

	DETERMINATION NOTICE under section 96(2)(d) of the Pensions Act 2004 (“the Act”)	The Pensions Regulator case ref: 68/05
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Scheme: Bugsby Pension Scheme	
To:	Mr Mornington Stafford Seager
Of:	XXXXXXXX XXXXXXXXXXXXXXXX XXXX XXXXXXXXXXXX
To:	Mrs Patricia Lillian Seager
Of:	XXXXXXXX XXXXXXXXXXXXXXXX XXXX XXXXXXXXXXXX
To:	Mr Mark Stafford Seager
Of:	XXXXXXXX XXXXX XXXX XXXXXXXX
To:	Mr Nigel Spencer Sloam
Of:	XXXXXXXX XXXXXXXXXXXXXXXX XXXXXXXX
To:	Peter John Forsey
Of:	Liquidator BKR Haines Watts 3 rd Floor 70-74 City Road London EC1Y 2BJ
Date:	26 May 2006

TAKE NOTICE that the Pensions Regulator of Napier House, Trafalgar Place, Brighton BN1 4DW (“The Regulator”) has made a determination on **24 May 2006**

1.	Determination
1.1	The Pensions Regulator is to determine whether Mr Mornington Stafford Seager, a current member and former trustee of this scheme, should be given notice in writing waiving his disqualification to act as a trustee.
1.2	The application was refused.

2.	Procedure Followed: Standard										
2.1	<p>By its Warning Notice dated 7 March 2006 (“the Warning Notice”) the Pensions Regulator gave notice that it proposed to take the above action pursuant to the application of Mr Mornington Stafford Seager.</p> <p>The Determination Notice dated 21 April 2006, when a final decision on this matter was adjourned, also relates to these matters.</p>										
2.2	<p>The Regulator determined that the following parties are directly affected by this determination:</p> <table border="0"> <tr> <td>1. Mr Mornington Stafford Seager</td> <td>In his role as a member of the scheme</td> </tr> <tr> <td>2. Mrs Patricia Lillian Seager</td> <td>In her role as a trustee of the scheme</td> </tr> <tr> <td>3. Mr Mark Stafford Seager</td> <td>In his role as trustee of the scheme</td> </tr> <tr> <td>4. Mr Nigel Spencer Sloam</td> <td>In his role as pensioner trustee of the scheme</td> </tr> <tr> <td>5. Mr P J Forsey</td> <td>In his role as liquidator of Tabline Limited</td> </tr> </table> <p>(collectively referred to as “the directly affected parties”)</p> <p>These directly affected parties were entitled to make representations to the Pensions Regulator about the determination.</p>	1. Mr Mornington Stafford Seager	In his role as a member of the scheme	2. Mrs Patricia Lillian Seager	In her role as a trustee of the scheme	3. Mr Mark Stafford Seager	In his role as trustee of the scheme	4. Mr Nigel Spencer Sloam	In his role as pensioner trustee of the scheme	5. Mr P J Forsey	In his role as liquidator of Tabline Limited
1. Mr Mornington Stafford Seager	In his role as a member of the scheme										
2. Mrs Patricia Lillian Seager	In her role as a trustee of the scheme										
3. Mr Mark Stafford Seager	In his role as trustee of the scheme										
4. Mr Nigel Spencer Sloam	In his role as pensioner trustee of the scheme										
5. Mr P J Forsey	In his role as liquidator of Tabline Limited										
2.3	Following the issue of the Determination Notice dated 21 April 2006 adjourning this matter, Nigel Sloam & Co, as the pensioner trustee, exercised its right to make representations to the Pensions Regulator.										
2.4	The Pensions Regulator has taken those representations into account and has considered those materials carefully but has nevertheless determined to take the action as detailed in 6 below for the reasons set out in 5 below.										

3.	Relevant Statutory Provisions/Legislation
	<p>The following statutory provisions are relevant to this matter:</p> <p>Section 29(5) of the Pensions Act 1995 (as amended by section 320 in Part 1 of Schedule 13 of the Act) states that:</p> <p>“(5) The Authority may, on the application of any person disqualified under this section-</p> <p>(a) give notice in writing to him waiving his disqualification, either generally or in relation to a particular scheme or particular description of schemes.”</p> <p>Section 7(3) of the Pensions Act 1995 states that:</p> <p>“(3) The Authority may also appoint by order a trustee of a trust scheme where they are satisfied that it is necessary to do so in order-</p> <p>(c) to secure the proper use or application of the assets of the scheme.”</p> <p>Pensions Act 2004</p> <p>Section 5 – Regulator’s objectives</p> <p>(1) The main objectives of the Regulator in exercising its functions are –</p> <p>(a) to protect the benefits under occupational pension schemes of, or in respect of, members of such schemes,</p> <p>(b) to protect the benefits under personal pension schemes of, or in respect of, members of such schemes within subsection (2),</p> <p>(c) to reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund (see Part 2), and</p> <p>(d) to promote, and to improve understanding of, the good administration of work-based pension schemes.</p> <p>(2) For the purpose of subsection (1)(b) the members of personal pension schemes within this subsection are-</p> <p>(a) the members who are employees in respect of whom direct payment arrangements exist, and</p> <p>(b) where the scheme is a stakeholder pension scheme, any other members.</p> <p>Section 100 – Duty to have regard to the interests of members etc</p> <p>(1) The Regulator must have regard to the matters mentioned in subsection (2) –</p> <p>(a) when determining whether to exercise a regulatory function –</p> <p>(i) in a case where the requirements of the standard or special procedure apply, or</p> <p>(ii) on a review under section 99, and</p> <p>(b) when exercising the regulatory function in question.</p> <p>(2) Those matters are –</p>

	<p>(a) the interests of the generality of the members of the scheme to which the exercise of the function relates, and</p> <p>(b) the interests of such persons as appear to the Regulator to be directly affected by the exercise.</p>
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4.	Background to the Application
	<ol style="list-style-type: none"> 1. The background to this Application is as set out in section 4 of the Determination Notice dated 21 April 2006. 2. When the Determinations Panel considered this matter on 19 April 2006 they adjourned making a final decision pending receipt of the following information: <ol style="list-style-type: none"> 1. <i>details of the additional scheme administration expenses that would be incurred if Mr Mornington Stafford Seager's disqualification was not waived to enable him to be reappointed as a trustee to the scheme;</i> 2. <i>specific details of how they intend to invest the scheme assets if the scheme became eligible for the status of a Small Occupational Pension Scheme and how this would benefit the members as a whole.</i> 3. The Panel requested that this information be supplied within 28 days of the date of sending the Determination Notice of 21 April 2006. 4. The only letter of representation received was from Nigel Sloam & Co, the pensioner trustee, dated 8 May 2006 which stated: <p><i>"We respond to you comments below:</i></p> <ol style="list-style-type: none"> 1. <i>Currently, audited accounts need to be produced in respect of the pension scheme every year, as Mr Seager is a member of the scheme, but not a trustee. If Mr Seager was reappointed as a trustee to the scheme, this would not be necessary.</i> 2. <i>The trustees may wish to invest the scheme's assets in commercial property or loan monies back to the principal Employer, which is currently not possible."</i>

5.	Facts and Matters Relied Upon
	<ul style="list-style-type: none"> • The Panel noted that Mr Mornington Stafford Seager's disqualification had been for a period of 5 years • The Panel was not satisfied that a waiver of disqualification was required to secure the assets of the scheme • The Panel had asked for further details as described above in section 4 paragraph 2 of this Determination Notice. The response received referred only to the specific need to obtain audited accounts • The Panel was not provided with any specific details of any investment which would only be permitted if the scheme became eligible for the

	<p>status of a Small Occupational Pension Scheme</p> <ul style="list-style-type: none"> • The Panel had not been provided with any information to suggest that the scheme was not being properly administered at the present time by the current trustees • There is a professional trustee in place at the present time that can adequately look after Mr Seager's interests • No further information had been provided which suggested that it would be to the detriment of all members of the scheme if Mr Seager did not have his disqualification waived.
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6.	Conclusion: Details of Determination
	That the application to waive the disqualification of Mr Mornington Stafford Seager to act as a trustee pursuant to s29(5)(a) of the Pensions Act 1995 be refused.

7.	Decision Maker
	The determination which gave rise to the obligation to give this Determination Notice was made by the Determinations Panel.

8.	Scheme details	
	Type of scheme	Small Self Administered Scheme
	Status of scheme	Not established
	Membership	Three members
	Size of fund	£440,763
	Contracted in/out	Not established

9.	Scheme trustees		
	Name	Period of office	Status of trustee
1.	Mornington Stafford Seager	From 23.7.93 to 29.9.03	Individual member – ceased to act following disqualification
2.	Patricia Lillian Seager	From 23.7.93 to current	Individual member
3.	Mark Stafford Seager	From 23.7.93 to current	Individual member
4.	Nigel Spencer Sloam	From 23.7.93 to current	Individual Pensioner Trustee

10. Scheme advisers				
	Type	Name	Period of office	Company
1.	Scheme Auditors		Unknown	Harris Lipman LLP
2.	Actuary		Unknown	Nigel Sloam & Co
3.	Solicitors		Unknown	Caporn Campbell
4.	Bankers		Unknown	Royal Bank of Scotland
5.	Fund Managers		Unknown	Royal & Sun Alliance Axa Sun Life

11. Employer details	
Name	Tabline Limited
Previous	Top Contracts Limited previously known as Heyland Haulage Limited
Address	2 Mountview Court, 310 Friern Barnet Lane, Whetstone, London N20 0YZ
Previous address	17/19 Foley Street, London W1W 6DW / Johnstone House, Johnstone Road, Woodford Green, Essex IG8 0XA
Nature of business	Freight transport by road
Number of employees	Not known
Company Registered Number	01482532
Current Status	Liquidation, liquidator appointed 7 July 2004
If dissolved enter date of dissolution	Tabline Limited

12. Important Notices	
	This Determination Notice is given to you under sections 96(2)(d) of the Act. The following statutory rights are important.

13. Referral to the Pensions Regulator Tribunal	
13.1	You have the right to refer the matter to which this Determination Notice relates to the Pensions Regulator Tribunal (“the Tribunal”). Under section 103(1)(b) of the Act you have 28 days from the date this Determination Notice is given to you to refer the matter to the Tribunal or such other period as specified in the Tribunal Rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Determination Notice. The Tribunal’s address is: 15-19 Bedford Avenue, London WC1B 3AS (tel: 020 7612 9649). The detailed procedures for making a reference to the Tribunal are contained in section 103 of the Act and The Pensions Regulator Tribunal Rules 2005 (SI 2005/690).

15.2	You should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to The Pensions Regulator. Any copy reference notice should be sent to Determinations Support at The Pensions Regulator, Napier House, Trafalgar Place, Brighton BN1 4DW.
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Signed: <i>Suzanne McCarthy</i> Chairman: Suzanne McCarthy..... Date: 26 May 2006
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