



**TC06008**

**Appeal number: TC/2010/01069**

***NATIONAL INSURANCE CONTRIBUTIONS – failure by limited company to pay contributions – Personal Liability Notice served on director – whether failure to pay contributions attributable to the neglect of the director – yes – whether the provisions of Article 6 Human Rights Convention relevant – no decision on applicability because no unreasonable delay on the facts – APPEAL DISMISSED***

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**CHARLES O’RORKE**

**Appellant**

**- and -**

**THE COMMISSIONERS FOR HER MAJESTY’S      Respondents  
REVENUE & CUSTOMS**

**TRIBUNAL: JUDGE AMANDA BROWN**

**Sitting in public at Royal Courts of Justice on 20 June 2016.**

**The Appellant in person**

**Ms Marika Lemos of Counsel, instructed by the General Counsel and Solicitor to  
HM Revenue and Customs, for the Respondents**

## DECISION

### Introduction

1. This is an appeal by Mr Charles O’Rorke (“the Appellant”) against a Personal Liability Notice (“PLN”) issued to him pursuant to section 121C of the Social Security Administration Act 1992 (“SSAA”) on 3 September 2009 in respect of unpaid National Insurance Contributions (“NICs”) by L Wear Ltd (“L Wear”), a company of which the Appellant was the Finance Director, for the tax year 2006/7. The PLN was initially issued on the basis that the relevant contributions had not been paid as a consequence of the fraud or neglect of the Appellant. HMRC subsequently pursued the PLN only on the basis of neglect. The PLN was amended on 25 June 2010. The sum claimed by HM Revenue and Customs (“HMRC”) pursuant to the amended PLN is £218,593.77.

2. The Appellant has amended the basis of his appeal on a number of occasions. By a revised statement of grounds dated 9 March 2017 and his skeleton argument his appeal is predicated on two grounds:

(1) The PLN should be dismissed under Human Rights Act 1998 (“HRA”) and Article 6(1) European Convention on Human Rights (“ECHR”) on the basis that he was entitled to a fair and public hearing within a reasonable time. As the PLN was issued in September 2009 and the matter was finally called on for hearing on 20 June 2017 his human rights were breached (“the Human Rights Issue”).

(2) The company’s failure to pay the Class 1 NICs was not due to negligence on his part as, pursuant to section 172 Companies Act 2006 (“CA”) he had only acted in a way he considered to be in good faith and most likely to promote the success of the company for the members as a whole (“the Negligence Issue”).

3. The Tribunal had a substantial file of documents and received statements and oral testimony from Mr Andrew Pawley, an Officer of HMRC and from the Appellant.

### Legislation

4. So far as is relevant SSAA provides:

#### *Section 121C*

(1) This section applies to contributions which a body corporate is liable to pay where:

(a) The body corporate has failed to pay the contributions at all ... and  
(b) The failure appears to the [Inland Revenue] to be attributable to ... neglect on the part of one or more individuals who, at the time of the ... neglect were officers of the body corporate (“culpable officers”)

(2) The [Inland Revenue] may issue and serve on any culpable officer a notice (“a personal liability notice”) :

(a) Specifying the amount of the contributions to which this section applies (“the specified amount”);

(b) Requiring the officer to pay to the [Inland Revenue]:

(i) a specified sum in respect of that amount; and

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(ii) specified interest on that sum; and

(c) Where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the [Inland Revenue] for the purposes of that paragraph

10 (3) The sum specified in the personal liability notice under subsection 2(b)(i) above shall be:

(a) In a case where there is, in the opinion of the [Inland Revenue], no other culpable officer, the whole of the specified amount ...

(9) In this section:

“officer” in relation to a body corporate means (a) any director ....”

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### *Section 121D*

(1) No appeal shall lie in relation to a personal liability notice except as provided by this section.

20 (2) An individual who is served with a personal liability notice may appeal against the Inland Revenue’s decision as to the issue and content of the notice on the ground that:

(a) the whole or part of the amount so specified under subsection (2)(a) of subsection 121C above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;

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(b) the failure to pay that amount was not attributable to any ... neglect on the part of the individual; or

(c) the individual was not an officer of the body corporate at the time of the alleged ... neglect; or

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(d) the opinion formed by the [Inland Revenue] under subsection (3)(a) ... of that section was unreasonable.

...

(4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the [Inland Revenue].

(5) Where an appeal under this section:

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(a) Is brought on the basis of evidence not considered by the Inland Revenue, or on the grounds mentioned in subsection 2(d) above; and

(b) Is not allowed on some other basis or grounds

And is notified to the tribunal, the tribunal shall either dismiss the appeal or remit the case to the [Inland Revenue] to consider whether to vary their decision as to the issue and content of the personal liability notice.

5. *Article 6(1) ECHR*

5 In the determination of his civil rights and obligations or of any criminal charge against him everyone is entitled to a fair and public hearing within a reasonable time ...

6. *Section 172 CA*

10 (1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to:

(a) The likely consequences of any decision in the long term.

(b) The interests of the company's employees

15 (c) The need to foster the company's business relationships with suppliers customers and others,

(d) The impact of the company's operations on the community and the environment

(e) The desirability of the company maintaining a reputation for high standards of business conduct and

20 (f) The need to act fairly as between members of the company

...

(3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

25 **Procedural issue**

7. Despite the various ultimately unsuccessful historic attempts to introduce medical evidence of the Appellants mental health issues the Appellant again sought to rely on the medical evidence. On this occasion his reliance was not as to his subjective state (as previously contended) but rather so as to set aside evidence relied on by HMRC, in particular the notes of a meeting held on 12 November 2008. In light of the Appellant's assertion that at the time of the meeting on 12 November 2008 he was ill prepared (despite having been sent the questions he was to be asked some three weeks before the interview) and "suggestible" the Tribunal asked Ms Lemos to ensure that any proposition on which she relied (even if apparently supported by documentation, including the meeting notes - which had also been shared with the Appellant immediately after the meeting with an opportunity to challenge or comment upon them) were put directly to the Appellant. This Ms Lemos did. Save for the proposition that he did not act in accordance with his statutory duties as a director the Appellant accepted without demure. On that basis the Tribunal did not consider it necessary or appropriate to consider the medical evidence.

## **Fact leading to the issue and amendment of the PLN**

8. The facts were not in any material regard in dispute between the parties. To the extent that they were in dispute the Tribunal has considered the documents available and the testimony of both witnesses.

5 9. From the documents and evidence the Tribunal finds the facts as set out in paragraphs 9 – 22 below.

10. L Wear was purchased from administration in April 2006 and traded until again being put into administration on 5 March 2007. The Company was subsequently put into liquidation owing a NICs debt of £321,306.60.

10 11. The Appellant was the finance director of L Wear from May 2006, until he was formally dismissed from L Wear on 22 February 2007. He was dismissed as a consequence of theft from the company amounting to £77,902. This sum was stolen by three payments two of which were recorded in the company's accounts as payments to HMRC but in fact made to the Appellant's personal bank account. He  
15 secured the payments by accessing the accounts system under the name of one of his staff (for whom he had set the password) and then signing off the payments himself. The Appellant was convicted on four counts of theft and false accounting and sentenced to 20 months in jail in relation to the sums he took from L Wear.

20 12. As a consequence of his conduct, the Appellant was also, by undertaking, disqualified as a director for 12.5 years pursuant to Company Directors Disqualification Act 1986. Included within the grounds for disqualification was that he:

25 "... caused L Wear to fail to deal properly with the company taxation affairs. For the entire period of trading from April 2006 to 5 March 2007, L Wear made no payments towards Pay As You Earn and National Insurance Contributions (PAYE/NIC) resulting in a liability of £673,415 in respect of PAYE/NIC at the date of administration."

30 13. The Appellant was a fellow of the Association of Chartered Certified Accountants. In his role as finance director, the Appellant was responsible for all the day to day financial affairs and obligations of L Wear including the payment of PAYE and NICs. He was fully aware of his statutory obligations.

35 14. Under his supervision on a monthly basis both PAYE income tax and NICs were deducted from the payments made to all employees. The relevant PAYE Remittance Paying Book, pursuant to which ordinarily both PAYE and NICs would be payable to HMRC on 19<sup>th</sup> of each month, were duly completed. However, no payments were made to HMRC in respect of either PAYE or NICs.

40 15. Regular monthly board meetings were held and the Appellant produced board reports for these meeting. L Wear was essentially funded by an independent funder and the husband of one of the other directors. The funder had committed to invest up to £4.5m. The Appellant prepared reports and forecasts pursuant to which the funder

would contribute cash to the business. The Appellant's evidence was that no request for additional cash was ever refused but that the payments were not always made speedily and that by the time they were received new financial requirements had arisen.

5 16. There was some dispute as to whether the reports did or did not highlight the non-payment of PAYE and NICs; however, whether or not they did so is not a matter with which this Tribunal needs to be concerned as (as set out below) the Appellant does not contest that he is the only culpable officer.

10 17. The sample bank statements available to the Tribunal for L Wear consistently showed a significant positive cash balance. The Appellant asserted that such a positive balance was not reliable as L Wear had no overdraft facility and needed to hold funding in its current account to cover substantial letters of credit. The Tribunal makes no findings of fact on the available cash as held in the bank account as the payment of PAYE and NICs is a statutory obligation and is not dependent on  
15 availability of cash to L Wear.

18. The Appellant made no attempt to contact HMRC regarding the failure to pay PAYE and NICs. He claimed that he was about to raise it in December 2006 when the visit was arranged but he accepted that he did not, at any time, approach HMRC.

20 19. The Appellant determined which creditors to pay and when. His evidence was that he determined whether there was the cash to make the PAYE/NICs payments each month but, in effect, consciously decided that the payment of staff and suppliers were a greater priority on a monthly basis for the benefit of the members and company in the medium to long term.

25 20. During the period of trading L Wear made payments from its bank account of £7,730,764.

30 21. On the basis of the evidence available to them HMRC issued a PLN in respect of the unpaid NICs to the Appellant as the sole culpable office in respect of the non-payment for each of the payments due from May 2006 through to February 2007. The PLN was in the sum of £290,307.60 being the total NICs unpaid for that period less statutory maternity pay recovered from L Wear.

35 22. Through the review process HMRC were prepared to accept that whilst remaining registered as a director until 22 February 2007 the Appellant was in fact not operational within the business as at 19 February 2007 when the final PAYE/NICs payment to which the PLN was raised was due. In addition, through the liquidation HMRC were paid a dividend of £44,631.74 against the whole NIC liability. By  
40 reference to the provisions of section 121C(3) and (7) HMRC amended the PLN to reduce it by reference to both the reduced period in which the Appellant could be considered to be a culpable officer and for the reduction in outstanding NICs liability. The Appellant did not, in any event, dispute the quantum of the PLN.

## **Procedural history of the appeal**

23. A PLN enquiry was opened on 6 May 2008 into L Wear (by then in liquidation) on the basis that during its entire period of trading it had not paid any PAYE and NIC contributions. The sum that should have been paid in respect of NICs was  
5 £321,306.60.
24. An examination of the company records was undertaken on 24 June 2008. An initial letter of findings was sent to the liquidator on 25 June 2008. This was followed by what is known as an opening letter setting out HMRC's initial findings and observations which was sent to the Appellant and the other directors of L Wear on 2  
10 July 2008. The opening letter included a fact sheet explaining to the Appellant what a PLN is, how enquiries are undertaken and what happens if a PLN is issued.
25. By letter dated 14 July 2008 the liquidator of L Wear notified HMRC that the Appellant, at that time was serving a jail sentence following a criminal investigation and conviction for theft and false accounting. The Appellant had misappropriated  
15 some £77,902 from L Wear's bank account.
26. On 21 September 2008 the Appellant, who by now had served his jail sentence, wrote to the Appellant and requested a meeting.
27. On 23 October 2008 the Appellant was provided with a draft list of questions via his agent. These questions were put to him in a meeting on 12 November 2008.
- 20 28. Following the meeting HMRC made further enquiries of the liquidator as to whether any further action was to be taken under the Insolvency Act 1986 against any of the other officers of the company. Legal advice was also sought as to whether the criminal prosecution prevented the issue of a PLN.
- 25 29. Following these enquiries a PLN was issued on 3 September 2009 in the sum of £290,307.60.
- 30 30. On 24 September 2009 the Appellant, via his agent, appealed against the PLN on a number of grounds. Included in the grounds was an assertion that due to his dismissal from L Wear he had not been a director for the full period for which NIC had not been paid and that he should not therefore be liable for the full PLN.
- 30 31. An internal review was offered on 28 September 2009 and taken up by the Appellant by letter dated 28 October 2009. A full independent review was conducted and the outcome communicated to the Appellant on 10 December 2009.
32. The Appellant notified his appeal to the Tribunal on 8 January 2010 and the Tribunal acknowledged that appeal on 16 February 2010.
- 35 33. The notification of the appeal to the Tribunal included within its grounds that the Appellant had been mentally unwell during his time as the finance director of L Wear and that this was relevant to whether he had been negligent for the purposes of the PLN.

34. A preliminary hearing was held on 24 June 2010 to consider whether medical evidence submitted by the Appellant was relevant to the issue before the Tribunal. At that preliminary hearing the judge determined that the relevant test for neglect was an objective one and that the medical evidence was therefore not relevant and the Appellant was precluded from relying on such evidence.

35. The Appellant did not appeal the decision of the Tribunal in this regard.

36. On 8 March 2011 a substantive hearing was listed. At that hearing the Appellant sought to introduce a new ground of appeal not previously raised but in respect of which HMRC required time to investigate. The new ground of appeal concerned the knowledge and culpability of other directors. In light of the new ground the hearing was adjourned.

37. The matter was again listed for hearing on 5 October 2011. At this hearing the Appellant withdraw his assertion that the other directors were culpable. He however, reasserted that the non-payment of NICs was not as a consequence of fraud or neglect on his part and he sought again to introduce the medical evidence substantiating mental health issues. Despite the previous decision of the Tribunal regarding this evidence the Tribunal adjourned the hearing again and requested written submissions on whether the test for neglect under the legislation was subjective (in which case medical evidence would be relevant) or objective (in which case the evidence would be irrelevant).

38. On 19 December 2011 following written submissions from both sides the Tribunal determined that the relevant test for neglect was subjective and as such the Appellant's state of mind and the medical evidence was therefore relevant.

39. HMRC appealed the Tribunal's decision and the matter was heard on 12 and 13 March 2013. In a judgment dated 4 October 2013 the Upper Tribunal determined that the test for neglect pertinent to the issue of a PLN was an objective one in respect of which the medical evidence and the Appellants state of mind were irrelevant. The appeal was referred back to the First-tier to try the question of neglect on the Appellant.

40. On 28 March 2014, pursuant to the directions issued by the Tribunal, HMRC issued a revised statement of case.

41. The directions also provided that within 14 days of HMRC's statement of case the Appellant was to provide such further evidence on which he intended to rely. The anticipated listing window was September to December 2014.

42. The matter was set down for hearing on 30 September 2014. At that hearing the Appellant made an application for a production order requiring the release of L Wear's bank statements by its bank. The hearing was adjourned and the judge issued the requested direction.

43. On 9 January 2015 HMRC confirmed to the Tribunal that they had not received any bank statements from the Appellant. HMRC confirmed that the statements were



considered to be irrelevant but that if the Tribunal or the Appellant considered them relevant then the production order should be pursued.

44. On 28 January 2015 the Tribunal asked the Appellant whether he intended to rely on the bank statements and if nothing was heard then the production order would be rescinded. It is unclear whether there was a response from the Appellant; however, on 23 July 2015 the Tribunal wrote to the bank requesting production of the statements no later than 14 August 2015.

45. HMRC sought further directions from the Tribunal on 30 November 2015 and requested that the Appellant be directed to clearly state his case. A directions hearing was listed on 16 August 2016 and directions were issued on 24 August 2016. The Appellant was directed to provide clarification of his grounds of appeal, to provide a list of documents and update his witness statement as appropriate by 9 September 2016.

46. The Appellant provided his revised grounds of appeal on 8 September 2016 but sought to reintroduce the previously withdrawn ground regarding the culpability of the other directors and an intention to rely on medical evidence. HMRC objected and a further directions hearing was listed for 29 November 2016. At this hearing the Appellant confirmed he was not contenting that the other directors were culpable and that in connection with the medical evidence he merely sought to illustrate that what he had said at the meeting on 12 November 2008 was not reliable evidence.

47. Further directions were released on 14 February 2017 requiring the Appellant to provide amended grounds and an updated witness statement from HMRC by 13 March 2017. These were provided on 9 March 2017.

### **Human Rights challenge**

48. The Appellant contends that the proceedings to enforce and collect the NICs unpaid by L Wear through the issue of a PLN on him are civil proceedings within the meaning of Article 6(1) ECHR. He claims that as the Limitation Act section 5 provides that sums recoverable by virtue of any enactment cannot be recovered after 6 years such period represents a reasonable yard stick in which the present proceedings should have been brought to a conclusion and thus the PLN should be set aside.

49. HMRC presented a detailed and complex rebuttal to the Appellant's claim that the HRA and ECHR assisted him.

50. Without intending to do an injustice to Ms Lemos's arguments they are briefly summarised below:

(1) The Tribunal had no jurisdiction to consider any challenge on the basis of the Appellant's Convention rights. Ms Lemos contended that the jurisdiction of the Tribunal was precisely defined pursuant to the terms of s121D and limited to the grounds articulated there. None of the permissible grounds could be said to include any challenge as to the fairness or delay in proceedings. These were, she contended, matters exclusively for the administrative court.

5 (2) Article 6(1) ECHR does not apply to the present proceedings on the grounds that the PLN and the Appellant's right of appeal is a matter of public rather than civil law. She referred the Tribunal to a number of authorities which seek to draw the line between public law and civil law. These cases indicate that general taxation is a matter of public law (*Ferrazzini v Italy [2001] STC 1314*) but it is clear that in some situations social security is seen as a matter of civil law. The cases seem to be finely divided and rely on detailed evidence as to the mechanics of the social payments under consideration. No such evidence was available to this Tribunal. It is fair to note however, that whilst Ms Lemos reminded the Tribunal that on this ground the Appellant bore the burden of proof she accepted that any evidence as to the economics and underlying rational for NICs would need to come from HMRC.

10 (3) Ms Lemos also referred to the provisions of sections 6 and 7 Human Rights Act 1998. She submitted that whilst section 6 makes it unlawful for a public authority (including a court or tribunal) to act in a way which is incompatible with a Convention right the terms of section 6 was explicit that where the alleged unlawful act is as a result of a statutory provision it will not be actionable. This, she says, provides the Tribunal with the assurance determine the case solely by reference to the terms of section 121D SSAA would prevent any sustainable contention that the Tribunal was in breach of the Appellant's Convention rights.

15 (4) Ms Lemos confirms her jurisdiction argument by reference to section 7 HRA which requires proceedings under section 6 be brought in an appropriate court or tribunal. She asserts that as the Appellant's challenge centres on the length of proceedings that is an assertion that it is the tribunal itself which has led to the breach of his Convention rights and that is not therefore a matter on which the Tribunal can properly adjudicate against itself.

20 51. For the Tribunal set out below in paragraphs 52 - 53 the Tribunal has decided that it does not need to determine the legal question presented to it by the Appellant and so fully and forcefully countered by HMRC.

25 52. The Appellant's assertion is that there has been a breach of his right to a hearing within a reasonable time and that 11 years falls outside what could be expected be considered to be reasonable. However, by reference to the procedural outline set out above the Tribunal considers that it is clear that the matter has been procedurally active within the normal administration of the tribunal system since the issue of the opening letter in April 2008. That letter was also issued within a reasonable period given that HMRC's the enquiries commenced in December 2006 and required investigation and communication with the administrators/liquidators.

30 53. The Tribunal determines that the questions of law as to whether the Tribunal has jurisdiction and as to the nature of the proceedings (public v civil law) are therefore hypothetical. Similarly to the approach taken by the tribunal in *Abbostley Golf Club and others [2015] UKFTT 662* such an important issue on the law should be

considered by a tribunal in circumstances in which the facts would substantiate a conclusion that there was a real and material delay.

### **The Negligence Issue**

54. The burden of proof rests with HMRC to establish that it was as a consequence  
5 of the Appellant's negligence that NIC contributions went unpaid by L Wear.

55. As a consequence of the Appellant's own appeal at an earlier stage in these  
proceedings the Upper Tribunal (which is binding on this Tribunal) has determined by  
reference to the judgment of Alderson B in *Blythe v Birmingham Waterworks Co*  
*(1856) 11 Exch 781* that the word neglect in section 121C SSAA has its ordinary  
10 meaning. It is an objective standard of conduct rather than an subjective state of  
mind. Neglect is "the omission to do something which a reasonable man, guided  
upon those considerations which ordinarily regulate the conduct of human affairs,  
would do, or doing something which a prudent or reasonable man would not do".

56. It is for this Tribunal to determine whether the acts or omissions of the  
15 Appellant represent the conduct of a reasonable and prudent man carrying out his  
responsibilities as a director of L Wear.

57. The statutory duties of a director are set out in section 170 – 177 CA. They  
include the duty to exercise reasonable skill and care (s174) a duty to act in the best  
interests of the company and not to create a personal conflict of interests (s175).

20 58. Of particular relevance in this appeal is the duty under section 172. The  
Appellant's evidence was that his decision to collect PAY/NICs from the employees  
but not pay it over to HMRC was a course of conduct which was entirely consistent  
with his obligations under s172 as he was acting in the long term interests of the  
business and fostering good relations with suppliers.

25 59. The Tribunal was referred by HMRC to three FTT authorities. These  
authorities are not binding on the Tribunal but are persuasive and illustrative of the  
approach to be taken.

30 60. In *Stephen Roberts and Alan Martin [2011] UKFTT 268* the tribunal considered  
a factual scenario not dissimilar to the present case. The company of which Mr  
Roberts and Mr Martin were directors was a phoenix company which, from the start,  
appeared to struggle financially. Like L Wear the company deducted PAYE and  
NICs but did not remit it to HMRC. Mr Roberts and Mr Martin nevertheless  
continued to draw a salary. Both men were aware of their statutory obligation to  
make the payments and neither contacted HMRC to discuss non-payment.

35 61. The Tribunal held:

34. We have ... no difficulty in holding on the balance of probabilities that  
Innova's failure to pay the NIC specified in the PLNs was attributable to the  
neglect on the part of the Appellants. ... It was plain that the Appellants were  
fully aware of the statutory obligations in relation to the payment of NIC. They

received information each month about the financial health of Innova including the amount of NIC due and payable by the 19<sup>th</sup> of the month. They were responsible for the decision each month, while Innova traded, not to pay NIC ... and chose instead to pay other creditors and their own salaries; they thus propped up for as long as possible an ailing business with funds which should have been remitted to HMRC...

37. No reasonable and prudent businessman would have behaved in this way or conducted business in this manner. No reasonable and prudent businessman would have neglected to pay the NIC as it fell due. Any reasonable and prudent businessman, having control of the operations of Innova, would have ceased trading within a few months of start-up at the latest... The irresistible inference from the facts as we have found them to be is that Innova's business was being funded at least in part by money which ought to have been remitted to HMRC to meet the company's statutory obligations..."

62. That case was one in which the tribunal found no hesitation in concluding that the appellants had behaved negligently. In the present matter in addition to the features identified as relevant in *Roberts and Martin* this Appellant not only took a salary but also stole from the company.

63. The Tribunal accepts that the Appellant genuinely appears to believe that he acted in accordance with s172 and that he believed he was acting in the best interests of the company save as regards the sums he stole. However, such a position verges on delusional. A reasonable man would conclude that the Appellant acted wholly negligently.

64. Pursuant to section 121D the Appellants relies only on 121D(2)(d) that the failure to pay was not attributable to neglect on his behalf. HMRC have satisfied the burden on them to establish that on the balance of probabilities he behaved negligently.

### **Conclusion**

65. The Tribunal has determined:

(1) On the basis of the procedural history of this appeal there is no basis for an assertion that there has been an unreasonable delay and accordingly any legal argument as to the application or otherwise of Article 6 ECHR and the tribunal's jurisdiction is hypothetical; and

(2) The non-payment of NICs from 19 May 2006 to 19 January 2007 was as a consequence of the neglect of the Appellant

For these reasons the Appeal is dismissed

66. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later

than 56 days after this decision is sent to that party. The parties are referred to “Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)” which accompanies and forms part of this decision notice.

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**AMANDA BROWN  
TRIBUNAL JUDGE**

**RELEASE DATE: 14 JULY 2017**