

APPLICATION ON PAPERS

CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: P J Marks & Co

Considered on: Friday, 14 January 2022

Chair: Ms Ilana Tessler

Legal Adviser: Mr Richard Ferry-Swainson

Summary: Consent Order for Severe Reprimand and costs approved

INTRODUCTION

1. The Chair considered a draft Consent Order in respect of P J Marks & Co. The matter was listed to be considered on the basis of documents only. Neither P J Marks nor ACCA were present or represented.
2. The Chair had before them the draft Consent Order, dated 08 December 2021, signed by a signatory on behalf of P J Marks & Co, together with supporting documents in a bundle numbered 1 to 213. In addition, there was a service bundle numbered 1 to 7.

SERVICE

3. The Committee was satisfied that P J Marks had been properly notified of the meeting by an email dated 07 January 2022.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

BACKGROUND

4. It was alleged by ACCA, and P J Marks & Co admitted, that it was guilty of misconduct in relation to the following Allegation:

Allegation 1

- a. That PJ Marks & Co LLP prepared and submitted self-assessment tax returns to HM Revenue & Customs on behalf of Person A which did not include payments to Person A, as set out in Schedule 1.
- b. PJ Marks & Co LLP's conduct in respect of 1(a) was contrary to the Fundamental Principle of Professional Competence and Due Care, as applicable from 2013 to 2016.
- c. By reason of the above conduct, PJ Marks & Co Limited are guilty of misconduct in respect of the matters set out at allegations 1(a) and 1(b), pursuant to bye-law 8(a)(i).

Schedule 1

Payment date	Payment amount	Payor	Tax Year
18 October 2012	£2,000	Company B	2012-2013
26 April 2013	£81,000	Company B	2013-14
12 August 2014 or 30 September 2014	£81,033	Company B	2014-15

5. The details were set out in the attached draft Consent Order. ACCA's Investigating Officer and P J Marks & Co had agreed the form of order which proposed a severe reprimand and made an order for costs.

DECISION AND REASONS

6. In accordance with Regulation 8 of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended, 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.
7. 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 was also satisfied that the Investigating Officer had followed the correct procedure.
8. The Chair considered the bundle of evidence and, on the basis of P J Marks & Co's admission, found the facts proved. They were satisfied that the admitted facts and P J Marks & Co's actions amounted to misconduct in that they brought discredit upon the firm, the accountancy profession and ACCA.
9. P J Marks & Co LLP converted to P J Marks & Co Limited on 25 March 2014. However, the latter continued to hold the same ACCA Firm Auditing Certificate as originally issued to P J Marks & Co LLP in 2007.
10. On 07 July 2011, the Firm commenced acting for Person A. Company B, also a client of the Firm, made payments to Person A (as shown in Schedule 1 above) through the Firm.
11. Despite the above payments being made through the Firm, the Firm prepared and submitted to HMRC the self-assessment tax returns of Person A for the years ending 05 April 2013, 05 April 2014, and 05 April 2015, which did not disclose the above payments.

12. In respect of the payments of £81,033 which were made to Person A on 12 August 2014 and 30 September 2014, only one of these payments was omitted from Person A's self-assessment tax return for the year-ended 05 April 2015.
13. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that the Firm had: a previous good record with no complaint or disciplinary history; fully co-operated with the investigation and regulatory process; expressed remorse for its actions. The Chair also noted that there was no evidence to suggest the Firm's conduct was dishonest and also that there was no continuing risk to the public as the Firm had, in practice, ceased trading.
14. In all the circumstances, and following ACCA's Guidance on sanctions, the Chair was satisfied that the sanction of severe reprimand was appropriate in this case and that exclusion would be disproportionate.
15. The order for costs for this Consent Order appeared appropriate.
16. Accordingly, the Chair approved the attached Consent Order. In summary:
 - a. The Firm shall be severely reprimanded; and
 - b. The Firm shall pay costs of £3,220 to ACCA.

Ms Ilana Tessler
Chair
14 January 2022