

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Mark Christopher Fletcher
Considered on:	Friday, 21 July 2023
Chair:	Mr Andrew Gell
Legal Adviser:	Ms Jane Kilgannon
Outcome:	Consent Order approved
Summary:	Reprimand Costs payable to ACCA - £1,288

INTRODUCTION

1. This matter was referred to a Chair of the Disciplinary Committee of the Association of Chartered Certified Accountants (ACCA) pursuant to Regulation 8(8) of the Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014 (the Regulations) to determine, on the basis of the evidence before them, whether it is appropriate to deal with the complaint by way of a Consent Order and whether to approve or reject a proposed draft Consent Order.
2. Under Regulation 8(8) of the Regulations, consideration of the draft Consent Order is made by a Chair in the absence of the parties and without a hearing.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

DOCUMENTATION

3. The Chair had been provided with and read the following documentation:
 - a. A bundle of documents (pages 1 to 55), including a draft Consent Order, signed by Mr Mark Christopher Fletcher (Mr Fletcher) on 25 April 2023, and signed on behalf of ACCA on 10 July 2023;
 - b. A detailed Costs Schedule;
 - c. ACCA document 'Consent Orders Guidance' (January 2021); and
 - d. ACCA document 'Consent Orders – Frequently asked questions' (January 2021).

4. The Chair also had reference to:
 - a. ACCA document 'Guidance for Disciplinary Sanctions' (January 2021);
and
 - b. ACCA document 'Guidance on Costs Orders' (January 2021).

DRAFT CONSENT ORDER

5. The Chair noted the content of the draft Consent Order, which was set out in the following terms:

The Association of Chartered Certified Accountants (ACCA) and Mr Mark Christopher Fletcher (the Parties), agree as follows:

1. *Mr Mark Christopher Fletcher admits the following:*

Allegation 1

Pursuant to byelaw 8(a)(vi), Mr Mark Christopher Fletcher is liable to disciplinary action by virtue of action taken against Firm A, of which he was a director and principal at all material times, on 12 October 2022 by the Institute of Chartered Accountants in England and Wales.

2. *That Mr Mark Christopher Fletcher shall be reprimanded and shall pay costs to ACCA in the sum of £1,288.*

[Signatures of the parties]

If the Consent Orders Chair is satisfied it is appropriate to deal with the complaint by way of a Consent Order and the signed draft Consent Order is approved, it constitutes a formal finding and order. The Consent Orders Chair has the power to recommend amendments to the signed draft consent order and to subsequently approve any amended order agreed by the Parties.

Publicity

All findings and orders of the Consent Orders Chair shall be published naming the relevant person, as soon as practicable, and in such manner as ACCA thinks fit.

Relevant Facts, Failings and/or Breaches

3. *The Investigating Officer has conducted their investigation into the allegations against Mr Mark Christopher Fletcher in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and is satisfied that:*
 - (a) *They have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (see pages 5 - 54), and determined that there is a case to answer against Mr Mark Christopher Fletcher and there is a real prospect of a reasonable tribunal finding the allegations proved; and*

(b) The proposed allegations would be unlikely to result in exclusion from membership.

4. *The relevant facts, failings and/or breaches have been agreed between the parties and are set out in the detailed allegations above together with the proposed sanction and costs.*

5. *A summary of key facts is set out below:*

- *At its meeting on 12 October 2022, ICAEW's Audit Registration Committee [pages 12 – 15] considered the Quality Assurance Department's (QAD's) report [pages 16 – 39] from its audit visit to [Firm A] in October 2021.*
- *The Committee noted that Mr Mark Christopher Fletcher was the Audit Compliance Principal and the only active responsible individual at the time of the visit in October 2021, and that QAD's visit findings related to audits undertaken by Mr Fletcher. In particular, that Mr Fletcher signed six audit opinions but did not compile organised and complete audit files.*
- *The Committee agreed that it would be appropriate to deal with the matter by offering the firm a regulatory penalty of £2,800 [pages 40 – 42].*
- *ACCA wrote to Mr Fletcher on 16 February 2023 to ask for his response to the allegations [pages 43 – 45].*
- *Mr Fletcher responded on 7 March 2023 [pages 46 – 48]. He said:*

"I left [Firm A] on 16th December 2021, following which the practice underwent a restructure in terms of management and ownership. A number of the points raised as part of the penalty related to a misunderstanding of how the new structure would impact the audit

registration. I understand that this was accepted by the practice and resolved to the satisfaction of ICAEW.”

- *Mr Fletcher then goes on to say: “I had previously been the Audit Principal until I left practice after 20 years to work in industry. The point raised in relation to the incorrect completion of the ICAEW annual returns was an error that I had made and then unfortunately repeated on 2 further returns, which was the cause of the breach as a repeated error. Once I left the practice I did not renew my audit practicing certificate.”*

Sanction

6. *The appropriate sanction is **reprimand**.*
7. *In considering this to be the most appropriate sanction, ACCA’s Guidance for Disciplinary Sanctions (Guidance) has been considered and particularly the key principles. One of the key principles is that of the public interest, which includes the following:*
 - *Protection of members of the public;*
 - *Maintenance of public confidence in the profession and in ACCA;*
and
 - *Declaring and upholding proper standards of conduct and performance.*
8. *Another key principle is that of proportionality, that is, balancing the member’s own interests against the public interest. Further the aggravating and mitigating features of the case have been considered.*
9. *The **aggravating** factors are considered to be as follows:*

- *The conduct which led to the firm, of which Mr Fletcher was the Audit Compliance Principal and therefore responsible for the action taken by the ICAEW, fell below the standards expected of a qualified ACCA member. As such, his conduct has brought discredit upon himself, ACCA and the accountancy profession.*

10. *In deciding that a reprimand is the most suitable sanction paragraphs C3.1 to C3.5 of ACCA's Guidance have been considered and the following **mitigating factors** have been noted:*

- *Mr Fletcher has shown insight by making admissions to ACCA;*
- *Mr Fletcher has acknowledged his failings and has confirmed that the conduct which led to the regulatory penalty imposed by ICAEW has been resolved to their satisfaction;*
- *The investigation has not found evidence suggesting that Mr Fletcher's conduct was in deliberate disregard of his professional obligations;*
- *The consequences of Mr Fletcher's conduct have not caused material distress, inconvenience or loss;*
- *There does not appear to be any continuing risk to the public as Mr Fletcher has not renewed his audit practising certificate;*
- *Mr Fletcher has been a member of ACCA since 2008 and has no other complaint or disciplinary matters against him;*
- *Mr Fletcher has fully cooperated with the investigation and regulatory process.*

11. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. A **reprimand** proportionately reflects Mr*

Fletcher's conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction.

LEGAL ADVICE

6. The Chair accepted the following advice of the Legal Adviser:
 - a. The powers available to the Chair are to:
 - i. Approve the draft Consent Order, in which case the findings on the allegations and the orders contained within it become formal findings and orders (Regulation 8(11) and 8(14) of the Regulations);
 - ii. 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 or removal from the student register or affiliate register, as appropriate (Regulation 8(12) of the Regulations);
 - iii. Recommend amendments to the draft Consent Order, if satisfied that it is appropriate to deal with the complaint by way of Consent Order but wish the terms of the draft Consent Order to be amended (Regulation 8(13) of the Regulations).
 - b. The power of the Chair to approve a draft Consent Order is subject to the limitation that they may not approve a sanction of exclusion from membership or removal from the student register or affiliate register, as appropriate (Regulation 8(11) of the Regulations).
 - c. In making their decision, the Chair must have regard to all of the evidence before them and the relevant ACCA guidance documents.
 - d. The ACCA document 'Consent Orders Guidance' indicates that the essential requirements of a disposal by consent are:

- i. The relevant person is willing to admit the allegation(s), facts and any failings and/or breaches in full;
 - ii. The Investigating Officer has conducted an appropriate level of investigation and/or enquiries;
 - iii. There is a case to answer against the relevant person;
 - iv. There is a real prospect of a reasonable tribunal finding the allegation(s) proved; and
 - v. The proposed allegation(s), if found proved, would be unlikely to result in exclusion from membership or removal from the student or affiliate register, as appropriate.
- e. The Chair must only dispose of the case by consent where it is in the public interest to do so, in order to:
- i. Ensure an appropriate level of public protection;
 - ii. Maintain public confidence in the accountancy profession and its regulatory body; and
 - iii. Declare and uphold proper standards of conduct and behaviour for relevant persons.

DECISION

7. In making their decision, the Chair had regard to all of the evidence before them, the legal advice and the relevant ACCA guidance documents.
8. Pursuant to Regulation 8(8)(a) of the Regulations, the Chair decided that it was appropriate to deal with this complaint by way of Consent Order for the following reasons:

- a. The Chair was satisfied that there was a signed draft Consent Order setting out all of the required matters (the relevant facts, the relevant failings and breaches, the proposed sanction and costs), that Mr Fletcher had admitted the matters alleged in full and that Mr Fletcher understood that the proposed order would be considered by the Chair;
 - b. The Chair was satisfied that the Investigating Officer had carried out an appropriate and thorough investigation;
 - c. The Chair found the summary of facts set out in the draft Consent Order to be consistent with the evidence before them;
 - d. The Chair agreed that there was a case to answer and that there was a real prospect that a reasonable tribunal would find the allegation proved;
 - e. The Chair was satisfied that the admitted breach would not be likely to result in exclusion from membership. Taking into account the seriousness of the allegation, the aggravating and mitigating factors, and the risk to the public and the public interest, the Chair considered that the admissions made by Mr Fletcher and his acceptance of a sanction of reprimand would more likely than not lead a Disciplinary Committee to conclude that removal from membership was not required in this case; and
 - f. The Chair was satisfied that disposal of the case by consent was in the public interest.
9. Pursuant to Regulation 8(8)(b) of the Regulations, the Chair decided to approve the draft Consent Order for the following reasons:
- a. The Chair is satisfied that Mr Fletcher has admitted the matters alleged in full;

- b. The Chair agreed that, as a result of the admissions, Mr Fletcher is liable to disciplinary action;
- c. The Chair agreed that Mr Fletcher's conduct had brought discredit upon himself, ACCA and the accountancy profession. However, the Chair did not consider that it amounted to conduct that is fundamentally incompatible with continued membership of ACCA;
- d. The Chair agreed that the sanction of reprimand was appropriate in this case. The Chair had particular regard to Mr Fletcher's cooperation throughout both the ICAEW and ACCA investigations and his insight (demonstrated by his full admissions and agreement to the draft Consent Order). The Chair noted that the matter had been resolved to the satisfaction of the ICAEW, Mr Fletcher no longer works for Firm A and no longer holds an auditing practising certificate. As such, the Chair assessed the risk of repetition to be low. Noting the seriousness of the matter admitted, the aggravating and mitigating factors, and the relevant ACCA guidance, the Chair considered that the sanction of reprimand was sufficient to meet the public interest to ensure an appropriate level of public protection, maintain public confidence in the accountancy profession and its regulatory body, and to declare and uphold proper standards of conduct and behaviour for relevant persons. The Chair was likewise satisfied that the sanction of reprimand was proportionate, balancing the interests of Mr Fletcher with the interests of members of the profession, the ACCA and the wider public.
- e. The Chair considered ACCA to be entitled to its costs in principle, and found the amount claimed and agreed (£1,288) to be fair and reasonable.

ORDER

10. Accordingly, the Chair approved the draft Consent Order.

EFFECTIVE DATE OF ORDER

11. Regulation 8(17) of the Regulations provides that there is no right of appeal against a Consent Order. Therefore, this Order comes into effect immediately.

Mr Andrew Gell
Chair
21 July 2023