



Disciplinary Tribunal Panel Hearing

11 November 2020

Institute and Faculty of Actuaries: on-line hearing

Respondent:	Wong Chi Foong (Student member) Present and self represented
Category:	Student since May 2018
Region:	Kuala Lumpur, Malaysia
Panel Members:	Paul Housego (Chair/Lay Member) Andy Scott FIA (Actuary Member) Dr Stephanie Bown (Lay Member)
Legal Adviser:	Alan Dewar QC
IFoA:	Ayanna Nelson, of Counsel, instructed by Kingsley Napley LLP, solicitors
Judicial Committees Secretary:	Julia Wanless

Charge:

Wong Chi Foong, being at the material time a student member of the Institute and Faculty of Actuaries (“IFoA”), the charge against you is that:

1. you submitted an application form for exemptions in relation to CP1 and SP5 to the IFoA dated 25 April 2019 which purported to enclose a Higher Education Achievement Report (HEAR) from the University of Kent;
2. the HEAR submitted had been amended to suggest that you had received marks of 60 for SP5 and 63 for CP1 when this was not the case;
3. when asked by the IFoA to provide a certified transcript of your marks from the University of Kent, on 16 May 2019 you sent a transcript which purported to be a transcript from the University of Kent;
4. the transcript submitted had been amended to suggest that you had received marks of 60 for module MA915 and 63 for MA921 when this was not the case;
5. your conduct at paragraphs 1, 2, 3 and/or 4 above was motivated by a desire to gain an unfair advantage;
6. your conduct at paragraphs 1, 2, 3, 4 and/or 5:
 - a. lacked integrity;
 - b. was dishonest;
7. your actions at paragraphs 1, 2, 3, 4, 5 and/or 6 were in breach of the Integrity principle of the Actuaries’ Code (version 2.0);
8. your actions, in each and all of the above, constitute misconduct in terms of Rule 4.2 of the Institute and Faculty of Actuaries Disciplinary and Capacity for Membership Schemes (effective 1 February 2018).

Plea:

Mr Wong appeared at the hearing, representing himself, and accepted the factual basis of the Charge. He accepted that he had lacked integrity and been dishonest, and sought to gain unfair advantage. He accepted that this breached the Code and was misconduct. Accordingly, he accepted that he was guilty of all the allegations.

While admitting the charges, Mr Wong said that his was an impulsive action which he greatly regretted, which was prompted by his inability to accept that he had not got the marks (in one case missing by only one mark) he needed (and expected) to get in order to meet the threshold for exemptions from IFoA examinations. He had admitted what he had done soon after being challenged about it, had expressed remorse to the IFoA and had cooperated fully in the process. He hoped for leniency.

Panel's Determination:

1. The Panel found all of the charges proved, on Mr Wong's admissions and on the documentary evidence before it.
2. The Panel determined that the most appropriate and proportionate sanction was expulsion from membership of the IFoA. Mr Wong may not apply for readmission for a period of five years.
3. The Panel ordered Mr Wong to pay to the IFoA costs of £3,000.
4. The Panel directed publication in accordance with the IFoA's guidance on publication of decisions: in the Actuary magazine and on the website.

Background:

5. Mr Wong is a student member who studied at the University of Kent, obtaining an undergraduate degree in 2017 and a masters degree in 2018. He became a student member of the IFoA in 2018. In April 2019 he made application to the IFoA seeking exemption from some examinations. He submitted a document from the

University which he had altered on his computer, increasing the marks to show that he had qualified for the exemption, when he had not. After routine verification of the application caused concern about the marks shown, in May 2019 Mr Wong was asked for a second document, which he also provided, again after altering it on his computer to show that he was entitled to the exemption. When the IFoA contacted the University they set out the correct marks, and provided copies of both documents. When this was put to Mr Wong he apologised and said that he had got very close to passing at the necessary level, and was frustrated at not having obtained the necessary marks and had acted impulsively.

Findings of Fact:

6. The Panel was aware that the burden of proof rests on the IFoA, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Panel is satisfied that it was more likely than not that the incidents occurred as alleged. There is no requirement for the Respondent to prove anything. However, there is no dispute of fact, as Mr Wong accepts the factual basis of the charges.
7. The Panel heard from Counsel for the IFoA and took account of the documentary evidence provided, and oral evidence from Mr Wong. It accepted the advice of the legal adviser, in particular as to the test for dishonesty set out in *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords)* [2017] UKSC 67.
8. Mr Wong knew exactly what he was doing, and that it was not right. The question for the Panel is whether the well-informed ordinary member of the public would regard this conduct as dishonest. While Mr Wong accepted that he was dishonest this is a matter for the judgment of the Panel. The Panel decided that members of the public would consider the intentional alteration of exam marks on documents submitted to a professional body when seeking to obtain exemption from examinations leading to membership of that body to be dishonest.

9. Mr Wong returned to Malaysia after finishing at Kent University. He joined the IFoA as a student member in 2018. He obtained employment in Malaysia in an actuarial capacity. He sought to become a full member of the IFoA.
10. Mr Wong said that he found it hard to come to terms with not obtaining the marks necessary to obtain exemption from IFoA exams in the two categories where his course could enable him to have done so. He was only one mark short in one of these, but several marks short in the other.
11. On 25 April 2019 (almost a year after his course ended) he submitted by email an application for the two exemptions from IFoA examinations, submitting with the application a document from the University called a Higher Education Achievement Report ("HEAR"). He altered it on his computer to increase the marks it showed to the level required for the exemptions. In fact Mr Wong had not achieved marks to lead to any exemption from IFoA exams.
12. The University, as with other educational establishments teaching actuarial sciences where there can be exemption from IFoA exams, routinely provides the IFoA with records of their students results. On 03 May 2019, the person at the IFoA dealing with the application checked the application against that list, but Mr Wong's name was not on it. She emailed to the examiner a copy of the document Mr Wong had submitted with his application, asking if they could clarify the position.
13. On 06 May 2019 that examiner replied to say the records the examiner had showed that Mr Wong had not achieved the exemption threshold in either subject, and suggested that the grades achieved should be confirmed with another examiner, and that the University might shed light on the matter. They were both duly asked.
14. On 14 May 2019 the University responded that the student marks were as the first examiner had reported. It confirmed that Mr Wong was not entitled to any exemption from IFoA examinations. A full copy of the University transcript (and of the HEAR) was requested from them on the same day and provided immediately.
15. Also on 14 May 2019 the IFoA asked Mr Wong for a certified copy of the University transcript, saying that this was required rather than the HEAR. On 15 May 2019 Mr

Wong replied to say that he would email the University to get the document, and on 16 May 2019 he emailed it to the IFoA after again altering it to show the marks he had substituted in the first document.

16. In reply, the same day, the IFoA said there was a discrepancy, that there was no accusation of malpractice, but the integrity of the process required enquiry to be made of him about the differences.

17. On 23 May 2019 Mr Wong emailed in reply. He said:

“I had my marks altered in a bid to get the exemptions that I am applying for and am truly regretful of this. This is because I was really disappointed to be close to the marks to obtain exemptions but I understand this is no reason to provide false information. I hope this clarify any issues that has arise from your end.”

18. In a subsequent email (20 August 2019) Mr Wong wrote:

“I have acknowledge there is some discrepancy in the results as I had it amended on my end which I have mentioned clearly around May.

I am sorry for my wrong doing as I was pretty close I would say to receive the exemption. I have understood the severity of my mistake that could damage the board’s reputation and foundation for all actuaries associated with it.”

19. On 21 August 2019 he emailed again saying how disappointed he had been that he did not get the exemptions, saying that he was 1 mark away in one and 4 in another. He accepted that he had no defence to the allegation but hoped for the best as to the outcome. On 23 August 2019, he said that he hoped that his openness when the point was raised would be taken into account, and expressed his deep regret at what he had done. He said that he was actively trying to pursue the exams externally, and due to sit them in the next round. He wrote:

“I guess people do make mistakes when it comes to crucial moments.”

20. The definition of Misconduct is in the Disciplinary Scheme. The Code requires members to act with integrity. It is self evident that to falsify documents to claim exemptions from examinations is Misconduct and lacks integrity.

Sanction:

21. In considering the matter of sanction, the Panel had regard to the submissions of the IFoA's Case Presenter, who set out matters in favour of Mr Wong as well as stressing the seriousness of falsifying documents to claim an exemption to which he was not entitled. The mitigating factors are that Mr Wong is regretful, and remorseful, and has been fully cooperative with the IFoA. This is his first appearance before the Panel, but he had been a member only a year when he submitted the falsified documents.

22. The Panel had careful regard to the Indicative Sanctions Guidance (January 2020). The exercise of its powers in the imposition of any sanction is a matter solely for the Panel to determine and it is not bound by the Indicative Sanctions Guidance.

23. The Panel was aware that the purpose of sanction is not to be punitive although it may have that effect. Rather, the purpose of sanction is to protect the public, maintain the reputation of the profession and declare and uphold proper standards of conduct and competence. The Panel is mindful that it should impose a sanction, or combination of sanctions necessary to achieve those objectives and in so doing it must balance the public interest with the Respondent's own interests. The sanction must be proportionate, and the Article 8 right to private life is engaged.

24. As cheating in this way is serious the Panel did not consider this to be a case that warranted no sanction, or a Reprimand. A Reprimand is the least sanction that can be imposed, and is appropriate on its own for cases where, for example, there was a single act, that act was an aberration, where harm is limited, or where there are extensive mitigating factors, and no sign of a deeper attitudinal problem. Dishonesty is simply too serious for a Reprimand, and the Panel also considered

that the intentional submission of falsified documents on two occasions made this too serious for a Fine to be imposed.

25. The Panel considered a period of education, training or supervised practice was not appropriate, as this was not a failure in practice, but was the result of actions that were attitudinal in nature.

26. The Panel considered whether to impose a period of suspension from membership. This is appropriate where the Misconduct is so grave that a financial penalty does not sufficiently reflect the gravity of the Misconduct. When considering such a sanction it must be recognised that the making of such an order may have a financial impact on the Member. The primary purpose of imposing such a sanction is to act in the public interest and to maintain the reputation of the profession.

27. The Panel found this too serious for a suspension. While Mr Wong had been fully co-operative with the IFoA, that was his obligation. Mr Wong had admitted what he had done soon after the discrepancy was put to him. However, Mr Wong had taken nearly a year to decide to make his application for exemption. This was not a sudden out of character impulsive action. It was also the result of planning: Mr Wong accepted in an email to the IFoA of 06 August 2020 that he had “*edited*” the documents on his computer. When first asked about it, Mr Wong’s response was to falsify a second document, 3 weeks later (25 April and 16 May 2019). He confessed on 23 May 2019, after reflecting on the email from the IFoA of 16 May 2019, but there is little credit in that, for it was obvious that his fraud had been established.

28. The Panel considered whether to expel Mr Wong from Membership of the IFoA would be disproportionate. The Indicative Sanctions Guidance is that this should be the sanction where, and only where, the Misconduct found proved is of such gravity that the reputation of the profession or the public interest requires that the Member is no longer able to practice or claim membership of the profession. In deciding whether to exclude or expel a Member a Panel will consider the effect that allowing the Member’s name to remain on the register will have on the public’s trust in the reputation of the profession. The Guidance indicates that serious personal

Misconduct may lead to expulsion or exclusion as well as Misconduct in practice, and that dishonesty will usually lead to expulsion. It points out that there is a small residual category of cases where the particular circumstances are such that the well informed member of the public would not regard dishonesty as a bar to continued membership of the profession. If a Panel so decides not to expel the reasons for not doing so need to be set out with particular clarity. When making an order that terminates the right to practice, a Panel should consider the effect on the income of the Member when considering costs.

29. In this case the Panel considered that to allow Mr Wong to remain as a member of the IFoA would be inconsistent with the maintenance of the reputation of the profession. It was entirely due to the vigilance of the IFoA and the robustness of its verification procedures that Mr Wong was not able to progress towards full membership when not qualified to do so. This is not one of the small residual category of cases where expulsion does not follow a finding of dishonesty. There is not only the reputation of the profession, but also an absence of mitigation: Mr Wong did not say that he has passed these examinations in the period since 2018. He was trying to get credit for a level of expertise that he does not possess, in order to advance in the profession, and the only reason he did not succeed is that he was detected. The Panel is fully cognisant of the likely severe effect on Mr Wong's income and livelihood, but the reputation of the profession and the maintenance of ethical standards are of greater weight than the effect on Mr Wong of expulsion.

30. The Panel is required to specify a period during which Mr Wong may not apply to be readmitted to the IFoA (8.22(b)(vii)). The Panel decided on the maximum period of 5 years, because this was premeditated and repeated dishonesty.

Costs:

31. The IFoA made an application for costs of over £17,000 incurred in preparation for the hearing and attendance at the hearing by the IFoA's Case Presenter. The Panel noted that costs included administrative costs and costs incurred by the Panel and the Legal Adviser. The Panel considered the costs sought to be at a reasonable level, and that the work done, and the costs incurred, justified that

amount of cost. The Panel was mindful that the costs fall on the profession if not paid by Mr Wong. However the Panel was also mindful of the likely severe effect on Mr Wong of his expulsion from the IFoA, and on his means. It therefore ordered Mr Wong to pay the IFoA costs of £3,000, as Mr Wong has the means to pay this sum, but little more.

Right to appeal:

32. Mr Wong has 28 days from the date that this written determination is deemed to have been served upon him/her in which to appeal the Panel's decision.

Publication:

33. Having taken account of the Disciplinary Board's Publication Guidance Policy (May 2019), the Panel determined that this determination will be published and remain on the IFoA's website for a period of five years from the date of publication. A brief summary will also be published in the next available edition of *The Actuary Magazine*.

That concludes this determination.