

TAXATION DISCIPLINARY BOARD

- and -

Mr THOMAS PARASCANDOLO
(Membership Number CIOT 219519)

DECISION
(4.4.24)

INTRODUCTION:

1. The Disciplinary Tribunal ('the Tribunal') sat on 4 April 2024 to hear charges brought by the Taxation Disciplinary Board ('TDB') against Mr Thomas Parascandolo. 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 Parascandolo was present and was unrepresented. The Clerk to the Tribunal was Mr Nigel Bremner.
3. The Tribunal had read and considered the case papers (29 pages) and the on-table papers (6 pages).
4. The following abbreviations are used in this determination.

The CIOT means the Chartered Institute of Taxation;

The ATT means the Association of Taxation Technicians;

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;

PRELIMINARY MATTERS:

5. With the agreement of the parties, the Tribunal made the following amendments to the charges brought against Mr Parascandolo:

To remove the words ‘TRAFFIC OFFENDERS ACT 1988’ from charge 1.1 where they first appear, on the basis they had been included in error;

To correct the misspelling of ‘behaviour’ in charge 2;

To substitute CIOT for ATT in charge 2, on the basis that Mr Parascandolo is a member of the former not of the latter.

CHARGES:

6. The charges brought against Mr Parascandolo, as amended, were as follows.

Charge 1

- 1.1. On 18 May 2023, the Defendant was convicted at Nottingham Magistrates Court for the following offence:

On 30 April 2023 in OLD MARKET SQUARE, NOTTINGHAM you drove a motor-vehicle, namely E-SCOOTER VRM: ZH9 PE9 in a PUBLIC PLACE, after consuming so much alcohol that the proportion in your breath, namely 57 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

- 1.2. As a result of the conviction set out at 1.1 the Defendant received a sentence of disqualification from holding or obtaining a driving licence for 16 months and a fine of £576. The Defendant was ordered to pay £85 prosecution costs.

Charge 2

2. Consequent upon the facts and matters set out in Charge 1 above the Defendant has:

2.1 engaged in or been party to illegal behaviour, contrary to rule 2.2.2 of the PRPG; and/or

2.2 conducted himself in an unbecoming, unlawful or illegal manner which tends to bring discredit upon himself and/or may harm the standing of the profession and/or the CIOT, contrary to rule 2.6.3 of the PRPG.

7. Rule 2.2.2 of PRPG 2018 prohibits a member from engaging in any illegal activity.

8. Rule 2.6.3 of the PRPG 2018 requires a member not to perform his professional work or conduct his practice in such a way as to be likely to bring discredit on himself, the profession or the CIOT/ATT. Rule 2.6.3 of the PRPG 2018 also prohibits members from conducting themselves in an unbecoming, unlawful or illegal manner, which tends to bring discredit on themselves, or which may harm the standing of the profession or the CIOT/ATT.

RESPONSE TO CHARGES

9. Mr Parascandolo admitted all the charges and the Tribunal found them proved based on his admissions.

BACKGROUND:

10. On 26 May 2023, Mr Parascandolo reported to the CIOT by email that he had been convicted of drink driving. He gave the following account of the incident which led to his conviction.

‘On the evening of 30 April 2023, I was celebrating a friend’s birthday and as part of those celebrations consumed alcoholic drinks. On the same evening, I was stopped by a police officer for driving an e-scooter whilst under the influence of alcohol. I was arrested on suspicion of drink driving and upon being tested, the proportion of alcohol on my breath was tested as 57 microgrammes in 100 millilitres of breath, which is in excess of the drink driving limit (although in the

lowest bracket of blood alcohol per sentencing guidelines). I was subsequently arrested and charged. On 18 May 2023, I plead guilty to the charge in court, receiving a fine and a driving ban. Nobody was injured, nor was any damage to property caused as a result of these events' [sic]

11. Mr Parascandolo stated he was self-reporting this conviction pursuant to his duty to do so under PRPG 2.14. He said that he had foolishly decided to hire an e-scooter near to a bar where he had been drinking with his friends. His intention was only to travel a short distance in a circle to return the e-scooter to its original location.
12. Mr Parascandolo said in his email that he immensely regretted his actions and had learnt his lesson from the incident. He was going to be attending a driving course. He had a clean previous record and this incident, he said, was a one-off.
13. Mr Parascandolo subsequently informed the TDB that he had successfully completed a drink driving rehabilitation course, which had served to reduce his driving ban by 25%.
14. In his written submissions accompanying his response form, Mr Parascandolo reiterated his sincere regret for the events which led to his conviction. He said that he had thought that hiring the scooter and driving it in a short circle would be an enjoyable and harmless activity, and he did not realise at the time that it was illegal to use an e-scooter having consumed alcohol. He said that he was not putting this forward as an excuse for his behaviour, and he now realises the potential damage that could have been caused as a result of his actions.

SANCTION:

15. 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.
16. 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.

17. Any sanction imposed by the Tribunal must be appropriate and proportionate, considering the member's own interests as well as the public interest, and should be the least onerous measure that adequately meets the facts of the charges found proved.
18. The identified the following as mitigating factors.
 - (a) Mr Parascandolo was of unblemished previous character,
 - (b) This was an isolated incident, and, in the Tribunal's view, there was little chance of repetition.
 - (b) Mr Parascandolo had promptly self-reported to the CIOT.
 - (c) Though a conviction for a drink-drive offence must be taken seriously given the risk of harm, this particular incident was not at the higher end of scale of criminal offending.
 - (e) The Tribunal was satisfied that Mr Parascandolo had shown a high level of genuine remorse and insight, as demonstrated by his appreciation of the impact his actions will have on the reputation of the profession and the importance of upholding standards even during one's personal life.
 - (f) Mr Parascandolo has made full admissions and has complied with the penalties imposed by the Magistrates' Court.
19. The Tribunal identified no aggravating factors.
20. The ISG says that conduct which results in a conviction but arose in a member's private life, as opposed to their professional work, needs careful consideration. The role of the Tribunal is to balance the nature and gravity of the offence and its bearing, if any, on the member's fitness to practise as a tax adviser; and to weigh up the need to protect the public and confidence in the reputation of the profession against the need to impose a further penalty and its consequential impact on the ability of the member to practise their profession. Whether the conviction of the member diminishes the reputation of the profession is also a relevant factor.

21. The ISG further states that the Tribunal should consider the nature and seriousness of the offence. In relation to drink driving, the circumstances of the driving, the degree of intoxication and whether recklessness was proven could all be relevant factors.
22. The Tribunal considered that imposing no sanction or allowing the matter to rest on file would be inappropriate as this would not appropriately mark the unacceptable nature of Mr Parascandolo's conduct.
23. The Tribunal therefore considered the remaining sanctions in ascending order of gravity.
24. The Tribunal considered whether a warning would be an appropriate sanction. The ISG states:

‘A warning may be appropriate where the misconduct was minor, but the Tribunal nevertheless wishes to indicate that the behaviour was unacceptable.’
25. The ISG further states that factors relevant to whether a warning may be appropriate include:
 - a) evidence of no loss to the client
 - b) evidence of member's understanding and appreciation of failings
 - c) misconduct was an isolated incident and not deliberate
 - d) evidence of insight, including genuine expression of regret
 - e) previous good history
 - f) no repetition of such misconduct since the incident
26. Taking the above matters into account, the Tribunal was of the view that a warning was the appropriate and proportionate sanction. Whilst it was necessary to show that conduct of this nature is not acceptable, considering the mitigating features identified above the Tribunal considered that it was at the lower end of the scale of misconduct. It also considered that the alcohol reading was at the lower end of the spectrum, he had not been convicted of dangerous driving and no one had been harmed. The Tribunal was satisfied that Mr Parascandolo had learnt his lesson from this incident and there

was little, if any, risk of repetition. It was an isolated error in an otherwise unblemished record and Mr Parascandolo had shown genuine insight into, and remorse for, his actions.

27. The Tribunal considered that any more severe sanction would be unduly punitive and disproportionate in all the circumstances.
28. Therefore, pursuant to regulation 20.7(f)(iii), the Tribunal issued a warning to Mr Parascandolo.

COSTS:

29. The TDB applied for costs in the sum of £2,653. The application was supported by a schedule giving a breakdown of that figure.
30. 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.
31. 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.
32. Mr Parascandolo pointed out the length of time it had taken for this matter to be concluded, bearing in mind that he had self-reported nearly a year ago. However, he did not disagree with the principle that he should meet the costs of the proceedings. The Tribunal was satisfied that the sums sought were reasonable and had been properly incurred, and that the length of time taken to bring this matter to a hearing was not reflected in any increased costs claimed by the TDB.
33. The Tribunal therefore awarded costs in the sum claimed of £2,653.
34. Pursuant to regulation 27.1 of the Disciplinary Regulations, the costs are payable within 28 days of the service of this order.

PUBLICITY:

35. 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 unless there are exceptional circumstances justifying a different course. Mr Parascandolo did not suggest that there were any exceptional circumstances in this case.

36. Therefore, the Tribunal made an order under regulation 28.1 of the Disciplinary Regulations for publication of this order made, naming Mr Parascandolo, together with written reasons for the Tribunal's decision.
37. 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:

38. Pursuant to regulation 20.9 of the Disciplinary Regulations, this decision will be treated as effective from the date on which it is deemed served on Mr Parascandolo.



Andrew Granville Stafford
(Chair)
4.4.2024