

**THE ASSOCIATION OF TAXATION TECHNICIANS**

**-v-**

**DARREN JAMIE MOYSEY, ATT**

**Introduction**

1. The Disciplinary Tribunal sat on Friday 1 April 2016 at Artillery House, 11-19 Artillery Row, London SW1 to hear charges brought against Mr Moysey.
2. The Tribunal was chaired by Mr Peter Cadman sitting with Ms Linda Lee and Mrs Teresa Payne. The Presenter was Mr Ben Smiley, Counsel. The Clerk to the Tribunal was Mr Nigel Bremner. Mr Moysey was not present and was not represented.

**Absence of the Defendant**

3. The Tribunal was shown that notice of these proceedings had been served on the Defendant by recorded delivery by letters dated 21 January 2016, 26 February 2016 and 7 March 2016. The Tribunal was shown proof of posting and receipt.
4. The Presenter applied for the proceedings to continue in the absence of the Defendant. The Tribunal considered this matter carefully. The Tribunal considered the interest of the Defendant in attending the Tribunal. However, the Tribunal

concluded that the public interest in the expeditious hearing of disciplinary matters outweighed the interests of the Defendant. Further, there was nothing before the Tribunal to suggest that any adjournment would actually result in the attendance of the Defendant. The Tribunal therefore decided to proceed in the absence of the Defendant.

## **The Charges**

5. The Defendant was charged as follows:

- (1) Rule 2.1 (Overview of the fundamental principles);
- (2) Rule 2.2.2 (Integrity);
- (3) Rule 2.6.1 (Professional behaviour);
- (4) Rule 2.6.2 (Professional behaviour);
- (5) Rule 2.9.2 (Compliance with the disciplinary process and orders from the Taxation Disciplinary Board (the “TDB”)) and;
- (6) Rule 2.10.1 (Obligation to notify the CIOT and the ATT)

### **Charge 1 (The “Integrity Charge”)**

In breach of Rule 2.2.2 of the PRPG, the Defendant engaged in and/or was party to illegal activity.

In particular, on 13 March 2015, the Defendant was, upon his own confession, convicted on indictment of fraud by abuse of position (the “Conviction”) for which he was sentenced to (a) imprisonment for 8 months, suspended for 18 months, and (b) 200 hours unpaid work.

In this regard, reference will be made to the certificate of the Conviction.

## **Charge 2 (The “Failure to Notify Charge”)**

In breach of Rule 2.10.1 of the PRPG, the Defendant failed to inform the ATT promptly that he had been convicted of a criminal offence.

In particular, following the Conviction on 13 March 2015, the Defendant failed to inform the ATT of the same, whether promptly or at all. Instead, the ATT discovered and/or was informed about the Conviction from:

- (a) The report of the Defendant’s Conviction (and its underlying factual basis) in the Torquay Herald Express, dated 18 April 2015;
- (b) The email from the Defendant’s client (and the victim of his illegal activity), Ms Jane Cabrera, to the ATT, dated 30 June 2015;
- (c) The email from DC Jane Locke of the Devon and Cornwall Police to Mr Peter Douglas of the Taxation Disciplinary Board, dated 21 May 2015.

In this regard, reference will be made to the documents identified above.

## **Charge 3 (The “Professional Behaviour Charge”)**

In breach of Rules 2.1, 2.6.1 and/or 2.6.2 of the PRPG, the Defendant:

- i. failed to take due care in his conduct;
- ii. failed to uphold the professional standards of the ATT as set out in the Laws of the ATT;
- iii. performed his professional work, or conducted his practice or business relationships improperly to such an extent as to be likely to bring discredit to himself, to the ATT or to the members or any part of the membership or to the tax profession;
- iv. breached the Laws of the ATT; and/or
- v. failed to comply with relevant laws and regulations and failed to avoid any action that discredits the profession.

The Defendant breached the above Rules relating to his Professional Behaviour in that he (i) engaged in illegal activity, as above, (ii) was convicted and sentenced; (iii) was the subject of publicity in relation to the foregoing; and (iv) brought the names of his professional bodies into disrepute.

In this regard reference will be made to:

- (a) the facts and matters relied upon in relation to the Integrity Charge;
- (b) the report of the Defendant's Conviction (and its underlying factual basis) in the Torquay Herald Express, dated 18 April 2015;
- (c) the email from the Defendant's client (and the victim of his illegal activity), Ms Jane Cabrera, to the ATT dated 30 June 2015;
- (d) the breaches of other Rules of the PRPG (and hence the Laws of the ATT) as set out in this Schedule of Charges.

### **The Hearing**

6. The Tribunal noted that the Certificate of Conviction from Exeter Crown Court showed that on 30 March 2015 the Defendant pleaded guilty to an indictment of fraud by abuse of position. The Certificate of Conviction also showed that on 17 April 2015 the Defendant was sentenced to 8 months imprisonment suspended for 18 months and ordered to undertake 200 hours unpaid work. The Tribunal's attention was drawn to adverse local press coverage in the Torquay Herald Express. The Tribunal also noted an email from the investigating Police Officer of Devon & Cornwall Police confirming that the Defendant had taken money from a client on the proviso that he would pay her tax bill but he actually kept the money himself.

### **Findings**

7. The Tribunal noted that under Rule 30.5(a) the Certificate of Criminal Conviction is conclusive evidence that the Defendant was guilty of the offence. The Tribunal also noted that the Defendant had failed to inform the Association of Taxation Technicians

promptly that he had been convicted of a criminal offence. In fact the attention of the ATT was drawn to the conviction by the victim of the fraud and by the police.

8. The Tribunal find all the allegations against the Defendant proved.

### **Sanction**

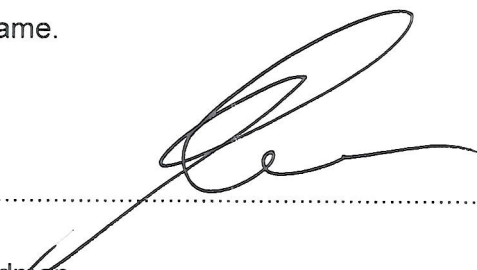
9. The Tribunal determined that the only appropriate sanction for such conduct was expulsion. The allegation involved theft of client's money by a deliberate act of dishonesty. The Tribunal noted that the monies had been repaid but the charges are of such gravity that no order less than expulsion would be appropriate and proportionate in the circumstances to protect the public and to protect the reputation of the profession.

### **Costs**

10. The Tribunal also ordered that the costs in these proceedings in the sum of £2,862.83 be paid by the Defendant.

### **Publication**

11. The Tribunal also ordered that, in accordance with Regulations 28.1, this order and these findings should be published as soon as practical referring to Mr Moysey by name.



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Peter Cadman  
Chairman

Dated this 1 day of April 2016