

## APPLICATION ON PAPERS

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

#### REASONS FOR DECISION

**In the matter of:** Mr Syed Fawad Ali Gillani

**Considered on:** Tuesday, 04 May 2021

**Chair:** Mrs Valerie Paterson

**Legal Adviser:** Mr Andrew Granville Stafford

**Outcome** Consent order approved

#### INTRODUCTION

1. This matter has been referred to the Consent Orders Chair of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') for the Chair to determine on the basis of the evidence before them whether to approve the draft Consent Order.
2. The Chair had before them a Consent Order Draft Agreement, attached documents, a costs schedule and a notice of hearing.

#### CONSTITUTION OF THE COMMITTEE

3. 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. The Chair is assisted by a Legal Adviser. For avoidance of doubt the Legal Adviser is an independent barrister or solicitor. The role of a Legal Adviser, as set out in

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ACCA's Regulations, is advisory only. The Legal Adviser is not a voting member of the Committee as this would be a departure from their function. This is the determination of the Chair alone.

#### **CONSENT ORDER DRAFT AGREEMENT**

4. The Consent Order Draft Agreement was signed by Mr Gillani and by a representative of ACCA on 10 April 2021. It reads as follows:

'The Association of Chartered Certified Accountants (ACCA) and Mr Syed Fawad Ali Gillani (together "the Parties"), agree as follows:

- '1. Mr Syed Fawad Ali Gillani admits the following:

##### **Allegations**

1. During a remotely proctored Taxation (TX) computer-based examination (CBE) on 15 September 2020, Mr Syed Fawad Ali Gillani was in possession of unauthorised materials, namely a blue and white pen and a blank booklet; which he had at his desk, contrary to Examination Regulation 4 and 5.
  2. That Mr Syed Fawad Ali Gillani shall be reprimanded and shall pay costs to ACCA in the sum of £764.'
5. The relevant background and facts are set out in an appendix to the agreement which reads as follows:

##### 'Relevant Facts, Failings and/or Breaches

3. The Investigations Officer has conducted their investigation into the allegations against Mr Syed Fawad Ali Gillani in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and is satisfied that:
  - a) they have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (see pages 5 - 47), and determined that there is a case to answer against Mr Syed Fawad Ali Gillani 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.

4. 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.
5. A summary of key facts is set out below:
  - During his Taxation (TX) CBE remotely invigilated exam, Mr Syed Fawad Ali Gillani was in possession of unauthorised materials, namely a blue and white pen and a booklet (page 15)
  - ACCA Investigations wrote to Mr Syed Fawad Ali Gillani on 20 November 2020 to request a written response to allegations (page 36 - 40)
  - Mr Syed Fawad Ali Gillani provided his responses on 11 December 2020 (page 41)
  - ACCA Investigations wrote to Mr Syed Fawad Ali Gillani proposing a Consent Order on 23 February 2021 (page 42 -47).
  - Mr Syed Fawad Ali Gillani provided his response on 09 March 2021 (page 48).

### **Sanction**

6. The appropriate sanction is reprimand.
7. 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. Another key principle is that of proportionality, that is, balancing the student's own interests against the public interest.

Further the aggravating and mitigating features of the case have been considered.

## **REPRIMAND**

6. The aggravating factors are considered to be as follows:
  - The seriousness of Mr Syed Fawad Ali Gillani breaching the exam regulations fell below the standards expected of an ACCA student. As such, his conduct has brought discredit upon himself, ACCA and the accountancy profession.
7. 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:
  - Mr Syed Fawad Ali Gillani has been a student of ACCA since 19 November 2018 and has a previous good record with no previous complaint or disciplinary history.
  - Mr Syed Fawad Ali Gillani has provided an explanation into failings that led to the conduct.
8. In deciding that a reprimand is the most suitable sanction, paragraphs C3.1 to C3.5 of ACCA's Guidance ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a reprimand proportionately reflects the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession and it conveys a message of the importance of fundamental standards of professional conduct.

## **DECISION**

9. The powers available to this Committee 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 it may only do if it is 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 it satisfied it is appropriate to deal with the complaint by way of consent but wishes the terms of the draft order to be amended (CDR 8(13)).
10. The Committee carefully considered the draft agreed, the agreed facts and the documents contained in the bundle. The Committee was satisfied that Mr Gillani had fully admitted the allegation against him and that the proposed sanction was appropriate and proportionate. It was therefore satisfied that it was appropriate to make a Consent Order in the terms agreed between the parties.

### **ORDER**

11. The Committee therefore made the following order.
- i. The draft Consent Order is approved.
  - ii. Allegation 1 is proved by admission.
  - iii. Mr Gillani is reprimanded.
  - iv. Mr Gillani is ordered to pay costs to ACCA in the sum of £764.
12. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

**Mrs Valerie Paterson**  
**Chair**  
**04 May 2021**