

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Paul Joseph McCann

Considered on: Thursday, 31 March 2022

Chair: Ms Kate Douglas

Legal Adviser: Ms Valerie Charbit

Outcome: Consent Order approved

SERVICE OF PAPERS

1. The Chair considered a draft Consent Order signed by Mr McCann on 22 February 2022 and by ACCA on 23 March 2022. The matter was listed to be considered on the basis of documents only. Neither Mr McCann nor ACCA was present or represented.
2. The draft Consent Order read:

“The Association of Chartered Certified Accountants (ACCA) and Mr Paul J McCann (the Parties), agree as follows:

1. *Mr Paul Joseph McCann, an ACCA member, and director of Maneely McCann Ireland Limited (the firm) admits the following:*

Allegation 1

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

- (a) *Between 01 March 2015 and 01 April 2020, he carried on public practice by signing audit reports in respect of the clients set out in Schedule A without holding a valid practising certificate.*
- (b) *His conduct in respect of the facts set out at allegation 1(a) was*
 - (i) *Contrary to the Global Practising Regulation 3(1)(a) as applicable from 2015 to 2020*
 - (ii) *Contrary to the fundamental principle of professional competence and due care (as applicable from 2015 to 2020)*
- (c) *By reason of his conduct in respect of all the matters set out at allegations 1 to 2, he is guilty of misconduct pursuant to byelaw 8(a)(i).*

2. *That Mr McCann shall be severely reprimanded and pay costs to ACCA in the sum of £1,700.*

BACKGROUND AND ADMISSIONS

- 3. The Chair considered a bundle of papers numbering 1-198 including the draft Consent Order.
- 4. Mr McCann has been a member of ACCA since December 1993. Mr McCann holds an ACCA practising certificate with audit qualification for the UK. He does not hold an ACCA practising certificate with audit qualification for Ireland. Mr McCann is the director of Maneely McCann Ireland Limited. Mr Cathal Maneely is also a director of the same firm, and he is a member of the Institute of Chartered Accountants Ireland (CIA). The firm is regulated by the CIA and is on the Register of Statutory Auditors.
- 5. Between 2015 and 2020, the firm conducted audits in respect of clients located in Ireland as set out in Schedule A. This involved three companies over a period of over six years for Company A (between 2015 and 2020) and for Company B

and Company C for two years respectively. The audits were undertaken by Mr Maneely however Mr McCann signed the audit reports. Mr McCann signed the audit reports in error due to having been designated within the firm as the 'partner in charge' of the clients by virtue of having conducted audits in relation to the clients' UK parent companies.

6. The Chartered Certified Accountants' Global Practising Regulations 2003 (GPR) Regulation 3(1)(a) provides that *"No member shall carry on public practice in a designated territory or in a country or jurisdiction that, according to local legislative and/or regulatory requirements requires a practising certificate issued by the Association, unless the member holds a practising certificate which authorises the carrying on of the activity in question."* GPR 4(1) provides that the meaning of public practice includes signing... any accounts or report or certificate... concerning any person's financial affairs, whether an individual sole-trader, an unincorporated body or a firm, in circumstances where reliance is likely to be placed on such accounts or report or certificate... by any other person (the "third-party") or doing any other thing which may lead the third party to believe that the accounts or report or certificate or tax return concerning the financial affairs of such a person has been prepared, approved or reviewed by the practitioner.
7. Allegation 1 is set out in the Consent Order. It is admitted by Mr McCann.

DECISION AND REASONS

8. The Chair was satisfied that there was a case to answer and that the Investigating Officer had carried out an appropriate and thorough investigation. She was satisfied that it was appropriate to deal with the matter by way of a Consent Order rather than a public hearing. However, the Chair did consider that two small amendments were required to the draft Consent Order.
9. The Chair recommended in accordance with CDR, Regulation 8(13) amendment of the terms of the order so that it made better sense by the deletion of the plural of allegations to the singular "allegation" and deletion of "to 2" in the terms of the order at Allegation 1(c) so that 1(c) in the Consent Order would read:

“By reason of his conduct in respect of all the matters set out at allegation 1, he is guilty of misconduct pursuant to bye-law 8(a)(i)”

10. CDR 8(13) states *“ if a Chair is satisfied that it is appropriate to deal with the complaint by way of consent order, but wishes the terms of the draft Consent Order to be amended... a Chair has the power to recommend amendments of the signed draft Consent Order to the Association and the relevant person, and to subsequently approve and any amended order agreed by the parties.”* The Chair decided that if those amendments are approved by the Association and Mr McCann then she would approve the amended order.
11. The Chair considered the proposed sanction and whether, if the matter went to a full hearing, it was likely that the admitted breach would result in exclusion from membership.
12. The Chair was satisfied that the breach would not lead to a sanction of exclusion and that such a sanction would be disproportionate for what was an accepted error. The Chair considered whether the appropriate sanction is a severe reprimand. In considering this to be the most appropriate sanction, ACCA’s Guidance for Disciplinary Sanctions (GDS) has been considered and particularly the key principles. 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, that is, balancing the member’s own interests against the public interest.
13. Further, the Chair considered the aggravating and mitigating features of the case. She accepted as set out in the papers that the aggravating factors are as follows:
 - The period of time over which the breach has taken place;

- The number of sets of accounts in relation to which the breach has occurred.
14. 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 McCann has been a member of ACCA since 1992 and has a previous good record with no previous complaint or disciplinary history;
 - Mr McCann has fully co-operated with the investigation;
 - Mr McCann has admitted his conduct and apologised;
 - No direct or indirect harm has been caused;
 - The firm has taken steps to ensure future errors do not occur.
15. The Chair considered that the seriousness of the admitted allegation in the light of the aggravating and mitigating factors was at the lower end of the range of conduct for which a severe reprimand would be the appropriate sanction. The Chair considered whether to recommend an amendment to the Consent Order by way of a lesser sanction such as a reprimand, but she decided in view of the number of audits that Mr McCann had signed and the period over which the misconduct took place, that a reprimand would not meet the public interest requirements. The Chair decided that a severe reprimand is the most suitable sanction.
16. The Chair considered that ACCA was entitled to its costs of £1,700 and that the amount agreed was reasonable.
17. Accordingly, the Chair approved the draft Consent Order.

ORDER

18. The Chair made the following order:

- i. The draft Consent Order is approved
- ii. Allegation 1 is proven by admission.
- iii. Mr McCann is severely reprimanded
- iv. Mr McCann is ordered to pay costs to ACCA in the sum of £1,700.

EFFECTIVE DATE OF ORDER

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

Ms Kate Douglas
Chair
31 March 2022