

CONSENT ORDERS HEARING

CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: **Mr Timothy Owen Jones**

Meeting on: **Thursday, 04 June 2020**

Location: **By video link, based via ACCA's Offices, The Adelphi, 1-11 John Adam Street, WC2N 6AU**

Committee: **Mr Maurice Cohen (Chair)**

Legal Adviser: **Mr Andrew Granville Stafford**

Persons present and capacity: **None**

Observers: **None**

Outcome **Consent order approved.**

1. A Consent Order is made on the order of the Chair under the relevant regulations.

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INTRODUCTION

2. This matter has been referred to the Consent Orders Chair of ACCA ('the Chair'), pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') for the Committee to determine on the basis of the evidence before it whether to approve the draft Consent Order.
3. The Chair had before them a bundle of 104 pages, including a Consent Order Draft Agreement signed by Mr Jones and on behalf of ACCA.

CONSENT ORDER DRAFT AGREEMENT

4. The Consent Order Draft Agreement was signed by Mr Jones on 11 April 2020 and by a representative of ACCA on 22 April 2020. It reads as follows:

'The Association of Chartered Certified Accountants (ACCA) and Mr Timothy Owen Jones (the Parties), agree as follows:

1. *Mr Timothy Owen Jones admits the following:*

Allegation 1

- a. *On 15 July 2019 Mr Timothy Jones was convicted of an offence contrary to Article 37(1)(a) of the Financial Services (Jersey) Law 1998 which is an offence discreditable to ACCA or to the accountancy profession.*
- b. *By reason of his conduct at 1(a) above, Mr Jones is liable to disciplinary action pursuant to bye-law 8(a)(ix).*

Allegation 2

- a. *From 15 July 2019 to 27 December 2019, Mr Timothy Jones failed to promptly bring to the attention of ACCA that he may have become liable to disciplinary action by reason of having been convicted of the offence referred to in allegation 1(a) above, contrary to bye-law 10(b).*
- b. *By reason of the conduct at 2(a) above, Mr Jones is liable to*

disciplinary action pursuant to bye-law 8(a)(iii).

2. *That Mr Jones shall be admonished and shall pay costs to ACCA in the sum of £350.'*
5. The background and facts are set out in an appendix to the agreement which reads as follows:

'Relevant Facts, Failings and/or Breaches'

3. *The investigating officer has conducted their investigation into the allegations against Mr Jones in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2020) and is satisfied that:*
 - a) *they have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (see pages 1 to 84), and determined that there is a case to answer against Mr Jones and there is a real prospect of a reasonable tribunal finding the allegations proved; and*
 - b) *the proposed allegations would be unlikely to result in exclusion from membership.*
4. *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*
5. *A summary of key facts is set out below:*

- *On 15 July 2019, Mr Timothy Jones was convicted of an offence contrary to Article 37(1)(a) of the Financial Services (Jersey) Law 1998. The certificate of Judgment issued by The Parish of St Helier Magistrates' Court confirmed that Mr Jones was convicted of an offence contrary to article 37 of the Financial Services (Jersey) Law 1998. It confirmed that Mr Jones was sentenced to*

a fine of £5,000, (pages 6, 7 and 44).

- *Mr Jones has provided documents that confirm that he has paid the fine in full (pages 33 to 39).*
- *On 1 November 1997, Mr Jones became a member of ACCA. On 1 November 2002 Mr Jones became a Fellow of ACCA (page 61).*
- *Mr Jones failed to promptly disclose his conviction when he received it on 15 July 2019, only doing so by email to ACCA on 28 December 2019 (pages 5-9).*

6. *The appropriate sanction is an admonishment.*
7. *In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions (Guidance) has been considered and particularly the key principles. One of the key principles is that of the public interest, which includes the following:*
 - *Protection of members of the public;*
 - *Maintenance of public confidence in the profession and in ACCA; and*
 - *Declaring and upholding proper standards of conduct and performance.*
8. *Another key principle is that of proportionality, that is, balancing the member's own interests against the public interest. Further the aggravating and mitigating features of the case have been considered.*
9. *The aggravating factors are considered to be as follows:*
 - *Mr Jones is a Fellow of the ACCA and the offence which he was convicted of brings discredit to ACCA and/or the*

accountancy profession.

- *The conduct which led to Mr Jones being convicted fell below the standards ACCA expects of its students, affiliates and members.*
- *The conviction resulted in Mr Jones being fined £5,000.*
- *Mr Jones failed to promptly bring to the attention of ACCA that he may have become liable to disciplinary action by reason of having been convicted of the offence referred to in allegation 1(a) above, contrary to bye-law 10(b).*

10. In deciding that an admonishment is the most suitable sanction paragraphs C2.1 to C2.6 of ACCA's Guidance have been considered and the following mitigating factors have been noted:

- *Mr Jones has a previous good record with no previous complaint or disciplinary history.*
- *Mr Jones admitted the offence and fully co-operated with the Police investigation. He provided a guilty plea at the hearings and accepted his sentence without appealing.*
- *Mr Jones has not re-offended since his conviction.*
- *Mr Jones complied promptly with the sentence. The information provided by Mr Jones shows that he has complied with the Court order (pages 33 to 39).*
- *Mr Jones has provided a candid account of the remorse he felt following the incident, of how it affected him, emotionally and physically as well as his family and of how he is attempting to pursue a different career and move forward with his life. Mr Jones takes full responsibility for his actions, demonstrating an insight*

about the seriousness of the offence and about how he had fallen short against the standards expected of ACCA students, affiliates and members (pages 8, 9, 45, 46, 52, 53 and 64 to 66).

- *Mr Jones' conduct appears to be an isolated incident and not part of a known pattern of behaviour. He has provided a number of character references from people who are aware of his conviction. These confirm his assertion that the incident was out of character (pages 68 to 70).*
 - *Mr Jones has obtained employment since the conviction and is attempting to pursue a new career (page 65).*
 - *There is no evidence of dishonesty.*
 - *Although Mr Jones did not inform ACCA promptly of the conviction, it is to his credit that he did inform ACCA, of his own volition, five months later, when prompted by the guidance notes in his CPD declaration.*
 - *Mr Jones has been candid about this matter and fully co-operated with the investigation and the regulatory process.*
11. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that an admonishment proportionately reflects Mr Jones' conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession; and it conveys a message of the importance of fundamental standards of professional conduct.'*

DECISION

6. The powers available to this Chair are to:
 - (a) Approve the draft Consent Order, in which case the findings on the allegations and the orders contained in it become formal findings and orders (CDR 8(11) and 8(14));
 - (b) Reject the draft Consent Order, which it may only do if it is of the view that the admitted breaches would more likely than not result in exclusion from membership (CDR 8(12));
 - (c) Recommend amendments to the draft Consent Order, if it satisfied it is appropriate to deal with the complaint by way of consent but wishes the terms of the draft order to be amended (CDR 8(13)).
7. The Chair was satisfied that appropriate notice of this hearing had been given to Mr Jones and that he was in agreement with the matter being dealt with by consent.
8. The Chair considered it was appropriate to make a Consent Order in the terms agreed between the parties.
9. The Chair was satisfied that exclusion was not an appropriate sanction in this case. Mr Jones had admitted the offence in question and had paid the fine imposed by the court in Jersey. There was no suggestion that the offence involved any dishonesty. In all the circumstances, the Chair was of the view that an admonishment was an appropriate and proportionate sanction. They considered that the costs sought by ACCA, which Mr Jones had agreed to pay, were reasonable.

ORDER

10. The Chair made the following order:
 - i. The draft Consent Order is approved;
 - ii. Allegations 1 and 2 are proved by admission;

- iii. Mr Jones is admonished;
 - iv. Mr Jones is ordered to pay costs to ACCA in the sum of £350.00.
11. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

Mr Maurice Cohen
Chair
04 June 2020