

**APPLICATION ON PAPERS
CONSENT ORDER CHAIR OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Mr Bagwandas Panachand Shah

Considered on: Wednesday 24 November 2021

Chair: Mr Maurice Cohen

Legal adviser: Mr Alastair McFarlane

Outcome: Consent Order Approved

DOCUMENTS BEFORE THE COMMITTEE

1. The Chair received a bundle of papers, numbered pages 1-426, including a signed Consent Order.
2. Mr Shah has been a member of ACCA since 09 November 1978 and is the director of BP Shah & Co (“the firm”).

ALLEGATIONS

Allegation 1

It is alleged that Mr Bagwanda Panachand Shah, Director of BP Shah and Co (“the firm”):

- a. On dates between 26 June 2017 and 11 August 2021, failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds

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(Information on the Payer) Regulation 2017 in relation to practice conducted in the firm in that he:

- i. Had not conducted and documented a firm-wide risk assessment, contrary to Regulation 18;
 - ii. Did not put in place adequate steps to ensure the firm had in place a dedicated policies and procedures document outlining the firm's anti-money laundering systems and controls, contrary to Regulation 19;
 - iii. Did not provide formalised any money laundering training to all relevant staff at the firm and retain a record of such training, contrary to Regulation 24.
- b. His conduct in respect of 1a. above was:
- i. Contrary to Section B2 of ACCA's Code of Ethics and Conduct (Anti-money-laundering) [as applicable between 2017 and 2021];
 - ii. Contrary to Subsection 113 of ACCA's Code of Ethics and Conduct (the Fundamental Principle of Professional Competence and Due care) [as applicable between 2017 and 2021];
 - iii. Contrary to Subsection 115 of ACCA's Code of Ethics and Conduct (the Fundamental Principle of Professional Behaviour) [as applicable between 2017 and 2021];
- c. In light of all or any of the facts set out at Allegations 1a and 1b above, he is:
- i. Guilty of misconduct pursuant to byelaw 8(a)(i);
 - ii. Liable to disciplinary action pursuant to byelaw 8(a)(iii)

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BACKGROUND

3. Mr Shah is the director of BP Shah & Co and the appointed Money-Laundering Supervision Officer (“MLRO”) of the firm.
4. On 10 September 2020, ACCA’s Anti-Money Laundering Team conducted a desk-based monitoring review of the firm in order to address compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (information on the Payer) Regulations 2017 (“MLRs 2017”).
5. The review revealed evidence of poor AML compliance. In particular, the firm had not conducted and documented a firm-wide risk assessment and consequently the firm were not aware of the AML risks within its operations and not able to adequately mitigate them. Further, the firm did not have AML policies and procedures (“P&P”) in place and consequently it did not have a documented process in place to state how it was able to mitigate money laundering risks. Further, the firm did not provide formalised AML training to its staff nor retain a copy of such training.
6. The review revealed failure to comply not only with the 2017 MLRs but also to apply the guidance set out within Anti-Money Laundering Guidance in the Accountancy Sector (“AMLGAS”). The guidance is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency or trust and company services in the United Kingdom. The evidence also revealed that the firm was not in compliance with section B2 of ACCA’s Rulebook.
7. Following the referral, Mr Shah took steps to rectify the breaches and provided evidence that the relevant documentation and processes have been put in place to show how he had attempted to rectify the failures identified by the AML team. Further, Mr Shah has confirmed that he has undertaken further relevant external training courses and a more robust training schedule at the firm has been put into place with immediate effect for all staff to ensure the continued professional development within the area of anti-money laundering. In addition, Mr Shah has taken out an annual subscription for the Mercia ICAEW Anti-Money Laundering

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Service. Mr Shah has indicated that he appreciates the importance of ACCA firms and members complying with the MLRs and is now fully aware of the guidance set out in the AMLGAS. He has also provided a written undertaking that he will continue to adhere to the money laundering regulations.

CHAIR'S DECISION

8. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, the Chair has to determine whether on the basis of the evidence before them it is appropriate to approve or reject the draft Consent Order.
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 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. It balanced this against Mr Shah'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 9 and 10 of the draft Consent Order. They felt Mr Shah's apology showed insight and his previous good record and the positive testimonials were significant mitigating factors.
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 Shah 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

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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, this states 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 byelaws 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 Allegation falls in to the ‘Serious’ category given that the evidence shows that Mr Shah’s conduct was ‘reckless’.
16. The Chair noted that in the Guidance, the ‘suggested’ non-financial sanction is that of a severe reprimand, and they accepted ACCA’s position that a severe reprimand and a £5,000 fine proportionately reflects Mr Shah’s conduct and the public policy considerations.

ORDER

17. The Chair, pursuant to their powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Shah be severely reprimanded, pay a fine of £5,000 and pay ACCA’s costs of £1,403.

Mr Maurice Cohen
Chair
24 November 2021