



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

### Case reference: PC 2018/0284/D5

Peter Moss Esq

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of the Middle Temple

### Disciplinary Tribunal

#### Peter Moss Esq

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 10 September 2019, I sat as Chairman of a Disciplinary Tribunal on 27 September 2019 to hear and determine 4 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Peter Moss Esq., barrister of the Honourable Society of the Middle Temple.

#### Panel Members

2. The other members of the Tribunal were:

Mrs Alison Fisher (Lay Member)

Mr David Flinter (Lay Member)

Mr Lee Gledhill (Barrister Member)

Ms Isabelle Watson (Barrister Member)

#### Parties Present and Representation

3. The Respondent was present and represented himself. The Bar Standards Board ("BSB") was represented by David Callow Esq.

## Charges

4. The charges were as follows:

### **Charge 1**

Professional misconduct contrary to Core Duty 3 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Peter Moss failed to act with honesty and/or integrity, in that between the 6 April 2009 and 6 April 2016, was knowingly concerned in the fraudulent evasion of income tax in that he failed to complete the self-assessment returns for income tax or pay the correct income tax due to Her Majesty's Revenue & Customs for which conduct he was on the 22 June 2018 convicted at Leeds Combined Court and sentenced to 18 months in custody.

### **Charge 2**

Professional misconduct contrary to Core Duty 5 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Peter Moss acted in a way likely to diminish the trust and confidence which the public places in a barrister or in the profession, in that between the 6 April 2009 and 6 April 2016, was knowingly concerned in the fraudulent evasion of income tax in that he failed to complete the self-assessment returns for income tax or pay the correct income tax due to Her Majesty's Revenue & Customs for which conduct he was on the 22 June 2018 convicted at Leeds Combined Court and sentenced to 18 months in custody.

### **Charge 3**

Professional misconduct contrary to Core Duty 3 of the Bar Standards Board Handbook.

### **Particulars of Offence**

Peter Moss failed to act with honesty and/or integrity, in that between the 31 October 2008 and 31 January 2016, was knowingly concerned in the fraudulent evasion of Value Added Tax in that he submitted 26 returns and failed to pay the correct Value

Added Tax due to Her Majesty's Revenue & Customs for which conduct he was on the 22 June 2018 convicted at Leeds Combined Court and sentenced to 18 months in custody.

#### **Charge 4**

Professional misconduct contrary to Core Duty 5 of the Bar Standards Board Handbook.

#### **Particulars of Offence**

Peter Moss acted in a way likely to diminish the trust and confidence which the public places in a barrister or in the profession, in that between the 31 October 2008 and 31 January 2016, was knowingly concerned in the fraudulent evasion of Value Added Tax in that he submitted 26 returns and failed to pay the correct Value Added Tax due to Her Majesty's Revenue & Customs for which conduct he was on the 22 June 2018 convicted at Leeds Combined Court and sentenced to 18 months in custody.

#### **Plea**

5. Mr Moss admitted the charges.

#### **BSB's Submissions**

6. Mr Callow explained that in the Crown Court there had been a two-count indictment: one charge in respect of a failure to file tax returns between 2009 and 2016; and one charge for a failure to file quarterly VAT returns between 2008 and 2016 (except on four occasions). Mr Moss had not been tried for filing false returns but for a failure to file the returns at all. There had been no factual dispute at trial. The sole issue had been whether there was dishonesty.
7. Mr Callow referred to the Draft Admissions [pages 41-47 in the bundle]. The total unpaid tax was £137,000 [51]. Mr Moss had received multiple warnings from HMRC: paragraph 26 [46]. Mr Moss had paid off those who shouted the loudest, who did not include HMRC. The jury decided that there was dishonesty.
8. Mr Callow referred to the Certificate of Conviction [75-76] and the Recorder's sentencing remarks [50]. Personal mitigation reduced to 1.5 years what would have been a prison sentence of 2.5 years [52].

9. Mr Callow referred to the Sanctions Guidance (version 4) at pages 40 (dishonesty), 27 (character evidence), 19-20 (disbarment) and 64-65 (aggravating and mitigating factors).
10. Mr Callow referred to previous disciplinary findings against Mr Moss, the two most recent of which were findings made in 2011 and 2018 relating to drink driving offences.

### **Respondent's Submissions**

11. After a short adjournment, Mr Moss began his plea in mitigation by expressing remorse for what he had done.
12. Mr Moss accepted that he had been living beyond his means. He referred to paragraph 7 of his statement. He accepted that he was not good at dealing with his own problems.
13. Mr Moss emphasised that he had never denied that he owed the money. Mr Moss said that he still intended to pay the money to HMRC.
14. Mr Moss had not ignored the warnings from HMRC: he had not read them. He had expected to earn more, and he had expected to inherit more. He had used half of his inheritance to pay off a bankruptcy petition. With the other half of his inheritance, he had taken a position on an oil company and lost the lot.
15. Mr Moss emphasised that his personal problems had not affected his practice. His colleagues in Manchester, Liverpool and Chester wanted him back. He had excellent references. Mr Moss said that disbarment would "take a useful tool out of the box".
16. After the Tribunal had adjourned between 1pm and 2pm, Mr Moss continued his submissions. He emphasised that he deliberately had not gone bankrupt.
17. Mr Moss asked the Tribunal to consider a three-year suspension and a fine as an alternative to disbarment.
18. In answer to questions from the Tribunal, Mr Moss said that he had not appealed the jury's decision. He had written off over £100,000 in unbilled work.
19. The Tribunal retired to consider its decision on sanction.

## Sanction and Reasons

20. At 2.40pm the hearing resumed, and the Tribunal announced its decision on sanction as follows:
21. *“Mr Moss has admitted the following charges: failing to act with honesty and/or integrity, in that between 6 April 2009 and 6 April 2016 he was knowingly concerned in the fraudulent evasion of income tax (charge 1); acting in a way likely to diminish the trust and confidence which the public places in him or in the profession, in that between 6 April 2009 and 6 April 2016 he was knowingly concerned in the fraudulent evasion of income tax (charge 2); failing to act with honesty and/or integrity, in that between 31 October 2008 and 31 January 2016 he was knowingly concerned in the fraudulent evasion of Value Added Tax (charge 3); acting in a way likely to diminish the trust and confidence which the public places in him or in the profession, in that between 31 October 2008 and 31 January 2016 he was knowingly concerned in the fraudulent evasion of Value Added Tax (charge 4).”*
22. *The facts are not in dispute. I will give a brief summary of the facts. During the periods mentioned, Mr Moss failed to submit self-assessment returns relating to tax and failed to submit returns relating to VAT (with the exception of four VAT returns which were submitted). The result was that Mr Moss was effectively living tax-free. The income tax fraud might not have been detected had the VAT authorities not persevered with their investigations.*
23. *There was a long period of offending. The amounts were significant. The trial judge concluded that Mr Moss had not accounted for £137,000 over eight years.*
24. *Mr Moss was consistently in debt. He used such money as he had to pay ‘whoever shouted the loudest’, who were not the tax authorities at the time. There was a trial, followed by conviction. Mr Moss had pleaded not guilty. The only issue at trial was whether the conduct was dishonest: the jury found against Mr Moss. He served 18 months in custody.*
25. *The Recorder summarised the references submitted to him (and to us). The references do Mr Moss great credit. The references show that: Mr Moss has a generous spirit; he was helpful in terms of time, money and effort spent on others; he provided great friendship and support, in particular to one lady in old age and infirmity; he worked tirelessly for his local community and family.*

26. *There is much to be said to his credit. There are references from colleagues in the profession, including silks and judges.*
27. *The Sanctions Guidance has led us to impose the sanction which we impose. It is clear from the guidance what sanction is appropriate. Criminal dishonesty is not compatible with practice at the Bar. According to the Sanctions Guidance, the starting point is disbarment. That is the sanction which we impose.*
28. *The aggravating factors do nothing to help his cause. There has been persistent conduct over a lengthy period of time. Mr Moss has undermined the profession in the eyes of the public. There are previous disciplinary findings. Some of the findings are old, but there was a finding made in 2011 following a criminal conviction for drink driving, and there was a finding made in 2018 following another criminal conviction for drink driving.*
29. *Mr Moss relies on certain points in mitigation. He has admitted the charges. He has made repayments of VAT: this is an attempt to remedy or rectify the breaches. He has a considerable number of very good references: these show that he was a good and reliable advocate and a popular member of chambers and had an excellent relationship with colleagues.*
30. *Mr Moss says that he expected to receive better pay, but the cuts overcame him. Surprisingly, Mr Moss failed to bill over £100,000, including for a murder case – he could have used this money to pay the tax. He said that he was inefficient. For the last year in which he practised (the year before last), his income was around £39,000. He used some of his inheritance to repay VAT. He used the other half of his inheritance to take up a position on an oil company.*
31. *Mr Moss addressed us competently. He is a good advocate. He has said all that could be said.*
32. *A suspension would be wholly inconsistent with the Sanctions Guidance. This is a serious case; these are serious charges; there are aggravating features. It is impossible for us to do less than the starting point: that is disbarment. This is the unanimous view of the panel.”*
33. *Accordingly, the Tribunal ordered that Peter Moss be disbarred.*
34. *In accordance with rE227.3, the Tribunal required the BSB not to issue any practising certificate to Mr Moss.*

35. The Treasurer of the Honourable Society of the Middle Temple is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunals Regulations.

**Approved: 09 October 2019**

**His Honour Alan Greenwood  
Chairman of the Tribunal**