Disciplinary reports: December 2024

Briefings



20 November 2024

NOTIFICATION

Mr David Hannah CTA

At its hearing on 19 to 21 June 2024, the Disciplinary Tribunal of the Taxation Disciplinary Board considered three complaints against Mr David Hannah of Kibworth, a member of the CIOT.

1. Complaint by HMRC and CIOT

1. Following the judgment of the First-tier Tribunal in the case of *David Hannah and another v HMRC* [2019] UKFTT 342 (TC), [2019] SFTD 976 involving tax planning carried out for the purchase of a property, penalties were imposed upon Mr Hannah which were subsequently upheld by the First-tier Tribunal and Upper Tribunal.
2. The penalties were upheld on the basis that there had been deliberate conduct by Mr Hannah when he filed form SDLT1 on 5 October 2011, which materially understated the consideration payable for the property. An appeal by Mr

Hannah was dismissed by the Upper Tribunal.

Mr Hannah faced the following charge:

Charge 1: By knowingly providing HMRC with a document that contained an error with the intention that HMRC should rely upon it as an accurate document, Mr Hannah failed to:

a) act with integrity; and

b) uphold the professional standards of the CIOT as set out in the Laws of the CIOT.

The Tribunal found that Mr Hannah was in breach of PRPG 2011 Rules 1.7, 2.1 and 2.2.2. The Tribunal determined that Mr Hannah be expelled from membership of CIOT.

2. Complaint by Mr and Mrs D

1. At the relevant time, Mr Hannah was a director of Cornerstone Tax Ltd. Cornerstone Tax Ltd provided services, including tax planning and advice services, which included advice and planning in relation to schemes designed to avoid payment of stamp duty land tax. This included an annuity based Stamp Duty Land Tax Mitigation Scheme known as ‘Hussey’ (the ‘Scheme’).
2. In or around July 2016, Mrs D was advised by Mr Hannah to enter into the Scheme.
3. In or around 2017, HMRC commenced an inquiry into the Scheme and challenged its validity. As a result, both Mr and Mrs D were required to make a payment to HMRC of £13,750 each, plus interest.
4. As a result of the actions and omissions of Mr Hannah and/or Cornerstone Tax Ltd, Mr and Mrs D suffered financial loss.

Mr Hannah faced the following charges:

Charge 1: Mr Hannah failed to advise Mr and Mrs D appropriately about the risks of entering into the Scheme.

Charge 2: Mr Hannah failed to respond appropriately to the HMRC investigation into the Scheme or keep Mrs D updated about the HMRC investigation.

Charge 3: Mr Hannah and/or Cornerstone Tax Ltd have failed to respond adequately to the concerns raised by Mr and Mrs D and have subsequently refused to correspond with them about the matter. Accordingly, Mr Hannah has:

a) failed to uphold the professional standards of the CIOT; and

b) failed in his duty:

i. to act towards his clients Mr and Mrs D with professionalism; and

ii. not to act in such a way as to bring CIOT into disrepute.

Charge 4: Mr Hannah has failed to ensure that the businesses of which he was a Director were conducted with honesty and integrity. In particular, Mr Hannah failed to ensure that the selling of the Scheme was done in a way which properly highlighted the risks to potential clients.

Charge 5: Mr Hannah has:

a) failed to uphold the professional standards of the CIOT; and

b) failed in his duty not to act in such a way as to bring CIOT into disrepute.

The above charges alleged numerous breaches of the PRPG 2011 and Professional Conduct in Relation to Taxation 2011. The Tribunal found the majority of the breaches charged to be proved.

Sanction

The Tribunal determined that the appropriate sanction was that Mr Hannah be expelled from membership of CIOT. It also ordered that he pay compensation of £3,000 to Mr and Mrs D. The Tribunal decided that it did not have jurisdiction in relation to the third complaint. The Tribunal ordered that Mr Hannah pay costs to the TDB of £36,365.

A copy of the Tribunal's decision can be found on the TDB website at: www.Tax-board.org.uk.