

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Michael Chrichard FCCA
Considered on:	Wednesday 28 April 2021
Chair:	Mr Martin Winter
Legal Adviser:	Mr Iain Ross
Outcome:	Consent order approved Member Severely reprimanded
Costs:	£3,000.

INTRODUCTION

1. This matter has been referred to the Chair of the Disciplinary Committee for them to determine on the basis of the evidence before it whether to approve or reject the draft Consent Order.
2. The Chair had a bundle of documents containing 523 pages.

PROVISIONAL AGREEMENT

3. The provisional agreement was signed by Michael Chrichard FCCA on 24 March 2021 and by a representative of ACCA on 24 March 2021. It reads as follows:

The Association of Chartered Certified Accountants (ACCA) and Mr Michael Chrichard (the Parties), agree as follows:

ACCA



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The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

Mr Michael Chrichard admits the following allegations:

Allegation 1

(a) [Private].

(b) [Private]

Allegation 2

(a) During the period 05 January 2019 to 18 January 2019, Michael Chrichard FCCA withheld correspondence belonging to Client A until they had made 3 payment of outstanding fees.

(b) Michael Chrichard FCCA's conduct in respect of 2(a) was contrary to

i. Paragraph 14 of Section B5 of the Code of Ethics and Conduct (as applicable in 2019); or in the alternative

ii. R115.3 of the Code of Ethics and Conduct (as applicable in 2019).

Allegation 3

Between 05 October 2018 and 18 February 2019, Michael Chrichard FCCA failed to provide transfer information that was requested by Client A and/or Client B's new accountant, as set out in Schedule 1, contrary to Rule 210.26 (as applicable in 2018) and/or Rule 320.14 (as applicable in 2019) of the Code of Ethics and Conduct.

Allegation 4

Between 10 December 2018 and 13 January 2019, Michael Chrichard FCCA did not provide the Companies House Company Authentication Code that was requested by Client B's new accountant, as set out in Schedule 2, contrary to Section 150.3 (as applicable in 2018) and/or R115.3 (as applicable in 2019) of the Code of Ethics and Conduct

Allegation 5

By reason of his conduct, Michael Chrichard FCCA is:

(a) Guilty of misconduct in respect of any or all of the matters set out at Allegations

1 to 4 above, pursuant to byelaw 8(a)(i); and/or

(b) Liable to disciplinary action in respect of any or all of the matters set out at Allegations 1 to 4 above pursuant to byelaw 8(a)(iii)

4. The background and facts are set out in an appendix to the provisional agreement which reads as follows:

BACKGROUND AND FACTS

Allegation 1

5. In or around August or September 2018, Mr Chrichard [Private]

6. On 09 October 2018, Mr Chrichard sent an email to Mr A in which he stated:

[Private]

7. Having been advised to do so by ACCA, on 22 August 2019, Mr Chrichard [Private]

Allegation 2

8. On 27 November 2018, Mr Chrichard sent a letter to Client A confirming that the engagement had ceased. The letter also stated that Mr Chrichard continued to receive significant mail for Client A and requested that Client A write to their customers and suppliers to inform them of a change of address (page 203).

9. On 05 January 2019, Mr Chrichard sent an email to Client A which stated that he was now exercising a lien over Client A's mail until they had settled their account with the Firm (page 213).

10. On 10 January 2019, an employee of the Firm sent an email to Client A stating that Mr Chrichard had informed him that mail would only be released when the final invoice had been settled (page 216).

11. On 18 January 2019, Client A made payment to the Firm of the outstanding fees (page 255).

Allegation 3

12. On 05 October 2018, Mr A sent a letter to Mr Chrichard in respect of Client A. In this letter, Mr A confirmed that he had been engaged by Client A and requested a copy of the last set of annual accounts prepared for the company (page 168).
13. On 09 October 2018, Mr Chrichard sent an email to Mr A which stated that he would be in contact with Client A in due course to discuss the Firm's disengagement (page 171).
14. On 11 October 2018, Mr A sent an email to Mr Chrichard which suggested that Mr Chrichard finalise the accounts of Client A for the year-ended 31 January 2018 (page 170).
15. On 20 November 2018, Mr Chrichard sent a letter to Client B confirming that the engagement had ceased and provided a copy of a detailed trial balance (page 201).
16. On 27 November 2018, Mr Chrichard sent a letter to Client A confirming that the engagement had ceased and provided a copy of a detailed trial balance (page 203).
17. On 10 December 2018, Mr A sent a letter to Mr Chrichard which requested the last set of annual accounts in respect of Client B (page 208 to 209).
18. On 11 December 2018, Mr Chrichard sent a letter to Client B, enclosing copies of the letter he had received from Mr A and the letter he had sent to Client B on 20 November 2018 (page 210).
19. On 27 December 2018, Mr A sent a letter to Mr Chrichard which requested the last set of company accounts in respect of Client B (page 211 - 212).
20. On 11 February 2019, Mr A sent two letters to Mr Chrichard to request the last set of company accounts in respect of Client A and Client B (page 219 - 222).

Allegation 4

21. On 20 November 2018, Mr Chrichard sent a letter to Client B confirming that their engagement had ceased and provided a copy of a detailed trial balance (page 201).

22. On 10 December 2018, Mr A sent a letter to Mr Chrichard which requested the Companies House company authentication code in respect of Client B (page 208 - 209).
23. On 11 December 2018, Mr Chrichard sent a letter to Client B, enclosing copies of the letter he had received from Mr A and the letter he had sent to Client B on 20 November 2018 (page 210)
24. On 27 December 2018, Mr A sent a letter to Mr Chrichard which requested the Companies House Company Authentication Code in respect of Client B (page 211 - 212).
25. On 14 January 2019, Client B received the Companies House Companies Authentication Code from Companies House (page 330).

THE MEMBER'S RESPONSE

26. On 29 December 2019, ACCA received submissions from Mr Chrichard stating the following:

Allegation 1 – [Private]

27. Mr Chrichard explained that he had contacted the complainant and expressed concerns; however, no response was received. On 09 March 2019, Mr Chrichard contacted ACCA and requested guidance and instruction regarding [Private]; this was followed by a telephone call.
28. ACCA took the view that although he [Private] he was awaiting guidance from ACCA which was sent to him on 01 August 2019 and he [Private] 3 weeks after receiving the ACCA advice.

Allegation 2 – Withholding of Client A's Correspondence

29. Mr Chrichard explained that the email of 05 January 2019 was not answered and that he was not aware of the email sent to the Complainant on 10 January 2019 until he received the bundle and report on 07 October 2019.
30. ACCA took the view it was disproportionate to pursue this issue further, given the

allegation was based on the fact that Mr Chrichard withheld information for a 2-week period.

Allegation 3 – Provision of Reasonable Transfer Information

31. Mr Chrichard stated that he was awaiting confirmation from the client. He adds that there was continuous communication between him and the client.
32. ACCA accepts that the failure to provide reasonable transfer information did not deter the client A's new representative from acting for him or from filing financial statements to Companies House.
33. In relation to client B, Mr Chrichard confirmed that he did not provide the last set of company accounts to Mr A, as this information was readily obtainable from Companies House. ACCA does not dispute was the case.

Allegation 4 – Provision of Companies House Company Authentication Code of Client B

34. Mr Chrichard states that he was awaiting evidence of consent to act directly from the client rather than from the Complainant. As the client's company was registered at their home address, the authentication code was accessible to them and they could have shared it with the Complainant.
35. Although Mr Chrichard's failure to provide Client B and/or the Complainant with the Companies House Company Authentication Code was representative of discourteous and inconsiderate behaviour, ACCA accepts that Mr Chrichard was awaiting the adequate authority to act before sending information to the client's new accountant. ACCA also accepted that Mr Chrichard contacted the client on a number of occasions; however, he did not receive a response.
36. In a letter dated 18 February 2020, ACCA's Case Progression Officer advised Mr Chrichard that ACCA was willing to dispose of this matter by way of a Consent Order. In his email responses of 19 February 2020 and 12 November 2020, Mr Chrichard confirmed that he was willing to consider disposal by consent.
37. Mr Chrichard responded as follows:

"Yes, I can confirm that I admit the allegation(s), facts and any failings and/or breaches,

as applicable, in full.

Yes, I can confirm that you have my agreement to the proposed sanction of a severe reprimand and costs of £3,000”

SANCTION

38. The appropriate sanction is a severe reprimand.
39. 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.
40. 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.
41. The aggravating factors are considered to be as follows:
 - The conduct which led to Mr Michael Chrichard being the subject of these proceedings fell below the standards expected of a qualified ACCA member;
 - Mr Chrichard failed to identify [Private] during the period 01 October 2018 and 21 August 2019 and, if so, whether such conduct is contrary to [Private]
 - Mr Chrichard withheld correspondence belonging to Client A until they had made payment of outstanding fees and, if so, whether this was contrary to Paragraph 14 of Section B5 of the Code (as applicable in 2019) or, in the alternative, R115.3 of the Code (as applicable in 2019);
 - Mr Chrichard failed to provide the reasonable transfer information that was requested by Client A and/or Client B's proposed accountant (Mr A) and, if so, whether this was contrary to Rule 210.26 (as applicable in 2018) and/or Rule 320.14 (as applicable in 2019) of the Code;
 - Mr Chrichard's failure to provide the Companies Authentication Code of Client B to

Client B's proposed accountant was contrary to Section 150.3(as applicable in 2018) and/or R115.3 (as applicable in 2019) of the Code;

- Mr Chrichard's initial lack of understanding and insight into the seriousness of the acts/omissions and the consequences thereof.

42. In deciding that a severe reprimand is the most suitable sanction, paragraphs C4.1 to C4.5 of ACCA's Guidance have been considered and the following mitigating factors have been noted:

- Mr Chrichard took action shortly after [Private] and that this is an isolated incident;
- Mr Chrichard has been a member of ACCA since 31 October 2006 and has a previous good record with no previous complaint or disciplinary history;
- Mr Chrichard has fully co-operated with the investigation and regulatory process;
- Mr Chrichard has ultimately admitted his conduct;
- Mr Chrichard took remedial action to address his conduct.

43. ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a severe reprimand proportionately reflects Mr Chrichard's 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 conduct bringing discredit to ACCA and the profession, and it conveys a message of the importance of fundamental standards of professional conduct

DECISION

44. The powers available to the 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 they may only do if they are 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 they are satisfied it is appropriate to deal with the complaint by way of consent but wish the terms of the draft order to be amended (CDR 8(13)).

45. The Chair was satisfied, for the reasons set out above, that the appropriate and proportionate sanction was a severe reprimand. The Chair was therefore satisfied it was appropriate to make a Consent Order in the terms agreed between the parties

ORDER

46. The Chair made the following order:

- i. The draft Consent Order is approved.
- ii. Allegations 1-4 are proved by admission.
- iii. Mr Michael Chrichard is severely reprimanded.
- iv. Mr Michael Chrichard is ordered to pay costs to ACCA in the sum of £3,000.00.

47. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

Mr Martin Winter
Chair
28 April 2021