

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Abid Barkat Ali
Considered on:	Friday, 18 August 2023
Chair:	Ms Ilana Tessler
Legal Adviser:	Ms Margaret Obi
Outcome	Draft Consent Order Approved.

INTRODUCTION

1. This matter was referred to a Chair of the Disciplinary 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, whether to approve the draft Consent Order. Under CDR 8(8), approval of a Consent Order is made by a Chair of the Disciplinary Committee in the absence of the parties and without a hearing.
2. The Chair and Legal Adviser were provided with the following documents:
 - Case bundle (309 pages);
 - Signed copy of the draft Consent Order (6 pages);
 - Detailed costs schedule.

AGREED FACTS AND PROVISIONAL AGREEMENT

3. The Association of Chartered Certified Accountants (ACCA) is the AML supervisor of Certis (Yorkshire) Accountants Ltd ("the firm").

4. Mr Ali is a principal and Money Laundering Reporting Officer (MLRO) of the firm and holds a practising certificate with ACCA. As a holder of a practising certificate from ACCA, there is a mandatory requirement for the firm to be monitored by ACCA to assess compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulation 2017 (MLRs 2017).
5. ACCA also considers Anti-Money Laundering Guidance for The Accountancy Sector (AMLGAS). AMLGAS is guidance based on the law and regulations as of 26 June 2017. It covers the prevention of money laundering and the countering of terrorist financing. It is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency, or trust and company services in the United Kingdom and has been approved and adopted by the UK accountancy AML supervisory bodies.
6. As part of ACCA's supervisory work, it carried out a desk-based monitoring review of the firm. It was a routine monitoring review. The purpose of the review was to monitor the firm's compliance with the MLRs 2017.
7. At the start of the AML review, ACCA emailed Mr Ali on 29 July 2022. He was invited to complete the AML Compliance Review Assessment Form ("the form") and to provide ACCA with supporting information and documents in relation to its AML controls by 12 August 2022. The form was completed by Mr Ali on 12 August 2022.
8. When conducting its AML monitoring review, ACCA reviews the firm's response including the supporting information and documents attached to the form, together with the firm's response to the ACCA AML Risk Assessment Questionnaire ("AML RAQ").
9. During the AML monitoring review, the firm displayed poor AML controls. The following AML controls were tested and found to be non-compliant:
 - **AML Policies and Procedures (P&P):** The firm did not have a documented AML P&P in place.
 - **Escalation/Internal SAR:** The firm did not have an AML P&P, and as a result, it had not implemented a formal SAR process e.g., where suspicious activity identified by employees are submitted using an internal SAR form.
 - **Training:** The firm did not provide formal AML Training to all relevant employees prior to the AML review. This is a legal requirement and therefore the firm was in breach of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(MLRs 2017).

- **Identifying client risk:** Before establishing a client relationship or accepting an engagement, a firm must have controls in place to address the risks arising from it (AMLGAS 4.5.1). When assessing whether there is a high risk of money laundering or terrorist financing in a particular situation, and the extent of the measures which should be taken to manage and mitigate that risk, relevant persons must take account of money laundering risk factors. Enhanced due diligence must be completed on clients who have been assessed as higher risk. Based on a review of the client due diligence (CDD) files of the two clients provided for AML monitoring review, the firm did not have a formal process or procedures to identify those clients posing higher risk and to show that it is aware of any money laundering risks arising from its clients.
- **Ongoing monitoring:** The firm did not conduct on-going monitoring of its business relationships. There was no documentary evidence that periodic reviews to update or check that the customer due diligence file is correct and up to date.

10. The matter was referred to the Investigations Department for breach of the following regulations of MLRs 2017:

- Regulation 19 - Policies, controls and procedures: AML policy and procedures, Escalation/Internal SAR
- Regulation 21 – Internal controls: MLRO, MCLP, Escalation/Internal SAR
- Regulation 24 – Training: Training
- Regulation 27(8) and 28(11) - Customer due diligence measures: On-going monitoring
- Regulation 33(6) – Obligation to apply enhanced customer due diligence: Identifying client risk.

11. Mr Ali responded to the complaint made against him on 05 April 2023. He stated that when he became the principal of the firm *“immediately a Firm-wide risk assessment was undertaken, this will now be reviewed and undertaken 6 months, date of 01st July and 01st December.”* He went on to state:

“Documented Policies and Procedures have been now devised and all employees have been given a copy.

Formal AML training has now been paid for-some online videos watched and materials obtained and given to all employees. Further training is scheduled to take place on

01st May 2023 for myself and all employees, training will take place over 2 days-office will be virtually shut for these two days.

Enhanced customer due diligence now being undertaken on all new clients obtained, as well as some clients retrospectively. Equifax being utilised to check clients ID and background.

... customers Photo ID and utility bill and/or bank statement being obtained.

I can now confirm the above breaches as specified in your letter have been rectified by me, I also admit I was in breach of the above regulations when my [Person A] business partner was the designated MLRO, I also can explain that when my partner [Person A] was the MLRO the internal breaches occurred, however as stated-I am now the designated MLRO for our firm, I have spent approximately 5 to 6 days putting internal systems in place for all the above breaches specified.

My sincere apologies for the time wasted, AND I WILL endeavour to improve our internal policies and procedures further, as stated we are due to meet as a firm on the 01st May 2023 and undertake a further [two] complete days of training to ensure all employees follow the standardised internal procedures without fail.”

12. Mr Ali provided a written undertaking that there would be no further breaches of the MLRs.
13. By a Consent Order, signed by Mr Ali on 11 July 2023, he admitted the following allegations:

Allegation 1

1. *On dates between 26 June 2017 to 09 November 2022, Mr Abid Barkat Ali, an ACCA Fellow and Money Laundering Reporting Officer of Certis (Yorkshire) Accountants Ltd (“the Firm”) 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 he:*
 - 1.1. *Had not established and maintained policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment, contrary to Regulation 19;*
 - 1.2. *Had not put in place internal controls in the Firm, contrary to Regulation 21;*

- 1.3. *Did not provide formal AML training to all relevant employees, contrary to Regulation 24;*
- 1.4. *Had not applied customer due diligence measures, contrary to Regulations 27 and 28;*
- 1.5. *Had not applied enhanced customer due diligence measures and enhanced ongoing monitoring to manage and mitigate the risks arising in any case identified as one where there is a high risk of money laundering or terrorist financing, contrary to Regulation 33.*

Allegation 2

2. *By reason of the conduct set out at Allegation 1, Mr Abid Barkat Ali failed to comply with the Fundamental Principle of Professional Behaviour and Section B2 of ACCA's Code of Ethics and Conduct (Anti-money Laundering) (as applicable from 2017 to 2022).*

Allegation 3

3. *By reason of his conduct in respect of any or all of the matters set out at Allegations 1 and 2 above, Mr Abid Barkat Ali is guilty of misconduct pursuant to bye-law 8(a)(i).*
14. The draft Consent Order confirmed that the parties had agreed that the appropriate sanction was a Severe Reprimand and a fine of £5,000.
 15. The aggravating features, as set out in the draft Consent Order, were as follows:
 - The length of time during which Mr Ali was in breach of the MLRs 2017.
 - The conduct which led to Mr Ali being in breach of the MLRs 2017 fell below the standards expected of a qualified ACCA member.
 16. The draft Consent Order also referred to mitigating factors, which can be summarised as follows:
 - Mr Ali has been a member of ACCA since 2012 and has a previous good record with no previous complaint or disciplinary history;
 - Mr Ali has fully cooperated with the investigation and regulatory process;

- Mr Ali has ultimately admitted his conduct;
- Mr Ali has apologised for the conduct which led to the complaints raised against him;
- There is no continuing risk to the public as Mr Ali has now rectified the breaches of the MLRs 2017;
- As a result of the AML review and the findings that occurred, Mr Ali has taken remedial action to address his conduct;
- Mr Ali has expressed genuine remorse.

DECISION

17. The Legal Adviser advised the Chair of their powers 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 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)).
18. The Chair had regard to ACCA's Guidance for Consent Orders. Having carefully considered all of the material, the Chair was satisfied that the matter had properly been investigated by ACCA. The Chair was also satisfied that Mr Ali had properly and willingly admitted all of the allegations. The Chair did not consider that the admitted breaches would be likely to result in exclusion from membership if this matter was heard by the Disciplinary Committee.
19. In considering whether a Severe Reprimand was the appropriate sanction, the Chair noted ACCA's Guidance for Disciplinary Sanctions (Guidance) and the key principles which include:

- Protection of members of the public;
- Maintenance of public confidence in the profession and ACCA; and
- Declaring and upholding proper standards of conduct and performance.

20. The Chair noted that ACCA had considered all of the available sanctions and had concluded that a Severe Reprimand was the appropriate and proportionate sanction in this case.
21. The Chair took into account the aggravating and mitigating features and Mr Ali's own interests balanced against the public interest. Having considered all the circumstances of this case, the Chair agreed that a Severe Reprimand was a proportionate sanction which sufficiently addresses the need to protect the public and uphold the other public policy considerations. The Chair was satisfied that there was no need to make any amendments to the Consent Order.

COSTS

22. ACCA provided a detailed Schedule of Costs which set out a breakdown of the activity undertaken by ACCA and the associated costs.
23. The Chair accepted the advice of the Legal Adviser.
24. The Chair concluded that it is appropriate to make an award for costs. The Chair was satisfied that the case had been properly brought, and that the costs were fair and reasonable. In the absence of a statement of means form from Mr Ali the Committee concluded that no deductions should be made to the costs schedule.
25. The Chair determined that Mr Ali should be required to make a contribution to the costs of bringing these proceedings, otherwise, the entirety of the costs would be borne by the profession as a whole. The Chair concluded that these costs should be in the sum of £2,017.

ORDER

26. The Chair made the following order:
- i. Allegations 1, 2 and 3 are proved by admission.
 - ii. The draft Consent Order is approved.
 - iii. Mr Ali shall be severely reprimanded.
 - iv. Mr Ali is ordered to pay a fine in the sum of £5,000.

v. Mr Ali is ordered to pay costs in the sum of £2,017.

EFFECTIVE DATE OF ORDER

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

Ms Ilana Tessler
Chair
18 August 2023