had actually gained to meet the relevant Performance Objective. In applying for ACCA membership, it is submitted that Miss Xian claimed to have achieved the POs with the use of supporting statements which she must have known had not been written by her. Miss Xian therefore knew she had not achieved the POs as described in these statements or at all. ACCA therefore submitted this conduct would be regarded as dishonest by the standards of ordinary decent people.

### **ALLEGATION 2(B) – INTEGRITY**

21. In the alternative, ACCA submitted that if the conduct of Miss Xian is not found to be dishonest, the conduct demonstrates a failure to act with integrity.

### **ALLEGATION 3 – RECKLESSNESS**

22. ACCA submitted in the further alternative that Miss Xian's conduct was reckless in the ordinary sense of the word in that she paid no or insufficient regard to the fact that her PO statements should truthfully and accurately set out how the relevant objective had been met. Miss Xian in not having any or sufficient regard to the matters referred to above must have appreciated the risk (which it was



unreasonable in the circumstances for her to take) that she had not completed the practical experience element of her training correctly and was therefore ineligible for membership.

#### **ALLEGATION 4 – FAILURE TO CO-OPERATE**

23. ACCA submitted Miss Xian had a duty to cooperate under the Complaints and Disciplinary Regulations 2014 and by not responding to the correspondence had breached this duty.

#### **ALLEGATION 5 – MISCONDUCT/ LIABILITY TO DISCIPLINARY ACTION**

24. ACCA submitted that Miss Xian's conduct whether dishonest or lacking integrity or reckless and her failure to cooperate was sufficiently serious to reach the threshold for misconduct. The alternative for failing to co-operate only was liability to disciplinary action.

#### **MISS XIAN'S SUBMISSIONS**

25. There were no submissions from Miss Xian.

#### **DECISION ON ALLEGATIONS AND REASONS**

26. The Committee accepted the advice of the Legal Adviser. The standard of proof to be applied throughout was the ordinary civil standard of proof, namely the balance of probabilities. It reminded itself of Collins J's observations in *Lawrance v. GMC* [2015] EWHC 586 (Admin) to the effect that in cases of dishonesty, cogent evidence was required to reach the civil standard of proof.
27. The Committee heard that there had been no previous findings against Miss Xian and accepted that it was relevant to put her good character into the balance in her favour.

#### **DECISION ON FACTS**

28. The Committee accepted the advice of the Legal Adviser. It noted the submissions of Ms Mitchell for ACCA. It reminded itself that the burden of proof

was on ACCA alone and that Miss Xian's absence added nothing to ACCA's case.

### **ALLEGATION 1**

Whether by herself or through a third party applied for membership to ACCA on or about 08 August 2022 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 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 13: Plan and control performance

29. The Committee was satisfied on the balance of probabilities that this was established by ACCA's documentary evidence. Accordingly, Allegation 1 was proved.

### **ALLEGATION 2**

Miss Xian's conduct in respect of the matters described in Allegation 1 above was:

- a. Dishonest in that Miss Xian 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.
30. The Committee next asked itself whether the proven conduct in Allegation 1 was dishonest.

31. In accordance with the case of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords* [2017] UKSC67 the Committee first considered what Miss Xian's belief was, as to the facts.
32. The Committee examined the PO statements submitted by Miss Xian and was satisfied that they were identical or significantly similar to those submitted by other trainees in the cohort and as none of them was the first in time and therefore concluded that they must have been copied.
33. The Committee was assisted by documentation that was contemporaneous in determining whether this was a genuine and proper submission of Miss Xian's experience. There was one purported supervisor (Person A). The entry for them records that they registered as her IFAC qualified line manager on 07 August 2022. Their purported email address is one of the three used in relation to the cohort of 91 cases. Miss Xian requested that Person A approve her time/experience of 36 months on 07 August 2022 and Person A did so on the same date. On 07 August 2022, Miss Xian requested that Person A approve all her nine POs and Person A did so on the same day.
34. The Committee accepted that there was manifold guidance as to the PER system published and online, and the Committee had little doubt that Miss Xian would have been aware of those requirements. The Committee accepted that ACCA's Guidance as to its requirements was widely available and that there was also extensive advice available in both English and [Private] as to the requirements. This makes it clear the statements supporting their POs have to be written by trainees in their own words and as such must be unique.
35. The Committee had regard to the PO statements Miss Xian submitted and accepted that eight of them (those listed in Allegation 1) were identical or significantly similar to those of other trainees. None of the eight of Miss Xian's PO statements were the first in time. Given this, it considered it far more likely than not that the PO statements were not unique to her and she would have known that.
36. The Committee was satisfied that it is not credible that Miss Xian was unaware her PO statements had to be in her own words and describe the experience she had actually gained to meet the relevant Performance Objective. This was

a case of blatant plagiarism. It found that Miss Xian knew that the PO statements were not her own work as she had not written them and therefore that she had not achieved the POs, as described in these statements.

37. The Committee in the circumstances inferred that the more likely scenario was that Miss Xian was taking a short cut to membership. In the circumstances the Committee was satisfied that Miss Xian knew that it was untrue to purport to confirm that she had achieved the POs in the manner recorded. The Committee rejected any other basis such as mistake or carelessness or recklessness as not credible. Applying the second limb of *Ivey v Genting Casinos (UK) Ltd T/A Crockfords*, the Committee was satisfied that this conduct was dishonest according to the standards of ordinary decent people. Accordingly, it was satisfied that Allegation 2a) was proved.
- b. In the alternative, any or all of the conduct referred to in Allegation 1 above demonstrates a failure to act with Integrity.
38. Given the Committee's findings in relation to Allegation 2a) it did not consider the alternative of Allegation 2b).

### **ALLEGATION 3**

In the further alternative to Allegations 2a) and 2b) above, such conduct was reckless in that Miss Xian 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.

39. Given the Committee's findings in relation to Allegation 2a) it did not consider the alternative of Allegation 3.

### **ALLEGATION 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 or at all to any or all of ACCA's correspondence dated:

- a. 28 March 2024

- b. 16 April 2024
- c. 01 May 2024

40. The Committee was satisfied that under Regulation 3(1) of the Complaints and Disciplinary Regulations 2014, there was an obligation on Miss Xian to cooperate fully with ACCA in the investigation of any complaint. It was satisfied on the documentation provided that these emails were delivered. It considered that valiant attempts were made by ACCA to contact Miss Xian. However, Miss Xian made no response to ACCA's correspondence requesting her cooperation on 28 March 2024, 16 April 2024 and 01 May 2024. It was satisfied that Miss Xian had a duty to respond and that her lack of response amounted to a breach of the duty on her and was therefore a failure. Accordingly, Allegation 4 was proved.

### **ALLEGATION 5**

By reason of her conduct, Miss Xian 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).

41. The Committee next asked itself whether by submitting a fraudulent PER Training Record, Miss Xian was guilty of misconduct.

42. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. To dishonestly gain membership, was, in the Committee's judgment, deplorable conduct. It was satisfied that Miss Xian's actions brought discredit on herself, ACCA and the accountancy profession. It was satisfied that her conduct undermined one of the fundamental tenets of the profession – to be honest and not associate oneself with a false submission. Her conduct enabled Miss Xian to secure membership when she was not entitled to it and her conduct undermined the reputation of the profession. Therefore, the Committee was satisfied that Miss Xian's conduct had reached the threshold for misconduct.

43. Further, the Committee was satisfied that Miss Xian's duty to cooperate with her regulator is an important one, both to enable the regulator to properly and fairly discharge its regulatory function and to uphold public confidence in the regulatory system. The Committee had regard to the definition of misconduct in Bye-law 8(c) and the assistance provided by the case law on misconduct. It was satisfied that Miss Xian's actions brought discredit on her, the Association and the accountancy profession. For these reasons the Committee was satisfied that Miss Xian's failure to cooperate was sufficiently serious to amount to misconduct.
44. Given the Committee's judgment that the failure to cooperate amounted to misconduct the Committee did not need to consider the alternative of liability to disciplinary action.

#### **SANCTIONS AND REASONS**

45. The Committee noted its powers on sanction were those set out in Regulation 13(1) of the Complaints and Disciplinary Regulations 2014. It had regard to ACCA's Guidance for Disciplinary Sanctions and bore in mind that sanctions are not designed to be punitive and that any sanction must be proportionate. It took account of Ms Mitchell's submissions.
46. The Committee accepted the advice of the Legal Adviser.
47. The Committee had specific regard to the public interest and the necessity to declare and uphold proper standards of conduct and behaviour. The dishonest behaviour was serious. Trust and honesty are fundamental requirements of any professional. Dishonesty by a member of the accountancy profession undermines its reputation and public confidence in it.
48. The aggravating factors the Committee identified were:
  - The behaviour involved dishonesty which was pre-planned and designed to deceive her regulator for personal benefit.
  - Professional membership was fraudulently obtained with a potential risk of harm to the public.

- The serious impact on the reputation of the profession.
  - No evidence of insight shown into the impact on the profession and public of such conduct.
  - No evidence of any remorse.
49. The only mitigating factor the Committee identified was:
- A previous good character with no disciplinary record.
50. Given the Committee's view of the seriousness of the misconduct, it was satisfied that the sanctions of No Further Action, Admonishment, Reprimand and Severe Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the Guidance were not present. It also considered the factors listed at C5 of the Guidance that may justify exclusion. The Committee noted that among other factors, dishonesty and an abuse of trust were present here. Any sanction which would allow a dishonest member who had achieved membership fraudulently to remain a member would fail to protect the public. Miss Xian had in addition failed to co-operate with her regulator, which was a fundamental obligation on any professional.
51. The Committee reminded itself that it was dealing with a case of dishonesty. It had specific regard to Section E2 of the Guidance in relation to dishonesty and was mindful of the case law to the effect that dishonesty lies at the top of the spectrum of misconduct. The Committee was satisfied that her dishonest behaviour was fundamentally incompatible with Miss Xian remaining on the register of ACCA and considered that the only appropriate and proportionate sanction was that she be excluded from membership.

## **COSTS AND REASONS**

52. ACCA claimed costs of £6,660.50 and provided a detailed schedule of costs. The Committee noted that Miss Xian has not provided any statement of means. The Committee decided that it was appropriate to award costs to ACCA in this case and considered that the sum claimed by them was a reasonable one in relation to the work undertaken but made a reduction as the hearing lasted less time than anticipated. Accordingly, the Committee concluded that the sum of £6,000 was appropriate and proportionate. It ordered that Miss Xian pay ACCA's costs in the amount of £6,000.

#### **EFFECTIVE DATE OF ORDER**

53. The Committee was satisfied that, given the seriousness of the conduct and the potential risk to the public and profession, an immediate order was in the interests of the public in the circumstances of this case.

**Mr Maurice Cohen**  
**Chair**  
**28 February 2025**