

**TAXATION DISCIPLINARY BOARD**

**- and -**

**Mr VARNAKULASINGAM JEGATHEESWARAN**  
**(Membership Number ATT 117339)**

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**DECISION**  
**(4.4.24)**

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**INTRODUCTION:**

1. The Disciplinary Tribunal ('the Tribunal') sat on 4 April 2024 to hear charges brought by the Taxation Disciplinary Board ('TDB') against Mr Varnakulasingam Jegatheeswaran. The hearing was conducted remotely by video conferencing. The Tribunal was chaired by Mr Andrew Granville Stafford (legally qualified) who was sitting with Ms Victoria Hulse (professional member) and Ms Isobel Leaviss (lay member)
2. The case presenter for the TDB was Ms Manning-Rees. Mr Jegatheeswaran was present and was unrepresented. The Clerk to the Tribunal was Mr Nigel Bremner.
3. The Tribunal had read and considered the case papers (136 pages) and an on-table bundle (3 pages).
4. The following abbreviations are used in this determination.

The ATT means the Association of Taxation Technicians;

The CIOT means the Chartered Institute of Taxation;

The Disciplinary Regulations means the Taxation Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024);

PRPG 2018 means the Professional Rules and Practice Guidelines effective from 9 November 2018;

PCRT 2017 means the Professional Conduct in Relation to Taxation effective from 1 March 2017.

**PRELIMINARY MATTERS:**

5. At the outset of the hearing, Ms Manning-Rees applied to amend Charge 3 by replacing the reference to section 1.5 in the PCRT 2017 to section 1.7. She explained that, although the numbering had changed in subsequent iterations of the PCRT, the correct reference for the purpose of the charges was to section 1.7.
6. Mr Jegatheeswaran did not object to this amendment and, given that it was of a minor nature and sought only to clarify the allegation, the Tribunal was content to allow the application.
7. Mr Jegatheeswaran applied for the hearing to be in private, on the basis that the outcome may affect his reputation.
8. The Tribunal had regard to the submissions of both parties and to regulation 29 of the Disciplinary Regulations. It was satisfied that the reason advanced by Mr Jegatheeswaran did not amount to a sufficient reason for departing from the normal principle that hearings such as this should be in public and that disciplinary proceedings before a regulator should be open and transparent. The Tribunal was satisfied that it was in the interests of justice that this hearing should be in public.

**CHARGES:**

9. The charges brought against Mr Jegatheeswaran, as amended, were as follows.

Breach of Anti-Money Laundering (AML) registration requirements

1. Between 01 June 2016 and January 2023, the Defendant in relation to Trustax Limited provided defined services which required AML Supervision.

2. The Defendant did not register for AML Supervision until January 2023 contrary to the PRPG 2018 and the ATT Anti-Money Laundering Scheme Rules 2017.
  3. By virtue of the above, the Defendant is in breach of Rules 2.10.1 and/or 2.10.2 of the PRPG 2018 and/or the PCRT 2017 section 1.7.
10. The charges were brought in relation to the following provisions of the PRPG and the PCRT.

PRPG 2018, rule 2.10.1: A member must comply with the UK's AML legislation in force from time to time. A member must act in accordance with the Consultative Committee of Accountancy Bodies ('CCAB') anti money laundering guidance including the appendix for tax practitioners.

PRPG 2018, rule 2.10.2: A member in practice must either be registered with the CIOT or ATT for AML supervision or, if requested, advise the CIOT and ATT of their Supervisory Authority under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

PCRT 2017, rule 1.7: A member must at all times fulfil their obligations under the anti-money laundering (AML) legislation.

## **RESPONSE TO CHARGES**

11. Mr Jegatheeswaran admitted all the charges and the Tribunal found them proved based on his admissions.

## **BACKGROUND:**

12. Mr Jegatheeswaran is a member of the ATT.
13. On 25 September 2023, Mr Jegatheeswaran was notified by ATT's Professional Standards department that he was being referred to TDB for late registration of his company for AML supervision. This was on the basis that he had applied for registration more than a year after his business had provided defined services which require AML supervision.

14. On 19 October 2023, the TDB sent an initial letter to Mr Jegatheeswaran setting out details of the complaint and he responded by letter dated 9 November 2023.
15. Mr Jegatheeswaran said that his company, Trustax Ltd, was incorporated on 30 March 2006. Initially, he was the sole director and shareholder. The company was, however, dormant until 2016. From 1 June 2016 it started providing bookkeeping services and more recently it had been providing accountancy and tax services.
16. Mr Jegatheeswaran gave the following explanation regarding his failure to register Trustax Ltd for AML supervision.

‘Alongside my role as director of Trustax Limited and providing booking [sic] services through this company, during the period of June 2016 to September 2020 I was also employed by [Firm B] as an Accountant with my reporting/supervising officer being [Mr C], FCA (Member of ICAEW). [Mr C] and I have worked together since 2000 previously at [Firm A] and then [Firm B] and he has at all times been my reporting/Supervising officer.

On this basis and for the purpose of AML supervision for Trustax Limited, I verily believed that as [Mr C] had been my reporting/supervising officer the supervision would fall under his umbrella and supervision would be with ICAEW.

On or around January 2023, I was informed by [Mr C] that he was surrendering his practicing certificate and I immediately contacted ATT to register for AML supervision.

I have now become aware that the basis upon which the forms I have previously completed, and information provided to show that the firm was AML supervised by ICAEW was incorrect. I make a genuine apology in this regard, and this was not done deliberately or to mislead and was simply a misunderstanding and mistake on my part.’

17. Mr Jegatheeswaran gave details of training course and qualifications he had achieved in relation to AML procedures and gave an assurance that he was familiar with AML

regulations. He concluded his letter by apologising for his error in respect of AML supervision.

**SANCTION:**

18. In determining what, if any, sanction to impose the Tribunal had regard to the Indicative Sanctions Guidance ('ISG'), all the evidence in the case and the submissions that had been made.
19. The Tribunal bore in mind the purpose of a sanction is not to punish a member, albeit it may have that effect. The purpose is to promote the public interest which includes not only protecting the public but upholding the proper standards of conduct in the profession and maintaining its reputation.
20. Any sanction imposed by the Tribunal must be appropriate and proportionate, considering the member's own interests, and should be the least onerous measure that adequately meets the facts of the charges found proved.
21. The Tribunal identified the following as mitigating factors.
  - (a) Mr Jegatheeswaran had apologised for his conduct.
  - (b) He had made an early admission.
  - (c) He had co-operated with the TDB investigation.
  - (d) The matter came to light because of his approach to the ATT following Mr C's retirement from practice in around the start of 2023.
  - (e) Mr Jegatheeswaran has a previously good disciplinary record and provided the Tribunal with character references which it considered.
22. The Tribunal identified the following aggravating factors.
  - (a) The misconduct in question, namely the failure to register for AML supervision, had persisted for a period of nearly seven years.
  - (b) There is potential for harm and a significant risk to the public when a tax adviser is not properly supervised by a regulator in relation to statutory AML requirements.

23. The Tribunal had regard to the following guidance in the ISG. Section (8) states that the guideline sanction for a breach of AML regulations, not involving criminal activity or dishonesty, is a censure.
24. The Tribunal considered the available sanctions in ascending order of gravity.
25. The Tribunal considered that taking no further action or allowing the matter to rest on file would be inappropriate as they would not adequately mark the serious nature of Mr Jegatheeswaran's conduct.
26. The Tribunal considered whether a warning would be an appropriate sanction. The ISG indicates that a warning may be appropriate where the misconduct is minor.
27. The Tribunal did not consider that this misconduct was at the lower end of the scale. Mr Jegatheeswaran had failed to register his business for AML supervision for nearly seven years during which there had been potential risk to the public, notwithstanding his assurances to the Tribunal that he was fully compliant with all other AML and CPD requirements. The Tribunal considered that a warning would in all the circumstances be an insufficient sanction.
28. The Tribunal considered whether censure would be an appropriate sanction.
29. The ISG indicates that a censure may be an appropriate sanction 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.
30. The Tribunal considered that Mr Jegatheeswaran has now registered his business for AML supervision with the ATT and, indeed, that registration has been backdated to 2017. In the circumstances, it was unlikely that this misconduct would be repeated. The risk to the public in this case arises from the fact that the business was operating without any effective AML supervision which, although serious, has been addressed by the fact that Trustax Ltd is now registered with the ATT.

31. In the circumstances, the Tribunal was satisfied that a more serious sanction of suspension or expulsion was not required in this case and that censure was a proportionate sanction. However, it was necessary to send a clear message to the profession that conduct such as this will not be tolerated and that anyone who engages in it can expect a significant sanction. The Tribunal therefore decided that it was appropriate, in addition to the censure, to fine Mr Jegatheeswaran £2,000.
32. Therefore, pursuant to regulation 20.7(f) of the Disciplinary Regulations, Mr Jegatheeswaran is censured and fined £2,000.

**COSTS:**

33. The TDB applied for costs in the sum of £2,653.
34. The Tribunal has the power under regulation 20.7(f)(xii) of the Disciplinary Regulations to make an award of costs in favour of the TDB. The Tribunal had regard to the Guidance on Awarding Costs. The presumption is that the defendant will pay the costs on the principle that the majority of members should not subsidise the minority who have brought disciplinary proceedings upon themselves disciplinary proceedings.
35. Mr Jegatheeswaran provided no information about his financial circumstances and made no submissions in respect of the application for costs.
36. The Tribunal was satisfied that the sum sought was appropriate and reasonable and therefore ordered Mr Jegatheeswaran to pay costs of £2,653.
37. Pursuant to regulation 27.1 of the Disciplinary Regulations, the costs are payable within 28 days of the service of this order.

**PUBLICITY:**

38. The Guidance on the Publication of Disciplinary and Appeal Findings sets out the general principle that a disciplinary finding made against a member will be published and the member named in the publication.
39. Mr Jegatheeswaran asked the Tribunal to order that this decision should not be published on the basis it would damage his reputation amongst his clients or potential clients.

40. The Tribunal had regard to the ISG which states that the purpose of publicising a decision is not to punish a member but to provide reassurance that the public interest is being protected and that proceedings before the TDB are transparent. Only in exceptional circumstances will findings of misconduct against members not be publicised. The Tribunal did not consider that any such exceptional circumstances were present in this case. Any damage which might be caused to Mr Jegatheeswaran and his reputation is not because of publication of this decision, but as a result of the fact Mr Jegatheeswaran has failed to comply with his professional obligations to register his company for AML supervision.
41. The Tribunal therefore made an order under regulation 28.1 of the Disciplinary Regulations for publication of this order made and the written reasons, naming the member.
42. Pursuant to regulation 28.4 of the Disciplinary Regulations, publication will be made after the expiry of the appeal period, namely within 21 days of the effective date of this order, provided no valid notice of appeal is served within that period.

**EFFECTIVE DATE:**

43. Pursuant to regulation 20.9, this decision will be treated as effective from the date on which it is deemed served on Mr Jegatheeswaran.



**Andrew Granville Stafford**  
**(Chair)**  
**04.04.2024**