

CONSENT ORDERS HEARING

CONSENT ORDERS CONSIDERATION OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Chan Bing Chung

Heard on: Tuesday, 09 June 2020

Location: On the papers via skype conference between the Chair and
Legal Adviser

Committee: Mr Andrew Gell (Chair)

Legal Adviser: Miss Judith Chrystie (Legal Adviser)

Summary Consent order approved

1. A Consent Order is made on the order of the Chair under the terms of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as amended) ('the Regulations').

SERVICE OF PAPERS

2. The matter was listed as a hearing considering only documents; neither Mr Chan Bing Chung nor ACCA were therefore present or represented.
3. The Chair was satisfied that Mr Chan Bing Chung was advised via an email from ACCA, dated 07 May 2020, that the Consent Order signed and returned by him would be considered by a Consent Orders Chair in due course.

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ALLEGATION

4. The Chair accepted the advice of the Legal Adviser and considered a draft Consent Order which was signed by Mr Chan Bing Chung on 04 May 2020 and on behalf of ACCA on 11 May 2020.
5. Through the consent order Mr Chan Bing Chung admitted to the following allegation:

Allegation 1

Pursuant to bye-law 8(a)(vi), Mr Chan Bing Chung is liable to disciplinary action by virtue of the disciplinary finding against him on 18 January 2019 by the Hong Kong Institute of Certified Public Accountants.

6. The draft Consent Order also contained agreement to Mr Chan Bing Chung being severely reprimanded, fined the sum of £750.00 and paying costs to ACCA in the sum of £509.50.

BACKGROUND

7. Mr Chan Bing Chung became an ACCA member on 15 June 2000 and a Fellow on 15 June 2006. Mr Chan Bing Chung was also a member of the Hong Kong Institute of Certified Public Accountants ('Institute') until his resignation in September 2019.
8. At a hearing on 06 December 2018, the Institute considered several complaints against Mr Chan Bing Chung relating to his engagement as auditor for a Hong Kong listed company. In a reasoned decision document dated 18 January 2019, the Institute found the following complaints proved:
 - a. Breaches of the Hong Kong Standards on Auditing;
 - b. Breach of the Code of Ethics for Professional Accountants;
 - c. That he failed to ensure the external quality control reviewer (EQCR) was independent of the audit team and had failed to discuss matters with the EQCR.

9. The Institute found that the *'audit irregularity was not a particularly serious mistake'*, but that Mr Chan Bing Chung's denial *'demonstrates an obvious lack of understanding of the requirements of the relevant accounting standards'*.
10. On 25 July 2019, the Institute made an order that Mr Chan should:
 - a. Be reprimanded;
 - b. Not be issued with a practising certificate by the Institute for two years, effective from 05 January 2019;
 - c. Pay the Institute's costs of HK\$80,568.50 and the Financial Reporting Council's costs of HK\$10,042.
11. In a letter to ACCA dated 06 January 2020, Mr Chan Bing Chung stated that:
 - a. He did not accept the findings made against him by the Institute, but he had no money to appeal;
 - b. The costs payable to the institute and the FRC has been paid;
 - c. He had not been in practice since 04 April 2018.
12. ACCA submitted the following were aggravating features of the case:
 - a. Being publicly sanctioned by another professional body brought discredit upon Mr Chan Bing Chung, ACCA and the accountancy profession;
 - b. The conduct that led to Mr Chan Bing Chung being the subject of disciplinary action by the Institute fell below the standards expected of an ACCA member in practice;
 - c. The severity of the Institute's decision in issuing him with a reprimand and suspending his practising certificate for two years;
 - d. This disciplinary finding followed on from an earlier finding by the Institute in February 2016 of a similar nature, which demonstrated a

continuing lack of professional competence by Chan Bing Chung relating to audit work;

- e. Mr Chan Bing Chung continued to deny wrongdoing and therefore lacked insight into his conduct.

13. ACCA identified the following as mitigating factors in the case:

- a. Mr Chan appeared to have engaged with the Institute's disciplinary process;
- b. Mr Chan had co-operated with ACCA's investigation process;
- c. The Institute's Disciplinary Committee accepted the 'auditing irregularity' which gave rise to the disciplinary finding being the subject matter of this Consent Order 'was not a particularly serious mistake on its own';
- d. The findings made by the Institute's Disciplinary Committee related to competence and due care issues rather than an issue relating to (i) a lack of integrity and / or (ii) dishonest conduct;
- e. There was no continuing risk, given Mr Chan's practising certificate had been suspended.

14. In support of the terms of the Consent Order, ACCA argued that a severe reprimand proportionately reflected Mr Chan's conduct, the wider public interest, the fact that Mr Chan has been previously disciplined by the Institute for a similar breach in February 2016, and continued to show a lack of insight.

DECISION AND REASONS

15. The Chair recognised their power to approve any signed draft Consent Order that a Disciplinary Committee would have had the power to make under Regulations 13 and 15 of the Regulations, except a sanction of excluding Mr Chan Bing Chung from membership.

16. The Chair acknowledged that they could only reject the draft Consent Order signed by ACCA and Mr Chan Bing Chung if they were of the view that the admitted breaches would more likely than not result in exclusion of Mr Chan Bing Chung, but that they could recommend amendments to the signed order and subsequently approve any agreed amended order.
17. The Chair considered that there was a case to answer, that an appropriate investigation has been conducted and that it was appropriate to deal with the matter through the Consent Order process. Finally, the Chair was satisfied that the signed draft Consent Order should be approved in accordance with the power under Regulation 8 of the Regulations, and that the admitted breaches and circumstances of the case were not more likely than not to result in Mr Chan Bing Chung being excluded from membership.
18. The Chair considered it was insufficient in the public interest to conclude the matter with no order. This was a case involving a disciplinary finding by another regulator in respect of breaches by Mr Chan Bing Chung of several professional duties and obligations relating to his audit practice. Public confidence in the profession and its regulation, together with a declaration to other members of the profession about acceptable conduct, required the admitted allegation to be marked with some form of sanction.
19. Further, the Chair considered that concluding the case with either an admonishment or a reprimand would not reflect the gravity of the findings by the Institute, which was reflected in its order that Mr Chan Bing Chung should not only be reprimanded but also barred from holding a practising certificate for a period of two years. The Chair recognised that this case involved a repetition of similar issues and was the second recent case involving Mr Chan Bing Chung's competence as an auditor; he did not have an unblemished disciplinary record.
20. However, although the Mr Chan Bing Chung's correspondence revealed he needed to develop further understanding and insight into his own failings and areas for improvement, there were several mitigating features to the case, including that Mr Chan Bing Chung had admitted the findings made against him by the Institute and co-operated with ACCA's investigation. The Chair considered that the risk to the public was currently low, particularly given that Mr Chan Bing Chung was not currently practising.

21. In the circumstances, the Chair was satisfied that a Severe Reprimand would proportionately reflect the nature of the admitted disciplinary finding and that, when combined with a limited fine, would be sufficient to conclude the matter in the public interest, whilst balancing this with the impact on Mr Chan Bing Chung. Whilst considering this to be a significant matter and holding concerns about Mr Chan Bing Chung's current lack of insight, the Chair was content that the issues were not fundamentally incompatible with Mr Chan Bing Chung's continuing to be a member of ACCA.
22. As part of the signed draft Consent Order, Mr Chan Bing Chung had agreed to pay costs to ACCA in the sum of £509.50 (five hundred and nine GP pounds sterling and fifty pence).
23. The Chair considered that this was not an unreasonable amount. Even though they had noted the content of Mr Chan Bing Chung's statement of financial circumstances, they recognised Mr Chan Bung Chung had not objected to the amount claimed.
24. The Chair approved the draft Consent Order in the following terms: Mr Chan Bing Chung should be severely reprimanded, fined the sum of £750.00 and pay costs to ACCA in the sum of £509.50.

Mr Andrew Gell
Chair
09 June 2020