

<b>Scheme: The Bugsby Pension Scheme</b>	
<b>To:</b>	Mr Mornington Stafford Seager
<b>Of:</b>	XXXXXX XXXXXXXXXXXX XXXX XXXXXXXXXX
<b>To:</b>	Mrs Patricia Lillian Seager
<b>Of:</b>	XXXXXX XXXXXXXXXXXX XXXX XXXXXXXXXX
<b>To:</b>	Mr Mark Stafford Seager
<b>Of:</b>	XXXXXXXXXX XXXXXX XXXX XXXXXXXXXX
<b>To:</b>	Mr Nigel Spencer Sloam
<b>Of:</b>	XXXXXX XXXXXXXXXXXX XXXXXXXXXX
<b>To:</b>	Peter John Forsey
<b>Of:</b>	Liquidator BKR Haines Watts 3 <sup>rd</sup> Floor 70-74 City Road London EC1Y 2BJ
<b>Date:</b>	21 April 2006

**TAKE NOTICE** that the Pensions Regulator of Napier House, Trafalgar Place, Brighton BN1 4DW (“The Regulator”) has made a determination on 19 April 2006.

<b>1.</b>	<b>Determination</b>
<b>1.1</b>	The Pensions Regulator is to determine whether Mr Mornington Stafford Seager, a current member and former trustee of this scheme, should be given notice in writing waiving his disqualification to act as a trustee.
<b>1.2</b>	The decision in relation to the waiver of disqualification was adjourned.
<b>1.3</b>	The Pensions Regulator is to further determine whether to make an order to re-appoint Mr Mornington Stafford Seager as a trustee to this scheme.
<b>1.4</b>	In view of <b>1.2</b> above consideration of the appointment was adjourned.

<b>2.</b>	<b>Procedure Followed: Standard</b>										
<b>2.1</b>	By its Warning Notice dated 7 March 2006 (“the Warning Notice”) the Pensions Regulator gave notice that it proposed to take the above action pursuant to the application of Mr Mornington Stafford Seager.										
<b>2.2</b>	<p>The Regulator determined that the following parties are directly affected by this determination:</p> <table border="0"> <tr> <td>1. Mr Mornington Stafford Seager</td> <td>In his role as a member of the scheme</td> </tr> <tr> <td>2. Mrs Patricia Lillian Seager</td> <td>In her role as a trustee of the scheme</td> </tr> <tr> <td>3. Mr Mark Stafford Seager</td> <td>In his role as trustee of the scheme</td> </tr> <tr> <td>4. Mr Nigel Spencer Sloam</td> <td>In his role as pensioner trustee of the scheme</td> </tr> <tr> <td>5. Mr P J Forsey</td> <td>In his role as liquidator of Tabline Limited</td> </tr> </table> <p>(collectively referred to as “the directly affected parties”)</p> <p>These directly affected parties were entitled to make representations to the Pensions Regulator about the determination.</p>	1. Mr Mornington Stafford Seager	In his role as a member of the scheme	2. Mrs Patricia Lillian Seager	In her role as a trustee of the scheme	3. Mr Mark Stafford Seager	In his role as trustee of the scheme	4. Mr Nigel Spencer Sloam	In his role as pensioner trustee of the scheme	5. Mr P J Forsey	In his role as liquidator of Tabline Limited
1. Mr Mornington Stafford Seager	In his role as a member of the scheme										
2. Mrs Patricia Lillian Seager	In her role as a trustee of the scheme										
3. Mr Mark Stafford Seager	In his role as trustee of the scheme										
4. Mr Nigel Spencer Sloam	In his role as pensioner trustee of the scheme										
5. Mr P J Forsey	In his role as liquidator of Tabline Limited										
<b>2.3</b>	Following the issue of the Warning Notice none of the directly affected parties exercised their right to make representations to the Pensions Regulator.										

<b>3.</b>	<b>Relevant Statutory Provisions/Legislation</b>
	<p>The following statutory provisions are relevant to this matter:</p> <p>Section 29(5) of the Pensions Act 1995 (as amended by section 320 in Part 1 of Schedule 13 of the Act) states that:</p>

	<p>“(5) The Authority may, on the application of any person disqualified under this section-</p> <p>(a) give notice in writing to him waiving his disqualification, either generally or in relation to a particular scheme or particular description of schemes.”</p> <p>Section 7(3) of the Pensions Act 1995 states that:</p> <p>“(3) The Authority may also appoint by order a trustee of a trust scheme where they are satisfied that it is necessary to do so in order-</p> <p>(c) to secure the proper use or application of the assets of the scheme.”</p> <p>Section 100 of Pensions Act 2004 – Duty to have regard to the interests of members etc</p> <p>(1) The Regulator must have regard to the matters mentioned in subsection (2) –</p> <p>(a) when determining whether to exercise a regulatory function –</p> <p style="padding-left: 40px;">(i) in a case where the requirements of the standard or special procedure apply, or</p> <p style="padding-left: 40px;">(ii) on a review under section 99, and</p> <p>(b) when exercising the regulatory function in question.</p> <p>(2) Those matters are –</p> <p>(a) the interests of the generality of the members of the scheme to which the exercise of the function relates, and</p> <p>(b) the interests of such persons as appear to the Regulator to be directly affected by the exercise.</p>
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<b>4.</b>	<b>Background to the Application</b>
	<p>The Bugsby Pension Scheme is a small self-administered work-based family pension arrangement established by Interim Trust Deed dated 23 July 1993 by the Principal Employer Wheatagrove Limited. This company is currently in liquidation.</p> <p>2. This Deed also appointed Mornington Stafford Seager, Patricia Lillian Seager (his Wife) and Mark Stafford Seager (his Son) as individual trustees of this Scheme, together with Nigel Spencer Sloam as a professional individual Pensioner Trustee.</p> <p>3. Mr Mornington Seager was appointed a director of this company on 23 June 1977.</p> <p>4. By Deed of Adherence and Succession dated 4 September 2000 Heyland Haulage Limited was admitted as Participating Employer and also as new Principal Employer. This company changed its name on 6 April 2001 to Top Contracts Limited and is currently in liquidation.</p> <p>5. Mr Mornington Seager was appointed as a director of this company on 19</p>

July 1994.

6. By Deed of Adherence and Succession dated 30 January 2003 Tabline Limited and Heyland Haulage Limited were admitted as Participating Employers. Tabline Limited was also appointed as new Principal Employer and is currently in liquidation.

7. Top Contracts Limited remains a participating employer in the scheme.

8. Mr Mornington Seager was appointed as a director of this company on 1 January 1987 and resigned on 25 June 2003.

9. By Deed of Removal of a Company dated 28 May 2003 Heyland Haulage Limited was removed as Participating Employer.

10. On 8 September 2003, Mr Mornington Stafford Seager was disqualified from acting as a Company Director for a period of five years commencing 29 September 2003 pursuant to section 7 of the Company Directors Disqualification Act 1986. Section 7 of the Act concerns disqualification for unfitness to act as a Company Director. Reasons for this disqualification are provided in support of this application and include:

- causing a company to continue to trade at the risk of its creditors (which included the Inland Revenue), and
- the re-use of a company name within a prohibited period.

11. Mr Seager is automatically disqualified from being a trustee pursuant to section 29(1)(f) of the Pensions Act 1995 and ceased to be a trustee of this scheme pursuant to Section 30 of the Pensions Act 1995.

12. Mr Seager has made a formal written application to Opra on 22 March 2005 requesting that he is granted a scheme specific waiver of disqualification from acting as a trustee of the Bugsby Pension Scheme and this application is supported in writing by the remaining three trustees of this scheme. Mr Seager offers the following reasons in support of his request :

- the scheme would be put to additional administrative expense, and this might adversely affect him financially since he is the major beneficiary under the scheme (e.g. exemption from an Internal Disputes Resolution Procedure where all members of the scheme are also trustees; exemption from the need to obtain a Statement of Investment Principal and an exemption from limits on employer related investments where all members of the scheme are also trustees and the Rules require each member to agree in writing);
- certain investments, permitted only where all the members are also trustees and unanimous agreement is needed (e.g. property occupied by participating employers, would be denied to the scheme); and
- as the major scheme beneficiary he would prefer to retain some personal control over the scheme assets and his pension interests.

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<b>5.</b>	<b>Conclusion: Details of Determination</b>
	<p>The Panel adjourned making decisions in this matter pending receipt of the following information:</p> <ol style="list-style-type: none"> <li>1. details of the additional scheme administration expenses that would be incurred if Mr Mornington Stafford Seager's disqualification was not waived to enable him to be reappointed as a trustee to the scheme;</li> <li>2. specific details of how they intend to invest the scheme assets if the scheme became eligible for the status of a Small Occupational Pension Scheme and how this would benefit the members as a whole.</li> </ol> <p>The Panel requested that this information be supplied within 28 days of the date of sending this Determination Notice.</p>

<b>6.</b>	<b>Decision Maker</b>
	The determination which gave rise to the obligation to give this Determination Notice was made by the Determinations Panel.

<b>7.</b>	<b>Scheme details</b>	
	<b>Type of scheme</b>	Small Self Administered Scheme
	<b>Status of scheme</b>	Not established
	<b>Membership</b>	Three members
	<b>Size of fund</b>	£440,763
	<b>Contracted in/out</b>	Not established

<b>8.</b>	<b>Scheme trustees</b>		
	<b>Name</b>	<b>Period of office</b>	<b>Status of trustee</b>
<b>1.</b>	Mornington Stafford Seager	From 23.7.93 to 29.9.03	Individual member – ceased to act following disqualification
<b>2.</b>	Patricia Lillian Seager	From 23.7.93 to current	Individual member
<b>3.</b>	Mark Stafford Seager	From 23.7.93 to current	Individual member
<b>4.</b>	Nigel Spencer Sloam	From 23.7.93 to current	Individual Pensioner Trustee

<b>9.</b>	<b>Scheme advisers</b>			
	<b>Type</b>	<b>Name</b>	<b>Period of office</b>	<b>Company</b>
<b>1.</b>	Scheme Auditors		Unknown	Harris Lipman LLP
<b>2.</b>	Actuary		Unknown	Nigel Sloam & Co
<b>3.</b>	Solicitors		Unknown	Caporn Campbell

<b>9.</b>	<b>Scheme advisers</b>			
<b>4.</b>	Bankers		Unknown	Royal Bank of Scotland
<b>5.</b>	Fund Managers		Unknown	Royal & Sun Alliance Axa Sun Life

<b>10.</b>	<b>Important Notices</b>
	This Determination Notice is given to you under sections 96(2)(d) of the Act. The following statutory rights are important.

<p>Signed:     <i>Suzanne McCarthy</i>.....</p> <p>Chairman:   Suzanne McCarthy.....</p> <p>Date:        21.4.06 .....</p>
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