

## HEARING

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

**In the matter of:** Miss Jingjing Cheng

**Heard on:** Wednesday, 15 January 2025

**Location:** Remotely via Microsoft Teams

**Committee:** Mr David Tyme (Chair)  
Ms Nimra Syeda (Accountant)  
Mr Colin Childs (Lay)

**Legal Adviser:** Ms Giovanna Palmiero

**Persons present  
and capacity:** Mr Richard Ive (ACCA Case Presenter)  
Miss Sofia Tumburi (Hearings Officer)

**Summary** Exclusion from membership with immediate effect

**Costs:** £6,609.50

**INTRODUCTION**

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Ms Jingjing Cheng (Ms Cheng).

ACCA



+44 (0)20 7059 5000

info@accaglobal.com

[www.accaglobal.com](http://www.accaglobal.com)

The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

2. Mr Richard Ive (Mr Ive) presented the case on behalf of the ACCA.
3. Ms Cheng 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 Certificate 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 1-240;
  - (ii) An Additional Bundle with pages numbered 1-11;
  - (ii) A Separate Bundle with pages numbered 1-91;
  - (vi) A Service Bundle numbered with pages numbered 1-25.
8. Cost Schedules were provided to the Committee at the sanction stage.

## **PRELIMINARY APPLICATIONS**

### **SERVICE OF PAPERS**

9. The Committee was informed that Ms Cheng had been served with a notice of today's hearing, together with the necessary papers via electronic mail on 17 December 2024.
10. The Committee was satisfied that notice had been sent to Ms Cheng'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 Cheng has been given 28 days' notice with the necessary information required in accordance with Regulation 10.

11. The Committee decided that Ms Cheng had been properly served with Notice of Proceedings.

### **PROCEEDING IN ABSENCE**

12. The Committee was informed that the ACCA Hearings Officer (HO) had attempted to contact Ms Cheng by telephone, on the telephone number registered with the ACCA, on 02 January 2025 to confirm her attendance at the hearing. Ms Cheng did not answer the call and there was no opportunity to leave a message. An email was sent by the HO to confirm the attempted contact.
13. On 09 January 2025 and 14 January 2025, the HO attempted to call Ms Cheng again on the same telephone number. Again, these calls were not answered and no facility to leave a message. This was followed up by emails confirming attempted contact on the same date.
14. The Committee considered that ACCA had taken reasonable steps to encourage Ms Cheng to attend the hearing. 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 Cheng 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 Cheng was aware of today's hearing, had voluntarily absented herself from the hearing and had disengaged with the process.
15. 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 derived by adjourning the

hearing and in any event no such application was made by Ms Cheng who had failed to engage with the process.

### **APPLICATION TO AMEND ALLEGATIONS**

16. Before the hearing commenced the Committee raised an issue with the Allegations. In Allegation 1 of the Allegations there was reference to “his” rather than “her”.
17. Mr Ive made an application under the Rule 10(5) of the Regulations to amend the typographical error.
18. The Committee was advised by the Legal Advisor that this is a minor amendment which did not prejudice the member and did not change the nature of the allegations.
19. The Committee agreed to the amendment of the word “his” to be replaced with “her”.

### **ALLEGATIONS (AS AMENDED)**

20. Jingjing Cheng ('Ms Cheng'), 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 November 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 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 13: Plan and control performance

2. Ms Cheng's conduct in respect of the matters described in Allegation 1 above was:
  - a) Dishonest in that Ms Cheng 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 Ms Cheng 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) 15 April 2024
  - b) 30 April 2024
  - c) 15 May 2024
5. By reason of her conduct, Ms Cheng is:
  - a) Guilty of misconduct pursuant to ACCA bye-law 8(a)(i) in respect of any 4 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**

21. 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.

22. A person undertaking practical experience is often referred to as an ACCA trainee being the term used to describe Ms Cheng’s status in the allegations, the report and the supporting evidence bundle.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.

28. 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.
29. 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.
30. Consequently, all 91 trainees were referred to ACCA's Investigations Team. Ms Cheng is one such trainee.

## **ACCA SUBMISSIONS**

### **FACTS OF THE CASE – ALLEGATION 1**

31. Karen Watson, Senior Administrator in ACCA's Member Support Team, has provided a 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.
32. Ms Watson exhibits to her statement a sample record. The corresponding record for Ms Cheng is on file and records her application was received on 16

November 2022. Ms Cheng was admitted to membership on 24 November 2022

33. Linda Calder provides an overview of the PER process in her statement as follows:

- POs and ACCA's exams are closely linked so that the knowledge and techniques the trainee develops through their studies, are relevant in their workplace. The tasks and activities a trainee will be asked to demonstrate in the POs are also closely related to the type of work they will undertake on a regular basis in an accounting or finance role.
- Each PO comprises 3 parts; (i) a summary of what the PO relates to; (ii) 5 elements outlining the tasks and behaviours a trainee must demonstrate to be able to achieve the PO; and (iii) a 200- to 500-word concise personal statement in which a trainee must summarise how they achieved the PO.
- In total a trainee is required to complete nine POs. The POs numbered 1 to 5 are compulsory. There are then a number of option 'Technical' POs from which the trainee needs to choose 4. ACCA recommends to trainees that they choose the technical POs that best align to their role so that it is easier to achieve the PO. In that regard the ACCA's requirements as published in the 2019 guide, and subsequently, explain the following:

*'The performance objectives you choose should be agreed with your practical experience supervisor. You should consider the following points when selecting which performance objectives to target...*

... ..

*Match any business objectives you have been set at work with the performance objectives. This will allow you to work towards your business objectives and your PER at the same time.'*

- In their personal statement for each PO, a trainee needs to provide a summary of the practical experience they gained. They must explain what



they did, giving an example of a task. They must describe the skills they gained which helped them achieve the PO and they must reflect on what they have learned including what went well or what they would have done differently.

- A trainee's personal statement for each PO must be their own personal statement that is unique to them and their own experience. This has been consistently referred to in ACCA's published guides which Ms Calder exhibits to her statement. Trainees must not therefore use a precedent or template or another trainee's personal statement, which would undermine the PER training record element of the ACCA qualification. The 2019 published guide concludes:

*'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.'*

- ACCA's PER guides are available online in China. Although the Guides are printed in English, all Chinese trainees will have taken their exams in English and therefore it would follow that they have a reasonable command of the English language.
- A practical experience supervisor means a qualified accountant who has worked closely with the trainee and who knows the trainee's work. 'Qualified accountant' means a member of an IFAC (International Federation of Accountants) member body and or a body recognised by law in the trainee's country.
- A practical experience supervisor is usually the trainee's line manager. However, where the trainee's manager is not IFAC qualified, the trainee can appoint an external supervisor who is. In that regard, ACCA's PER guide as exhibited to Linda Calder's statement states:

*'If ... .. your organisation does not employ a professionally qualified accountant who can sign-off your performance objectives then you could ask an external accountant or auditor who knows your work, to be your*

*practical experience supervisor and work with your line manager to sign off your objectives.'*

- Trainees must enter their practical experience supervisor's details using their ACCA MyExperience online recording tool which generates an invitation to their nominated supervisor to act as their supervisor. If the supervisor accepts that invitation, the supervisor is required to record their details using the same recording tool.
  - All practical experience supervisors have to be registered with ACCA. During the period the practical experience supervisors (most of whom claimed to be IFAC qualified line managers) approved the POs for these 91 trainees, (being between August 2021 and March 20231), the requirement was for IFAC qualified supervisors to record the name of their IFAC member body and their membership number issued by that body. Most of the IFAC qualified line managers within this cohort of 91 trainees claimed to be members of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC body, and, as required, went on to provide their membership number.
  - Although not compulsory at the time, most of these supervisors also went on to upload what they claimed was their 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. Exhibited to Ms Calder's statement is a copy of this registration card.
34. Information has been obtained from one of ACCA's China offices in China about the support given to ACCA trainees in China, as follows:
- ACCA's Customer Services Team in China email all ACCA affiliates in China inviting them to regular webinars provided by ACCA staff who can advise on the PER process.

- On page 220-222 is a list of webinars (translated using Google translate) relating to ACCA's membership application process dated from 14 December 2016 to 27 August 2022. There are a number dated in 2019 including one dated 30 May 2019. The details include reference to:

*'...Record 36 months of accounting-related work experience in myACCA, and complete 9 Performance Objectives, which will be confirmed online by your Supervisor...'*

- These are live webinars and therefore trainees can ask ACCA staff based in China any questions they may have.
- The webinar details refer to encouraging affiliates to join the ACCA WeChat group of their regional service group and provides details how to join. All the webinars listed include the same details about these WeChat groups. ('WeChat' is a social media app available globally but used extensively in China). In these WeChat groups, ACCA trainees can ask ACCA China staff questions including about the PER process.
- In addition to the WeChat groups, ACCA China uploads to its WeChat platform articles relevant to the ACCA membership process. On page 226-227 is a list of those articles (translated using Google translate). This includes an article 'How to become an ACCA Member Series 1/ Practical Experience Requirement (PER) Quick Guide', dated 15 January 2020. A copy of the article is on page 228-231 (translated using Google translate). The article refers to a mentor, which is the same as a supervisor. Under the heading 'Find a mentor' the article states in particular:

*'Your experience must be under the supervision of a mentor to count towards PER. You must find a mentor with real work experience to monitor and confirm your work hours and performance goals...'*

- Under the heading 'Determine performance goals' the article states in particular:

*'You have to choose which performance goals to accomplish, here are some points to keep in mind:*

- *You need to complete 9 performance goals, including all 5 core goals and any 4 technical goals;*
- *Work with your practical experience mentor to develop a plan to achieve performance goals;*
- *Choose technical goals that are relevant to your day-to-day work, as they are easier to achieve....'*

### **THE PRACTICAL EXPERIENCE REQUIREMENT (PER) TRAINING RECORD FOR JINGJING CHENG**

35. The copy of the PER training record for Ms Cheng records she was employed by a single firm, namely Company A. In particular, it records the following:

- Ms Cheng was employed from 02 November 2019 to 13 November 2022 in the role of 'finance'.
- At page 35 of the PER training record, in red text, 36 months of relevant practical experience has been claimed, which relates to the period of employment referred to in the paragraph immediately above.
- The Supervisor details for Ms Cheng record that Person A registered on 15 November 2022 as her 'IFAC qualified line manager'.
- The Supervisor details also record that Person A registered with one of the three common email addresses shared amongst this cohort of 91 cases.
- As Ms Cheng's IFAC qualified line manager, Person A was authorised to approve both Ms Cheng's time/ experience and all her POs and did so, as recorded in Ms Cheng's PER. In that regard, Ms Cheng requested that Person A approve her time/ experience of 36 months on 15 November 2022 and Person A did so on the same day. On 15 November 2022, Ms Cheng requested that Person A approve all her nine POs and Person A did so on the same date.

**ANALYSIS OF MS CHENG'S PO STATEMENTS AS CONTAINED IN HER PER TRAINING RECORD COMPARED WITH THOSE OF OTHER ACCA TRAINEES BEING PART OF THIS COHORT.**

36. As referred to by Linda Calder, all PO statements should be unique and must not be copied from other trainees or from templates as this undermines the PER training record element of the ACCA qualification.
37. Where PO statements are the same or significantly similar to the PO statements of any other trainees, this would suggest at the very least, the trainee has not met the objective in the way claimed or possibly at all. That further, the practical experience claimed, has not been supervised by a practical experience supervisor, who would or should have knowledge of the trainee's work.
38. In carrying out this analysis, ACCA has been careful to record the PO statement for any one PO which was first in time, on the basis this statement may be original and therefore written by the trainee based on their actual experience, unless there is evidence suggesting otherwise.
39. The 'first in time date' is the date the trainee requested that their IFAC qualified line manager approve the PO in question within their PER. This is on the basis that as soon as the PO narrative had been uploaded to the PER, the trainee would have then requested approval. In most of the cases within this cohort, the supervisor approved the POs on the same day or if not very soon thereafter.
40. In relation to Ms Cheng the analysis revealed:
  - None of her PO statements was first in time and
  - All nine of her PO statements were identical or significantly similar to the PO statements contained in the PERs of many other ACCA trainees from this cohort.
41. The analysis relating to Ms Cheng is summarised in tables provided. There is a separate evidence bundle (Separate Bundle) with just the PO statements from these other trainees:

- Ms Cheng's PO1 statement in her PER training record is identical or significantly similar to the PO1 statement in the PER training record for 5 trainees;
- Ms Cheng's PO2 statement in her PER training record is identical or significantly similar to the PO2 statement in the PER training record for 5 trainees;
- Ms Cheng's PO3 statement in her PER training record is identical or significantly similar to the PO3 statement in the PER training record for 5 trainees;
- Ms Cheng's PO4 statement in her PER training record is identical or significantly similar to the PO4 statement in the PER training record for 4 trainees;
- Ms Cheng's PO5 statement in her PER training record is identical or significantly similar to the PO5 statement in the PER training record for 5 trainees;
- Ms Cheng's PO6 statement in her PER training record is identical or significantly similar to the PO6 statement in the PER training record for 5 trainees;
- Ms Cheng's PO7 statement in her PER training record is identical or significantly similar to the PO7 statement in the PER training record for 5 trainees;
- Ms Cheng's PO9 statement in his PER training record is identical or significantly similar to the PO9 statement in the PER training record for 5 trainees;
- Ms Cheng's PO13 statement in his PER training record is identical or significantly similar to the PO13 statement in the PER training record for 5 trainees.

#### **ALLEGATION 4 – FACTS OF THE CASE**

42. Following referral of this matter to ACCA's Investigations Team, a member of that team sent an email to Ms Cheng on 15 April 2024 attached to which was a letter, and other documents, which clearly set out the complaint and requested that Ms Cheng respond to a number of questions by 29 April 2024.
43. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Ms Cheng to cooperate with the investigation by responding to the questions by the deadline.
44. This email was sent encrypted with a password.
45. Shortly after this encrypted email was sent, an Outlook email was sent to Ms Cheng on the same day asking her to check if she had received the encrypted email and if not to let ACCA know. A delivery receipt confirming the email was delivered successfully is on file.
46. An extract taken from ACCA's records for Ms Cheng on the day the above emails were sent records that the email address for Ms Cheng used for these emails was the email address on ACCA's system that day.
47. On 17 April 2024, ACCA's China office sent a mobile message to Ms Cheng. The extract from ACCA's database for Ms Cheng referred to above includes a telephone number, namely [PRIVATE]. The message sent by ACCA's China office using this mobile number, asking Ms Cheng to confirm that she had received the email from ACCA.
48. ACCA's China office has provided a spreadsheet recording when this message was sent and whether it was successfully delivered. There is an extract from that spreadsheet recording the message was sent on 17 April 2024 and was successfully delivered to Ms Cheng's mobile number that day. No response has been received from Ms Cheng following this message.
49. Given Ms Cheng did not respond by the above deadline, a further encrypted email was sent on 30 April 2024 with a copy of the letter attached to the previous email. In the covering email Ms Cheng was reminded of her obligation to cooperate by responding to the questions in the letter and to do so by 14 May 2024.

50. Shortly after this encrypted email was sent, an Outlook email was sent to Ms Cheng on the same day asking her to check if she had received the encrypted email and if not to let ACCA know. A delivery receipt confirming the email was delivered successfully is on file.
51. In relation to this first reminder, an extract taken from ACCA's records for Ms Cheng on the day the email was sent records that the email address for Ms Cheng used for these emails was the email address on ACCA's system that day.
52. No response was received to this first reminder and therefore a second and final email was sent to Ms Cheng on 15 May 2024 with a copy of the letter attached to the initial email. In the covering email Ms Cheng was again reminded of her obligation to cooperate by responding to the questions by 29 May 2024 and that if she failed to do so ACCA would raise an allegation against her of failure to cooperate.
53. Shortly after this encrypted email was sent, an Outlook email was sent to Ms Cheng on the same day asking her to check if she had received the encrypted email and if not to let ACCA know. A delivery receipt confirming the email was delivered successfully is on file.
54. In relation to this second and final reminder, an extract taken from ACCA's records for Ms Cheng on the day the above email was sent records that the email address for Ms Cheng used for these emails was the email address on ACCA's system that day.
55. ACCA's investigations officer telephoned Ms Cheng on 16 May 2024. Ms Cheng answered the call and, having correctly answered verification questions, told ACCA's investigating officer she would try to respond to ACCA's letter by the deadline, 29 May 2024. However, Ms Cheng failed to do so. The file note of this call is on file. There is an extract from ACCA's records which shows the telephone number used to make this call was the telephone number recorded in ACCA's records for Ms Cheng that day.
56. The documents disclosed to Ms Cheng in ACCA's emails referred to above, included Ms Cheng's PER training record and Supervisor details as well the



Separate Bundle – all three documents having been already referred to in this report and relied on as evidence to support Allegations 1 to 3. In addition, the following documents were attached to ACCA's emails to Ms Cheng:

- i. A bundle of documents with extracts of supervisor details for other ACCA Trainees whose supervisor's email addresses are the same as those of Ms Cheng's supervisor.
- ii. Supervisor's registration details.
- iii. CICPA registration card uploaded by Ms Cheng's Supervisor.

57. The inclusion in the evidence bundle of those documents listed above numbered i to iii are considered relevant by ACCA to the extent that these show the full nature of the complaint and the importance for Ms Cheng to have co-operated by responding to questions about the identity of her registered supervisor. Those documents listed above numbered i to iii are therefore relevant to Allegation 4 relating to Ms Cheng's failure to cooperate.

58. Allegation 1 refers to either Ms Cheng applying for membership or a third party applying for membership on Ms Cheng's behalf. Although Ms Cheng has not co-operated, many of those trainees within this cohort who have co-operated have indicated they engaged a third party to apply for membership on their behalf. It is therefore accepted that it is possible a third party applied for membership on Ms Cheng's behalf.

#### **ACCA SUBMISSION – ALLEGATION 1**

59. It is submitted that Allegation 1 is capable of proof by reference to the following:

- Linda Calder's statement which describes ACCA's Practical Experience Requirements;
- Ms Cheng's completed PER training record which was completed on or about 15 November 2022 which then permitted Ms Cheng to apply for membership which she did on 16 November 2022. Ms Cheng was granted membership on 24 November 2022.

- Ms Cheng's Supervisor details which record Person A was her 'IFAC qualified line manager', and therefore her practical experience supervisor;
- Ms Cheng's PER training record which records Person A approved Ms Cheng's time/ experience of 36 months;
- Ms Cheng's PER training record which records Person A approved all Ms Cheng's POs;
- That all nine of Ms Cheng'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.

#### **ACCA SUBMISSIONS - DISHONESTY – ALLEGATION 2(A)**

60. In *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 at para 74 since approved in *R v Barton and another* [2020] EWCA Crim 575 it was said:

*'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.'*

61. There is extensive advice online in English and in Mandarin on how an ACCA trainee must complete their PER training record. 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. This, it is submitted, would surely be obvious given the trainee's experience will be unique to them.

62. Given the extensive advice available online, it is unlikely that Ms Cheng was unaware that her POs had to be in her own words and describe the experience she had actually gained, to meet the relevant PO. In applying for ACCA membership, it is submitted Ms Cheng claimed to have achieved the POs with the use of supporting statements which she knew had not been written by her and that she had not achieved the POs as described in these statements or at all.
63. ACCA therefore submits this conduct would be regarded as dishonest by the standards of ordinary decent people, as per Allegation 2(a).

### **ACCA SUBMISSIONS – INTEGRITY – ALLEGATION 2(B)**

64. In *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ366, 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.'*

59. If the conduct of Ms Cheng is not found to be dishonest, it will be submitted, that the conduct in the alternative fails to demonstrate Integrity.

### **ACCA SUBMISSIONS – RECKLESSNESS – ALLEGATION 3**

65. It is ACCA's submission that in the further alternative Ms Cheng's conduct was reckless 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. In *R v G [2003]* Lord Bingham approved the following definition of recklessness (para 41).

*'A person acts recklessly within the meaning of section 1 of the Criminal Damage Act 1971 with respect to —*

- (i) a circumstance when he is aware of a risk that it exists or will exist;*
- (ii) a result when he is aware of a risk that it will occur;*

*And it is, in the circumstances known to him, unreasonable to take the risk.'*

66. Ms Cheng 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.

#### **ACCA SUBMISSIONS – FAILURE TO COOPERATE – ALLEGATION 4**

67. Based on the evidence above, it is submitted that, more likely than not, the above emails came to Ms Cheng's attention and, in not responding to any of these emails, she has made a conscious decision not to cooperate with ACCA's investigation. The issues raised by the complaint are serious given they relate to Ms Cheng's apparent achievement of ACCA's Practical Experience Requirement training record which formed the basis of her application for ACCA membership.
68. ACCA acts in the public interest by ensuring its student, affiliates and members uphold proper standards, thereby maintaining public confidence in the accountancy profession.

69. It is submitted the failure by Ms Cheng to cooperate with this investigation has undermined ACCA's ability to act in the public interest in that it has prevented ACCA from fully investigating the complaint.

#### **ACCA SUBMISSIONS – MISCONDUCT – ALLEGATION 5**

70. In *Roylance v. General Medical Council (No 2)* [2000] 1 AC 311, at p330, it was said in this Privy Council decision:

*'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 medical practitioner in the particular circumstances.'*

55. Bye-law 8(c) states,

*'For the purposes of bye-law 8(a), misconduct includes (but is not confined to) any act or omission which brings or is likely to bring discredit to the individual or relevant firm or to the Association or to the accountancy profession.'*

71. Ms Cheng's conduct described above is an attempt to subvert ACCA's Practical Experience Requirement process and undermines public confidence in ACCA's membership qualification process. The above conduct also brings the Association and accountancy profession into disrepute.
72. Although misconduct is a matter of judgment for a professional panel, it is ACCA's submission that misconduct is clearly made out in the event that dishonesty or a lack of integrity or recklessness are found proved.
73. Further, ACCA submits that in failing to co-operate with ACCA and reply to ACCA's correspondence, Ms Cheng has breached Complaints & Disciplinary Regulation 3(1). In the event that misconduct is not found in respect of this allegation, if the committee finds the underlying allegation proved then bye law 8(a)(iii) is automatically engaged.

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

74. The Committee considered ACCA's bundle of evidence, the written representations which were supplemented by Mr Ive orally. The Committee considered the legal advice from the Legal Adviser, which it accepted.
75. The Committee was aware that the burden of proving the facts was on ACCA. Ms Cheng did not have to prove anything, and the charges could only be found proved if the Committee was satisfied on the balance of probabilities.

### **ALLEGATION 1**

76. The issue for the Committee to determine in respect of this allegation was whether Ms Cheng, had achieved the requisite experience submitted in support of her written POs and had she or someone else copied the POs submitted by her in applying for membership. The ACCA's case was that Ms Cheng had not undertaken the experience purported and the written experience submitted in support of the PO was not true.
77. In reaching its findings of fact in respect of Allegation 1, the Committee had considered carefully, and accepted, the evidence of the following witnesses, Ms Karen Watson, a Senior Administrator in ACCA's Member Support Team and Ms Linda Calder, Manager of ACCA's Professional Development Team. The Committee had also considered the content of the documents provided by ACCA in support of its case, all of which were consistent with the written evidence of the witnesses.
78. The Committee was satisfied that the evidence of the witnesses revealed that many of the PO statements were identical or similar to the PO statements of other ACCA trainees. As stated, these 'other trainees' were part of a cohort of 91 trainees all of whom had previously been referred to ACCA's investigations team given their PO statements within this cohort were also identical or significantly the same.
79. It was also noted that Ms Cheng's PER training record was not the first in time in relation to the other 91 trainees.
80. The Committee noted that there was sufficient guidance in English and Mandarin for affiliates, on MyExperience, in understanding what was required

of them in undertaking the training and drafting the POs and that the POs had to be in their own work.

81. Due to the fact that the description of all 9 of Ms Cheng's POs are identical or substantially similar to the other 91 trainees, the Committee infers that she has not personally achieved the stated POs.
82. The Committee found that, in order to comply with the PER all of a trainee's PO statements and experience should be unique to them. It would be highly unlikely that these trainees would have gained the same experience and have used the same phrases to describe them. The only likely conclusion that can be inferred is that these trainees have shared and copied from one another or from shared templates and therefore the Committee is persuaded that she had not achieved the PO experience required in order to apply for membership.
83. The Committee was satisfied on the balance of probabilities that Ms Cheng knew that she had not achieved all or any of the POs in the manner claimed, nor that the description would match in any way her purported practical experience, if any. The Committee concluded that Ms Cheng knew that she had not achieved the performance objectives in respect of POs 1, 2, 3, 4, 5, 6, 7, 9 and 13 in the manner described in the statements.
84. Ms Cheng must have known what ACCA's training requirements were, as they were widely published and available in Mandarin and English.

#### **ALLEGATION 2(A) & (B)**

85. The Committee relied upon its findings of fact under Allegation 1 above in assisting with the determination of dishonesty.
86. 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 Cheng'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.
87. In reaching its decision in respect of this allegation, the Committee had applied the first part of the test for dishonesty. In relation to Allegation 1, the Committee

had found that Ms Cheng did not write the statements in support of her POs 1, 2, 3, 4, 5, 6, 7, 9 and 13 in her own words. She had knowingly adopted words used by others and therefore the Committee was satisfied that she knew she had not achieved all or any of the POs in the manner claimed, nor that the description would match her purported practical experience.

88. The Committee concluded that Ms Cheng therefore knew that she had not achieved the performance objectives in respect of POs 1, 2, 3, 4, 5, 6, 7, 9 and 13 in the manner described in the statements.
89. The Committee was also satisfied that, by the standards of ordinary decent people, such conduct would be viewed as being dishonest. Ms Cheng had purported to have undertaken the necessary training experience to apply for membership of a professional body and would be interpreted as trying to cheat the system.
90. The Committee therefore found Allegation 2(a), proved on the balance of probabilities.
91. On the basis that Allegations 2(b) and 3 were pleaded in the alternative to Allegation 2(a), the Committee made no finding in respect of these allegations as it was not necessary for the Committee to consider Allegations 2(b) or 3, which were alleged in the alternative.

#### **ALLEGATION 4-FAILED TO COOPERATE.**

92. The Committee considered Allegation 4, which referred to the fact that Ms Cheng had not responded to three emails requesting information, during the ACCA investigation. The emails requesting information from Ms Cheng were dated 15 April 2024, 30 April 2024 and 15 May 2024. These were sent to the email address registered with ACCA.
93. The email sent to Ms Cheng on 15 April 2024 attached a letter, and other documents, which clearly set out the complaint and requested that Ms Cheng respond to a number of questions. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Ms Cheng to cooperate with the investigation by responding to the questions by the deadline noted.



94. The other emails sent by ACCA on the 30 April 2024 and 15 May 2024, reiterated this request.
95. The Committee noted that there were delivery receipts for these emails confirming that delivery was successful.
96. The Committee concluded that Ms Cheng as an ACCA member, had a positive duty to cooperate with ACCA's investigation and on the balance of probabilities was satisfied that she had not cooperated or discharged her duty. The Committee noted that Ms Cheng answered a phone call from ACCA on the 16 May 2024 and confirmed that she would try to respond to the questions in the letter by the 29 May 2024. In any event she failed to provide a response. The Committee determined Ms Cheng failed to co-operate due to the fact she failed to respond to any of the correspondence.
97. It is for the above reasons that the Committee concluded that the Allegation 4 on the balance of probabilities, was found proved.

#### **ALLEGATION 5-MISCONDUCT LIABLE TO DISCIPLINARY**

98. In relation to Allegation 5, 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 *'the meaning of [misconduct] is of general effect, involving some act or Omission which falls short of what would be proper in the circumstances. The standard of propriety in any given case may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances.'*
99. The Committee had found that Ms Cheng's behaviour had been dishonest. Her actions were serious and fundamentally fell short of the standards required of a professional person. The Committee was satisfied that she was guilty of misconduct. Such conduct fell far below the standards expected of an accountant and member of ACCA and could properly be described as deplorable. In the Committee's judgement, it brought discredit to Ms Cheng, the Association and the accountancy profession.
100. The Committee had also found proved that Ms Cheng had not engaged with the

investigation and her regulator. If the regulator cannot conduct effective investigations into potential allegations of dishonesty or integrity of its members, then they cannot uphold the proper standards, and which directly impacts upon the reputation of the regulator as a whole.

101. In the Committee's judgement, this amounted to very serious professional misconduct. The Committee determined that failing to co-operate with the regulator's investigation seriously undermines the integrity of the regulatory framework and the standing of ACCA. It brings discredit upon the profession and ACCA. The Committee considered Ms Cheng's behaviour to be very serious and the Committee was in no doubt that it amounted to misconduct.
102. The Committee therefore found that the matters set out in Allegation 1, 2(a) and 4 amounted to misconduct, and that Ms Cheng was liable to disciplinary action through her misconduct.
103. Having found Allegation 5 (a) proved it was not necessary for the Committee to consider Allegation 5(b), which was alleged in the alternative.

## **SANCTION AND REASONS**

104. In reaching its decision on sanction, the Committee considered the oral submissions made by Mr Ive on behalf of ACCA. Mr Ive confirmed that there was no disciplinary record for Ms Cheng prior to the hearing.
105. Mr Ive made no submission as to the actual sanction but referred to the Guidance for Disciplinary Sanctions (GDS) and in particular the summary of the general principles. He commented on potential mitigating and aggravating features of the case, referring to the fact that Ms Cheng had no other known previous disciplinary findings.
106. The Committee noted its powers on sanction were those set out in Regulation 13(4). 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 accepted the advice of the Legal Adviser.

107. The Committee considered that the conduct in this case was very serious. 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. Similarly, not co-operating with your regulator was a very serious failing.

108. The Committee assessed the aggravating and Mitigating features:

Aggravating features:

- This was a premeditated act;
- Potential for harm as Ms Cheng has obtained membership by dishonesty and has been practising for approximately two years;
- Ms Cheng has not demonstrated any real understanding of the seriousness of her conduct by not engaging with the investigation process;
- No evidence of insight, remorse or reflection.

Mitigating features:

- There were no previous findings against Ms Cheng.

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

109. Given the Committee's view of the seriousness of Ms Cheng's conduct, 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 and, in particular, there was no evidence of insight or remorse.

110. The Committee had regard to Section E2 of the Guidance on Dishonesty and the seriousness of such a finding on a professional. It considered the factors listed at C5 of the Guidance for removal of Ms Cheng and was satisfied that her

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.

111. The Committee noted that the default period of exclusion is 12 months. The Committee decided not to extend this period, given the mechanisms in place at ACCA for readmission.

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

112. In light of its decision and reasons to exclude Ms Cheng and the seriousness of her misconduct, the Committee decided it was in the interests of the public to order that the sanction have immediate effect. The Committee was of the view that there was a risk to the public. If no immediate order were to be made, Ms Cheng would continue to hold herself out as an ACCA member when she may not be competent to do so.

#### **COSTS AND REASONS**

113. ACCA applied for costs in the sum of £6,609.50. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable.
114. Despite being given the opportunity to do so, Ms Cheng 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.
115. 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.
116. In light of the above, the Committee made an order for costs against Ms Cheng in the sum of £6,609.50.

**Mr David Tyme  
Chair  
15 January 2025**