



Appeal number: CA.2020.0006

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(CHARITY)**

MUSTAFA MURKARAM MUSA

Appellant

- and -

**THE CHARITY COMMISSION FOR ENGLAND AND
WALES**

Respondent

**Refusal of Permission to appeal to the Upper
Tribunal**

1. The Tribunal has received on behalf of Mr Mustafa Musa an Application for Permission to Appeal. It is dated 12 July 2021 and, I understand, was received on that date. I understand that the Tribunal's decision was sent to parties on 15 June 2021 and, therefore, the 28 day period for lodging an Application for Permission to Appeal lasted until 13 July 2021 – it is, therefore, in time.
2. I have considered whether to review the decision the Tribunal made and I do not consider it appropriate to review.
3. I have considered whether to grant permission to appeal to Mr Mustafa Musa and I refuse permission to appeal. Permission to appeal can only be given if there is an identifiable error of law. Those representing Mr Mustafa Musa have argued 9 grounds which, they say, each amount to an error of law.
4. Dealing with the grounds of appeal set out on behalf of Mr Mustafa Musa:
 - 4.1. Ground 1:

- 4.1.1. The first submissions does not, when analysed, hold weight. The Tribunal found that there was mismanagement, the Tribunal describing it as very serious (rather than, for example, minor) does not mean that there was no mismanagement; taking out the words “very serious” would not mean that there was not mismanagement.
 - 4.1.2. The Tribunal’s finding that Mr Mustafa Musa was more responsible than others was a finding of fact, not law, and does not, therefore, amount to an error of law.
 - 4.1.3. It is clear from the decision as a whole why the Tribunal, whether making findings of fact or accepting admissions of fact came to the conclusion that Mr Mustafa Musa was more responsible than other trustees.
 - 4.1.4. Mr Mustafa Musa did not in any of his evidence state who was the “Finance Officer” and no submission was made on his behalf naming a person as the “Finance Officer”. What Mr Mustafa Musa needed to do was to pass the money to whoever the Finance Officer was and not keep it in a locked box in a flat where he was not residing. The fact that the evidence does not reveal who that person was could be considered to be a serious failing of Mr Mustafa Musa’s part, particularly if it was his case that the Finance Officer should have shouldered more of the blame for the mismanagement.
- 4.2. Ground 2:
 - 4.2.1. Our decision explains why we considered that, as Principal of the School, the School’s failings (according to Ofsted) were an example of how Mr Mustafa Musa, as Principal, was not a competent trustee.
- 4.3. Ground 3:
 - 4.3.1. It is not for the Tribunal to state who would be an independent person. It is for Mr Mustafa Musa and his fellow trustees to work out how the conflict of interest should have been managed; perhaps more so Mr Mustafa Musa as the person who, as Principal, was responsible for performance at the School.
- 4.4. Ground 4:
 - 4.4.1. It is clear from the whole of our decision that the Tribunal found Mr Mustafa Musa was responsible for the mismanagement of keeping £400,000 in a box.
- 4.5. Ground 5:

4.5.1. From 2018 to 2020 the Charity was unable to use the £400,000 because it was being held by the Police. It is clear from the decision the Tribunal's view is that the Police holding the money amounts to "loss" of that money for that period. The £400,000 was not available to pay staff wages from 2018 to 2020, that £400,000 was not available to pay contractors if work was to be done), that £400,000 was not available to pay bills (electricity, etc.) for the period when it was being held by the Police.

4.6. Ground 6:

4.6.1. At the time of the disqualification, Mr Mustafa Musa decided to appeal against the disqualification. He could have applied for a variation to the disqualification to enable him to continue as trustee at TSCS. It may be that, if he had done that and enabled the Charity Commission to fully look into the TSCS situation and his position that he would have been permitted to continue his role in TSCS. It was not an error of law to refuse to carve that charity out of the disqualification.

4.6.2. The Tribunal's decision clearly explains why the Tribunal considered that the Charity Commission had made out the case for disqualification of Mr Mustafa Musa; the Charity Commission has not, as yet, been given (by Mr Mustafa Musa) the opportunity of investigating whether he should be a trustee at TSCS, from what the Tribunal saw, read and heard, the Tribunal was satisfied that Mr Mustafa Musa should be subject to a disqualification order for all charities.

4.7. Ground 7:

4.7.1. Reading the decision as a whole it is clear why the Tribunal found that keeping over £400,000 in a locked box and not in the bank was a failure to manage the money in a prudent and sound manner. Our decision explains why we found that the risks taken with the £400,000, was a failure, by Mr Mustafa Musa, to keep money in a safe and prudent manner.

4.8. Ground 8:

4.8.1. It is clear from the decision as a whole why the Tribunal found that Mr Mustafa Musa had a lack of insight and why the Tribunal considered that the Tribunal should not allow that lack of insight to be taken into any other charity.

4.9. Ground 9:

4.9.1. A period of 5 years is “not less than 5 years”. The Tribunal did not consider it appropriate to state how long the disqualification should have been, what is clear from the decision is that 5 years was, at least, an appropriate minimum and, according to the submissions made by parties, the Tribunal’s only choice (when not allowing the appeal) was to confirm the 5 years that the Charity Commission had imposed. The factual findings were based on the evidence provided to the Tribunal and are explained in the decision, when the decision is read as a whole.

5. Mr Mustafa Musa has the right to apply direct to the Upper Tribunal Tax and Chancery Chamber, for permission to appeal; such application must reach the Tax and Chancery Chamber within 1 month of this decision being sent to him. Information about how to lodge proceedings, and the form to use when lodging proceedings, can be found at the Upper Tribunal Tax and Chancery Chamber’s website which is found here: <https://www.gov.uk/courts-tribunals/upper-tribunal-tax-and-chancery-chamber>.

Deputy District Judge Worth, authorised to sit as a Tribunal Judge in the GRC
Dated: 27 July 2021

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