

	<p>DETERMINATION NOTICE under section 96(2)(d) of the Pensions Act 2004 the “Act”)</p> <p>Quarters Trustees Limited Mr John James Quarrell Mrs Susan Mckenzie Beaumont</p>	<p>The Pensions Regulator case ref:</p> <p>TM4162</p>
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1. The Determinations Panel (the “Panel”), on behalf of the Pensions Regulator (the “Regulator”), met on 13 August 2009 to decide whether to exercise a reserved regulatory function in relation to the issues in the Warning Notice dated 14 July 2009. The Pensions Regulator considered under section 10(2) of the Pensions Act 2004 that the exercise of a reserved regulatory function was appropriate.

2. **Matter to be determined:**

The function the Panel was asked to exercise was the application made by the Regulator for three orders to be issued under section 3 of the Pensions Act 1995 to prohibit Quarters Trustees Limited, Mr John James Quarrell, and Mrs Susan Mckenzie Beaumont from being trustees of trust schemes in general.

3. **Parties**

The Warning Notice specified the following parties as being directly affected by the regulatory action outlined in the Warning Notice:

- i. Quarters Trustees Limited (“QTL”)
- ii. Mr John James Quarrell (“Mr Quarrell”)
- iii. Mrs Susan McKenzie Beaumont (“Mrs Beaumont”)

4. **Decision**

The Panel granted the applications for orders to be issued under section 3 of the Pensions Act 1995. The Panel determined that orders be issued in the following terms:

The Pensions Regulator hereby orders that:

A. Quarters Trustees Limited

The Pensions Regulator hereby prohibits Quarters Trustees Limited from acting as a trustee of trust schemes in general with effect from the date of this order, pursuant to section 3(1)(c) of the Pensions Act 1995.

This Order prohibits Quarters Trustees Limited from exercising any functions as a trustee of trust schemes in general.

This Order remains in effect unless and until revoked pursuant to section 3(3) of the Pensions Act 1995.

B. Mr John James Quarrell

The Pensions Regulator hereby prohibits John James Quarrell from acting as a trustee of trust schemes in general with effect from the date of this order, pursuant to section 3(1)(c) of the Pensions Act 1995.

This Order prohibits John James Quarrell from exercising any functions as a trustee of trust schemes in general.

This Order remains in effect unless and until revoked pursuant to section 3(3) of the Pensions Act 1995.

C. Mrs Susan McKenzie Beaumont

The Pensions Regulator hereby prohibits Susan McKenzie Beaumont from acting as a trustee of trust schemes in general with effect from the date of this order, pursuant to section 3(1)(c) of the Pensions Act 1995.

This Order prohibits Susan McKenzie Beaumont from exercising any functions as a trustee of trust schemes in general.

This Order remains in effect unless and until revoked pursuant to section 3(3) of the Pensions Act 1995.

5. Submissions of the parties

In making the determination the Panel took into account the evidence and submissions included in the Warning Notice. It also took into account the responses and submissions to the Warning Notice sent by:

- (a) Mr Quarrell

6. Background to applications

- i. The Regulator has been investigating QTL since January 2008. Below is a summary of the action taken so far, as well as the action taken by two other regulatory bodies: the Financial Services Authority (the "FSA") and the Solicitors Regulation Authority (the "SRA").

- ii. QTL is a professional corporate trustee and its Website (www.quartersonline.co.uk) states that it has an associated legal practice known as Quarters (“Quarters”). The directors of QTL are Mr Quarrell and Mrs Beaumont.
- iii. Quarters is a law firm. Its Website (www.quartersonline.co.uk) states it specialises in UK pension law and practice. The partners (solicitors) of Quarters, of whom the Regulator is aware, include Mr Quarrell and Mrs Beaumont, although there may additionally be other partners and/or associates and/or trainee solicitors.
- iv. The Freedom SIPP Limited (“TFSL”) is a registered Self Invested Pension Scheme (“SIPP”) that was established in 2004. The directors are Mr Quarrell and Mrs Beaumont.
- v. The entities above have been described due to the inter-relationship and involvement of the partners and/or directors of all three entities.
- vi. On 24 January 2008, the Regulator attended a co-ordination group meeting with the FSA and the SRA. At that meeting, intelligence was shared by the FSA and the SRA which raised concerns over allegations received against QTL, Mr Quarrell and Mrs Beaumont. The original whistleblower letter XXXXXXXXXXXX was dated 7 November 2007 and received by the Regulator on 12 November 2007. XXXXXXXXXXXX.
- vii. On 25 February 2008, the Regulator attended a joint inspection with the FSA and the SRA at the premises of QTL.

Blagden Industries Pension Scheme (“Blagden”)

- viii. QTL received a VAT repayment of £47,406.00 from HMRC in respect of Blagden between 22 and 30 August 2005. The money was deposited on 14 October 2005 into QTL’s office account, rather than QTL’s client account (which is being investigated by the SRA), and was never paid to Blagden. Mr Quarrell, in response to a query raised some time before 27 October 2006 by DTE, the then chartered accountants to Quarters, stated, in his letter dated 27 October 2006, that he was entitled to debit Quarters’ fees against that VAT repayment. The SRA intervened into QTL and Quarters on 16 December 2008. Please see below for further detail.
- ix. In a statement to the Regulator, made at the inspection of 25 February 2008 referred to above, Mr Quarrell advised that the £47,406.00 was paid into Quarters’ office account in error. The Regulator understands from his explanation that, to rectify the problem, Quarters offset the £47,406.00 against an invoice to XXXXXXXXXXXX, the scheme administrators, for work Quarters had carried out on behalf of Blagden, rectifying problems that XXXXXXXX XXXXXXXX caused. The SRA report showed that the money was paid

in on 14 October 2005, but an invoice was not raised until 31 July 2007.

Sunley Turriff Pension Scheme (“Sunley”)

- x. The Regulator understands that QTL received a VAT repayment of £46,057.00 from HMRC in respect of Sunley on 6 October 2006 and that this money may not have been paid into the Sunley account. The amount of £46,057.00 remains unaccounted for. The Regulator has concerns that QTL is unable to ascertain where the assets are in relation to Sunley and this in turn demonstrates that QTL does not have clear audit trails, or appropriate administrative procedures.
- xi. Since 25 February 2008, on several occasions, the Regulator has asked for information in relation to the whereabouts of the money. The Regulator also issued a statutory demand for information on 28 March 2008. QTL did not respond by the due date and a number of extensions were sought and granted thereafter. Details of these were provided to the Panel in a timeline. QTL appears to be unable to resolve the matter and in June 2008 QTL asked Sunley’s administrators, Sunley’s auditors, QTL’s auditors and the Regulator to advise them on the whereabouts of the £46,057.00. On 28 April 2008 and 11 July 2008, QTL told the Regulator and SRA that proposals would be put forward to repay the money to Sunley, as it could not be located. To date, no such proposals have been received from QTL. This is over two-and-a-half years after the money was received into QTL’s office account.
- xii. Sunley is currently in the Financial Assistance Scheme (“FAS”). Data collection is ongoing and some members have been assessed or paid. The Regulator is concerned that the FAS are not in receipt of the outstanding £46,057.00 which may have a direct impact on the FAS’s calculation of the levels of assistance due to members. The FAS are now aware that XXXXXXXXXX is the new trustee of Blagden and Sunley.
- xiii. The Regulator is concerned that QTL, as a professional trustee, is not aware of the whereabouts of the £46,057.00. Trustees who charge for their services as trustees, rather than just reclaiming necessary expenses, or who hold themselves out to be experts in trustee matters are expected to show a higher standard of expertise than lay trustees. In addition, the Regulator expects a trustee to be competent to manage their own affairs. Trustees are expected to act with complete integrity with regard to their trustee functions and always to keep in mind their duty to act in the best interests of the beneficiaries of the schemes they are involved with. Bearing these factors in mind, and given the circumstances described above, the Regulator does not believe that QTL, Mr Quarrell and Mrs Beaumont are fit and proper persons to be trustees of trust schemes in general.

- xiv. On 17 December 2008, the Determinations Panel made an order to appoint an independent trustee with exclusive powers to Blagden and Sunley.
- xv. On 5 February 2009, the Determinations Panel made an order to remove QTL from the Trustee Register.
- xvi. Since XXXXXXXXXXXX were appointed by the Regulator to Blagden and Sunley on 17 December 2008, they have tried to make contact with QTL in order to obtain background information on both schemes in order that they may start the recovery process in respect of the missing monies. QTL have on many occasions ignored XXXXXXXX XXXXX letters, phone calls and emails and XXXXXXXXXXXX had to contact QTL sixteen times between 16 January 2009 and 1 May 2009 before QTL agreed to a meeting (see Exhibit 20).

FSA background

- xvii. On 3 July 2008, the FSA made the decision to execute their emergency executive procedures under sections 45 and 48 of the Financial Services and Markets Act 2000. The FSA informed the Regulator that it had received information that the directors of TFSL moved all the SIPP members' cash holdings, in excess of £20m, to a new bank account without all the members' consent. The FSA's action means that in order for monies to be moved this would require both the firm's and the members' signature.

SRA background

- xviii. The SRA has concerns over QTL and Quarters and has been investigating them since February 2008, carrying out a number of interviews with them in July 2008. As a result of its investigations, on 16 December 2008, the SRA intervened into QTL and Quarters under the Solicitors Act 1974. An intervention into a practice is designed to protect clients' interests and client money. Client and office account monies now vest with the SRA and the SRA took possession of the practice's documents, including client papers. Part of the grounds for intervention included breaches of the Solicitors' Accounts Rules. It also means that both Mr Quarrell and Mrs Beaumont are suspended from practicing as lawyers.
- xix. On 8 May 2009, the Regulator was informed by Russell-Cooke Solicitors ("Russell-Cooke"), the lawyers for the SRA, that Mr Quarrell and Mrs Beaumont had discontinued their Part 8 Claim in the High Court by which they were seeking an Order from the court to withdraw the Resolution to Intervene. This means that those proceedings are at an end and the intervention is effective for all intents and purposes. The next stage for the SRA will be the determination of any disciplinary sanction against Mr Quarrell and Mrs Beaumont and via the Solicitors' Disciplinary Tribunal. Russell-

Cooke's involvement in respect of the intervention will then come to an end.

7. Statutory issues

In making their 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**.

8. Reasons for decision

The reasons given by the Panel for their decision were as listed below.

- i. The Panel considered the evidence in the Warning Notice as a whole and in particular that in relation to the receipt of money by the Trustees from HMRC in respect of the Blagden and Sunley Trusts. They took particular note of the evidence concerning the transfer of Freedom SIPP's cash holdings as well as the evidence in Appendix A setting out the way in which the firm had dealt with requests for information from the Regulator about the management of the affairs of the Trusts.
- ii. In respect of the Blagden Trust the Panel noted that a VAT payment of some £46,000 was paid into the Quarters Trustees Limited office account on the 14 October 2005. There was no dispute in the papers that this was trust money and that it should have been paid into a Blagden Trust account. The Panel noted evidence in a report of the Solicitors Regulatory Authority that Mr Quarrell had informed his cashier that this was client money in December 2005 and January 2006; however, no action was taken to transfer it from the office account to the Trust account. The Panel noted a letter in October 2006 from Mr Quarrell to his accountants seeking to justify the retention of money by reference to work the company had carried out for the Trusts; but there was nothing in the papers to indicate why no invoice had been raised at an earlier date. An invoice was eventually sent in respect of this work on 31 July 2007.
- iii. The Panel found that this money had been wrongly held in the office account for twenty-one months with no reason or action to justify it being there.
- iv. In respect of the Sunley Trust a similar payment of some £46,000 was paid into the Quarters Trustees Limited office account on 6 October 2006 and the evidence disclosed no record of it being transferred into the Sunley Trust account. In his response Mr Quarrell said that on the appointment of the new trustee, XXXXXXXXXXXXXXXXXXXXXXXX, a transfer had been made but the

Panel noted that this was only after the investigation into the placing of the money had been started.

- v. The Panel were satisfied in respect of the payments for both Trusts that the money had been wrongfully placed and that the Trustees were either unaware of the location of the money or were aware but failed to take appropriate action to ensure its immediate transfer. They were also satisfied from the evidence in Appendix A that the Trustees had failed to maintain sufficient records to allow them to give immediate and clear replies to questions raised by the Regulator about the receipt and whereabouts of the money.
 - vi. The Panel finally noted the transfer of cash holdings (in excess of £20 million) belonging to the members of the SIPPs administered by Freedom SIPP Limited. The transfers were made from one bank to another without the Trustees having received the consent of some 150 members. Although the management of the SIPPs did not fall under the jurisdiction of the Regulator the Panel considered it to be relevant and admissible evidence relating to the manner in which the two partners approached the management of trust funds.
 - vii. The Panel took into account the comments made by Mr Quarrell to the effect that the responsibility for the wrong placement of the Blagden and Sunley Trusts' payments was that of his office cashier, XXXXXX. The Panel considered this alongside her own evidence in a letter of 7 November 2007 in which she said the money was misplaced on the instruction of Mr Quarrell. There was accordingly a conflict of evidence.
 - viii. The Panel did not consider it necessary to make any findings on XXXXXXXX evidence since they were satisfied that there was an overriding responsibility of the directors of the company for the failure of Quarters Trustees Limited to exercise proper conduct of the trusteeship and management of trust money.
 - ix. Taking these matters into account the Panel considered that the Trustees, in the management of the two Trusts, had failed to act in the best interests of the beneficiaries. They had accordingly failed to show the proper standards of care, competence and professionalism expected of trustees. They were therefore, in the view of the Panel, not fit and proper persons to be trustees of trust schemes in general.
9. **Appendix 2** to this Determination Notice contains important information about the rights of appeal of the parties against this decision.

Signed: *John Scampion*.....

Chairman: **John Scampion**.....

Dated: 20 August 2009.....

Section 5 of the Pensions Act 2004
Regulator's objectives

- (1) The main objectives of the Regulator in exercising its functions are –
- (a) to protect the benefits under occupational pension schemes of, or in respect of, members of such schemes,
 - (b) to protect the benefits under personal pension schemes of, or in respect of, members of such schemes within subsection (2),
 - (c) to reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund (see Part 2), and
 - (d) to promote, and to improve understanding of, the good administration of work-based pension schemes.
- (2) For the purposes of subsection (1)(b) the members of personal pension schemes within this subsection are-
- (a) the members who are employees in respect of whom direct payment arrangements exist, and
 - (b) where the scheme is a stakeholder pension scheme, any other members.
- (3) In this section-
- “stakeholder pension scheme” means a personal pension scheme, which is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (c.30)(register of stakeholder schemes);
- “work-based pension scheme” means-
- (a) an occupational pension scheme,
 - (b) a personal pensions scheme where direct payment arrangements exist in respect of one or more members of the scheme who are employees, or
 - (c) a stakeholder pension scheme.

Section 100 of Pensions Act 2004
Duty to have regard to the interests of members etc

- (1) The Regulator must have regard to the matters mentioned in subsection (2) –
- (a) when determining whether to exercise a regulatory function –
 - (i) in a case where the requirements of the standard or special procedure apply, or
 - (i) on a review under section 99, and
 - (b) when exercising the regulatory function in question.

- (2) Those matters are –
- (a) the interests of the generality of the members of the scheme to which the exercise of the function relates, and
 - (b) the interests of such persons as appear to the Regulator to be directly affected by the exercise.

Referral to the Pensions Regulator Tribunal

You have the right to refer the matter to which this Determination Notice relates to the Pensions Regulator Tribunal (“the Tribunal”). Under section 103(1)(b) of the Act you have 28 days from the date this Determination Notice is given to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Determination Notice. The Tribunal’s address is:

The Pensions Regulator Tribunal
15-19 Bedford Avenue
London
WC1B 3AS
Tel: 020 7612 9649.

The detailed procedures for making a reference to the Tribunal are contained in section 103 of the Act and the Tribunal Rules.

You should note that the Tribunal rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to The Pensions Regulator. Any copy reference notice should be sent to:

Determinations Support
The Pensions Regulator,
Napier House
Trafalgar Place
Brighton
BN1 4DW.
Tel: 01273 627698