

CONSENT ORDERS HEARING

CONSENT ORDERS CONSIDERATION OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mrs Joanne Doherty FCCA

Heard on: Tuesday, 09 June 2020

Location: On 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 Mrs Docherty nor ACCA were therefore present or represented.

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ALLEGATION

3. The Chair accepted the advice of the Legal Adviser and considered a draft Consent Order which was signed by Mrs Docherty on 30 March 2020 and on behalf of ACCA on the same day.
4. Within the Consent Order, Mrs Docherty admitted to the following allegation:

Allegation 1

- 1.1 *During the period between 2013 and 2016, whilst employed by Company A as Management Accountant, Mrs Docherty caused or permitted expenses incurred by Company A in the total cumulative amount of approximately £261,000 to be incorrectly debited to the balance sheet in Company A's accounting records when these should have been debited to the profit and loss account.*
- 1.2 *By virtue of the facts at 1.1, Mrs Docherty breached the fundamental principle of professional competence and due care (2013-2016).*
- 1.3 *By virtue of the facts at 1.1 and 1.2, Mrs Docherty is guilty of misconduct pursuant to bye-law 8(a)(i).*

5. The draft Consent Order also contained agreement to Mrs Docherty being severely reprimanded and paying costs to ACCA in the sum of £1,097.50.

BACKGROUND

6. Mrs Docherty became an ACCA member on 19 December 2007 and a fellow on 19 December 2012.
7. A summary of the background to the disciplinary action is as follows:
 - a. In around, or around, December 2016, Company A found that Mrs Docherty had incorrectly debited total cumulated expenses of approximately £261,000 to the balance sheet within its accounting records during the period 2013 to 2016. The cumulated expenses should have been debited to the profit and loss account.

- b. The sums arose as follows:
 - i. Around £76,000 in the year ended 2 November 2014;
 - ii. Around £63,000 in the year ended 1 November 2015; and
 - iii. Around £122,000 in the year ended 31 October 2016.

- 8. In response to discovering the irregularity, Company A debited approximately £261,000 to the profit and loss account and credited the balance account in its accounts for the year ending 31 October 2016. Company A's auditors agreed that the separate amounts for each year were not material enough to warrant treatment as a prior year adjustment or separate disclosure in the company accounts for the year ending 31 October 2016.

- 9. Mrs Docherty provided comments to ACCA in statements dated 29 June 2018, 13 December 2018, 31 January 2019, 18 November 2019 and 18 March 2020. In these statements Mrs Docherty commented that she:
 - a. Debited the expenses to the balance sheet originally by monthly journal, as a temporary measure on the instructions of her immediate supervisor at the time so that he could look into them (this was because the particular expenses looked high);
 - b. Her supervisor left Company A before examining the expenses, but she continued to make the journals for a short while after her immediate supervisor left;
 - c. Did not think it was reasonable to defer costs on to the balance sheet but had been asked to do so by someone superior to her;
 - d. Did not know what to do with the large amount of costs (debited) in the balance sheet and didn't want to get herself or anyone else in trouble;
 - e. Tried to release the sums herself gradually to the profit and loss account;
 - f. Accepts she should have informed Company A's directors but '*they were difficult people to approach*';

- g. Did not make financial gain;
 - h. Acted in good faith and did not act maliciously;
 - i. Resigned from her job with the Company in April 2017, as she had been unable to resolve the issue and thought that the directors would have lost their trust in her;
 - j. Felt that she had been unfairly targeted: the internal auditor never suggested any erroneous entries and all management of Company A had copies of the monthly management accounts/journal;
10. Within her statements to ACCA, Mrs Docherty described her conduct as, '*not that of a professional accountant*' and commented she had learned that she should query tasks that she is asked to do, even if the person is a superior. Mrs Docherty described that she was prepared to dispose of the matter by Consent Order mainly because, '*the case has now gone on for nearly two years and I wish for this matter to be concluded as soon as possible*'
11. Mrs Docherty provided two references: from her current employer and a Methodist minister with whom she had worked in her role as church treasurer and also treasurer of the other church and circuit members.
12. ACCA submitted the following were aggravating features of the case:
- a. The incorrect entries were made over several years and accounting periods;
 - b. The incorrect entries were found by Company A, Mrs Docherty did not make any voluntary disclosure of them to the directors of Company A;
 - c. The cumulative amount was significant.
13. ACCA identified the following as mitigating factors in the case:
- a. Mrs Docherty had been a member of ACCA since 2007, with a previous good record and no complaint/disciplinary history;

- b. Mrs Docherty had fully co-operated with the investigation and regulatory process;
 - c. Mrs Docherty had made admissions;
 - d. Company A had not taken disciplinary action against Mrs Docherty in relation to the incorrect entries referred to in the allegations;
 - e. There was no evidence of personal gain by Mrs Docherty;
 - f. It was several years since the events took place, and Mrs Docherty ceased to work for Company A in 2017;
 - g. Mrs Docherty has provided references to ACCA, including from her current employer;
 - h. There did not appear to be an ongoing public risk.
14. ACCA argued that a severe reprimand proportionately reflected Mrs Docherty's misconduct and the public interest. It identified that the sanction was necessary in the public interest, owing to the discredit to the profession and ACCA of Mrs Docherty's conduct, and to declare a message to the profession about the importance of the fundamental standards of professional conduct.

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 Mrs Docherty from membership.
16. The Chair acknowledged that they could only reject the draft Consent Order signed by ACCA and Mrs Docherty if they were of the view that the admitted breaches would more likely than not result in exclusion of Mrs Docherty. However, they could recommend amendments to the signed order and subsequently approve any agreed amended order.
17. In considering this matter, the Chair had regard to ACCA's Guidance for Disciplinary Sanctions.

18. 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. The Chair was satisfied that they could accept the admissions by Mrs Docherty as an educated professional who accepted her wrongdoing, and that the admitted breaches and circumstances of the case were not more likely than not to result in Mrs Docherty being excluded from membership.
19. Whilst the Chair was satisfied that the admitted breaches and accepted misconduct were not incompatible with Mrs Docherty remaining as a member of ACCA, they considered that it would be insufficient in the public interest to conclude the matter with no order. Mrs Docherty's misconduct had significant consequences. These included accounting records containing erroneous information being made public and Company A having to restate their accounts and declare accounting irregularities.
20. For similar reasons, the Chair did not consider that the public interest – in term of public confidence in the profession and the declaration of appropriate and acceptable conduct to the profession – would be met through a sanction of admonishment or reprimand. The Chair was not satisfied that those sanctions would reflect the gravity of the misconduct. As Mrs Docherty herself recognised, her conduct was not of the standard expected of a professional accountant; her actions in misusing the accountancy process over a sustained period fell significantly short of the standards expected of an accountant and member of ACCA. Even at the time, Mrs Docherty appreciated that the practice of posting the expenses to the balance sheet was irregular and wrong, but she then covertly attempted to regularise it.
21. The Chair considered that the misconduct was serious, involving a significant amount of money over a sustained period of time, but it also recognised that there was mitigation and that the misconduct was capable of remediation. Mrs Docherty had admitted her errors and had revealed the irregularity to her current employer, who was one of two supportive character references submitted on her behalf. The risk of repetition was low: her current employer was fully aware; her current role did not involve similar work and she had gained insight into the need to question tasks asked of her. Importantly, this was not a case involving accountancy irregularities for personal gain nor was there any suggestion of dishonesty. In the wider circumstances of the case, the Chair was satisfied that a severe reprimand would proportionately reflect the nature of the admitted misconduct.

22. As part of the signed draft Consent Order, Mrs Docherty had agreed to pay costs to ACCA in the sum of £1,097.50.
23. The Chair considered that this was not an unreasonable amount. The Chair noted Mrs Docherty's statement of financial circumstances and supporting information, that that she had not objected to the amount claimed.
24. The Committee approved the draft Consent Order in the following terms: Mrs Docherty should be severely reprimanded and pay costs to ACCA in the sum of £1,097.50.

Mr Andrew Gell
Chair
09 June 2020