

**IN THE DISCIPLINARY TRIBUNAL**  
**OF THE TAXATION DISCIPLINARY BOARD**

**TDB/2019/37**

**B E T W E E N**

**THE TAXATION DISCIPLINARY BOARD (“TDB”)**

*– and –*

**MR STEVEN G HEATH**  
**(CIOT No. 142126)**

*Defendant*

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**DECISION**

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**Introduction**

1. The Disciplinary Tribunal sat on 4 August 2020 to hear charges brought by the Taxation Disciplinary Board (TDB) against Mr Stephen G Heath ("the Respondent"), following receipt of information from AL ("the Complainant").
2. The hearing was conducted remotely via a video conference platform due to the Covid-19 pandemic. The Tribunal was chaired by Ms Linda Lee, a solicitor, sitting with Ms Gill Hawken, a lay member and Mr Julian Stafford, a Chartered Institute of Taxation (CIOT) member. The Presenter was Ms Sasha Queffurus of

Counsel. The Respondent was present and represented himself. The Clerk to the Tribunal was Mr Nigel Bremner.

### **The Background**

3. AL was an ex-military veteran who suffered from Post-Traumatic Stress Disorder (PTSD). She engaged the accounting services of the Respondent in early 2015. She instructed him to act for herself, her husband, IL and her company L Ltd. AL claimed that from the outset, the Respondent was slow to respond to correspondence and that she regularly had to chase him for information and updates. He also failed to file certain returns on time or at all. This caused AL stress throughout the relevant period and resulted in difficulties when applying for her daughter's student finance, applying for an adapted disability car and renewing her mortgage in 2017. In addition, the Respondent failed to meet deadlines for tax returns / accounts and gave HMRC incorrect information.
4. As a result of this behaviour, AL terminated her professional relationship with the Respondent on 17 May 2019. She moved to Tamar Accounting (TA). Following this move, both AL and TA requested information and documentation from the Respondent to assist with the handover and to allow TA to take on AL's accounts in a timely manner. The Respondent failed to respond to correspondence from both AL and TA in a timely manner and failed to provide adequate information and documentation in order for the handover to TA to be facilitated. This caused more difficulties for AL in obtaining a disability vehicle and led to her losing out on a competitive mortgage rate, which resulted in financial loss to her of £850.39 and caused AL to sell the property because it was costing too much. It also affected TA's ability to efficiently takeover AL's accounts and resulted in extra work for them to ensure AL's tax return for 2019 was completed on time.
5. AL contacted CIOT on 29 November 2019 and raised a complaint about the Respondent for failing to pass on information to her new accountants, TA, so that

they could meet an approaching filing deadline. The complaint was passed to TDB. Telephone contact was made with AL and a complaint form sent to her, which she completed and returned on 4 December 2019. On 19 December 2019 AL contacted TDB with new information stating the Respondent had failed to prepare, make up or file company accounts properly, or at all, for the last 2 years and had failed to notify corporation tax causing AL to have to find funds to pay her tax liability at short notice. She also noted that SH had incorrectly advised TA that there was an outstanding invoice in the sum of £250 to be paid by AL, when in fact it had already been paid. SH also failed to inform AL of a liability outstanding on her husband, IL's tax return from 12 September 2018, again resulting in her having to find funds at short notice.

6. On 15 January 2020 the Respondent emailed TDB acknowledging the complaint and wrote a letter accepting his behaviour had fallen below the professional standards expected of a CIOT member. He offered to apologise to AL unreservedly, noting the pressure of being a sole practitioner and also citing personal health issues being a factor affecting his behaviour. He then sent an apology to AL.

### **The Charges**

7. The charges set out below refer to the following rules of the Professional Rules and Practice Guidelines 2011 of the Chartered Institute of Taxation (the "CIOT") and the Association of Taxation Technicians (the "ATT") in force from 31 March 2011, until 8 November 2018 (the "PRPG 2011"):
  - (1) 2.1, 2.6.2 and 2.6.3 (professional behaviour)

and the following rules of the Professional Rules and Practice Guidelines 2018 of the Chartered Institute of Taxation (the "CIOT") and the Association of Taxation Technicians (the "ATT") in force from 9 November 2018 (the "PRPG 2018"):

- (1) 2.1, 2.6.3 and 2.6.4 (professional behaviour)
- (2) 10.1.3 (ceasing to act)

**Charge 1 (professional behaviour)**

1.1. In breach of rules 2.1, 2.6.2 and / or 2.6.3 PRPG 2011, and / or rules 2.1, 2.6.3 and / or 2.6.4 PRPG 2018, the Respondent acted without the required level of professional competence and due care in that he:

- (a) Performed his professional work, or conducted his practice or business relationships, or performed the duties of his employment improperly, inefficiently, negligently or incompletely to such an extent or on such a number of occasions as to be likely to bring discredit to himself, to the CIOT or to the tax profession; and / or
- (b) Failed to be courteous and considerate towards all with whom he came into contact in the course of his professional work.

1.2. It is alleged that:

- (a) Throughout the relevant period the Respondent failed to meet deadlines for filing and on several occasions failed to file accounts at all with HMRC on behalf of AL, including:
  - (i) IL's personal tax return 2015 / 2016 was filed late, resulting in £100 fee;
  - (ii) L Ltd tax return 2016 / 2017 was not filed at all;
  - (iii) L Ltd tax return 2017 / 2018 was not filed at all. This resulted in AL and her husband (IL) having to pay money to HMRC at short notice that they were unaware they owed.
- (b) Throughout the relevant period the Respondent failed to respond expeditiously and / or adequately to correspondence from AL, which included emails, texts and voicemails. Examples include:

- (i) In June / July 2017 not responding to emails from AL for over two weeks relating to accounts required for a mortgage application;
  - (ii) In January / February 2019 not responding to emails from AL for several weeks relating to the filing of L Ltd.'s confirmation statement;
  - (iii) In April 2019 not responding to numerous emails from AL relating to a mortgage application. This delay in response resulted in AL losing that particular mortgage opportunity and having to accept a less competitive rate for several months. AL had to pay an extra £288.17 in May 2019, £281.11 in June 2019 and £281.11 in July 2019 in mortgage payments as a consequence.
- (c) The Respondent filed a personal tax return for 2016 / 2017 on behalf of IL containing incorrect information.

## **Charge 2 (ceasing to act)**

- 2.1 In breach of rules 2.1, 2.6.3 and / or 10.1.3 PRPG 2018, the Respondent acted without the required level of professional behaviour in that:
- (a) the Respondent performed his professional work, or conducted his practice or business relationships, or performed the duties of his employment improperly, inefficiently, negligently or incompletely to such an extent on such a number of occasions as to be likely to bring discredit to himself, to the CIOT or ATT or to the tax profession;
  - (b) the Respondent continued to act without taking reasonable steps to notify the client that he was no longer acting and without following the strong recommendation that before ceasing to act a member should notify the client in writing that they are no longer acting and address the following in their letter of disengagement:

- (i) A summary of services provided up to the date of ceasing to act;
- (ii) A note of any outstanding matters that either the ex-client or the new advisors would need to address;
- (iii) Details of any impending deadlines and the action required;
- (iv) A member's willingness or otherwise to assist the new advisors to resolve outstanding issues with HMRC or others;
- (v) A member's willingness or otherwise to provide copy papers to the new advisors;
- (vi) Details of any outstanding fees;
- (vii) A note indicating whether a member or their successor was to advise HMRC of the change.

3.1 It is alleged that:

- (a) On 17 May 2019 AL gave the Respondent notice that she wished to terminate their professional relationship, was engaging the services of a new advisor and wanted the Respondent to handover to his successor;
- (b) Following this notice, the Respondent did not respond to reasonable requests by AL / or Tamara Accounting to provide information / documentation to assist them in an efficient manner;
- (c) Despite communications in October and November 2019 from AL and her new advisors TA, the Respondent failed to provide a letter of disengagement and / or formally handover to his successors;
- (d) The Taxation Disciplinary Board wrote to the Respondent on 16 December 2019. Despite this, and further emails from AL, the Respondent still did not take the necessary steps to formally handover or provide a letter of disengagement and had not done so by 22 June 2020. This resulted in both AL and her new advisors having to undertake additional work to ensure accounts were ready to be filed in time for 2018 / 2019 tax return;

- (e) the Respondent gave the new advisors incorrect information, in suggesting that there was an outstanding invoice for his services to be paid by AL in the sum of £250, for which he had already provided confirmation of payment on 3 October 2018.

### **Response to the Charges**

- 8. By letter of 15 February 2020, the Respondent admitted that:
  - a. His conduct has not been in line with the professional standards expected from a member of the CIOT;
  - b. He failed to complete CT600 for L Ltd; and
  - c. He ought to have provided a letter of disengagement in these particular circumstances.
  
- 9. At the hearing, the Respondent also admitted charge 3.1 (c) that he failed to provide a letter of engagement and/or formally hand over to his successors and that in the relevant period, he failed to take the necessary steps to formally handover or provide a letter of disengagement even after he had been contacted by the TDB (part of charge 3.1 (d))

### **The Respondent's evidence**

- 10. The Respondent gave evidence under oath. In summary, the Respondent said that there had been difficulty in establishing the trading position of L Limited. He said that a property had been purchased with the intention of renovating and selling that property. However, a decision was then taken to let out that property and it then became an investment property which affected the tax position. The clients were also confused by the fact that the figure showing on the balance sheet was different to the figure provided by the mortgage valuer, although he had tried to explain this.

11. He also wanted to point out that the evidence seemed to suggest that there had been a delay of many months in providing information to support a mortgage application. There were two separate mortgage applications: one direct to Barclays and one to a mortgage broker. He had responded to requests for information in reasonably prompt time. For example, the information for the Barclays' mortgage had been requested on 5 July 2017 and supplied on 9 July 2017.
  
12. He expanded on his written evidence that IL's 2015/16 self-assessment tax return was filed after the 31 January 2017 filing deadline. The tax information had been received from AL on 25 February 2017 and submitted on 28 February 2017. The Respondent believed that IL was in employment and had a military pension and was thus subject to PAYE only. He said there had not been a request by HMRC to complete a tax return but for some reason, the mortgage lenders had required IL to complete a self-employed tax return. He had just completed and submitted a return electronically. He had queried the need for a self-assessment return with AL but was told the lenders required it. The Respondent had thus applied for a unique tax reference (UTR) and had been surprised when this had been rejected as there was already a UTR in existence. He subsequently located the original UTR and completed the return. He said he had advised the clients at the time there was a possibility of a penalty but in fact there had been no late filing penalty even though the return appeared to have been submitted late.
  
13. The Respondent said that the incorrect information that had been supplied with IL's tax return arose as he had expected the property would be held 50/50 between AL and IL. However, he was subsequently informed that the investment was held 25/75 in AL's favour. IL had signed the return and not noticed the inaccuracy, but it had been noticed by AL in respect of IL's tax return, but not her own which had been filed some time earlier. IL had a substantial pension and a salary. AL was not a taxpayer.



14. He said that it was incorrect to say that he had not informed IL of his liability. He referred to the email of 31 August 2018 sent by him to AL, which confirmed this. In that email he had specifically referred to IL's liability of £144.54.
15. The Respondent said that he had received a request for information to be sent to the mortgage broker, David Winter on 1 April 2019 and he had supplied that information on 5 April 2019. He did not accept that AL had incurred higher mortgage payments as a result of any delay caused by him as the broker had sufficient time to arrange the mortgage.
16. He agreed that he should have provided a letter of disengagement when AL indicated her desire to transfer to different accountants, in May 2019. It was not until some months later in October 2019 that he had first been contacted by TA requesting handover. He said to the best of his recollection it had been a standard handover request, although he could not find a copy of the request and TDB had not produced a copy. However, he did not deny he had received the request in October.
17. The Respondent said he had failed to submit corporation tax returns because of the confusion over whether it was a property trading company or an investment company, but he accepted that this was not an excuse for his failure to submit the returns. He said that AL did not provide the UTR for corporation tax purposes, despite several requests.
18. The Respondent denied that he would have ever said to anyone that a client owed him money. He might have said he would check. However, he would not refuse to transfer papers because money was owed to him by a client.
19. The Respondent said that he believed that after 6 November 2019, either AL had picked up handover information from him or he had taken it to her himself, but he

had not kept a note of when the handover information was transferred. He believed that TA had filed accounts for the company, L Ltd before the end of December 2019. He accepted that there had been delay in the handover process.

20. The Respondent said that he had offered to pay any interest or penalty arising out of late submission but had heard nothing from AL in response. He said he was very sorry for letting down his client and his profession, it was not a true reflection of his more than 40 years unblemished practice and 31 years as a member. He had remorse and had apologised to AL and did so again. He also apologised to the Tribunal. The Respondent said he had suffered a significant health problem, which required surgery, during 2019 and this had an impact on his practice as he was a sole practitioner.

### **Decision**

21. The Tribunal was aware that the burden of proving the facts was on the TDB. The Respondent did not have to prove anything, and the individual charges of the allegation could only be found proved, if the Tribunal was satisfied to the civil standard, on the balance of probabilities.
22. In reaching a determination of the facts the Tribunal took into account the Respondent's evidence, the documentary evidence provided by both parties, and the submissions made by both parties.
23. In order to determine if Charge one, relating to professional behaviour had been met, the Tribunal considered whether or not the facts relied on in support of that charge had been proved.
24. Charge 1.2(a) (i) alleged that IL's personal tax return 2015 / 2016 was filed late, resulting in a £100 fee. On the Respondent's unchallenged evidence, the need to

complete a self-assessment form had arisen in unusual circumstances in that it arose following a request from a mortgage lender. The Respondent said that he had received the tax return information for IL from AL on 25 February 2017 (after the 31 January 2017 filing deadline). He had applied for a UTR for IL by submitting a completed form SA1 to register for self-assessment that day, but this was rejected as IL was already registered for self-assessment. AL then gave the Respondent a letter which contained IL's UTR and the return was submitted on 28 February 2017. The TDB did not submit any evidence to support any earlier request for IL's tax return to be completed. The Respondent had produced an HMRC statement for IL dated 12 September 2018. There was no record on that statement of a charge for late payment. The Tribunal noted that it had no evidence before it that the Revenue had charged a late filing fee and, on that basis, did not find this charge proved.

25. Charge 1.2(b) alleged that the Respondent failed to respond expeditiously and or adequately to correspondence from AL. Three examples were given to support this failure.
26. Charge 1.2(b) (i) alleged that the Respondent had not replied to emails for over 2 weeks relating to accounts required for a mortgage application. The Tribunal considered the emails and notes provided. On the evidence provided, the first contact was made by telephone on 5 July 2018 and this appeared to have been dealt with when the information requested was sent by the Respondent to AL on 9 July 2018. Charge 1.2(b) (i) was therefore found not proved.
27. Charge 1.2(b) (ii) alleged that in January / February 2019 the Respondent did not reply to emails from AL for several weeks relating to the filing of L Ltd.'s confirmation statement. The confirmation statement was a document required by Companies House, issued on 24 January 2019 and was not related to the accounts required by HMRC. It was submitted on 9 February 2019, on time. The Tribunal noted that there was an email dated 6 February referring to three previous emails sent regarding the confirmation statement but the Tribunal did not have copies of

these emails or any evidence over what time period these emails were sent, therefore this charge was found not proved.

28. Charge 1.2(b) (iii) referred to a failure to respond to numerous emails from AL relating to a mortgage application in April 2019, causing a loss of a mortgage opportunity, resulting in additional mortgage payments of £288.17 in May 2019, £281.11 in June 2019 and £281.11 in July 2019. The Tribunal noted that two emails from AL had been produced in respect of this mortgage application. The first was dated 4 April 2019 and the second dated 5 April 2019. The email of 5 April 2019 referred to an email of a week earlier (not before the Tribunal), there was also undated text referring to the same event. It was the Respondent's recollection that AL had collected information from him to take to the broker. The Respondent produced an email chain that demonstrated that he emailed the broker at 14.55 on 5 April 2019 asking for clarification of the further documents required. This clarification was provided by the broker at 16.33 on 5 April 2019. The Respondent then emailed the additional information to the broker at 17.08 on 5 April 2019.
29. There was no explanation to the Tribunal as to why the mortgage application could not be submitted by the broker by 30 April 2019, following receipt of the information provided by the Respondent on 5 April 2019 or alternatively why the mortgage application was rejected. Although AL had listed the amount she believed she had overpaid, as a result of delay by the Respondent, no explanation had been provided as to how the losses had been calculated nor any evidence submitted in support of the figures claimed. Given that there was no evidence of numerous emails, or a clear link between the failure to secure a mortgage and the inactions of the Respondent or evidence of loss, the Tribunal found this charge not proved. There was therefore no support for charge 1.1 (b) as a whole and the Tribunal did not find this charge proved.
30. Charge 1.2(c) related to the filing of a personal tax return on behalf of IL containing incorrect information. The Tribunal noted that the Respondent was advised of the

75:25 split after he had filed both AL and IL's tax returns. AL had notified the Respondent of this arrangement by telephone call on 20 February 2018 after she had noticed the inaccuracy on her husband's tax return, although she had not noticed this inaccuracy on her own, which had been submitted earlier. The Tribunal concluded that the assessment had been filed on the basis of information received or was incorrect due to the lack of provision of accurate information. Accordingly, the Tribunal found this charge not proved.

31. Charges 1.2(a) (ii) and (iii) that the Respondent had not submitted tax returns for L Ltd for 2016/17 and 2017/18 had been admitted. Although he had explained why he had delayed in submitting the returns, in that he had difficulty in identifying the taxable status of the company, he had also acknowledged before the Tribunal that this was not an excuse for his failure to submit the returns on time.

32. Charge 1.1 (a) alleged that the Respondent performed his professional work, or conducted his practice or business relationships, inefficiently, or incompletely to such an extent or on such a number of occasions as to be likely to bring discredit to himself, to the CIOT or to the tax profession.

33. The Tribunal considered that the admitted failure to file L Ltd tax returns for 2016/2017 and 2017/2018 was sufficient to prove charge 1.1 (a). As the Respondent himself acknowledged in his letter to the TDB of 15 January 2020 and his letter of apology to AL of 20 February 2020, this failure was likely to bring discredit to himself, the CIOT and the tax profession. Charge 1.1 (a) was therefore found proved.

34. No evidence or explanation was put before the tribunal to support Charge 1.1 (b) that the Respondent failed to be courteous and considerate towards all with whom he came into contact in the course of his professional work. This charge was not found proved.

## **Charge 2 (ceasing to act)**

35. In order to determine if Charge 2 had been met, that is the Respondent had acted without the required level of professional behaviour when ceasing to act, the Tribunal considered whether or not the facts relied on in support of that charge had been proved.
36. Charge 3.1 (a) The Tribunal had a copy of the email from AL to the Respondent dated 17 May 2019 in which she stated that she wished to terminate their professional relationship, was engaging the services of a new advisor and wanted the Respondent to handover to his successor. This charge was thus found proved.
37. Charge 3.1 (b) that the Respondent did not respond to reasonable requests by AL / or TA to provide information / documentation to assist them in an efficient manner. The Tribunal noted that although there was delay by TA, who did not write to the Respondent requesting a handover until 16 October 2019, thereafter the Respondent did delay in providing information to his successor. The Respondent states that he had transferred over the information on 30 December 2019, although TA stated in correspondence that this was, 'not useful'. Whether or not this was a complete transfer, the Tribunal considered that there was a failure to provide any meaningful response for a period of more than 2 months and on that basis this charge was found proved.
38. Charge 3.1 (c) that the Respondent failed to provide a letter of disengagement and/or formally handover to his successors was admitted by the Respondent at the hearing.
39. Charge 3.1 (d) related to failure to take the necessary steps to complete a formal handover after he was contacted by the TDB on 16 December 2019 and that this had resulted in AL and TA having to undertake additional work to file accounts. The Respondent had admitted that even after he had been contacted by the TDB, he did not take steps to formally hand over to his successors or provide a letter of engagement. The Tribunal then considered if it had been proved that AL and her

new advisors had been involved in additional work as a result of this delay, in order to ensure that the accounts were ready to be filed in time for 2018/19 tax return. The Tribunal had not been provided with any explanation as to the additional work required nor had they been provided with any evidence in support. In the circumstances, Charge 3.1 (d) was found partially proved in respect of the handover but not in respect of any losses arising.

40. Charge 3.1 (e) that the Respondent had given the new advisors, TA, incorrect information in suggesting that there was an outstanding invoice for his services was denied by the Respondent. The only evidence in support of this allegation was an email from AL to the TDB of 19 December 2019 in which she stated that TA told her they had received an email from the Respondent in which he said that AL owed him £250. The Tribunal have not seen a copy of the email to TA referred to by AL, nor received any evidence from TA confirming that the Respondent had either sent such an email or told them that AL owed him money. Charge 3.1 (e) was thus found not proved.

41. The Tribunal then considered charge 2.1 (a) which alleged in respect of ceasing to act, that the Respondent performed his professional work, or conducted his practice or business relationships, inefficiently, or incompletely to such an extent or on such a number of occasions as to be likely to bring discredit to himself, to the CIOT or to the tax profession. Given the wealth of evidence that the Respondent had not met the required standard when ceasing to act, to an extent and on such a number of occasions as set out above, in a manner which could only be regarded as likely to bring discredit on himself, the CIOT and the tax profession, this charge was found proved.

42. Charge 2.1 (b) that the Respondent did not notify his client in writing in the manner recommended was admitted by the Respondent.

## **Sanction**

43. The Tribunal went on to consider the appropriate sanction. In considering what sanction (if any) to impose, the Tribunal had regard to the Indicative Sanctions Guidance (ISG). It also had regard to the principle of proportionality and the principle that any sanction imposed should be the least onerous measure that adequately meets the seriousness of the findings of fact.
44. It noted that the purpose of imposing a sanction upon a member was not simply to discipline the individual for any wrongdoing of which he may be culpable, but to protect the public and maintain the reputation of the profession by sending a signal as to how serious the Tribunal judged the conduct to be. In carrying out these roles the Tribunal was maintaining the reputation of the profession. The Master of the Rolls stated in *Bolton v The Law Society* [1994] 2 ALL ER 486 that the reputation of a profession as a whole is more important than the fortunes of an individual member of that profession.
45. The Tribunal took into account the following aggravating factor: AL was a disabled veteran who had been diagnosed with PTSD and therefore could be regarded as a vulnerable client. Although it noted that the Respondent had not sought to take advantage of AL's vulnerability, regrettably, the impact of his failings on AL had been greater than ordinarily might have been the case given her vulnerability, and that she was more susceptible to anxiety caused by any delay.
46. The Tribunal identified the following mitigating factors:
- a. The Respondent had sent an unreserved apology to AL on 20 February 2020 and acknowledged the distress he had caused AL.
  - b. The Tribunal noted his expressions of remorse before the Tribunal itself and felt that he demonstrated insight into his conduct.
  - c. His previously unblemished career.
  - d. The Respondent's partial admissions.
  - e. The Respondent had suffered a significant and serious illness for part of the period.



47. The Tribunal first considered taking no action. The Tribunal concluded that, in view of the nature and seriousness of the Respondent's conduct and behaviour, and in the absence of exceptional circumstances, it would be inappropriate to take no action. For the same reasons the Tribunal concluded that it would not be appropriate to make an order that the findings 'rest on the file.'
48. The Tribunal then considered a Warning. It noted that the ISG states:  
'A warning may be appropriate where the conduct is at the lower end of the spectrum, but the Tribunal nevertheless wishes to indicate that the behaviour was unacceptable.' The Tribunal did consider if a warning might be appropriate in this case but it noted that this was not an isolated incident, it related both to a period whilst the Respondent was instructed and when the client had terminated his engagement. Both incidents related to prolonged periods and, on that basis, it concluded that a warning was not sufficient to reflect the seriousness with which it viewed the Respondent's behaviour.
49. The Tribunal then considered a censure. The ISG indicates that a censure is appropriate where the conduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Tribunal that there is no continuing risk to the public, and there is evidence of the member's understanding and appreciation of the conduct which has been found proved. A censure will be appropriate where a Tribunal considers that the misconduct is unlikely to be repeated in the future.
50. The charges found proved were serious and AL was a vulnerable client who had been caused considerable stress and inconvenience as a result of AL's conduct. However, given the Respondent's insight into his behaviour and his long hitherto unblemished record, the Tribunal felt it unlikely that the Respondent would repeat this behaviour and that this level of sanction was sufficient to satisfy the public interest.

51. Further the Tribunal noted that for each type of complaint, there is a suggested starting point. The ISG stated, 'The starting point is not 'the going rate' for that particular complaint. It simply indicates where a Tribunal might start when it looks at all the factors which are relevant to deciding the penalty'. In cases of Inadequate Professional Service, the guidelines suggest that a Censure is appropriate which accorded with the Tribunal's view of the appropriate sanction on the facts of this case.
52. The Tribunal thus determined that a Censure would be sufficient to maintain public trust in the profession and the regulatory process and would have a deterrent effect on other members.
53. Given that the Tribunal had not found any of the losses claimed proved as they were not supported by proved charges or evidence, an award for compensation was not appropriate in this case.

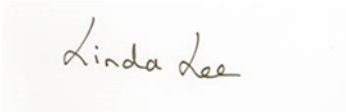
### **Costs**

54. The Tribunal had regard to the Guidance on Awarding Costs. It noted that its power to award costs was set out in Regulation 20.6 (f) in dealing with a Respondent against whom a charge has been proved. The presumption that an unsuccessful respondent should pay costs was based on the principle that the majority of professional members should not subsidise the minority who, through their own failing, have brought upon themselves disciplinary proceedings. The power to award costs was discretionary. The general principle required exceptional circumstances for a Tribunal not to award costs against an unsuccessful Respondent.
55. Although not all of the charges had been proved in this case, it appeared to the Tribunal that there had been little or no additional costs as a result of the charges that were not proved. The most serious elements of the charges had been proved. The Tribunal considered the schedule and considered that the costs outlined were

proportionately and reasonably incurred. The Tribunal did not find any exceptional circumstances as to why the Respondent should not be ordered to pay costs. The Respondent was ordered to pay the sum of £ 5,299.35.

### **Publication**

56. The Tribunal was unable to identify any reason for departing from the presumption in favour of publication. Part of the role of the Tribunal is to uphold the reputation of the profession, and publication of its decisions is an essential part of that duty.
57. The Tribunal ordered that, in accordance with Regulation 28, this order and these findings should be published, referring to the Defendant by name, in the Tax Adviser Journal and on the TDB website for a period of 3 years as soon as practical, in accordance with the Publication of Disciplinary and Appeal Findings policy dated July 2009.

A rectangular box containing a handwritten signature in cursive script that reads "Linda Lee".

Linda Lee  
Chair

15 August 2020