Insolvency Service of Ireland Stakeholders

e-Brief

June 2019

ISI

Tackling problem debt, together

Insolvency Service of Ireland Stakeholders – June 2019

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1 Introduction

This is the ninth edition of the Insolvency Service of Ireland's (ISI) e-Brief. This publication aims to keep you as a stakeholder informed of ongoing activities of the ISI and key metrics of interest captured through our systems. In particular, the e-Brief aims to support and facilitate development of the personal insolvency process through the reporting of detail on court case decisions considered relevant for our stakeholder community. This document along with other resources can be found in the Stakeholder Information section on our *website*.

2 Courts

2.1 Ali case – relevant debt – evidence - sustainability

This was a High Court appeal from a decision of the Circuit Court refusing the application under section 115A(9) of the Personal Insolvency Act 2012 (as amended) (the "**Act**") to approve the coming into effect of a proposal for a Personal Insolvency Arrangement ("**PIA**").

Relevant debt

The objecting creditor took a preliminary objection on the basis that there could not have been a "relevant debt" within the meaning of section 115A(18) of the Act in circumstances where the debtor was not residing in the principal private residence ("PPR") on 1st January, 2015. The debtor had lived in rented accommodation from 2011 to June 2015, before moving back into the PPR. Judge McDonald came to the conclusion that there was a "relevant debt" for the purposes of section 115A in circumstances where each of the express requirements set out in definition of "relevant debt" were satisfied. At the date of the commencement of the proceedings under the Act in 2017, the debtor was ordinarily resident in the property. For the purpose of the proceedings, the property was the debtor's PPR within the meaning of section 2 of the Act, and there was a debt secured over the property in favour of the objecting creditor which was in arrears as at the 1st January, 2015.

Section 115A(8)(a)(i) of the Act

The objecting creditor contended that one of the eligibility criteria set out in section 91 of the Act had not been met. No evidence had been placed before the Circuit Court that the debtor had made the declaration required under section 91(1)(g) of the Act. Furthermore no evidence was placed before the Circuit Court that the personal insolvency practitioner had made a confirmation under section 91(2) of the Act. During the

course of the High Court hearing, however, the Court was provided with a copy of a declaration dated the 15th May 2017 made by the debtor for the purpose of section 91(1)(g) of the Act. For the reasons set out in paragraphs 20 to 24 of his judgment, Judge McDonald was satisfied that in the interests of justice, it was appropriate to admit the section 91(1)(g) declaration into evidence for the purposes of the appeal and it therefore followed that there was no longer any issue as to non-compliance with section 91(1)(g) of the Act.

The requirements of section 115A(9)(g) of the Act

In this case the "excludable class of creditors", namely the Revenue Commissioners ("Revenue"), voted in favour of the proposal. The objecting creditor submitted that the votes of Revenue should be disregarded for the purposes of section 115A(9)(g) of the Act, in circumstances where the preferential income tax debt due to Revenue would be paid in full under the PIA and the remaining debt, being LPT, would also be paid in full. Judge McDonald agreed that the vote of Revenue in relation to its preferential claim should not have been counted but he rejected counsel's argument in relation to the LPT debt. Judge McDonald also rejected the submission that, as the LPT debt was so insignificant in relation to overall indebtedness, it should not be treated as a separate class. He stated that in circumstances where there were only two creditors, the voice of Revenue was important. Furthermore, the Judge was of the view that Revenue had unparalleled experience in assessing schemes of arrangement and it could not be argued that Revenue were not unaffected by the terms of the PIA. He concluded that it was appropriate to treat Revenue as a separate class for the purposes of section 115A.

The sustainability of the proposed PIA

The objecting creditor argued that there was insufficient evidence to satisfy the court that the debtor would be able to afford the payments required under the proposed PIA. In the objecting creditor's affidavit, it was contended that the proposed PIA was entirely dependent on "an unnamed girlfriend of the Debtor – who is not a party to the Arrangement and has no liability to the Bank – paying fifty percent of the Debtor's household living expenses and contributing a further €400 per month to the Arrangement". The debtor, in response to the objecting creditor's affidavit, swore an affidavit in which he exhibited a letter from his partner which was witnessed by a solicitor in the legal firm for which she worked. Employment and income details were set out in that letter. The objecting creditor had concerns that no documentary evidence of her financial circumstances was provided. While Judge McDonald appreciated that it would be preferable that documents of the kind sought by the objecting creditor should be exhibited, he believed that it was important that the letter was witnessed by a solicitor in the firm where she was employed, and the Judge felt that it provided a very significant measure of reassurance that the debtor would be in a position to afford to make the payments provided for under the proposed PIA. Judge McDonald was satisfied that the statutory tests set out in section 115A(9)(b)(i) and (c) of the Act were met.

Unfair Prejudice

The objecting creditor submitted that it would be unfairly prejudiced by the proposed PIA in circumstances where the remaining mortgagor was adjudicated bankrupt. The judge noted that if the PIA proposal was approved, the objecting creditor would no longer be able to take possession of the property notwithstanding the order of possession already obtained against the debtor's estranged wife. The Judge stated that it would be a matter for the objecting creditor to decide what remedy it may have in relation to the indebtedness of the debtor's estranged wife. He concluded that the objecting creditor was not unfairly prejudiced by the proposed arrangement. The objecting creditor would recover more under the PIA than it would in the event of the bankruptcy of the debtor. The Judge, having considered the value which the bank placed on its security in the bankruptcy of the debtor's estranged wife, further noted that the objecting creditor would recover more under the proposed PIA than it would recover if it were to proceed with possession proceedings against the property.

Conclusion

Judge McDonald, in coming to a different conclusion to that adopted by the Circuit Court judge, made it clear that the Circuit Court judge could not have decided the case in any other way given that the section 91(g) declaration was not before her. The Judge was satisfied that all of the requirements of section 115A were met and approved the coming into effect of the PIA.

The full text of the judgment can be found here Link

2.2 O'Hara case – applying section 111A in the context of a section 115A application

This judgment deals with a preliminary issue which arose in the context of two appeals from the Circuit Court. In this case there were at least two creditors who were entitled to vote at the meeting of creditors. One of them did not return a proxy form to the personal insolvency practitioner ("**PIP**") and therefore did not exercise a vote. The preliminary issue to be determined by Judge McDonald was whether the PIP could in these circumstances rely on the provisions of section 111A for the purposes of the application under section 115A of the Personal Insolvency Act 2012 (as amended) (the "**Act**").

The case made on behalf of the practitioner

Counsel for the PIP acknowledged that on a literal construction of the Act, the PIP would not be entitled to rely on section 111A of the Act. He argued, however, that a literal interpretation of the relevant provisions of the Act leads to an absurdity such that the Court was entitled to apply the approach set out in section 5 of the Interpretation Act 2005 (the "**2005 Act**") in accordance with the twofold test set out by Clarke J. in *Irish Life and Permanent Plc V Dunne* [2016] 1 I.R. 92.

Judge McDonald at paragraph 67 of his judgment set out the twofold test applied by the Supreme Court in the *Irish Life* case as follows:-

> *"(a) in the first place, in addressing the question whether there is an obvious mistake or absurdity, the court must consider whether there is any possible reason why the legislature may have decided to adopt the relevant statutory provision in the terms in question. If there is, that is the end of the court's enquiry. The court should only move to the second stage where no possible reason can be identified; and*
>
> *(b) In those cases where it is not possible to identify any possible reason for the course taken by the Oireachtas in the literal language of the provision, the court may only intervene where it is clear from a consideration of the Act as a whole what the true legislative intention is. In cases where there is more than one way of addressing the mistake or absurdity in issue, the court has no mandate to interfere."*

Counsel for the PIP was of the view that the same approach taken by Judge Baker in *Michael Hickey* [2018] IEHC 313 should be followed in this case. Counsel argued that "*a literal interpretation gives rise to absurdity or involves a failure to reflect the intention of the Oireachtas gleaned from a consideration of the Act as a whole."* In making that argument, Counsel drew the Court's attention to certain features of the Act which he suggested indicated a clear intention on the part of the Oireachtas to ensure that in cases where a proposed PIA was "*shot down by a single creditor*" there should be an ability to apply to the court under section 115A.

The creditor's response to the section 5 argument

Counsel for the creditor submitted that the language set out in section 111A(1) of the Act demonstrates that the Oireachtas deliberately provided for "*a binary regime with one set of statutory provisions governing those situations where there is more than one creditor entitled to vote and an entirely separate provision dealing with cases where there is only one such creditor."* Counsel submitted that the Oireachtas, in requiring that at least one class of creditor should vote in favour of the proposal, "*clearly intended to put a checking mechanism in place*" so the Court would have an assurance *"that there was at least one cohort of creditors who regarded the proposals as commercially acceptable."* Counsel further argued that section 111A is simply an aspect of the statutory regime prescribed by the Oireachtas, in the same way that section 115A(18) of the Act is. Counsel also distinguished this case from the *Michael Hickey* case, in that

in *Michael Hickey*, there was an "*obvious mistake*" and "*it was possible to discern the true intention of the Oireachtas.*" Accordingly both limbs of the section 5 test set out in the *Irish Life* case were satisfied.

Discussion

Judge McDonald stated that he could see that *"there is an argument to make that a lacuna exists in the Act in so far as the Act does not deal with circumstances where there is more than one creditor entitled to vote but where only one creditor exercises that entitlement."* However he stated that the existence of a "*perceived lacuna does not necessarily give rise to an absurdity or the conclusion that the Oireachtas cannot have intended that such a purported lacuna should exist."*

The Judge came to the conclusion that the first part of the section 5 test had not been surmounted by the PIP. The Judge did not believe it could be safely said that the Oireachtas had made a mistake in not making express provision for circumstances where it transpires that, at a meeting convened under section 106 of the Act, only one creditor exercises its entitlement to vote. The Judge further stated that even if it could be said that there was an obvious mistake on the part of the Oireachtas, he could not see any basis on which it could be said that the second limb of the section 5 test had been satisfied. He was of the view there was more than one way that the Oireachtas could have addressed the purported mistake.

Conclusion

Judge McDonald concluded that there was no scope for the application of section 5 of the 2005 Act, and accordingly, decided the case by reference to the literal meaning of the provisions of the Act. He determined that in light of the provisions of section 111A of the Act there was no basis on which the PIP could rely on section 111A, and it followed, no basis on which the provisions of section 115A could be invoked. He dismissed the appeal and affirmed the order of the Circuit Court dismissing the application made by the practitioner under section 115A of the Act.

The full text of the judgment can be found here Link

2.3 Parkin case – warehousing – pension entitlements – write-down

This case was an appeal to the High Court from the decision of the Circuit Court to confirm the coming into effect of a proposed Personal Insolvency Arrangement ("**PIA**"). The arguments put forward by the objecting creditor included the following:

Credit union as a separate class of creditor

The objecting creditor submitted that the personal insolvency practitioner ("**PIP**") had failed to substantiate the claim that the credit union constituted a separate class of creditor for the purpose of section 115A. The

Judge was satisfied, however, in the circumstances that the credit union and the objecting creditor had "*no common interest*" and he held that the credit union was to be treated as a separate class of creditor.

Warehousing

The objecting creditor submitted that the means of the debtor permitted a greater level of recovery than was proposed under the PIA, and that the PIA should have provided for some level of warehousing under which "*more extensive payments could be made in the future".*

At the time the PIP formulated the proposal, the PIP understood that warehousing was not permitted under the Personal Insolvency Acts 2012 to 2015 (the "**2012-2015 Acts**"). This view was rejected in the Circuit Court and also by Judge McDonald in this appeal. The Judge stated that he *"…must treat the decision of Baker J in Paula Callaghan as authority for the proposition that proposals for a PIA which include a proposal to warehouse are not per se contrary to the provisions of the 2012-2015 Acts."*

In order to evaluate if warehousing was potentially applicable in this case, the Judge was of the view that it would be necessary to consider the evidence in more detail and address the underlying issue of affordability. The Judge, in coming to his conclusion that warehousing was not appropriate in this case, was concerned that the form of warehousing proposed envisaged a very large debt crystallising at the debtor's retirement age. He was of the view that this had the capacity to result in the debtor's insolvency as of the date of her retirement and would put the debtor's ability to stay in her family home in jeopardy. The Judge was also of the view that the objecting creditor, when calculating the debtor's likely future "surplus", failed to take account of the fact that this "surplus" was based on an assumption that everything above the reasonable living expenses published by the Insolvency Service of Ireland could be treated as surplus to the debtor's needs. The Judge was of the view that it was *"a fallacy to suggest the ISI's reasonable living expenses can be treated as a reliable indicator of the expenses that an adult is likely to incur over the course of a lifetime".*

Pension entitlements

The objecting creditor also argued that it was appropriate to have regard to pension entitlements particularly for the purpose of considering whether a debtor could afford to discharge a warehouse balance in the future. Counsel for the practitioner argued that this approach was contrary to section 51 of the Act.

As set out by Judge McDonald at paragraph 84 of his judgment, "*The question which arises is whether, having regard to the provisions of s.51, there is any scope to take the view that, when assessing the issue of affordability…., regard can be had to future pension entitlements…."*

Judge McDonald concluded, on the basis of the "*limited arguments*" heard by him, that the submissions of the practitioner were correct. The Judge stated that, on the basis of the language of section 51(1) of the Act, a pension arrangement is excluded from the court's consideration under s.115A unless section 51(2) of

the Act applies. Given the debtor's age, there was no basis on which section 51(2) could be said to apply in this case. The Judge wished to make it clear that he did not rule out the prospect that the court could be persuaded to take a different view. He stated that the proper interpretation of section 51 is a question of very significant importance that calls for more comprehensive consideration than was heard in this case.

Debtor's husband

The objecting creditor made the case that there had been a "*failure on the part of the debtor to property engage with her husband* such *that proposal amounted to unfair prejudice in all of the circumstances."* It appeared the debtor had not taken any steps to require her estranged husband make payments towards the mortgage or maintenance of their child. Judge McDonald did not see anything in *JD* [2017] IEHC 119 to support the contention that a debtor in her position must take such steps against a co-debtor if she is to seek approval for a proposed PIA.

The Judge also noted that the objecting creditor suggested that the proposed PIA required them to *"upfront write off debt for the debtor not party to any proposed arrangement".* The Judge, however, in light of the provisions of section 116 of the Act, could not see any reason why the objecting creditor would not be entitled to pursue a claim against the debtor's estranged husband.

Proposed write-down

The objecting creditor argued that the proposed write-down of the mortgage debt was unnecessary and unjustified. The objecting creditor submitted that it was incumbent on the practitioner to objectively justify a write-down of this nature. The creditor made the point that, in common with many other cases, too little detail was provided by the PIP regarding the debtor's future means and expenditure, a concern shared by Judge McDonald.

Judge McDonald stated that, as explained by Judge Baker in *Laura Sweeney* [2018] IEHC 456*,* the appropriate capital mortgage figure is to be assessed in light of the repayment capacity of the debtor. In that case, Judge Baker made it clear that the extent of any write-down is to be measured by reference to the affordability of payment. Judge McDonald stated that it was important that PIPs should not use the section 105 value as "*some unofficial rule of thumb*" that can be applied without a proper analysis of a debtor's means. The Judge wished to make it very clear that in future cases, PIPs should provide clear evidence as to how the write-down has been calculated and this is likely to require a PIP to carry out an exercise of the kind suggested in paragraph 108 of his judgment. The Judge, while he was of the view that the PIP has the obligation to demonstrate that a proposed write-down of secured debt is objectively justifiable, came to the conclusion

that it would be inappropriate to hold that the practitioner has failed to discharge that obligation in this case.

Decision

The Judge concluded that all the requirements of section 115A had been satisfied. He dismissed the appeal and affirmed the order of the Circuit Court.

The full text of the judgment can be found here Link

2.4 Finnegan case – making of a section 115A application

The issue before the Court related to the interpretation of section 115A(2) of the Personal Insolvency Act 2012 (the "**2012 Act**") as inserted by section 21 of the Personal Insolvency (Amendment) Act 2015 (*the "**2015 Act**"*). The issue relates to the meaning of the words:-

> *"An application under this section **shall be made** not later than fourteen days after the creditors' meeting…"* (emphasis added)

In interpreting this section, the Court looked at the steps that have to be taken before it can be concluded that an application under section 115A has been *"made"* within the fourteen-day period as prescribed by subsection 2.

In this case, the section 115A application was lodged and issued in the Circuit Court within the fourteen-day period after the creditors' meeting. Service on the creditors was on 21 December, 2016 when the notice of motion was posted to them. This was outside the fourteen-day period prescribed by the Act for making the application.

The Arguments of the Parties

Arguments put forward by Mars included:

- As the period of protection afforded to a debtor is extended when a section 115A application is made, and as creditors are prevented from taking action against a debtor (and from taking other steps) during the period of protection, that service on creditors should be within the fourteen-day period;

- In the absence of a prescribed period to serve creditors, they would be left in a state of uncertainty as to whether they could enforce their rights against the debtor;

- The word "*made*" in subsections (1) and (2) and the word "*lodge*" in subsections (3) and (4) supported the position that it was not sufficient to simply file or lodge the application for it to be made.

Certain arguments by the practitioner included:

- Each statutory provision dealing with the making of an application must be construed in its own statutory context, and emphasis was put on the long title to the 2012 Act which sets out that the Act is to help debtors resolve their indebtedness in an orderly and rational manner;

- The provisions of the relevant Circuit Court Rules and section 140 of the 2012 Act, according to the practitioner, support the submission as to how section 115A(2) should be interpreted.

In addition to the arguments raised, the Judge discussed in some detail several cases (see paragraphs 27-60), some addressing the making of applications under other statutes. Following such analysis, the Judge said that it was fair to say that the fourteen-day period prescribed by section 115A(2) is a "*remarkably short period*", acknowledging that it is not capable of being extended.

The Judge then addressed the provisions of section 115A(2), and the submission by the practitioner that the section does not provide that the application should be made by motion on notice, but rather it sets out three separate (albeit interlinked) requirements, namely:

1. that the application should be made not later than fourteen days after the creditors' meeting;
2. that notice should be given to the Insolvency Service, each creditor concerned and the debtor; and
3. that the notice must be accompanied by each of the materials set out in subsection (2).

Commenting that the submission has "*considerable force*", the Judge said that it is borne out by a consideration of the punctuation within section 115A(2) which breaks up the subsection into three parts, as highlighted at 1-3 above, and that each of the three components relates to "*an application under this section*". The Judge said that the fourteen day requirement is specifically referable to the words *"an application under this section shall be made",* and that section 115A(2) "*does not specifically require the notice to be given within the same period*".

In his view, an analysis of section 115A(2) taken on its own supports the case made by the practitioner. However, he felt it would be "*unsafe*" to consider section 115A in isolation and subsection (2) must be considered in context.

There was some discussion on the use of language in section 115A, and contrast with the word *"lodge"* in section 115A(3) and the word *"made"* in section 115A(2). Counsel for Mars submitted that this supported the view that the Oireachtas must have intended, when using the word *"made"* in section 115A(2), to have meant something different to the physical act of merely lodging the notice of motion in the relevant court office. However, the Judge noted that there is a "*very real difference*" between the nature of a creditor lodging a notice of objection and a practitioner issuing a section 115A application on behalf of a debtor. The notice of objection just needs to be filed, which according to the Judge "*is quite mechanical in nature*", whereas the making of an application to court requires more engagement with the court office – a court date must be given, a return date must be entered on the application, and the application must be entered on the court list.

The Judge looked at the distinction between the filing of a document and the making of an application in the context of section 140 of the Act. The practitioner argued that the language in section 140(1)(a) supports the proposition that the Oireachtas regarded the making of an application as complete once the application is with the relevant court office, an argument which the Judge found favour in following an analysis of section 140. The Judge said

"…when s.115A(2) is read in conjunction with s.140, I believe there are strong grounds for concluding that the Oireachtas did not intend that a s.115A application would require to be served on the relevant notice parties before it could be considered to have been "made". It must follow that there are equally strong grounds to conclude that, once the s.115A application has been issued in the relevant court office within a period of fourteen days after the creditors' meeting, the application has been duly made."

The Judge commented that the Rules Committee appear to have taken a similar interpretation of section 115A(2) as that taken by the practitioner in that the Rules suggest that the making of the application was confined to the issue of the notice of motion.

In response to Mars' argument that as the making of a section 115A application has the effect of extending the protection period thus preventing creditors from taking action against a debtor, and thus it would be surprising that the Oireachtas had intended that a section 115A application could be regarded as having been made once the notice of motion issued, the Judge highlighted other provisions of the Acts which make it clear that orders extending the protection period could be made without advance notice being given to a creditor. He gave the example of a protective certificate extension application under section 95(6) and (7), which does not require that such applications be made on notice to creditors, and that the requirement

under section 95(12) that the practitioner should notify the creditors of any decision to extend the period of a protective certificate is notification after the event.

Conclusion

Judge McDonald was of the belief that the Oireachtas, in enacting section 115A, "*carefully put in place a regime that ensured that the rights of creditors would be appropriately protected by placing an express obligation on the courts to deal with applications with due expedition. This ensures that delays to creditors resulting from such applications will be no longer than necessary.*"

The Judge concluded that an application under section 115A(9) is made once the application has been lodged in the relevant court office, and does not require that service be effected on the statutory notice parties within the prescribed fourteen-day period.

The full text of the judgment can be found here Link

2.5 Finnegan case - Costs

Relevant facts

This case concerned an application for costs by the personal insolvency practitioner (the "practitioner") following the High Court appeal of a Circuit Court decision relating to section 115A(2) of the Personal Insolvency Acts (as amended) (the "Act"). The issue on appeal was whether service of an application under section 115A must be served on the notice parties within the 14-day period prescribed by the Act for making an application under the section (see above paragraph for a summary of this case).

The practitioner, successful in the appeal, sought costs of the application arguing that the case was one between private parties and thus the ordinary principle that costs follow the event should apply. Counsel for the objecting creditor, Mars Capital Ireland No. 2 DAC ("**Mars**") argued that this case was, in effect, a test case on the basis that the issue affected many other cases and, therefore, it would not be appropriate to make an order as to costs. The practitioner challenged this argument relying on the decision in *Cork County Council v Shackleton* [2011] 1 IR 443 that even if the case was a test case, it was between private parties and thus the ordinary principle should apply. Mars referred to the same case wherein it was suggested that a departure from the ordinary principle that costs follow the event might be taken if one party to proceedings is a public authority responsible for the way a legislative provision giving rise to the test case was drafted, or if one party was a body funded by the public authority. Mars argued that there was a parallel with this case as the practitioner's legal costs were paid by the Legal Aid Board, a body funded by the Minister for Justice who is also responsible for the governing legislation.

Judge McDonald considered the judgment in Shackleton and noted some important distinctions:

- The day to day funding of the Council was provided by the Minister responsible for the legislation. In the present case, the practitioner was not funded by the Minister but rather the Legal Aid Board which provides certain costs under the Abhaile Scheme to fund section 115A cases;

- The Minister funds the Legal Aid Board but does so under section 33(2) of the Civil Legal Aid Act 1995 which provides that a court, when considering costs, is required to proceed on the basis that all parties have obtained the services of their legal team at their own expense;

- While it may be possible to classify the present case as a test case, the issue of the interpretation of section 115A(2) had not, until argued by Mars in this case, caused widespread confusion nor been a topic of debate amongst practitioners and lawyers. It was only picked up by objectors in other cases following the Circuit Court decision in this case;

- The Judge said that he did not believe that the provisions of the Acts are "*opaque or ill thought out*", unlike in Shackleton where the judge expressed such sentiments in relation to the provisions of the Planning Act discussed in that case. Judge McDonald said that when he analysed the Acts as a whole, he felt that the intention of the legislature was clear.

The Judge acknowledged that a deviation from the ordinary principle may be followed where issues arise on the evidence presented by a practitioner and the submissions of an objector assist the court in resolving the issues. However, he did not believe that this case was in that category, but rather he found that Mars "*mounted a vigorously pursued argument on the law which was designed to deal a knockout blow to the application under s.115A"* and thus it was difficult to distinguish Mars' approach from normal *inter partes* litigation.

The Judge also commented that caution in applying the ordinary principle in relation to costs must be given in personal insolvency proceedings, and he referenced the decision in *Meeley* as an example where the standard approach does not always apply.

Conclusion

The Judge did not believe that the exception to the ordinary principle that costs follow the event as highlighted in *Shackleton* applied in this case. He concluded that the costs fall to be considered by reference to the ordinary principles, and the applicant practitioner was awarded costs against Mars.

However, in light of the late filing of the practitioner's submission (less than one week before the hearing), the Judge adjusted the amount of the award reducing it by the amount of the costs of the written submissions. The Judge commented that the delay in filing the submissions put the hearing in jeopardy which would have a knock-on effect on pending similar appeals, and he commended the objector's legal team for their efforts in ensuring that the hearing could go ahead on the scheduled date.

Additional Comments:

The Judge did not believe that Mars was entitled to any special credit for not seeking their costs against the practitioner in the Circuit Court, despite that Court's decision in their favour.

In response to the practitioner's argument that Mars was raising yet another "technical issue" [in an attempt to "defeat a meritorious case"], the Judge expressed that in his view, an objector is entitled to raise any issue which may assist their defence, whether on the merits or of a legal nature.

The full text of the decision is available here [Link].

3 Business Metrics

3.1 ISI Statistics Quarter 1 2019

The ISI statistical report covering the first quarter of 2019 (Q1) is published on the ISI website here. Figures for this period show the number of debtors securing Personal Insolvency Arrangements (the solution that returns debtors to solvency while keeping them in their homes), are up 17% compared to Q1 2018 while the number of applications, Protective Certificates and bankruptcies are down.

3.2 Abhaile

Over 15,800 Abhaile Scheme vouchers have been issued up until the end of Q1 2019, of which over 11,300 relate to vouchers to enable debtors avail of the services of a PIP. This equates to a monthly equivalent for PIP vouchers of approximately 353 vouchers. The balance of the issued vouchers relate predominantly to vouchers to avail of legal advice. 1,243 vouchers have issued for the purpose of providing legal advice to applicants pursuing section 115A reviews.

The next ISI e-Brief is scheduled to issue in September 2019.

Disclaimer

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