

CONSENT ORDERS CONSIDERATION

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Neil Andrew Bott
Considered on:	Thursday, 09 February 2023
Location:	Remotely using Microsoft Teams
Chair:	Mrs Helen Carter-Shaw
Legal Adviser:	Mr Robin Havard
Summary	Admonishment Costs payable to ACCA - £1,030

1. A Consent Order is made on the order of the Chair under the relevant regulations.

INTRODUCTION

2. The Chair had considered a draft Consent Order, signed by Mr Bott and a signatory on behalf of ACCA on 29 November 2022 and 26 January 2023 respectively, together with supporting documents in a bundle numbering pages 1 to 19.
3. When reaching their decision, the Chair had been referred by the Legal Adviser to the requirements of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as amended) ("CDR8") and had accepted his advice. The Chair had also taken account of the content of ACCA's documents entitled "Consent Orders Guidance" and "Consent Orders Guidance FAQs".

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4. The Chair understood that Mr Bott was aware of the terms of the draft Consent Order and that it was being considered today.
5. The Chair also understood that Mr Bott was aware that he could withdraw his agreement to the signed draft Consent Order by confirming the withdrawal in writing. No such withdrawal had been received.

ALLEGATIONS

Allegation 1

- (a) Mr Neil Andrew Bott failed to disclose to Person A, a client of his firm, commissions of £14,192.01 that his firm received during the period of 05 November 2013 to 02 September 2019 from Company B as a result of investments made by Person A.
- (b) Mr Bott's conduct in respect of 1(a) was contrary to Section 310.17 of ACCA's Code of Ethics and Conduct (as applicable from 2012 to 2019).

Allegation 2

Mr Bott is guilty of misconduct in respect of the matters set out at allegation 1, pursuant to bye-law 8(a)(i).

DECISION ON FACTS

6. The Chair noted that the following summary of the facts were agreed and therefore adopted them as their findings of fact.
7. On 05 November 1992, Mr Bott became a member of ACCA.
8. On 5 November 1997, Mr Bott became a fellow of ACCA.

9. In 1998 Mr Bott was issued with a practising certificate for the United Kingdom, which he continues to hold.
10. In 1999/2000 the firm Neil Bott and Co entered into a partnership with the firm Derek Wilson and Co, forming accountancy firm Wilson Bott. A few years later, when Derek Wilson retired, Neil Bott continued as a sole trader, trading as Wilson Bott.
11. Person A was originally a client of the Derek Wilson and Co, and later became a client of the merged firm, Wilson Bott.
12. During the period 05 November 2013 to 02 September 2019 Mr Bott's firm, Wilson Bott, received commission payments totalling £14,192.01 from Company B. These commissions were paid a result of investments made by Person A. However, Person A was never informed that such commissions were being paid by Company B to Wilson Bott.
13. On 13 April 2021, Person A submitted a complaint to ACCA regarding the undisclosed commission payments.
14. On 22 October 2021, Mr Bott was informed of the complaint and asked to respond to the allegations made by Person A.
15. On 11 November 2021, Mr Bott responded to ACCA. In his letter, Mr Bott acknowledged there was an agreement in place for 25% commission payments to be paid by Company B to Wilson Bott relating to investments made by Person A. During the period 2012 to 2019 these commissions totalled £14,192.01.

DECISION ON ALLEGATIONS AND REASONS

16. In accordance with CDR8, the Chair has the power to approve or reject the draft Consent Order or to recommend amendments. The Chair can only reject a signed draft Consent Order if they are of the view that the admitted breaches would more likely than not result in exclusion from membership.

17. The Chair was satisfied that there was a case to answer and that it was appropriate to deal with the complaint by way of a Consent Order. The Chair considered that the Investigating Officer had followed the correct procedure.
18. The Chair considered the bundle of evidence and, on the basis of the admissions of the allegations by Mr Bott, found the facts of the allegations proved. They considered that the admitted facts and Mr Bott's actions amounted to misconduct in that they brought discredit to him, the Association and the accountancy profession. They therefore justified disciplinary action under bye-law 8(a)(i).

SANCTION AND REASONS

19. In deciding whether to approve the proposed sanction of an admonishment, and for Mr Bott to pay ACCA's costs in the sum of £1,030, the Chair had considered the Guidance to Disciplinary Sanctions ("the Guidance"), including the key principles relating to the public interest, namely: the protection of members of the public; the maintenance of public confidence in the profession and in ACCA, and the need to uphold proper standards of conduct and performance. The Chair also considered whether the proposed sanction was appropriate, proportionate and sufficient.
20. In deciding that an admonishment was the most suitable sanction, paragraphs C4.1 to C4.5 of ACCA's Guidance have been considered and the following mitigating factors had been identified by ACCA:
 - Mr Bott's conduct has not caused financial loss or adverse effect on the client or any members of the public. Further, there is no continuing risk to the public.
 - The investigation found no evidence that Mr Bott's misconduct was deliberate.
 - Mr Bott acknowledged his misconduct early and apologised for the events which led to the complaints against him. Mr Bott also provided a

reasonable explanation of past events whilst accepting rule breaches had taken place.

- The misconduct was an isolated incident which is unlikely to be repeated. Mr Bott has been an ACCA member in continuous good standing since 1992 and has no previous complaint or disciplinary history.
- Mr Bott co-operated with ACCA's investigation in a timely and professional manner.

21. The Chair considered that the mitigating features identified by ACCA were supported by documentary evidence and were relevant.
22. In the Chair's judgement, the conduct was such that the public interest would not be served by making no order, and that an admonishment would adequately reflect the seriousness of Mr Bott's conduct. When considering the criteria set out in the Guidance, the Chair took into consideration the fact that the errors identified were not deliberate. Furthermore, neither any client nor any member of the public had suffered loss as a result of Mr Bott's conduct. He had also shown genuine remorse and insight into his failings.
23. Therefore, the Chair concluded that it would be proportionate and sufficient to impose an admonishment to reflect the seriousness of the findings against Mr Bott and his admitted misconduct.
24. In all the circumstances, the Chair was satisfied that the sanction of an admonishment was appropriate, proportionate, and sufficient, and that a more severe sanction would be a disproportionate outcome.

COSTS AND REASONS

25. ACCA was entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1,030, which had been agreed by Mr Bott, appeared appropriate.

ORDER

26. Accordingly, the Chair approved the terms of the attached Consent Order. In summary:

- a. Mr Bott shall be admonished; and
- b. Mr Bott shall pay costs of £1,030 to ACCA.

Mrs Helen Carter- Shaw
Chair
09 February 2023