

IN THE MATTER OF

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

-and-

KPMG AUDIT PLC (1)  
MICHAEL FRANCIS BARRADELL (2)

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SETTLEMENT AGREEMENT

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1. This Settlement Agreement ("**Agreement**") is made on 6 July 2018 between Daniel Rouse as the Interim Deputy Executive Counsel of the Financial Reporting Council ("**the Executive Counsel**") and KPMG Audit Plc ("**KPMG**") and Michael Francis Barradell ("**Mr Barradell**"). The Executive Counsel, Mr Barradell and KPMG together are described as "**the Parties**". The Agreement is evidenced by the signatures of the Executive Counsel on his own behalf, by Jeremy Barton, General Counsel of KPMG, on behalf of KPMG and by Mr Barradell on his own behalf.
2. The Particulars of Fact and Acts of Misconduct concerning KPMG and Mr Barradell ("**the Particulars**") were agreed by the parties in accordance with the FRC Accountancy Scheme ("**the Scheme**") and are annexed hereto. The Particulars relate to the conduct of each of KPMG and Mr Barradell in relation to the audit of the financial statements of Ted Baker Plc and No Ordinary Designer Label Limited for the periods ended 26 January 2013 and 25 January 2014 ("**the Audits**"). KPMG and Mr Barradell admit the Acts of Misconduct set out in the Particulars.
3. The Parties recognise that the determination to be made in this case is a matter for the Tribunal member in accordance with paragraph 8(4)(ii) of the Scheme.

**Sanction**

4. The Parties have agreed the following terms of settlement:

KPMG:

- a. Fine of £3,000,000 (reduced in accordance with the Sanctions Guidance relating to settlement adjustments by 30% to £2,100,000); and
- b. A Severe Reprimand.

Mr Barradell:

- a. Fine of £80,000 (reduced in accordance with the Sanctions Guidance relating to settlement adjustments by 35% and further reduced by 10% to take account of mitigating factors to £46,800); and
  - b. A Reprimand.
5. The fines shall be paid not later than 28 days after the date when this Agreement takes effect.
6. In determining the appropriate sanctions, the Executive Counsel adopted the approach set out in the Sanctions Guidance, as follows:

***Nature and Seriousness of the Misconduct***

7. The Executive Counsel considers that the factors relevant to assessing the nature and seriousness of the Misconduct are:
  - a. KPMG derived a financial benefit from the Misconduct in that they received over £950,000 in expert fees in relation to an expert engagement which they have admitted constituted a prohibited service pursuant to the Ethical Standards.
  - b. The Misconduct could undermine confidence in the standards of conduct in general of Members and Member Firms, and/or in financial reporting and/or corporate governance in the United Kingdom and/or in the profession generally.
  - c. Mr Barradell held a senior position and had supervisory responsibilities.
  - d. Mr Barradell was not solely responsible for the Misconduct.
  - e. The Misconduct related to breaches of Ethical Standards which are important and which resulted in a loss of independence (although the Executive Counsel does not allege that KPMG or Mr Barradell in fact lacked objectivity) in respect of the Audits.
  - f. The Misconduct was not dishonest, deliberate or reckless.

***Identification of Sanction***

8. Having assessed the seriousness of the Misconduct and considered the range of available sanctions, the Executive Counsel considers that the sanctions identified above are appropriate sanctions for each of KPMG and Mr Barradell.
9. The Executive Counsel has taken into account aggravating and mitigating factors set out below, to the extent that they have not already been taken into account in considering the nature and seriousness of the Misconduct. The Executive Counsel has also considered whether any adjustment to the sanctions for deterrence is required in this case. The conclusion reached is that the Fine in relation to Mr Barradell should be reduced by a further 10% to take account of mitigating factors.

***Aggravating Factors***

10. The following aggravating factors were identified:
- a. KPMG has previous findings of Misconduct in respect of breaches of Ethical Standards.

***Mitigating Factors***

11. The following mitigating factors were identified:
- a. Mr Barradell has a good compliance history and disciplinary record.
  - b. KPMG and Mr Barradell have apologised for their Misconduct.
  - c. Mr Barradell has provided a high level of cooperation with the investigation.
  - d. KPMG instituted in July 2017 a policy prohibiting the provision of *any* expert witness services to audit clients of the UK firm. In relation to the specific issue of such services posing a self-review threat, the Misconduct is therefore unlikely to be repeated.

***Discount for Settlement***

12. Having taken into account the admissions made by KPMG and Mr Barradell and the stage at which those admissions were made in accordance with the Sanctions Guidance a reduction of 35% to the Fine is considered appropriate for Mr Barradell and 30% to the Fine for KPMG.

***Amount of fine***

13. The Executive Counsel considers that, having had regard to the circumstances of this case and the Parties, and previous relevant outcomes of cases under the Scheme, fines of £3,000,000 and £80,000 for KPMG and Mr Barradell respectively are proportionate to the Misconduct and will act as an effective deterrent.

***Costs***

14. The Parties have agreed the following terms of settlement for costs:
- a. That the FRC's costs of, and incidental to, the investigation (£112,000) be paid by KPMG.
  - b. The costs shall be paid no later than 28 days after the date when this Agreement takes effect.
15. If the decision is to approve the Agreement, including the sanctions set out above, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to KPMG and Mr Barradell in accordance with paragraph 8(4)(iv) of the Scheme.

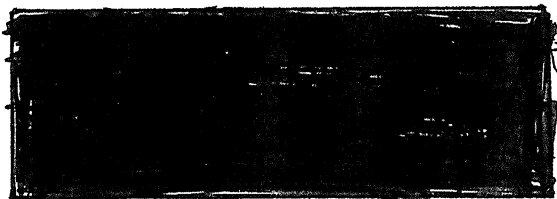


Daniel Rouse

Interim Deputy Executive Counsel

6/2/2018

Date



Jeremy Barton

General Counsel

On behalf of KPMG Audit PLC

.....6 July 2018.....

Date



.....  
Michael Barradell

.....6 July 2018.....

Date