

## HEARING

### DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Miss Xin Fa

**Heard on:** Friday, 31 January 2025

**Location:** Remotely via Microsoft Teams

**Committee:** Mrs Kathryn Douglas (Chair)  
Mr Trevor Faulkner (Accountant)  
Ms Alison Sansome (Lay)

**Legal Adviser:** Ms Giovanna Palmiero

**Persons present  
and capacity:** Mr Kamran Khan (Case Presenter)  
Ms Anna Packowska (Hearings Officer)

**Summary** Miss Fa to be excluded from ACCA membership with  
immediate effect

**Costs:** £5,000.00

#### ACCA



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## **INTRODUCTIONS**

1. The Disciplinary Committee (“the Committee”) convened to hear allegations of misconduct against Miss Xin Fa (Miss Fa).
2. Mr Kamran Khan (Mr Khan) presented the case on behalf of the ACCA.
3. Miss Fa 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 1-434;
  - (ii) An Additional Bundle with pages numbered 1-7;
  - (iii) Updated Report with pages numbered 1-29;
  - (iv) A Service Bundle numbered with pages numbered 1-16.

Cost Schedules were provided to the Committee at the sanction stage.

## **PRELIMINARY APPLICATIONS**

### **SERVICE OF PAPERS**

8. The Committee was informed that Miss Fa had been served with a notice of today’s hearing, together with the necessary papers via electronic mail on 03 January 2025.

9. The Committee was satisfied that notice had been sent to Miss Fa'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 Miss Fa had been given 28 days' notice with the necessary information required in accordance with Regulation 10.
10. The Committee decided that Miss Fa had been properly served with Notice of Proceedings.

#### **PROCEEDING IN ABSENCE**

11. The Committee was informed that the ACCA Hearings Officer (HO) had emailed Miss Fa, on 29 January 2025 and 30 January 2025 to request her confirmation as to whether she would be attending at the hearing. Miss Fa did not respond to these emails.
12. On the 30 January 2025 the HO attempted to call Miss Fa on the telephone number provided on her ACCA registration. The call was not answered and no facility to leave a message.
13. The Committee considered that ACCA had taken reasonable steps to encourage Miss Fa 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 Miss Fa 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 Miss Fa was aware of today's hearing, had voluntarily absented herself from the hearing and had not engaged with the process.
14. The Committee was also satisfied that taking the seriousness of the allegations into account, it was in the public interest to proceed expeditiously. The Committee did not consider that any benefit would be obtained by adjourning

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

### **APPLICATION TO AMEND ALLEGATIONS**

15. Before the hearing commenced the Committee raised an issue with the Allegations. The Allegations make reference to “Miss Vivian Xin Fa”. In the PER training record for Miss Fa she refers to her ‘Full Name’ as ‘Vivian Fa Xin’. However, ACCA’s database records her ‘FName’ as ‘Xin’ and her ‘Surname’ as Fa, hence why she is referred to as Miss Fa in these reasons.
16. Mr Khan made an application under the Rule 10(5) of the Regulations, to omit the name Vivian and reference “Miss Xin Fa”.
17. The Committee agreed to the amendment of the name “Vivian” to be removed. There is reference in the bundle of evidence which suggests that “Miss Xin Fa” is also known as “Miss Vivian Xin Fa” but the ACCA registration is in the name of “Miss Xin Fa”. There is no prejudice to remove the name “Vivian” from the allegations and its removal does not change the substantive nature of the allegations or identity of the affiliate.

### **THE ALLEGATIONS (as amended)**

18. Miss Xin Fa (‘Miss Fa’), at all material times an ACCA trainee:
  1. Applied for membership to ACCA on or about 22 August 2021 and in doing so purported to confirm in relation to her ACCA Practical Experience training record:
    - a) her Practical Experience Supervisor in respect of her practical experience training in the period from 1 August 2011 to 23 November 2014 was Person ‘A’ when Person ‘A’ did not supervise that practical experience training in accordance with ACCA’s requirements as published from time to time by ACCA or at all.

b) 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. Miss Fa's conduct in respect of the matters described in Allegation 1 above was:

a) In respect of Allegation 1a), dishonest, in that Miss Fa sought to confirm her Practical Experience Supervisor did supervise her practical experience training in accordance with ACCA's requirements or otherwise which she knew to be untrue.

b) In respect of allegation 1b) dishonest, in that Miss Fa knew she had not achieved all or any of the performance objectives referred to in paragraph 1b) above as described in the corresponding performance objective statements or at all.

c) 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), 2b) and or 2c) above, such conduct was reckless in that Miss Fa paid no or insufficient regard to ACCA's requirements to ensure:

a) her practical experience was supervised;

b) her Practical Experience Supervisor was able to personally verify the achievement of the performance objectives she claimed and/or verify they had been achieved in the manner claimed;

c) that the statements corresponding with the performance objectives referred to in paragraph 1b) accurately set out how the 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) 13 October 2023

b) 30 October 2023

c) 14 November 2023

5. By reason of her conduct, Miss Fa 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/SUMMARY OF ACCA EVIDENCE**

19. 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.

20. A person undertaking practical experience is often referred to as an ACCA trainee being the term used in this decision and supporting evidence bundle. 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.

21. As part of their practical experience, each trainee is required to complete nine performance objectives (PO's) 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. In addition to approval of their PO's, 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 PO's.
22. 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 PO's. This external supervisor must have some connection with the trainee's firm, for example as an external accountant or auditor.
23. Once all nine PO's 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.
24. During 2022 the PER training records of thirteen ACCA trainees were reviewed by ACCA's Professional Development Team. This review revealed that all thirteen trainees shared most of the same PO statements as each other.

25. Consequently, all thirteen trainees were referred to ACCA's Investigations Team.
26. Of these thirteen trainees, six shared the same supervisor who had registered as their IFAC qualified line manager on the basis of being a member of the Chinese Institute of Certified Public Accountants (CICPA), an IFAC registered body. Miss Fa is one of those six.
27. The name of this supervisor was Person A who had approved, in each of these six trainees PER training records, their time / experience, being a minimum of 36 months, and all their PO's.
28. 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. Ms Watson exhibits to her statement a sample record. Miss Fa's application was received on 22 August 2021. Given the issues which are the subject of these reasons, Miss Fa's application for membership is on hold and she therefore remains an ACCA affiliate.
29. Linda Calder, Manager of ACCA's Professional Development Team, provides an overview of the PER process in her statement as follows:
  - 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, being the case with all six of the trainees recorded as supervised by Person A. That being so, Person A was authorised to approve and did so in each of the six trainee's PER training records their (i) time/ experience of at least 36 months and (ii) nine PO's.



- PO's 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 PO's 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 PO's. The PO's numbered 1 to 5 are compulsory. There are then a number of option 'Technical' PO's from which the trainee needs to choose 4. ACCA recommends to trainees that they choose the technical PO's 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.

- All practical experience supervisors must be registered with ACCA. To do so, trainees must enter their practical experience supervisor's details, including their supervisor's name and email address, using the MyExperience online recording tool which generates an email inviting the 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.
  - 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.
30. 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.
  - There 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 China staff questions.
- 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. There 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 in the bundle (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 Miss Xin Fa

31. The PER records Miss Fa was employed by one firm, namely Employer A, and records, in particular, the following:

- She was employed from 1 August 2011 to 23 November 2014 in the role of Accountant.
- In Miss Fa’s PER training record, 39 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 Miss Fa record that Person A registered on 19 August 2021 as her ‘IFAC qualified line manager’.
- As Miss Fa’s IFAC qualified line manager, Person A was authorised to approve both Miss Fa’s time/ experience and all her PO’s. In that regard, Miss Fa requested that Person A approve her time/ experience and all her PO’s on 19 August 2021 and Person A went on to approve both her time / experience and all her PO’s that same day.

Registration of Person A as Supervisor

32. Linda Calder gives evidence in her statement about the registration details provided by Person A. In summary her evidence is as follows:

- Person A’s email address [PRIVATE] is registered to other ACCA supervisors. Ms Calder exhibits to her statement examples of these other supervisors’ details with this same email address. Ms Calder states it would clearly not be

expected for a supervisor to have the same email address as any other supervisor or person.

- Person A registered as an IFAC qualified supervisor on the basis they were a member of the Chinese Institute of Certified Public Accountants (CICPA) and provided their membership number [PRIVATE]. At the date Person A registered in August 2021, supervisors were not required to provide any evidence of their qualification.
- Although Person A did not provide evidence of their IFAC qualification, the other supervisors who registered with the email address [PRIVATE] did purport to provide evidence. In all such instances the supervisors provided the same registration card, being a CICPA card. The name on this card was pixelated and therefore not identifiable but the membership number is visible namely [PRIVATE], being identical to the CICPA membership number provided by Person A save for the addition of the number [PRIVATE] at the end.
- About a year after having approved the PER training records of these six trainees, Person A amended their supervisor details by changing their CICPA membership number from [PRIVATE] to [PRIVATE] while also uploading their purported CICPA membership card. Besides it not being expected for a supervisor to change their IFAC membership number, a translation obtained by ACCA of this card shows it is not in the name of Person A.
- With the exception of Miss Fa, five of these six trainees supervised by Person A, all worked at different firms, at different locations but during overlapping periods. As Person A was registered as IFAC qualified line manager for all these trainees and, as such, should have been employed by the same firm as each trainee, it would not seem possible for Person A to have been line manager for all these trainees at the same time. Ms Calder provides a summary of this evidence cross referenced to an exhibit containing the PER training records for all these trainees with this evidence.

33. Although Miss Fa's employment did not overlap with any of the five trainees referred to above, Ms Calder notes that Miss Fa's period of employment as recorded in her PER training record was from 1 August 2011 to 23 November 2014 with Person A recording as having approved Miss Fa's time / experience on 19 August 2021 and all her POs also on 19 August 2021. Given this, Ms Calder states:

'...I would not expect a trainee to delay obtaining approval from their supervisor of their time/ experience and their POs by nearly seven years. This significant delay casts doubt on whether the experience recorded in this trainee's PER training record is correct...'

Analysis of Miss Fa's PO's as contained in her PER training record with other ACCA trainees who claimed to have been supervised by Person A

34. 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.
35. Where PO statements are the same or significantly similar to the PO's of any other trainees, this suggests 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.
36. There are 13 trainees who share the same PO statements, including the six recorded as having been supervised by Person A.
37. In analysing the PO statements for all thirteen trainees, 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. None of the six trainees supervised by Person A were first in time in having their PO statements approved.

38. The trainee with the PO's approved first in time was a Person B ('the first in time trainee'). This records that she requested her IFAC qualified supervisor (who was not Person A and whose identity is not relevant, and which has therefore been redacted) approve all her PO statements on 20 July 2021 and that her supervisor approved them on the same day.
39. Exhibited to Ms Calder's witness statement are copies of the PER training records for all six trainees who are recorded as having been supervised by Person A. All nine PO statements are the same as between all six trainees, including that of Miss Fa (with the exception of one statement, being that of PO1 for trainee Person C and which has therefore been redacted). On the first page of Ms Calder's exhibit is an index listing each trainee's PER training record and the page number for each PO statement within the exhibit. Of these six trainees purportedly supervised by Person A, the PO statements of trainee Person D were the earliest PO statement approved by Person A on 14 August 2021, being just over 3 weeks after the first in time trainee's PO statements were approved on 20 July 2021. Miss Fa's PO statements were requested to be approved on 19 August 2021 and were approved the same day.
40. Following referral of this matter to ACCA's Investigations Team, a member of that team sent an email to Miss Fa on 13 October 2023 attached to which was a letter, and other relevant documents, which clearly set out the complaint and requested that Miss Fa respond to a number of questions by 27 October 2023. A copy of the letter is in the bundle with the covering email.
41. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Miss Fa to cooperate with the investigation by responding to the questions by the deadline.
42. This email was sent encrypted with a password which is recorded in the email.
43. Shortly after this encrypted email was sent, an unencrypted email was sent to Miss Fa on the same day asking her to check if she had received the encrypted email and if not to let ACCA know.

44. An extract taken from ACCA's records on the day the above emails were sent records that the email address for Miss Fa used for this email was the email address on ACCA's system that day.
45. Given Miss Fa did not respond by the above deadline of 27 October, a further encrypted email was sent on 30 October 2023 (the first reminder) with a copy of the letter attached to the previous email. In the covering email Miss Fa was reminded of her obligation to cooperate by responding to the questions in the letter and to do so by 13 November 2023.
46. Due to an oversight, no extract from ACCA's records was downloaded on the day the above email was sent in order to confirm the email address used was the email address for Miss Fa on ACCA's system that day. However, the email address was the same as that used in the initial email to Miss Fa on 13 October 2023, referred to above, the phone call made on 1 November 2023 and subsequent email to Miss Fa on 14 November 2023, referred to below, for which extracts from ACCA's records were downloaded on the day each email was sent and show her email address remained unchanged.
47. ACCA's investigations officer attempted to telephone Miss Fa on 1 November 2023 using her registered telephone number as recorded on the ACCA database. However, no one answered the call.
48. No response was received to this first reminder and therefore a second and final email was sent to Miss Fa on 14 November 2023 with a copy of the letter attached to the initial email. In the covering email Miss Fa was again reminded of her obligation to cooperate by responding to the questions by 29 November 2023 and that if she failed to do so ACCA would raise an allegation of failure to cooperate against her.
49. In relation to this second and final reminder, an extract taken from ACCA's records on the day the above email was sent records that the email address for Miss Fa used for this email was the email address on ACCA's system that day.



50. Shortly after this encrypted email was sent, on 24 November 2024, an Outlook email was sent to Miss Fa asking her to check if she had received the encrypted email and if not to let ACCA know. Again, her registered email address was recorded in an extract from ACCA's system that day.
51. The above referenced encrypted and unencrypted emails were sent through ACCA's Case management system. On this system a 'clasped hand' icon appears next to the email if the email has been opened. The date and time the email was opened, is revealed by hovering the mouse cursor over the icon. A screenshot has been taken showing that the initial encrypted email of 13 October 2023 plus the follow up unencrypted email of the same day were opened.
52. On 17 January 2024, ACCA's China office sent a mobile message to Miss Fa. The extracts from ACCA's database for Miss Fa referred to above include a telephone number. The message sent by ACCA's China office using this mobile number read as follows:

IMPORTANT: ACCA sent you a password protected email to your registered email on 13 October 2023 requiring a response. Reminders were sent on 30 October 2023 and 14 November 2023. However, no response has been received. If you have not received any of these emails or you have but cannot open any of them, please immediately email ACCA at [complaintassessment@accaglobal.com](mailto:complaintassessment@accaglobal.com) with your full name, ACCA ID and date of birth.

53. ACCA's China office has provided a spreadsheet recording when this message was sent and whether or not it was successfully delivered. There is a spreadsheet recording the message was sent on 17 January 2024 and was successfully delivered to Miss Fa's mobile number that day. No response has been received from the trainee following this message.

## **ACCA SUBMISSIONS**

54. It is submitted that Allegation 1a) and 1b) are capable of proof by reference to the following:

- Linda Calder's statement which describes ACCA's Practical Experience Requirements;
- Miss Fa's completed PER training record which was completed on or about 19 August 2021 which then permitted Miss Fa to apply for membership which she did on 22 August 2021, although the application is on hold in light of the matters referred to in this report;
- Miss Fa's Supervisor details which record Person A was her 'IFAC qualified line manager', and therefore her practical experience supervisor;
- Miss Fa's PER training record which records Person A approved Miss Fa's time/ experience of 39 months;
- Miss Fa's PER training record which records Person A approved all Miss Fa's PO's;
- The evidence given by Linda Calder in her statement in which she refers to (i) the issues surrounding the supervisor registration details provided purportedly by Person A and (ii) Person A approving Miss Fa's time/ experience and all her PO's in her PER training record seven years after her employment had ceased. It is submitted from this evidence that a reasonable inference can be drawn that Person A did not supervise the practical experience training of Miss Fa in accordance with ACCA's requirements or at all;
- That all Miss Fa's PO statements are the same as many other trainees, being not first in time, including five other trainees purportedly supervised by Person A, suggesting at the very least, she had not achieved the objectives in the way claimed or possibly at all.

Dishonesty – Allegation 2(a) and 2(b)

55. 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.”*

56. 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 trainees must be supervised during their period of practical experience. It also makes it clear the statements supporting their PO’s 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.
57. Given the extensive advice available online, it is not credible that Miss Fa was unaware her practical experience had to be supervised or the statements supporting her PO’s had to be in her own words and describing the experience she had actually gained to meet the relevant Performance Objective.
58. In applying for ACCA membership, it is submitted Miss Fa claimed to have been supervised by Person A in her PER training record, which she must have known was untrue and claimed to have achieved the PO’s with the use of supporting statements which she also must have known had not been written by her. Miss Fa therefore knew she had not achieved the PO’s as described in these statements or at all.

59. ACCA therefore submits this conduct in either or both respects would be regarded as dishonest by the standards of ordinary decent people, as per Allegation 2(a) and 2(b).

Integrity – Allegation 2(c)

60. In *Wingate and Evans v The Solicitors Regulation Authority* [2018] EWCA Civ 366, the Court of Appeal addressed what was required in 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.”*

61. If the conduct of Miss Fa is not found to be dishonest, it will be submitted, that the conduct in the alternative fails to demonstrate Integrity.

Recklessness – Allegation 3

62. It is ACCA’s submission that in the further alternative Miss Fa’s conduct was reckless in that she paid no or insufficient regard to the fact that she was required to ensure her practical experience should be supervised, and the achievement of her PO’s should be verified by that supervisor. Finally, she paid

no regard to the fact that her PO statements should truthfully and accurately set out, how the relevant objective had been met.

63. In *R v G* [2003] UKHL 50 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.”*

64. Miss Fa 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.

#### Failure to Cooperate - Allegation 4

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

67. It is submitted the failure by Miss Fa 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.

Misconduct - Allegation 5

68. 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.”*

69. 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.”*

70. Miss Fa'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.

71. 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

72. Further, ACCA submits that in failing to co-operate with ACCA and reply to ACCA's correspondence, Miss Fa has breached Complaints and 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, bye-law 8(a)(iii) is automatically engaged.

## **DECISION ON ALLEGATIONS AND REASONS**

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

### **Allegations 1 (a) & (b)**

75. The issues for the Committee to determine in respect of these allegations was, firstly whether Miss Fa was not supervised by Person A during her practical experience as purported in her application for membership and secondly had Miss Fa achieved the requisite experience submitted in support of her written application for membership and had she or someone else copied the POs submitted by her in applying for membership.
76. In reaching its findings of fact in respect of Allegation 1(a), 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.
77. The Committee deemed it implausible that Person A had supervised Miss Fa due to the fact that they authorised the experience in 2021 when the experience that they purported to have supervised took place between 2011 to 2014, which was a delay of seven years. It was unusual to sign off PO's so long after each one was completed. Person A had also signed off five other affiliates, purporting to have supervised their work experience, but who worked for different organisations, which suggested that they could not have supervised them all.

78. In relation to Allegation 1(b) the Committee was satisfied that the evidence of the witnesses revealed that all nine of Miss Fa's PO statements were identical or similar to the PO statements of the other five ACCA trainees. As stated, these 'other trainees' were part of a cohort of trainees all of whom had been supervised by Person A.
79. It was also noted that Miss Fa's PO statements were not the first in time in relation to the other five trainees.
80. The Committee noted that there was sufficient guidance in English and Mandarin for affiliates, online, 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 words.
81. Due to the fact that the descriptions of all 9 of Ms Fa's POs are identical or substantially similar to the other five trainees, the Committee infers that she has not personally achieved the stated PO's.
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 and words 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 Miss Fa had not achieved the PO experience required in order to apply for membership.
83. Miss Fa must have known what ACCA's training requirements were, as they were widely published and available in Mandarin and English.
84. The Committee was satisfied on the balance of probabilities that Miss Fa 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 practical experience, if any. The Committee concluded that Miss Fa 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.

#### Allegation 2 (a) & (b)

85. The Committee relied upon its findings of fact under Allegation 1(a) and 1(b) 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 Fa'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 applied the first part of the test for dishonesty. In relation to Allegation 1(a), the Committee determined that if Miss Fa had not been supervised by Person A, then she must have known that what she was purporting was not true, on her application form to apply for membership.
88. Miss Fa had purported to have undertaken the necessary training experience to apply for membership of a professional body, and purported to have been supervised by Person A. This would be interpreted as trying to cheat the system by the standards of ordinary decent people, who would find this behaviour to be dishonest.
89. The Committee had found proved that Miss Fa, did not write the statements in support of her POs in her own words, and therefore could not have achieved the practical experience required. She, or someone else, 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 practical experience. Miss Fa had taken positive action in applying for application for membership and requested Person A to endorse her experience. In doing this, Miss Fa must have been aware that her actions were dishonest. The Committee was also satisfied that,

by the standards of ordinary decent people, such conduct would be viewed as being dishonest

90. The Committee therefore found Allegations 2(a) and 2(b), proved on the balance of probabilities.
91. On the basis that Allegations 2(c) and 3 were pleaded in the alternative to Allegation 2(a) and 2(b) the Committee made no finding in respect of these allegations as it was not necessary for the Committee to consider Allegations 2(c) 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 Miss Fa had not responded to three emails requesting information, during the ACCA investigation. The emails requesting information from Miss Fa were dated 13 October 2023, 30 October 2023 and 14 November 2023. These were sent to the email address registered with ACCA.
93. The email sent to Miss Fa on 13 October 2023 attached a letter, and other documents, which clearly set out the complaint and requested that Miss Fa respond to a number of questions. The letter also referred to Complaints and Disciplinary Regulation 3(1) requiring Miss Fa to cooperate with the investigation by responding to the questions by the deadline noted. There is evidence which suggests that this email was opened.
94. The other emails sent by ACCA on the 30 October 2023 and 14 November 2023 reiterated this request. The ACCA also attempted to call Miss Fa, but this was not answered.
95. The Committee concluded that Miss Fa as an ACCA affiliate, 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 determined Miss Fa failed to co-operate due to the fact she failed to respond to any of the correspondence.

96. 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 and liable to disciplinary action

97. 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 “Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a ... practitioner in the particular circumstances.”.
98. The Committee had found that Miss Fa’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 Miss Fa, the Association and the accountancy profession.
99. The Committee had also found proved that Miss Fa 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.
100. 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 Fa’s behaviour to be very serious and the Committee was in no doubt that it amounted to misconduct.

101. The Committee therefore found that the matters set out in Allegation 1(a), 1(b), 2(a), 2(b) and 4 amounted to misconduct, and that Miss Fa was liable to disciplinary action through her misconduct.
102. 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**

103. In reaching its decision on sanction, the Committee considered the oral submissions made by Mr Khan on behalf of ACCA. Mr Khan made no submission as to the actual sanction but referred to the ACCA's Guidance for Disciplinary Sanctions (GDS) and in particular the summary of the general principles. He confirmed that Miss Fa had no other known previous disciplinary findings.
104. The Committee noted its powers on sanction were those set out in Regulation 13(5). 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.
105. 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 in that it frustrates the regulator in pursuing their responsibilities to the public.
106. The Committee assessed the aggravating and mitigating features:

#### Aggravating features:

- This was a premeditated act;
- Potential for harm if Miss Fa had obtained membership by dishonesty;

- Miss Fa has not demonstrated any understanding of the seriousness of her conduct by not engaging with her regulator and the investigation process;
- No evidence of insight, remorse or reflection.

Mitigating features:

- There were no previous findings against Miss Fa.

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

107. Given the Committee's view of the seriousness of Miss Fa's conduct, it was satisfied that the sanctions of No Further Action, Admonishment and Reprimand were insufficient to highlight to the profession and the public the gravity of the proven misconduct. In considering a Severe Reprimand, the Committee noted that a majority of the factors listed in the guidance were not present and, in particular, there was no evidence of insight or remorse, and the Committee was concerned about the risk of repetition.
108. The Committee considered the ACCA guidance on the approach to be taken for Exclusion. The guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on an affiliate to engage with their professional regulator.
109. The Committee had regard to Section E2 of the Guidance on the finding of dishonesty and the seriousness of such a finding on a professional. The Committee was satisfied that Miss Fa's conduct was fundamentally incompatible with remaining on the register. The Committee was satisfied that only removal from the register was sufficient to mark the seriousness to the profession and the public.
110. The Committee ordered Miss Fa's be removed from the register with immediate effect.

## **EFFECTIVE DATE OF ORDER**

111. In light of its decision and reasons to exclude Miss Fa 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, Miss Fa would continue to hold herself out as an ACCA affiliate when she may not be competent to do so.

## **COSTS AND REASONS**

112. ACCA applied for costs in the sum of £5,877.50. The Committee was provided with a schedule of costs. The Committee was satisfied that the costs claimed were appropriate and reasonable, but there should be a reduction due to the fact that the hearing took less time than listed.
113. Despite being given the opportunity to do so, Miss Fa 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.
114. 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.
115. In light of the above, the Committee made an order for costs against Miss Fa in the sum of £5,000.00.

**Ms Kathryn Douglas**  
**Chair**  
**31 January 2025**