



Institute  
and Faculty  
of Actuaries

## Disciplinary Tribunal Panel Hearing

20 February 2020

Institute and Faculty of Actuaries, Level 2 - Exchange Crescent, 7 Conference Square,  
Edinburgh, EH3 8RA

**Respondent:** Cheng Gang Zhu  
Not present and not represented in absence.

**Category:** Lapsed Member

**ARN:** 9566379

**IFoA Case Presenter:** Hannah Eales, Barrister, instructed by Kingsley  
Napley LLP, solicitors.

**Panel Members:** Paul Housego (Chair, Lay member)  
Stephanie Green (Lay member)  
Paul Whitlock FIA (Actuary member)

**Legal Adviser:** Graeme Watson

**Judicial Committees Secretary:** Julia Wanless

**Charge:**

In relation to the Respondent, Mr Cheng Gang Zhu:

1. You submitted an application form for student admission dated 11 April 2018 to Education Services at the IFoA and you included a falsified copy of your academic transcript and/or degree certificate from Heriot-Watt University;
2. You submitted an application form for exemptions dated 9 May 2018 to Education Services at the IFoA and you included a falsified certified copy of your academic transcript and/or degree certificate from Heriot-Watt University.
3. your actions at paragraphs 1 and/or 2 were dishonest;
4. your actions at paragraphs 1 and/or 2 were in breach of the Integrity principle of the Actuaries' Code (version 2);
5. your actions, in each and all of the above, constituted misconduct in terms of Rule 4.2 of the Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries (effective 1 February 2018).

**Service of Charges:**

1. The Panel noted that the Respondent was not present and was not represented in his absence. The Panel heard evidence of the service of notice of the hearing. A decision had been made on 19 December 2019 that notice could be given by email to the last email address provided by the Respondent. It had been so sent, and the Panel decided that service had been effected in accordance with the Rules. The Rules specify that service may be by post, which did not preclude service in other ways. This hearing had been set at a time which met the length of notice provisions of the Rules.

**Proceeding in the Absence of the Respondent:**

2. The Panel considered whether to proceed in the absence of the Respondent. There was no evidence that he was ill. He had not asked for an adjournment. There was nothing to lead the Panel to think that an adjournment would lead to the attendance of the Respondent. The communications had all been sent to the email address used by the

Respondent. Read receipts had been requested, but not given by the Respondent. The emails had not bounced back, and the IFoA stated that each was noted on their system as delivered. The Respondent had not contacted the IFoA following the notification given on 19 December 2019.

3. The Panel accepted the advice of its legal adviser, who referred the Panel to the well-known cases of R v Hayward, R v Jones, R v Purvis [2001] QB 862, [2001] EWCA Crim 168 and R v Jones [2002] UKHL 5; [2003] 1 AC 1, applicable to regulatory panels by reason of Tait v Royal College of Veterinary Surgeons [2003] UKPC 34. He directed the Panel to the guidance in General Medical Council v Adeogba [2016] EWCA Civ 162, paragraphs 17-21. That guidance is to proceed unless there is good reason not to do. The Panel could see no good reason not to proceed, and so decided to proceed in the absence of the Respondent. The Respondent had deliberately chosen not to exercise his right to be present or to give adequate instructions to enable lawyers to represent him (the consideration suggested in *Adeogba*).
4. In the circumstances, the Panel determined that it was in the public interest in the expeditious disposal of the case to proceed in the absence of the Respondent.
5. The Panel took all the allegations as denied, so that the burden of proving them (to the civil standard) was on the IFoA. The Panel would not accept the evidence of the IFoA at face value, but examine it with care as required by Held v GDC [2015] EWHC 669 (Admin).
6. The Panel would not be drawing any inference adverse to the Respondent, as the conditions for doing so in Kuzmin, R (On the Application Of) v General Medical Council [2019] EWHC 2129 (Admin) were not met. In particular all the correspondence about the allegation had come from the IFoA and there was nothing to show that he knew of the allegation, other than that emails to him were marked "delivered".

**Invitation for further enquiry:**

7. The Panel next invited the IFoA to make further enquires. The Panel noted that the letter provided by the Respondent (p41) gave a reference number which differed from that provided by the University (p51). The Panel noted that the degree certificate provided by the Respondent stated that it was a Master of Science degree, not a Diploma. This would have been a more sophisticated forgery than to take a genuine letter, copy it and

to substitute his own name and address on the copy. Logically it was possible that the letter and certificate were genuine and there was a second person of the same name with a different reference. The Panel invited enquiry of the University to see whether this was a possibility.

8. After a break the IFoA advised the Panel that the University had emailed a response (and copies were provided) which stated that:

- only one person of that name was on that course in that year
- it was unlikely a student would have more than one number
- the number on the letter claiming the Respondent's results was not his number
- they did not know, in the time available, whose number it was.

9. Also

- the date of birth given by the Respondent in his application for membership was the same as that given on the academic transcript provided to the IFoA by Heriot-Watt University and setting out his results
- the IFoA had never received original documents but only emailed copies.

10. The Panel accepted this evidence and decided to continue with the hearing. It was satisfied that there was no injustice to the Respondent in so doing.

#### **Panel's Determination:**

11. The Panel found all of the charges proved and determined that the most appropriate and proportionate sanction was:

- Exclusion from IFoA membership. The Respondent may not apply for readmission for a period of 5 years.

12. The Panel also ordered the Respondent to pay to the IFoA costs of £14,709.50.

#### **Background:**

13. The history is as follows.
14. The Respondent graduated from Heriot-Watt University ('the University') in 2006.
15. On 11 April 2018 he submitted an application to the IFoA to be admitted as a student member. He enclosed in support of the application, a transcript and certificate purportedly issued by the University and recording details regarding a Masters of Science in Actuarial Science undertaken by him at the University.
16. The Respondent was successfully admitted as a student member of the IFoA on or around 24 April 2018.
17. On 9 May 2018 the Respondent submitted an application for exemptions from IFoA examinations (CT1 to CT8) to the IFoA Education Services Team.
18. The Education Services Team were unable to locate an exemptions recommendation list in their records for the Respondent's course prior to the academic year 2006/7. The exemptions application was therefore referred to the Quality Team at the IFoA.
19. On 14 June 2018, a Senior Quality Executive in the IFoA's Quality team made contact with the University to determine whether the Respondent was eligible for the exemptions in respect of which he had applied. On 26 June 2018 the University advised that the Respondent had not obtained sufficient marks to be granted any exemptions.
20. Between 26 June 2018 and 27 July 2018, the Quality Team engaged in further correspondence with the University and obtained a copy of the Respondent's transcript and the relevant exemption paperwork held by the University. Various discrepancies in the academic documents submitted by the Respondent as part of his exemption application and the documents provided by the University were noted. The Respondent was not recorded as eligible for any exemptions in the paperwork provided by the University.
21. Between 27 July 2018 and 21 September 2018, the IFoA Quality Team contacted the Respondent on a number of occasions to request his original transcript and degree certificate from the University. No response was received.
22. The matter was ultimately escalated to the IFoA's Head of Quality and Assessment. As part of the escalation process a copy of the Respondent's application to be admitted as a student member was obtained. It was noted that the same academic documents

purportedly issued by the University were included in the admission application by the Respondent as with his exemptions application.

23. A referral was subsequently made to the IFoA's Disciplinary Investigations Team by the Quality Team on 8 October 2018.
24. The Respondent was a student member, from 24 April 2018. His membership lapsed on 07 January 2019 through non-payment of fee. He was working in Beijing when he joined the IFoA. His record states that he was at Anbang Insurance from 28 April 2018 - 26 September 2018.
25. On 27 September 2018 the Respondent amended his contact address on the membership database, recording that his employment in Beijing ended on 26 September 2018 and giving a new address from 27 September 2018 only as "H5, Sydney, Australia".
26. The IFoA attempted to telephone the Respondent on his mobile telephone number, listed in his IFoA membership record. A recorded message in Chinese and English stated that the number was out of service. A later attempt, on 16 January 2019, was answered, but the call was terminated immediately the caller's identity was given, since when the number has been out of service, when called.
27. The IFoA attempted to contact Anbang Insurance, but no one there spoke English. A message was left for a return call but there was no return call.
28. On 17 January 2019 an email was sent to the Respondent notifying him of the allegation, to the email address in the Respondent's IFoA membership record. This is the same address as the Respondent used in May 2018 in submitting his application to the IFoA for exemption.
29. A letter was sent by the IFoA to Anbang Insurance on 23 January 2019, with the allegation in a separate sealed envelope addressed to him. There was no response to this letter.
30. On 23 January 2019 a text message was sent to the Respondent's mobile phone number asking him to contact the IFoA. There was no response.
31. He was emailed again on 31 January 2019, and a further text message sent on 11 April 2019.

32. The Respondent's application for exemption was certified by someone who was said to be a member of the Society of Actuaries. Search of that membership database found an individual of that name with an email address, and he was contacted. He responded but did not feel obliged to or comfortable with sharing information about the Respondent with them. That individual is not a member of the IFoA, and so is not obliged to assist.
33. Other attempts to contact the Respondent through other individuals named in his record were similarly unsuccessful.
34. On 17 January 2019 the IFoA served the charge on the Respondent using his last email address, used by him on 09 May 2018, which is still the address current for him on the IFoA membership database.
35. An international tracing agent was retained. Their report is dated 18 June 2019. It was negative.
36. The Panel accepted the advice of its legal adviser concerning the test for dishonesty, as set out in Ivey v Genting Casinos (UK) Ltd (t/a Crockfords) [2017] UKSC 67.

### **Findings of Fact:**

37. 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 was satisfied that it was more likely than not that the incidents occurred as alleged. There is no requirement for the Respondent to prove anything.
38. The Panel found that the IFoA has met the burden proving the allegations, and adopts the matters alleged and the statement of case as its findings of fact.
39. There was only one reference number for any student. The number given on the letter the Respondent tendered was not his number. There was only one student of that name on that course that year. In applying for membership the Respondent gave his date of birth. The transcript from the University showing the lower results gave the same date of birth. The Respondent does not have the qualification he claimed to have.
40. The Panel is satisfied that the Respondent tendered documents to the IFoA knowing that they were false. The evidence from the University is of great probative value. The

University records show that the Respondent was not eligible for any of the eight exemptions which he claimed (p65 and p67). There are the indicia of fraud indicated above. The letter and certificate he tendered were not genuine. As he did not have those qualifications he must have known that was so.

41. Having found the allegations were factually proved the Panel was not troubled by legal definitions: intentionally to tender documents about academic achievements which have not been achieved can only be dishonesty. It necessarily follows that there was also a lack of integrity.

### **Misconduct Charge**

42. The Panel considered whether the actions of the Respondent amounted to Misconduct. In considering this matter, the Panel took account of the definition of Misconduct, for the purposes of the Disciplinary and Capacity for Membership Schemes, which is any conduct by a Member, whether committed in the United Kingdom or elsewhere, in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Bye-laws of the Institute and Faculty of Actuaries and/or to any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or, for so long as there is a relevant Memorandum of Understanding in force, by the FRC (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances.
43. The Panel was satisfied that this case inevitably falls within the definition of misconduct because it has the necessary degree of moral opprobrium required by Spencer v General Osteopathic Council [2012] EWHC 3147 (Admin).
44. Accordingly the Panel found the Charge of Misconduct proved.

### **Sanction:**

45. The Panel then considered sanction. It considered carefully its Indicative Sanctions Guidance, and the advice of its legal adviser. This was that the purpose of sanctions



was not to be punitive, but to protect the public and the reputation of the profession, and to declare and uphold professional standards.

46. As the Respondent's membership lapsed on 07 January 2019 through non-payment of fees the only sanctions can be reprimand, fine or exclusion. The Panel was aware of no mitigating factors. The Respondent had no previous disciplinary history, but he had been a member only a short time. The aggravating factors were the intent to deceive the professional body, and the attendant risk to the public from the possible registration of someone not properly qualified. The Panel decided that the charges proved were consistent only with exclusion. The Panel decided that it would be inappropriate to exclude the Respondent for less than the maximum period of 5 years.

**Costs:**

47. The IFoA applied for costs in the sum of £14,709.50. The IFoA had emailed the schedule of costs to the Respondent on 05 February 2020, and that email had been marked as delivered. The Panel considered the schedule carefully and decided that the costs were properly incurred. The Panel had no information about the means of the Respondent. The Panel orders the Respondent to pay costs to the IFoA of £14,709.50.

**Right to appeal:**

48. The Respondent 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:**

49. 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*.
50. That concludes this determination.