

HEARING

**CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED
CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of: Mr Shahbaz Ahmed

Heard on: Monday, 26 February 2024

Location: ACCA, The Adelphi, 1-11 John Adam Street, London, WC2N
6AU (by Microsoft Teams)

Chair: Mr Andrew Gell

Legal Adviser: Miss Juliet Gibbon

DECISION: The Chair made orders in the terms of the Consent Order: Draft Agreement that Mr Shabaz Ahmed be reprimanded and pay costs to ACCA in the sum of £3,000.00.

1. This matter has been referred to the Chair of the Disciplinary Committee of ACCA (“the Chair”) pursuant to Regulation 8(8) of The Chartered Certified Accountants’ Complaints and Disciplinary Regulations 2014, as amended (“the Regulations”) for the Chair to determine, on the evidence before him, whether to approve or reject the Consent Order: Draft Agreement.
2. The Chair had before him a bundle of papers, that included the draft agreement, numbered pages 1-506 and a Referral to Consent Orders Chair Consent Order: Draft Agreement, numbered pages 1-8.

3. The Chair considered the proposed consent order in the absence of the parties and without a hearing in accordance with Regulation 8(9) of the Regulations.
4. For the avoidance of doubt, the Legal Adviser is an independent barrister, and the role of a Legal Adviser is as set out in ACCA's Regulations and is advisory only. The Chair alone will make the determination on the proposed consent order.
5. The Chair was satisfied that Mr Ahmed was aware of the terms of the proposed Consent Order and noted that Mr Ahmed had signed the proposed consent order on 05 February 2024.
6. The Chair noted the terms of the 'Consent Order: Draft Agreement' as follows:

"The Association of Chartered Certified Accountants (ACCA) and Mr Ahmed (the Parties), agree as follows:

1. Mr Ahmed admits the following:
 - a. Mr Ahmed breached the ACCA's Fundamental Principle of Professional Competence and Due Care (2023) in that he: failed to fully follow the 'Technical Factsheet 172, Residential Service Charge Accounts' guidance, and ACCA's Code of Ethics and Conduct in the preparation of the Accountant's Report for the 'Report of factual findings' on the Estate for the year ended 30 September 2022.

Mr Ahmed's working file and 'Report of factual findings' contained the following deficiencies:

- Failure to sufficiently comply with Requirement #15 of 'Technical Factsheet 172, Residential Service Charge Accounts'
- Failure to sufficiently comply with Requirement #17 of 'Technical Factsheet 172, Residential Service Charge Accounts'
- Failure to sufficiently comply with the ACCA's Code of Ethics and Conduct; 'Section B9: Professional Liability of Accountants and Auditors', subsection 'Engagement Letters'.

b. Is, by virtue of the facts above, guilty of misconduct pursuant to bye-law 8(a)(i).

2. That Mr Ahmed shall be reprimanded and shall pay costs to ACCA in the sum of £3,000.00.

BRIEF BACKGROUND

7. Mr Shabaz Ahmed became a member of ACCA on 15 January 2010 and a fellow on 15 January 2015. Mr Ahmed is the Director of LPS Livingstone limited (“the Firm”).
8. On 16 April 2023 Person A made a complaint to the Institute of Chartered Accountants in England and Wales (“the ICAEW”) in respect of the Service Charge Accounts prepared by Mr Ahmed for the Estate. In particular, Person A claimed that a number of balances and amounts included in the annual accounts for the year ended 30 September 2022 did not reflect the supporting accounting records and evidence. Person A also claimed that Mr Ahmed had failed to respond to queries raised by him on 12 April 2023. The complaint was referred to ACCA by the ICAEW.
9. ACCA wrote to Mr Ahmed on 19 June 2023 asking him to provide his responses to questions about his preparation of the accounts. ACCA subsequently asked further questions of Mr Ahmed which he responded to on 19 September 2023.
10. Mr Ahmed informed ACCA that the accounts were prepared by Company A, the agent of the Estate and that the Firm did not have any role in the preparation of the accounts. The accounts were, however, reviewed by the Firm. Mr Ahmed stated: *‘At LPS, the Job gets allocated to a member of staff and reviewed by the manager/senior and finally by me before sign off. Similarly, in this case, I was provided with Final review sheet which I reviewed and the accounts were signed off’*. Mr Ahmed sent a copy of the Final Review Check List.
11. As a result of its investigation ACCA identified deficiencies in the preparation of the Accountant’s Report of the Estate for the year ended 20 September 2022, including the following:

- a. 'TF 172' Section: Appendix F, Balance Sheet, Requirement #15: On review of the Firm's file, a sufficient review was carried out on the items disclosed in the Balance Sheet which amounted to 5% of expenditure except on the balances for Service Charges and Petty Cash where no testing was carried out. Requirement 15 had not, therefore, been fully satisfied.
 - b. Specific balances and transactions tested in the working file – Insurance expense: The insurance expense was selected for testing appropriately however the Firm failed to detect that an error occurred at the time of signing off the Accountant's Report. The insurance expense incorrectly included two invoices totalling £9,709 which should have been recognised on the Balance Sheet in the 'Insurance fund' along with all other insurance fund balances. As a result, the insurance fund was mis-stated on the balance sheet.
 - c. 'TF 172' Section: Appendix G, Paragraphs for Engagement Letters, Requirement 6: The engagement Letter dated 29 March 2019, between Company A and the Firm did not include a formal signature on behalf of Company A. As a result, no formal agreement was in place. The requirement for the 'Agreement of terms: commencement and period of engagement and signatures of parties' had not, therefore, been fully satisfied.
12. ACCA wrote to Mr Ahmed on 06 November 2023 asking him to confirm that the above deficiencies had occurred on the working file reviewed by him, as the signatory of the Accountant's Report for the Service Charge Accounts of the Estate for the year ended 30 September 2022. Mr Ahmed responded to ACCA in an email, dated 15 November 2023. In respect of the letter of engagement Mr Ahmed stated that the Firm had checked with the ICAEW and had been informed that it was not mandatory to have a letter of engagement, but that it was good practice to do so. He stated that the Firm had now obtained a signed engagement letter from Company A and would ensure that it had letters for all such engagements. ACCA informed Mr Ahmed in an email dated 01 December 2023 that ACCA's Regulations require its members to obtain signed engagement letters.
 13. The proposed consent order was sent to Mr Ahmed on 12 December 2023.

14. In an email to ACCA, dated 15 January 2024, Mr Ahmed stated the following:

“... I agree to dispose this matter by Consent Order. Before you determine any sanctions, I would request you to please consider that:

- *Requirements 15 and 17 of Technical Fact Sheet 172 were complied with except these two balances where they were initially identified however the follow through was missed due to human error.*
- *My thought process was that a signed engagement letter is not mandatory following our discussion with ICAEW technical helpline. Although, we now have the policy to agree engagement letter for all such appointments.*
- *We have reviewed firm’s procedures and programs in the context of these issues and have amended them to ensure such issues do not reoccur.*
- *We have carried out extensive staff training covering the points raised and the amended programs. Therefore, our internal procedures have been strengthened to avoid any issues in the future.*
- *We have reviewed and updated Review Process to ensure it is sufficiently robust to pick any such matters in the future.*
- *The firm received a clean QAD visit form ICAEW in October 2023.*
- *We have regular staff training.*
- *We have subscribed membership of Croner Taxwise for 2nd opinion on technical matters.*
- *We attend routine verified CPD courses.*

- *We ensure that we have regular consultation with other qualified accountants having extensive experience in the service charge sector.*

I want to reassure you that ACCA's fundamental Principal of Professional Competence and Due Care is always paramount in all my professional engagements.

Based on the above I would request you to please look at this matter favourably without prejudice to ACCA and profession. This is the first instance of a complaint against me, and I hope that the steps I have taken, together with my unblemished history, are taken into account”.

15. Mr Ahmed included a personal character reference in his response to ACCA.
16. Mr Ahmed signed the proposed consent order on 05 February 2023 and, in so doing, he has admitted the allegations and accepted that he should be reprimanded and pay ACCA's costs in the sum of £3,000.00.

DECISION AND REASONS

17. Under Regulation 8(8) of the Regulations the Chair must determine, on the evidence before him, whether it is appropriate to approve or reject the draft consent order. Under Regulation 8(13) the Chair is able to recommend that amendments are made to the agreement.
18. The Chair was satisfied that there was a case to answer and that the Investigating Officer had followed the correct procedure. The Chair considered the bundle of documents together with Mr Ahmed's admissions and found the allegations proved. The Chair was also satisfied that Mr Ahmed's failings amounted to misconduct and had brought discredit to him, the Association and the accountancy profession.
19. The Chair noted that under Regulation 8(12), he should only reject the signed consent order if he is of the view that the admitted breaches would, more likely than not, result in exclusion from membership.

20. The Chair considered the seriousness of the allegations and the public interest, which includes the protection of the public, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and performance. He balanced the public interest against Mr Ahmed's own interests.
21. In considering this matter the Chair accepted the advice of the Legal Adviser and paid due regard to the ACCA documents 'Guidance for Disciplinary Sanctions' and 'Consent Orders – Frequently Asked Questions'.
22. The Chair found the following to be aggravating factors:
 - a. Mr Ahmed's conduct fell below the standards expected of a qualified ACCA member and had brought discredit to himself, the accountancy profession and ACCA.
 - b. Multiple errors in the accounts were identified as a result of the referral and the subsequent investigation by ACCA.
23. The Chair found the following to be mitigating factors:
 - a. Mr Ahmed has fully co-operated with ACCA's investigation and the regulatory process.
 - b. Mr Ahmed made early admissions to his failings.
 - c. Mr Ahmed has complied with ACCA's directions and advice.
 - d. It does not appear that there is a continuing risk to the public.
 - e. Mr Ahmed's failings resulted in limited material distress, inconvenience or loss.
 - f. The period over which Mr Ahmed's misconduct took place was short.
 - g. Mr Ahmed has provided a positive character reference.
24. The Chair was satisfied that the allegations admitted by Mr Ahmed would be unlikely to result in his exclusion from membership of ACCA and that, under Regulation 8(12), there was no basis for him to reject the Consent Order.
25. The Chair paid due regard to the Guidance for Disciplinary Sanctions. He found the following factors in relation to the sanction of a reprimand were relevant in this case:

- a. Mr Ahmed has demonstrated a willingness to comply with directions and advice provided by ACCA.
 - b. The misconduct was not in deliberate disregard of Mr Ahmed's professional obligations.
 - c. Corrective steps have been taken by Mr Ahmed and the Firm to ensure that there is no repeat of the misconduct.
 - d. There appears to have been little adverse consequence although the misconduct has caused some material distress, inconvenience or loss.
 - e. There has been early and genuine acceptance of the misconduct.
 - f. Mr Ahmed made early admissions to all of the allegations.
26. The Chair, having considered all the documentary evidence before him, was satisfied that the sanction of a reprimand was the appropriate and proportionate sanction in this case. The Chair noted that Mr Ahmed had agreed to pay ACCA costs in the sum of £3,000.00. The Chair, accordingly, pursuant to his powers under Regulation 8 of the Regulations, made an Order in the terms of the draft Consent Order.

ORDER

- i. Mr Ahmed shall be reprimanded.
 - ii. Mr Ahmed shall pay costs to ACCA in the sum of £3,000.00.
27. By virtue of Regulation 8(17) there is no right of appeal against this Order. The Order will, therefore, come into effect immediately.

Mr Andrew Gell
Chair
26 February 2024