

**IN THE BIRMINGHAM EMPLOYMENT TRIBUNAL**

**BETWEEN**

**Tyson and Others**

**Claimant**

**AND**

**MAG (UK) Ltd**

**Respondent**

**I, VALERIE SELINA LAVENDER, WILL SAY as follows:**

1. That neither Mr Brown nor Ms Smith nor Mr Tyson asked me to investigate any claims of bullying or harassment at anytime.
2. That I joined the Board of MAG (UK) Ltd in April 2012 at the same time as Mr Liversidge and Mr Walker.
3. That Ms Smith's health was discussed at the first full Board meeting of the year in June 2012. Ms Smith had been suffering from cancer. At that meeting Mr Liversidge proposed that Ms Smith be kept on full pay until further notice to ensure she was not subject to any financial stress during her recovery period.
4. That concerns were raised several times about the accuracy of membership figures but that Mr Brown constantly reassured the Board that they were correct, until admitting in October 2012 that they were overstated.
5. That Mr Brown put himself forward for co-option as a Director when Ms Powell was stood down but that the Board unanimously decided he would be unsuitable on a six to nil vote. This was not entered in the minutes at Mr Brown's request. Many matters discussed on a relatively informal basis, such as the repeated requests for Membership data, club contacts for Mr Mutch etc. were not minuted. The general practice was only to minute firm decisions that involved a change or commitment of some kind, not all the routine "he-said she-said" of debate.
6. That I first contacted Mr Walker to advise him that I could no longer be the Director responsible for Human Resources after the role had a significant impact on my paid employment. This came to a head on the 11<sup>th</sup> of March 2013. My role as a Director is a voluntary one and as such must take second place to my paid employment.
7. That I spoke with Mr Walker and Mr Liversidge on the evening on the 11<sup>th</sup> of March when they offered to jointly take on responsibility for Human Resources should it be agreed by all the Directors and that the Directors duly agreed.
8. That when I meet with Ms Smith on the 11<sup>th</sup> January 2013 she advised she was mentally 110% fit for work but that when I spoke to Ms Smith on Monday the 11<sup>th</sup> of March 2013 I was extremely concerned for her wellbeing as the call ended with her in tears and I was by this time aware that she was working at home alone.

9. That I had previously raised my concerns with Mr Brown about Ms Smith's workload and how best to handle it so not to cause her any additional anxiety.
10. That Mr Brown advised me he had a very good working relationship with Ms Smith and as such was carefully monitoring the situation so there was no need for intervention.
11. That I spoke with Mr Brown about the working relationship between Ms Smith and Mr Walker, which concluded that the current poor regard in which Ms Smith held Mr Walker was a result of misunderstanding and a good way to rebuild the relationship would be for Ms Smith and Mr Walker to sit down for a coffee and a chat outside of the working environment.
12. That I did take action and address Mr Mutch directly about both Ms Smith's and Mr Tyson's concerns relating to the publication *The Road* without mentioning either party directly. Further more these discussions were with Mr Mutch directly and did not involve Mr Liversidge or Mr Walker.
13. That all communication concerning the Press/PR Committee was entered into publicly on the National Committee email list, a list to which Ms Smith and Mr Tyson readily had access. No concerns were raised by them publicly or privately until after the National Committee had agreed its decision.
14. That discussions relating to the provision of membership information to Regional Reps began much earlier than February/March 2013. Mr Brown had previously advised the National Committee and Board that this would be looked into and a response given. This dragged on around six months. Central Office had also been asked to provide club contact email addresses to Mr Mutch around September 2011 but he was made to wait 16 months until Mr Liversidge was in a position to order the release of the information to him on or shortly after his appointment to the HR function on 12 March 2013.
15. That by the time of the decision in March 2013, to remove Ms Smith from the National Committee email list, I did believe this was the correct action to take.
16. That it was not an individual's (Mr Liversidge's) decision to step down Ms Powell as a Director and it was in no way related to Ms Powell's relationship with the staff members.
17. That I was known to be a friend of Ms Smith and Mr Tyson. If Mr Brown's assertions as to Mr Liversidge's motives were true then that would suggest Mr Liversidge would not support me taking on the Human Resources position. In reality however, Mr Liversidge openly and strongly supported me for the role and stated in a Board meeting that he felt I was the right person for it.
18. That having spoken with Ms Powell in the week prior to the staff meeting of 18<sup>th</sup> March, Ms Powell's comments suggested she was in agreement with me that the only way to resolve the issues we were being presented by the staff, in regard to Mr Liversidge, was for a face to face meeting to take place.
19. That because of correspondence received from Mr van Aalst, I believed that I should not be involved in the grievance procedure and I was therefore surprised to be contacted directly by Ms Smith due to her not receiving a response from Mr van Aalst. Having received correspondence I acted on her requests in as prompt a manner as possible before being advised in by her solicitor that I should have no contact with Ms Smith whatsoever and all correspondence must be through the solicitor.
20. That Ms Sharp of Ellis Hass tried to deal with me and Ms Powell despite it being made clear that Mr Liversidge represented MAG and contact should be with him.

21. That when contacted by Mr Binch who was hearing Louisa Smith's appeal on the part of her grievance not upheld by Qdos, I advised him that the desired outcome was that Ms Smith would return to work.
22. That the Board had agreed at the December meeting that Ms Smith would only be paid for the hours she worked from 1<sup>st</sup> February 2013 and that Mr Brown was to complete the necessary documentation and inform her accordingly.
23. That the Board had instructed Mr van Aalst to pay only Statutory Sickness Pay to Ms Smith and Mr Tyson, and believed this instruction had been carried out, yet Mr van Aalst paid them at the full rate.
24. That in regard to Mr Tyson I did not divulge confidential information. I passed on information in handing over my role as Director responsible for Human Resources to the incoming Directors which I felt they required as it may have a bearing on or be referred to by the staff in the staff meetings.
25. That when given a clear instruction by the Board of Directors which it appeared (for whatever reason) he would rather not follow, Mr Brown would invariably raise an inordinate number of questions. It seemed to me that he did this in such a way as to enable him to narrow down the scope of the instruction and thus to permit him to say he had done as he was asked whilst in reality allowing him to avoid complying with the true spirit of the instruction. Similarly when asked a question in a Board meeting, particularly by Mr Liversidge or Mr Walker, he seemed always unwilling to ever give a straight answer. Again a question would usually be met with more questions all designed to lead away from the issue we were trying to get to grips with. I did advise Mr Brown of this 'off the record' during conversation with him at the central office. Mr Liversidge would often jokingly refer to him in private as 'Sir Humphrey' in an allusion to the character in the sitcom '**Yes Minister**'.
26. That Mr Brown was very unwilling to comply with our requests that he let us conduct at least part of our Board meetings in private. I have never come across such behaviour as his in any employment situation. When your managers ask you to leave to let them meet in private, you leave. He seemed concerned to always have control over the Board and to be privy to all its deliberations.
27. That despite agreeing in a meeting with myself and Mr Peake (then Vice Chair) on the 13<sup>th</sup> of October 2012 (further to discussion at a Board meeting 12<sup>th</sup> October 2012) that he should not be away on his 'Overland Tour' in South Africa in February 2014 at the same time as Mr Tyson, Mr Brown when I meet with him on the 11<sup>th</sup> January 2013 said to me "*that seems unfair without me giving you a suggestion on how it could work*", suggesting that he had not taken on board at all the earlier Board decision to which he had agreed. This seemed to me to be putting his private business interests before the interests of MAG (UK) Ltd which was paying his salary.
28. That to me Mr Brown's apparent shrugging off of responsibility for staff morale at his appraisal was at odds with his duty as a manager and that moreover there was no reason from the Board's point of view for morale to be especially poor. Certainly it was true that pay had lagged in the last few years but we were on the way to rectifying that. Given the minimal contact between the Board and the staff under Mr Brown it seemed to me that any morale problem was one of his making and that the staff were taking their cue from him.
29. That Mr Brown was quite clear the Board did not wish any additional paid personnel to be engaged either on an employed or self employed basis and that his engagement of Mr Whitney was therefore quite wrong and that similarly his paying him by way of multiple invoicing was also quite wrong and expressly forbidden by our policy on such payments.

30. That in relation to the supposed 'guilty verdict' by Qdos on Mr Liversidge and Mr Walker, this finding was rejected by the Board on the grounds that the procedure followed by Qdos on the directions of Mr van Aalst was clearly at odds with natural justice and was sloppy to boot, as is obvious from the written outcomes produced by Qdos. Mr Liversidge and Mr Walker subsequently received a unanimous vote of confidence from the entire National Committee, despite at least one of its members being a 'mole' feeding information to the other side throughout the last six months.
31. That the Board, having heard the disclosed recordings, is completely happy with the way in which Mr Liversidge and Mr Walker conducted themselves on the 18<sup>th</sup> of March 2013 but is appalled by the demeanour of the staff concerned – Mr Brown, Mr Tyson and Ms Smith.
32. That I have never experienced such disgraceful behaviour in any employment situation as that displayed by Mr Brown, Mr Tyson and Ms Smith in the week leading up to 18<sup>th</sup> March 2013 and on the day itself, and that such behaviour would be viewed with disgust by the volunteer Member activists who work hard to pay the staff's wages.
33. That the Board now has a superb working relationship with Julie Sperling and Carol Ferrari. Missing payments have been collected, corporate renewals brought up to date and sundry other tasks performed efficiently and on time.
34. That in regard to Mr Tyson, Mr Liversidge suggested privately to the Directors on the 8<sup>th</sup> December 2012 that if all were in agreement it could be put to Mr Tyson that he worked jointly for MAG (UK) Ltd and FEMA. This was due to FEMA having lost a member of staff as they could no longer afford to employ someone fulltime in the role. This led me to believe that Mr Liversidge held Mr Tyson's work in high esteem.
35. That Mr Brown told me at our meeting on the 11<sup>th</sup> January 2013, that he was (to use his phrase) taking 'happy pills'. He did not indicate why this was and as it was our first meeting in my role as Director responsible for HR, I did not question him as to the possible cause. He did say that he had found a number of different ways to deal with stress, that it had taken some time to get his medication right (he'd had some adverse effects) and that if there was any cause for concern he would let me know.

I believe the facts stated in this witness statement are true to the best of my knowledge and belief.

Signed:  .....

**VALERIE SELINA LAVENDER**

Dated: 08/10/2013