Think Ahead ACCA

APPLICATION ON PAPERS

CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	**Mr Mark Szolin-Jones**
Heard on:	**25 June 2020**
Chair:	**Mrs Helen Carter-Shaw (Chair)**
Outcome:	**Consent Order for Severe Reprimand, fine and costs approved.**

1. The Chair considered a draft Consent Order in respect of Mr Szolin-Jones. The matter was listed to be considered on the basis of documents only. Neither Mr Szolin-Jones nor ACCA were present or represented.

2. The Chair had before them the draft Consent Order, signed by Mr Szolin-Jones and a signatory on behalf of ACCA, together with supporting documents in a bundle numbered 1 to 420. In addition, there was a service bundle, numbered 1 to 12, a simple costs bundle, numbered 1 to 3 and a detailed costs bundle, of 1 page in length.

SERVICE

3. The Chair was satisfied that Mr Szolin-Jones had been properly notified of the meeting by an email dated 19 June 2020.

BACKGROUND

4. It was alleged by ACCA, and Mr Szolin-Jones admitted, the following:

Allegations

It is alleged that Mr Mark Szolin-Jones, Director of Company A ("the firm"):

1. Between 26 June 2017 and 6 April 2020, failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 then in force in relation to practice conducted in the firm as follows:

    1.1. Regulation 18 - in respect of risk assessment by relevant persons;

    1.2. Regulation 19- in respect of policies, controls and procedures;

    1.3. Regulation 21 - in respect of internal controls;

    1.4. Regulation 24- in respect of training;

    1.5. Regulation 28- in respect of applying customer due diligence measures.

2. His conduct in respect of 1.1 above was:

    2.1. Contrary to Section 82 of ACCA's Code of Ethics and Conduct (Anti-money laundering) [as applicable between 2017 and 2020];

    2.2. Contrary to Subsection 113 of ACCA's Code of Ethics and

Conduct (the Fundamental Principle of Professional Competence and Due Care) [as applicable between 2017 and 2020];

2.3. Contrary to Subsection 115 of ACCA's Code of Ethics and Conduct (the Fundamental Principle of Professional Behaviour) [as applicable between 2017 and 2020].

3. In light of any or all of the facts set out at Allegations 1 and 2 above, he is:

3.1. Guilty of misconduct pursuant to byelaw 8(a)(i); or

3.2. Liable to disciplinary action, pursuant to byelaw 8(a)(iii).

4. In relation to Allegation 3, it should be made clear that Mr Szolin-Jones accepted that his conduct either amounted to misconduct or, in the alternative, that he was liable to disciplinary action. However, ultimately this was a matter for the Chair to determine.

5. The details were set out in the attached draft Consent Order. ACCA's Investigating Officer and Mr Szolin-Jones had agreed the form of order which proposed a severe reprimand, a fine and made an order for costs.

DECISION AND REASONS

6. In accordance with Regulation 8 of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended, the Chair has the power to approve or reject the draft Consent Order or to recommend amendments. The Chair can only reject a signed draft Consent Order if they are of the view that the admitted breaches would more likely than not result in exclusion from Membership.

7. The Chair was satisfied that there was a case to answer and that it was appropriate to deal with the complaint by way of a Consent Order. The Chair considered that the Investigating Officer had followed the correct procedure.

8. The Chair considered the bundle of evidence and, together with Mr Szolin-Jones's admissions, found the facts proved. They were satisfied that the admitted facts and Mr Szolin-Jones's actions were serious and did amount to misconduct. It is important that professional accountants can identify suspected money laundering, bearing in mind the significant role they play as key gatekeepers for the financial system. Mr Szolin-Jones was the Money Laundering Reporting Officer ("MLRO") of the firm at the relevant time and it is, therefore, expected that he would have a proper understanding of what that role entails and the importance of ensuring the firm had adequate Anti-Money Laundering ("AML") policies and procedures. His failure to do so was significant and fell far below the standards expected of a professional accountant. It brings discredit on Mr Szolin-Jones, his firm, ACCA and the accountancy profession.

9. Mr Szolin-Jones is a member of ACCA, having joined in 1992.

10. Mr Szolin-Jones is the Director of Company A ("the firm") and the appointed MLRO of the firm.

11. On 5 September 2019, a desk-based review of the firm was conducted by the ACCA AML Team in order to assess its compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 ('MLR 2017").

12. The review revealed evidence of poor AML compliance, particularly with regard to the following AML controls:

    - The firm had not conducted a firm wide risk assessment in compliance with Regulation 18 of the MLR 2017. The firm was also not following the guidance as set out in Section 4 of the Anti-Money Laundering Guidance for the Accountancy Sector ("AMLGAS");

- AML policies and procedures - details regarding these key controls were either absent or insufficient - this is in breach of Regulation 19 of the MLR 2017. The firm was also not following the guidance as set out in Section 3.5 of AMLGAS;

- The MLRO was not performing in his role appropriately as key requirements and controls had not been implemented or were insufficient as required by Regulation 21 of the MLR 2017. The firm failed to follow the guidance as set out in Section 3.3.10 of AMLGAS;

- Escalation/Internal Suspicious Activity Report (SAR) - The MLRO confirmed that no formal process was in place to submit SARs and so the firm was not following the guidance as set out in Section 6 of AMLGAS;

- On-going Monitoring and Customer Due Diligence - the firm had not performed any on-going monitoring on its established client base. The firm's customer due diligence (CDD) documentation, data and information was not up to date in accordance with Regulations 28, 33 and 25 of the MLR 2017. The firm was also not following the guidance as set out in Section 5.2.5 to 5.2.8 of AMLGAS;

- The firm had not provided any AML training for its employees - as required by Regulation 24 of the MLR 2017. The firm was also not following the guidance as set out in Section 3.1.5, 3.1.6 and 8 of AMLGAS;

- High Risk Clients and Enhanced Due Diligence - the firm did not have a formal process to identify those clients posing higher AML risk as required Regulations 33, 35 and 36 of the MLR 2017. The firm was also not following the guidance as set out in Section 4.5.4, 5.3.7 and 5.3.22 of AMLGAS;

- The firm was not conducting any sanctions screening on individuals or firms. This is in breach of the Office of Financial Sanctions implementation HM Treasury Financial Sanctions Guidance. The firm

was also not following the guidance as set out in Section 5.3.23 and 5.3.24 of AMLGAS;

- Control Assurance - there was no independent assessment of AML controls in place and the firm could not demonstrate how they assessed the adequacy and effectiveness of these controls. The firm was not following the guidance as set out in Section 3.5.18 of AMLGAS.

13. The evidence revealed failures to comply not only with the 2017 MLRs set out above, but also a failure to apply the guidance set out within AMLGAS. This guidance is based on the law and the MLRs which came into force on 26 June 2017. It covers the prevention of money laundering and the countering of terrorist financing. It is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency, or trust and company services in the United Kingdom and has been approved and adopted by the UK accountancy AML supervisory bodies.

14. The AML team also found that the firm was not in compliance with Section 82 of ACCA's Rulebook (Anti-Money Laundering), in particular:

- Section 5 - Relationship with the local law;
- Sections 7 and 8 - Internal controls and policies;
- Section 9 (a) to (d) - Client identification;
- Section 17 - Record keeping;
- Sections 18 and 19 - Recognition of suspicion;
- Section 20 - Reporting suspicious transactions.

15. Mr Szolin-Jones provided an initial response to ACCA on 20 November 2019, once he had been informed that this matter had been referred to the Investigations Department, due to the deficiencies identified in the AML procedures in the firm. He has said that he was *"aware of the regulations and what was required and that my failure was a lack of understanding of the amount of formal documentation and processes required because of the nature of my client base and the size of my practice."*

16. Mr Szolin-Jones also explained that since the compliance review that took place at the firm, he had purchased the Mercia Money Laundering Support Service *"which provides training and documents along with ongoing updates and support."* He also said that in addition, he downloaded resources from ACCA, FCA, HMRC, OFSI and CCAB AMLGAS. Mr Szolin-Jones' explanations as to how he had begun to regularise his position and comply with the AML Team's review was further set out in this response.

17. From 20 November 2019 to 29 March 2020, Mr Szolin-Jones attempted to rectify the failures identified by the AML team. In his further response to ACCA, dated 29 March 2020, Mr Szolin-Jones also gave an account of the significant health issues from which he has suffered, and which had had a direct impact on his accountancy practice. In his email dated 29 March 2020, he added,

> *"At no point have I tried to be deliberately uncooperative or obstructive I have just struggled with my personal circumstances explained above, the enquiry requiring documentation and responses at what is the busiest time for a small accountancy practice and how to apply this to a sole practitioner accountancy practice with one office in a correct and efficient manner."*

18. On 6 April 2020, a Senior Supervision Officer in ACCA's AML team confirmed the following: *"I am content that Mr Szolin-Jones has taken sufficient action to address the findings originally set out in the AML report issued to him and his firm."* This email further sets out the actions taken by Mr Szolin-Jones, which are now deemed to be satisfactory by ACCA's AML team.

19. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that Mr Szolin-Jones: had fully co-operated with the investigation and regulatory process; had shown insight, apologised and expressed genuine remorse; had no previous disciplinary history in a long membership of ACCA; there were significant health matters which impacted upon his practice at the time of dealing with the complaint against him; there was no continuing risk to the public as Mr Szolin-Jones had now satisfactorily resolved all issues raised by the AML team and they have

confirmed they are content with the action taken by him; he had, therefore, taken remedial action to address his conduct.

20. In all the circumstances, and following ACCA's Guidance on sanctions, the Chair was satisfied that the sanction of severe reprimand, together with a fine, was appropriate in this case and that exclusion would be disproportionate. There had been an acceptance of the failures, which had not been deliberate or dishonest. Mr Szolin-Jones had shown insight into his failings and taken appropriate corrective steps to prevent a recurrence. He had also expressed genuine remorse. The combination of a severe reprimand and a fine conveyed the importance of complying with the fundamental standards and the regulations that Mr Szolin-Jones had breached.

21. The order for costs for this Consent Order appeared appropriate.

22. Accordingly, the Chair approved the attached Consent Order. In summary:

    a. Mr Szolin-Jones shall be severely reprimanded; and
    b. Mr Szolin-Jones shall pay a fine of £3,000; and
    c. Mr Szolin-Jones shall pay costs of £1,529.50 to ACCA.

Mrs Helen Carter-Shaw
Chair
25 June 2020