

## HEARING

# CONSENT ORDER COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

## REASONS FOR DECISION

**In the matter of:** Mr Rajnikant Chhotabhai Patel

**Heard on:** Thursday, 14 November 2024

**Location:** Remotely via Microsoft Teams

**Committee:** Mr Andrew Gell (Chair)

**Legal adviser:** Mr Alastair McFarlane

**Outcome:** Consent Order approved

## DOCUMENTS BEFORE THE COMMITTEE

1. The Committee received a bundle of papers, including a Signed Draft Consent Order, numbered pages 1-10, an Evidence Bundle numbered pages 1 to 849, a Consent Order Referral Form numbered pages 1-2, an Accompanying Note to the Consent Order of one page, an Additional Information Bundle numbered pages 1 to 40 and Detailed and Simple Cost bundles.

## ALLEGATIONS

1. Mr Patel, on behalf of Company A, breached the ACCA's Fundamental Principle of Professional Competence and Due Care (2022) in that he: failed to fully follow Audit Regulations, Auditing Standards and ACCA's Code of Ethics and Conduct

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(CEC) in providing the audit opinion included in the Audit Report for Company B for the year ended 31 December 2021.

Mr Patel's working file contained the following deficiencies:

- (i) Mr Patel failed to appropriately document ethical threats facing Company A, which arose from carrying out audit and non-audit services for Company B, for the year ended 31 December 2021. Furthermore, Mr Patel failed to document the appropriate safeguards in place to ensure the firm's independence was not compromised. As a result, Mr Patel failed to comply with the ACCA's CEC.
  - (ii) Mr Patel failed to appropriately document ethical threats facing Company A, which arose from the level of the audit fee charged to Company B, for the year ended 31 December 2021. Furthermore, Mr Patel failed to document the appropriate safeguards in place to ensure the firm's independence was not compromised. As a result, Mr Patel failed to comply with the ACCA's CEC and the Ethical Standards published by the Financial Reporting Council (FRC).
  - (iii) Mr Patel failed to appropriately audit Going Concern and Subsequent Events when deriving the audit opinion for Company B, for the year ended 31 December 2021. As a result, Mr Patel failed to comply with the ACCA's CEC and the International Standards on Auditing (UK) (ISAs) published by the Financial Reporting Council (FRC).
  - (iv) Mr Patel failed to appropriately audit the stock balance disclosed in the accounts for Company B, for the year ended 31 December 2021. As a result, Mr Patel failed to comply with the International Standards on Auditing (UK) (ISAs) published by the Financial Reporting Council (FRC) and the ACCA's CEC.
  - (v) Mr Patel failed to obtain a signed Engagement Letter, agreeing the terms of the engagements and services carried out for Company B.
2. That Mr Patel shall be severely reprimanded and shall pay costs to ACCA in the

sum of £3,500.

## **BACKGROUND**

2. Mr Patel has been a member of ACCA since 1999. Mr Patel was the sole principal for Company A.
3. On 23 June 2023, a complaint was made to the ACCA by Person A,. A further complaint was made to the ACCA by Person B on behalf of Persons C, D, and E. Both complaints concerned the audit quality and audit opinion issued by Mr Patel on behalf of Company A in the Company B accounts for the year ended 31 December 2021. The Audit Report was signed on 19 July 2022 and the Company B accounts were filed on Companies House on 27 September 2022. Shortly after, on 04 April 2023, a court order was made for Company B to wind up.
4. Both complainants alleged that Mr Patel's audit opinion failed to appropriately consider the post year end liquidation and further alleged that the independence of Mr Patel was compromised due to the nature of the non-audit services he provided to Company B for the year ended 31 December 2021.
5. As both complaints have been made against the same client (Company B) and accounting period (31 December 2021), and similar allegations were made in respect of the audit quality, the ACCA combined both investigations as they relate to the same matters and incidents. The outcome has been issued as one sanction.
6. Mr Patel, the sole principal for Company A, was responsible for issuing the audit opinion for Company B and reviewing the audit working file prepared for Company B.
7. Mr Patel, as a member of the ACCA, is bound by the ACCA Regulations and the ACCA's Code of Ethics and Conduct ("CEC"). The matters under investigation were considered against the ACCA's Regulations, ACCA's CEC and the appropriate Auditing Standards and law.

## **ALLEGATION 1A(I)**

*"Mr Patel failed to appropriately document ethical threats facing Company A, which arose from carrying out audit and non-audit services for Company B, for the year ended 31 December 2021. Furthermore, Mr Patel failed to document the appropriate safeguards in place to ensure the firm's independence was not compromised. As a result, Mr Patel failed to comply with the ACCA's CEC."*

8. As a result of the non-audit services provided by Company A in conjunction with the audit service, a self-review threat arises, in accordance with the CEC. The preparation of the dataset by Company A, which was then due to be audited by Mr Patel, falls under the descriptions enclosed in requirements 300.5 A1 and 300.6 A1 of the CEC. Mr Patel was therefore required under R300.4, to *"identify, evaluate and address threats to compliance with the fundamental principles"*.
9. Furthermore, under requirement R400.60 of the CEC Mr Patel was required to document his assessment and conclusions to the threats facing Company A.
10. As evidenced on the Company A audit working file, a review was conducted in 2018, but no sufficient review was carried out by Mr Patel for the year ended 31 December 2021. Therefore, Mr Patel breached the requirements of Section 300 and Section 400 of the CEC. Mr Patel failed to document the threats and appropriate safeguards in place to ensure the firm's independence was not compromised as a result of offering non-audit services alongside audit services to Company B for the year ended 31 December 2021.

#### **ALLEGATION 1A (II)**

*Mr Patel failed to appropriately document ethical threats facing Company A, which arose from the level of the audit fee charged to Company B, for the year ended 31 December 2021. Furthermore, Mr Patel failed to document the appropriate safeguards in place to ensure the firm's independence was not compromised. As a result, Mr Patel failed to comply with the ACCA's CEC and the Ethical Standards published by the Financial Reporting Council (FRC).*

11. Requirement 410.4 A1 of the CEC discloses that *"when fees are negotiated with and paid by an audit client, this creates a self-interest threat and might create an*

*intimidation threat to independence."* Requirement 410.4 A2 of the CEC further discloses that *"the application of the conceptual framework requires that before a firm ... accepts an audit ..., the firm determines whether the threats to independence created by the fees proposed to the client are at an acceptable level"*. Additionally, requirement 410.14 A1 of the CEC details that *"when the total fees generated from an audit client by the firm expressing the audit opinion represent a large proportion of the total fees of that firm, the dependence on, and concern about the potential loss of, fees from audit and other services from that client impact the level of the self-interest threat and create an intimidation threat"*.

12. Based on the above criteria disclosed in the CEC, Mr Patel was required to assess the level of the audit fee received from Company B to address any self-interest and intimidation threats. Mr Patel was also required to document this assessment. No such assessment was documented on the file for the year ended 31 December 2021, thus Mr Patel breached the requirements of the CEC.
13. Furthermore, there was a requirement to evaluate the significance of the breach and depending on that significance determine whether to end the audit engagement or take action to satisfactorily address the consequences of the breach (requirement R400.80 of the CEC). Additionally, the FRC have issued as a requirement in the Ethical Standard for Auditors under requirement 4.24 that *"where it is expected that the total fees for services receivable from a non-listed entity that is not a public interest entity ... relevant to a recurring engagement by the firm, will regularly exceed 15% of the annual fee income of the firm ... the firm shall not act as the provider of the engagement for that entity and shall either resign or not stand for reappointment, as appropriate"*.
14. As Mr Patel has disclosed in the Audit Report for Company B that he has conducted the audit *"in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law"*, the FRC's requirements are binding upon this audit alongside the CEC requirements.
15. Both Regulations required Mr Patel to consider the audit fees for the engagement carried out on the year ended 31 December 2021. On review of the Company B accounts an audit fee of £50,000 and non-audit fee of £17,500 was charged to Company B. The total fees received by Company A from Company B was

therefore £67,500 which breached 15% of Company A's overall income as disclosed in the Company A accounts. Therefore, Mr Patel was required to adopt a safeguard, namely to disengage from the Company B audit for the year ended 31 December 2021. It is expected that a reasonable and informed third party would conclude that the firm's objectivity was compromised. As a result, Mr Patel breached both the CEC and FRC requirements in conducting the audit for the year ended 31 December 2021.

### **ALLEGATION 1A(III)**

*"Mr Patel failed to appropriately audit Going Concern and Subsequent Events when deriving the audit opinion for Company B, for the year ended 31 December 2021. As a result Mr Patel failed to comply with the ACCA's CEC and the International Standards on Auditing (UK) (ISAs) published by the Financial Reporting Council (FRC)."*

16. On review of the Going Concern working papers prepared by Company A it was identified that audit reliance was placed upon comments provided by Company B 's management. No sufficient evaluation of management's assessment was conducted by Company A.
17. ISA (UK) 570 encloses the auditor's responsibilities when assessing the Going Concern opinion derived by management. Company A have failed to comply with this standard, in particular, sections 12.2 as the firm failed to corroborate management's assessment by relying upon representations made by the client.
18. ISA (UK) 560 encloses the requirements on the auditor in respect of Subsequent Events. The Company A working file fails to document how such requirements were complied with, therefore the file contained insufficient audit evidence. The following comments were documented in respect of the Subsequent Events: *'As per discussions with Person F, sales should pick up slowly in the remaining period of 2022 ... Due to this, Person F expects that they will be around £30m more than in 2021, i.e. £137m. Person F has also informed us that they are continuing to have meetings with various parties in order to raise Convertible Loans in the period.'* Additionally documented on file were the following comments, *'Person F considerers high gearing is not a problem' and 'all interest*

*payments can be met.*' No further testing was carried out to obtain assurance over the comments as required by the ISAs documented above. A conclusion was derived by *Company A* as follows, '*Based on the above work performed, we believe that Company B continues to trade as a going concern for the next 12 months*'. However, as *Company B* was wound up post year end, as ordered by the court on 04 April 2023, management's assessment may have been unsubstantiated, which Mr Patel failed to appropriately validate.

19. Furthermore, testing carried out elsewhere on the audit file failed to sufficiently support the Going Concern opinion which Mr Patel reported on. ISA (UK) 500 encloses the auditor's responsibilities in obtaining sufficient appropriate audit evidence to support the audit opinion. Additionally, ISA (UK) 315 encloses the assertions to be used by the auditor. Mr Patel's file included deficiencies in respect of the above ISAs as follows:

*Company A* failed to obtain any assurance over the recoverability of the balances owed from related parties thus failing to obtain assurance over the accuracy and valuation as required under ISA (UK) 315. Comments were documented on the working file as '*confirmed payments*' however, no recoverability assessment was considered. This was considered relevant to understand the Going Concern status of *Company B*.

*Company A* also failed to test after date payments of Trade Creditors to obtain assurance over the completeness of the creditors as required under ISA (UK) 315. This was considered relevant to understand the Going Concern status of *Company B*.

Additionally, no cut-off testing was carried out within the income testing to provide assurance over the year ended 31 December 2021 and the post year end income as required under ISA (UK) 315. This was considered relevant to understand the Going Concern status of *Company B*.

20. As a result of the above deficiencies identified on the audit file, Mr Patel failed to obtain sufficient audit evidence as required by the ISAs when deriving his opinion on the Going Concern status of *Company B*. On further review of the evidence collated by *Company A* during the audit, there is no evidence to support than an

incorrect audit opinion was issued by Mr Patel. The misconduct has arisen from Mr Patel's failure to sufficiently support the audit opinion he has issued in the Audit Report.

#### **ALLEGATION 1A(IV)**

*Mr Patel failed to appropriately audit the stock balance disclosed in the accounts for Company B, for the year ended 31 December 2021. As a result, Mr Patel failed to comply with the International Standards on Auditing (UK) (ISAs) published by the Financial Reporting Council (FRC) and the ACCA's CEC.*

21. On review of the stock testing working papers, it was identified that Company A failed to obtain assurance over existence, completeness, and valuation of stock. The firm did not attend a stock count therefore relied upon movements in stock derived from management accounts. Furthermore, no evidence was obtained from source documentation such as invoices and no testing was conducted on the control procedures. Therefore, Company A failed to carry out sufficient audit testing on stock as required by ISA (UK) 501.

#### **ALLEGATION 1A(V)**

*Mr Patel failed to obtain a signed Engagement Letter, agreeing the terms of the engagements and services carried out for Company B for the year ended 31 December 2021. As a result, Mr Patel failed to comply with the ACCA's CEC."*

22. No approved Engagement Letter was obtained by Mr Patel for the services conducted by Company A for Company B, for the year ended 31 December 2021. As disclosed under Section B9 of the CEC. Mr Patel as the engagement partner, was required to obtain a signed agreement of terms with Company B. As Mr Patel failed to obtain an Engagement Letter, he has breached the ACCA Regulations.
23. ACCA proposed that the matter was dealt with by way of a consent order and Mr Patel confirmed that he admitted the allegations and misconduct and was willing to agree the consent order and the payment of any associated costs.



## **COMMITTEE'S DECISION**

24. Under Regulation 8(8) of the Complaints and Disciplinary Regulations 2014, I must determine whether, based on the evidence before it, the draft consent order should be approved or rejected. I had regard to the Consent Orders Guidance.
25. I noted that under Regulation 8(12) I shall only reject the signed consent order if I am of the view that the admitted breaches would, more likely than not, result in exclusion from membership.
26. I agree that an investigation of an appropriate level was conducted by ACCA.
27. I note that Mr Patel has admitted all allegations.
28. I considered the seriousness of the breaches as set out 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. I balanced this against Mr Patel's interests, and his mitigation and personal circumstances. I note that Mr Patel has received a disciplinary sanction within the last five years relating to the same client. However, I accept that the breaches were committed over a short period of time and that remediation has taken place including the implementation of internal training procedures following the monitoring review conducted in 2023 and therefore there is no continuing risk to the public. Further, I accept that the investigation has not found evidence suggesting Mr Patel's conduct was in deliberate disregard of his professional obligations.
29. I noted and accepted the list of aggravating and mitigating factors advanced at paragraphs 52 and 53 of the draft Consent Order Bundle. The breaches were serious ones but future risk to the public has been mitigated.
30. I had regard to ACCA's Guidance for Disciplinary Sanctions.
31. For the reasons set out above, I was satisfied that the admitted breaches would be unlikely to result in exclusion from membership, and therefore there was no basis for me to reject the consent order under Regulation 8 (12). I noted the

proposed Consent Order, and considering all the information before it, was satisfied that a Severe Reprimand was an appropriate and proportionate disposal of this case.

32. I am further satisfied to award ACCA's costs in the sum of £3,500.00 which I find to be a reasonable and proportionate amount for the work undertaken.

#### **ORDER**

33. The Committee, pursuant to its powers under Regulation 8, made an Order in terms of the draft Consent Order, namely that Mr Patel be severely reprimanded. In addition, Mr Patel is to pay ACCA's costs of £3,500.

**Andrew Gell**  
**Chair**  
**14 November 2024**