

HEARING

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Sarfraz Fayyaz

Considered on: Friday, 10 February 2023

Location: Meeting conducted remotely

Chair: Mr Martin Winter

Legal Adviser: Ms Helen Gower

Summary Consent Order for Severe Reprimand, a fine of £2,000 and costs of £3,000 approved

1. The Chair considered a draft Consent Order in respect of Mr Fayyaz. The matter was listed to be considered on the basis of documents only. Neither Mr Fayyaz nor ACCA were present or represented.
2. The Chair was provided with the draft Consent Order, signed by Mr Fayyaz on 12 December 2022 and a signatory on behalf of ACCA on 16 January 2023, together with supporting documents in a bundle numbered 1-531. In addition, there was a simple and detailed costs schedule.

BRIEF BACKGROUND

ACCA



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3. It was alleged by ACCA, and Mr Fayyaz admitted, that he was guilty of misconduct, pursuant to byelaw 8(a)(i) in respect of the below matters:
 1. Between 07 February 2012 and 01 September 2021 was a director of Company 1 and between 11 March 2018 and 01 September 2021 was a director of Company 2 both being firms in public practice, contrary to Regulation 3(2)(a) of the Global Practising Regulations (2012-2021).
 2. Between 07 February 2021 and 01 September 2021 held rights in Company 1 and between 11 March 2018 and 01 September 2021 held rights in Company 2 which in effect put him in the position of a principal of a firm in public practice, contrary to Regulation 3(2)(b) of the Global Practising Regulations (2012-2021).
 3. Contrary to Regulation 3(1)(a) of the Global Practising Regulations 2012-2021 carried on public practice in that he:
 - a. Between approximately 21 April 2016 and 26 June 2020 on behalf of his firm Company 1
 - (i) Accepted appointment as auditor in respect of Company A and or Company B; and
 - (ii) Issued audit reports on behalf of either or both those companies.
 - b. Between 07 February 2012 and 01 September 2021 through one or both of his firms Company 1 and Company 2 held himself out as being engaged in public practice.
 4. Between October 2015 and 19 April 2021, Mr Fayyaz being engaged in providing accountancy services through Company 1 failed to register with a supervisory authority for anti-money laundering purposes.
 5. Submitted annual CPD declarations for the years 2014-2020 incorrectly confirming in one or more of those declarations that he had not engaged

in public practice activities without holding an ACCA certificate in the previous 12 months.

6. By reason of the conduct referred to paragraph 5 above Mr Fayyaz has failed to comply with Section 110.2 of the Code of Ethics and Conduct 2015-2021.
7. By reason of the conduct referred to, Mr Sarfraz Fayyaz is:
 - a. In respect of one or more of paragraphs 1-6 above guilty of misconduct pursuant to byelaw 8(a)(i); or in the alternative
 - b. In respect of one or more of allegations 1-3 above liable to disciplinary action pursuant to byelaw 8(a)(iii).
4. The details were set out in the attached draft Consent Order. ACCA's Investigating Officer and Mr Fayyaz had agreed the form of order which proposed a severe reprimand, a fine of £2,000 and payment of costs to ACCA in the sum of £3,000.

DECISION AND REASONS

5. In accordance with Regulation 8 of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended, 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.
6. 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 was also satisfied that the Investigating Officer had followed the correct procedure.

7. The Chair considered the bundle of evidence and, on the basis of Mr Fayyaz's admission, found the facts proved. The Chair was satisfied that the admitted facts were sufficiently serious to amount to misconduct in that they brought discredit upon Mr Fayyaz, the Association and the accountancy profession.
8. The evidence obtained in the investigation demonstrated that Mr Fayyaz, Company 1, and Company 2 carried out public practice. On behalf of Company 1, Mr Fayyaz signed: three audit reports on behalf of Company A for the years ending December 2016, December 2018, and December 2019; and two audit reports for Company B for the years ending December 2015 and February 2018.
9. At the material time Mr Fayyaz was also a member of the Institute of Chartered Accountants in England and Wales (ICAEW). ACCA's Investigating Officer obtained relevant details from ICAEW confirming Mr Fayyaz held a practising certificate with ICAEW and that this covered the entire time period of ACCA's allegation. Mr Fayyaz also provided information confirming that he had in place professional indemnity insurance in relation to Company 1 and Company 2.
10. ICAEW provided information to ACCA's Investigating Officer that Mr Fayyaz was supervised for anti-money laundering regulations, but that this did not apply to Company 1 for the period October 2015 to 19 April 2021. The supervision provided by ICAEW ceased in October 2015 because of a restructure in the ownership of Company 1. ICAEW's supervision was reinstated from 19 April 2021 when Mr Fayyaz reinstated his ownership in Company 1 to 51% of the shares.
11. On 09 June 2021, an agreed regulatory penalty of £3,096 was applied by ICAEW to Company 1 by ICAEW's Audit Registration Committee in respect of admitted breaches of audit regulations in connection with this gap in supervision.
12. In Mr Fayyaz' comments provided on 07 November 2022, he stated that he had misunderstood the ACCA regulations and had incorrectly assumed that the

ACCA Global Practising Regulations did not apply because he was running his practice under a different professional body. He added that he now understands that he must comply with ACCA regulations irrespective of his membership of ICAEW. He also acknowledged that he should have checked with ACCA whether he should have applied for a practising certificate. In respect of money laundering supervision, he confirmed that he will ensure that supervision is in place while he is in public practice. Mr Fayyaz admitted that he did not declare to ACCA that he was in public practice because he mistakenly considered that he was not practising under ACCA.

13. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that Mr Fayyaz had: taken action shortly after becoming aware of the breach and that this is an isolated incident; a previous good ACCA record with no previous complaint or disciplinary history; fully co-operated with the investigation and disciplinary process, admitted his conduct; and taken remedial action to address his conduct.
14. In all the circumstances, and following ACCA's Guidance on sanctions, the Chair was satisfied that the sanction of severe reprimand and a fine of £2,000 was appropriate in this case. It is a sanction which is proportionate to the gravity of the misconduct which was long-standing and persistent between 07 February 2012 and 01 September 2021. Such a sanction would maintain public confidence in the profession by sending a clear message of the importance of fundamental standards of professional conduct and would mark the departure from ACCA's regulations.
15. The Chair was of the view that exclusion would be disproportionate given the mitigating circumstances together with the insight demonstrated by Mr Fayyaz in his comments dated 07 November 2022.
16. The order for costs for this Consent Order appeared appropriate.
17. Accordingly, the Chair approved the attached Consent Order. In summary:
 - a. Mr Fayyaz shall be severely reprimanded; and

- b. Mr Fayyaz shall pay a fine of £2,000;
- c. Mr Fayyaz shall pay costs of £3,000 to ACCA.

Mr Martin Winter
Chair
10 February 2023