

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Mihai Ghertan
Considered on:	Monday, 19 February 2024
Location:	Remotely via Microsoft Teams
Chair:	HH Suzan Matthews KC
Legal Adviser:	Ms Tope Adeyemi
Summary	Severe Reprimand
Costs:	Costs payable to ACCA in the sum of £1659

INTRODUCTION

1. The Chair has considered a draft Consent Order, signed by a signatory on behalf of ACCA dated 21 November 2023, together with supporting documents in a Bundle numbering pages 1-128 and Simple and Detailed Costs schedules.
2. When reaching her decision, the Chair has referred to the requirements of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as amended) ("CDR8") and considered ACCA's documents entitled "Consent Orders Guidance" and "Consent Orders Guidance FAQs".

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



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

3. The Chair was satisfied that Mr Ghertan was aware that the Consent Order was being considered and noted that he had first signed the draft Consent Order on 12 January 2024 and had signed a further copy on 19 February 2024. This had become necessary due to problems with the electronic document transfer of a scanned document omitting part of the wording of the original consent order. The Chair understands that ACCA have recorded these problems fully on the file and she is satisfied that no procedural issue arose. The terms of the Consent draft order are clear.
4. The Chair was satisfied that Mr Ghertan was informed that he could withdraw his agreement to the signed draft Consent Order by confirming the withdrawal in writing and that no such withdrawal had been received.
5. The Investigating Officer had conducted an investigation into the allegations against Mihai Ghertan in accordance with CDR8(1)(a) and was satisfied that:
 - i) They had conducted the appropriate level of investigation as evidenced by the enclosed evidence bundle and determined that there was a case to answer against Mihai Ghertan, and that there was a real prospect of a reasonable tribunal finding the allegations proved; and
 - ii) The proposed allegations were unlikely to result in exclusion from membership.

ALLEGATIONS

6. Mihai Ghertan, a student of the Association of Chartered Certified Accountants (ACCA) admitted the following:
 1. He breached the Membership Regulations 2014 (as amended) with regards to any or all the following:

- (a) Between 12 March 2016 and 22 March 2023, he was the Director of OAS Accounting Ltd (previously known as TezCorp Limited) a Firm where public practice is carried out in the name of the Firm, without a practising certificate, contrary to Paragraph 8(2)(a)(iii) of the Membership Regulations 2014.
 - (b) Between 12 March 2016 to 22 March 2023, while without a practicing certificate, he held shares of 100% in OAS Accounting Ltd (previously known as TezCorp Limited) which put him in the position of a Principal of a Firm where public practice is carried on in the name of the Firm, contrary to Paragraph 8(2)(a)(iv) of the Membership Regulations 2014.
2. Between 26 June 2017 and 15 October 2018 Mr Ghertan failed to comply with the Money Laundering Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017, by not registering with a supervisory authority for Anti Money Laundering (AML) purposes (as applicable from 2017 to 2018) and regulation 3(2) of Annex 1 of the Global Practising Regulations 2023 (as applicable from 2018).

BRIEF BACKGROUND

7. Mr Ghertan has been an ACCA student member since 4 October 2004, based in the UK. On 3 February 2023 Mr Ghertan indicated his intention to resign his student membership of ACCA, and that tendered resignation will take effect after the making of this Order. As a student he has never been eligible for an ACCA practicing certificate.
8. In respect of Allegation 1, Mr Ghertan was found to be operating an accountancy practice, as defined, whilst being an ACCA student and therefore ineligible for an ACCA practicing certificate. Mr Ghertan had been the Director and Sole Shareholder of a Firm named OAS Accounting Ltd (previously known as TezCorp Limited). OAS Accounting Ltd was incorporated on 12 March 2016 and held itself out as providing accountancy bookkeeping and taxation services

on its website and Facebook Page as shown in the Evidence bundle. Mr Ghertan held 100 shares, which is 100% of the issued shareholding, thus holding the position of Principal of OAS Ltd. On his personal Instagram page, he advertised the Firms' services as including Taxation and undertaking public practices activities, which he was ineligible to provide without a practice certificate. He stated that in 2010 he had overlooked and been unaware of the terms and conditions of his ACCA student membership.

9. In regard to Allegation 2, Mr Ghertan failed to register with a supervisory authority for AML until 16 October 2018, nearly 16 months after being required to do so.
10. In mitigation, Mr Ghertan said that his Firm was a small firm focused on bookkeeping and his involvement was running the company, coordination of activity, recruiting and business development, growing the business. He described his role as Administrator, Secretary and Internal Credit Controller. Referring to events in 2017-18, Mr Ghertan said he had a lot to deal with at this time due to the Firm restructuring and undergoing a name change, although it is apparent that no name change is noted at that time at Companies House. He had 7 full time employees (self-included) and 2-part timers.
11. Mr Ghertan said he was not too familiar with the AML supervision registration process in 2017. He initially said the company was not trading, then quickly changed this to carrying out "*little trade*" after being challenged with evidence to the contrary. He now admits that from June 2017 to October 2018, a period of 16 months, he did not have Anti Money Laundering supervision in place. That was regularized on 16 October 2018 and has continued in place for at least 5 years until 30 September 2023.
12. He stated he had not personally prepared or signed off any financial statements/accounts/reports/certificates/tax returns and or conducted any audit work that a third party relied on.

13. Regarding Allegation 3 which concerns misconduct, Mr Ghertan admitted acts or omissions as set out above which bring, or are likely to bring, discredit to the individual or relevant firm or to the Association or to the accountancy profession.

DECISIONS ON ALLEGATIONS AND REASONS

14. 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 she is of the view that the admitted breaches would more likely than not result in exclusion from membership or removal from the student register.
15. 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.
16. The Chair considered the Bundle of evidence. Based on the documentary evidence, the finding of ACCA together with the admission of the allegations by Mr Ghertan the Chair found the facts of the allegations proved. She considered that the admitted facts and Mr Ghertan 's actions amounted to misconduct in that they brought discredit to him, the Association, and the accountancy profession. They therefore justified disciplinary action under byelaw 8(a)(i).
17. The Chair notes that ACCA had offered Mr Ghertan alternative methods of resolving these allegations and he has chosen to resign his student membership, and this will take effect on the making of this order.

SANCTION AND REASONS

18. In deciding whether to approve the proposed sanction of a Severe Reprimand the Chair had considered the Guidance to Disciplinary Sanctions ("the Guidance"). 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.

19. In deciding that a Severe Reprimand was the most suitable sanction, ACCA's Guidance has been considered. The Chair had noted, and agreed with, the following aggravating and mitigating factors identified by ACCA. The Chair considered the following matters to be aggravating:

- The length of time, 7 years, that Mr Ghertan has undertaken public practice without holding an ACCA practising certificate.
- The length of time, 16 months, that Mr Ghertan had undertaken public practice without registering with a supervisory authority for AML.

20. The Chair considered the following matters amounted to mitigation:

- Mr Ghertan has been a member of ACCA since October 2004 and had no previous complaint or disciplinary history.
- He regularised and subsequently complied with ALM registration with a supervisory authority for at least the last 5 years until September 2023.
- Mr Ghertan has co-operated with the investigation and regulatory process.
- Mr Ghertan has admitted his conduct.

21. The Chair considered that both the aggravating and mitigating features identified by ACCA were supported by documentary evidence and were relevant.

22. In the Chair's view, the finding of the ACCA was serious, and the public interest would not be served by making no order, nor would an admonishment adequately reflect the seriousness of Mihai Ghertan 's conduct.

23. In all the circumstances, the Chair was satisfied that the sanction of Severe Reprimand, was proportionate.

COSTS AND REASONS

24. Having considered the provided Simple and Detailed Costs schedules there is no suggestion that Mr Ghertan is unable to pay the costs as itemised. Notwithstanding giving his consent to the draft order, his several comments regarding the unfairness of the costs have been noted, but he has brought this investigation and its associated costs upon himself and there is no reason to amend the figure.

25. ACCA are entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1659 which has been agreed by Mr Ghertan and appears appropriate.

ORDER

26. Accordingly, the Chair approved the terms of the attached Consent Order. In summary:

a. Mr Ghertan shall be Severely Reprimanded.

b. Mr Ghertan shall pay costs of £1659 to ACCA.

HH Suzan Matthews KC
Chair
19 February 2024