

HEARING

**CONSENT ORDERS COMMITTEE OF THE ASSOCIATION OF
CHARTERED CERTIFIED ACCOUNTANTS****REASONS FOR DECISION**

In the matter of: Mr Ellis Bennett

Heard on: Friday, 11 October 2024

Location: Remotely, via MS Teams

Committee: Mr Tom Hayhoe (Chair)

Legal Adviser: Miss Judith Chrystie

Summary Approved consent order dated 19 September 2024 setting out that Mr Bennett:

- 1. Be reprimanded, and**
- 2. Shall pay costs to ACCA in the sum of £2,000 in 12 monthly instalments.**

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INTRODUCTION

1. A Consent Order is made on the order of the Chair under regulation 8 of the Complaints and Disciplinary Regulations 2014 (as amended) (the Regulations’).
2. In considering whether to approve the consent order, the Chair had regard to the following case documents:
 - Electronic copy of draft signed Consent Order dated 19 September 2024 with page numbers 1-13
 - Consent Order evidence bundle with page numbers 1-171
 - Consent Order Committee referral form
 - Simple Cost Schedule
 - Detailed Cost Schedule
3. The Chair accepted the advice of the Legal Adviser and had regard to ACCA’s Guidance for Disciplinary Sanctions (Sanctions Guidance’) as well as ACCA’s Consent Order Guidance and Consent Order Guidance FAQs.

ALLEGATIONS

4. Within the draft consent order, Mr Bennett admitted the following:

ALLEGATION 1

- a. Mr Bennett breached the ACCA’s Fundamental Principle of Professional Behaviour (2024) in that he: when undertaking marketing and promotional activities, brought the profession into disrepute. Mr Bennett was responsible for content posted on his social media platform between March 2024 and June 2024, which contained misleading tax advice.
- b. Mr Bennett breached the ACCA’s Fundamental Principle of Professional Competence and Due Care (2024) in that he: when undertaking marketing and promotional activities, was responsible for content posted on his social media platform between March 2024 and June 2024, which contained incomplete advice in respect of tax savings available to the public. The advice failed to fully

comply with the requirements of the 'Professional Conduct in Relation to Taxation' principles and standards, which were binding upon Mr Bennett as an ACCA member. Mr Bennett failed to disclose that his advice was generic and/or dependant on certain assumptions and specific advice was to be taken before the user acted upon it.

- c. Is, by virtue of the facts above, guilty of misconduct pursuant to bye-law 8(a)(i).
5. The consent order was signed by Mr Bennett and ACCA on 19 September 2024 and agreed that subject to approval by the Chair under regulation 8 of the Regulations, Mr Bennett should be reprimanded and pay costs to ACCA in the sum of £2,000 in 12 monthly instalments.
6. Throughout the process Mr Bennett represented himself; no legal representative acted on his behalf.

BRIEF BACKGROUND

7. On 31 October 2019, Mr Bennett became an ACCA member. He has held a Practising Certificate with the ACCA since 05 April 2023.
8. On 23 April 2024 ACCA raised a complaint regarding content posted between March 2024 and May 2024 on the social media platform 'LinkedIn'. The post was made on a public 'LinkedIn' account named 'Ellis Bennett ACCA' by an agency acting on Mr Bennett's behalf in accordance with a contractual agreement.
9. By the terms of the agreement, Mr Bennett was responsible for the postings and in correspondence with ACCA he confirmed that he gave the agency the ideas for the content to be posted.
10. Post #1 was posted in May 2024. It said: '*You can earn £54,270 and pay just 6% tax*'. Information was also given about the amount of salary and dividends to be taken.
11. Post #2 was posted in March 2024 It advised about corporation tax savings if a salary of £12,570 was taken per annum from a limited company and stated:

Start declaring a salary from your Limited Company to save £12,570 every year... That's going to save you up to £3,300 in Corporation Tax.

If you own a Limited Company, you get a personal tax allowance of £12,570. Use it by paying yourself a director's salary of £1047.50 every month. This way, the income of £12,570 essentially becomes tax free

12. Beneath the posts there were various messages – some referencing the accessible nature of the advice but others raising concerns that it ignored corporation tax among other consequences, did not provide, *'the full picture'* and was not, *'quite the tax saving it looks on the surface'*.
13. ACCA argued that the advice in the posts was incomplete, misleading and confusing as the tax savings suggested by Mr Bennett would depend on several factors and would differ depending on the status of the individual and their personal affairs. ACCA stated that Mr Bennett had not:
 - Made it clear that the information provided was from a personal tax perspective only,
 - Addressed the other tax implications for the company or the individual (such as corporate tax or on personal allowances) and costs and expenses that may be incurred
 - Consider additional considerations arising (such as when a company starts to pay a salary),
 - Identified for whom the advice was relevant,
 - Reflected particular aspects of HMRC requirements.
14. ACCA stated that the provisions set out in the Professional Conduct in Relation to Taxation (PCRT) were relevant to ACCA members issuing tax advice. The PCRT identified the risks of *'Generic opinions or advice that does not take into account the position of specific taxpayers (or a narrowly defined group of taxpayers'* and stated an accountant should highlight any assumptions made as well as the need to seek specific advice to prevent any misunderstandings.
15. ACCA submitted that Mr Bennett had breached ACCA's Code of Ethics and Conduct (in particular, the Fundamental Principles of Professional Behaviour and Professional Competence and Due Care), including in respect of maintaining professional knowledge and skill.

16. ACCA submitted Mr Bennett's conduct fell below the standards expected of a qualified ACCA member and brought discredit upon himself, ACCA and the accountancy profession. The following were identified by ACCA as aggravating features:
- There was potential for financial loss or adverse impacts on the clients or third parties who may have relied upon the advice.
 - The conduct occurred on multiple posts made on Mr Bennett's social media platform.
 - Mr Bennett had disciplinary history with ACCA from 2023.
17. In mitigation, ACCA identified that Mr Bennett had complied with ACCA's direction, acknowledged his failings and expressed a willingness to improve. ACCA noted that the investigation had not found evidence suggesting Mr Bennett's conduct was deliberate, and supportive character references had been provided by Mr Bennett.
18. ACCA argued that a reprimand was proportionate and reflected Mr Bennett's conduct and the public policy considerations that ACCA must consider in deciding on the appropriate sanction.
19. Mr Bennett provided statements from three character witnesses: a work colleague, a client and an independent financial adviser. The evidence included statements included that Mr Bennett was:
- Trustworthy,
 - Always acted in the best interests of clients,
 - Was committed to '*helping others navigate the complexities of tax and finance*', and
 - Offered clear, practical, researched and well-informed, correct advice.
20. Mr Bennett submitted a personal statement in which he described himself as a dedicated accountant and referenced the respect and regard he had for ACCA and its values. He explained that his aim was to provide basic but effective accountancy tips to help small business and individuals. He recognised that the advice was '*not universally applicable to every situation*' but that he intended to provide '*foundation knowledge*' to empower people. He stated he had a deep commitment to:

'...making a positive difference in our industry, and I believe that by sharing accessible and inclusive advice, I can contribute to a more financially literate society'

21. Mr Bennett supplied written evidence to support his statement of financial means including invoices regarding his income as well as his rent and utility outgoings.

DECISION AND REASONS

22. The Chair recognised his power under Regulation 8 of the Regulations to approve any signed draft consent order should he consider it appropriate to deal with a matter by a consent order. The Chair acknowledged his power to approve a consent order setting out a sanction that a Disciplinary Committee would have the power to make under Regulations 13 and 15 of the Regulations - except a sanction of excluding Mr Bennett from membership.
23. The Chair also acknowledged that he could recommend amendments to the signed order and subsequently approve any agreed amended order.
24. For the reasons set out below, the Chair was satisfied that it was appropriate to deal with the matter by way of a consent order and to approve the draft consent order signed by ACCA and Mr Bennett on 09 September 2024.
25. The Chair accepted ACCA's view that Mr Bennett's posts did not amount to deliberate and intentional failings; these were careless posts which revealed that Mr Bennett was not fully or carefully considering the output being produced by the marketing agency on his behalf and not displaying the level of diligence expected from an ACCA member.
26. Mr Bennett had allowed two posts to be published, which - as he accepted - contained misleading and incomplete advice. The posts failed to provide disclaimers about the generic nature of his advice, that it was based on assumptions and that bespoke advice should be obtained. Mr Bennett breached the ACCA's Fundamental Principle of Professional Behaviour and failed to comply with the 'Professional Conduct in Relation to Taxation'.

27. Although these were serious failings, the Chair was satisfied that Mr Bennett's breaches were not incompatible with him remaining a member of ACCA and should not lead to exclusion from membership. The Chair acknowledged that, through his engagement in the investigation, Mr Bennett had signed a consent order accepting his failings and had acknowledged the need to improve. Further, there was no evidence that the defective postings had caused direct or immediate harm – although the potential for harm and for reputational damage was, in the Chair's view, clear given the inadequate and incomplete advice set out in the posts.
28. The Chair considered an order for a reprimand was proportionate. He considered that imposing no sanction or an admonishment would not address the significant nature of the failing and the consequential misconduct nor reflect that Mr Bennett has recent disciplinary history with ACCA – although the nature of this was not provided.
29. The Chair considered that a reprimand was the minimum order necessary to uphold public confidence in the accountancy profession and its regulation as well as declaring and upholding of professional standards expected of the profession. A reprimand recognised that Mr Bennett had cooperated with ACCA and appeared to be developing insight into his failings, which were unintentional, and that he acknowledged the need to improve.

COSTS

30. The Chair considered the cost order in the sum of £2,000. He considered that it was appropriate for Mr Bennett to contribute to the cost of the proceedings relating to his admitted breaches and misconduct rather than for those costs to be borne by the wider ACCA membership.
31. The Chair was satisfied that this sum was reasonable and had been reasonably incurred.
32. The Chair considered the financial statement and evidence provided by Mr Bennett, together with the agreement with ACCA that the sum would be paid in monthly instalments over the next 12 months and concluded that £2,000 reflected the cost incurred in investigating this matter and the process leading

to his consideration of the agreed consent order and imposing this sum – which had been agreed by Mr Bennett would not cause undue hardship.

33. In summary, the Chair determined that the signed draft consent order should be approved in accordance with his power under Regulation 8 of the Regulations.

Mr Tom Hayhoe
Chair
11 October 2024