

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr James Ross Gibson
Considered on:	Monday, 19 February 2024
Location:	Remotely via Microsoft Teams
Chair:	HH Suzan Matthews KC
Legal Adviser:	Ms Tope Adeyemi
Summary	Severe Reprimand and a fine of £500
Costs:	Costs payable to ACCA in the sum of £1965

INTRODUCTION

1. The Chair has considered a draft Consent Order, signed by a signatory on behalf of ACCA dated 04 December 2023, together with supporting documents in a Bundle numbering pages 1-61, Service Bundle and Simple Costs Schedule.
2. When reaching her decision, the Chair has referred to the requirements of Regulation 8 of the Complaints and Disciplinary Regulations 2014 (as

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amended) ("CDR8") and considered ACCA's documents entitled "Consent Orders Guidance" and "Consent Orders Guidance FAQs".

3. The Chair was satisfied that Mr Gibson was aware of the terms of the draft Consent Order and that he had signed the draft Consent Order on 02 December 2023.
4. The Chair was satisfied that Mr Gibson 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 Mr Gibson 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 James Ross Gibson, 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.

AGREED FACTS

6. Mr Gibson and ACCA agreed the following facts:
 - In November 2022, a complaint referral was made to ACCA alleging that Mr Gibson had been carrying on or holding out to be in public practice whilst not holding an ACCA practising certificate.
 - A search of Companies House confirmed that on 03 January 2019, Park Road Accounting Ltd ("the Firm") was incorporated. The nature of business at the Firm was 69201 - Accounting and auditing activities. Mr Gibson was appointed as Director and held shares which in effect put him

in position of Principal at the Firm, until it was dissolved on 11 April 2023. Mr Gibson had never held an ACCA practising certificate.

- During the time that the Firm was trading and on dates between 19 January – 28 December 2021, Mr Gibson submitted annual CPD returns to ACCA in which he declared that he had “*not engaged in public practice (as defined by The Chartered Certified Accountants’ Global Practising Regulations 3 and 4), without holding an ACCA practising certificate...*” or words to that effect.
- Mr Gibson did not have AML supervision with ACCA and his firm did not appear in HMRC’s list of supervised businesses.

ALLEGATIONS

7. Mr Gibson admits the following:

Allegation 1

Mr James Ross Gibson, an ACCA member breached the Global Practising Regulations (as applicable from 2019 to 2023) by virtue of the following:

- a) Between 03 January 2019 - 10 April 2023, Mr Gibson was holding out and/or carrying on public practice contrary to Global Practising Regulations 2003 (as applicable in 2019 – 2023) regulation 3(1)(a).
- b) Between 03 January 2019 - 10 April 2023, Mr Gibson was director of Park Road Accounting Ltd, a firm which was holding out and/or carrying on public practice, without holding a valid ACCA practising certificate, contrary to Global Practising Regulations 2003 (as applicable in 2019 – 2023), regulation 3(2)(a).
- c) Between 03 January 2019 – 10 April 2023, Mr Gibson held rights in Park Road Accounting Ltd, which in effect put him in position of a principal

(more than 75% shares) of a firm which was holding out and/or carrying on public practice, without holding a valid ACCA practising certificate, contrary to Global Practising Regulations 2003 (as applicable in 2019 – 2023), regulation 3(2)(b).

Allegation 2

Between 03 January 2019 – 10 April 2023, Mr Gibson was providing accountancy services within the terms of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and failed to obtain supervision with HMRC for compliance with these Regulations as required by Global Practising Regulations 2003 (as applicable in 2019 – 2023), Annex 1, regulation 3(2).

Allegation 3

- a) Between, 19 January 2020 – 28 December 2021, Mr Gibson submitted online CPD returns to ACCA as further detailed in Schedule 1, in which he declared that he had “not engaged in public practice (as defined by The Chartered Certified Accountants’ Global Practising Regulations 3 and 4), without holding an ACCA practising certificate...” or words to that effect.

Mr Gibson’s conduct in respect of Allegation 3a)

- b) Was reckless in that he failed to have sufficient regard to the declaration he gave when he wrongly confirmed that he had not carried on public practice activities without holding a practising certificate (as per Global Practising Regulations 3 and 4).

Schedule 1	
CPD return – public practice declaration	
2021	28 December 2021

2020	09 January 2021
2019	19 January 2020

Allegation 4

Mr Gibson is guilty of misconduct in respect of the matters set out at Allegations 1a) – c), 2 and 3a) – b) above, pursuant to bye – law 8(a)(i)

BRIEF BACKGROUND

8. Allegation 1 – Following a complaint, a search of Companies House confirmed that on 03 January 2019, Park Road Accounting Ltd (The Firm) was incorporated. The nature of the business showed Accounting and auditing activities. Mr Gibson was appointed as a Director and held shares which put him in position of a Principal at the Firm. This continued until it was dissolved on 11 April 2023. Throughout this period of just over 4 years, Mr Gibson had not held an ACCA practicing certificate.
 9. During the above time and between 19 January 2020 and 28 December 2021, Mr Gibson made annual CPD returns to ACCA in which he declared that *“he had not engaged in public practice (as defined by ACCA Global Practising Regulations 3 and 4) (The Regulations), without holding an ACCA practising certificate.”* Mr Gibson did not have AML supervision with ACCA and the Firm did not appear in HMRC’s list of supervised business.
- Mr Gibson admits the above facts.
10. In mitigation Mr Gibson stated that he was unaware that he could be in breach of The Regulations. He had been providing bookkeeping self-assessment and annual accounting services, but this was for a close clutch of trusted family and close friends only, primarily as a favour and at a nominal rather than commercial costs. His company was set up pre 2020 with the initial intention of providing basic submission services for a handful of tax returns and small company accounts for some trusted friends & family, whilst managing his own

tax affairs through this corporate entity. Through his Fellow Membership with the Association of Accounting Technicians, and Park Roads agent registration with HMRC from April 2019 to facilitate the above, he had mistakenly believed he was compliant with AML. As soon as he became aware of the breaches, he took steps to correct the position.

11. So, in summary, Mr Gibson said he had misunderstood the process. He had not fully understood the regulations and benchmarks of public practice. He stated he did not intend to mislead ACCA and that he only dealt with family and close friends as a favour and did not market or offer services to the general public.
12. Mr Gibson's 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.

DECISION AND REASONS

13. 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.
14. 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.
15. 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 Gibson the Chair found the facts of the allegations proved. She considered that the admitted facts and Mr Gibson'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).

SANCTION AND REASONS

16. In deciding whether to approve the proposed sanction of a Severe Reprimand and Fine, 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.
17. In deciding that a Severe Reprimand and Fine 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:

Aggravating

- Mr Gibson had undertaken public practice without holding a ACCA practising certificate for a period in excess of 4 years.
- During this time, he submitted incorrect and or inaccurate annual CPD declarations to ACCA.
- During this time, he has provided accountancy services without AML supervision with clear potential risks to the public, be it family or friends, arising from his failure to register.

Mitigating

- Mr Gibson had been a student and subsequently a member of ACCA since 15 August 2002 and had no previous complaint or disciplinary history.

- He admitted his conduct.
 - He has expressed strong and genuine remorse.
 - Mr Gibson has co-operated fully with the investigation and regulatory process.
 - He remedied the breach speedily and dissolved the Firm on 11 April 2023.
 - He has been employed continuously since 2006 with his current employers.
 - The background leading to these matters was specific and unique to Mr Gibson's then circumstances.
18. The Chair considered that both the aggravating and mitigating features identified by ACCA were supported by the documentary evidence and were relevant.
19. 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 Mr Gibson's conduct.
20. In all the circumstances, the Chair was satisfied that the sanction of a Severe Reprimand and £500 fine was proportionate, and sufficient.

COSTS AND REASONS

21. Mr Gibson has explained why he had not submitted a financial means form but is clearly able to pay a fine and costs.

22. ACCA is entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1965 which had been agreed by Mr Gibson as shown in the Simple costs schedule is reasonable and appropriate.

ORDER

23. Accordingly, the Chair approved the terms of the attached Consent Order. In summary:
- a. James Ross Gibson shall be Severely Reprimanded.
 - b. James Ross Gibson shall pay a fine of £500 to ACCA.
 - c. James Ross Gibson shall pay costs of £1965 to ACCA.

HH Suzan Matthews KC
Chair
19 February 2024