

CONSENT ORDERS HEARING

CONSENT ORDERS CONSIDERATION OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Adam Howard Moody
Considered on:	Thursday, 09 September 2021
Chair:	Ms Carolyn Tetlow
Legal Adviser:	Mr Robin Havard
Outcome:	Draft Consent Order approved
	Member Reprimanded
Fine:	£3,000.00
Costs:	£690.00

CONSTITUTION OF THE COMMITTEE

1. A Consent Order is made on the order of the Chair under the relevant regulations.

INTRODUCTION

2. The Chair had considered a draft Consent Order, signed by Mr Moody and a signatory on behalf of ACCA, together with supporting documents in a bundle numbering 1 to 240 pages.

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3. When reaching their decision, the Chair had been referred by the Legal Adviser to the requirements of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as amended) ("CDR8") and had accepted his advice. The Chair had also taken account of the content of ACCA's documents entitled "Consent Orders Guidance" and "Consent Orders Guidance FAQs".
4. The Chair was satisfied that Mr Moody was aware of the terms of the draft Consent Order and that it was being considered today.
5. The Chair was also satisfied that Mr Moody was aware that he could withdraw his agreement to the signed draft Consent Order by confirming the withdrawal in writing. No such withdrawal had been received.

ALLEGATIONS

Mr Adam Moody, the Money Laundering Reporting Officer and principal of Raffingers LLP (the firm), admits the following:

Allegation 1

From 26 June 2017 to 21 January 2021, he failed on behalf of his firm to comply with the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Regulations), namely:

1.1 Regulation 18 (risk assessment and controls)

1.2 Regulation 21 (control assessment)

Allegation 2

From 26 June 2020 to 21 January 2021, he failed to comply with Section 32 of ACCA's Code of Ethics and Conduct (Anti-Money Laundering) (as applicable between 2017 and 2021).

Allegation 3

By reason of his conduct in respect of all the matters set out at Allegations 1 to 2, Mr Adam Moody is guilty of misconduct pursuant to bye-law 8(a)(i).

DECISION ON FACTS

6. The Chair noted that the following facts were agreed and therefore adopted them as their findings of fact.
7. Mr Moody is a principal and the Money Laundering Reporting Officer (MLRO) of Raffingers LLP ("the firm").
8. Mr Moody holds a practising certificate with ACCA. As a holder of a practising certificate from ACCA, there is a mandatory requirement for the firm to be monitored by ACCA to assess compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 ("MLRs 2017").
9. On 18 November 2020, a desk-based monitoring review of the firm was conducted by the ACCA's Anti Money Laundering (AML) Team in order to assess its compliance with the MLRs 2017. The review revealed evidence of poor AML compliance regarding the following AML controls:
 - a. The firm had not conducted and documented a firm wide risk assessment (FWRA). Therefore, there was concern the firm may not be fully aware of the money laundering and terrorist financing (MLTF) risks within its operations and may not be able to adequately mitigate them. As a result, the firm may be in a vulnerable position to be exploited by criminals for the purpose of money laundering and terrorist financing. This is also a legal requirement and, therefore, the firm was in breach of MLRS 2017.

- b. The firm did not independently assess the adequacy and effectiveness of the AML controls. This is also a legal requirement and, therefore, the firm was in breach of MLRs 2017.
10. The evidence revealed failures to comply not only with the 2017 MLRs set out above, but also failure to apply the guidance set out within the Anti-Money Laundering Guidance for the Accountancy Sector ("AMLGAS"). This guidance is based on the law and the MLRs that came into force on 26 June 2017. It covers the prevention of money laundering and the countering of terrorist financing. It is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency, or trust and company services in the United Kingdom and has been approved and adopted by the UK accountancy AML supervisory bodies.
11. The evidence also reveals the firm is not in compliance with Section E32 of ACCA's Rulebook (Anti-Money Laundering), in particular:
 - Sections 5 and 6 - Relationship with the local law;
 - Sections 7 and 8 - Internal controls and policies;
 - Sections 18 and 19 - Recognition of suspicion.
12. Following the AML Team's referral to ACCA's investigations Department, Mr Moody took steps to rectify the breaches and provided evidence that the relevant documentation and processes had been put in place to show how he had attempted to rectify the failures identified by the AML Team.
13. On 19 February 2021, the AML Team notified Mr Moody that the AML Team was satisfied that the actions taken by him had satisfactorily rectified the deficiencies in the firm's AML policies and procedures.

DECISION ON ALLEGATIONS AND REASONS

14. In accordance with CDR8, 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.

15. 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 considered that the Investigating Officer had followed the correct procedure.
16. The Chair considered the bundle of evidence and, on the basis of the admissions of the allegations by Mr Moody, found the facts of the allegations proved. The Chair considered that the admitted facts and Mr Moody's actions amounted to misconduct in that they brought discredit to him, the Association and the accountancy profession. They therefore justified disciplinary action under bye-law 8(a)(i).

SANCTION AND REASONS

17. In deciding whether to approve the proposed sanction of a reprimand together with a fine of £3,000, the Chair had considered the Guidance to Disciplinary Sanctions ("the Guidance"), including the key principles relating to the public interest, namely: the protection of members of the public; the maintenance of public confidence in the profession and in ACCA, and the need to uphold proper standards of conduct and performance. The Chair also considered whether the proposed sanction was appropriate, proportionate and sufficient.
18. In reaching the decision, the Chair had noted the following aggravating features, as identified by ACCA:
 - Compliance with the MLRS 2017 is a legal requirement and mandatory;
 - The potential risks of criminal activity conducted by third parties remaining undetected as a result of the failure to conduct and document a firm wide risk assessment and the failure to independently assess the adequacy and effectiveness of the AML controls;
 - The length of time since the MLRs came into force (June 2017);

- Mr Moody's conduct fell below the standards expected of a qualified ACCA member and brought discredit upon himself, ACCA and the accountancy profession.
19. In deciding that a reprimand and a fine of £3,000 was the most suitable sanction, ACCA had considered paragraphs C4.1 to C4.5 of ACCA's Guidance and submitted that the following mitigating factors applied:
- Mr Moody has now satisfactorily rectified the deficiencies identified by ACCA;
 - Mr Moody has shown insight by admitting his conduct;
 - Mr Moody has been an ACCA member in good standing since 1998;
 - Mr Moody has no previous complaint or disciplinary history;
 - Mr Moody has fully co-operated with the investigation;
 - Mr Moody has admitted his conduct;
 - There is no evidence to suggest that Mr Moody's conduct was dishonest or deliberate;
 - There is no continuing risk to the public as all anti-money laundering procedures have now been put in place in the firm.
20. The Chair considered that both the aggravating and mitigating features identified by ACCA were supported by documentary evidence and were relevant.
21. In the Chair's judgement, the conduct was such that the public interest would not be served by making no order, nor would an admonishment or a reprimand alone adequately reflect the seriousness of Mr Moody's conduct. When considering the criteria set out in the Guidance, the Chair took into consideration the fact that the non-compliance with the MLRs 2017 could not be described as short-term. However, once detected, the failure was rectified immediately, and the necessary improvements were implemented promptly.

22. Therefore, the Chair concluded that it would be proportionate and sufficient to impose a reprimand together with a financial penalty of £3,000 to reflect the seriousness of the findings against Mr Moody.
23. In all the circumstances, the Chair was satisfied that the sanction of a reprimand and a fine of £3,000 was appropriate, proportionate, and sufficient, and that removal of Mr Moody from the register would be a disproportionate outcome.

COSTS AND REASONS

24. ACCA is entitled to its costs in bringing these proceedings. The claim for costs in the sum of £690, which had been agreed by Mr Moody, appeared appropriate.

ORDER

25. Accordingly, the Chair approved the terms of the attached Consent Order. In summary:
 - a. Mr Moody shall be reprimanded and ordered to pay a fine of £3,000; and
 - b. Mr Moody shall pay costs of £690 to ACCA.

Ms Carolyn Tetlow
Chair
09 September 2021