

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

**TDB/2021/14**

**TAXATION DISCIPLINARY BOARD**  
**(TDB)**

**v.**

**MR DAVID CHRISTIAN**  
**(ATT Membership Number 113703)**

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**DECISION**

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**INTRODUCTION:**

1. The Disciplinary Tribunal sat on Thursday 29 September 2022, via Teams in an online hearing. The Tribunal was chaired by Mr Mark Ruffell (barrister) who was sitting with Ms Penny Griffith (lay member) and Ms Teresa Payne (professional member).
2. The case was considered, with the agreement of the parties, under the simplified procedure pursuant to Regulation 15, with no parties or their representatives present.
3. The Committee had read and considered the case papers pages 1-134 and a supplemental bundle pages 1-6.

**PRELIMINARY MATTERS:**

4. The parties had agreed in advance that charge 1.3, which stated *'If charges 1.2 & 1.3 are proved'*, it should have stated *'If charges 1.1 & 1.2 are proved'*. Accordingly, the chair had agreed the amendment in advance of the hearing.

## **CHARGES:**

### 5. Charge 1:

- 1.1. Mr Christian owned and at all material times operated the “Piebaps” User Account on the Contractor UK internet forum.
- 1.2. Between 1 February 2020 and May 2021, Mr Christian posted offensive comments on the HMRC Scheme Enquiries section of the Contractor UK internet forum.
- 1.3. If charges 1.1 & 1.2 are proved, Mr Christian is in breach of Rule 2.6.3, in that he conducted himself in an unbecoming manner which tended to bring discredit upon him and/or could harm the standing of the ATT.

## **BACKGROUND:**

6. Mr Christian is a member of the ATT. He is employed by the Isle of Man government as a Senior Compliance Manager for the Income Tax Division of HMRC. Outside of his work, Mr Christian since 2016 was a regular contributor to an online forum on a website called Contractor UK that Mr Christian described as *‘a website resource for contractors...it provides...a discussion forum which allows registered members to socialise online and share experiences. The forum has over 26,000 members and the overwhelming majority of these are anonymous.’* Mr Christian posted anonymously using the name “Piebaps”.
7. In early 2020, the Felicitas Isle of Man lending company acquired several large books of existing loans that derived from disguised loan schemes that were deprecated by HMRC. The company approached the debtors with an offer to settle their debts at discounted rates. This appears to have provoked disquiet and discontent among the debtors, some of whom took to the Contractor UK forum to discuss their concerns. Discussions took place on a sub-section of the website entitled “HMRC Scheme Enquiries”. On this forum, Mr Christian posted multiple comments (anonymously using the name “Piebaps”) whereby he gave advice on the law and the legal system in the Isle of Man, using his professional experience, but not mentioning his job or his professional body. However, he also posted the following comments that were specifically drawn to the Tribunal’s attention by the TDB in its submissions as containing words or opinions that demonstrated that Mr Christian had conducted himself in an ‘unbecoming manner’:

- i. Following sharing a legal judgement in a different case, he then wrote: *“you are among (mostly) friends here. We all understand your outrage at these scumbags. But as webberg said, fairness isn’t necessarily the most relevant issue. The judge above has suggested three things should’ve been done before the signifying in this particular matter. Take independent advice, see the legal opinions on which the scheme was founded and consult HMRC to check whether the arrangements were in order.”* (10.2.20).
- ii. Following some advice on the law and loan protection legislation, he concluded with three options: get advice and contest, contest it yourself without advice, or ignore it totally. He then wrote *“Note I didn’t include paying the robdogs as an option!”* (28.04.2020).
- iii. Having posted comments about Isle of Man lending rules and that there are no ‘no win no fee’ lawyers in the Isle of Man and the difficulties involved with legal action in one jurisdiction being enforced in another, he concluded with *“the likelihood of these cowboys doing that appears to be low. However, as with everything else in this pile of tulip [the words tulip had been changed by the moderator of the forum from a mild swear word], nobody is certain of anything”* (13.08.2020).
- iv. Having posted weblinks regarding law and legislation and discussing trust deeds he ended with *“I agree with greg though. These pirates won’t be going anywhere near a Court and this is likely to be just another scare tactic”* (15.10.2020),
- v. In a message thread concerning liquidators trying to recover money, he posted: *“You’ll kinda get a flavour of what you were involved in. We have UK workers, but admin in the IOM, the debt book being sold to a company in Anguilla, incomplete records, and a Maltese snake”* (14.01.2021).
- vi. Following a discussion on role of Trustees, he wrote *‘If the matter comes before an IOM Court (assuming an IOM loan of course) the judge (known as a Deemster over here) is likely to make an Order for these documents to be disclosed, were someone to apply for one. Felictas [sic] know this and are simply playing a bluff hand. The directors are clearly wretched specimens of humanity’* (12.02.2021).

8. The Complainant (Felicitas) filed a complaint with the TDB on 14 April 2021. In it the chairman of Felicitas alleged that there was a course of harassment by Mr Christian. The Tribunal noted that this was not how the TDB put their case. Instead, TDB had focused on the unbecoming nature of some of the words chosen by Mr Christian on some occasions and highlighted the aforementioned sections. The TDB did not assert that the use of the word 'Maltese' was racist. Therefore, the Tribunal have assumed that the word Maltese was being used as a geographical reference to highlight the different tax jurisdictions and the resulting legal complexities with the United Kingdom, the Isle of Man, Anguilla and Malta all being referred to in the same sentence. However, it was evident to the Tribunal, from the words written in the previous paragraphs of the chat, that Mr Christian was referring to the chairman of Felicitas as a 'snake'.
9. Mr Christian had provided a written response, whereby he accepted that the language might be regarded as offensive but that was not his intention. He explained that the comments were made following a discussion involving customers who had unhappy experiences with disguised loan schemes that HMRC were clamping down on. He felt sympathy for those who had been affected by these schemes and he got '*carried along by the tide*' adding comments that he now regretted. He had fully co-operated with TDB. He had worked for 36 years in taxation and had an unblemished record. He agreed to remove the comments once TDB had concluded its investigation. Mr Christian relied on the two references that attested to his lengthy professional and personal good character.

#### **DECISION ON SANCTION:**

10. The Committee had regard to the Indicative Sanctions Guidance. The Tribunal had regard to the public interest which included the protection of members of the public, maintaining public confidence in the profession and upholding proper standards of conduct.
11. The Tribunal reminded itself of Article 10 of the Human Rights Act 1988: 'Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers.'

12. The Tribunal also reminded itself of Article 8 of the Human Rights Act 1988: ‘1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health or morals, or for the protection of the rights and freedoms of others.’
13. The Tribunal considered that the comments made were done publicly and on a public forum and Mr Christian was applying his professional experience to give authority to his comments. The offensive comments had brought discredit on him and had the potential to bring discredit upon his employer and the profession because it had been possible to trace the comments back to him.
14. The Tribunal considered that there were no aggravating factors. In mitigation, the Tribunal considered that Mr Christian had an unblemished professional career, and he had fully co-operated with TDB providing full disclosure of all conversations in the chat on Contractor UK that he had engaged in regarding the disguised loan schemes.
15. The Tribunal accepted that Mr Christian had got carried away with his comments, no doubt based upon his commendable passion for his job. It was regrettable that he had commented in the way that he had, and the comments as set out above were unbecoming of a member of the ATT. Mr Christian was attempting to comment anonymously and did not link his comments to his professional life or to the ATT. As a consequence, the Tribunal did not consider that Mr Christian had actually harmed the profession, only that his comments had the potential to harm the ATT. The Tribunal considered that taking the comments together, and within the wider context of what otherwise were helpful comments, the unbecoming conduct could not be regarded as serious.
16. The Tribunal considered whether to take no further action. The Tribunal considered that Mr Christian had crossed a line by using offensive words about a company and an individual. The Tribunal noted that the words used were out of character with his numerous submissions that he had made online in relation to the company and the loan arrangements. The Tribunal considered that these occasional comments were consistent with being ‘carried on by the tide’. As a professional, he should have known better. At

any stage, had his identity been discovered in the chat, it would have harmed the profession. This was an occasional lack of judgement that needed to be marked with a sanction, but the Tribunal were satisfied with Mr Christian's regret that it was highly unlikely that such conduct would be repeated. Accordingly, the Tribunal made an Order that the complaint is to lie on file for a period of three years from the date of its decision.

**COSTS:**

17. The TDB applied for costs in the sum of £3,731.00. The Committee had regard to the TDB's Guidance on Awarding Costs. The Committee noted that its power to award costs was set out in Regulation 27 and was discretionary. The Committee considered that it was right and proper in the light of its findings that Mr Christian should pay some of the TDB's costs. The Tribunal considered that it was not appropriate for Mr Christian to have to pay for two Investigation Committees and reduced the sum to £2,906.00.

**PUBLICITY:**

18. The Tribunal had regard to the TDB's Guidance on the Publication of Disciplinary and Appeal Findings. The Tribunal noted that ordinarily any disciplinary finding or order made against a member will be published in accordance with Regulation 28. The Tribunal saw no reason to interfere with this.

**EFFECTIVE DATE:**

19. This decision will take effect in accordance with Regulations 20.9 and 21.1 of the Taxation Disciplinary Scheme Regulations 2014.

**MARK B. RUFFELL**  
**(Chairman)**  
**29 September 2022**