

## APPLICATION ON PAPERS

# CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

## REASONS FOR DECISION

**In the matter of:** Ms Sabiha Zabwala, FCCA

**Considered on:** Friday, 25 November 2022

**Location:** Remotely via Microsoft Teams

**Chair:** Mr Neil Dalton

**Legal Adviser:** Ms Tope Adeyemi

**Summary** Consent order approved.  
Member severely reprimanded.

**Costs:** Costs to ACCA of £1,950

**Fine:** Fine in the sum of £5,000

## INTRODUCTION

1. This matter has been referred to a Chair of the Consent Orders Committee of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before them whether to approve the draft Consent

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Order. Under CDR 8(8), a Consent Order is made by a Chair of the Consent Orders Committee in the absence of the parties and without a hearing.

2. The Chair had before them a bundle of 201 pages ('the bundle') which included the Consent Order draft agreement.

### **CONSENT ORDER DRAFT AGREEMENT**

3. The Consent Order draft agreement was signed by Ms Sabihi Zabwala on 14 November 2022 and signed by a signatory on behalf of ACCA on the same day. It reads as follows:

1. *Ms Sabiha Zabwala FCCA, an ACCA member and the Money Laundering Reporting Officer and principle of MSP Associates (London) Limited (the 'firm'), admits the following:*

#### *Allegation 1*

*On dates between 26 June 2017 and 25 November 2020, Ms Sabiha Zabwala failed on behalf of the Firm to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 in that she:*

- a) *had not conducted and documented a firm-wide risk assessment to identify and assess the risks of money laundering and terrorist financing to which the Firm was subject, contrary to Regulation 18; and*
- b) *had not provided formal Anti-Money Laundering training to the Firm's relevant employees, contrary to Regulation 24.*

### Allegation 2

*By reason of the conduct set out in Allegation 1, Ms Sabiha Zabwala failed to comply with the Fundamental Principle of Professional Behaviour and paragraph 7 of Section B2 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, Ms Sabiha Zabwala is guilty of misconduct pursuant to Bye-law 8(a)(i).*

2. *That Ms Sabiha Zabwala shall be severely reprimanded and pay a fine in the sum of £5000 and costs to ACCA in the sum of £1,950.*

## **BACKGROUND AND ALLEGATION**

4. The relevant background and Facts are set out in the bundle and read as follows:

### ***Relevant Facts, Failings and/or Breaches***

3. *The Investigating Officers have conducted their investigation into the allegations against Ms Sabiha Zabwala in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations and are satisfied that:*
  - *They have conducted the appropriate level of investigation, as evidenced by the enclosed evidence bundle, and determined that there is a case to answer against Ms Zabwala*

*and there is a real prospect of a reasonable tribunal finding the allegations proved; and*

- *The proposed allegations would be unlikely to result in exclusion from membership.*

4. *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*

5. *A summary of key facts is set out below:*

5.1. *Ms Zabwala has been an ACCA Member since 10 November 2011 and held an ACCA practicing certificate since 1 June 2016.*

5.2. *Ms Zabwala is the Money Laundering Reporting Officer (the “MLRO”) of the Firm.*

5.3. *On 26 October 2020, ACCA’s AML Supervision Officer notified Ms Zabwala that the Firm had been selected for an AML review (the “Review”) in order to assess its compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (“MLR 2017”). The Review comprised of a desk-based review of the Firm’s AML controls and a telephone interview with Ms Zabwala, as the MLRO.*

5.4. *On 19 November 2020, Ms Zabwala and the Firm were referred to ACCA’s Professional Conduct Department due to non-compliance with the following AML controls which breached MLR 2017 Regulations:*

- *Regulation 18 – Firm-wide risk assessment by the relevant persons; and*

- *Regulation 24 – Training.*

*While weaknesses were identified in other areas, as they were considered partially compliant, they were not included in the referral to Professional Conduct.*

- 5.5. *On 25 November 2020, ACCA’s AML Supervision Officer sent a report of the findings following the Review to Ms Zabwala [...]. Ms Zabwala promptly provided her response to the report on 26 November 2020 [...].*
- 5.6. *ACCA confirmed to Ms Zabwala on 26 March 2021 that the AML review was closed following her response. However, she was advised that the Firm had not sufficiently addressed all the findings and actions set out in the report and Ms Zabwala was therefore provided with further actions but that these would be checked during the next AML review.*
- 5.7. *On 13 April 2021, ACCA’s Professional Conduct Department notified Ms Zabwala of the complaint and she responded on 5 May 2021.*
- 5.8. *ACCA’s AML Supervision Officer confirmed that following the Firm’s response to their AML report on 25 November 2020, they would consider the Firm was generally compliant.*
- 5.9. *ACCA proposed that the matter be disposed of by Consent Order and Ms Zabwala agreed.*
- 5.10. *The case was subsequently transferred to and reviewed by another Investigating Officer who determined that it was appropriate to propose a Consent Order only in respect of the non-compliant breaches as set out in Allegation 1 and Ms Zabwala agreed to the disposal by consent.*

5.11. *The evidence from the AML team’s monitoring review showed that the firm was not compliant with sections of the Money Laundering Regulations as outlined in the allegations. As such, Ms Zabwala acted contrary to the Fundamental Principle of Professional Behaviour, which requires members to comply with relevant laws and regulations and avoid any conduct that a professional accountant knows, or should know, may discredit the profession. In addition, the conduct amounts to misconduct and is contrary to the requirements in paragraph 7 of Section B2 of ACCA’s Code of Ethics and Conduct (Anti-Money Laundering).*

5.12. *The relevant sections of the MLRs 2017 are [in the bundle, as identified].*

### **Sanction**

6. *The appropriate sanction is severe reprimand, a fine of £5,000 and for Ms Zabwala to pay ACCA’s costs in the sum of £1,950.*
7. *In considering this to be the most appropriate sanction, ACCA’s Guidance for Disciplinary Sanctions (the “GDS”) has been considered and particularly the key principles. One of the key principles is that of the public interest, which includes the following:*
  - *protection of members of the public;*
  - *maintenance of public confidence in the profession and in ACCA; and*
  - *declaring and upholding proper standards of conduct and performance.*

8. *In addition, Section H of the GDS (Additional guidance in relation to AML allegations) has been consulted to help determine:*
  - *the appropriate sanction;*
  - *the appropriateness of a fine; and*
  - *the amount of that fine.*
  
9. *Another key principle is that 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.*
  
10. *The **aggravating factors** are considered to be as follows:*
  - *Compliance with the MLRs is a legal requirement and mandatory;*
  - *Ms Zabwala was the MLRO of the Firm and the identified failures exposed the Firm to AML risks given the extent of the Firm's non-compliance with the Money Laundering Regulations;*
  - *The length of time since the MLR 2017 came into effect; and*
  - *Ms Zabwala's conduct fell below the standards expected of a qualified ACCA member and brought discredit upon herself, ACCA and the accountancy profession.*
  
11. *In deciding that a severe reprimand and a fine 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:*
  - *Ms Zabwala has been an ACCA member in continuous good standing since 2011 and held a practicing certificate since 2016, with no previous complaint or disciplinary history;*
  - *Ms Zabwala has promptly and fully co-operated with the investigation;*

- *Ms Zabwala has demonstrated insight and promptly regularised the Firm's AML breaches once they were identified;*
  - *There is no evidence of harm or continuing risk to the public;*
  - *Ms Zabwala started a family shortly before the time of the breaches and was working only part time as a result;*
  - *There is no evidence to suggest that Ms Zabwala's conduct was deliberate or dishonest; and*
  - *There is no evidence of the actual enabling of any money laundering.*
12. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a severe reprimand and a fine proportionately reflects Ms Zabwala's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession; and it conveys a message of the importance of fundamental standards of professional conduct.*

## **DECISION**

5. The powers available to the Chair are to:
- (a) Approve the draft Consent Order, in which case the findings on the allegations and the orders contained in it become formal findings and orders (CDR 8(11) and 8(14));
  - (b) Reject the draft Consent Order, which they may only do if they are of the view that the admitted breaches would more likely than not result in exclusion from membership (CDR 8(12));



- (c) Recommend amendments to the draft Consent Order, if they are satisfied it is appropriate to deal with the complaint by way of consent but wish the terms of the draft order to be amended (CDR 8(13)).
6. The Chair carefully considered the documents before them, the agreed background, the evidence relating to the allegations and the proposals in relation to sanction. The Chair agreed that the proposed sanction was appropriate and proportionate in all the circumstances, taking into account *ACCA's Guidance for Disciplinary Sanctions*. The Chair was satisfied it was appropriate to make a Consent Order in the terms agreed between the parties.

#### **ORDER**

7. The Chair made the following order:
- i. The draft Consent Order is approved;
  - ii. Allegations 1-3 are proved by admission;
  - iii. Ms Zabwala is severely reprimanded;
  - iv. Ms Zabwala is ordered to pay a fine in the sum of £5000;
  - v. Ms Zabwala is ordered to pay costs to ACCA in the sum of £1950.
8. Under CDR 8(17) there is no right of appeal against this order. Therefore, this order comes into effect immediately.

**Mr Neil Dalton**  
**Chair**  
**25 November 2022**