

CONSENT ORDERS HEARING

CONSENT ORDERS MEETING OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Stewart John Hunt

Considered on: Tuesday, 14 September 2021

Chair: Ms Carolyn Tetlow

Legal Adviser: Ms Fiona Barnett

Outcome: Consent Order Approved

BACKGROUND

1. Mr Hunt's case comes before the Chair by virtue of a draft Consent Order that has been reached in this case between ACCA and Mr Hunt. The Agreement sets out Mr Hunt's full admissions to the facts of the charges and his acceptance that he is thereby guilty of misconduct.
2. It is further stated in the draft Consent Order that an appropriate sanction in this case would be a Severe Reprimand and a fine of £5000.
3. The draft Consent Order was signed by Mr Hunt on 13 August 2021 and on behalf of ACCA on 16 August 2021. Neither ACCA nor Mr Hunt have subsequently withdrawn their agreement to the draft Consent Order.
4. The Agreement between ACCA and Mr Hunt, including ACCA's position on sanction, costs, and publicity, is set out in full below ending at paragraph 12.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

Referral to Consent Orders Chair Consent Order: Draft Agreement

The Association of Chartered Certified Accountants (ACCA) and Mr Stewart John Hunt (the Parties), agree as follows:

1. *Mr Stewart John Hunt, the Money Laundering Reporting Officer and principal of Armstrong Hunt Limited (the firm), admits the following:*

Allegation 1

From 26 June 2017 to 17 February 2021 he failed on behalf of the 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 by relevant persons)*
- 1.2 *Regulation 19 (Policies, controls and procedures)*
- 1.3 *Regulation 24 (Training)*

Allegation 2

From 26 June 2017 to 17 February 2021, he failed to comply with Section B2 of ACCA's Code of Ethics and Conduct (Anti-Money Laundering) (as applicable from 2017 to 2021)

Allegation 3

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

2. *That Mr Hunt shall be severely reprimanded and shall pay a fine of £5000 and costs to ACCA in the sum of £900.*

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.

Publicity

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.

Relevant Facts, Failings and/or Breaches

3. *The Investigating Officer has conducted their investigation into the allegations against Mr Hunt in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and is satisfied that:*
 - a) *they have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle, and determined that there is a case to answer against Mr Hunt 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:*

- *Mr Hunt is a director and the Money Laundering Reporting Officer (MLRO) of the firm.*
- *Mr Hunt holds a practising certificate with ACCA.*
- *As a holder of a practising certificate from the 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)*
- *On 17 February 2021, 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 to the following AML controls:*
 - a. *The firm had not conducted and documented a firm wide risk assessment (FWRA). Consequently, the firm was not aware of AML risks within its operations and was not able to adequately mitigate them. As a result, the firm was 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 have a [sic] documented AML policies and procedures (P&Ps). Consequently, the firm did not have a documented process in place to state how it mitigates its money laundering risks. This is also a legal requirement and therefore the firm was in breach of MLRs 2017*
 - c. *The firm did not provide formal AML Training to relevant*

employees. This is a legal requirement and therefore the firm was in breach of the MLRs 2017.

- *The following has been included with the bundle of evidence:*
 - *MLRs 2017.*
 - *Anti-Money Laundering Guidance for the Accountancy Sector (AMLGAS).*
 - *ACCA's Guidance for disciplinary sanctions.*
 - *Office of Financial Sanctions Implementation HM Treasury Financial Sanctions Guidance.*
- *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 AMLGAS. This guidance is based on the law and the MLRs which 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.*
- *The evidence also revealed the firm was not in compliance with Section B2 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*
- *Following the AML Team's referral to ACCA's Investigations Department Mr Hunt 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.

- *On 06 May 2021, the AML Team notified Mr Hunt that the further actions were required by the firm, which will be checked during the next AML review, but the AML Team's review was now closed.*

Sanction

6. *The appropriate sanction is severe reprimand and a fine of £5,000*
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. *Other key principles are that of proportionality, that is, balancing the member's own interests against the public interest, and that self-regulatory organisations must make arrangements to ensure, amongst other things, that contravention of a relevant requirement by a person they are responsible for supervising renders that person liable to effective, proportionate and dissuasive disciplinary measures under their rules.*
9. *Further the aggravating and mitigating features of the case have been considered.*
10. *The **aggravating factors** are considered to be as follows:*

- *Compliance with the MLRS 2017 is a legal requirement and mandatory.*
- *The potential risks arising from a failure to put in place adequate AML policies and procedures in the firm.*
- *The length of time since the MLRs came into force (June 2017)*
- *Mr Hunt's conduct fell below the standards expected of a qualified ACCA member and brought discredit upon himself, ACCA and the accountancy profession.*

11. *In deciding that a **severe reprimand** is the most suitable sanction paragraphs C4.1 to C4.5 of ACCA's Guidance have been considered and the following **mitigating factors** have been noted:*

- *Mr Hunt has been an ACCA member in good standing since 1996*
- *Mr Hunt has no previous complaint or disciplinary history*
- *Mr Hunt has fully co-operated with the investigation*
- *Mr Hunt has admitted his conduct*
- *There is no evidence to suggest that Mr Hunt'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*

12. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a severe reprimand and a fine of £5,000 proportionately reflects Mr Hunt's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession, and it conveys a message of the importance of fundamental standards of professional conduct.*

CHAIR'S DECISION

5. In reaching my decision, I had regard to the bundle of documents provided, which numbered 306 pages and included the draft Consent Order set out in full above. I also had regard to ACCA's Consent Orders Guidance, dated January 2021, and the document entitled, "*Consent orders, frequently asked questions*", dated January 2021.
6. I bore in mind that, notwithstanding the parties having reached agreement on the above draft Consent Order, the final decision on whether the matter is appropriate to be dealt with by way of Consent Order is a matter for me to decide. I have the power to approve, reject or propose amendments to the draft Consent Order.
7. I first considered whether it is appropriate to deal with the case by way of a Consent Order in accordance with Regulation 8(1) of Complaints and Disciplinary Regulations 2014, (amended 01 January 2020). I am satisfied that it is appropriate to deal with this matter by way of Consent Order. The matter has been investigated by ACCA's Investigation Officer, who concluded that there was a case to answer and a real prospect of a reasonable tribunal finding the matters alleged proved. The Investigation Officer was also satisfied, (and I agree), that the matters are unlikely to result in the exclusion of Mr Hunt as a member of ACCA.
8. I next considered whether to approve the draft Consent Order. I considered the evidence and the facts of the case, as set out in the bundle of documents and the draft Consent Order. I am satisfied that Mr Hunt admits the allegations. Further, I agree that his actions, as sole director of the Firm and Money Laundering Reporting Officer, fell seriously below the standards expected of a member of ACCA. The desktop review carried out by ACCA revealed that over a sustained period of time, Mr Hunt failed to adhere to the legal requirements of the Money Laundering Regulations 2017. I agree that this brought discredit to ACCA and the profession and is sufficiently serious to amount to misconduct.

9. I also had regard to ACCA's Guidance for Disciplinary Sanctions, (January 2020), in particular Section H, and the aggravating and mitigating factors set out in the draft Consent Order. I note, in relation to the mitigating factors, ACCA's submission that,

"there is no continuing risk to the public as all anti-money laundering procedures have now been put in place in the firm".

However, I also note ACCA's further submission that,

"On 06 May 2021, the AML Team notified Mr Hunt that further actions were required by the firm, which will be checked during the next AML review, but the AML team's review was now closed".

I am satisfied that the changes already made, together with this further review, will sufficiently protect the public and that ACCA will continue to monitor the firm's compliance.

10. I considered the sanctions in order, starting with the least serious, and had regard to the Statement of Financial Position form submitted by Mr Hunt.
11. I agree with the aggravating and mitigating factors outlined in the draft order, (subject to the inconsistency mentioned in paragraph 9 above) and agree that a Severe Reprimand and a fine of £5000 is an appropriate and proportionate sanction. The combination of a Severe Reprimand and a fine of £5000 is sufficient to maintain confidence in the profession and to declare and uphold proper standards of conduct. I am satisfied that taking no action, or imposing an Admonishment or Reprimand, would be insufficient to uphold the public interest, given the serious nature of the failures to comply with the Money Laundering Regulations over a sustained period of time. I also agree that the allegations would be unlikely to result in exclusion from membership and conclude that a Severe Reprimand, together with the fine proposed is the appropriate and proportionate sanction.

12. I therefore accept the content of the draft Consent Order in its entirety and approve the draft Consent Order.

COSTS

13. ACCA is entitled to claim costs and I agree with the proposal that Mr Hunt should pay £900 to ACCA in costs.
14. Accordingly, I approve the draft Consent Order including the ancillary orders in relation to costs and publicity.

Ms Carolyn Tetlow
Chair
14 September 2021