

APPLICATION ON PAPERS

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Stephen Farra

Considered on: Wednesday, 08 June 2022

Chair: Ms Wendy Yeadon

Legal Adviser: Ms Valerie Charbit

Outcome: Consent Order approved.
Member reprimanded and fined £3000
Costs payable by member to ACCA of £980.

SERVICE OF PAPERS

1. The Chair considered a draft Consent Order signed by Mr Farra on 19 May 2022 and by ACCA on 28 April 2022. The matter was listed to be considered on the basis of documents only. Neither Mr Farra nor ACCA were present or represented.

2. The draft Consent Order read:

The Association of Chartered Certified Accountants (ACCA) and Mr Stephen Farra (the Parties) agree as follows:

1. Mr Stephen Farra, the Money Laundering Reporting Officer and principal of Stephen Farra Associates Ltd (the firm) admits the following:

Allegation 1

Between 26 June 2017 and 15 March 2021, 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 namely:

1.1.1 Regulation 18 (risk assessment by relevant persons)

1.1.2 Regulation 19 (policies, controls and procedures).

Allegation 2

Between 26 June 2017 and 15 March 2021 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 all the matters set out at allegations 1 to 2. Mr Farr is guilty of misconduct pursuant to byelaw 8(a)(i).

2. That Mr Farra shall be reprimanded and shall pay a fine of £3,000 and costs to ACCA in the sum of £980.

BACKGROUND AND ADMISSIONS

3. The Chair considered a bundle of papers numbering 1- 206, a draft Consent Order, a service bundle numbering 1-8 pages, a detailed costs schedule and a simple costs schedule.
4. Mr Farra has been a member of ACCA since 1986, Principal of the firm Stephen Farra Associates Ltd and the firm's Money Laundering Reporting Officer. He 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). A monitoring review of the firm was conducted by ACCA's Anti-Money Laundering (AML) Team in order to assess its compliance with the MLRs 2017. The review revealed evidence of non-compliance regarding the following AML controls:

- a) The firm had not conducted and documented a firm wide risk assessment (FWRA). This is also a legal requirement and therefore the firm was in breach of MLRs 2017; and
 - b) The firm did not have a fully documented set of AML policies and procedures (P&P's). This is also a legal requirement and therefore the firm was in breach of MLRs 2017.
5. The evidence revealed failures to fully comply with the MLRs 2017 and Anti-Money Laundering Guidance for the Accountancy Sector (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.
 6. The evidence also revealed that the firm was not in full compliance with Section B2 of ACCA's Code of Ethics and Conduct (Anti-Money Laundering) paragraph 5 – *'Relationship with the local law'* (i.e. not being fully compliant with Regulations 18 and 19 of the MLRs 2017).
 7. Following the AML Team's referral to ACCA's Investigations Department, Mr Farra took steps to rectify the breaches and provided evidence to the AML Team that the relevant documentation and processes had been put in place to show how he had worked to rectify the issues identified by the AML Team.

8. On or about 15 March 2021, Mr Farra arranged for documentation to be sent to ACCA which led to ACCA's AML Team reviewing the same to conclude that he had regularised his position and that they were satisfied that he had taken reasonable action to address the findings in ACCA's AML report.
9. Mr Farra admitted Allegations 1, 2 and 3 set out in the Consent Order.

DECISION ON FACTS/APPLICATION(S) AND REASONS

10. The Chair was satisfied that there is a case to answer and that the Investigating Officer had carried out an appropriate and thorough investigation. They were satisfied that it was appropriate to deal with the matter by way of a Consent Order rather than a public hearing.
11. The Chair went on to consider the proposed sanction and whether, if the matter was heard at a full hearing, it was likely that the admitted breaches would result in exclusion from membership.
12. The Chair was satisfied that the breaches would not lead to a sanction of exclusion and that such a sanction would be disproportionate for the admitted breaches. The Chair considered whether the appropriate sanction is a reprimand and fine of £3,000. In considering whether this is an appropriate sanction, the Chair considered ACCA's Guidance for Disciplinary Sanctions (GDS) and in particular the key principles contained therein. One of the key principles is that of the public interest, which includes the protection of members of the public, maintenance of public confidence in the profession and in ACCA, declaring and upholding proper standards of conduct and performance. Another key principle is that of proportionality, which includes balancing the member's own interests against the public interest.
13. Further the Chair considered the following aggravating factors:
 - 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 are serious.

- The length of time since the MLRs came into force (June 2017) after which the breaches took place (2017-2021).
14. The Chair also considered ACCA's report which stated that "*The conduct fell below the standards expected of a qualified ACCA member and amount to misconduct*" as an aggravating factor. The Chair decided this was not an aggravating factor because it formed part of the admitted allegations and therefore it was not a factor which aggravated the allegations.
15. The Chair considered the following mitigating factors:
- The breaches were not deliberate. Mr Farra has apologised and shown insight into the failings by admitting his conduct and agreeing to ultimately dispose of the matter by a Consent Order.
 - Mr Farra has a long history with ACCA as a member in continuous good standing since 1986.
 - Mr Farra worked hard to rectify the deficiencies in the firm's AML policies and procedures as soon as they were brought to his attention.
 - There is no evidence supplied within the papers of any actual harm caused by these breaches.
 - There is no continuing risk to the public as all anti-money laundering procedures have now been put in place in the firm.
 - Mr Farra has no previous disciplinary history.
 - There is no evidence to suggest that Mr Farra's conduct was dishonest or deliberate.
 - Mr Farra has fully co-operated with the investigation which is to his credit.

16. The Chair accepted the above and took into consideration those aggravating and mitigating factors listed.
17. In deciding that a reprimand and fine is the most suitable sanction, the Chair took into consideration the GLS, the Office of Financial Sanctions Implementation HM Treasury Financial Sanctions Guidance, the AML guidance for the Accountancy Sector, MLRs 2017, Section B2 of ACCA's Code of Ethics and Conduct (AML) paragraph 5 and correspondence from Mr Farra.
18. The Chair decided that the sanction proposed is appropriate and proportionately reflects Mr Farra's conduct having taken account of the public policy considerations and the public interest. The Chair was satisfied that the sanction conveyed a message to members and the public by highlighting the importance of fundamental standards of professional conduct and of complying with AML regulations, policies and procedures.
19. The Chair considered the detailed costs schedule which totalled £2738.50 and the simple costs schedule. They enquired of ACCA why the Consent Order referred to lesser costs of £980. ACCA informed her that this disparity was due to the length of time the case took to be agreed. The second Consent Order was agreed by Mr Farra after the first one had not been agreed. ACCA agreed the costs would remain the same as the original Consent Order; £980.
20. The Chair considered that ACCA was entitled to its costs and that the figure of £980, being the amount agreed, was reasonable.
21. Accordingly, the Chair approved the draft Consent Order.

ORDER

22. The Chair made the following order:

- i. The draft Consent Order is approved
- ii. Allegations 1, 2 and 3 are proven by admission.
- iii. Mr Farra is reprimanded
- iv. Mr Farra is fined £3,000
- v. Mr Farra is ordered to pay costs to ACCA in the sum of £980.

EFFECTIVE DATE OF ORDER

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

Ms Wendy Yeadon
Chair
08 June 2022