

APPLICATION ON PAPERS

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Murdo Cruickshank

Considered on: Wednesday, 05 May 2021

Location: Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU using Microsoft Teams

Chair: Mr Maurice Cohen

Legal Adviser: Mr Richard Ferry-Swainson

Summary: Consent Order for Severe Reprimand and costs approved

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INTRODUCTION

1. The Chair considered a draft Consent Order in respect of Mr Cruickshank. The matter was listed to be considered on the basis of documents only. Neither Mr Cruickshank nor ACCA were present or represented.
2. The Chair had before them the draft Consent Order, signed by Mr Cruickshank and a signatory on behalf of ACCA, together with supporting documents in a bundle numbered 1 to 49. In addition, there was a service bundle numbered 1 to 7.

SERVICE

3. The Chair was satisfied that Mr Cruickshank had been properly notified of the meeting by an email dated 04 May 2021.

BACKGROUND

4. It was alleged by ACCA, and Mr Cruickshank admitted, that he was liable to disciplinary action because, on 04 December 2018, at Edinburgh Sheriff's Court, he was convicted of an offence under [Private]. For his sentence he received a Community Payback Order of £1500 to the victim; a Supervision period of 18 months; Unpaid work/Activities period of 150 hours to be completed within 12 months; and [Private].
5. The details were set out in the attached draft Consent Order. ACCA's Investigating Officer and Mr Cruickshank had agreed the form of order which proposed a severe reprimand and made an order for costs.

DECISION AND REASONS

6. In accordance with Regulation 8 of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended, the Chair has the power to approve or reject the draft Consent Order or to recommend amendments. The Chair can only reject a signed draft Consent Order if they are

of the view that the admitted breaches would more likely than not result in exclusion from membership.

7. The Chair was satisfied that there was a case to answer and that it was appropriate to deal with the complaint by way of a Consent Order. The Chair was also satisfied that the Investigating Officer had followed the correct procedure.
8. The Chair considered the bundle of evidence and, on the basis of Mr Cruickshank's admission, found the facts proved. They were satisfied that the admitted facts and Mr Cruickshank's actions meant that he was liable to disciplinary action pursuant to byelaw 8(a)(vi) in that he had been convicted of a criminal offence.
9. Mr Cruickshank is a student of ACCA, having joined in March 2020.
10. In 2015, Mr Cruickshank entered into a relationship with the complainant. The relationship lasted two years and they separated in September 2017. The following is an extract from the Sheriff's Court, provided by the prosecution:

[Private].

11. Mr Cruickshank was subsequently arrested and interviewed. He admitted the alleged conduct and thereafter entered a guilty plea at the Court hearing in December 2018.
12. He has completed all elements of his sentence and is no longer [Private]
13. In an email to ACCA dated 19 January 2021, Mr Cruickshank said:

[Private]. During the court proceedings I plead guilty to the charges [Private]. I was sentenced with 18 months of community payback order (probation) and 150 hours of community service, sentenced in February 2019. I have since completed my community services and finished the requirements of my probation with no violations.

Since the incident I have focused on changing as a person, so to never hurt someone again in the way I did [Private]. I will always hold regret for the way I have acted in the past, I only wish to continue to contribute to society in a positive way. I have ensured full disclosure to my employers who can provide a character

reference if required.”

14. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that Mr Cruickshank had: a previous good record with no complaint or disciplinary history; fully complied with the terms of his sentence; fully co-operated with the investigation and regulatory process; expressed remorse for his actions. The Chair also noted [Private].
15. In all the circumstances, and following ACCA's Guidance on sanctions, the Chair was satisfied that the sanction of severe reprimand was appropriate in this case and that exclusion would be disproportionate. He had been convicted of a serious offence. However, there had been full admissions from the outset to the behaviour, his sentence had been fully complied with and completed and Mr Cruickshank had clearly learnt from the episode.
16. The order for costs for this Consent Order appeared appropriate.
17. Accordingly, the Chair approved the attached Consent Order. In summary:
 - a. Mr Cruickshank shall be severely reprimanded; and
 - b. Mr Cruickshank shall pay costs of £662.00 to ACCA.

Mr Maurice Cohen
Chair
05 May 2021