

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mrs Robyn Newling
Considered on:	Wednesday, 27 March 2024
Location:	Remotely via Microsoft Teams
Chair:	HH Suzan Matthews KC
Legal Adviser:	Mr Ashraf Khan
Outcome:	Reprimand
Costs:	£1,440.00

INTRODUCTION

1. The Chair has considered a draft Consent Order, signed by a signatory on behalf of the ACCA dated 11 March 2024, together with supporting documents in a bundle numbering pages 1-41 and Service Bundle pages 1-4.
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 the ACCA’s documents entitled “Consent Orders Guidance” and “Consent Orders Guidance FAQs”.
3. The Chair was satisfied that Mrs Newling was aware of the terms of the draft Consent Order and that it was being considered today. She had signed the Order on 05 March 2024.

4. The Chair was also satisfied that Mrs Newling was aware that she could withdraw her agreement to the signed draft Consent Order by confirming the withdrawal in writing. No such withdrawal has been received.
5. The Investigating Officer had concluded an investigation into the allegation against Mrs Newling 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 Mrs Newling, and that there was a real prospect of a reasonable tribunal finding the allegations proved; and
 - ii. The proposed allegation was unlikely to result in exclusion from membership.

ALLEGATIONS

Robyn Newling, an ACCA member admitted the following:

Allegation 1

Pursuant to bye-law 8(a)(vi), Mrs Robyn Newling, an ACCA member, is liable to disciplinary action by virtue of action taken against her on 17 November 2022 by Propertymark.

BRIEF FACTS

6. The Propertymark Disciplinary Tribunal took disciplinary action against Mrs Newling and another director of an Estate and Letting Agency on 17 November 2022. The Propertymark Disciplinary Tribunal found by admission, that Mrs Newling was in breach of the Propertymark Conduct and Membership Rules 1.7 Access to, or availability of, Client Money; 1.14 Payments out of a Client (Bank) Account; 13 General duty to uphold high standards of ethical and professional behaviour; and 21 Continuing Professional Development (CPD) Rules. Mrs Newling was fined a total of £2,500 for breaches of Rules 1.7, 1.14, and 13. No penalty was imposed for breach of Rule 21.

7. Mrs Newling accepted the findings of the Propertymark Disciplinary Tribunal dated 17 November 2022 and shortly after she self-reported the finding to ACCA.
8. Mrs Newling provided a personal statement and a statement from the other director. The statements confirmed that Mrs Newling was Finance Director at the Estate and Letting Agency (“the firm”) at the time of the breaches (on or around April 2019), but that she was not a shareholder and had no financial stake in the firm. It was said that Mrs Newling played a subordinate role, and the ultimate financial decisions rested with the other director and sole shareholder. This was reflected in the Propertymark Disciplinary Tribunal decision which stated that the other director was “fully in control” of the firm. Also, the other director received a higher financial penalty for the breach of Propertymark Conduct and Membership Rules.
9. Mrs Newling stated that she no longer works in the property industry, and is no longer a member of Propertymark.

DECISION ON ALLEGATIONS AND REASONS

10. 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.
11. The Chair was satisfied that there was a case to answer and that it was appropriate to deal with the complaint by way of Consent Order. The Chair considered that the Investigating Officer had followed the correct procedure.
12. The Chair considered the bundle of evidence. Based on the documentary evidence, the findings of ACCA together with the admission of the allegation by Mrs Newling the Chair found the allegation pursuant to bye-law 8(a)(vi) proved.

SANCTION AND REASONS

13. In deciding whether to approve the proposed sanction of a Reprimand, the Chair 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.

14. In deciding that a Reprimand was the most suitable sanction, paragraphs C3.1 to C3.5 of ACCA’s Guidance have been considered. The Chair concluded no lesser sanction is appropriate and agreed with the following aggravating and mitigating factors identified by ACCA:

Aggravating:

- The conduct which led to Mrs Newling being the subject of action by Propertymark fell below the standards expected of a qualified ACCA member. As such her conduct has brought discredit upon herself, ACCA and the accountancy profession.

- As noted in the Propertymark Disciplinary Tribunal’s decision, “any shortfall in the client account is a very serious matter and the removal of £90,000, even for a short period of time, is extremely concerning”.

Mitigating

- The conduct was caused by a series of unfortunate circumstances which are unlikely to be repeated.

- The breach was self-reported to Propertymark and subsequently, the ACCA.

- Mrs Newling played a subordinate role, and the ultimate financial decisions rested with the other director and sole shareholder.

- Mrs Newling has shown remorse and regret for the conduct which led to disciplinary action by Propertymark.

- The consequences of Mrs Newling's conduct have not caused material distress, inconvenience or loss.
 - There is no evidence of dishonesty.
 - There does not appear to be any continuing risk to the public.
 - Mrs Newling has fully co-operated with ACCA's investigation and regulatory process.
 - Mrs Newling has a previous good record with no previous complaint or disciplinary history.
15. The Chair considered that both the aggravating and mitigating factors identified by ACCA were supported by documentary evidence and were relevant.
16. In the Chair's view, the findings 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 Mrs Newling's conduct.
17. In all the circumstances, the Chair was satisfied that the sanction of Reprimand and fine, was proportionate, and sufficient, and that an order excluding Mrs Newling from the Register of Members would be a disproportionate outcome and therefore a Disciplinary Committee would be unlikely to make such an order.

COSTS AND REASONS

18. The Chair is satisfied Mrs Newling is able to pay costs as agreed in the proposed Consent Order.
19. The ACCA is entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1,440.00 which has been agreed by Mrs Newling appears appropriate.

ORDER

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

- i. Mrs Newling shall be Reprimanded.
- ii. Mrs Newling shall pay costs of £1,440.00 to ACCA.

HH Suzan Matthews KC
Chair
27 March 2024