

APPLICATION ON PAPERS

CONSENT ORDERS CHAIR OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of:	Mr Richard Adrian Edwards
Considered on:	Monday, 04 November 2024
Location:	Remotely via Microsoft Teams
Chair:	Ms Kathryn Douglas
Legal Adviser:	Mr Ashraf Khan
Outcome:	Severe reprimand and £5,000 fine
Costs:	£1,769.00

INTRODUCTION

1. The Chair has considered a draft Consent Order, signed by a signatory on behalf of the ACCA on 15 October 2024, together with supporting documents in a bundle numbering pages 1-282.
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”.

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3. The Chair was satisfied that Mr Edwards was aware of the terms of the draft Consent Order and that it was being considered today. He had signed the Order on 15 October 2024.
4. The Chair was also satisfied that Mr Edwards was aware that he could withdraw his 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 Mr Edwards in accordance with CDR8(1)(a) and was satisfied that:
 - 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 Mr Edwards, and that there was a real prospect of a reasonable tribunal finding the allegations proved; and
 - The proposed allegation was unlikely to result in exclusion from membership.
6. The relevant facts, failings and/or breaches have been agreed between the parties, together with the proposed sanction and costs.

ALLEGATIONS

Mr Richard Adrian Edwards, an ACCA Fellow admitted the following:

1. Between 26 June 2017 and October 2022, failed on behalf of Firm A to comply with (or demonstrate compliance with) the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs 2017), namely:
 - (a) Regulation 18 (Risk assessment by relevant persons); and/or
 - (b) Regulation 19 (Policies, controls and procedures); and/or

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- (c) Regulation 21 (Internal Controls); and/or
 - (d) Regulation 24 (Training).
2. By reason of his conduct set out in allegation 1 above, Mr Edwards failed to comply with the Fundamental Principle of Professional Behaviour and Section B2 (Anti-money laundering) of ACCA's Code of Ethics and Conduct (as applicable from 2017 and 2022).
3. By reason of his conduct, Mr Edwards is guilty of misconduct pursuant to bye-law 8(a)(i)

BRIEF FACTS

7. A summary of the key facts is set out below:
- Mr Edwards became an ACCA Member on 12 May 1977 and an ACCA Fellow on 8 September 1982. He is the Principal and Money Laundering Reporting Officer of Davies Edwards & CO ("the firm"). Mr Edwards also holds a Practising Certificate ("PC") with ACCA.
 - As a holder of a PC with ACCA, there is a mandatory requirement for the firm to be monitored by ACCA to assess compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("MLRs 2017"). The MLRs 2017 came into force on 26 June 2017. They apply to anyone providing accountancy services to other persons by way of business in the UK.
 - ACCA-supervised firms are required to monitor and manage their own compliance requirements with the MLRs 2017 and make sure they are familiar with the requirements of the MLRs 2017 to ensure continuing compliance. The MLRs 2017 require firms to have in place anti-money laundering systems and controls that meet the requirements of the UK anti-money laundering regime.

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- ACCA also considers Anti-Money Laundering Guidance for the Accountancy Sector (“AMLGAS”). AMLGAS is guidance based on the law and regulations as of 26 June 2017. It covers the prevention of money laundering and the countering of terrorist financing. It is intended to be read by anyone who provides audit, accountancy, tax advisory, insolvency or trust and company services in the United Kingdom and has been approved and adopted by the UK accountancy AML supervisory bodies.

- Section B2 of ACCA’s Code of Ethics and Conduct (Anti-money laundering) had also been considered in this matter, in particular the following sections:
 - Paragraph 5 – Relationship with the local law.
 - Paragraphs 7 and 8 – Internal controls and policies.
 - Paragraph 18 and 18 – Recognition of suspicion.
 - Paragraphs 19, 20 and 21 – Reporting suspicious transactions.

- A desk-based monitoring review of the firm was carried out by ACCA’s AML Team in order to monitor its compliance with MLRs 2017.

- During the AML monitoring review, the firm displayed poor AML controls. The following AML controls were tested and found to be non-compliant at the point in which the AML review began:
 - Firm-wide risk assessment (“FWRA”) – the FWRA is not a comprehensive and accurate assessment of the firm’s degree of risk exposure. The firm acknowledged in its 2021/2022 ACCA AML risk assessment questionnaire that it has higher-risk client types such as high value dealers, import/export and property investment clients that have been identified within the FWRA. Therefore, it has not undertaken a proper assessment of risk associated with these clients and considered what mitigations may be appropriate. In addition, the mitigations that have been included within the client criterion are generic; the firm has not outlined any measures that specifically target

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the risks presented to the firm by its high-risk clients, such as cash intensive business for example.

- AML Policy and Procedures (“AML P&Ps”) – Details regarding some key controls are either absent or insufficiently articulated, e.g. no enhanced due diligence (“EDD”) process outlined, no compliance management and MLRO report process outlined.

- Suspicious activity reporting – The firm does not have a formal, documented process for employees to escalate suspicious activity to the MLRO. It was confirmed during the AML review that employees escalate suspicious activity by having a verbal discussion with the MLRO. Whilst it was reasonable for an employee to verbally discuss suspicions with the MLRO prior to making a formal report, all formal SARs made to the MLRO should be formally documented so employees can evidence they are undertaking their legal obligations of escalating suspicious activity to the MLRO. It has been noted that no internal SARs have been made to the MLRO and the firm has not submitted any SARs to the NCA. Given that some of the firm’s clients possess typical high-risk factors and the firm provides services which have been identified as being highest risk by HM Treasury, the lack of SARs may be due to underlying causes such as lack of training and awareness.

- Training – Training has not been provided to relevant employees on a periodic basis.

DECISION ON ALLEGATIONS AND REASONS

8. 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.

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9. 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.
10. The Chair considered the bundle of evidence. Based on the documentary evidence, the findings of ACCA, together with the admission of the allegation by Mr Edwards, the Chair found the allegation pursuant to bye-law 8(a)(vi) proved.

SANCTION AND REASONS

11. In deciding whether to approve the proposed sanction of a severe 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.
12. In deciding that a severe reprimand was the most suitable sanction, paragraphs C4.1 to C4.5 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 length of time during which Mr Edwards was in breach of the MLRs 2017.
- The conduct which led to Mr Edwards being in breach of the MLRs 2017 fell below the standards expected of an ACCA member.

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Mitigating

- Mr Edwards has been a member of ACCA since 1977 and has a previous good record with no previous complaint or disciplinary history.
 - Mr Edwards has fully cooperated with the investigation and regulatory process and has also provided evidence of his health concerns which goes some way to mitigate his conduct.
 - Mr Edwards has ultimately admitted his conduct.
 - Mr Edwards has provided positive personal references.
 - Mr Edwards has sought to rectify any breaches of the MLRs and clarify his understanding of the importance of complying with AML requirements. He has provided evidence of his CPD/Training which shows that he has completed an AML course and test, and he has also confirmed that all his staff have completed the same.
 - Mr Edwards has confirmed that all recommendations made in the AML report have now been complied with.
 - There is therefore no continuing risk to the public.
 - Mr Edwards has expressed genuine insight and remorse into the conduct which led to this referral being made by the AML Team.
13. The Chair considered that both the aggravating and mitigating factors identified by ACCA were supported by documentary evidence and were relevant.
14. In the Chair's view, the public interest would not be served by making no order, an admonishment or reprimand. The Chair was satisfied that the sanction of severe reprimand together with a fine was proportionate and

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sufficient. In the Chair's view, an order excluding Mr Edwards 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

15. The Chair is satisfied Mr Edwards is able to pay costs as agreed in the proposed Consent Order.
16. ACCA is entitled to its costs in bringing these proceedings. The claim for costs in the sum of £1,769.00 which has been agreed by Mr Edwards appears appropriate.

ORDER

17. The Chair approved the terms of the attached Consent Order. In summary:
 - Mr Edwards shall be severely reprimanded.
 - Mr Edwards shall be fined £5,000
 - Mr Edwards shall pay costs of £1,769.00 to ACCA.

Ms Kathryn Douglas
Chair
04 November 2024