



**IN THE COURT OF THE TRANSPORT TRIBUNAL**

████████████████████

**Appellant**

**-and-**

**REGISTRAR OF THE DRIVING STANDARDS AGENCY**

**Respondent**

**Before: Frances Burton  
Leslie Milliken  
Stuart James**

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**ORDER**

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SITTING IN London on 9 May ██████████

UPON READING the Decision of the Registrar dated ██████████

AND UPON HEARING Mrs ██████████ for the Respondent, Mr John Lepine  
for the Appellant ██████████

IT IS HEREBY ORDERED that the appeal be DISMISSED

[REDACTED]

-and-

**REGISTRAR OF THE DRIVING STANDARDS AGENCY**

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**REASONS**

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1. This was an appeal against the decision of the Registrar that the Appellant was not a “fit and proper person” within the context of s.125(3)(e) of the Road Traffic Act 1988 to have their name on the Register of Approved Driving Instructors (“ADIs”).

[REDACTED]

- (i) Mrs [REDACTED] told us that the Appellant’s name was first entered on the Register in January 1968 and in the normal course of events his certificate would expire on 31 October 2010. In August 2007, following a routine criminal records check, the Registrar was informed of 2 unspent, undeclared convictions: on 16 November 2001 the Appellant had been convicted of 2 counts of Conspiracy to Defraud and sentenced to 2 years and 1 year of imprisonment, to run consecutively. A certificate of conviction confirmed the charges and the sentence, and in the light of these offences and the Appellant’s failure to notify them, both when convicted and again when applying for Extension of Registration in October 2002, the Registrar took the view that the Appellant had ceased to be a fit and proper person to be included on the Register. On 28 August 2007 and 31 October 2007 the Appellant sent representations in response to the Registrar’s invitation to advance any mitigating circumstances for both the convictions and the failure to notify them, but the Registrar nevertheless confirmed his original view on the basis that the offences were serious, as reflected in the custodial sentences imposed, and that the failure to notify these convictions on 2 occasions when the Appellant had had the opportunity constituted a further fall below the standards expected of an ADI.
- (ii) At the hearing of his appeal the Appellant was represented by Mr John Lepine, General Manager of The Motor Schools Association of Great Britain (the writer of the letter dated 31 October 2007 which had comprised the second of the Appellant’s representations to the Registrar, following the Registrar’s invitation to make representations before any final decision to remove his name from the Register was taken). Mr Lepine’s first point was that the appeal should be allowed because the Registrar had failed to comply with Rule 18D(1) of the Transport Tribunal (Amendment) Rules 2002 in that he had not within 14 days of receipt of a copy of the Notice of Appeal sent to the Tribunal a statement of case containing details of any evidence on which he proposed to rely in support of his decision.

Mr Lepine, however, did not offer any evidence in support of this claim save to “believe” that the Tribunal Service would have forwarded the appeal notice (which they received on 27 December 2007) before 1 April 2008 (14 days prior to the date on the Registrar’s statement of case).

- (iii) Mr Lepine’s second point was that the appeal should be allowed since the Appellant had been on the Register as an ADI since the commencement of registration. He was of no risk to pupils. He had passed his driving test in 1961 and had taken the examinations to join the RAC Register of Driving Instructors, a precursor of the Agency’s Register, and subsequently took the ADI Register examinations (and in 1968, when he took them, this was a voluntary commitment). Mr Lepine said that the Appellant had failed to report the convictions due to a misunderstanding as he believed only driver offences were relevant and he found the ADI renewal form confusing. He said that the Appellant apologised unreservedly for this and was also remorseful about his convictions which were in respect of offences committed “unwittingly”, and had since shown his remorse by devoting great care to his financial affairs.
- (iv) We asked Mrs █████ how long a period the Registrar would be likely to require to have passed before he might be prepared to exercise his discretion favourably in the Appellant’s case. She told us that normally this might be 4 years from the conviction but owing to the seriousness of the financial offences in the present case, and the fact that they had not been declared (when the Appellant had signed 2 forms - in 2002 and 2006 - stating that he had no convictions), besides the large sum of money involved in the 2001 conviction, all this might mean that the Registrar would take a conservative view. She reminded us that the occupation of an ADI was included in the Exception Order 1975 excluding that occupation from the operation of the Rehabilitation of Offenders Act 1974 so that the Registrar was entitled to take spent convictions into account (although the presently relevant convictions were not even yet spent).
- (v) Mr Lepine nevertheless pressed us to consider evidence of the Appellant’s good character as an honest, trustworthy person and submitted that as he had served his sentences in an open prison he must have been even then considered trustworthy despite his convictions.
- (vi) We carefully considered all the evidence before us but were unable to detect any error on the Registrar’s part since the Appellant has unspent convictions for serious financial offences in respect of which our view coincided with his. Moreover it was clear to us that the Appellant had already had the benefit of several years of working as an ADI under false pretences since the Registrar would inevitably have removed his name from the Register in 2002 if the Appellant had duly reported his convictions either immediately on conviction, when he had applied for Extension of Registration, or when he had emerged from prison and resumed instructing. We find no merit in Mr Lepine’s submission that the appeal should be allowed because of the Registrar’s late supply of his statement of case on 15 April 2008. He submitted no evidence of the date on

which, he says, this evidence should have been supplied and appears not to have studied the remaining relevant parts of the Transport Tribunal Rules (as amended) which provide, inter alia, that the Tribunal "... may extend any time specified by these Rules upon such terms as it thinks fit, if it considers that the justice of the case requires it" (Rule 24). Any irregularity does not of itself render any proceedings void and in any such case the Tribunal has a power (and a duty), if it considers that any person may have been prejudiced, to take such steps as it thinks fit to cure the irregularity before reaching its decisions (Rule 37(1) and (2)). In the present case we are satisfied that no prejudice has been occasioned to the Appellant. We would always extend any necessary time for good reason. In fact the Appellant has benefited from any delay in listing his case since the Registrar's decision letter of 27 November 2007 specified that decision would not take immediate effect. The Appellant has therefore had substantial extra use of his ADI registration pending appeal and had had the Registrar's statement of case for over 3 weeks prior to the hearing. We do not believe that there has been any substantial delay in providing the Registrar's statement of case (despite the necessity to clear provision to us of essential criminal record documents now required). In fact the new procedure requiring provision of court extracts and criminal record disclosure at an earlier stage also benefits Appellants in delaying the Registrar's consideration of convictions (both those reported and those which go unreported until the Registrar comes to know of them, as in the present case). Accordingly there are no grounds on which we could allow an appeal either on the procedural basis sought by Mr Lepine or on the basis of his substantive submissions and we therefore dismiss the appeal.