

APPLICATION ON PAPERS

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Robert David Mathias

Considered on: Thursday, 07 July 2022

Location: Remotely via Microsoft Teams

Chair: Mr Andrew Popat CBE

Legal adviser: Mr Alastair McFarlane

Outcome: Consent Order approved

DOCUMENTS BEFORE THE CHAIR

1. The Chair received a bundle of papers, including a signed draft Consent Order, numbered pages 1-51, a Service Bundle numbered pages 1-9 and a Costs Schedule.

ALLEGATIONS

Robert David Mathias, an ACCA member, and Principal of R D Mathias & Co:

Allegation 1

That on various dates between about January 2016 and August 2018 held client funds in his firm's office account ranging from £255 to £3,500 in breach of Paragraph 270.8 of ACCA's Code of Ethics and Conduct relating to Custody of Client Assets (as applicable between 2016 and 2018).

Allegation 2

By reason of his conduct as set out in allegation one above, Mr Mathias is guilty of misconduct pursuant to byelaw 8(a)(i).

BACKGROUND

2. Mr Mathias has been an ACCA member since 1998 and has held a general practising certificate since 2014. His firm is R D Mathias & Co of which he is the Sole Principal.
3. A complaint, which is the subject of this Consent Order, was received last year from Mr Mathias' ex-bookkeeper. The complaint was that Mr Mathias had received funds from clients representing tax liabilities into his firm's 'business account' which was 'always overdrawn' for onward payment by him to HMRC. In support, the complainant listed six payments dated from January 2016 to August 2018, ranging from £255 to £3,500 as well as attaching an extract from the firm's sage account referring to these sums.
4. In his response to ACCA's investigation, Mr Mathias confirmed that these funds had been received into his business account. He stated that he had never intended to hold client monies and therefore had never opened a client account. However, some clients were '*concerned about making a mistake paying [HMRC] online themselves ... or had problems paying via other means...*' and that '*These payments were separately identified and highlighted as being due to [HMRC] when paying them into my business account (and recorded in the nominals as such), and subsequently paid out in good faith.*' He added that '*No client has lost financially from the transactions*' and provided the relevant bank statements.
5. A review of the bank statements showed that five of the six payments were as the complainant had alleged, namely that client funds representing tax liabilities had been received from clients into the firm's office account and that later they had then been remitted to HMRC.

CHAIR'S DECISION

6. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, the Chair must determine whether, based on the evidence before them, the draft Consent Order should be approved or rejected. The Chair had regard to the Consent Orders Guidance.
7. The Chair noted that under Regulation 8(12) they shall only reject the signed Consent Order if

they are of the view that the admitted breaches would, more likely than not, result in exclusion from membership. The Chair accepted that a proper investigation had been conducted by ACCA.

8. The Chair considered the seriousness of the breaches as set out and the public interest, which includes the protection of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and performance. They balanced this against Mr Matthias's interests, his admissions, and his co-operation with ACCA. There was no suggestion of dishonesty. The Chair noted that Mr Mathias has a previous Consent Order relating to conduct arising from a personal matter and unrelated to this conduct.
9. The Chair noted the list of aggravating and mitigating factors advanced at paragraphs 15 of the draft Consent Order bundle. They noted that the steps that Mr Matthias has taken in order to ensure that there is no repetition of this conduct, including the fact that the firm now has a client account.
10. The Chair had regard to ACCA's Guidance for Disciplinary Sanctions. They were satisfied that there had been early and genuine acceptance of the misconduct and that the risk to the public and profession from Mr Mathias continuing as a member was low.
11. For the reasons set out above, the Chair was satisfied that the admitted breaches would be unlikely to result in exclusion from membership, and therefore there was no basis for them to reject the Consent Order under Regulation 8(12). The Chair noted the proposed Consent Order, and considering all the information before them, was satisfied that it was an appropriate and proportionate disposal of this case.
12. The appropriate sanction is a reprimand.

ORDER

13. The Chair, pursuant to their powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Matthias be reprimanded, and pay ACCA's costs of £512.50.

Mr Andrew Popat CBE
Chair
07 July 2022