

HEARING

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Abdullah Shaikh

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 £5,000 and costs of £2,600 approved.

1. The Chair considered a draft Consent Order in respect of Mr Shaikh. The matter was listed to be considered on the basis of documents only. Neither Mr Shaikh nor ACCA were present or represented.
2. The Chair was provided with the draft Consent Order, signed by Mr Shaikh on 25 January 2023 and a signatory on behalf of ACCA on 25 January 2023, together with supporting documents in a bundle numbered 1-104.

BRIEF BACKGROUND

ACCA



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3. It was alleged by ACCA, and Mr Shaikh admitted, that he was guilty of misconduct in respect of the below matters:
 1. Between 26 June 2017 and 29 March 2021, he failed to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs”) namely:
 - Regulation 18 Risk assessment by relevant persons: Firm-wide assessment;
 - Regulation 19 – Policies, controls and procedures: AML policy and procedures: Escalation/Internal SAR; and
 - Regulation 24 – Training
 2. By reason of the conduct set out in Allegation 1, Mr Nasir Abdullah Shaikh failed to comply with Section B2 (Anti-Money Laundering) of ACCA’s Code of Ethics and Conduct and the Fundamental Principle of Professional Behaviour (as applicable from 2017 to 2021).
 3. By reason of the conduct set out at allegations 1 and 2 above, Mr Nasir Abdullah Shaikh is guilty of misconduct pursuant to bye-law 8(a)(i).
 4. The details were set out in the attached draft Consent Order. ACCA’s Investigating Officer and Mr Shaikh had agreed the form of order which proposed a severe reprimand, a fine of £5,000 and payment of costs to ACCA in the sum of £2,600.

DECISION AND REASONS

4. 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.

5. 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.
6. The Chair considered the bundle of evidence and, on the basis of Mr Shaikh'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 Shaikh, the Association and the accountancy profession.
7. The evidence obtained in the investigation demonstrated that Mr Shaikh was not compliant with relevant sections of the MLRs and therefore had acted contrary to the Fundamental Principle of Professional Behaviour.
8. The Chair noted the correspondence from Mr Shaikh in November 2020 in which he raised a variety of concerns about the findings of the compliance review. He also noted a letter from the AML Team dated 29 March 2021 confirming to Mr Shaikh that his firm had now complied with its AML obligations.
9. The Chair also considered correspondence from Mr Shaikh in January 2023 in which he appeared to be challenging the facts set out in the consent agreement and was seeking to re-negotiate the terms of the agreement. Mr Shaikh was clearly advised on 17 January 2023 that a requirement of the consent order process was that he must be willing to admit the allegation in full, accept a sanction and be willing to pay the costs of ACCA's investigation into the complaint. The alternative was that the matter would be referred to an independent assessor. Mr Shaikh subsequently signed the consent agreement on 25 January 2023 and the Chair was satisfied that he did so in the full understanding that his signature confirmed his admission to the allegation in full.

10. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that Mr Shaikh had a previous good ACCA record since 2010 with no previous complaint or disciplinary history. In addition: Mr Shaikh was no longer in breach of the MLRs and there is no continuing risk to the public; the breaches of the regulations were not deliberate; there is no evidence of harm; there is no evidence to suggest that Mr Shaikh's conduct was deliberate or dishonest; and there is no evidence of the actual enabling of any money laundering.
11. The Chair also noted information provided by Mr Shaikh in relation to his current financial position.
12. 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 £5,000 was appropriate in this case. It is a sanction which is proportionate to the gravity of the misconduct, which involved breaches of legal requirements. The Chair took into account the extent of the non-compliance with the MLRs and the potential risks arising from a failure to implement adequate AML policies and procedures. Such a sanction would maintain public confidence in the profession by sending a clear message of the importance of compliance with the MLR, and would mark Mr Shaikh's departure from the standards expected of a qualified ACCA member.
13. The Chair was of the view that exclusion would be disproportionate given the mitigating circumstances.
14. The order for costs for this Consent Order appeared appropriate.
15. Accordingly, the Chair approved the attached Consent Order. In summary:
 - a. Mr Shaikh shall be severely reprimanded; and
 - b. Mr Shaikh shall pay a fine of £5,000;
 - c. Mr Shaikh shall pay costs of £2,600 to ACCA.

**Mr Martin Winter
Chair
10 February 2023**