

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Nicholas Archer

Considered on: Tuesday, 10 December 2024

Chair: Ms Wendy Yeadon

Legal Adviser: Ms Helen Gower

Outcome: Consent Order approved

INTRODUCTION

1. This matter has been referred to a Consent Orders Chair of ACCA ('the Chair') pursuant to Regulation 8(8) of the Complaints and Disciplinary Regulations ('CDR') to determine on the basis of the evidence before them whether to approve the draft Consent Order. Under CDR 8(8), a Consent Order is made by the Chair in the absence of the parties and without a hearing.
2. The Chair received a Consent Order Bundle (numbering 1-197 pages, Detailed and Simple Costs Schedules, Exhibits Bundle (numbering 1- 31 pages), Witness Statement of Mr G (numbering 1-4 pages), Witness Statement of Mr Archer numbering 1-17 pages), and Witness Statement of Mr W (numbering 1-2 pages).
3. The Consent Order Bundle included a signed Draft Consent Order signed by Mr Archer on 20 November 2024 and by a representative of ACCA on 24 May 2021. It reads as follows:

The Association of Chartered Certified Accountants (ACCA) and Mr Nicholas Archer, agree as follows:

- 1. Nicholas Archer, a member of ACCA, on or about 24 September 2021 submitted or caused to be submitted to ACCA a Practising Certificate Experience Form dated 23 September 2021 representing that his principal, Mr B, at Firm H, had reviewed and signed his, that is to say, Mr Archer's Practising Certificate Experience Form.*
- 2. In respect of the matters referred to in allegation 1 above, Mr Archer's conduct was reckless in that he paid no or insufficient regard of ACCA's requirements to ensure that Mr B (as his principal) had personally reviewed and approved his Practising Certificate Experience Form.*
- 3. By reason of his conduct in relation to any or all of the matters set out at 1 and 2 above, Mr Archer is*
 - (i) Guilty of misconduct pursuant to bye-law 8(a)(i).*

That Mr Archer shall be reprimanded and shall pay costs to ACCA in the sum of £3,000.

BACKGROUND

- 4. Mr Archer was previously employed as a Senior Manager at Firm H between January 2011 and December 2021. The principal of Firm H was Mr B.*
- 5. On or around 23 September 2021 Mr Archer inserted Mr B's name in Part 1 of a Practising Certificate Experience Form (PCEF) in those parts or sections headed "Principal's signature (must be typed)" which stated, in effect, that Mr B had personally reviewed and signed off Mr Archer's PCEF and that he agreed to being contacted by ACCA to verify any subsequent amendments made to the PCEF.*

6. On or around 24 September 2021 Mr Archer submitted the PCEF to ACCA via ACCA's Customer Engagement Centre (CEC) and Oracle Service Cloud Platform.
7. On 5 October 2021, ACCA sent an e-mail to Mr B requesting confirmation that he had personally reviewed and signed-off the PCEF and that he agreed that the experience provided to Mr Archer was a true and accurate reflection of the work gained under Mr B's supervision.
8. On 11 October 2021, Mr B informed ACCA that he had not reviewed or signed off the PCEF before it had been submitted by Mr Archer.
9. On or around 21 October 2021, Mr Archer informed ACCA that he had submitted the PCEF to ACCA on 24 September 2021.
10. On 3 March 2022, Mr B informed ACCA that at no stage throughout the time that Mr Archer was completing the PCEF did Mr Archer ask for his assistance with the application or show him the form, or even suggest that there should have been any input from him. Mr B stated that he was not aware of the format of the form until after he received the email from ACCA asking him to confirm that he had personally reviewed it.
11. Mr B stated that when Mr Archer submitted the application, Mr Archer knew that Mr B had not reviewed the application or even seen it. Mr Archer had, without Mr B's permission, signed his name to various comments which he had not seen. Mr B added that he could not understand how Mr Archer could possibly have thought he had given Mr Archer permission to sign the PCEF in his name to say that he had personally reviewed it when he knew that Mr B had not reviewed it.
12. On 7 March 2022 Mr Archer informed ACCA that he had been reckless in relation to the PCEF because he should have insisted that Mr B reviewed the documentation prior to its submission.

13. The case was referred to the Independent Assessor on 7 June 2022 who made the decision to refer the case to the Disciplinary Committee.
14. On 22 July 2022, Mr Archer's representative sent ACCA a completed Case Management Form stating that a defence would follow.
15. Mr Archer's case was unfortunately overlooked by the Adjudication department and no further action was taken by ACCA until 22 May 2024.
16. On 18 July 2024, Mr Archer's representative submitted a witness statement from Mr Archer and from two of Mr Archer's previous colleagues, Mr G and Mr W.
17. In his statement Mr Archer states that he was assisted with the preparation of his PCEF by Firm H's Compliance Officer (VS), at Mr B's request. Mr Archer states that when he submitted the PCEF to ACCA, he was acting under the authority and knowledge of his principal, Mr B. Mr Archer stated that at the time it did not occur to him that he was doing anything wrong because he believed that he was acting in accordance with Mr B's instructions and under the guidance of VS, to whom responsibility for supervising the preparation of the PCEF had been delegated.
18. Mr Archer's account is corroborated by the evidence in the witness statement of Mr G who confirmed that Mr Archer had followed the usual practice of the firm which was for VS to assist with the completion of the form and then for Mr B to review before submission. Mr G stated that he was present when Mr Archer had informed Mr B that his application had been completed but required authorisation. He was also present the following day when Mr Archer asked Mr B for his ACCA membership number for inclusion in the application form. Mr B supplied the number and Mr Archer typed it onto his application form. Mr G stated that he had no doubt that Mr B was present and watched when Mr Archer entered Mr B's details into the application. Mr G also recalled that Mr Archer told Mr B that ACCA will contact him directly to clarify points on the application.

19. Mr W stated that he completed his PCEF at Firm H in 2022 in the same way that Mr Archer completed his PCEF.
20. Mr Archer acknowledges that he submitted the PCEF form without Mr B having reviewed it but stated that he was under the impression that he had a verbal agreement from Mr B, and this was sufficient.
21. ACCA contacted Mr B about the witness evidence provided by Mr Archer. Mr B stated that the conversations were entirely possible, and he did not disagree with either Mr Archer, Mr W or Mr G. Mr B acknowledged that VS would have reviewed the forms at the time, and he would have signed them off.
22. ACCA reviewed the evidence and concluded that there was no reasonable prospect of a Disciplinary Committee determining that Mr Archer had acted dishonestly or lacked integrity. ACCA therefore revised certain allegations to reflect this position.
23. On 1 October 2024, the case was referred back to the Independent Assessor for further consideration. On 11 October 2024, the Independent Assessor decided that the amended allegation should proceed to the Disciplinary Committee.
24. In a letter dated 18 October 2024 to Mr Archer's representative, ACCA proposed disposal of this matter by way of a Consent Order. ACCA proposed the sanction of a reprimand, and that Mr Archer pay costs to ACCA in the sum of £3,000.
25. In an e-mail response, Mr Archer's representative agreed to disposal by consent. Mr Archer's representative has also confirmed that Mr Archer fully admits Allegations 1-3.
26. ACCA consider that the appropriate sanction is a reprimand having regard to the key principles set out in ACCA's Guidance for Disciplinary Sanctions ('the Guidance').

DECISION ON ALLEGATIONS AND REASONS

27. In accordance with CDR 8, 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 she is of the view that the admitted breaches would more likely than not result in exclusion from membership.
28. 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.
29. The Chair considered the bundle of evidence together with the witness statements and, on the basis of the admissions of the allegations by Mr Archer, found the facts of the allegations proved. She considered that the admitted facts and Mr Archer's actions amounted to misconduct in that they brought discredit to him, the Association, and the accountancy profession. They therefore justified disciplinary action under bye-law 8(a)(i).

SANCTION AND REASONS

30. In deciding whether to approve the proposed sanction of a reprimand, and for Mr Archer to pay ACCA's costs in the sum of £3,000, the Chair had considered the Guidance, including 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.
31. In reaching her decision the Chair had noted, and found the following aggravating features, as identified by ACCA:

- The conduct which led to Mr Archer being the subject of these proceedings fell below the standards expected of a qualified ACCA member.
32. The Chair also noted the mitigating features identified by ACCA and considered that they were supported by documentary and/or witness evidence and were relevant. They were as follows:
- There is no evidence Mr Archer's conduct as set out in this order was dishonest or a deliberate breach of ACCA's regulations. Rather, based on his response to the complaint, it would appear to have been reckless;
 - There is no evidence that the consequences of Mr Archer's conduct have caused material distress, inconvenience or loss to any clients;
 - Mr Archer has shown insight by making admissions;
 - There has been early and genuine acceptance that misconduct had been committed;
 - The investigation has not found evidence suggesting Mr Archer's conduct was in deliberate disregard of his professional obligations;
 - There does not appear to be any continuing risk to the public.
33. In the Chair's judgment, the conduct was such that the public interest would not be served by making no order, nor would an admonishment adequately represent the seriousness of Mr Archer's conduct. The Chair was satisfied that it would be proportionate and sufficient to impose a reprimand to reflect the seriousness of the findings against Mr Archer. The Chair considered that the imposition of a severe reprimand or exclusion of Mr Archer from the register would be a disproportionate outcome.

COSTS AND REASONS

34. ACCA was entitled to its costs in bringing these proceedings. The claim for costs in the sum of £3,000, which had been agreed by Mr Archer, appeared appropriate.

ORDER

35. Accordingly, the Chair approved the terms of the attached Consent Order. In summary:
- a. Mr Archer shall be reprimanded; and
 - b. Mr Archer shall pay costs of £3,000 to ACCA

Ms Wendy Yeadon
Chair
10 December 2024