

APPLICATION ON PAPERS

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

| | |
|--------------------------|--------------------------------|
| In the matter of: | Mr Gary James Lowe |
| Considered on: | Thursday, 11 March 2021 |
| Chair: | Mr Andrew Popat CBE |
| Legal Adviser: | Mr David Marshall |
| Outcome: | Consent Order approved |

1. The Chair considered a draft Consent Order signed by Mr Lowe on 05 March 2021. The matter was listed to be considered on the basis of documents only. Neither Mr Lowe nor ACCA was present or represented.

BACKGROUND AND ADMISSIONS

2. The Chair considered a main bundle of documents consisting of 394 pages, a service bundle, a costs schedule, and other correspondence.
3. Mr Lowe has been a Member of ACCA since 1990 and has held a practising certificate since 1992. He currently holds an ACCA practising certificate with audit qualification. He is in practice as G J Lowe Ltd, as a sole practitioner.
4. In July 2019, ACCA received a complaint from clients of Mr Lowe's firm: Client A (a dentist), Client B (his wife) and Company C (a company controlled by Clients A and/or B). This led ACCA to refer a number of allegations to a Disciplinary Committee Chair. The Allegations are as follows:
 1. It is alleged that Mr Lowe, director of G J Lowe Ltd ('the Firm');

APPLICATION ON PAPERS

- a. In breach of paragraph 5, Section B9 of ACCA's Code of Ethics and Conduct,
 - i. Failed to retain a letter of engagement on file in relation to preparing the personal tax returns for Client A;
 - ii. Failed to retain a letter of engagement on file in relation to preparing the personal tax returns for Client B;
 - iii. In relation to a letter of engagement addressed to Company C dated 30 November 2009, failed to retain on file a signed version on behalf Company C.
 - b. In breach of the Fundamental Principle of Competence and Due Care, having requested in his letters to HMRC of 01 October 2018 on behalf of Client A and separately Client B, as instructed by them, that their outstanding tax and penalties be paid by instalments, failed to follow this up with HMRC.
 - c. In breach of the Fundamental Principle of Competence and Due Care, that in preparing the annual accounts for Company C for the years ending 31 March 2013 to March 2018 inclusive.
 - i. Failed to advise Client A, the sole director, of the tax liability under s455 of the Corporation Tax Act 2010 relating to the directors' loan account being overdrawn for each of the above years of account;
 - ii. Failed to include s455 tax liability in Company C's annual corporation tax return for each of the above years of account.
2. In light to the facts set out at 1) a) to c) above, Mr Lowe is guilty of misconduct pursuant to byelaw 8(a)(i).
5. These allegations are all admitted by Mr Lowe.
6. The Chair was satisfied that sufficient notice had been given of today's meeting. He was satisfied that there was a case to answer and that the Investigating Officer had carried out an appropriate and thorough

APPLICATION ON PAPERS

investigation. He was satisfied that it was appropriate to deal with the matter by way of a Consent Order rather than in a public hearing. While it was in the public interest to mark the admitted misconduct, public concern about this case would not be so great that a full public hearing was required.

7. The Chair considered whether it was more likely than not that if the matter went to a hearing, the admitted breaches would result in exclusion from membership. The Chair agreed with the mitigating and aggravating factors set out in the draft Consent Order. It was clear that the complainants had been significantly disadvantaged by Mr Lowe's actions and omissions, particularly in their relationship with HMRC. However, the misconduct appears to have been an isolated episode in a long career and there was no indication that there was a serious and widespread public protection issue in this case. The Chair concluded that the matters alleged, while significant, were not sufficiently serious to be likely to lead to a sanction of exclusion.
8. The Chair considered the draft carefully but did not consider that any amendments were required.

COSTS

9. The Chair considered that ACCA was entitled to its costs in principle and that the amount claimed, which was agreed, was reasonable. Mr Lowe had not disputed the figures and had not submitted that he was unable to pay.
10. Accordingly, the Chair approved the attached Consent Order in full. In summary:
 - (a) Mr Lowe shall be reprimanded;
 - (b) Mr Lowe shall pay costs to ACCA in the sum of £1,979.00.

Mr Andrew Popat CBE
Chair
11 March 2021