

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Chan Wai Dune, Charles
Considered on:	Tuesday, 19 September 2023
Location:	Remotely via Microsoft Teams
Chair:	Mrs Kathryn Douglas
Legal Adviser:	Mrs Sobia Hussain
Summary:	Reprimand
Costs:	£1042.00

CONSTITUTION OF THE COMMITTEE

1. A Consent Order is made on the order of the Chair under the relevant regulations.

INTRODUCTION

2. The Chair had considered a draft Consent Order, signed by a signatory on behalf of ACCA and Mr Chan Wai Dune, dated 05 September 2023 together with supporting documents in a bundle numbering pages 1 to 60, a Consent Order bundle containing pages 1 to 4, and a simple and detailed costs schedule.
3. When reaching their decision, the Chair had been referred by the Legal Adviser to the requirements of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as

amended) and had accepted their advice. The Chair had also taken account of the content of ACCA's documents entitled Consent Orders Guidance and Consent Orders Guidance FAQs.

4. The Chair was satisfied that Mr Chan Wai Dune was aware of the terms of the draft Consent Order and that it was being considered today.
5. The Chair was also satisfied that Mr Chan Wai Dune was aware that he could withdraw agreement to the signed draft consent order by confirming the withdrawal in writing. No such withdrawal had been received.

ALLEGATIONS

Mr Chan Wai Dune admitted the following:

Allegation 1

Pursuant to byelaw 8(a)(vi), Mr Chan Wai Dune, is liable to disciplinary action by virtue of disciplinary action taken against him on 25 March 2022 by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

Allegation 2

Pursuant to byelaw 10(b), Mr Chan Wai Dune is liable to disciplinary action as he failed to promptly notify ACCA that he was disciplined by HKICPA on 25 March 2022.

Allegation 3

By reason of his conduct above, Mr Chan Wai Dune is:

- i. Guilty of misconduct pursuant to byelaw 8(a)(i); or
- ii. Liable to disciplinary action pursuant to byelaw 8 (a)(iii).

DECISION ON FACTS

6. The Investigating Officer had conducted an investigation into the allegations against Mr Chan Wai Dune in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations (CDR) (2019) and submitted that:
 - a) They have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle (pages 1 - 60) and determined that there is a case to answer against Mr Chan Wai Dune and there is a real prospect of a reasonable tribunal finding the allegations proved; and
 - b) The proposed allegations were unlikely to result in exclusion from membership.
7. The relevant facts, failings and/or breaches had been agreed between the parties and were set out in the signed draft Consent Order including the detailed allegations above together with the proposed sanction and costs.
8. A summary of key facts were as follows:

On 25 March 2022, Mr Chan Wai Dune was reprimanded, penalised and ordered to pay costs to the Hong Kong Institute of Public Accountants (HKICPA) for his failure/neglect to observe, maintain or otherwise apply professional standards as the Engagement Director of Company A, during the 2005 audit of a Hong Kong listed company called Company B and its subsidiaries.

There is no record of Mr Chan Wain notifying ACCA that he was disciplined by HKICPA on 25 March 2022.

DECISION ON ALLEGATIONS AND REASONS

9. In accordance with Regulation 8 of the CDR, 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.

10. 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 considered that the Investigating Officer had followed the correct procedure.
11. The Chair considered all of the evidence. Based on the documentary evidence, including the finding of the ACCA and the sanction imposed, together with the admission of the allegations by Mr Chan Wai Dune found the facts of the allegations proved. They considered that the admitted facts and Mr Chan Wai Dune's actions amounted to misconduct in that they brought discredit to Mr Chan Wai Dune, the Association and the accountancy profession. They therefore justified disciplinary action under byelaw 8(a)(i).

SANCTION AND REASONS

12. In deciding whether to approve the proposed sanction of a reprimand, the Chair had considered the Guidance to Disciplinary Sanctions. This included the key principles relating to the public interest, namely: the protection of members of the public; the maintenance of public confidence in the profession and in ACCA, and the need to uphold proper standards of conduct and performance. The Chair also considered whether the proposed sanction was appropriate, proportionate and sufficient.
13. In reaching their decision, the Chair had noted that the aggravating features as described by the ACCA at paragraph 9 of the Consent Order bundle are a repetition of the Allegation. The Chair is of the view that there are no aggravating features in this case.
14. In deciding that a reprimand was the most suitable sanction, paragraphs C3.1 to C3.5 of ACCA's Guidance have been considered. The Chair had noted, and agreed with, the following mitigating factors identified by ACCA:
 - Mr Chan Wai Dune has cooperated with the investigation and has no previous complaint or disciplinary history.

- Mr Chan Wai Dune has admitted his conduct and accepts the HKICPA's findings. The Chair has noted that the ACCA has confirmed that Mr Chan Wai Dune has settled all costs imposed by the institute.
 - Mr Chan Wai Dune acknowledged his failings and has undergone training to improve his auditing skills and to ensure such breaches do not occur again.
 - The period in which the misconduct took place was 18 years ago and there does not appear to be any continuing risk to the public as Mr Chan Wai Dune is still a Member of the HKICPA and continues to hold a practicing certificate with the institute.
 - Mr Chan Wai Dune has explained that he overlooked the requirement and his duty as an ACCA Member to notify ACCA that he was disciplined by another body. He has assured ACCA that he will be more mindful when making his annual CPD declarations.
15. The Chair considered the mitigating features identified by ACCA were supported by documentary evidence or by confirmation via the ACCA and were relevant.
16. In the Chair's view, the proved and admitted breaches were serious and the public interest would not be served by making no order or imposing a sanction of admonishment as such would not adequately reflect the seriousness of Mr Chan Wai Dune's conduct.
17. In all the circumstances, the Chair was satisfied that the sanction of a reprimand was appropriate, proportionate, and sufficient, and that removal of Mr Chan Wai Dune from the register would be a disproportionate outcome and that a Disciplinary Committee would be unlikely to remove him from the Register.

COSTS AND REASONS

18. ACCA was entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1042.00, which had been agreed by Mr Chan Wai Dune appeared appropriate

on consideration of the costs schedules. The Chair noted that although Mr Chan Wai Dune had been invited to submit a Statement of Financial Position none was included in the papers.

ORDER

19. Accordingly, the Chair approved the terms of the Consent Order. In summary:
 - a. Mr Chan Wai Dune shall be reprimanded.
 - b. Mr Chan Wai Dune shall pay costs of £1042.00 to ACCA.

Mrs Kathryn Douglas
Chair
19 September 2023