

**APPLICATION ON PAPERS
CONSENT ORDERS CHAIR OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS**

REASONS FOR DECISION

In the matter of: Mr Matthew Upex

Considered on: Wednesday, 12 July 2023

Location: ACCA, The Adelphi, 1-11 John Adam Street,
London, WC2N 6AU. Virtual hearing using Microsoft
Teams.

Chair: Mr Neil Dalton

Legal Adviser: Mr David Marshall

Summary: Consent order confirmed. Severe reprimand and
fine of £5,000.

Costs: £1,714

1. The Chair considered a draft Consent Order signed by Mr Upex on 25 June 2023. The matter was considered on the basis of documents only. Neither Mr Upex nor ACCA was present or represented.
2. The Chair had a main bundle of papers containing 224 pages, the signed Consent Order consisting of 5 pages, and a detailed costs schedule of one page.

BACKGROUND AND ADMISSIONS

3. Mr Upex has been a member of ACCA since 2012 and a Fellow since 2017. He has been with the same firm of Chartered Accountants for most of his professional life. He joined as a trainee in 2007 and was a partner from 2018 until January this year, when he resigned. On 16 June 2022, there was a disciplinary meeting which resulted in a written warning to him concerning his professional conduct and judgement in respect of the affairs of two separate company clients. He remained as a partner but decided to resign the following year for personal reasons.
4. Mr Upex admitted the following formal allegation:

Allegation 1

Mr Upex, who is and was at all material times an ACCA member, admits the following:

- (a) *Between 1 January 2018 to 31 December 2022, Mr Upex:*
 - *Assisted in company strike offs despite outstanding liabilities*
 - *Failed to advise all creditors in advance of the company being struck off*
 - *Failed to complete money laundering reports*
 - *Failed to advise client companies that dividends drawn breached Section 830 of the Companies Act 2006*
- (b) *By reason of the conduct at 1(a) above, Mr Upex failed to act diligently and in accordance with applicable technical and professional standards and is therefore in breach of Section 130 (the Fundamental Principle of Professional Competence and Due Care) of ACCA's Code of Ethics and Conduct (as applicable in 2018) and Subsection 113 (the Fundamental Principle of Professional Competence and Due Care) of ACCA's Code of Ethics and Conduct (as applicable in 2019 to 2022)*

(c) *By reason of the conduct at 1(a) above, Mr Upex is guilty of misconduct pursuant to byelaw 8(a)(i).*

DECISION AND REASONS

5. The Chair was satisfied that there was a signed draft order setting out all the required matters: namely, the relevant facts, failings and breaches, the proposed sanction and costs, and the fact that Mr Upex understood that the proposed order would be considered by a Chair of the Disciplinary Committee.
6. The Chair was satisfied that the Investigating Officer had carried out an appropriate and thorough investigation and that there was a case to answer.
7. The Chair considered that there was a real prospect that a reasonable tribunal would find the allegation proved.
8. Although Mr Upex committed significant misconduct in relation to company law and the Money Laundering regulations, the Chair agreed that it was unlikely that this conduct would result in exclusion. The Chair noted that there was no evidence of actual enabling of money laundering, and nor was there evidence that Mr Upex had been dishonest in his conduct. Rather, these matters arose due to Mr Upex's failure to act diligently, the lapses having occurred at a time of great personal stress. Mr Upex had a previously unblemished record in 11 years as a Member of ACCA. He had fully cooperated with the regulatory process. His letters to ACCA demonstrated insight and contrition. The Chair took into account that the partners in the firm had decided not to terminate his partnership, although they believed they had grounds to do so.
9. In all the circumstances, the Chair was satisfied that it was appropriate to deal with the matter by way of a Consent Order. There was not a sufficient degree of public interest in this case to require a public hearing.
10. The Chair was satisfied that the sanction of severe reprimand plus a fine met the public interest and was proportionate. Exclusion would be disproportionate. The fine was necessary to mark the seriousness of a failure to comply with the money laundering rules.

COSTS

11. The Chair considered that ACCA was entitled to its costs in principle and that the amount claimed, which was agreed, was reasonable.

ORDER

12. The Chair studied the terms of the draft Consent Order but did not consider it necessary to recommend any amendments.
13. Accordingly, the Chair approved the Consent Order in full. In summary, Mr Upex shall:
 - (a) Be severely reprimanded;
 - (b) Pay a fine of £5,000;
 - (c) Pay costs to ACCA in the sum of £1,714.

Mr Neil Dalton
Chair
12 July 2023