

APPLICATION ON PAPERS

**CONSENT ORDERS CHAIR OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS
REASONS FOR DECISION**

In the matter of:	Mr Ho Chi Pui
Considered on:	Thursday, 10 February 2022
Chair:	Mrs Kathryn Douglas
Legal Adviser:	Mr Andrew Granville Stafford
Outcome	Consent order approved

INTRODUCTION

1. This matter has been referred to a Chair of the Disciplinary Committee 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 a Chair of the Disciplinary Committee in the absence of the parties and without a hearing.
2. The Chair had before them a bundle of 44 pages and a Consent Order Draft Agreement.

CONSENT ORDER DRAFT AGREEMENT

3. The Consent Order Draft Agreement was signed by Mr Ho on 12 January 2022 and reads as follows.

'The Association of Chartered Certified Accountants (ACCA) and Mr Ho Chi Pui (the Parties), agree as follows:

ACCA

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

1. *Mr Ho Chi Pui admits the following:*

Allegation 1

1. *Pursuant to bye-law 8(a)(vi), Mr Ho Chi Pui is liable to disciplinary action by virtue of regulatory action taken against him on 12 April 2021 by Hong Kong Institute of Certified Public Accountants ("HKICPA"), in that Mr Ho Chi Pui entered into a Resolution by Agreement with HKICPA. Their decision was published on 26 April 2021;*

Allegation 2

2. *Pursuant to bye-law 10(b), Mr Ho Chi Pui is liable to disciplinary action as he failed to promptly notify ACCA that he was disciplined by another body and had entered into a Resolution by Agreement with HKICPA.*

Allegation 3

3. *Pursuant to bye-laws 8(a)(i) and 8(a)(iii), Mr Ho Chi Pui is guilty of misconduct by virtue of the above, in that such is discreditable to ACCA and the accountancy profession.*
2. *That Mr Ho Chi Pui shall be reprimanded and shall pay **costs** to ACCA in the sum of **£891.**'*
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 Ho Chi Pui in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2022) 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 Ho Chi Pui 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 26 April 2021, the HKICPA reprimanded and fined Mr Ho Chi Pui for failure or neglect to observe maintain or otherwise apply professional standards issued by the institute.*
- *On 12 April 2021 as part of the HKICPA disciplinary process, Mr Ho Chi Pui entered into a Resolution by Agreement with HKICPA.*
- *Mr Ho Chi Pui confirmed that he has paid the administrative penalty and all costs imposed by HKICPA.*
- *On 29 November 2021 Mr Ho Chi Pui explained in an email to ACCA's Investigation Officer that he had failed to notify ACCA that he had been disciplined by HKICPA as the disciplinary hearing was still in progress and he was unaware of the requirement and his duty to do so.*

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 conduct which led to Mr Ho Chi Pui being the subject of action by the HKICPA fell below the standards expected of a qualified ACCA member. As such his conduct has brought discredit upon himself, ACCA and the accountancy profession.*
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:*
- *Mr Ho Chi Pui has fully co-operated with the investigation and regulatory process.*
 - *Mr Ho Chi Pui has been a member of ACCA since 19 April 1990 and has a previous good record with no previous complaint or disciplinary history.*
 - *Mr Ho Chi Pui acknowledges the facts of the case and areas of non-compliance with professional standards.*
 - *Mr Ho Chi Pui has paid the administrative penalty and all costs imposed by HKICPA.*
 - *The consequences of Mr Ho Chi Pui's conduct have not caused material distress, inconvenience or loss.*
 - *The disciplinary action taken by the HKICPA relates to a single*

incident.

- *There is no continuing risk to the public as Mr Ho Chi Pui is an elderly man who has held a Practising Certificate with HKICPA since 1992 and will be retiring from ACCA this year.*

11. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. A **reprimand** proportionately reflects Mr Ho Chi Pui's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction.'*

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. In considering this matter, the Chair took into account the Consent Orders Guidance, January 2021.
7. The Chair was satisfied it was appropriate to make a Consent Order in the terms agreed between the parties. The documents before the Chair showed that a proper investigation had been carried out. Mr Ho has admitted all the allegations against him and the Chair was satisfied that those admissions had been properly made in light of the evidence contained in the documents. The Chair did not consider that the admitted breaches would be likely to result in exclusion from membership if this matter was heard by the Disciplinary Committee. The Chair was satisfied that the sanction proposed was appropriate and proportionate in all the circumstances and, further, that there was no

reason to make any amendments to the draft consent order.

ORDER

8. The Chair made the following order:
 - i. The draft Consent Order is approved.
 - ii. Allegations 1, 2 and 3 are proved by admission.
 - iii. Mr Ho is reprimanded.
 - iv. Mr Ho is ordered to pay costs to ACCA in the sum of £891.

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

Mrs Kathryn Douglas
Chair
10 February 2022