



Neutral citation number: **[2022] UKFTT 00378 (GRC)**.

Case Reference: PEN/2022/0090

**First-tier Tribunal  
General Regulatory Chamber  
Pensions Regulation**

**Heard by: Judge in Chambers on the papers**

**Decision given on: 18<sup>th</sup> October 2022**

**Before**

**HHJ DAVID DIXON**

**Between**

**LOVECHAMPAGNE SALES LIMITED**

Appellant

**and**

**THE PENSIONS REGULATOR**

Respondent

**Decision:** The reference is dismissed and the matter is remitted to the Regulator. The Penalty Notice is confirmed, without any further directions.

## REASONS

1. By this reference Lovechampagne Sales Limited (“the Employer”), challenges a fixed penalty notice (“FPN”) issued by the Regulator on 15<sup>th</sup> March 2022.
2. The FPN was issued under s. 40 of the Pensions Act 2008. It required the Employer to pay a penalty of £400 for failing to comply with the requirements of a compliance notice issued on 17<sup>th</sup> January 2022. The Compliance Notices was issued under s. 35 of the Pensions Act 2008. It directed the Employer file a redeclaration of compliance by 28<sup>th</sup> February 2022.
3. The Employer referred the matter to the Tribunal on 12<sup>th</sup> April 2022.
4. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with rule 32 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009, as amended. The Tribunal considered all the evidence and submissions made by both parties.

### *The Appeal*

5. Under s. 44 of the 2008 Act, a person who has been issued with a FPN may make a reference to the Tribunal provided an application for review has first been made to the Regulator. The role of the Tribunal is to make its own decision on the appropriate action for the Regulator to take, taking into account the evidence before it. The Tribunal may confirm, vary or revoke a FPN and when it reaches a decision must remit the matter to the Regulator with such directions (if any) required to give effect to its decision.
6. The Employer’s Notice of Appeal, dated 12<sup>th</sup> April 2022, indicates that they were members of a scheme and payments were made into the same. They provided statements from the relevant provider. The Appellant did not address certification of the same or the compliance notice.
7. The Regulator’s Response indicates that the Appellant failed to provide certification of compliance as is required, a compliance notice followed that was not heeded and as a result the FPN was entirely appropriate.
8. The Regulator indicates a Review was completed as a result of the Appellant’s request. Having considered the circumstances advanced the FPN was confirmed.
9. The Tribunal considered a bundle of 48 pages.

### *Submissions*

10. The Appellant seeks to have the FPN rescinded. Little further information is provided.
11. The Regulator responds that there is no excuse for non-compliance, let alone a reasonable one. It is the Employer’s responsibility to meet the legal requirements, and here the Appellant has not provided evidence to reverse the imposition of the FPN.

### *Conclusion*

12. The Appellant it seems is a member of an appropriate scheme but has failed to confirm the same to the Regulator as required. The Regulator followed the appropriate steps in sending a CN, which it seems was ignored. The Appellant therefore completely failed to comply with its basic requirements, and indeed the CN. The FPN was bound to follow and did in the authorised and normal way.
13. Having failed to comply, the standard penalty was imposed. The penalty is designed to remind companies of the importance of compliance, and I do not see that the penalty in this case is inappropriate or disproportionate to the breach.
14. In all the circumstances I am driven to the view the appeal has absolutely no merit at all, and I remit the matter to the Regulator, upholding the Fixed Penalty Notice and penalty.
15. No further directions are required

Signed: HHJ David Dixon

DATE: 18<sup>th</sup> October 2022