

CONSENT ORDERS HEARING

CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr David Peter Wheeler

Heard on: Friday, 10 December 2021

Committee: Ms Suzan Matthews (Chair)

Legal Adviser: Mr Alastair McFarlane (Legal Adviser)

DOCUMENTS BEFORE THE COMMITTEE

1. The Committee received a bundle of papers, numbered pages 1-227, including a signed consent order and a service bundle, numbered pages 1-9.

ALLEGATIONS

David Peter Wheeler ACCA, failed on behalf of Cheeld Wheeler Limited (“the Firm”) to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 in that:

Allegation 1

- (a) *During the period of 26 June 2017 to 29 April 2021, he did not put in place adequate steps to identify and assess the risks of money*

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

laundering and terrorist financing contrary to Regulation 18; and

- (b) *During the period of 26 June 2017 to 05 May 2021, he did not establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment undertaken by the relevant person contrary to Regulation 19.*

Allegation 2

By reason of the conduct set out in allegation 1, David Wheeler failed to comply with Section 82 of ACCA's Code of Ethics and Conduct (Anti-Money Laundering) (as applicable from 2017 to 2021).

Allegation 3

By reason of the conduct set out at allegations 1 and 2 above, David Wheeler is guilty of misconduct pursuant to byelaw 8(a)(i).

BACKGROUND

2. Mr Wheeler has been a member of ACCA since 1989 and a Fellow of ACCA since 1994. He has held a practicing certificate with audit since 2003.
3. Mr Wheeler is a director and the Money Laundering Reporting Officer (the "MLRO") of the Firm. The Firm was incorporated on 21 October 2002 and Mr Wheeler appointed as a director. The Firm was required to be compliant with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations which commenced on 26 June 2017.

4. On 16 February 2021, ACCA's Anti-Money Laundering team ("the AML Team") undertook a monitoring visit to the Firm. The monitoring visit revealed evidence of non-compliance with AML controls, specifically:
 - a. Firm-wide risk assessment - The Firm had not conducted and documented a firm-wide risk assessment; and
 - b. AML policies and procedures - The Firm did not have any AML policies and procedures.
5. On 29 April 2021, a Firm-Wide Risk Assessment was completed by the Firm, and as a consequence, ACCA accepted that the Firm was now compliant with Regulation 18 of the Money Laundering Regulations.
6. On 05 May 2021, the Firm implemented AML policies and procedures and as a consequence ACCA accepted that the Firm was now compliant with Regulation 19 of the Money Laundering Regulations.
7. Mr Wheeler's conduct in respect of Allegation 1 was contrary to Section B2 (Anti Money Laundering) of ACCA's Code of Ethics and Conduct that required Mr Wheeler to familiarise himself with the law that applied to him and ensure that he worked within the law.

CHAIR'S DECISION

8. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, the Chair must determine whether, based on the evidence before them, the draft Consent Order should be approved or rejected.
9. The Chair noted that under Regulation 8(12) they shall 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.

10. The Chair considered the seriousness of the breaches as set out 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 Wheeler's interests and his previous good character, his admissions, and his co-operation with ACCA. There was no suggestion of dishonesty.
11. The Chair noted the list of aggravating and mitigating factors advanced at paragraphs 13 and 14 of the draft Consent Order. They noted that Mr Wheeler has speedily undertaken extensive measures to ensure that he is compliant with money laundering regulations and obligations in the future.
12. The Chair had regard to ACCA's Guidance for Disciplinary Sanctions. They were satisfied that there had been early and genuine acceptance of the misconduct and that the risk to the public and profession from Mr Wheeler continuing as a member was low.
13. For the reasons set out above, the Chair was satisfied that the admitted breaches would be unlikely to result in exclusion from membership, and therefore there was no basis for them to reject the Consent Order under Regulation 8 (12). The Chair noted the proposed Consent Order and considering all the information before them was satisfied that it was an appropriate and proportionate disposal of this case.
14. The appropriate sanction is a severe reprimand with a fine of £5,000. In deciding that a fine of £5,000 is suitable as a financial sanction, the section in the Guidance headed "*Additional guidance in relation to AML Allegations*" has been considered. In particular, these state that under the Money Laundering Regulations, ACCA must effectively monitor its firms to ensure they comply with the requirements of the regulations by taking appropriate measures where irregularities have been uncovered.

This includes ACCA taking effective, proportionate, and deterrent disciplinary action under ACCA's bye laws and regulations, which may be punitive in effect.

15. The Chair had regard to the Guidance that divides the types of AML breaches into 'Very Serious', 'Serious' and 'Less Serious'. They were of the view that the Allegations fall in to the 'Serious' category, given that the evidence shows that the Firm's non-compliance with legal requirements continued over a significant period of time as a result of Mr Wheeler's misconduct.

ORDER

16. The Chair, pursuant to their powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Wheeler be severely reprimanded, pay a fine of £5,000 and pay ACCA's costs of £678.50.

HH Suzan Matthews QC
Chair
10 December 2021