



COMPLAINT MADE AGAINST MR. DAWKINS BROWN, A REGISTERED PUBLIC ACCOUNTANT

THE COMPLAINT

A complaint was made to the Public Accountancy Board in July 2019 pursuant to Section 13(i)(c)(iii) of the Public Accountancy Act, 1970, and Rule 15 of the Public Accountancy Regulations 1970, alleging that Mr Dawkins Brown, the Registrant, has committed, in the performance of his professional duties

- (i) An act of grave impropriety, or infamous conduct,
- (ii) An act of gross negligence or of gross incapacity, and/or
- (iii) An act which constitutes conduct discreditable to the profession.

Hearings took place on January 28 and 30, 2020 and Final Submissions made on February 18, 2020.

THE FINDINGS

Findings were made regarding:

- Taxes payable to the Tax Authorities;
- The request of the client for the Registrant to incorporate a LLC and provide nominee director services.

The findings were that:

- (i) Mr. Dawkins Brown has failed to carry out the complainant's instructions in circumstances where he is holding the legal interest only as a Nominee Shareholder and Nominee Director but not the beneficial interest.
- (ii) The Registrant's refusal to relinquish his directorship, transfer the share he holds in the LLC and pay the appropriate taxes to the Tax Authorities from monies being held on behalf of the complainant has resulted in severe and protracted difficulty for the complainant, the LLC and its employees including but not limited to the following:
 - (a) The inability of the LLC to obtain a Tax Compliance Certificate from Tax Administration Jamaica (TAJ);
 - (b) The inability of the LLC to convene and make decisions at general meetings or do anything which ought to be done by shareholders at a general meeting.
- (iii) Mr. Dawkins Brown has not conducted himself with courtesy and consideration towards his client during his professional work. In particular Mr. Dawkins Brown has not upheld Rules 150 and 150.1 dealing with Professional Behaviour which read as follows:

SECTION 150: PROFESSIONAL BEHAVIOUR **The Fundamental Principles of Professional Behaviour**

Registrants must conduct themselves with courtesy and consideration towards all they come into contact with during their professional work, including clients, other Registrants, staff, third parties and the general public.

Section 150.1: The principle of professional behaviour imposes an obligation on all Registrants to comply with relevant laws and regulations and avoid any action or omission that the Registrant knows or should know may discredit the profession. This includes actions or omissions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the Registrant at that time, would be likely to conclude adversely affects the good reputation of the profession.

- (iv) Mr. Dawkins Brown has failed to meet the requirements stipulated in Rule 270 of the PAB dealing with the **Custody of Client Assets**. In particular he has failed to meet the requirement of Rule 270.4 "A registrant is strictly accountable for all clients' monies that the Registrant receives" and 270.8 "Clients' monies shall be paid without delay into a bank account, separate from other accounts of the firm."

Given the facts and circumstances outlined in (i) to (iv), the Board finds that Mr. Dawkins Brown is guilty of acts discreditable to the profession.

1. FAILINGS OF MR. DAWKINS BROWN

- (i) Failure to honour his promise made in writing to the complainant to resign as Nominee Director upon incorporation of the LLC on behalf of the complainant.
- (ii) Failure to honour his promise made to the complainant to transfer the share he holds in the LLC as Nominee Shareholder, as directed by the complainant.
- (iii) Failure to account to the complainant for funds he received from the complainant for the purpose of making statutory payments due to the TAJ from the LLC.
- (iv) Failure to honour his promise to the complainant to make good tax payments inclusive of payments of interest and penalties incurred on account of his failure to remit the payments out of the monies received from the complainant for that purpose.
- (v) Appropriating the beneficial interest and control of the LLC for himself while knowing his interest was as holder of the bare legal estate only;
- (vi) Knowingly and falsely filing the 2018 Employer's Annual Return to the TAJ with zero employees for the LLC.
- (vii) Mr. Dawkins Brown has not behaved with integrity in all professional and business relationships with his client as required by Rule 110.1, 110.2 and 110.3 of the Board's 2017 Rules of Professional Conduct. The above Rules read as follows:

SECTION 110: INTEGRITY

The Fundamental Principle of Integrity

Registrants must behave with Integrity in all professional and business relationships.

To maintain and broaden public confidence, Registrants should perform all professional responsibilities with the highest sense of integrity.

Section 110.1: The principle of integrity imposes an obligation on all Registrants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness. Integrity requires a Registrant to be, among other things, honest and candid within the constraints of client confidentiality. Service and the public trust should not be subordinated to personally gain an advantage. Integrity can accommodate the inadvertent error and the honest difference of opinion; it cannot accommodate deceit or subordination of principle.

Section 110.2: Integrity is an element of character fundamental to professional recognition. It is the quality from which the public trust derives and the benchmark against which a registrant must ultimately test all decisions.

Section 110.3: A Registrant shall not knowingly be associated with reports, returns, communications or other information where the Registrant believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains a statement or information furnished recklessly; or
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.

Given the actions and omissions as outlined in (i) to (vii) above, the Board finds that Mr. Dawkins Brown is guilty of grave impropriety, infamous conduct, gross negligence and conduct discreditable to the profession.

2. DECISION

The Board decided that

- (i) The name of Mr. Dawkins Brown be removed from the Register of Public Accountants and that he be so advised.
- (ii) Mr. Dawkins Brown pays to the Board an amount to cover the costs and expenses of and incidental to the enquiry.

The Registrant has been advised that he has the right to appeal the decision of the Board based on the provisions of Section 14 (1) of the Act.

Mr. Linval Freeman, FCA, FCCA, JP
Acting President
Public Accountancy Board
March 19, 2020