

## CONSENT ORDERS MEETING

### CONSENT ORDER OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Mr Simon David Wilkinson

**Heard on:** Thursday, 19 March 2020

**Location:** ACCA, The Adelphi, 1-11 John Adam Street, London,  
WC2N 6AU (by telephone link)

**Chair:** Ms Carolyn Tetlow (Chair)

**Legal Adviser:** Miss Juliet Gibbon (Legal Adviser)

**Persons present**

**and capacity:** None

**DECISION:** The Chair approved the proposed Consent Order that Mr Wilkinson shall be reprimanded and shall pay costs to ACCA in the sum of £1,955.

1. This matter has been referred to the Chair of the Disciplinary Committee of ACCA (“the Committee”), 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.

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2. The Chair had before them a service bundle, numbered pages 1-13, and a bundle of case papers, that included the draft agreement, numbered pages 1-76.
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. They were satisfied that Mr Wilkinson had been given proper notice that the proposed Consent Order would be considered today.
4. For avoidance of doubt, the Legal Adviser is an independent barrister or solicitor 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.

*The Association of Chartered Certified Accountants (ACCA) and Mr Simon David Wilkinson (the Parties), agree as follows:*

1. *Mr Simon David Wilkinson admits the following:*

*Allegation 1*

*On 13 February 2018 Mr Simon David Wilkinson, an ACCA member and director of Reeves Wilkinson Limited, signed an auditors' report in relation to Client A when Reeves Wilkinson Limited did not hold an auditing certificate issued by ACCA, contrary to Global Practising Regulation 2(1) (Annex 1, Appendix 1) (as applicable in 2018).*

*Allegation 2*

*Between 1 January 2019 and 10 September 2019 Mr Simon David Wilkinson, an ACCA member in public practice and a director of Reeves Wilkinson Limited failed to disclose to clients of Reeves Wilkinson Limited the amounts and terms of commissions it had received from independent financial advisers; contrary to section 310.17 (a) of ACCA's Code of Ethics & Conduct (as applicable in 2019).*

### *Allegation 3*

*Between 1 January 2018 and 5 December 2019 Mr Simon David Wilkinson was a director of Reeves Wilkinson Limited t/a Botting & Co a firm holding out on its website as being available to accept audit work/appointments in circumstances where Reeves Wilkinson Limited did not hold a firm's auditing certificate issued by ACCA, contrary to Global Practising Regulation 2(1) (Annex 1, Appendix 1) (as applicable in 2018-2019).*

### *Allegation 4*

*By reason of Mr Simon David Wilkinson's conduct set out at 1, 2 and 3 above, Mr Simon David Wilkinson is guilty of misconduct pursuant to bye-law 8(a)(i).*

2. *That Mr Simon David Wilkinson shall be reprimanded and shall pay costs to ACCA in the sum of 1,955.00.*

### **BRIEF BACKGROUND**

5. The firm, Reeves Wilkinson Limited ("the firm"), is the practice of Mr Simon David Wilkinson, and three others. They are also directors in a second practice, Botting & Co (Auditors) Limited.
6. The Senior Compliance Officer ("SCO") visited the two firms on 29 May 2019 to carry out a monitoring visit. The visit was carried out in order to monitor the conduct of audit work, to confirm Botting & Co (Auditors) Limited's eligibility for registered auditor status, and to monitor compliance with the other obligations under the Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs). It was a routine visit. Reeves Wilkinson Limited ceased to hold a firm's auditing certificate on 31 December 2017, and its audit clients had been transferred to Botting & Co (Auditors) Limited.
7. At the firm's previous visit on 29 May 2013, the Compliance Officer found that it had breached paragraph 310.17 of the Code of Ethics and Conduct ("CEC"). The firm had received commission from introductions to independent financial advisors. It had not, however, informed the clients, in writing, of the fact that it

was to receive commission and, as soon as practicable, of the amount and terms of such commission. The firm was subsequently reminded of the need to do so in the monitoring report on the visit, dated 14 June 2014.

8. Following the previous visit Mr Wilkinson responded to the monitoring visit report on 28 June 2013 and advised that:

*“We have notified our Independent Financial Advisor that he needs to supply us with a detailed breakdown of all commissions paid to us, so that we can notify the clients accordingly”.*

9. During the visit on 29 May 2019, it became apparent to the SCO that the firm had continued to receive pure introductory commissions from referring work to financial advisors. The firm had not written to inform the client in all instances where commission was received of the fact that it was to receive commission and, as soon as practicable, of the amount and terms of such commission.
10. A commission was selected for testing, and there was no supporting documentation other than a very brief email from the financial adviser informing the firm that an amount was going to be paid to them. At the visit, the SCO asked for all supporting documentation concerning this commission and was advised there was only the email from the advisor. It was highlighted to Mr Wilkinson that this had been an issue at the previous visit and had been raised as an issue in the Compliance Officer’s report. Mr Wilkinson advised that compliance with this matter had been corrected for a time but had since lapsed again.
11. Mr Wilkinson also failed to notify ACCA of changes to shareholdings made in February 2017. This matter was highlighted at certificate renewal stage in December 2017 and an incorporation notification was subsequently completed, signed and dated 12 January 2018 and submitted to ACCA.
12. Mr Wilkinson held controlling shares in the firm until mid-February 2017 when two other persons, who did not hold audit qualifications, became shareholders. The firm therefore ceased to be eligible for audit registration at this time as it no longer complied with Audit Regulation 5(1)(b). Mr Wilkinson and the other

principals did not realise this, however, until they attempted to renew the firm's audit certificate in December 2017. The firm's audit registration was subsequently cancelled on 31 December 2017. Mr Wilkinson liaised with ACCA and set up a new firm, Botting & Co (Auditors) Limited, which gained audit registration on 31 January 2018.

13. Prior to realising that there was an eligibility issue in the firm, Mr Wilkinson signed two audit reports in the name of Reeves Wilkinson Limited trading as Botting & Co.
14. After Mr Wilkinson became aware that there was an eligibility issue in the firm, an audit report was signed by him on 13 February 2018.
15. Mr Wilkinson, in the proposed Consent Order, has admitted all the allegations and accepted that he should be reprimanded and pay ACCA's costs in the sum of £1,955.00.

## **DECISION AND REASONS**

16. The Chair was satisfied that the Investigating Officer had conducted the appropriate level of investigation, and that there was a case to answer against Mr Wilkinson.
17. By virtue of Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, the Chair must determine whether, on the basis of the evidence before them, it is appropriate to approve or reject the draft Consent Order.
18. 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.
19. 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 Mr Wilkinson's own interests.

20. The Chair found the following aggravating factors:

- a. Signing an auditors' report on behalf of a firm that is not authorised to conduct audit work was a serious departure from the standards expected of an ACCA member;
- b. Failing to comply with ACCA's Code of Ethics and Conduct, having been specifically advised about a previous breach, demonstrated a degree of recklessness and limited insight;
- c. The firm had held itself out as being authorised to undertake audit work for a long period of time.

21. The Chair found the following mitigating factors:

- a. Mr Wilkinson has been a member of ACCA since 2000 with no previous disciplinary findings against him;
- b. Mr Wilkinson fully co-operated with ACCA's investigation;
- c. Mr Wilkinson made early admissions;
- d. There was no financial loss to the firm's clients;
- e. The firm had obtained the advance agreement of clients to its commission arrangements via the letters of engagement;
- f. Although the firm did not hold a firm's auditing certificate, Mr Wilkinson's other firm, Botting & Co (Auditors) Limited had been issued with a firm's auditing certificate;
- g. The audit carried out by Mr Wilkinson was of a good standard;
- h. Mr Wilkinson has now shown insight and has taken remedial action;

- i. The misconduct occurred during a stressful period for Mr Wilkinson.
22. The Chair was satisfied that the allegations admitted by Mr Wilkinson would be unlikely to result in exclusion from membership and, therefore, that there was no basis for them to reject the Consent Order under Regulation 8(12).
23. The Chair paid due regard to ACCA's Guidance for Disciplinary Sanctions. They found that the following factors in relation to the sanction of a Reprimand were relevant in this case:
  - a. Conduct was not in deliberate disregard of professional obligations;
  - b. There has been early and genuine acceptance;
  - c. There has been no or very little adverse consequence – it has not caused material distress, inconvenience or loss;
  - d. Early admission.
24. The Chair, having considered all the evidence before them, was satisfied that a sanction of a Reprimand was the appropriate and proportionate sanction in this case. The Chair, accordingly, made the Order consented to by both ACCA and Mr Wilkinson.

## **ORDER**

25. The Chair, pursuant to their powers under Regulation 8 of the Regulations, made an Order in the terms of the draft Consent Order, namely that Mr Wilkinson be reprimanded and pay ACCA's costs in the sum of £1,955.

**Ms Carolyn Tetlow**  
**Chair**  
**19 March 2020**