

Think Ahead

**ACCA**

## APPLICATION ON PAPERS

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

#### REASONS FOR DECISION

**In the matter of:** Mr Rana Buland Bakht Khan

**Considered on:** Tuesday, 12 October 2021

**Chair:** HH Suzan Matthews QC

**Legal adviser:** Mr Alastair McFarlane

**Outcome:** Consent Order Approved

#### DOCUMENTS BEFORE THE CHAIR

1. The Chair received a bundle of papers, numbered pages 1-161, including a signed Consent Order.

#### ALLEGATIONS

2. Mr Khan has been a member of ACCA since 2011 and is the sole director of Renaissance Accountants Ltd (“the Firm”).

ACCA



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### **Allegation 1**

Between about December 2018 and February 2020, failed to hold monies belonging to Client A in a separate designated client account, given that the sum was in excess of £10,000 and held by the Firm for more than 30 days, in breach of Paragraph 350.10 relating to Custody of Client Assets under ACCA's Code of Ethics and Conduct.

### **Allegation 2**

In relation to his engagement to act for Client A commencing in about December 2018, failed to obtain evidence he had verified those instructing him on behalf of Client A had authority to do so, in breach of paragraph 9 of ACCA's Code of Ethics and Conduct relating to Anti-Money Laundering.

### **Allegation 3**

By reason of his conduct in respect of Allegations 1 and 2 above, Mr Khan is guilty of misconduct pursuant to bye-law 8(a)(i).

## **BACKGROUND**

3. In February 2020, a complaint was received against Mr Khan from Mr P, a retired ICAEW member in respect of Client A. Bank monies had been diverted as a result of an incident of hacking and fraud (a scam) by third parties and, as a result of the complaint, a thorough investigation into the whole background was undertaken and breaches were identified as below, which are admitted.

### **Allegation 1**

4. Under Paragraph 350.10 of ACCA's Code of Ethics and Conduct, under the sub-heading 'Clients' Accounts', (as applicable in 2018 and subsequently), where it is anticipated that the monies of individual clients in excess of £10,000 or its equivalent will be held by the Firm for more than 30 days, the money shall be paid into a separate bank account designated by the name of the client or number allocated to the client account.
5. Mr Khan was notified of this complaint from ACCA's Investigating Officer in June 2020.

Mr Khan was asked questions about his Firm's bank account from which he had distributed Client A's funds. Mr Khan advised his Firm had a 'General Client Account' and that '*We were never asked to open a designated Client account by Client [A]*'.

6. The General Client Account's bank statement records receipt of Client A's funds in the sum of £231,059 on 29 November 2018. Various amounts are shown as being paid out over the following two years or so, with the final amount of £15,661.61 being paid on 12 February 2020. It also shows the redactions made by Mr Khan given they do not relate to his engagement with Client A. The statement is addressed to 'Renaissance Accountants Ltd', being Mr Khan's practice and is described as 'BUS BANK CLIENT, RENAISSANCE ACCOUNTANTS LTD'.
7. In his response to ACCA of 23 July 2020, Mr Khan advised he could not set up a designated client account given all the directors were non-resident in the UK. ACCA sought clarification. In response, Mr Khan referred to an occasion relating to another client when his bank had refused to set up a designated client account but then advised that Client A had never requested a designated client account.
8. In his response to ACCA's offer to dispose of this matter by way of Consent Order, Mr Khan advised that he had '*reason to believe Client A never intended to retain funds with us for more than a month. Due to the scam, they decided to hold funds for longer duration*'. ACCA submit that that being so, Mr Khan should have taken steps to transfer Client A's funds to a designated client account prior to the expiry of thirty days, namely by the end of December 2018.
9. The evidence therefore is that Client A's funds remained in Mr Khan's Firm's general client account for the duration the Firm held such funds, namely from 29 November 2018 to 12 February 2020 and that although the funds reduced over time as payments were made, throughout this period the funds in the account were in excess of £10,000, being the threshold for a designated client account. This conduct is discreditable to ACCA, the accountancy profession and Mr Khan being the definition of misconduct under byelaw 8(a)(i), as per Allegation 3.

## **Allegation 2**

10. Paragraph 9 of the Code of Ethics and Conduct relating to Anti-Money Laundering, (as

applicable in 2018 and subsequently), states under the subheading 'Client identification', that,

*'Before any work is undertaken, the professional accountant shall verify the identity of the potential client by reliable and independent means. The professional accountant shall retain on their own files copies of such evidence, as set out in paragraph 17. This will involve the following:*

... ..

*(b) where the client is a company or other legal entity: by obtaining proof of incorporation; by establishing the primary business address and, where applicable, registered address; by establishing the structure, management and ownership of the company; and by establishing the identities of those persons instructing the professional accountant on behalf of the company and verifying that those persons are authorised to do so.*

11. As part of ACCA's investigation, Mr Khan was asked to provide copies of all the identification documents he obtained for this engagement. Documents were provided and Mr Khan advised that *"We asked tough questions about scope of work and authority..."* ACCA maintained that none of Mr Khan's explanations established that Client A had authorised the relevant persons to act on its behalf.
12. In his response to dispose of this matter by Consent Order, Mr Khan has advised that the authority from Client A was obtained 'verbally'. Paragraph 9 of ACCA's Code of Ethics and Conduct relating to Anti-Money Laundering states that such authority must be evidenced in writing and retained on file. It is apparent that no such evidence was obtained by Mr Khan from Client A. This conduct is discreditable to ACCA, the accountancy profession and Mr Khan being the definition of misconduct under byelaw 8(a)(i), as per Allegation 3.

#### **CHAIR'S DECISION**

13. 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.
14. 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.

15. 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. They balanced this against Mr Khan's interests and his previous good character, his admissions and his co-operation with ACCA. There was no suggestion of dishonesty.
16. The Chair noted the list of aggravating and mitigating factors advanced at paragraphs 49 and 50 of the draft Consent Order. They felt Mr Khan's apology showed insight and his previous good record and the positive testimonials were significant mitigating factors.
17. 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 Khan continuing as a member was low.
18. 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 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.
19. The appropriate sanction is a severe reprimand with a fine of £2,000. In deciding that a fine of £2,000 is suitable as a financial sanction, the section in the Guidance headed 'Additional guidance in relation to AML Allegations' has been considered. In particular, these state 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 bye laws and regulations, which may be punitive in effect.
20. The Chair had regard to the Guidance that divides the types of AML breaches into 'Very Serious', 'Serious' and 'Less Serious'. They agreed with ACCA's view that Allegation 2 falls in to the 'Serious' category given that the evidence shows that Mr Khan's conduct was 'reckless'.

21. While the Chair noted that in the Guidance relevant to Allegation 2, the 'suggested' non-financial sanction is that of a severe reprimand and the starting point for a financial sanction is a fine of £10,000, they accepted ACCA's position that a severe reprimand and a £2000 fine proportionately reflects Mr Khan's conduct and the public policy considerations. Mr Khan has provided evidence in support of his means which had been considered.

**ORDER**

22. The Chair, pursuant to its powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Khan be severely reprimanded, pay a fine of £2,000 and pay ACCA's costs of £700.

**HH Suzan Matthews QC**  
**Chair**  
**12 October 2021**