

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

**TDB/2024/43**

**TAXATION DISCIPLINARY BOARD  
(TDB)**

**v**

**Ms [REDACTED]**

**Defendant**

**(Membership Number 203608)**

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**DECISION AND REASONS**

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**Date of Hearing**

**21<sup>st</sup> March 2025**

**Venue**

**Virtual via Microsoft Teams**

**Tribunal Members**

Legally Qualified Chair

Ms Annabel Joester

Lay Member

Dr Angela Brown

Professional Member

Ms Janet Wilkins

**Taxation Disciplinary Board**

Case presenter

Mr Dennis Hamill

Tribunal Clerk

Mr Nigel Bremner

**Member**

In attendance

## **INTRODUCTION:**

1. The Disciplinary Tribunal of the Taxation Disciplinary Board (TDB) sat remotely on Friday March 21<sup>st</sup> 2025 to hear charges brought by the TDB against the Defendant, a member of The Chartered Institute of Taxation, membership number 203608, following a complaint by the Chartered Institute of Taxation (CIOT).
2. The following abbreviations are used in this Decision.

The "CIOT" means the Chartered Institute of Taxation;

The "ATT" means the Association of Taxation Technicians;

The "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 (updated 2021);

"PRPG 2018" means the Professional Rules and Practice Guidelines effective from 9 November 2018 (updated 2021);

["PCRT" means the Professional Conduct in Relation to Taxation 2017 (republished 2023).

3. The Tribunal had read and considered the case papers, including a bundle, supplemental bundle and further correspondence.

## **SERVICE**

4. [REDACTED] being in attendance, The Tribunal was satisfied that notice of this hearing had been properly served on her.

## **CHARGES**

5. The Charges against the Defendant are:-.

## **Charge 1**

1.1 On or about 15 December 2023 the Defendant submitted an application for registration for anti-money laundering supervision purposes to the CIOT for the tax year 2023/2024.

1.2 The Defendant did not initially provide a copy of her Disclosure and Barring Service (DBS) check which was necessary for registration to be completed despite a number of requests for same. The DBS check was only produced on or about 2 July 2024 following a referral of the case to the Taxation and Disciplinary Board on or about 12 June 2024.

1.3 The application for anti-money laundering supervision was never completed as the Defendant subsequently returned to employed practice.

1.4 Between December 2023 and February 2024, the Defendant provided tax advice without anti money laundering supervision in place. Anti Money Laundering Supervision is a legal requirement when providing tax advice.

## **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: 2.10.1, 2.10.2 and 2.12.1 and the following ATT Rules: 3.1. 5.4, 5.5 and 5.6.

The Charges make reference to the following rules of the Professional Rules and Practice Guidelines 2018 (as amended 2021) (the “PRPG”) of the Chartered Institute of Taxation (the “CIOT”) and the Association of Taxation Technicians (the “ATT”), and the CIOT Anti Money Laundering Scheme Rules (updated 9 October 2018) (the “AML Rules”):

### **PRPG**

#### **Members Obligations**

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

## **AML Rules**

3. Registration

5. Rights and obligations

6. Discipline

6. With the agreement of the parties, the Tribunal amended the charges so that the reference to 'ATT Rules' in charge 2 was changed to 'CIOT Rules', which the Panel noted contained the same wording and provisions.

7. The Defendant made partial admissions to the charges.

## **BACKGROUND**

8. The Defendant is a member of CIOT, who is currently in employed practice. At the time of the charges she was in employed practice, but had also taken on some private work, arranged through an agency. In order to adhere to her obligations in respect of AML she applied to the CIOT for AML supervision in December 2023.

9. As part of her application for AML supervision the Defendant needed to provide a DBS certificate. The certificate was not sent with the application, and was not received by the CIOT.

10. The professional standards team repeatedly requested the Defendant's DBS certificate, sending several reminders/requests for the certificate to the email address provided with the application, indicating that the certificate was needed to conclude the registration. No response was received, and the AML supervision was therefore never put in place. No communication was received from the Defendant until June 2024.

11. The Defendant admitted that she had provided tax services during the month of January 2024, but stopped offering services on a private basis at the end of the month, continuing in employed practice only. AML supervision is a legal requirement when providing tax services.

12. On 12 June 2024 CIOT wrote to the Defendant indicating that she would be referred to the TDB for AML non-compliance and failure to respond to correspondence. The

Defendant responded to CIOT's communications the same day, indicating that she had been contracted to complete tax returns for clients for a short period and had therefore applied for supervision. She said that she believed her application for supervision would expire in May 2024. She had not applied for a renewal because she no longer provided private tax services. She confirmed 'all of the tax returns I completed were during January, with maybe a couple in February.' She was advised that the registration had never been completed as the DBS certificate had never been received by the CIOT.

13. The Defendant provided an electronic copy of her DBS certificate to the CIOT on 2 July 2024. She provided the Tribunal with a copy of the email she received from the DBS dated 15 December 2023 confirming that she had been issued with a certificate. The email was provided at pages 16-17 of the supplemental bundle. A copy of the certificate was provided at pages 26-7 of the supplemental bundle, showing no recorded convictions, cautions or warnings.
14. The Defendant accepted paragraph 1.1 of the charge-that she had submitted an application to CIOT for AML supervision in December 2023. In relation to paragraph 1.2 of the charge she accepted that the DBS certificate had not been provided with the application, but claimed that she had provided a paper copy when received from the DBS later in December. She agreed that she had provided an electronic copy to CIOT in June 2024. In relation to paragraph 1.3 of the charge, the Defendant accepted that AML supervision had not been put in place by the CIOT, but said that she was unaware of this because she had not accessed the email address she had provided with the application during the relevant period. In relation to paragraph 1.4 of the charge, the Defendant accepted that she had therefore provided tax advice in January 2024 without AML supervision being in place, but denied provision of services in December 2023 and February 2024.
15. Mr Hamill drew the attention of the Tribunal to Ms [REDACTED] obligations under the PRPG and the CIOT Rules and referred the Panel to the timeline of contact with the Defendant and to the copy correspondence contained in the hearing bundle. He confirmed that the position of the TDB was that it accepted that a DBS check had been obtained, but its case was that it was not provided to the CIOT until June 2024. It was not the TDB's case that the Defendant had failed to obtain a certificate. He submitted that several attempts had been made by the CIOT to obtain the certificate, as set out in the bundles, but that it had not been provided in time for the AML supervision to be put in place.

## **FINDINGS**

16. In making its findings, the Tribunal bore in mind that the burden of proof rests on the TDB. The standard of proof is of the civil standard, which is the balance of probabilities. The Tribunal noted that the Defendant was a person of good character.

17. The Tribunal made the following findings of fact:

- (a) The Defendant had a duty to ensure that she was supervised for the purposes of AML when providing tax services privately (i.e. not during the course of her employment). She made an application to the CIOT for supervision in December 2023, but did not include a DBS certificate.
- (b) The Defendant subsequently received a DBS certificate indicating that she had no convictions, cautions or warnings. That certificate was dated 15 December 2023. The Tribunal found on the balance of probabilities that the Defendant sent the certificate in the post to the CIOT shortly after 15 December, but that it was not received by CIOT.
- (c) CIOT emailed the Defendant on several occasions between January and June 2024, but no reply was forthcoming until 12 June 2024. Their emails requested provision of the Certificate and warned of the consequences of non-provision. These emails were sent to the email address provided by the Defendant when she applied for the supervision.
- (d) The Defendant did not regularly check the email address that she had provided to the CIOT, and did not see the emails until on or around 12 June 2024.
- (e) On 12 June the Defendant replied to the CIOT and indicated that she would provide a copy of the certificate. On 2 July she sent a copy of the certificate.

18. The Tribunal found the Charges proved in part. Dealing with each part of the charge:-

### **Charge 1**

1.1 On or about 15 December 2023 the Defendant submitted an application for registration for anti-money laundering supervision purposes to the CIOT for the tax year 2023/2024.

**Proved on the admission of the Defendant, and the face of the application for supervision.**

1.2 The Defendant did not initially provide a copy of her Disclosure and Barring Service (DBS) check which was necessary for registration to be completed despite a number of requests for same. The DBS check was only produced on or about 2 July 2024 following a referral of the case to the Taxation and Disciplinary Board on or about 12 June 2024.

**Proved in part. The DBS check was not provided with the application for AML supervision, but was subsequently sent to the CIOT in December 2023, albeit not received by them.**

1.3 The application for anti-money laundering supervision was never completed as the Defendant subsequently returned to employed practice.

**Proved on the admission of the Defendant, and the documentation bundle, in which the CIOT confirmed that AML had not been put in place due to the non-receipt of the DBS certificate**

1.4 Between December 2023 and February 2024, the Defendant provided tax advice without anti money laundering supervision in place. Anti Money Laundering Supervision is a legal requirement when providing tax advice.

**Partially proved on the admission of the Defendant that she had provided tax advice during the month of January 2024 and that she accepted that, as a matter of fact, supervision had not been in place, and on the documentation bundle which contained confirmation from CIOT that supervision was not put in place for the Defendant.**

## **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: 2.10.1, 2.10.2 and 2.12.1 and the following ATT Rules: 3.1. 5.4, 5.5 and 5.6.

**Proved in part. The Tribunal found that the Defendant breached Rules 2.10.1 and 2.10.2 of the PRPG and CIOT Rules 5.5 and 5.6 on the basis that, as a matter of fact, the Defendant failed to comply with the UK's AML Guidance and requirement to be supervised for AML purposes throughout January 2024 whilst she was practising on her own account. The Tribunal found that the Defendant breached Rule 2.12.1 of the PRPG because between January and May 2024 she failed to respond without reasonable delay to communications from the CIOT. Such communications were important relating as they did to the requirement for AML supervision, and they**

**required a response. The Defendant acknowledged that she had provided the email address used by the CIOT, who were her regulatory body, and she failed to monitor that address adequately or at all. The Tribunal found that the Defendant breached CIOT Rule 5.4(h) as a consequence of her breach of the PRPG. The Tribunal found that the Defendant had not breached Rule 3.1 of the CIOT Rules because she had in fact used the required form for her application.**

**SANCTION:**

19. 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.
20. 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.
21. 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.
22. The Tribunal identified the following as mitigating factors.
  - (a) The Defendant has no previous disciplinary record with the TDB/CIOT.
  - (b) The Defendant had intended to put AML supervision in place, had made an application for supervision and had obtained and sent a copy of the DBS certificate to the CIOT. This case was one of inadvertent, rather than intentional, breach.
  - (c) The Defendant's work which required AML supervision was limited to a small number of cases conducted in January 2024.
  - (d) The Defendant was a single parent with limited means who was conducting the work on a part time basis in order to supplement her income for a limited period.
23. The Tribunal identified the following as aggravating features.
  - (a) The breach went on for a period of time.



(b) The Defendant was not monitoring the email address she had submitted to the CIOT for correspondence.

24. The Tribunal had reference to the ISG, and specifically considered the sections (8), which relates to 'other breaches of byelaws or regulations' and (11), which relates to 'AML Related Breaches'. It noted that the guidance for breaches under heading 8 for 'breach of AML regulations (not involving criminal activity or dishonesty)' was censure and fine of £1,000. It further noted that the guidance for breaches under heading 11 for 'failure to submit initial registration for AML supervision' and 'failures to meet the requirements of the Money Laundering Regulations' was censure and £1,000 fine for failing to ensure appropriate supervision and £3,000 for breaches of the Money Laundering Regulations.
25. The Tribunal considered the options available to it from the bottom upwards on the scale of seriousness.
26. The Tribunal considered that imposing no sanction would be inappropriate as it would not appropriately mark the nature and seriousness of The Defendant's conduct.
27. The Tribunal determined that the appropriate and proportionate sanction in this case was an order for the matter to rest on the Defendant's file for a period of 3 years. It considered that this action would make it clear that such failures were unacceptable, whilst not prohibiting the Defendant from pursuing her career as a tax professional. The Tribunal considered that in the specific circumstances of the case, the misconduct could be regarded as minor and unlikely to be repeated. There was no evidence before the Tribunal that the Defendant's failures were intentional and she had taken steps to comply with the AML requirements. In all the circumstances of the case, the Tribunal considered that directing the matter to rest on file was the proportionate and appropriate sanction.

#### **COSTS:**

28. 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 TDB applied for costs in the sum of £3,183. The Tribunal considered the Guidance on awarding costs contained in the TDB Indicative Sanctions Guidance. The Defendant did not raise any specific challenges to the costs sought and the Tribunal was satisfied that the costs sought

were reasonable and proportionate. It therefore orders that the Defendant pay the costs in full, such payment to be made in equal instalments over 24 months.

### **PUBLICITY**

29. Regulation 28.2 (a) of The Taxation Disciplinary Scheme Regulations 2014 (amended November 2016 and January 2024) ('The Regulations') provides that a decision that a complaint should rest on file shall normally be published without naming the Defendant. The Tribunal also noted that the Defendant did not wish her name to be published. Accordingly, the Tribunal found no reason to depart from the usual practice of anonymous publication.

### **EFFECTIVE DATE**

30. Pursuant to regulation 20.9 of the Regulations this decision will be treated as effective from the date on which it is deemed served on the Defendant.

Signed:

Annabel Joester

(Chair)

Date: 13 April 2025