

Neutral Citation Number: [2023] EWHC 1086 (Ch)

Case No: CR-2020-002705

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY DIVISION

Royal Courts of Justice
Rolls Building, Fetter Lane, London, EC4A 1NL

Date: 5 May 2023

Before :

Jon Turner KC sitting as a Deputy High Court Judge

Between :

**SECRETARY OF STATE FOR BUSINESS,
ENERGY AND INDUSTRIAL STRATEGY**

Claimant

- and -

DUDLEY ARNOLD JOINER

Defendant

Mr. Raj Arumugam (instructed by **Mr. George Squier of the Insolvency Service**) for the
Claimant

Mr. Dudley Joiner acting in person as the **Defendant**

RULING ON TERMS OF ORDER AND
CONSEQUENTIALS

1. The judgment in this matter was delivered earlier this week, on Tuesday 2 May 2023. The embargoed draft had been sent to the parties on 24 April 2023, but owing to an administrative error did not reach Mr. Joiner until 25 April 2023. On 26 April 2023, the Secretary of State's representatives sent Mr. Joiner for comment a proposed draft Order, and a statement of costs for the purposes of summary assessment.
2. Mr. Joiner responded on 28 April, stating: "*I am awaiting further advice so will get back to you on this.*" In view of the difficulties he was experiencing, I allowed him time to speak with his solicitor, before reaching my decision on the terms of the Order.
3. As respects the principal terms of the Order, Mr. Joiner has asked for the disqualification to take effect only from 26 June 2023. He says this is because "*I have various RTM claims in which I am deeply involved. These claims are in the Upper Tribunal, the Court of Appeal and the Supreme Court, where I am assisting leaseholders with claims against obstructive landlords. Coupled with my medical issues I need time to ensure these cases and others to hand are not neglected and left in safe hands.*"
4. This course of action would be exceptional. It would mean that the disqualification takes effect some 55 days after delivery of the judgment. Section 1(2) of the Company Directors Disqualification Act 1986 ("CDDA") provides that "*unless the court otherwise orders, the period of disqualification ... imposed shall begin at the end of the period of 21 days beginning with the date of the order*". As the Secretary

of State's counsel points out, this period normally allows a director sufficient time to resign from his or her directorships before the disqualification takes effect.

5. At the present time, Mr Joiner remains a director of 5 companies, namely RTMF Services Limited; Harbour House (Wadebridge) Limited; Harbour House RTM Company Limited; The Right to Manage Federation Limited; and The Leaseholder Association. The seriousness of the findings that I have made relating to Mr. Joiner's unfitness to be concerned in the management of a company is not consistent with the postponement of the period of disqualification for the reasons advanced by Mr. Joiner. I agree with the Secretary of State that it is important adequately and promptly to protect the public. I shall therefore direct that the Order will take effect commencing on 26 May 2023.
6. So far as costs are concerned, the Secretary of State has produced a costs schedule to support an application for summary assessment in the amount of £29,075.57. I am satisfied that the costs are entirely reasonable, and shall order payment of that sum. Mr. Joiner has asked for time to pay in monthly instalments of £2,000, but has failed to give any supporting details to justify his request. I shall therefore make the Order in the form sought by the Secretary of State, and leave the question of timing of payments to be raised by Mr. Joiner with the Secretary of State.
7. Mr. Joiner has sought permission to appeal, on six grounds. These are:
 - i) The judgment gives no weight to the evidence of the certified accounts, which Mr. Joiner says show that over the relevant period, there were no surplus service charge funds that could be misappropriated.

- ii) The judgment is wrong to discredit the certified accounts prepared by Knight Accountants and the judgment gives no consideration to the practical improbability that sums of several hundred thousand pounds could be siphoned off without it being apparent from the accounts and/or complicity with Knight Accountants.
- iii) The judgment does not address the claim that a substantial part of the debt allegedly due to Quadrangle by Team was for staff wages, which the Secretary of State erroneously claimed should be paid out of Team's management fee.
- iv) The judgment gives no weight to the fact that there are no reserve fund contributions shown in the service charge accounts, both in the Team period and the subsequent Rendall & Rittner period. This undermines the claim that [Team] withheld ring-fenced reserve funds and supports Mr. Joiner's submission that no reserve fund was maintained.
- v) For the most part the matters complained about focused on Mr. Joiner's alleged failure to comply with statutory requirements for the maintenance of service charge accounts under Landlord & Tenant legislation, which provides its own sanctions. The court does not have jurisdiction to apply separate sanctions under CDDA.
- vi) Service Charge accounts are not 'Company Accounts'. The judgment wrongly conflates the two.

8. I consider that none of these grounds is well-founded.

9. The first three grounds are all based on a fundamental misunderstanding of the two key issues that have led to the decision on disqualification (in essence, these are the

commingling of client funds that should have been kept separate, and the failure to keep adequate accounting records, or to deliver them up to the Official Receiver). The judgment's analysis of the significance in this context of the certified (unaudited) accounts for Quadrangle for 2013 and 2014 in paragraphs 90 – 95 of the judgment also did not make the supposed errors referred to by Mr. Joiner in his first two grounds.

10. The fourth ground does not bear on the reasoning given in paragraphs 63 – 73 of the judgment, and is misconceived.
11. The fifth ground is incorrect, since the judgment is concerned with the issue of unfitness arising from the various issues which are analysed in it.
12. The sixth ground is misconceived: Mr. Joiner refers to no instance of conflation in the judgment.
13. I therefore refuse permission to appeal.