



**IN THE FIRST TIER TRIBUNAL (CHARITY)  
GENERAL REGULATORY CHAMBER**

**Appeal No.  
CA/2014/0011  
CRR/2014/0007**

**BETWEEN:**

**THRIFT URBAN HOUSING LIMITED  
PETER ALMAN**

**Appellants**

**- and -**

**THE CHARITY COMMISSION FOR ENGLAND AND  
WALES**

**Respondent**

**TRIBUNAL: TRIBUNAL JUDGE PETER HINCHLIFFE**

**RULING**

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Upon reading the applications submitted by the Appellants on 19<sup>th</sup> January 2015 and the subsequent representations from the Appellants and the Respondent, the following ruling is made:

1. The Appellants applied for Mrs. Cargin, a former trustee of Thrift Urban Housing, to be made available for cross-examination. This application was submitted late. The Tribunal adjourned after a two day hearing in which all witnesses had been heard and cross examined, following the exchange of witness statements in accordance with the Directions given on 30<sup>th</sup> October 2014. The Tribunal was to resume solely to hear the parties' closing submissions. The Respondent produced a copy of a transcript of an interview with Mrs Cargin prior to the hearing. Mrs Cargin has not been called as a witness by the Respondent and has not submitted a witness statement. Mr Alman on behalf of the Appellants disagrees strongly with Mrs Cargin's comments in the transcript. The Tribunal has heard from the parties and will hear further submissions of the parties regarding the weight that it should place on the transcript and what conclusions, if any, it should draw from the document and its content. In the circumstances it is not appropriate to regard the transcript of the interview with Mrs Cargin as akin to a witness statement and it is not necessary for her to attend the

hearing and be subject to cross-examination. The application is refused. The Tribunal will form its own view on the contents of the transcript after hearing from the parties.

2. The Appellants also applied for Ms Spiller, an executive at the Respondent, to be made available for cross-examination. This application was submitted late in the circumstances set out above. Mr Alman submits that this is necessary because the Appellants are unable to challenge what has been stated by her without having her present at the hearing. The Respondent state that the reasons for Ms Spiller's decision to impose the freezing order that is the subject of this appeal are set out in the statement of reasons relating to the decision and that the Tribunal must consider the decision afresh rather than determine the reasonableness or lawfulness of the original decisions. The Tribunal has heard from the parties and will hear further submissions of the parties in relation to the decisions to impose and to maintain the freezing order in place and the evidence in relation to those decisions. The Tribunal concludes that whilst evidence directly from Ms Spillar may have been helpful to the Tribunal, it is not necessary for the fair and just determination of this appeal, the potential value of her evidence is disproportionate to the risk of delay and unnecessary complexity in the proceedings at this late stage and refusing the application does not prejudice one party more than another. The application is therefore refused.
3. The Appellants applied for Mr Bradbury of Lambeth Trading Standards to be made available for cross-examination. This application was submitted late in the circumstances set out above. Mr Alman submits that this is necessary because the Appellants are unable to challenge what has been stated by Mr Bradbury without having him present at the hearing. The Respondent states that information received from Mr Bradbury did not form any part of their decision to open an inquiry or issue and keep in place the freezing order. The Tribunal refuses the application as Mr Bradbury can only provide evidence about the background to the decisions and is unlikely to be able to provide evidence about the basis upon which the decisions were made by the Respondent and whether the freezing order should be maintained. Mr Bradbury's direct evidence is not necessary for the fair and just determination of the proceedings and the refusal of the application does not prejudice one party more than another.
4. The Appellants seek to challenge the decisions by the Respondent to apply for, make and issue the Orders to CAF Bank under section 52 of the Charities Act 2011. Schedule 6 of the Charities Act 2011 sets out all of the decisions that can be the subject of an appeal to this Tribunal and provides that the only person who may appeal against the making of an order requiring a person to supply information or a document to the Commission under section 52 of the Charities Act 2011 is "*any person who is required to supply the information or document*". No other right of appeal to this Tribunal exist in respect of section 52. Neither Mr Alman or Thrift Urban Housing are therefore entitled to appeal against the decision of the Commission to apply for, make and issue the Orders to CAF Bank under section 52 of the Charities Act 2011 .
5. The Appellants apply for an injunction to prevent CAF Bank giving the Charity Commission further access to the Thrift Urban Housing's bank account. The Tribunal does not have the power to issue an injunction of this nature. If Mr Alman or Thrift Urban Housing wishes to pursue this course of action they would need to bring separate legal proceedings in the Courts.
6. The Appellants apply for a copy of the Orders issued to CAF Bank under section 52 of the Charities Act. The Respondent submits that disclosure of these Orders is

irrelevant to the appeal. In the circumstances of these appeals, the Tribunal accepts that the terms of such orders may be of only limited relevance to these appeals, but finds that it may be of some relevance and that little effort is required and no delay will arise from such disclosure. Accordingly, the Tribunal orders that the Orders issued by the Respondent to CAF Bank in respect of Thrift Urban Housing be disclosed to the Appellants.

7. The Appellants apply for documents, letters and e-mails between the Respondent, Mr Bradbury and the person who brought the complaints to Lambeth Trading Standards to be disclosed to him. The Respondent submits that the existence of a complaint to Lambeth Trading Standard was irrelevant to their decision to open a statutory inquiry. The Tribunal notes that the documentary evidence in the proceedings includes references to the Respondent's dealings with Trading Standards around the time that the decisions that are the subject of these appeals were made and, in the circumstances, finds it fair and just for the Respondent to disclose any correspondence or notes of discussion that it had with Trading Standards specifically in relation to the Appellants in 2014 that have not already been disclosed. The Respondent may redact any information that might identify the source of any complaint to Trading Standards.
8. The Appellants apply to have all redacted material included in the bundle in an unredacted form. Mr Alman does not explain how this will assist in the presentation of the Appellants case or how they are prejudiced by the redactions. The Tribunal finds that any such application should have been made earlier in these proceedings and refuses the application.
9. The Appellants ask the Tribunal to give directions that any person who is to become a witness or may be recalled as a witness should not be provided with the transcript of the hearing. This application is refused on the basis that no further witnesses are to be called and no witnesses recalled.

**Tribunal Judge**

**Peter Hinchliffe**

**Dated 29<sup>th</sup> January 2015**

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