

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

**Ref. TDB/2023/08(A)  
TDB/2023/08(B)**

**THE TAXATION DISCIPLINARY  
BOARD**

**TDB**

**-and-**

**Mr STEPHEN BLOOMER  
(CIOT No 104188)**

**Defendant**

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**DECISION AND REASONS**

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<b>Date of Hearing</b>	19 November 2024
<b>Venue</b>	Virtual using Microsoft Teams
<b>Tribunal Members</b>	
Legally Qualified Chair	Brett Wilson
Professional Member	Janet Wilkins
Lay Member	Helen Wagner
<b>Tribunal Clerk</b>	Nigel Bremner
<b>Taxation Disciplinary Board (‘TBD’)</b>	Represented by Mr Hamil of counsel
<b>Mr Bloomer</b>	Not in attendance

## **Background**

1. The TDB's case is that the Defendant was the subject of proceedings by ICAEW which, on 31 October 2022, resulted in findings being made against him and sanction imposed of an order for exclusion, severe reprimand and financial penalty of £7,000 with costs of £12,350, and that he failed to notify the CIOT of that within the required 2 months.
2. Further, the TDB alleges that the Defendant failed to provide any meaningful and/or substantive response to CIOT's communications, did not respond to the TDB's letter of 21 July 2023 and he did not respond to requests to submit his annual return to CIOT.
3. Further, the TDB argues that following the Defendant's expulsion from ICAEW, that body could not act as his anti-money laundering ('AML') supervisor. The TDB argues that it is a legal requirement to have AML supervision to practise as a tax adviser. It is the TDB's case that by continuing to practise as a tax adviser without the required AML supervision (i.e. after he was expelled from ICAEW and without having an alternative AML supervisor in place), the Defendant practised illegally as a tax adviser.
4. In addition, the TDB alleges that the Defendant failed to register for AML supervision in 2022/2023 in his personal capacity nor did he register Bloomer Accountancy Limited (which was a limited company operated by the Defendant) for supervision in 2023/2024.
5. The TDB alleges that the Defendant failed to provide a criminality check despite being sent requests on 10 March 2023 and 11 April 2023 and that he has failed to communicate with CIOT since 3 March 2023.
6. The TDB alleges that as a result the Defendant has committed several breaches of the Professional Rules and Practice Guidelines 2018 ('PRPG').
7. The Charges and the relevant aspects the PRPG are set out in Annex 1.

## Preliminary Issues

8. The Defendant did not attend the hearing and the TDB applied for the Tribunal to proceed in his absence. The Tribunal had regard to regulations 17.3 and 17.4 of The Taxation Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024) (the ‘Regulations’) which allowed the Tribunal to proceed in the absence of the Defendant.
9. The Tribunal was satisfied that the aforementioned version of the Regulations applied as the Regulations state that they take effect from 1 January 2024 and that the version to be used is that which is effective on the date of the decision to refer the Charge to the Disciplinary Tribunal. The Tribunal noted that the Investigation Committee decision which referred the matter to the Disciplinary Tribunal was made on 17 May 2024.
10. In deciding whether to proceed in the absence of the Defendant, the Tribunal had to be satisfied that he had been served with the bundle no later than 35 days before the hearing (pursuant to rule 14.1 of the Regulations) so that he had been given reasonable notice of the hearing and a reasonable opportunity to prepare his case.
11. The Tribunal also had to act reasonably and, in making its decision, the Tribunal had regard to the guidance provided in the criminal courts when deciding whether to proceed in the absence of an accused.
12. The Tribunal therefore considered decided cases such as *Hayward* [2001] EWCA Crim 168 and *Jones (Anthony William)* [2002] UKHL 5. The Tribunal also considered the principles arising from *GMC v Adegoba* *GMC v Visvardis* [2016] UKHL 5 which allows a disciplinary tribunal, when considering whether to proceed in the absence of a defendant, to have regard to the principles arising out of criminal cases but also that it should also consider the need to act for the protection of the public. In particular, the Tribunal considered the following matters:
  - a. the likelihood of the Defendant attending in the future if the hearing was adjourned was low;

- b. the prejudice that could be caused to the TDB if the hearing was adjourned;
  - c. the impact that an adjournment could have on the ability of the TDB to protect the public;
  - d. on 14 November 2024, the Defendant had replied to the TDB's email of 12 November 2024 and stated that he would not be attending the hearing on 19 November 2024, enclosing his response form and written representations.
13. As to service, the Tribunal noted that the TDB had emailed the Defendant at a 'gmail' email address to which the Defendant had responded. The Tribunal could reasonably infer, therefore, that the email address was one which was used by the Defendant to send and receive correspondence.
14. The Tribunal was of the view that the 'gmail' email address was one which the TDB could reasonably infer would be accessed by the Defendant to receive correspondence and papers relating to this hearing.
15. The Tribunal accepted submissions on behalf of the TDB that regulation 14.1 of the Regulations does not require all documents listed in sub-paragraph (a) to (f) to have been sent in a single letter or email. The Tribunal was satisfied that the Defendant had received the papers concerning the Investigation Committee and that the TDB's email of 4 October 2024 provided him with the bundle and a number of documents which included the Professional Rules and Practice Guidelines 2018 (as amended in 2021 and hereinafter referred to as the 'PRPG'), the TDB Scheme and guidance and a copy of the CIOT Anti-Money Laundering Scheme Rules 2017. The email set out the date and time of the hearing and stated that it would take place using Microsoft Teams. The Tribunal was satisfied that this provided the Defendant with the required 35 days (as required by rule 14.1 of the Regulations) notice of the hearing and provided him with the items listed in sub-paragraphs (a) to (f) of rule 14.1.
16. Further, the Tribunal noted that on 18 November 2024 the clerk to the Tribunal sent the Defendant an email which contained a link to the hearing. The Tribunal was informed that the Defendant had not responded to that email.

17. The Tribunal was satisfied that the Defendant had been served in accordance with rules 31.1 and 31.3 of the Regulations and that he had been given a reasonable opportunity to prepare his case which was confirmed by him submitting his response form and written representations.
18. The Tribunal was satisfied that there was nothing to suggest that the Defendant would attend a future hearing and an adjournment could undermine the ability of the TDB to carry out its functions of protecting the public. The Tribunal therefore decided to proceed in the absence of the Defendant.

### **Evidence**

19. The Tribunal did not hear oral evidence. It was provided with a bundle of documentary evidence consisting of 84 pages and a supplementary bundle of 20 pages.
20. The Tribunal was entitled to consider hearsay evidence and attach such weight to that evidence as it considered appropriate.
21. The bundles contained a copy of the ICAEW decision of 31 October 2022, correspondence between the Defendant and CIOT and the TDB.
22. The Tribunal had particular regard to a letter from the Defendant to the TDB dated 15 May 2024. The letter referred to case numbers '2023-08 CASE A' and '2023-08 CASE B'. In that letter the Defendant wrote, *'In order to save yourselves time I consider that I am "guilty as charged". My only excuse is ignorance'*.

### **Findings**

23. In considering the Charges and the evidence the Tribunal reminded itself that the burden of proof in this case rests with the TDB and the standard of proof was on the balance of probabilities.
24. The Tribunal considered all the evidence before it. The Tribunal reminded itself of regulations 30.1, 30.2 and 30.4 of the Regulations. These:

- a. required the Tribunal to conduct the hearing in a manner consistent with the principles of natural justice;
  - b. allowed the Tribunal to adopt any method of procedure which it may consider fair and which gave each party any opportunity to have their case presented; and
  - c. provided that the strict rules of evidence do not apply, allowing the Tribunal to admit any evidence, whether oral or written, whether direct or hearsay, and whether or not that evidence would be admissible in a court of law.
25. These rules allowed the Tribunal to admit and then consider the various letters and emails even though they were provided as part of a witness statement from a representative of CIOT or TDB and amounted to hearsay evidence. The Tribunal attached such weight to the various pieces of correspondence as it considered appropriate having regard to each individual item on its own merits.
26. The Tribunal also noted that, in his correspondence with the TDB, the Defendant had not expressed an objection to the admission of that evidence and he had made some admissions.

#### Charge 1

27. Charge 1 consisted of 5 aspects set out in charges 1.1, 1.2, 1.3, 1.4 and 1.5 (as shown in Annex 1). The Tribunal considered each charge in turn.
28. As to charge 1.1, the Tribunal considered the decision notice of the ICAEW tribunal which confirmed the date of the hearing (i.e. 31 October 2022), that the Defendant was the defendant in those proceedings, that findings were made against Defendant and the sanction imposed. These details accorded with the elements of charge 1.1 as pleaded in the Schedule of Charges. The Tribunal also noted that, in his response form, the Defendant accepted the charge.
29. The Tribunal therefore found on the balance of probabilities, charge 1.1 was proved.

30. As to charge 1.2, the Tribunal noted that the Defendant accepted that he did not notify the CIOT of the ICAEW investigation or of the disciplinary findings within the required 2-month period. The Tribunal considered the Defendant's completed response form and noted that the indication of acceptance against charge 1.2 is unequivocal. Further, the Tribunal noted the email from CIOT to the Defendant dated 10 February 2023 in which it stated that the CIOT had been notified by ICAEW of the conclusion of the proceedings and that the CIOT could not find any notification from the Defendant about the outcome of the disciplinary case. The Tribunal noted that in the email, CIOT points out the relevant rule of the PRPG which required the Defendant to notice CIOT within 2 months.
31. The Tribunal noted that in response, in an email dated 23 February 2023, the Defendant stated that he was not aware of 'clause 2.14.2' and he apologised for his 'oversight'. The Tribunal therefore found charge 1.2 proved on the balance of probabilities.
32. As to charge 1.3, the Tribunal noted that the allegation is denied by the Defendant. His evidence in the response form was that he had never received any written communication that necessitated a response. He said that he had received lots of emails but could not gauge at any point what specifically was being requested. He stated that it seemed to him that the emails were keeping him abreast of proceedings.
33. The Tribunal considered the email which was sent to the Defendant by CIOT on 10 February 2023. The email informed the Defendant of the ICAEW notification about the disciplinary proceedings and set out the applicable rule from the PRPG. The email stated that the CIOT had not received notice from the Defendant about the ICAEW proceedings.
34. The email informed the Defendant that he would be referred to the TDB. It stated that the Defendant's 2021 annual return on 5 March 2022 indicated that he had never been the subject of disciplinary action by another professional body and that they would be writing to him separately about AML supervision.
35. The Tribunal noted that the CIOT email did not request a response from the Defendant in any shape or form, it made points and provided information. The Tribunal therefore concluded that it was unclear as to what response the CIOT was expecting beyond the

acknowledgement and apology which the Defendant made in his email of 23 February 2023. The Tribunal also concluded that a strict interpretation of the rule 2.14.2 (referred to in the email from the CIOT) was that he was only obliged to notify them when the ICAEW proceedings were *'upheld'*. That is a specific word used in the rule and a reasonable interpretation could be that this did not include proceedings or investigations that had not been concluded.

36. In that regard, the Tribunal was of the view that a reasonable interpretation of the Defendant's response to the CIOT email of 10 February 2023, was that it was meaningful and substantive because it acknowledged the correspondence, made concessions, provided a brief explanation (i.e. ignorance) and apologised.
37. For these reasons, on the balance of probabilities, the Tribunal did not find charge 1.3 proved.
38. As to charge 1.4, the Tribunal noted the letter from the TDB to the Defendant dated 21 July 2023. The Tribunal noted that in his completed response form the Defendant made an unequivocal admission to this charge. The Tribunal considered the bundles of documents before it to ensure that there was no response and it could not find any. The Tribunal therefore concluded that, on the balance of probabilities, charge 1.4 was proved.
39. As to charge 1.5, the Tribunal noted that the Defendant avers in his response form that he completed all annual returns. The Defendant raises a specific point and he had an evidential burden to show that he had made the annual returns. The Tribunal considered the response form, the Defendant's letter dated 15 April 2024 (in which he says that he is 'guilty as charged') and his written representations. In those documents, there is no specific reference to when or how the returns were made or any copies of emails or receipts to show that they were received. Neither the email of 15 April 2024 nor the written representations dated 14 November 2024 sets out an account of when the Defendant says he submitted those annual returns.
40. The Tribunal reminded itself that whilst the Defendant may have an evidential burden, this does not alter the burden of proof. That remains with the TDB. However, the Tribunal



considered the copies of correspondence that the TDB provided in support of its case. The Tribunal noted that an email from CIOT dated 10 January 2024 listed the emails that the CIOT had sent to the Defendant in 2022, 2023 and 2024 in relation to the annual returns. The Tribunal also considered the samples of correspondence which refer expressly to the Defendant's annual returns being overdue. The Tribunal considered it reasonable to conclude that the CIOT was unlikely to have sent correspondence to the Defendant informing him that his annual return was overdue if he had already submitted it. Given the absence of evidence to show that the Defendant had submitted his annual returns, the Tribunal concluded that, on the balance of probabilities, charge 1.5 was proved.

41. The conclusion is that Charge 1 is proved save for charge 1.3 which is dismissed.

#### Charge 2

42. As to Charge 2, the Tribunal noted that, in his completed response form, the Defendant did not contest that as a consequence of the factual matrix arising from Charge 1, he has committed breaches of rules 2.6.2, 2.6.3, 2.8.1, 2.12.1, 2.13.2, 2.13.2 and 2.14.2 of the PRPG.

43. Notwithstanding the Defendant's acceptance regarding Charge 2, the Tribunal was of the view that Charge 2 is proved in its entirety even though it found no case to answer in respect of charge 1.3 for the reasons set out below.

44. As to rule 2.6.2 and 2.6.3, the Laws of the CIOT includes the PRPG so the Defendant would be in breach of those laws upon there being a finding that he has breached any aspect of the PRPG.

45. The Tribunal was of the view that, on the balance of probabilities, in failing to notify the CIOT of the ICAEW of proceedings, not replying to TDB correspondence and not filing his annual return when required to do so, the Defendant acted without due care in his professional dealings. Further, such conduct could be described as conducting professional work improperly, inefficiently or negligently as it would fall below the standard required of a reasonably competent tax advisor. A reasonably competent tax

advisor would be expected to be aware of and comply with the requirements of their regulator and file documents (such as annual returns) on time and in response to reminders. The Tribunal also concluded that it is more likely than not that a reasonably informed member of the public would form a view that such conduct was unbefitting of a competent tax advisor and likely to discredit the Defendant, the CIOT or the profession. Therefore, on the balance of probabilities, rules 2.6.2 and 2.6.3 have been breached.

46. The Tribunal found that as rule 2.8.1 clearly obliges a member to complete and file their annual return to CIOT within the advised time limit, and upon the Tribunal finding as a fact that the Defendant failed to do so, on the balance of probabilities, rule 2.8.1 has been breached.
47. The Tribunal was of the view that the ambit of rule 2.12.1 was not confined to information about ICAEW but could be construed broadly to encompass all requests for information, including annual returns and AML information. The Tribunal concluded that consequent upon its findings and conclusions regarding Charge 1 and rule 2.8.1, on the balance of probabilities, rule 2.12.1 has been breached notwithstanding the Tribunal's decision regarding charge 1.3.
48. The Tribunal was of the view that given its findings that the Defendant failed to respond to TDB correspondence, it follows that on the balance of probabilities, the Defendant breached rules 12.13.2 and 12.13.3. Those rules specifically require members to respond to TDB correspondence and make failing to do so a further disciplinary matter.
49. As to rule 12.14.2, the Tribunal noted that the rule clearly requires a member to inform the CIOT within 2 months if they are notified of disciplinary or regulatory action upheld against them by another professional body or regulator. Upon finding that the Defendant failed to notify the CIOT of the ICAEW decision within the specific 2-month period, the Tribunal concluded that on the balance of probabilities, the Defendant breached rule 12.14.2.
50. The Tribunal found, on the balance of probabilities, that Charge 2 is proved in its entirety.

### Charge 3

51. Charge 3 consisted of 6 aspects in charges 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6 (as shown in Annex 1). The Tribunal considered each charge in turn.
52. As to charge 3.1, the Tribunal noted that, in his completed response form, the Defendant admitted the charge but the Tribunal noted that the Defendant went on to state that whilst this ‘appeared to be true’ he completed AML forms and paid ICAEW £863.00 on 6 March 23. However, he had been expelled from ICAEW on 31 October 2022 and the Tribunal had regard to the email which the CIOT sent him on 23 February 2023 explaining in clear language that following his expulsion from ICAEW, its AML supervision of him ceased. The email went on to advise the Defendant that he needed to have AML supervision and it outlined the process for him to apply for this to CIOT.
53. The Tribunal noted that the Defendant responded to that email on 23 February 2023 stating that he assumed the CIOT was correct and he would apply to register with another body, saying that ‘hopefully’ that would be CIOT. The Tribunal was of the view that his acknowledgement and recognition of the need to find an alternative AML supervisor was inconsistent with the position in his response form that implied that he thought he was covered by ICAEW because he paid them on 6 March 2023. The Defendant has not explained why he paid ICAEW following the clear advice from CIOT and his supposed recognition of it.
54. The Tribunal accepted the submissions on behalf of the TDB that it was a legal requirement for a tax advisor to have AML supervision. The Tribunal found, on the balance of a probabilities, that charge 3.1 was proved.
55. As to charge 3.2, the Tribunal noted that the Defendant, in his completed response form, confirmed that he denied the charge based on his alleged completion of forms and payment of the fees that he referred to in relation to charge 3.1. Notwithstanding that the Defendant did not provide any evidence of payment or the forms that he completed, he has not explained why he completed the forms and made the payment following the advice which he been provided by CIOT and his acknowledgment of that. Given that the Tribunal had found the factual assertions of charge 3.1 proved, the Tribunal concluded that it follows that if the Defendant did not have AML supervision by ICAEW and it was

a legal requirement for the Defendant to have it whilst practising as a tax adviser, it follows that by continuing to practise as a tax adviser without having obtained alternative AML supervision, then, on the balance of probabilities, the Defendant had been practising illegally following his expulsion from ICAEW and on that basis, the Tribunal found charge 3.2 proved.

56. As to charge 3.3, the Tribunal noted that in his completed response form, the Defendant admitted charge 3.3. He provided an explanation that he believed that if his business was covered, there was no need for him to be 'covered privately'. He went on to state that if he was wrong about that he apologised.
57. The Tribunal considered the reminders that the Defendant was sent on 2, 23 and 26 May 2023 stating clearly that the deadline for him to register for AML supervision was midnight on 31 May 2023. The Tribunal also considered the letter to the Defendant from CIOT dated 22 June 2023 stating that as the Defendant had not applied for AML supervision by the required deadline, it would be referring the matter to the TDB. The Tribunal concluded that the correspondence was unlikely to have been sent if the Defendant had applied for AML supervision with CIOT. The Tribunal noted that the Defendant does not make any suggestion that the aforementioned CIOT correspondence was sent erroneously.
58. The Tribunal also had regard to the Defendant's response to the TDB dated 15 May 2024 in which he states that he was 'guilty as charged' and that a point that he asked to be considered was that it was not his intention to deceive and none of his clients were 'money launderers'. The Tribunal was of the view that this was inconsistent with his position in his response form in which he seems to suggest that his business was covered. The Tribunal noted that the Defendant does not specifically address this in his most recent representations.
59. Therefore, the Tribunal concluded that, on the balance of probabilities, charge 3.3 was proved.

60. As to charge 3.4, the Tribunal found the Defendant's explanation somewhat lacking in cogency. The Tribunal noted that the Defendant seems to rely on the payment to ICAEW of the £869.00. The Tribunal repeated its views regarding the lack of evidence of the payment of the £869.00 and the documents which would show the reason for that payment. The Tribunal was of the view that whilst the burden of proof rested on the TDB, it was also open for the Defendant to contact ICAEW and ask it to confirm receipt of the £869.00 and confirm what it was for.
61. The Tribunal considered the correspondence that the TDB relied on in support of its case. As stated, the correspondence seems to show that the CIOT reminded the Defendant in 2023 of the need to file his AML supervision application and it has reasonably inferred that the reminders and referral to TDB would be unlikely to have been made if the proper application had been made. The Tribunal therefore concluded that, on the balance of probabilities, charge 3.4 was proved.
62. As to charge 3.5, the Tribunal noted that the Defendant unequivocally admitted the charge in his completed response form and provided an explanation that he forgot. The Tribunal had regard to the correspondence relied on by the TDB and concluded that on the balance of probabilities, charge 3.5 was proved.
63. As to charge 3.6, the Tribunal had regard to the correspondence in the bundles before it and checked to ensure that there was no response at all from the Defendant to the CIOT email of 3 March 2023. There was none and the Defendant has not provided or referred to any specific communication from him after that date. The Tribunal therefore concluded that on the balance of probabilities, charge 3.6 was proved.

#### Charge 4

64. As to Charge 4, the Tribunal noted that, in his completed response form, the Defendant did not contest that as a consequence of the factual matrix arising from Charge 3, he has committed breaches of rules 2.6.1, 2.6.2, 2.6.3, 2.10.1, 2.10.2, 2.12.1 of the PRPG and rule 5.4 of the CIOT Anti-Money Laundering Scheme Rules.

65. The Tribunal found that rule 2.6.1 of the PRPG is engaged and accepted that, as the rule states, professional behaviour encompasses a member's business dealings and, in certain circumstances as set out in rule 2.6.3 of the PRPG, conduct in a member's personal life or private capacity.
66. The Tribunal found that, consequently, given its findings about the misconduct of the Defendant, it follows that the Defendant has breached rules 2.6.1, 2.6.2 and 2.6.3 of the PRPG as these rules require the Defendant to:
- a. uphold the professional standards of the CIOT and ATT as set out in the Laws of the CIOT and ATT;
  - b. take due care in their professional conduct and dealings;
  - c. avoid practicing improperly, inefficiently, negligently or incompletely to avoid bringing themselves, the CIOT or ATT or the tax profession into disrepute;
  - d. avoid breaching the Laws of the CIOT or ATT; and
  - e. conducting himself in an unbecoming, unlawful or illegal manner which could bring discredit on him and/or harm the standing of the profession and/or the CIOT or ATT.
67. The Tribunal noted that the definition of the Laws of the CIOT and ATT include the PRPG and therefore it found that, by breaching aspects of the PRPG, by default the Defendant has not upheld and has failed to avoid breaching the said laws.
68. Given the failure of the Defendant to procure the required AML supervision having been made aware that he needed to do so by the CIOT following his expulsion by ICAEW with the result being that the Defendant worked illegally, the Tribunal found that on the balance of probabilities, the Defendant has not taken due care in his professional conduct and dealings. The Tribunal found that if he had taken due care, he would have ensured that he obtained the required AML supervision and acted lawfully by ceasing to practise

until that was in place. The Tribunal therefore found that on the balance of probabilities, rules 2.6.1, 2.6.2 and 2.6.3 were breached.

69. As to rules 2.10.1, 2.10.2 and 2.12.1 the Tribunal had found as a fact that the Defendant did not respond to CIOT communications regarding the AML supervision, did not obtain AML supervision with CIOT following his expulsion from ICAEW and the result of the failure to obtain AML supervision meant that the Defendant was working unlawfully. The Tribunal concluded that it follows that, on the balance of probabilities, the Defendant breached rules 2.10.1 and 2.10.2 as those rules require a member to comply with the applicable anti-money laundering legislation. Rule 2.12.1 requires a member to provide the information asked for by the CIOT and in failing to do so, the Defendant has breached that rule.
70. Finally, the Tribunal concluded that the Defendant had breached rule 5.4 of the CIOT Anti-Money Laundering Scheme Rules because, in accordance with the Tribunal's finding of fact, the Defendant did not provide the criminality checks that are required by the rule 5.4.
71. The Tribunal concluded that, on the balance of probabilities, Charge 4 is proved in its entirety.

### **Sanction**

72. In considering sanction, the Tribunal had regard to the TDB's Indicative Sanctions Guidance ('ISG'). The Tribunal applied the ISG dated December 2020 (revised January 2022 and May 2023).
73. The Tribunal reminded itself that sanctions are not intended to be punitive. The purpose of sanction is protection of the public. The Tribunal had to impose a sanction which was proportionate and it had to adopt an approach whereby it considered the most lenient sanction first and only if it was of the view that it did not reflect the seriousness of the misconduct should the Tribunal consider a more severe sanction.

74. The Tribunal was made aware of the interim order. The Tribunal was not made aware of any previous disciplinary findings against the Defendant by TDB but it was clearly aware of the ICAEW findings and sanction.
75. The Tribunal noted the options available to it pursuant to regulation 20.7(f) of the Regulations and that it was able to consider combining a fine with another sanction.
76. The Tribunal considered the categories of misconduct set out in section 4 of the ISG. The Tribunal noted submissions that the conduct straddled (4) – Failure to take due care, and (9) – Professional behaviour.
77. The Tribunal was of the view that there were examples of misconduct that fell within the ambit of ‘failure to take due care’ such as:
  - a. defective tax work (e.g. late filing, not complying with aspects of the PRPG);
  - b. failing to exercise adequate control and supervision over practice; and
  - c. failing to respond expeditiously, adequately or at all to correspondence from the CIOT and TDB.
78. The Tribunal noted that the guidance in the ISG recommended a sanction of censure.
79. The Tribunal had regard to the ambit of the guidance in the ISG for professional behaviour. The ISG provided that members are required to behave in a professional manner at all times and the category applied to behaviour that may bring the member, COIT and/or the profession into disrepute.
80. The Tribunal considered the descriptions of the available sanctions in section 3 of the ISG. The Tribunal considered the less onerous sanctions first. It took into consideration the fact that these matters arose out of the Defendant’s expulsion from ICAEW and was therefore a second set of disciplinary proceedings involving the Defendant. The Tribunal gave weight to the fact that the Defendant had practised without the legally required AML supervision and that he seemed to trivialise this in his response to the TDB where he stated that none of his clients were money launderers.



81. The Tribunal concluded that the sanctions of ‘no further action’, ‘order to rest on file’, ‘warning’ and ‘apology’ were inappropriate as these related to minor instances of misconduct. The Tribunal was of the view that this was not a minor matter due to the period over which the misconduct occurred and the element of practising unlawfully or illegally.
82. The Tribunal considered the appropriateness of a censure. It was of the view that whilst the ISG provides that this was aimed at serious misconduct, it was not appropriate in this case as the misconduct was not an isolated incident, there was no insight and limited remorse. Whilst the Defendant had previously stated that he was ‘guilty as charged’, that was not the response in his response form.
83. These aggravating features were not, in the Tribunal’s view, balanced by the Defendant’s apparent confusion of the regulatory and legal framework in which he operated. The Tribunal was of the view that the Defendant was an experienced professional and was not persuaded by his plea of ignorance. The submission of an annual return in response to a reminder from CIOT was a straightforward task that he could have been expected to complete without delay.
84. As to the issue of AML supervision, the Tribunal found the Defendant’s written explanations confusing. As stated, the Tribunal found that the Defendant had replied to CIOT correspondence clearly advising him of the need to apply for AML supervision following his expulsion from ICAEW. He had replied confirming that he would be making an application. He now sought to state that he believed that he had made the necessary application to ICAEW. This seems bizarre given his response to the CIOT communication.
85. The Tribunal noted that whilst the Defendant had submitted that he had acted deliberately, he had not provided any insight into his behaviour, not considered the impact on his profession or the CIOT. There was no submission from the Defendant that would reassure the Tribunal that there was a low risk of repetition. Whilst saying that he behaved recklessly, he had not set out what he had learned from these matters or what steps he

would implement to improve his practice and avoid a recurrence. The Tribunal found that he had repeatedly ignored both CIOT requirements and requests from the TDB.

86. For these reasons, the Tribunal was of the view that it could not be confident that a temporary exclusion from membership (i.e. suspension) or censure would protect the public sufficiently because of the risk of recurrence in this case.
87. Therefore, having considered the guidance set out in the ISG regarding the appropriateness of expulsion, the Tribunal was of the view that this sanction was appropriate and proportionate given the serious nature of the Defendant's misconduct and reflected the attitudinal concerns in his approach to professional regulation that are reflected in the Defendant's overall misconduct.
88. Due to the lack of reflection, insight and very limited remorse from the Defendant there was little to reassure the Tribunal that there would be no repetition of the misconduct.
89. The Tribunal decided not to impose a minimum term before which the Defendant could reapply for membership. The Tribunal was of the view that to do so would fetter the discretion of the ATT or CIOT.
90. Therefore, the sanction is one of expulsion for Charges 1 and 2 and expulsion for Charges 3 and 4.:
91. The Tribunal expects either the TDB and/or CIOT to ensure that the Defendant complies and does not continue to hold himself out as being a member.

### **Costs and Publication**

92. The Tribunal proceeded to consider the issues of costs and publication. The Tribunal saw no exceptional reasons as to why the Defendant should not pay the TDB's costs. The Tribunal considered the TDB's costs schedule. The Tribunal was of the view that the amount of costs claimed was confined only to the various stages of the disciplinary process and the personnel involved (such as the Presenter and Clerk). The Tribunal found, in the circumstances that the costs claimed by the TDB were reasonable and proportionate

and ordered that the Defendant do pay the TDB costs assessed at £5,729 including VAT. These included the costs of the interim order hearing. The Tribunal considered that the Defendant should pay the TDB's costs of that hearing given that the Tribunal was informed that an order was made. Whilst that decision would have been based on risk without findings being made, it had caused the TDB to incur costs.

93. Regulation 27 of the Regulations applies.
94. There were no submissions from the Defendant to cause the Tribunal to disapply the general rule against publication and therefore the Tribunal ordered publication pursuant to regulation 28 of the Regulations.

**Brett Wilson**

**Chair**

**24 November 2024**

## ANNEX 1

### SCHEDULE OF CHARGES

The charges set out below make reference to the Anti Money Laundering Rules 2017 of the Chartered Institute of Taxation (“CIOT”) and the following rules of the Professional Rules and Practice Guidelines 2018 (the “PRPG”) of the CIOT and the Association of Taxation Technicians (the “ATT”), as amended from 1 January 2021:

#### **Rule 2.6 - Professional behaviour**

2.6.1 Professional behaviour encompasses a member’s business dealing and in certain circumstances as set out below in 2.6.3, conduct in a member’s personal life or private capacity.

2.6.2 A member must:

- Uphold the professional standards of the CIOT as set out in the Laws of the CIOT;
- Take due care in their professional conduct and professional dealings.

2.6.3 A member must not:

- Perform their professional work, or conduct their practice or business relationships, or perform the duties of their employment improperly, inefficiently, negligently or incompletely to such an extent or on such number of occasions as to be likely to bring discredit to themselves, to the CIOT or ATT or to the tax profession;
- Breach the Laws of the CIOT or ATT;
- Conduct themselves in an unbecoming, unlawful, or illegal manner, including in a personal, private capacity, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the CIOT.

## **2.8 - Completion of Annual Return**

2.8.1 A member must complete and submit their Annual Return to the CIOT/ATT within the advised time limits.

## **2.10 Compliance with Anti Money Laundering legislation and registration**

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.

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

## **2.12 - Provision of information to CIOT**

2.12.1 A member must provide such information as is reasonably requested by the CIOT without unreasonable delay. A member must reply to correspondence from the CIOT which requires a response and again must do so without an unreasonable delay.

## **2.13 - Compliance with disciplinary process and orders from the TDB**

2.13.2 A member must respond to correspondence from the TDB without unreasonable

2.13.3 Failure to respond to correspondence or to comply with an order from the TDB without unreasonable delay will in itself constitute a disciplinary matter

## **2.14 - Obligation to notify the CIOT:**

2.14.2 A member must notify the CIOT in writing addressed to the Head of Professional Standards CIOT as appropriate, within 2 months if they:

- Are notified of disciplinary and/or regulatory action upheld against them by another professional body to which a member belongs or by a regulator.

## **CIOT Anti-Money Laundering Scheme Rules 2017**

### **Rights and Obligations**

5.4 A registrant must comply with the requirements of the institute as set out in or issued in pursuance of the scheme. In particular a registrant must:

- (a) where a sole proprietor, obtain and disclose to the institute a criminal history check in support of the application for registration.
- (b) where a firm, obtain and disclose to the Institute a criminal history check for all beneficial owners, officers and managers in support of the application for registration;
- (c) complete and submit an annual AML return in a form to be issued by the Institute;
- (d) provide such other information as the Institute may request;
- (e) pay the registration and annual retention fee as determined from time to time by the Institute;
- (f) permit, and co-operate with, inspection visits by the Institute or its authorised representatives;
- (g) notify the Institute they
  - (i) wish to withdraw from the register on the grounds of falling within paragraph 1.4 (a) to (f) above, or
  - (ii) propose to wind up or is the subject of insolvency proceedings, or
  - (iii) otherwise cease to be liable to be supervised;
- (h) conduct their practice in accordance with the laws of the Institute and in particular the Professional Rules and Practice Guidelines and Professional Conduct in relation to Taxation applicable to members.

## **Charge 1**

- 1.1 On 31 October 2022, the Institute of Chartered Accountants of England and Wales (“ICAEW”) made disciplinary findings against the Defendant and imposed an order of exclusion, severe reprimand, a fine of £7,000 and a costs order of £12,350 on the Defendant;
- 1.2 The Defendant did not notify the COIT of this investigation nor did he notify them of the disciplinary findings within a 2-month period as required;
- 1.3 The Defendant did not provide any meaningful and/or substantive response to communications from CIOT about this matter when requested to do so;
- 1.4 A referral was made to the TDB on 10 February 2023 and the Defendant has not provided any response to the TDB’s letter of 21 July 2023;
- 1.5 The Defendant has not responded to requests to submit his annual return to CIOT;

## **Charge 2**

Consequent on the facts and matters set out in Charge 1, the Defendant is in breach of the following rules of the PRPG: Rule 2.6.2, 2.6.3, 2.8.1, 2.12.1, 2.13.2, 2.13.3 and 2.14.2.

## **Charge 3**

- 3.1 Following the exclusion of the Defendant from membership of the ICAEW on 31 October 2022 the ICAEW could no longer act as the Defendant’s Anti Money Laundering (“AML”) supervisor. AML supervision is a legal requirement to practise as a tax adviser.
- 3.2 The Defendant has therefore been practising illegally as a tax adviser since his exclusion from ICAEW membership from on or about 31 October 2022.
- 3.3 The Defendant failed to register for AML supervision for 2022/2023 in his personal capacity.

- 3.4 The Defendant further failed to register Bloomer Accountancy Limited, a limited company operated by the Defendant, for AML supervision for 2023/2024.
- 3.5 The Defendant failed to provide a criminality check certificate despite requests to do so being sent on 10 March 2023 and 11 April 2023.
- 3.6 The Defendant has failed to communicate with COIT since 3 March 2023.

#### **Charge 4**

Consequent on the facts and matters set out in Charge 2, the Defendant is in breach of the following rules of the PRPG: Rule 2.6.1, 2.6.2, 2.6.3, 2.10.1, 2.10.2, 2.12.1 and Rule 5.4 of the CIOT Anti-Money Laundering Scheme Rules

**END OF CHARGES**