

HEARING

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

In the matter of: Mrs Jean Elizabeth Ann Calas-Hathaway

Heard on: Wednesday, 29 May 2024

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

Chair: Mr Andrew Gell

Legal Adviser: Ms Giovanna Palmiero

Decision: The Chair made orders in the terms of the Consent Order: Draft Agreement that Mrs Jean Elizabeth Ann Calas-Hathaway be reprimanded and pay costs to ACCA in the sum of £2,000 and a fine of £3,000

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 by ACCA and Mrs Jean Elizabeth Ann Calas-Hathaway.
2. The Chair had before him a bundle of papers, numbered pages 1-253 and a Referral to Consent Orders Chair Consent Order: Draft Agreement, numbered pages 1-2.
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.

ACCA



+44 (0)20 7059 5000



info@accaglobal.com

www.accaglobal.com

The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

4. The Chair was satisfied that Mrs Calas-Hathaway was aware of the terms of the proposed consent order and noted that she had signed the proposed consent order on 25 April 2024.

5. The Chair noted the terms of the 'Consent Order: Draft Agreement' as follows:

"The Association of Chartered Certified Accountants (ACCA) and Mrs Jean Elizabeth Ann Calas-Hathaway ("the Parties), agree as follows:

Mrs Jean Elizabeth Ann Calas-Hathaway admits the following:

Mrs Jean Elizabeth Ann Calas-Hathaway, a Member of the Association of Chartered Certified Accountants (ACCA):

1. On or about the 24 November 2022 submitted, or caused to be submitted, an AML Declaration Form wrongly confirming that steps had been taken to regularise compliance with The Money Laundering, Terrorist Financing and Transfer Funds (information on the Prayer) Regulations 2017 (MLRs 2017).

2. Between 26 June 2017 and 12 May 2023, Mrs Calas-Hathaway failed on behalf of her firm to demonstrate compliance with the requirements of the MLRs 2017, namely:

- a. Regulation 18 (Risk Assessment by relevant person) and/or
- b. Regulation 19 (Policies, controls and procedures).

3. By reason of her conduct above Mrs Calas-Hathaway's is:

- a. Guilty of misconduct pursuant to bye-law 8(a)(i) in respect of the matters set out above.

6. That Mrs Jean Elizabeth Ann Calas-Hathaway shall be reprimanded and shall pay costs to ACCA in the sum of £2,000 and a fine of £3,000.

BRIEF BACKGROUND

7. Mrs Jean Elizabeth Ann Calas-Hathaway became a member of ACCA in October 2006 and currently holds an ACCA practising certificate.
8. Mrs Calas-Hathaway is principal of and Money Laundering Reporting Officer (MLRO) of In the Black Solutions Ltd, a firm of accountants.
9. As a holder of an ACCA practising certificate, ACCA acts as Mrs Calas-Hathaway's anti money laundering ("AML") supervisor and monitors her and the firm's compliance with the MLRs 2017.
10. By virtue of regulation 18(1) of the MLRs 2017, from 26 June 2017 Mrs Calas-Hathaway was required to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which the firm is subject.
11. In carrying out such a risk assessment, Regulation 18(2) of the MLRs 2017 required that Mrs Calas-Hathaway consider:
 - 10.1 Information made available to her by ACCA under MLRs 17(9) and 47.
 - 10.2. Risk factors including factors relating to the firm's:
 - 10.2.a. Customers;
 - 10.2.b. The countries or geographic areas in which the firm operates;
 - 10.2.c. Products or services;
 - 10.2.d. Transactions; and
 - 10.2.e. Delivery channels.
12. In deciding what steps were appropriate under regulation 18(1), Mrs Cals-Hathaway was required to consider the size and nature of the firm's business, keep an up-to-date written record of all the steps taken under regulation 18(1) or the MLRs 2017 and provide the risk assessment prepared and the information on which the threat risk assessment was based, to ACCA on request.
13. By virtue of regulation 19 of the MLRs 2017, from 26 June 2017 Mrs Calas-Hathaway was required to establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment undertaken under regulation 18(1).

14. Similarly, Mrs Calas-Hathaway was required to regularly review and update the policies, controls and procedures established under regulation 19 of the MLRs and maintain a record in writing of:
 - a) The policies, controls and procedures established under regulation 19 of the MLRs 2017;
 - b) Any changes to those policies, controls and procedures made as a result of the review and update; and
 - c) The steps taken to communicate those policies, controls and procedures, or any changes to them within the firm.
15. On the 26 November 2021, Mrs Calas-Hathaway submitted, or caused to be submitted, an ACCA Anti-Money Laundering (AML) Risk Questionnaire confirming that the information submitted was true, accurate and complete to the best of her knowledge.
16. In answer to the question as to whether she, as the firm's MLRO, conducted a firm-wide risk assessment for the firm and documented it she responded – "No".
17. In answer to the question as to whether her firm had documented AML Policies and Procedures in place, Mrs Calas-Hathaway selected the option -'No'.
18. ACCA contacted Mrs Calas-Hathaway on 23 November 2022 informing her that the firm was in breach of the MLRs 2017 and that action was required.
19. In the letter Mrs Calas-Hathaway was told that once the controls were implemented the AML Declaration Form should be completed confirming compliance with the MLRs 2017.
20. On the 24 November 2022 Mrs Calas-Hathaway completed and electronically submitted the AML Declaration Form.
21. The firm was thereafter selected for an AML compliance review and on the 11 May 2023 was sent a request for the following information:
 - 20.1. The most recent Firm-Wide Risk Assessment;

20.2. The current AML Policy and Procedures; and

20.3. Evidence of AML Training being provided to all relevant employees.

22. On the 12 May 2023 a response was received from Mrs Calas-Hathaway providing Firm-Wide Risk Assessment (FWRA) and AML procedures.
23. After an initial review a further request for information was made to Mrs Calas-Hathaway on 15 May 2023 relating to the AML Procedure document and requesting previous versions of the FWRA.
24. Mrs Calas-Hathaway replied by email on the 16 May 2023.
25. On the basis of the information provided Mr Lui, who conducted the ACCA's compliance review, made the following findings:
 - a) The firm had not conducted or documented a Firm-Wide Risk Assessment prior to 12 May 2023.
 - b) There were significant discrepancies in the information provided to ACCA regarding completion of a FWRA. Namely, that the firm completed and returned a declaration on 24 November 2022 confirming that a FWRA was in place. During the review the FWRA provided was dated 12 May 2023, 6 months after submission of the declaration, and confirmed as the first and only documented FWRA.
 - c) The firm did not have an AML Policy and Procedures(P&Ps) document in place until 12 May 2023.
 - d) There were significant discrepancies in the information provided to ACCA regarding the firm's P&Ps. Namely, that the firm completed and returned a declaration on the 24 November 2022 confirming that an AML P&P was in place. During the review the P&Ps document provided on the 12 May 2023 was confirmed as the first version, completed 6 months after the declaration was submitted.
26. The firm was found to be non-compliant as follows:

FIRM-WIDE RISK ASSESSMENT

27. It is a legal requirement for the MLRO to conduct and keep up to date a Firm-Wide Risk Assessment, which assesses the money laundering risks that the firm is exposed to.
28. On the 26 November 2021 Mrs Calas-Hathaway completed and submitted the risk assessment questionnaire stating that the MLRO had not been conducted and documented a Firm-Wide Risk Assessment.
29. On the 24 November 2022 Mrs Calas-Hathaway completed and electronically submitted the AML Declaration Form confirming compliance.
30. During the AML compliance review a copy of the Firm-Wide Risk Assessment was provided dated 12 May 2023.
31. This was confirmed as the first such document prepared in relation to the firm.
32. The firm was therefore found to be in breach of regulation 18 of the MLRs 2017 between 26 June 2017 and 12 May 2023.

ANTI-MONEY LAUNDERING POLICY AND PROCEDURES.

33. It is a legal requirement for a firm to have documented Anti-Money Laundering Policies and Procedures and that these be regularly reviewed.
34. On the 26 November 2021 the firm completed and submitted the Risk Assessment Questionnaire. When asked whether the firm had documented AML Policies and Procedures in place Mrs Calas-Hathaway responded 'No'.
35. On the 24 November 2022 Mrs Calas-Hathaway completed and electronically submitted the AML Declaration Form confirming compliance.
36. During the AML compliance review a copy of the AML Policies and Procedures was provided dated 12 May 2023.
37. The firm was therefore found not to have a documented Anti-Money Laundering Policy and Procedures document prior to 12 May 2023 in breach of the MLRs 2017.

38. On the 08 June 2023 Mr Lui referred Mrs Calas-Hathaway to ACCA's Assessment/ Investigations Team in relation to potential breaches of the MLRs 2017.
39. On 29 June 2023 a Senior Investigations Officer wrote to Mrs Calas-Hathaway.
40. On the 10 July 2023 Mrs Calas-Hathaway responded stating amongst other things that:
 1. Mrs Calas Hathaway confirmed that the Firm-Wide Risk Assessment dated the 12 May 2023 was the first time such an assessment had been recorded in writing. She however, asserts that she did assess the firms risk at regular intervals.
 2. In relation to the AML procedures document provided on the 12 May 2023 she confirmed that this was produced on the same date.
 3. However, she states that there were procedures that were followed but not documented.
 4. Finally, she asserts that she 'didn't knowingly sign the declaration to be dishonest or lack integrity. I felt that I did have a procedure for carrying out AML checks and assessing the firmwide risk but these were not documented by were nonetheless carried out.
41. By email dated the 29 June 2023 Mr Lui confirmed to the Senior Investigation Officer that Mrs Calas-Hathaway has now regularised the firm's position.
42. On 28 November 2023 the matter was referred to the Disciplinary Committee by the Independent Assessor.
43. In a letter dated 5 March 2024 ACCA's Case Progression Officer advised Mrs Calas Hathaway that ACCA was willing to dispose of this matter by way of a Consent Order. In an email response of 15 March 2024, Mrs Calas-Hathaway's representative confirmed that she was willing to consider disposal by consent by stating as follows:

Mrs Calas-Hathaway agrees to the ACCA's consent order proposal as set out in the Letter, namely the proposed sanction of a reprimand and £3,000 fine, together with

£2,000 costs. She wishes to indicate that she will make full admissions to the allegations as set out at page 1 of the letter.

DECISION AND REASONS

44. 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.
45. 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 Mrs Calas-Hathaway's admissions and found Allegations 1, 2 and 3 proved. The Chair was also satisfied that Mrs Calas-Hathaway's actions and omissions amounted to misconduct and had brought discredit to her, the Association and the accountancy profession.
46. 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.
47. 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 Mrs Calas-Hathaway's own interests.
48. 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'.
49. The Chair found the following to be aggravating factors:
 - a. The MLRs 2017 came into force on 26 June 2017 and apply to the firm.
 - b. Mrs Calas-Hathaway being unable to demonstrate that the firm had;

- (i) conducted and documented a firm wide risk assessment prior to 12 May 2023, in accordance with regulation 18 of the MLRs 2017 and
 - (ii) had a written record of the policies, controls and procedures prior to 12 May 2023, established under regulation 19 of the MLRs 2017. Period of time where there were no proper controls in place.
- c. Mrs Calas-Hathaway's inaccurate responses in the declaration.
 - d. The conduct which led to Mrs Calas-Hathaway being the subject of these proceedings fell below the standards expected of a qualified ACCA member.

50. The Chair found the following to be mitigating factors:

- a. Mrs Calas- Hathaway has complied with ACCA's directions and advice provided by ACCA;
- b. There is no evidence Mrs Calas-Hathaway's conduct as set out in this order was dishonest or a deliberate breach of ACCA's Membership Regulations. Rather, based on her response to the complaint, it would appear to have been inadvertent.
- c. There is no evidence that the consequences of Mrs Calas-Hathaway's conduct has caused material distress, inconvenience or loss to any clients.
- d. Mrs Calas-Hathaway has shown insight by making admissions.
- e. The investigation has not found evidence suggesting Mrs Calas-Hathaway's conduct was in deliberate disregard of his professional obligations.
- f. There does not appear to be any continuing risk to the public.
- g. Mrs Calas- Hathaway has been a member of ACCA since 31 October 2006 and has a previous good record with no previous complaint or disciplinary history.
- h. Mrs Calas-Hathaway has fully co-operated with the investigation and regulatory process.
- i. Mrs Calas-Hathaway has ultimately admitted her conduct.

51. The Chair was satisfied that the allegations admitted by Mrs Calas-Hathaway would be unlikely to result in her exclusion from membership of ACCA and that, under Regulation 8(12), there was no basis for him to reject the Consent Order.
52. The Chair paid due regard to ACCA's Guidance for Disciplinary Sanctions (updated 14 February 2024). He found the following factors in relation to the sanction of a reprimand were relevant in this case:
- a. The misconduct was as a result of misunderstanding on Mrs Calas-Hathaway's part, rather than a deliberate attempt to circumvent ACCA's rules and regulations.
 - b. Mrs Calas-Hathaway has demonstrated a willingness to comply with directions and advice provided by ACCA.
 - c. Corrective steps have been taken by Mrs Calas-Hathaway and the Firm to ensure that there is no repeat of the misconduct.
 - d. There appears to have been no adverse consequence or harm to the public – the misconduct has not caused material distress, inconvenience or loss.
 - e. There has been early and genuine acceptance of the misconduct and Mrs Calas-Hathaway made early admissions to his misconduct.
 - f. There is evidence of remorse and insight.
53. The Chair, having considered all the documentary evidence before him, was satisfied that the sanction of a reprimand and a fine of £3,000 was the appropriate and proportionate sanction in this case. The Chair noted that Mrs Calas-Hathaway had agreed to pay ACCA costs in the sum of £2,000. 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. Mrs Calas-Hathaway shall be reprimanded.
- ii. Mrs Calas-Hathaway shall pay costs to ACCA in the sum of £2,000 and a fine of £3,000

54. 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
29 May 2024