

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Hien Thanh Le
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 Hien Thanh Le on 08 February 2022 and by ACCA on 10 February 2022. The matter was listed to be considered on the basis of documents only. Neither Mr Hien Thanh Le nor ACCA was present or represented.
2. The draft Consent Order read:

The Association of Chartered Certified Accountants (“ACCA”) and Mr Hien Thanh Le (the Parties), agree as follows:

1. Mr Hien Thanh Le admits the following:

Allegations

1. From 17 June 2013, Mr Hien Thanh Le, a Fellow of ACCA, whilst not holding an ACCA practising certificate:
 - a) Has been in public practice in that he allowed himself to be known as an 'Accountant' and/or as a 'Chartered Accountant',

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contrary to Global Practising Regulations 2003 (as applicable in 2013 - 2021), Regulation 3(1)(a);

- b) Has been a Director of Hien Le & Co Limited, a firm which carried on public practice, contrary to Global Practising Regulations 2003 (as applicable in 2013 - 2021), Regulation 3(2)(a);
- c) Has held rights, which in effect put him in position of a principal (75% or more shares) of Hien Le & Co Limited, a firm which carried on public practice, contrary to Global Practising Regulations 2003 (as applicable in 2013 - 2021) Regulation 3(2)(b).

2.

- a) On the following dates, Mr Hien Thanh Le, electronically completed his annual Continuous Professional Development ("CPD") returns, declaring that he had not engaged in public practice activities without holding an ACCA practising certificate ("the Declaration"):
 - i. 01 January 2015 (2014 CPD return);
 - ii. 02 January 2016 (2015 CPD return);
 - iii. 01 January 2017 (2016 CPD return);
 - iv. 03 January 2018 (2017 CPD return);
 - v. 02 January 2019 (2018 CPD return);
 - vi. 02 January 2020 (2019 CPD return);
 - vii. 31 December 2020 (2020 CPD return).
- b) Mr Hien Thanh Le's conduct at Allegations 2(a)(i)-(vii) above, was reckless in that he failed to have any or sufficient regard to, the terms of the Declaration he gave, when he wrongly confirmed he had not carried on public practice activities without holding a practising certificate (as per Global Practising Regulations 23 and 4), or otherwise acknowledged

he required a practising certificate if he engaged in public practice.

3. In light of any or all, of the facts set out in Allegations 1(a) – 1(c) and 2(a)-2(b) above, Mr Hien Thanh Le is guilty of misconduct pursuant to byelaw 8(a)(i).
2. That Mr Hien Thanh Le shall be severely reprimanded, shall pay a fine of £3,984 and shall pay costs to ACCA in the sum of £1077.50.

BACKGROUND AND ADMISSIONS

3. The Chair considered a bundle of papers numbering 1-94 including the draft Consent Order.
4. On 24 April 2021, an internal complaint was raised against Mr Hien Thanh Le as it appeared that he was carrying on public practice activities whilst not holding an ACCA practicing certificate. On 07 September 2021, the Investigations Officer carried out searches of Mr Hien Thanh Le's accounting activities and those of his firm, Hien Le & Co Limited. This revealed that the firm had been incorporated on 17 June 2013 and that Mr Hien Thanh Le was director and principal (holding 75% or more shares) of the firm. The nature of business carried out by the firm included "accounting and auditing activities" and Mr Hien Thanh Le's occupation was recorded as Chartered Accountant. The firm's website and social media profiles showed that the firm used the description "accountant" and/or "Chartered Accountant". The services offered by the firm included "accountancy", "taxation" and/or "tax preparation". Results from the Financial Analysis Made Easy ("FAME") website revealed that between 30 September 2014 - 30 September 2016, unaudited annual accounts had been produced by Hien Le Co Chartered Accountants for 23 companies.
5. By letter dated 21 September 2021, Mr Hien Thanh Le confirmed that he was director and principal of the firm and that the services offered by him and the firm were, *"general accountancy services from book-keeping to*

preparing accounts and tax returns, both for individual and small limited companies.” Mr Hien Thanh Le confirmed that he was “responsible for signing off unaudited accounts and taxation work, the firm does not provide auditing services or act as statutory auditor”. He confirmed that he used the designatory letters, FCCA after his name.

6. ACCA received confirmation that Mr Hien Thanh Le had held a practising certificate with and been supervised for anti-money laundering purposes by ICAEW throughout the period that he was carrying on public practice. Additionally, Mr Hien Thanh Le provided proof of professional indemnity insurance cover during this period.
7. Mr Hien Thanh Le, noted that he had contacted ACCA on or around 2013 to query whether he needed an ACCA practising certificate in addition to the one that he had applied for with ICAEW. Due to the time that has passed since the query was made, there is no detailed record of what was discussed, or the advice given. However, ACCA's records confirm that in January 2012, Mr Hien Thanh Le had discussed a "PC/Tech query", i.e. practising certificate and technical enquiry. Mr Hien Thanh Le agreed to regularise his position by resigning from the ACCA membership register. On 25 November 2021, he provided written confirmation that he would not advertise himself as an ACCA member, a Chartered Certified Accountant or use ACCA's designatory letters during the course of his business or on business stationery/signage.
8. Allegations 1-3 are set out in the Consent Order. They are admitted by Mr Hien Thanh Le.

DECISION AND REASONS

9. The Chair was satisfied that there was 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. The Chair did not consider that any amendments were required to the draft Consent Order.

10. 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.
11. The Chair was satisfied that the breach would not lead to a sanction of exclusion and that such a sanction would be disproportionate for the admitted misconduct. Mr Hien Thanh Le had been a member of the Institute of Chartered Accountants of England and Wales (ICAEW) and had been practising with a practising certificate issued by them.
12. The Chair was satisfied that the appropriate sanction is a severe reprimand and a fine of £3,984. In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions (Guidance) has been considered. The Chair took into account the key principle 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.
13. They agreed that the following aggravating factors are relevant to be considered:
 - The length of time that Mr Hien Thanh Le has undertaken public practice without holding an ACCA practising certificate.
 - The number of incorrectly signed annual CPD declarations submitted by MrHien Thanh Le to ACCA.
14. In deciding that a severe reprimand and a fine is the most suitable sanction paragraphs C4.1 to C4.5 and C6.1 to C6.8, of ACCA's Guidance have been considered and the following mitigating factors have been noted:
 - Mr Hien Thanh Le has been a member of ACCA since 15 April 2004 and has a previous good record with no previous complaint or disciplinary history.

- Mr Hien Thanh Le has fully co-operated with the investigation and regulatory process.
 - Mr Hien Thanh Le has admitted his conduct and expressed remorse.
 - Mr Hien Thanh Le has regularised his position by offering to resign from ACCA's membership register.
 - Mr Hien Thanh Le held a practising certificate with ICAEW during the period that he was undertaking public practice without holding a practising certificate with ACCA.
15. The Chair considered that the seriousness of the admitted allegations 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 they decided in view of the length of time that the misconduct had persisted that a reprimand would not meet the public interest requirements. The Chair decided that a severe reprimand is the most suitable sanction and a fine of £3,984 proportionately reflects Mr Hien Thanh Le's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction.
16. The Chair further decided that ACCA was entitled to its costs of £1077.50 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 1-3 is proven by admission

- iii) Mr Hien Thanh Le is severely reprimanded
- iv) Mr Hien Thanh Le is ordered to pay a fine of £3,984
- v) Mr Hien Thanh Le is ordered to pay costs to ACCA in the sum of £1077.50.

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