

APPLICATION ON PAPERS

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Sukumar Saha
Considered on:	Friday, 06 May 2022
Chair:	Mr Martin Winter
Legal Adviser:	Mr Alastair McFarlane
Outcome:	Consent Order Approved Member Severely Reprimanded Costs imposed of £900 Fine imposed of £3000

DOCUMENTS BEFORE THE CHAIR

1. The Chair received a signed draft Consent Order, numbered pages 1-298, including a signed Consent Order and a service bundle numbered pages 1-16 and two cost schedules.

ALLEGATIONS

Mr Sukumar C Saha, the Money Laundering Reporting Officer (“MLRO”), of Plus Minus Ltd (“the Firm”) admits the following:

Allegation 1

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During the period of 26 June 2017 to 25 February 2021, he failed on behalf of his firm to comply with Regulations 18 and 19 of the Money Laundering, Terrorist Financing Transfer of Funds (Information on the Payer) Regulations 2017 (“the MLRs”) namely:

- 1.1 Regulation 18 (Risk assessment by relevant persons)
- 1.2 Regulation 19 (Policies, controls and procedures)

Allegation 2

During the period of 26 June 2017 to 25 February 2021, he failed to comply with Section 82 of ACCA's Code of Ethics and Conduct (Anti-Money Laundering) (as applicable from 2017 to 2021).

Allegation 3

By reason of the conduct set out at allegations 1 and 2 above, Mr Saha is guilty of misconduct pursuant to byelaw 8(a)(i).

BACKGROUND

- 2. Mr Saha is a member of ACCA and holds a practicing certificate.
- 3. Mr Saha is a director and the Money Laundering Reporting Officer (the “MLRO”) of the Firm. On 24 February 2021, a desk bound based monitoring review of the Firm was conducted by ACCA’s anti-money laundering team in order to assess compliance with the MLRs 2017. The review revealed evidence of poor AML compliance including the following AML controls:
 - a) The Firm had not conducted and documented firmwide risk assessment in accordance with the MLAs 2017. Consequently, the Firm was not aware of AML risks within its operations and was therefore in a vulnerable position to be exploited by criminals for the purpose of money laundering and terrorist financing. This is also a legal requirement and therefore the Firm is in breach of the MLR is 2017.
 - b) The Firm did not have a formally documented set of AML policies and procedures (P&Ps) and consequently the Firm did not have a documented

process in place to state how it mitigated its money laundering risks. This was a further legal requirement and therefore a breach of the MLAs 2017.

- c) The training provided to employees was not sufficient for them to perform in their roles and the effectiveness of the training was not analysed. Therefore, there was no evidence of employees having sufficient knowledge and understanding of the training given.
 - d) Inconsistencies and anomalies were found when reviewing the Customer Due Diligence (“CDD”) files. The risk categorisation of clients was inadequate.
 - e) The evidence revealed failures to comply with the 2017 MLRs but also a failure to apply the guidance set out within the Anti-Money Laundering Guidance for the Accountancy Sector (“AMLGAS”) covering the prevention of money laundering and the countering of terrorist financing.
 - f) Further the evidence revealed the Firm was not in compliance with section B2 of ACCA’s rulebook (anti-money laundering) in particular, sections 5 and 6 – relationship with a local law.
4. Following the AML team’s referral to ACCA’s Investigation Department, Mr Saha took steps to rectify the breaches and provided evidence that the relevant documentation and processes had been put in place to show how he had attempted to rectify the failures identified by the AML team. In July 2021, Mr Saha took further steps to update the Firm’s risk assessment policies and procedures.

CHAIR’S DECISION

- 5. 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.
- 6. 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.

7. 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. It balanced this against Mr Saha's interests and his previous good character, his admissions, and his co-operation with ACCA. There was no suggestion of dishonesty.
8. The Chair noted the list of aggravating and mitigating factors advanced at paragraphs 10 and 11 of the draft Consent Order. They noted that Mr Saha has undertaken extensive measures to ensure that he is compliant with money laundering regulations and obligations in the future.
9. 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 Saha continuing as a member was low.
10. 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.
11. The appropriate sanction is a severe reprimand with a fine of £3,000. In deciding that a fine of £3,000 is suitable as a financial sanction, the section in the Guidance headed "Additional guidance in relation to AML Allegations" has been considered. In particular, this states that under the Money Laundering Regulations, ACCA must effectively monitor its firms to ensure they comply with the requirements of the regulations by taking appropriate measures where irregularities have been uncovered. This includes ACCA taking effective, proportionate, and deterrent disciplinary action under ACCA's bye laws and regulations, which may be punitive in effect.
12. The Chair had regard to the Guidance that divides the types of AML breaches into 'Very Serious', 'Serious' and 'Less Serious'. They were of the view that the

Allegations fall in to the 'Serious' category, given that the evidence shows that the Firm's non-compliance with legal requirements continued over a significant period of time as a result of Mr Saha's misconduct.

ORDER

13. The Chair, pursuant to their powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Saha be severely reprimanded, pay a fine of £3,000 and pay ACCA's costs of £900.

Mr Martin Winter
Chair
06 May 2022