

**APPLICATION ON PAPERS  
CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF  
CHARTERED CERTIFIED ACCOUNTANTS**

**REASONS FOR DECISION**

**In the matter of:** Ms Natasha Kerr

**Determined on:** Friday, 31 July 2020

**Chair:** Mr Ian Ridd

**Legal Adviser:** Ms Juliet Gibbon

**Outcome:** The Chair made orders in the terms of the Consent Order Draft Agreement that Ms Kerr be severely reprimanded, fined £10,000 and ordered to pay costs in the sum of £1,817.00 to ACCA.

1. This matter has been referred to the Chair of the Disciplinary Committee of ACCA (“the Chair”) pursuant to Regulation 8(8) of The Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (“the Regulations”) for the Chair to determine, on the evidence before them, whether to approve or reject the draft Consent Order.
2. The Chair had before them a bundle of papers, that included the draft agreement, numbered pages 1-24, together with copies of correspondence and a detailed costs breakdown in the sum of £1,817.00.
3. The Chair considered the proposed consent order in the absence of the parties and without a hearing in accordance with Regulation 8(9) of the Regulations.
4. For avoidance of doubt, the Legal Adviser is an independent barrister and the role of a Legal Adviser is as set out in ACCA’s Regulations and is advisory only. The Chair alone will make the determination on the proposed consent order.

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5. The Chair noted the terms of the 'Consent Order: Draft Agreement' as follows:

"The Association of Chartered Certified Accountants (ACCA) and Ms Kerr (the Parties), agree as follows:

1. Ms Kerr admits the following:

### **Allegation 1**

- a. Between October 2014 and November 2015, Ms Kerr failed to comply with Section 150 (the Fundamental Principle of Professional Behaviour) of ACCA's Code of Ethics and Conduct (as applicable in 2014 and 2015) in that she failed to notify all of the clients of Company A of changes to the firm, including the existence of a new firm and director.
- b. By reason of the conduct at 1(a) above, Ms Kerr is guilty of misconduct pursuant to bye-law 8(a)(i).

### **Allegation 2**

- a. Between October 2014 and November 2015, Ms Kerr failed to comply with Section B9(5) of ACCA's Code of Ethics and Conduct (as applicable in 2014 and 2015) in that she failed to issue new engagement letters on a timely basis.
- b. By reason of the conduct at 2(a) above, Ms Kerr is guilty of misconduct pursuant to bye-law 8(a)(i).

### **Allegation 3**

- a. Between October 2014 and July 2019 Ms Kerr failed to comply with Sections B2(9) and B2(17) of ACCA's Code of Ethics and Conduct (as applicable in 2014 to 2019) in that she failed to obtain and/or retain client identification documentation prior to commencing work on the clients she acquired from Mr

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A's firm.

- b. By reason of the conduct at 3(a) above, Ms Kerr is guilty of misconduct pursuant to bye-law 8(a)(j).

### Allegation 4

- a. Between October 2014 and November 2018 Ms Kerr failed to comply with Section 130 (the Fundamental Principle of Professional Competence and Due Care) of ACCA's Code of Ethics and Conduct (as applicable in 2014 to 2018) in that she failed to adequately supervise Mr A's work.
  - b. By reason of the conduct at 4(a) above, Ms Kerr is guilty of misconduct pursuant to bye-law 8(a)(l).
2. That Ms Kerr shall be severely reprimanded and shall pay costs to ACCA in the sum of £1,817 and a fine of £10,000 due to her failure to retain client identification documentation.”
6. In signing the proposed Consent Order, Ms Kerr has admitted the allegations and accepted that she should be severely reprimanded, fined £10,000 and pay costs to ACCA in the sum of £1,817.00.

### BRIEF BACKGROUND

7. In October 2014, Ms Kerr commenced trading as Sears Morgan Accountancy Limited (“the firm”). She was the sole director of this company. On 30 October 2014 the firm acquired the trade debtors, physical equipment and the list of clients of Mr A's firm, Company A (in Administration) (“Company A”). Ms Kerr had not previously been a director of Company A.
8. In relation to Allegation 1, Ms Kerr failed to notify all clients on the client list of Company A of the existence of the new firm or that she was now the director responsible for the work in October 2014. Ms Kerr did, however, inform clients of this as and when she started to undertake work for them.

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9. In relation to Allegation 2, on 17 November 2014, Ms Kerr issued her first engagement letter between the firm and Company B. Ms Kerr accepted that engagement letters had not been issued in October 2014 as they should have been.
  
10. In relation to Allegation 3, Ms Kerr accepted that she had not obtained client identification documentation in respect of all the clients that she acquired from Company A. Ms Kerr had been prepared to rely on previous details obtained in respect of clients. On her behalf it is stated that Ms Kerr did consider whether there were any risks to the firm, including money laundering issues, but had decided that any such risks were minimal as the role of the firm was to deal with annual accounts and tax returns and she would be reviewing those documents herself. Ms Kerr has subsequently strengthened her anti money laundering (“AML”) procedures and now carries out due diligence for all new clients ensuring that she has full details of their identity and keeps written records of identity documents and any other relevant document to identify the client and, if there are any specific aspects or concerns regarding AML, then these are recorded on the file.
  
11. In relation to Allegation 4, Mr A was employed by the firm from 1 July 2015 to 30 November 2018. Prior to 01 July 2015, he had worked on an ad-hoc consultancy basis. On 15 September 2014, Mr A’s firm, Company A, entered into administration. On 04 December 2014, Mr A was made bankrupt by a creditors’ petition. On 23 December 2014, Mr A was suspended by ACCA. On 18 December 2018, Mr A was convicted of fraud. On 19 June 2019, Mr A was excluded from membership of ACCA. Ms Kerr accepted that in the period prior to Mr A’s criminal conviction, she had failed adequately to supervise his work. This had resulted in him being able to continue with the dishonest conduct that had resulted in Company A going into administration, Mr A’s bankruptcy, his conviction for fraud and his subsequent exclusion from ACCA. Ms Kerr has now adopted a much more stringent approach to supervision, including random file checks on a regular basis.

## DECISION AND REASONS

12. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, as amended (“the Regulations”) the Chair must determine, on the evidence before them, whether it is appropriate to approve or reject the draft Consent Order.

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13. The Chair was satisfied that there was a case to answer and that the Investigating Officer had followed the correct procedure. The Chair considered the bundle of documents together with Ms Kerr's admissions and found the allegations proved.
14. The Chair noted that under Regulation 8(12), they should only reject the signed Consent Order if they are of the view that the admitted breaches would, more likely than not, result in exclusion from membership of ACCA.
15. The Chair considered the seriousness of the allegations and the public interest, which includes the protection of the public, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and performance. They balanced this against Ms Kerr's own interests.
16. In considering this matter, the Chair accepted the advice of the Legal Adviser and paid regard to the ACCA documents 'Guidance for Disciplinary Sanctions' and 'Consent Orders – Frequently Asked Questions'.
17. The Chair found the following to be aggravating factors:
  - a. The length of time that the misconduct continued.
  - b. Ms Kerr's failures potentially exposed the firm to significant financial risk.
  - c. Ms Kerr potentially exposed the firm to breaches of the AML regulations.
18. The Chair found the following to be mitigating factors:
  - a. Ms Kerr has been a member of ACCA since 2004 and has a previous good disciplinary record,
  - b. Ms Kerr has fully engaged with the investigation and the regulatory process;
  - c. Ms Kerr has admitted her misconduct;
  - d. Ms Kerr has shown insight into her failings;
  - e. Ms Kerr has taken corrective steps to cure the misconduct and ensure that future errors do not occur.
19. The Chair was satisfied that the misconduct admitted by Ms Kerr would be unlikely

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to result in her exclusion from membership of ACCA and that, under Regulation 8(12), there was no basis for them to reject the Consent Order.

20. The Chair paid due regard to the Guidance for Disciplinary Sanctions. They found that the following factors in relation to the sanction of a severe reprimand were relevant in this case:
  - a. Ms Kerr's previous good record.
  - b. Ms Kerr's engagement with the investigation and the proceedings.
  - c. Ms Kerr's early admissions to her misconduct and the corrective steps she has taken to ensure that the misconduct is not repeated in the future.
  - d. Ms Kerr's insight into her failings.
  
21. The Chair, having considered all the documentary evidence before them, was satisfied that the sanction of a severe reprimand was the appropriate and proportionate sanction. The Chair was also satisfied that a fine of £10,000 was necessary in this case to reflect the seriousness of the breach of the AML regulations by Ms Kerr in failing to obtain and/or retain client identification documents. The Chair noted that Regulation 49(1)(d) of the Money Laundering Regulations 2017 provides for a deterrent sanction in such cases.
  
22. The Chair noted that Ms Kerr had agreed to pay ACCA costs in the sum of £1,333.00. The Chair considered this to be a reasonable and proportionate sum. The Chair, accordingly, pursuant to their powers under Regulation 8 of the Regulations, made an Order in the terms of the draft Consent Order.

## ORDER

- i. The Consent Order: Draft Agreement is approved.
  - ii. The allegations are proved by way of Ms Kerr's admissions.
  - iii. Ms Natasha Kerr is severely reprimanded.
  - iv. Ms Natasha Kerr is fined £10,000.
  - v. Ms Natasha Kerr is ordered to pay costs to ACCA in the sum of £1,817.00.
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23. By virtue of Regulation 8(17) there is no right of appeal against this Order. The Order

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will, therefore, come into effect immediately.

**Mr Ian Ridd  
Chair  
31 July 2020**