

APPLICATION ON PAPERS

**CONSENT ORDERS CHAIR OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of: Mr Timothy Peter Jones

Considered on: Friday, 21 July 2023

Chair: Mr Andrew Gell

Legal Adviser: Ms Jane Kilgannon

Outcome: Consent Order approved

Summary: Severe reprimand
Fine of £5,000
Costs payable to ACCA - £1,425

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.

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DOCUMENTATION

3. The Chair had been provided with and read the following documentation:
 - a. A bundle of documents (pages 1 to 64), including a draft Consent Order, signed by Mr Timothy Peter Jones (Mr Jones) on 7 July 2023, and signed on behalf of ACCA on 7 July 2023;
 - b. A Consent Order Committee referral form (pages 1 to 2);
 - 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 Timothy Peter Jones (the Parties), agree as follows:

1. *That Mr Timothy Peter Jones, an ACCA member and the Money Laundering Reporting Officer of [the Firm], admits the following:*

Allegation 1

Between 26 June 2017 and 6 January 2023, Mr Timothy Jones failed on behalf of the Firm to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 in that he

- a. Did not provide regular AML training to all relevant staff and maintain a record of the training given in writing, contrary to Regulation 24; and*
- b. Did not conduct on-going monitoring of the Firm's business relationships, contrary to Regulation 27(8) and 28(11).*

Allegation 2

By reason of the conduct set out in Allegation 1, Mr Timothy Jones failed to comply with:

- a. Section B2 of ACCA's Code of Ethics and Conduct (Anti-money Laundering) and*
- b. The Fundamental Principle of Professional Behaviour (as applicable from 2017 to 2021).*

Allegation 3

By reason of the conduct set out at Allegations 1 and 2 above, Mr Timothy Jones is guilty of misconduct pursuant to Bye-law 8(a)(i).

2. That Mr Timothy Jones shall:

- 2.1 Be severely reprimanded;*
- 2.2 Pay a fine to ACCA of £5,000; and*
- 2.3 Pay costs to ACCA of £1,425.*

[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 Timothy Jones 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 21 - 65), and determined that there is a case to answer against Mr Timothy Jones 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:*

- 5.1 *Mr Timothy Jones has been an ACCA member since 25 September 1980 and Fellow of ACCA since 25 September 1985 (page 19).*
- 5.2 *Mr Jones currently holds an ACCA practicing certificate for the UK (page 20).*
- 5.3 *Mr Jones is the Money Laundering Reporting Officer (the “MLRO”) and director of [the Firm] (page 29).*
- 5.4 *On 26 June 2017, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“MLRs 2017”) came into force (page 10).*
- 5.5 *Firms are supervised by ACCA for Anti-Money Laundering (“AML”) purposes and there is a mandatory requirement for such firms to be monitored by ACCA to assess their compliance with the MLRs 2017 (page 24).*
- 5.6 *On 31 October 2022, ACCA’s AML Monitoring team (“AML”) notified Mr Jones by email that the Firm had been selected for an AML Compliance Review (the “Review”). He was therefore asked to complete and return the AML Compliance Review Assessment Form, together with the relevant documents, by 11 November 2022 (page 28).*
- 5.7 *On 11 November 2022, the Firm submitted its completed AML Compliance Review, with the relevant documents, to ACCA as requested (pages 29 – 36).*
- 5.8 *On 30 November 2022, AML provided the AML report (the “Report”) to Mr Jones following the review of the Firm’s AML controls and compliance (pages 37 – 45).*

5.9 *The Report identified a number of issues in relation to the Firm's AML controls, including the following which were not compliant with the Regulations of MLRs 2017:*

- *Regulation 24 – Training: Training*
- *Regulation 27 (8) and 28 (11) - Customer due diligence measures: On-going monitoring (pages 43 and 45).*

5.10 *Mr Jones was requested to undertake a number of actions as a result of the issues identified by 6 January 2023, and was also informed that: “.....due to the apparent breaches of the Money Laundering Regulations, I have referred this matter to our Professional Conduct Department (PCD) for investigation, which may lead to disciplinary action.....” (page 39).*

5.11 *On 14 December 2022, AML referred the matter to PCD for:*

- *The Firm's breaches of MLR 2017 in the following:*
 - *Regulation 24 – Training: Training; and*
 - *Regulation 27 (8) and 28 (11) - Customer due diligence measures: On-going monitoring (pages 24 – 27).*

5.12 *On 6 January 2023, Mr Jones replied to AML to confirm the actions taken by the Firm and also detailed the training which the relevant staff had undertaken (pages 46 - 47).*

5.13 *On 12 January 2023, AML acknowledged to Mr Jones that the required actions in the Report had been completed; and that the review was therefore closed (page 48).*

5.14 On 29 March 2023, the Investigations team of PCD (*"Investigations"*) put the allegations in relation to the MLRs 2017 breaches to Mr Jones and requested a reply by 12 April 2023 (pages 49 - 50).

5.15 On 11 April 2023, Mr Jones replied to Investigations as follows in relation to the matter in the AML referral (pages 51 – 52):

- *Staff training*

2. I accept that I have not kept a record of formal training for staff and that more regular training is required. All staff have now received some training via webinars. Please see also the comments in our letter of the 6th January setting out the training given previously. All the staff have been employed for several years and I am confident that they understand the firm's due diligence procedures and that those involved in accounts preparation are aware of the potential money laundering implications of cash transactions and the need to draw the attention of the managers to large or unusual transactions. They are all aware of the

3. We do not accept that we fail to keep ongoing monitoring of a client for due diligence purposes. Each year when a client's accounts are prepared a form A6 (copy attached) is completed. This details business owners etc as well as the nature of the business and accounting records. As well as this, much of the information is held on our practice Data base and you

will see this is referred to on the form as HOD (Held On Digita, which is our practice management software) or held on the server.

Also, as with many of our clients in this case the Shareholders are the beneficial owners and Directors who are also personal tax clients in these cases the CDD information is usually held on the personal tax file.

5.16 On 18 April 2023, Investigations asked Mr Jones to provide evidence of the ongoing monitoring requirements prior to the Review (page 54).

5.17 On 24 April 2023, Mr Jones replied to Investigations with explanation and evidence of ongoing monitoring of the Firm's customers (pages 55 56).

5.18 On 4 May 2023, AML confirmed to Investigations that Mr Jones had regularised all the Firm's AML breaches identified in the report, and the review was therefore closed (page 58).

5.19 *On 30 June 2023, Investigations proposed to Mr Jones that the matter be disposed of via consent (pages 60 - 63).*

5.20 *On 30 June 2023, Mr Jones provided his agreement for the matter to be disposed of via consent (page 64) together with a number of mitigating factors provided on 16 June 2023 as follows (pages 59):*

Whilst I am prepared to admit to the allegations as well as the information and explanations already supplied, I would be grateful if you would take the following into account.

During this period, I and most of my staff at various times were suffering from the effects of Covid and the staff were working from home whenever possible. I accept that this applied to everyone else, and the work should have been carried out, nevertheless.

All staff have now received further training and are aware of their ML responsibilities.

Systems have been put in place to ensure that every client records are reviewed and updated at least once a year.

Both myself and my partner who acts as deputy MLRO have undergone additional training for the added responsibilities of the MLRO.

The Firm wide risk assessment together with the Money laundering procedures manual will be reviewed every 6 months. Copies of previous versions will be retained. A report will be made to the partners each time a review is carried out.

Sanction

6. *The appropriate sanction is **severe 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:*
 - *Compliance with the MLRs 2017 is a legal requirement and mandatory.*
 - *Mr Jones was the MLRO of the Firm and responsible for ensuring the Firm's AML compliance at all times.*
 - *The potential risks arising from the breaches in AML controls identified in the Review.*
 - *The length of time that Mr Jones failed to comply with the MLRs 2017 which came into force in June 2017.*
 - *Mr Jones' conduct fell below the standards expected of a qualified ACCA member.*

10. *The following **mitigating factors** have been considered:*
 - *Mr Jones has been an ACCA member in continuous good standing for a significant period of time, since 1980, and has no previous complaint or disciplinary history.*
 - *Mr Jones has made admissions in the investigatory process and accepted the breaches identified in the Report.*
 - *The factors and additional steps mentioned in Mr Jones' letter of 16 June 2023.*
 - *The investigation has not found evidence that Mr Jones' conduct was in deliberate disregard of his professional obligations or dishonest.*
 - *Mr Jones has shown insight and promptly regularised the Firm's breaches after they were identified in the AML report.*
 - *Mr Jones has readily and fully co-operated with the investigation.*
 - *There is no evidence of harm.*

- *There is no evidence of the actual enabling of any money laundering.*
11. *ACCA has considered the other available sanctions and is of the view that they are not appropriate. A severe reprimand and fine proportionately reflects Mr Jones' conduct and the public policy considerations which ACCA must consider in deciding on the appropriate sanction. This is a public interest sanction due to the misconduct bringing discredit to ACCA and the profession; and it conveys a message of the importance of fundamental standards of professional conduct.*
12. *In addition, Section H of the GDS (Additional guidance in relation to AML allegations) has been consulted to help determine:*
- *The appropriate sanction;*
 - *The appropriateness of a fine; and*
 - *The amount of that fine.*

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 Jones had admitted the matters alleged in full and that Mr Jones 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 allegations proved;

- e. The Chair was satisfied that the admitted misconduct would not be likely to result in exclusion from membership. Taking into account the seriousness of the allegations, the aggravating and mitigating factors, and the risk to the public and the public interest, the Chair considered that the admissions made by Mr Jones and his acceptance of a sanction of severe reprimand and a fine of £5,000 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 Jones had admitted the matters alleged in full;
 - b. The Chair agreed that, as a result of those admissions, Mr Jones is guilty of misconduct;
 - c. The Chair agreed that Mr Jones' misconduct was serious. 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 severe reprimand and fine of £5,000 was appropriate in this case. The Chair had particular regard to Mr Jones' cooperation throughout the ACCA investigation and his insight (demonstrated by his full admissions and agreement to the draft Consent Order). The Chair noted that remedial action had been taken. As such, the Chair assessed the risk of repetition to be low. Noting the seriousness of the matters admitted, the aggravating and mitigating factors, and the relevant ACCA guidance, the Chair considered that the sanction of severe reprimand and a fine of £5,000 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 severe reprimand and a fine of £5,000 was proportionate, balancing the interests of Mr Jones 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 (£1,425) 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