

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

REASONS FOR DECISION

In the matter of: Professor Naresh Sethi

Considered on: Thursday, 29 August 2024

Chair: Mr Martin Winter

Legal Adviser: Mr James Keeley

Outcome: Consent Order approved.

Summary: Severe reprimand.

Fine: £5,000.00

Costs: £500.00

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.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

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.

DOCUMENTATION

3. The Chair, had been provided with and read the following documentation:
 - a. A bundle of documents (“A Consent Order Bundle” - pages 1 to 98), including a draft Consent Order, signed by Professor Naresh Sethi (Professor Sethi) on 13th August 2024, and signed on behalf of ACCA on 14th August 2024;
 - b. Both detailed and simple costs schedules;
 - c. A supplementary bundle of documents (pages 1 to 88).
 - d. ACCA document ‘Consent orders guidance’ (January 2021); and
 - e. ACCA document ‘Consent orders – Frequently asked questions’ (January 2021).
4. The Chair also had reference to:
 - a. ACCA document ‘Guidance for disciplinary sanctions’ (February 2024); and
 - b. ACCA document ‘Guidance on costs orders’ (September 2023).
 - c. Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

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 Professor Naresh Sethi (the Parties), agree as follows:

1. Professor Naresh Sethi, a member of ACCA, and the Money Laundering Reporting Officer and principal of My Tax Mate Ltd (“the Firm”), admits the following:

Allegation 1

On dates between 27 April 2020 and 19 November 2022, Professor Sethi failed on behalf of the Firm, to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 namely:

- a. Regulation 18 - Risk assessment by relevant persons: Firm-wide risk assessment
- b. Regulation 19 - Policies, controls and procedures: AML policy and procedures
- c. Regulation 24 – Training

Allegation 2

By reason of the conduct set out in Allegation 1, Professor Naresh Sethi failed to comply with the Fundamental Principle of Professional Behaviour) and Section 82 (Anti-Money Laundering) of ACCA's Code of Ethics and Conduct (as applicable from 2020 to 2022).

Allegation 3

By reason of the conduct set out at Allegations 1 and 2 above, Professor Sethi is guilty of misconduct pursuant to bye-law 8(a)(i).

2. That Professor Sethi, shall be **severely reprimanded** and shall pay a **fine** in the sum of **£5,000** and costs to ACCA in the sum of £500.

If the Consent Orders Chair is satisfied it is appropriate to deal with the complaint by way of 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

1. The investigating officer has conducted their investigation into the allegations against Professor Sethi in accordance with Regulation 8(1)(a) of the Complaints and Disciplinary Regulations and is satisfied that:
 - they have conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle and determined that there is a case to answer against Professor Sethi and there is a real prospect of a reasonable tribunal finding the allegations proved; and
 - the proposed allegations would be unlikely to result in exclusion from membership.

2. 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, fine and costs.

3. **A summary of key facts is set out below:**
 - On 24 September 2003, Professor Sethi became a Member of ACCA. On 24 September 2008, Professor Sethi became a Fellow of ACCA.

 - On 23 February 2006, Professor Sethi was issued with a practising certificate which he continues to hold.

 - On 26 June 2017, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the Money Laundering Regulations") came into force.

 - On 27 April 2020 the Firm was incorporated, and Professor Sethi was appointed as the sole director. Professor Sethi was the Money Laundering Reporting Officer ("the MLRO") of the Firm.

 - In October 2022, ACCA's Anti-Money Laundering team ("the AML Team") undertook a desk-based monitoring of the Firm. The monitoring visit revealed evidence of non-compliance with relevant AML controls, specifically:
 - Regulation 18 - Risk assessment by relevant persons: Firm-wide risk

assessment

- Regulation 19 - Policies, controls and procedures: AML policy and procedures
 - Regulation 24: Training: Training.
-
- The evidence revealed the firm was not compliant with relevant sections of the Money Laundering Regulations. As such Professor Sethi acted contrary to the Fundamental Principle of Professional Behaviour, which requires members to comply with relevant laws and regulations and avoid any conduct that the professional accountant knows, or should know, may discredit the profession. In addition, the conduct amounts to misconduct and is contrary to the requirements in sections 7-8 of Section B2 of ACCA's Code of Ethics and Conduct (Anti- Money Laundering).
 - ACCA considered the documents and information that Professor Sethi submitted to remediate the AML concerns that had been identified; and the AML Team confirmed that the firm was compliant as from 19 November 2022.
 - On 26 October 2022, following the completion of the monitoring review of the Firm a complaint was referred to Professional Conduct in light of the failures to comply with the Money Laundering Regulations.
 - On 21 November 2022, the Professional Conduct Department put the complaint to Professor Sethi and he provided various responses.
 - On 30 January 2023, ACCA proposed that the matter be disposed of via consent order.
 - On 28 February 2023, Professor Sethi confirmed that he agreed for the matter to be disposed of via consent.
 - Although Mr Sethi initially agreed for the matter to be disposed of by consent on 28 February 2023, the consent order wasn't signed at that time and further agreement to the terms was made by Mr Sethi on 12 August 2024.

Sanction

4. The appropriate sanction is severe reprimand, a fine of £5,000 and for Professor Sethi to pay ACCA's costs in the sum of £500.

5. In considering this to be the most appropriate sanction, ACCA's Guidance for Disciplinary Sanctions ("the GOS") has been considered and particularly the key principles. In addition, consideration has also been given to Professor Sethi's means in determining the appropriate level of the fine. 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.
6. 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.
7. The **aggravating factors** are considered to be as follows:
 - Compliance with the Money Laundering Regulations is a legal requirement and mandatory;
 - Professor Sethi is the MLRO of the Firm;
 - The potential risks arising from a failure to implement adequate AML policies and procedures in the Firm;
 - The extent of the Firm's non-compliance;
 - Limited insight;
 - The length of time since the Money Laundering Regulations came into effect; and
 - Professor Sethi's conduct fell below the standards expected of a qualified ACCA member.
8. In deciding that a **severe reprimand** and a **fine** is the most suitable sanction paragraphs C4.1 to C4.5 of ACCA's Guidance have been considered and the following **mitigating factors** have been noted:
 - Professor Sethi has been an ACCA member in continuous good standing since 2003 and has no previous complaint or disciplinary history;
 - Professor Sethi is no longer in breach of the MLRs and there is no continuing risk to the public;
 - There is no evidence to suggest that Professor Sethi's conduct was

deliberate or dishonest;

- Professor Sethi regularised his position;
- Professor Sethi has co-operated with the investigation;
- Professor Sethi has made admissions by agreeing to dispose of the case by Consent;
- Professor Sethi provided two character references;
- Professor Sethi says [REDACTED];
- There is no evidence of harm; and
- There is no evidence of the actual enabling of any money laundering.

9. ACCA has considered the other available sanctions and is of the view that they are not appropriate. ACCA considers that a **severe reprimand** and a **fine** proportionately reflects Professor Sethi's 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.

10. In addition, Section H of the GOS (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.

11. In the course of these considerations [REDACTED]. A copy of Professor's financial statement and accompanying information is included in the supplementary bundle."

LEGAL ADVICE

6. The Chair accepted the following advice of the Legal Adviser:

a. The powers available to the Chair are to:

- 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);

- 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);
 - 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 Chair's power 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:
- The relevant person is willing to admit the allegation(s), facts and any failings and/or breaches in full;
 - The investigating officer has conducted an appropriate level of investigation and/or enquiries;
 - There is a case to answer against the relevant person;
 - There is a real prospect of a reasonable tribunal finding the allegation(s) proved; and
 - 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:

- ensure an appropriate level of public protection;
- maintain public confidence in the accountancy profession and its regulatory body; and
- 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 Professor Sethi had admitted the matters alleged in full and that Professor Sethi 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 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 Professor Sethi and his acceptance of a sanction of a severe reprimand and a fine (£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 Professor Sethi has admitted the matters alleged in full;
 - b. The Chair agreed that, as a result of the admissions, Professor Sethi is liable to disciplinary action;
 - c. The Chair agreed that Professor Sethi'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 severe reprimand was appropriate in this case. The Chair agreed with the aggravating and mitigating factors set out in the draft Consent Order. As such, the Chair assessed the risk of repetition to be low. Noting the seriousness of the matters admitted, the aggravating and mitigating factors, the low risk of repetition, and the relevant ACCA guidance, the Chair considered that the sanction of severe 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 regulation, and to declare and uphold proper standards of conduct and behaviour. The Chair was likewise satisfied that the sanction of severe reprimand was proportionate, balancing the interests of Professor Sethi with the interests of members of the profession, the ACCA and the wider public; and
 - e. The Chair considered ACCA to be entitled to its costs in principle, and found the amount claimed and agreed (£500) 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 Martin Winter
Chair
29 August 2024