



CONSENT ORDERS HEARING

CONSENT ORDER CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Ameetkumar Ramanbhai Patel

Heard on: Monday, 01 July 2024

Location: The hearing was conducted remotely via Microsoft Teams

Chair: Mr Andrew Popat CBE

Legal Adviser: Miss Juliet Gibbon

**Persons present
and Capacity:** Miss Mary Okunowo (Hearings Officer)

Outcome: The Chair made Orders in the terms of the Consent Order:
Draft Agreement that Mr Ameetkumar Ramanbhai Patel shall be
severely reprimanded and pay costs to ACCA in the sum of £920.00.

PRELIMINARY

1. This matter has been referred to a 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 that has been agreed between ACCA and Mr Ameetkumar Ramanbhai Patel.

2. The Chair had before him a bundle of papers, numbered pages 1-89, that included a Referral to Consent Orders Chair Consent Order: Draft Agreement, signed by Mr Patel and by a signatory on behalf of ACCA. He also had sight of the following:
 - a. A detailed and a simple costs schedule;
 - b. ACCA's document 'Consent orders guidance' (January 2021);
 - c. ACCA's document 'Consent orders – Frequently asked questions' (January 2021)
 - d. ACCA's document 'Guidance for disciplinary sanctions' (February 2024); and
 - e. ACCA's document 'Guidance on costs orders' (September 2023)
3. The Chair considered the proposed consent order in the absence of the parties and without a hearing in accordance with Regulation 8(8) of the Regulations.
4. The Chair was satisfied that Mr Patel was aware of the terms of the proposed consent order and noted that he had signed the proposed consent order on 31 May 2024.
5. The Chair noted the terms of the signed Consent Order: Draft Agreement, as follows:

“The Association of Chartered Certified Accountants (“ACCA”) and Mr Ameetkumar Patel (the “Parties”), agree as follows:

1. *Mr Ameetkumar Patel, a holder of an ACCA practising certificate with audit qualification, admits the following:*

Allegation 1

Between 15 April 2019 and 01 November 2019, he did not hold Professional Indemnity Insurance (“PII”) required under Regulation 9 of ACCA’s Global Practising Regulations 2003 (“GPR”), contrary to:

- *Regulation 9(1)(a) GPR (as applicable in 2019).*

Allegation 2

Between 15 April 2019 and 01 November 2019, his firm, Firm A, which held an audit certificate, did not hold the PII under Regulation 9 of ACCA's GPR, contrary to:

- *Regulation 9(1) of Annex 1, Appendix 1 - United Kingdom Audit Regulations 2016 to GPR (as applicable in 2019).*

Allegation 3

Between 01 September 2023 and 24 April 2024, he did not ensure that the PII policy included retroactive cover, contrary to:

- *Regulation 9(6) of ACCA's GPR (as amended on 01 September 2023).*

Allegation 4

By reason of the conduct set out in Allegations 1 and 3, Mr Patel is guilty of misconduct pursuant to bye-law 8(a)(i).

2. *That Mr Ameetkumar Patel shall be severely reprimanded and shall pay costs to ACCA in the sum of £920.00.*

[Signatures of the parties, each dated 08 May 2024]

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

BRIEF BACKGROUND

6. Mr Patel has been a member of ACCA since 10 November 1977 and a fellow of ACCA since 10 November 1982. He has held an ACCA practicing certificate with audit qualification since 01 January 1988.
7. Mr Patel is the sole practitioner in the firm, Firm A (“the firm”) and the firm has held an audit certificate since 15 November 2010.
8. On 05 February 2022, Mr Patel provided a completed compliance review questionnaire (“the questionnaire”) to ACCA’s Compliance Department for a routine desk-top review on Mr Patel and his firm, the purpose of which was to:
 - a. Confirm the eligibility of Mr Patel’s firm for registered auditor status; and
 - b. To monitor its compliance with ACCA’s Global Practising Regulations (“GPRs”) and ACCA’s Code of Ethics and Conduct.
9. The desk-top review revealed that there was no professional indemnity insurance in place for either Mr Patel or the firm between 15 April 2019 to 01 November 2019. Mr Patel explained that the gap was because the firm which took over from his previous insurer sent an email for the auto-renewal of his PII to an email address that he no longer used or had access to. Mr Patel said that as he had not received the reminder, he had not given instructions to renew the PII, which had lapsed as a result. He also said that the insurance firm had advised him at the time that there was no point in purchasing retrospective cover as there had been no issues during the time he had not been insured. He said that at the time he did not realise that he required cover in any event for ACCA compliance purposes. Mr Patel accepted that he had breached ACCA’s GPRs but said that it had not been an intentional breach. He confirmed that he was aware of the importance of having PII cover in place.
10. The firm had PII in place from the period 14 April 2016 to 15 April 2019 under its previous PII cover and Mr Patel should have obtained retroactive PII when he became aware that his cover had lapsed. There was, however, no PII cover in place between 15 April 2019 and 01 November 2019.

11. On 01 September 2023, ACCA amended the GPRs to include a provision that all holders of practicing certificates and firms must hold PII and such PII must remain in force for all of the period during which a relevant practicing certificate is held. Regulation 9(6) provides: “Retroactive cover – Persons subject to Regulation 9(1) shall ensure that the PII policy includes full retroactive cover”. Mr Patel, therefore, breached Regulation 9(6) of the GPRs by failing to have retroactive PII in place for the period 15 April 2019 to 01 November 2019.
12. On 24 April 2024, ACCA made a proposal to Mr Patel that the matter be disposed of by way of a consent order. Mr Patel agreed to this by email on 05 May 2024. He stated:

“...While it is true that I did not have PI between the period April 2019 to 31 October 2019, nor did I have retro cover for that period, it was not for lack of trying to get the relevant cover. I had argued with my PI brokers that since they took over the business from ... the previous provider of PI, they should cover me from April 19 and not from 01 November 2019 which is when I discovered that my PI had not been renewed. Other providers at the time were not able to give me cover from April 2019 - maybe fearing that I may have a claim which is why I wanted retro cover. While I had explained the situation, I still did not manage to get the cover.

When ... ACCA wanted to see evidence of this, I had to ask them to send me an email to say that they would not be able to provide cover for me for the period April 19 to 31 October 2019....”.

13. In signing the proposed Consent Order, Mr Patel has admitted the allegations and accepted that he should be severely reprimanded and pay ACCA’s costs in the sum of £920.00.

DECISION AND REASONS

14. 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 or to recommend any amendments.
15. 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 Patel's admissions and found Allegations 1, 2 and 3 proved. The Chair was also satisfied that Mr Patel's breaches of the GPRs amounted to misconduct and had brought discredit to him, the Association and the accountancy profession and found Allegation 4 proved.

16. 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.
17. 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 Patel's own interests.
18. In considering this matter the Chair accepted the advice of the Legal Adviser and paid due regard to the ACCA guidance documents 'Guidance for Disciplinary Sanctions', 'Consent Orders Guidance' and 'Consent Orders – Frequently Asked Questions'.
19. The Chair found the following to be aggravating factors:
 - a. Compliance with Regulation 9 of the GPR and Regulation 9(1) of the AR is mandatory for all ACCA members with a practising certificate and their firms with auditing certificates to ensure they have the means to cover any claims for professional negligence.
 - b. By not having PII in place between 15 April 2019 and 01 November 2019, Mr Patel failed to ensure he could cover any claims for professional negligence should they arise during the period.
 - c. The length of time that Mr Patel failed to comply with the GPRs.
 - d. Mr Patel must have been aware that he did not have PII in place for about seven months in 2019 when he put the current policy in place which took effect from 02 November 2019, but he did not take any action until ACCA raised this with him following the review in 2022.

- e. Mr Patel's conduct fell below the standards expected of an ACCA member with a practising certificate and audit qualification and the sole practitioner of a firm holding an audit certificate.
20. The Chair found the following to be mitigating factors:
- a. Mr Patel has been a member of ACCA since 1977 and his firm has had four compliance reviews in the past. Neither Mr Patel nor his firm has a history of previous complaints or disciplinary decisions against them.
 - b. Mr Patel has fully co-operated with the investigation process.
 - c. The breaches were not intentional.
 - d. There have been no claims for professional negligence during the period where Mr Patel did not have PII in place.
 - e. Mr Patel readily made admissions and apologised for the conduct which led to the complaints raised against him.
 - f. Except for the gap in PII cover and not having retroactive cover in place, the firm satisfied the eligibility requirements for registered auditor status.
 - g. Mr Patel had made enquiries about putting retroactive cover in place on 11 August 2023, which was before the new PII regulations became effective on 01 September 2023.
 - h. Mr Patel could have regularised the retroactive position and would therefore not have been in breach of the new Regulation in relation to retroactive cover but for the fact that the insurer of his PII policy did not offer it for accountants.
21. The Chair was satisfied that the allegations admitted by Mr Patel 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 terms of the proposed Consent Order.

22. The Chair paid due regard to ACCA's Guidance for Disciplinary Sanctions (updated 14 February 2024). He found the following factors were relevant in this case:
- a. Mr Patel had attempted to obtain retroactive PII cover when he became aware that he had inadvertently not had PII cover in place for the period 15 April 2019 to 01 November 2019;
 - b. Corrective steps had been taken by Mr Patel to ensure there was no repeat of the misconduct.
 - c. There is no evidence of any adverse consequence – the misconduct had not caused material distress, inconvenience or loss.
 - d. There had been early and genuine acceptance of the misconduct and Mr Patel had made early admissions to his misconduct.
23. The Chair, having considered all the documentary evidence before him, was satisfied that the sanction of a severe reprimand was the appropriate and proportionate sanction in this case.
24. The Chair considered that ACCA was entitled to its costs in principle. ACCA has provided two schedules of costs, and he was satisfied that ACCA's application for costs in the sum of £920.00, which has been agreed by Mr Patel, appeared to be appropriate and proportionate.
25. The Chair, pursuant to his powers under Regulation 8 of the Regulations, made an Order in the terms of the draft Consent Order.

ORDER

- i. Mr Ameetkumar Ramanbhai Patel shall be severely reprimanded.
- ii. Mr Ameetkumar Ramanbhai Patel shall pay costs to ACCA in the sum of £920.00.

EFFECTIVE DATE OF ORDER

26. This Order will come into effect immediately.

Mr Andrew Popat CBE
Chair
01 July 2024