

CONSENT ORDERS HEARING

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Steven John Collings
Considered on:	Wednesday, 08 September 2021
Location:	Remotely via ACCA Offices, The Adelphi, 1-11 John Adam Street, London WC2N 6AU using Microsoft Teams
Chair:	Mrs Helen Carter-Shaw
Legal Adviser:	Mr Andrew Granville Stafford
Outcome	Consent Order approved

INTRODUCTION

1. This matter has been referred to a Consent Orders Chair of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before them whether to approve the draft Consent Order. Under CDR 8(8), a Consent Order is made by the Chair in the absence of the parties and without a hearing.
2. The Chair had before them a bundle of 182 pages which included a Consent Order Draft Agreement.

CONSENT ORDER DRAFT AGREEMENT

3. The Consent Order Draft Agreement was signed by Mr Collings on 13 July 2021 and by a representative of ACCA on 16 July 2021. It reads as follows.

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The Association of Chartered Certified Accountants (ACCA) and Mr Steven Collings ("the Parties"), agree as follows:

1. *Mr Collings admits the following:*

Allegation 1

- (a) *That from 09 July 2019 to 30 July 2019, Mr Collings undertook an independent examination of the annual accounts of Charity A for the year-ended 31 October 2018 when an audit should have been undertaken instead.*
- (b) *Mr Collings' conduct in respect of 1(a) was contrary to R113.1(a) of Subsection 113 (Professional Competence and Due Care), as applicable in 2019.*
- (c) *By reason of his conduct at 1(a) and 1(b), Mr Collings is guilty of misconduct pursuant to bye-law 8(a)(i).*

2. *That Mr Collings shall be reprimanded and shall pay costs to ACCA in the sum of £1,328.00.*

If the Consent Orders Chair is satisfied it is appropriate to deal with the complaint by way of Consent Order and the signed draft Consent Order is approved, it constitutes a formal finding and order. The Consent Orders Chair has the power to recommend amendments to the signed draft Consent Order and to subsequently approve any amended order agreed by the Parties.

All findings and orders of the Consent Orders Chair shall be published naming the relevant person, as soon as practicable, and in such manner as ACCA thinks fit.

4. 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 Investigating Officer has conducted their investigation into the*

allegations against Mr Collings in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (2019) and is satisfied that:

- a) *They have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (see **pages 11 to 182**), and determined that there is a case to answer against Mr Collings 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:*
- *On 17 May 2006, The Charities Accounts (Scotland) Regulations 2006 ("the 2006 Regulations") came into force.*
 - *The effect of Regulation 8 of the 2006 Regulations (**page 11**) is that a charity incorporated in Scotland with a gross income of £100,000 or more in a financial year must prepare a statement of account consisting of specific elements.*
 - *The effect of Regulation 10 of the 2006 Regulations (**pages 12 to 13**) is that where a charity incorporated in Scotland has prepared a statement of account in accordance with Regulation 8 of the 2006 Regulations, and has a gross income in a financial year of £500,000 or more, then that charity's statement of account must be audited.*
 - *On 28 June 2019, Leavitt Walmsley Associates Limited (a firm that Mr Collings is a principal of) sent a letter of engagement to the Trustees of Charity A (a charity incorporated in Scotland) confirming their instruction to act as an independent examiner*

(pages 14 to 18). The letter of engagement confirmed that Mr Collings was the responsible partner (page 15).

- *From 09 July 2019 to 30 July 2019, Mr Collings undertook the work outlined in the letter of engagement of 28 June 2019 (page 155).*
- *On 30 July 2019, the Annual Accounts of Charity A for the year-ended 31 October 2018 ("the Annual Accounts") (pages 91 to 107) were approved by its Board of Trustees (page 100). The Annual Accounts included an Independent Examiner's Report that had been signed by Mr Collings (page 100).*
- *The Annual Accounts refer to the gross-income of Charity A as being £847,276 for the year-ended 31 October 2018 (page 99). In accordance with the 2006 Regulations, the Annual Accounts therefore ought to have been subject to an audit rather than an independent examination.*

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.*
8. *Another key principle is that of proportionality, that is, balancing the member's own interests against the public interest. Further, the*

aggravating and mitigating features of the case have been considered.

9. *The aggravating factors are considered to be as follows:*

- The importance that a charity's accounts are subjected to an audit where this is required by the legislation; and*
- The importance of ensuring that the Annual Accounts of Charity A were subject to the correct method of scrutiny (i.e. an audit) was fundamental to Mr Collings' assignment.*

10. *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:*

- The breach derives from Mr Collings' misunderstanding that the level of gross income that necessitated an audit for a charity in Scotland matched that of a charity based in England and Wales;*
- Mr Collings has demonstrated insight in respect of his conduct;*
- Mr Collings' acceptance that he had made an error was at an early stage of ACCA's investigation;*
- Mr Collings has ensured that his firm's procedures/client take-on forms have been updated to ensure that there is no repeat of the breach;*
- There is no evidence that Mr Collings' conduct was in deliberate disregard of his professional obligations;*
- There does not appear to be any continuing risk to the public; and*
- There is no evidence of any actual harm resulting from Mr Collings' conduct.*

11. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. A reprimand proportionately*

reflects Mr Collings' conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction.

12. *It is noted that Mr Collings has provided a number of testimonials that refer to his knowledge, professionalism and good character. Whilst ACCA has taken these into account, it does not consider that these should alter the sanction of reprimand. The reason for this is that ACCA has investigated this matter on the basis that there was no evidence that this was anything other than an isolated incident and was not alleging that Mr Collings' conduct in respect of the matter that has led to this Consent Order was indicative of his professional competence as a whole.*

DECISION

5. The powers available to the Chair 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 they may only do if they are 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 they are satisfied it is appropriate to deal with the complaint by way of consent but wish the terms of the draft order to be amended (CDR 8(13)).
6. The Chair considered, on the basis of all the information before them, that expulsion was not an appropriate or proportionate sanction in this case and that it was therefore a suitable matter to deal with by way of a Consent Order.
7. The Chair was of the view that there was substantial mitigation in this case. It is clear that Mr Collings deeply regrets the mistake he made and that both he and his firm have taken appropriate steps to ensure it will not be repeated. He has a previously excellent record and his firm has had at least two previous satisfactory audit monitoring visits. He has co-operated fully with the ACCA

investigation and has fully and unequivocally admitted his misconduct. The Chair was quite satisfied that this represented an honest oversight and was highly unlikely to be repeated. There is no evidence that any adverse consequences were suffered by any third party.

8. The Chair noted that Mr Collings had provided five character references which speak highly of his experience, honesty, integrity, diligence and competence as an auditor.
9. The Chair did not consider that there were any aggravating factors which went beyond the nature of the misconduct set out in the allegations.
10. Whilst the breach could not be said to be of a minor nature, the Chair was satisfied that there is no continuing risk to the public. This was an isolated incident against a background of a normally high standard of audit work. It is clear that Mr Collings enjoys a high standing in the profession and his understanding and insight into the mistake he made was amply demonstrated in the papers before the Chair.
11. Although a reprimand is at the lower end of the scale of sanctions, taking into account all the above factors and ACCA's Guidance for Disciplinary Sanctions, the Chair was satisfied it was an appropriate sanction in this case.
12. The Chair was therefore satisfied it was appropriate to make a Consent Order in the terms agreed between the parties.
13. The Chair considered the requirements of the Statutory Auditors and Third Country Auditors Regulations 2016 ('SATCAR') as to sanction and publication of this decision.
14. In respect to publication, the normal expectation both of SATCAR and of ACCA's regulations is that the identity of the auditor will be published in any decision of this nature. Under Regulation 6 of SATCAR, publication can be withheld only if certain criteria are met, which include where publication of personal data would be disproportionate and where it would cause disproportionate damage. It is a high threshold and any decision not to publish must be supported by evidence.
15. The Chair considered the matter in light of the written submissions made by Mr Collings as to the consequences on him of publication of this decision. The Chair was, however, satisfied that both the sanction agreed by the parties and

publication of this decision were in accordance with the requirements of Regulations 5 and 6 of SATCAR.

ORDER

16. The Chair made the following order:
 - i. The draft Consent Order is approved.
 - ii. Allegations 1(a), 1(b) and 1(c) are proved by admission.
 - iii. Mr Collings is reprimanded.
 - iv. Mr Collings is ordered to pay costs to ACCA in the sum of £1,328.

17. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

Mrs Helen Carter-Shaw
Chair
08 September 2021