

<p>The Pensions Regulator</p>	<p><b>Special Procedure</b> <b>DETERMINATION NOTICE</b> <b>under section 97(2)(a) of the</b> <b>Pensions Act 2004 (“the Act”)</b>  <b>Tudor Capital Management Limited</b></p>	<p>The Pensions Regulator case ref:  <b>TM8648</b></p>
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1. The Determinations Panel (“the Panel”), on behalf of the Pensions Regulator (“the Regulator”), met on 8 April 2010 to consider whether the Tudor Capital Management Limited (“the Trustee”) ought to be suspended as a trustee of trust schemes in general pursuant to Section 4(1)(aa) of the Pensions 1995 (“the 1995 Act”), whether an order should be made to enable the trustee to resign or be removed as a trustee pursuant to Section 4(6) of the 1995 Act and whether the use of the Special Procedure (the “Special Procedure”) was appropriate pursuant to Section 97 of the Act.

**2. Matter to be determined**

Pursuant to Section 97(2) of the Act the Panel was asked to use the Special Procedure, and therefore dispense with the giving of a warning notice, because there is, or the Regulator considers it likely, that if a warning notice were to be given there would be an immediate risk to:

- (i) the interests of the members of the Scheme; or
- (ii) the assets of the Scheme

**3. Directly affected parties**

The following are the parties considered as being directly affected by the regulatory action as set out in paragraph 6 below

- (i) The Trustee
- (ii) Peter Spencer Bradley (director)
- (iii) Alison Bradley (director)
- (iv) Andrew Meeson (director)
- (v) Occupational pension schemes listed by the Regulator which the Trustee administered.

**4. Background to application**

The Trustee is suspected of being involved in criminal activities relating to the pension schemes controlled and administered by them.

Further investigations were pending by external bodies for offences involving dishonesty and deception.

## 5. **Reasons for Decision**

In making its decision the Panel had regard to the objectives of the Regulator as set out in section 5 of the Pensions Act 2004 and to the matters mentioned in Section 100, as set out in **Appendix 1**.

On the evidence before it, the reasons for the Panel's decision were:

- i. The panel were satisfied that the evidence from HMRC and the FSA that a criminal investigation was being undertaken indicated that consideration was being given to the institution of proceedings against the Trustee and its directors for offences that would involve fraud, deception or dishonesty.
- ii. In deciding whether to suspend the Trustee pending consideration of the institution of proceedings the panel had regard to the interests of the members of the schemes in Appendix A of the notice of intention as well as the interests of the Company and its directors. They took into account the seriousness of the investigation and the charges that might be brought arising from it, and considered that trustees continuing to act for schemes whilst investigating authorities were of the view that there were grounds for suspicion and possible action following the investigation would unnecessarily put those schemes' funds at risk.
- iii. The panel agreed to make the decision using the special procedure under section 97 of the PA 2004 because, having regard to the seriousness of the matters under investigation, they considered that there would have been a likelihood of immediate risk to assets of the schemes set out in Appendix A of the notice of intention had a warning notice been given to the affected parties.

## 6. **Decision**

- i. The Pensions Regulator hereby suspends Tudor Capital Management Limited pending consideration being given to the institution of proceedings against it for an offence involving dishonesty or deception, pursuant to Section 4(1)(aa) of the Pensions Act 1995 as amended by Section 34 of the Pensions Act 2004 with effect on and from 8 April 2010 until 7 April 2011.
- ii. This order has the effect of prohibiting Tudor Capital Management Limited, during the period of the suspension, from exercising any functions as a trustee of any trust scheme in general, pursuant to Section 4(3) of the Pensions Act 1995.

iii. That during Tudor Capital Management Limited's suspension as trustee it is authorised and entitled to execute any instrument the sole purpose of which is to effect its removal or resignation as a trustee of any trust scheme.

iv. This order will take immediate effect on the date of this order.

## **7. Important Notices**

This Determination Notice is given to you under Section 98(2)(a) of the Act.

Please note the information contained in this Determination Notice is 'restricted information' within the meaning of Section 82 of the Pensions Act 2004. Restricted information is defined at Section 82(4) as being:

"...information obtained by the Regulator in the exercise of its functions which relates to the business or other affairs of any person"

Section 82(5) provides that it is a criminal offence to disclose such information inappropriately. Therefore any onward disclosure of this information would be a criminal offence.

The following statutory rights are important.

## **8. Representations to the Pensions Regulator**

Take notice that you have the opportunity to make representations to the Pensions Regulator which will make up your defence to the allegations.

In your reply to this notice, please say whether you accept that the Determination Notice is accurate and if you intend to oppose it. You may believe that:

- the determination is wrong in some particular detail; or
- the Regulator should not have used its power in this case.

In any of these circumstances you will need to provide evidence to support your argument.

## **9. Compulsory review**

This determination is subject to a compulsory review by the Regulator under Section 99 of the Act. Any representations received will be considered by the Regulator before a determination is made on review. This review must be determined as soon as reasonably possible.

The Regulator's powers on a review under this section include power to:

- (i) confirm, vary or revoke the determination
- (ii) confirm, vary or revoke any order, notice or direction made, issued or given as a result of the determination;
- (iii) substitute a different determination, order, notice or direction;
- (iv) deal with the matters arising on the review as if they have arisen on the original determination, and
- (v) make savings and transitional provision.

You will be informed of the outcome of the review by the way of a “Final Notice”.

**10. Referral to the Tax and Chancery Chamber of the Upper Tribunal (“the Tribunal”)**

After the compulsory review, you will have the right to refer the matter, to which this Determination Notice relates, to the Tribunal under Section 99(7) of the Act. The Final Notice will give more details regarding referrals to the Tribunal.

**Signed: John Scampion**

**Chairman: John Scampion**

**Dated: 15 April 2010**