



**Appeal number: CA/2014/0001  
CA/2014/0002**

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

**BRYAN GUNN**

**First  
Appellant**

**DONNA NAGHSHINEH**

**Second  
Appellant**

**- and -**

**THE CHARITY COMMISSION FOR  
ENGLAND AND WALES**

**Respondent**

**TRIBUNAL: JUDGE ALISON MCKENNA**

**Sitting in Chambers on 27 October 2014**

**RULING ON APPLICATION TO BE JOINED AS A PARTY**

**BY KEITH COLMAN**

1. On 16 October 2014, the Tribunal received an application from Keith Colman to be joined as a party to these appeals, made pursuant to rule 9 of the Tribunal Procedure Rules. I asked the Charity Commission to respond to the application, which it did on 17 October. I then invited the Appellants to make representations on both the application and the Charity Commission's response to it. The Appellants sent their responses on 24 October. Having considered all parties' views, this is my final ruling on the application.

2. Mr Colman's application is made on the basis that the Interim Manager's conduct of two court cases against him gives him an interest in the appeals before the Tribunal so that he should be joined as a party.

3. The Charity Commission opposes Mr Colman's application. It reminds me that the Tribunal ruled on 17 April 2014 that Mr Colman was not a "person affected" so as to have standing to bring an appeal to the Tribunal, because he had resigned as charity trustee before the relevant orders were made. It further points out that on 12 May 2014, the Tribunal directed that Mr Colman be removed as an Appellant and that Bryan Gunn and Donna Naghshineh be substituted as the First and Second Appellant respectively. Further, that on 23 May 2014, Mr Gunn appointed Mr Colman as his non-legal representative for the purposes of rule 11 of the Tribunal Procedure Rules.

4. The Charity Commission complains that, having failed to appeal the rulings of 17 April, Mr Colman acting as a representative should not now be permitted effectively to lodge an appeal which is long overdue, by asking the Tribunal to reconsider the same issue. The Charity Commission also opposes the application on the basis that the Tribunal's earlier ruling was that Mr Colman's personal concerns about his financial status and reputation could not in any event be remedied by his participation in these Tribunal proceedings because his concerns arise from matters other than the orders under appeal. The Charity Commission asserts that this is still the case.

5. The Appellants made their representations by e-mail in virtually identical terms on the same day. I suspect that both their representations were crafted by Mr Colman. They do not rely on any change of circumstances since the Tribunal's earlier ruling and neither do they argue any points of law, but merely assert that they have always taken the view that Mr Colman is a "person affected" so that he should be an Appellant. In other words, they disagree with the Tribunal's ruling and want it changed.

6. The power to add a party to proceedings under rule 9 must be exercised in a manner consistent with the overriding objective. Taking into account the fact that Mr Colman was previously held not to be a person affected by the decisions under appeal so that he was struck out as an Appellant, I find it extraordinary that he should now apply to be joined as a party to the same proceedings. There has been no change in his legal relationship to the Charity Commission's orders which would merit his joinder as a party at this stage, although he remains concerned about the risks to his own finances and reputation. I find that it would not be conducive to the fair and just disposal of these proceedings to join as an Appellant a person with an interest in protecting their own position rather than in litigating the matters before the Tribunal. I have no hesitation in refusing Mr Colman's application.

7. In my directions and ruling of 30 July 2014, I noted that Mr Colman had appeared before the Tribunal as the non-legal representative of the First Appellant, but that it seemed likely that he would be called as a witness at the final hearing. I commented that it was not appropriate for him to act as both a representative and a witness in the same proceedings and I asked him to consider which role he wanted to play and inform the Tribunal. To my knowledge, there has been no change in his position and it seems to me that his rule 9 application may have been an ill-judged attempt to put himself into a position where he can continue to play both roles. I am increasingly concerned that a representative who has applied to join the proceedings

himself will face a conflict of interest and be unable to represent the Appellant in a manner which furthers the overriding objective. I note that the limitation period for appealing this ruling will still be running when the Tribunal convenes for a directions hearing next month and it does not seem appropriate to me for Mr Colman to appear as a representative at that hearing in those circumstances. I am minded to bar Mr Colman from acting as a representative in these proceedings, although I will invite the parties' representations on that issue before making a final decision, as set out below.

8. In view of certain other developments, including the Charity Commission's recent removal of the First Appellant as a charity trustee, I will shortly consider whether these appeals should continue to a final hearing or be struck out. I will issue my further ruling on that issue after I have received the Appellants' comments on the Charity Commission's representations. At that stage, and if appropriate, I will make a decision about whether Mr Colman should be permitted to act as a representative at the final hearing of these appeals listed for December 2014. I now invite all the parties' further comments (and Mr Colman's) on that issue, to be sent to the Tribunal by 5pm on 31 October 2014.

**ALISON MCKENNA**

**PRINCIPAL JUDGE**

**DATE: 27 October 2014**

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