

## APPLICATION ON PAPERS

### CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

#### REASONS FOR DECISION

**In the matter of:** Mr Mahin Khawaja

**Considered on:** Thursday, 12 May 2022

**Chair:** Mrs Kathryn Douglas

**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 1-202, including a signed Consent Order and a service bundle numbered pages 1-7 and two cost schedules.

#### ALLEGATIONS

Mahin Khawaja, an ACCA Member and the Money Laundering Reporting Officer (“MLRO”) of Adroit Accountax Limited (“the Firm”) admits the following:

##### **Allegation 1**

On 01 or 04 December 2020, Mahin Khawaja failed on behalf of the Firm to comply with the requirements of the Money Laundering, Terrorist Financing Transfer of Funds (Information on the Payer) Regulations 2017 in that he did not ensure that the Firm maintained a record in writing of the changes made

to the Firm's AML policies and procedures in 2018 and 2019, contrary to Regulation 19

### **Allegation 2**

By reason of the conduct set out in Allegation 1, Mahin Khawaja failed to comply with:

- (a) Section B2 (Anti-Money Laundering) of ACCA's Code of Ethics and Conduct (as applicable in 2020).
- (b) Regulation 14 of ACCA's Global Practising Regulations (as applicable in 2020).

### **Allegation 3**

- (a) From 26 June 2017 to 04 December 2020, Mahin Khawaja failed to properly supervise Person A having delegated responsibility to them for the maintenance of the Firm's AML risk assessments and policies and procedures.
- (b) Mr Khawaja's conduct in respect of 3(a) was contrary to Section 130.5 (as applicable from 2017 to 2018) and R113.2 (as applicable from 2019 to 2020) of ACCA's Code of Ethics and Conduct.

### **Allegation 4**

By reason of the conduct set out at allegations 1, 2 and 3 above, Mahin Khawaja is guilty of misconduct pursuant to byelaw 8(a)(i).

### **BACKGROUND**

2. Mr Khawaja has been a member of ACCA since March 2010 and has held a practicing certificate for the UK since March 2014.

3. Mr Khawaja is the Money Laundering Reporting Officer (the “MLRO”) of the Firm. On 26 November 2020, ACCA's Anti-Money Laundering team undertook a desk-based monitoring of the Firm. On 26 November 2020, ACCA sent an email to Mr Khawaja requesting a copy of the Firm's current and any previous AML Policies & Procedure.
4. On 04 December 2020, Mr Khawaja sent copies of the Firm's current AML Policies & Procedures and Firm-Wide Risk Assessment documents to ACCA. On 07 December 2020, ACCA sent an email to Mr Khawaja to request copies of the Firm's previous firm-wide risk assessment and policies & procedures documents, which Mr Khawaja sent on 09 December 2020. However, in respect of those documents attached to Mr Khawaja's email of 09 December 2020:
  - a. The Firm's policies & procedures dated 01 December 2018 was based on an ACCA template which was not issued until February 2020.
  - b. The Firm's firm-wide risk assessments dated 01 December 2018 and 01 December 2019 were both based on an ACCA template which was not issued until February 2020.
5. On 14 December 2020, ACCA sent an email to Mr Khawaja which requested that he provide copies of the Firm's current and previous versions of the firm-wide risk assessment and policies & procedures in their original format (rather than PDF). On 14 December 2020, Person A sent an email to ACCA stating that the Firm overwrote to master Word file of the firm-wide risk assessment every time they create a new document, so they only have the PDF versions of the previous versions. In respect of the policies & procedures documents, Person A stated that he saved this to PDF.
6. It has been stated to ACCA that:
  - a. Mr Khawaja delegated money laundering matters to Person A;

- b. Person A prepared the money laundering documentation that was provided to ACCA via Mr Khawaja;
  - c. Person A had mistakenly overwritten the Firm's previous versions of its firm-wide risk assessment and policies & procedures with its current version;
  - d. When Mr Khawaja asked Person A for the 2018 version of the documents, Person A saved the 2020 copies as the 2018 documents and sent these to Mr Khawaja;
  - e. Mr Khawaja was not aware that any misleading information was being sent to ACCA;
  - f. Person A had not intended to mislead anyone; and
  - g. Mr Khawaja accepts that he placed too much reliance on Person A.
7. The result of the above events is that:
- a. Mr Khawaja has not maintained a record in writing of changes to the Firm's AML policies and procedures, as required by Regulation 19(1)(c)(ii) of the Money Laundering Regulations; and
  - b. ACCA's AML team have been unable to confirm whether the Firm were compliant with the Money Laundering Regulations prior to the review that took place on 26 November 2020.

#### **CHAIR'S DECISION**

8. 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 noted that the wording of the draft Consent Order refers to Mr Khawaja “agreeing” the allegations as opposed to admitting them. However, the Chair noted the

operation of Regulation 8(5), to the effect that the relevant person only signs the draft Consent Order if he “*admits to all of the failings and/or breaches set out and agrees to the sanction and costs (if any), proposed within the draft consent order*”. Accordingly, the Chair was satisfied there was a proper admission here.

9. 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.
10. 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 Khawaja’s interests and his previous good character, his admissions, and his co-operation with ACCA. There was no suggestion of dishonesty.
11. The Chair noted the list of aggravating and mitigating factors advanced at paragraphs 9 and 10 of the draft Consent Order bundle. It noted that Mr Khawaja’s conduct was not dishonest and was an isolated incident, and that he has ensured that he is compliant with money laundering regulations and obligations in the future.
12. 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 Khawaja continuing as a member was low.
13. 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.

14. The appropriate sanction is a reprimand with a fine of £1,000. In deciding that a fine of £1,000 is suitable as a financial sanction, the section in the Guidance headed “Additional guidance in relation to AML Allegations” has been considered. In particular, these state 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 byelaws and regulations, which may be punitive in effect.
15. 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 Khawaja’s misconduct.

#### **ORDER**

16. The Chair, pursuant to their power under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Khawaja be reprimanded, pay a fine of £1,000 and pay ACCA’s costs of £1,541.

**Mrs Kate Douglas**  
**Chair**  
**12 May 2022**