

CONSENT ORDERS HEARING

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Miss Yunisha Khadka

Considered on: Wednesday, 31 July 2024

Location: Conducted remotely, via MS Teams

Chair: Ms Valerie Paterson

Legal Adviser: Mr Richard Ferry-Swainson

**Persons present
and Capacity:**

None

Summary: Consent Order for Severe Reprimand and costs approved.

Costs: £700.00

INTRODUCTION

1. The Chair considered a draft Consent Order in respect of Miss Khadka. The matter was listed to be considered on the basis of documents only. Neither Miss Khadka nor ACCA were present or represented.
2. The Chair was provided with the draft Consent Order, signed by Miss Khadka on 16 July 2024 and a signatory on behalf of ACCA on 09 July 2024, together with supporting documents in a bundle numbered 1 to 153. In addition, there was a service bundle and a costs schedule.

SERVICE

3. The Chair was satisfied that Miss Khadka had been properly notified of the meeting by an email dated 25 July 2024.

BACKGROUND

4. It was alleged by ACCA, and Miss Khadka admitted, that she was guilty of misconduct, pursuant to bye-law 8(a)(i) in respect of the below matter:
 - (a) On 04 December 2023, Miss Khadka emailed Person A confidential client information arising out of her work with Firm A, contrary to the Fundamental Principle of Confidentiality (as applicable in 2023).
 - (b) By reason of the conduct at 1(a) above, Miss Khadka is guilty of misconduct pursuant to bye-law 8(a)(i).
5. The details were set out in the attached draft Consent Order. ACCA's Investigating Officer and Miss Khadka had agreed the form of Order, which proposed a severe reprimand and made an Order for costs.

DECISION AND REASONS

6. The Chair accepted the Legal Adviser's advice that, in accordance with Regulation 8 of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014, as amended, 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 they are of the view that the admitted breaches would more likely than not result in exclusion from membership.
7. 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 was also satisfied that the Investigating Officer had followed the correct procedure.
8. The Chair considered the bundle of evidence and, on the basis of Miss Khadka's admission, found the facts proved. The Chair was satisfied that the

admitted facts, and Miss Khadka's actions, were sufficiently serious to amount to misconduct, in that they brought discredit upon Miss Khadka, the Association and the accountancy profession.

9. Miss Khadka was employed by Firm A from 04 January 2023 to 30 November 2023. It was agreed by Firm A and Miss Khadka that she would continue to work for Firm A after 30 November 2023, as a consultant, and she continued to have access to their computer system servers.
10. On 04 December 2023, Miss Khadka sent to Person A and to her personal email account three emails, attaching a significant amount of confidential client information, including approximately 50 emails with approximately 97 attachments.
11. The confidential client information sent to Person A included draft company accounts, invoices, bank statements, draft profit and loss accounts, balance sheets, income schedules, P60, personal tax information and the email addresses of third parties.
12. Firm A did not authorise or permit the disclosure of the information.
13. The confidential information did not reach Miss Khadka's personal email account due to a typographical error in the email address she used, but did reach Person A, who subsequently confirmed that they had deleted the information.
14. On 05 December 2023, a partner at Firm A lodged a complaint with ACCA. In March 2024 ACCA's Senior Investigations Officer put the complaint to Miss Khadka for her response. On 26 March 2024 and 30 March 2024, she provided various responses.
15. Ms Khadka had contacted the Firm and said, "... *please accept my sincere apologies for any distress or discomfort this may have caused you. I understand the gravity of handling sensitive information, and I want to assure you that it was not my intention to compromise the integrity of your firm.*" She said she made a mistake and was sorry. She went on to say that she had learned a lot whilst working at the Firm and also that she had recognised good practice at

the Firm that she wanted to take with her to her next job. Accordingly, she had made a note that “... would include what to request to the clients, sample of different schedules on the balance sheet and different processes of IRIS or xero. I made a folder called Notes on my desktop with various Excel sheets and words and also PDFs. I was going to a job interview that morning and I wanted to refer to those notes to prepare myself for the interview. I sent those notes folder to myself and [Person A] because my storage is always full and I don’t get emails and if needed I could ask [Person A] for notes quickly.” Miss Khadka said that she had not intended to compromise or share any confidential client details and that Person A has no knowledge of finance or business and deleted the email “right away.”

16. Person A provided an email to ACCA confirming they had deleted the email.
17. Firm A advised that its relationship with one client was fractured after reporting the data breach to them and the client subsequently left the Firm.
18. On 17 May 2024 ACCA proposed that the matter be dealt with by a Consent Order and, on 20 May 2024, Miss Khadka agreed.
19. The Chair noted the agreed aggravating and mitigating factors as set out in the Consent Order. In particular, the Chair noted that:
 - a. The misconduct is no longer continuing.
 - b. Person A deleted the confidential information sent to them by Miss Khadka.
 - c. Miss Khadka has apologised for her conduct.
 - d. There is no evidence that Miss Khadka used the confidential client information for her own benefit.
 - e. There is no evidence of dishonesty.
 - f. Miss Khadka has co-operated with the investigation.

- g. Miss Khadka has been a member in good standing since 26 May 2022.
 - h. Miss Khadka has no previous complaint or disciplinary history.
20. In all the circumstances, and following ACCA's Guidance on sanctions, the Chair was satisfied that the sanction of severe reprimand was appropriate in this case and that exclusion would be disproportionate. Miss Khadka had admitted serious failings and that she was guilty of misconduct. However, Miss Khadka had made admissions to the matters alleged and apologised for her conduct. It was also noteworthy that there was no evidence that Miss Khadka had used the confidential client information for her own benefit and that the third party, Person A, had deleted the information sent to them.
21. In such circumstances, the Chair was satisfied a severe reprimand would mark the seriousness of the misconduct. Such a sanction would be in the public interest and would maintain public confidence in the profession by sending a clear message of the need to adhere to the fundamental standards of professional conduct and the importance of not disclosing confidential information to those not authorised to receive it.
22. The order for costs for this Consent Order appeared appropriate and reasonable, taking into account Miss Khadka's means.
23. Accordingly, the Chair approved the attached Consent Order. In summary:
- a. Miss Khadka shall be severely reprimanded; and
 - b. Miss Khadka shall pay costs of £700 to ACCA.

Ms Valerie Paterson
Chair
31 July 2024