



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

14 July Case reference: PC2021/4154/D5

William Giles Hugh Powell

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Gray's Inn

### Disciplinary Tribunal

#### William Giles Hugh Powell

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 14<sup>th</sup> July 2022 I sat as Chairman of a Disciplinary Tribunal on 15<sup>th</sup> September 2022 to hear and determine 8 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against William Giles Hugh Powell, barrister of the Honourable Society of Gray's Inn.

#### Panel Members

2. The other members of the Tribunal were:

Isabelle Watson (Barrister Member)

Hayley Firman (Barrister Member)

John Vaughan (Lay Member)

Paul Robb (Lay Member)

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## Charges

3. The Bar Standards Board applied to amend the Charge Sheet. The application was granted. The amended charge sheet consisted of 6 charges. Of those 6 charges, the Respondent admitted charges 1, 2 and 6, and denied charges 3, 4 and 5.

### Charge 1

#### Statement of Offence

Professional misconduct, contrary to Core Duty 10 of the Code of Conduct of the Bar of England and Wales (9th Edition) as contained in the Bar Standards Board Handbook (Versions 3 and 4).

#### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, failed to take reasonable steps to manage his practice, or carry out his role within his practice, competently and in such a way as to achieve compliance with his legal and regulatory obligations in that he:

- a) Failed to account for tax to HMRC.
- b) Caused a bankruptcy petition to be presented against him dated 16 November 2018 by HMRC in respect of unpaid tax.
- c) Caused a bankruptcy order to be made against him on 27 January 2020.

### Charge 2

#### Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition) as contained in the Bar Standards Board Handbook (Versions 3 and 4).

#### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, acted in a way likely to diminish the trust and confidence the public places in him or in the profession in that he failed:

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- a) Failed to account for tax to HMRC.
- b) Caused a bankruptcy petition to be presented against him dated 16 November 2018 by HMRC in respect of unpaid tax.
- c) Caused a bankruptcy order to be made against him on 27 January 2020.

### Charge 3

#### Statement of Offence

Professional misconduct, contrary to Core Duty 3 of the Code of Conduct of the Bar of England and Wales (9<sup>th</sup> Edition) as contained in the Bar Standards Board Handbook (Version 4).

#### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, failed to act with honesty and/or integrity in that between 5 July 2019 and 10 December 2019 he supplied legal services in contravention of a HMRC Notice of Requirement dated 5 June 2019 in the knowledge he was committing a criminal offence.

### Charge 4

#### Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9<sup>th</sup> Edition) as contained in the Bar Standards Board Handbook (Version 4).

#### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, acted in a way likely to diminish the trust and confidence the public places in him or in the profession in that between 5 July 2019 and 10 December 2019 he supplied legal services in contravention of a HMRC Notice of Requirement dated 5 June 2019 in the knowledge he was committing a criminal offence.

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## Charge 5

### Statement of Offence

Professional misconduct, contrary to Core Duty 10 of the Code of Conduct of the Bar of England and Wales (9<sup>th</sup> Edition) as contained in the Bar Standards Board Handbook (Version 4).

### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, failed to take reasonable steps to manage his practice, or carry out his role within his practice, competently and in such a way as to achieve compliance with his legal and regulatory obligations in that between 5 July 2019 and 10 December 2019 he supplied legal services in contravention of a HMRC Notice of Requirement dated 5 June 2019 in the knowledge he was committing a criminal offence.

## Charge 6

### Statement of Offence

Professional misconduct, contrary to Core Duty 9 and/or contrary to Rule C65 of the Code of Conduct of the Bar of England and Wales (9<sup>th</sup> Edition) as contained in the Bar Standards Board Handbook (Version 4).

### Particulars of Offence

Giles Powell, a barrister and BSB regulated person, failed to be open and co-operative with his regulator, the Bar Standards Board, in that he failed to report the conviction dated 23 December 2020 at Mid Wales (Merthyr Tydfil) Magistrates' Court for an offence contrary to section 72 (11) of the Value Added Tax Act 1994.

## Parties Present and Representation

4. The Respondent was present and represented himself. The Bar Standards Board ("BSB") was represented by Mr Duffy of counsel.

## Preliminary Matters

5. The BSB applied to amend the charge sheet. The amended charge sheet consisted of 6 charges. The application was unopposed and the application was granted.

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## Evidence

6. Mr Duffy invited the Tribunal to act upon the submitted, agreed, written bundle of evidence. The Tribunal, with the consent of all parties, agreed to do so. The Tribunal heard oral evidence from the Respondent and agreed that he could adopt his submitted witness statement as his evidence in chief. The Respondent was then cross examined by Mr Duffy. The BSB made submissions in closing. Mr Powell did not wish to add anything to his written and oral evidence.

## Findings

7. The Tribunal noted that the three charges that were denied involved separate issues of dishonesty and integrity. Mr Duffy had properly invited the Tribunal to consider each separately.
8. The Panel considered the background with care. It noted that the Respondent was a successful barrister who lived and worked in London with the inherent expenses that such a lifestyle incurred. Following the breakdown of his marriage, he lost control of his finances and accrued significant debts to HMRC. He defaulted repeatedly upon his VAT obligations. On 5<sup>th</sup> June 2019, HMRC issued a statutory notice requiring the Respondent to give security for his debt. This prohibited the further supply of legal services by the Respondent until the conditions were met. Despite this, Mr Powell continued to practise as a barrister between July and December 2019. That amounted to a criminal offence. The Respondent admitted that offence in December 2020 and was fined. The Notice of Requirement for security had by then been withdrawn by HMRC.
9. The Respondent said in evidence that he considered the notice from HMRC to have been unlawful. He regarded it as subject to challenge under Articles 6 and 8 of the ECHR. He had submitted a skeleton argument to that effect before the magistrates court. HMRC withdrew the notice before the magistrates hearing, making the argument redundant. Despite this the offence charged was one of strict liability, and the Respondent pleaded guilty.
10. The Tribunal applied the test for dishonesty as set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67. The Tribunal noted that the Respondent's conviction involved an offence of strict liability. The Tribunal was of the view that at the time of the alleged misconduct, the Respondent held a genuine belief that the HMRC notice was ultra vires.

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The Tribunal reached this decision upon the evidence of the Respondent which it found credible. It followed that the Tribunal was not satisfied that ordinary decent people would necessarily regard Mr Powell's conduct as dishonest.

11. The Tribunal considered the case of *Wingate & Anor v Solicitors Regulation Authority* [2018] EWCA Civ 366 where it was held that 'integrity' is a nebulous concept. Adopting that approach, and in view of its findings in relation to the issue of dishonesty, the Tribunal was not satisfied that the Respondent acted in a manner likely to undermine public confidence in the profession.
12. It followed that the Tribunal found charges 3, 4, and 5 not proven to the requisite standard.
13. Charges 1, 2 and 6 were found proven on the Respondent's admissions.

### Sanction and Reasons

14. The Tribunal considered the sanctions guidance dated January 2022. The Tribunal applied the specific guidance set out in Part 2, section L. The Panel considered the seriousness of the misconduct, the aggravating and mitigating features and the totality of the matters. The Tribunal was of the view that the aggravating features included a diversion of money that should have been paid to HMRC leading to a criminal conviction. In mitigation, the Panel carefully considered the explanation from the Respondent and noted that he had taken steps to rectify his affairs with HMRC. He had expressed true remorse and this had been a salutary lesson for him.
15. The sanction imposed was a reprimand on all charges. The Respondent was ordered to pay the BSB costs of £2,100 inclusive of VAT to the Bar Standards Board. The Respondent could contact the BSB to agree arrangements for payment.

Approved: 04 October 2022

His Honour Judge Lawton  
Chairman of the Tribunal

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