

## CONSENT ORDERS HEARING

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

#### REASONS FOR DECISION

<b>In the matter of:</b>	<b>Mrs Jacqueline Westerman</b>
<b>Considered on:</b>	<b>Thursday, 24 June 2021</b>
<b>Chair:</b>	<b>Mr Neil Dalton</b>
<b>Legal Adviser:</b>	<b>Mr Andrew Granville Stafford</b>
<b>Outcome</b>	<b>Consent order approved</b>

#### INTRODUCTION

1. This matter has been referred to a Chair of the Disciplinary Committee of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before them whether to approve the draft Consent Order. Under CDR 8(8), a Consent Order is made by a Chair of the Disciplinary Committee in the absence of the parties and without a hearing.
2. The Chair had before them bundle of 41 pages which included a Consent Order Draft Agreement.

#### CONSENT ORDER DRAFT AGREEMENT

3. The Consent Order Draft Agreement was signed by Mrs Westerman on 04 May 2021 and by a representative of ACCA on 05 May 2021. It reads as follows.

1. *Mrs Jacqueline Westerman admits the following:*

#### *Allegation 1*

#### ACCA



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*Pursuant to byelaw 8(a)(vi), Mrs Jacqueline Westerman is liable to disciplinary action by virtue of;*

- a) *the disciplinary finding against her on 13 July 2020 by the Insolvency Practitioners Association (IPA);*
- b) *the disciplinary finding against her on 15 December 2020 by the Insolvency Practitioners Association (IPA).*

2. *That Mrs Jacqueline Westerman shall be reprimanded and shall pay costs to ACCA in the sum of £343.*

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

**Relevant Facts, Failings and/or Breaches**

1. *The Investigating Officer has conducted their investigation into the allegations against Mrs Westerman in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2020) and is satisfied that:*

- a) *they have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (see pages 5-41), and determined that there is a case to answer against Mrs Westerman and there is a real prospect of a reasonable tribunal finding the allegations proved; and*
- b) *the proposed allegations would be unlikely to result in exclusion from membership.*

2. *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*

3. *A summary of key facts is set out below:*

- *Disciplinary action was taken against Mrs Jacqueline Westerman by the Insolvency Practitioners Association (IPA) on 13 July 2020 (pages 9);*
- *Disciplinary action was taken against Mrs Jacqueline Westerman by the Insolvency Practitioners Association (IPA) on 15 December 2020 (pages 31-32);*

### **Sanction**

4. *The appropriate sanction is a reprimand.*
5. *In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions (the 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*
6. *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.*

### **Reprimand**

7. *The aggravating factors are considered to be as follows:*
  - *By being publicly sanctioned by another professional body twice, Mrs Westerman, has brought discredit upon herself, to ACCA, and to the accountancy profession.*
  - *The conduct which led to Mrs Westerman, being the subject of disciplinary action by the IPA fell below the standards expected of a qualified ACCA member.*

- *The order by the IPA for Mrs Westerman to be reprimanded, fined £8,000 and pay costs of £2,740 for the first Consent Order and fined £2,000 and pay costs of £1,875 for the second Consent Order.*

8. *In deciding that a reprimand is the most suitable sanction paragraphs C3.1 to C3.5 of ACCA's Guidance have been considered and the following mitigating factors have been noted:*

- *There is no continuing risk to the public as Mrs Westerman has retired from professional practice and transferred the remaining IVAs in her client portfolio to another practitioner.*
- *It is noted that the IPA have considered the complaint and have chosen not to exclude Mrs Westerman for her conduct;*
- *Mrs Westerman has already been fined £10,000 and reprimanded by IPA;*
- *Mrs Westerman has readily admitted and apologized for the conduct which led to the complaints raised against her;*
- *Mrs Westerman has expressed genuine remorse.*
- *Mrs Westerman has been a member of ACCA since 1986 and has a previous good record with no previous complaint or disciplinary history;*
- *Mrs Westerman has fully co-operated with the investigation and regulatory process;*

9. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a reprimand proportionately reflects Mrs Westerman'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**

5. 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)).
  
6. The Chair carefully considered the documents before them, the agreed background, the evidence relating to the allegations and the proposals in relation to sanction. The Chair agreed that the proposed sanction was appropriate and proportionate in all the circumstances. The Chair was satisfied it was appropriate to make a Consent Order in the terms agreed between the parties.

## **ORDER**

7. The Chair made the following order:
  - i. The draft Consent Order is approved.
  - ii. Allegations 1(a) and 1(b) are proved by admission.
  - iii. Mrs Westerman is reprimanded.
  - iv. Mrs Westerman is ordered to pay costs to ACCA in the sum of £343.
  
8. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

**Mr Neil Dalton**  
**Chair**  
**24 June 2021**