

IN THE TAXATION DISCIPLINARY BOARD
(Disciplinary Committee – 19th December, 2019)

The Taxation Disciplinary Board (“TDB”)

and

Gurguyan Kaley

DECISION AND REASONS

Present:

Dr Jonathan Page (Chair)

Janet Wilkins

Andrew Gell

Gurguyan Kaley

Ms Stricklin-Courtino (representing the TDB)

Nigel Bremner (Clerk to the TDB)

Alex Coleborne (Loggist)

BACKGROUND

1. On 19th December 2019, the Disciplinary Committee (“The Committee”) considered a complaint in respect of Mr Gurgyan’s conduct.
2. Mr Gurgyan made full admissions to the charges he faced, which are set out in Appendix 1.
3. In essence, Mr Kaley had become addicted to gambling. He gave frank evidence that after a period of employment as a bond trader, he had started trading on his own behalf and this had eventually led to spread betting over the internet. Initially, his gambling did not negatively affect his studies and he obtained employment with a leading accountancy firm.

4. Although he was initially gambling successfully, his fortunes changed and by April 2016 he was in substantial debt. He tried, unsuccessfully, to gamble his way out of his financial difficulties and was in effect chasing his losses. He discovered that his employer's expenses system went largely unchecked and was open to abuse.
5. He began making fraudulent expenses claims, mainly by falsely representing that he had made Uber journeys. By way of example, in the space of 7 weeks he claimed £28,000 in fraudulent Uber fares.
6. On 24th September 2018, he was arrested as a result of his employers calling the police having discovered the fraud. Mr Kaley was subsequently charged with 3 criminal charges of fraud by abuse of position.
7. On 19th May 2019 he pleaded guilty to two counts of fraud by abuse of position before the Inner London Crown Court. He was sentenced on 11th June to
 - a. Concurrent suspended sentences of 4 months and 24 months
 - b. 300 hours of unpaid work
 - c. Rehabilitation Activity Requirement of 10 days
 - d. Compensation to his former employers of £75,000
8. Mr Kaley was contacted by the TDB on 27th June 2019, following press reports, informing him these proceedings were being taken against him.

DECISION

9. The Committee was satisfied that the charge 1 was proved. Criminal offences of dishonesty clearly breached rules 2.1, 2.2.2, and 2.6.2 of the Professional Rules and Practice Guidelines 2011 of the Chartered Institute of Taxation (the "CIOT") and the Association of Taxation Technicians (the "ATT") effective from March 2011 (the "PRPG 2011").

10. This criminal offending was plainly in breach of the Fundamental Principle of Integrity (rules 2.1 and 2.2.2), requiring a member or student member to be honest in all professional and business relationships. It also brought discredit to himself, to CIOT and the tax profession generally.
11. The Committee was satisfied that charge 2 was proved. The defendant had a positive obligation to inform CIOT once he had been charged with criminal offences on 24th September 2018. He failed to inform CIOT at any stage in breach of rule 2.14.1 of the PRPG 2018 requiring him to inform CIOT within 2 months of being arrested or charged.

SANCTION

12. The Committee determined that the criminal offences represented a serious departure from the standards expected of a student member of CIOT. There were a number of aggravating features: The sums involved were large and acquired in circumstances that had only arisen by virtue of Mr Kaley's position. In that way he had seriously compromised the trust placed in him by his employers. In addition, there were multiple transactions and the fraud was committed over a substantial period of time.
13. As far as mitigation was concerned, Mr Kaley had admitted the offences and these charges at the first opportunity, he had taken steps to address his gambling addiction and was frank in his evidence to the Committee as to how and why he had found himself committing the criminal offences. He recognised that he needed further help to address his illness.
14. The Committee determined that Mr Kaley's failure to inform CIOT within 2 months of his arrest and charge had been a failure by him to be aware of the rules and regulations that prescribed student membership of a professional body.
15. The Committee considered the Sanctions Guidance that was applicable for criminal conduct. It reminded itself that this was substantial, dishonest offending and represented a serious breach of trust. Having considered the available sanctions,

starting with the least onerous, the Committee determined that the minimum sanction necessary was exclusion from student membership of the CIOT. The public interest in terms of managing future risk, maintaining standards and upholding the professional standing of CIOT demanded nothing less. Insofar as the failing to inform CIOT of his arrest and charge was concerned, the Committee were of the view that a reprimand would have been appropriate. Globally, therefore, the sanction was exclusion from student membership.

COSTS

16. The TDB applied for costs. Mr Kaley made submissions that he had approximately £100,000 of unsecured debt, which was currently frozen. He recognised that his employment prospects were considerably reduced by virtue of his conviction. In order to pay his compensation, his parents may have to re-mortgage their home where Mr Kaley was currently living. He has no assets.
17. The Committee decided not to make a costs order against Mr Kaley as there seemed little point. The TBD accepted that it would have to spend time and money chasing these costs, in circumstances where it was obvious that Mr Kaley would not be able to pay them within anything approaching a reasonable timescale.

Dr Jonathan Page

APPENDIX 1

IN THE MATTER OF THE TAXATION DISCIPLINARY BOARD

Reference: TDB/2019/21

TAXATION DISCIPLINARY BOARD

- and -

MR GURGYAN KALEY
(Membership Number 225386)

SCHEDULE OF CHARGES

The charges set out below make reference to the following rules of:

- (a) the Professional Rules and Practice Guidelines 2011 of the Chartered Institute of Taxation (the "CIOT") and the Association of Taxation Technicians (the "ATT") effective from March 2011 (the "PRPG 2011"): Rules 2.1, 2.2.2, and 2.6.2;
- (b) the Professional Rules and Practice Guidelines 2011 of the CIOT and the ATT effective from 9 November 2018 (the "PRPG 2018"): Rule 2.14.1

Charge 1 (The "PRPG Integrity and Professional Behaviour Charge")

In breach of Rules 2.1, 2.2.2, and/or 2.6.2 of the PRPG 2011, the Defendant:

- (a) Failed to be straightforward and honest in all professional and business relationships;
- (b) Engaged in or was party to illegal activity;
- (c)
 - (i) 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 number of occasions as to be likely to bring discredit to himself, to the CIOT or to the tax profession; and/or
 - (ii) breached the Laws of the CIOT or ATT.

The TDB's case is as follows:

(1) The Defendant is a CIOT student member. He is an employee of Deloitte and a qualified ICAEW accountant.

(2) On a number of occasions over a considerable period of time, and in respect of substantial sums of money, the Defendant falsified claims against his employer for reimbursement of costs which he had not in fact incurred.

(3) Following discovery of those actions by his employer, a trial took place at which Mr Kaley pleaded guilty to, and was convicted of, two counts of fraud by abuse of position.

(4) On 13 May 2019, before Inner London Crown Court, the Defendant was convicted of two offences of fraud by abuse of position.

(5) He was sentenced to 4 months and 24 months imprisonment (suspended for 24 months), a £75,000 compensation order, 300 days' unpaid work, electronic monitoring and 10 days' Rehabilitation Activity Requirement.

(6) The conviction was covered by the press.

Charge 2 (The "Professional Behaviour Charge")

In breach of Rule 2.14.1 of the PRPG 2018, the Defendant:

- (a) Failed to notify the CIOT in writing within two months if charged with or convicted of a criminal offence.
- (b) The TDB relies on the matters stated in respect of Charge 1 above.

DATED: November 2019