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| Type of Order: | DISCIPLINARY CONSENT ORDER |
| Date of Order: | 20 August 2021 |
| Committee name: | REGULATION AND CONDUCT COMMITTEE ('the Committee') |
| Details of IP: | Clive Everitt of Shaw Gibbs Limited a former IPA member and Licensed Insolvency Practitioner (IP). |
| Summary of complaint: | <p>This Order is made in relation to a complaint that Mr Everitt in his role as Supervisor of a Debtor's Individual Voluntary Arrangement and subsequent Trustee in Bankruptcy of a Debtor's estate breached the Fundamental Principle of Professional Behaviour of the Insolvency Code of Ethics by failing to ensure that his actions did not bring the insolvency profession into disrepute when he</p> <ol style="list-style-type: none"> 1. mismanaged the Debtor's affairs whereby the substantial costs incurred were disproportionate in the circumstances and ultimately caused a substantial loss to the Debtor; 2. failed to exercise his discretion properly when determining whether a default in the IVA warranted a petition for the Debtor's bankruptcy to be issued; 3. failed to be transparent in his dealings and engage fully with the Debtor when proceeding with the sale of his residential property resulting in a substantial loss to the Debtor. <p>Accordingly, Mr Everitt was found liable to disciplinary action under the IPA's Articles of Association.</p> |
| Summary of sanctions: | <p>The Committee agreed that the conduct was 'reckless' and therefore 'serious' with reference to the Common Sanctions Guidance ('CSG') as Mr Everitt had acted without consideration of the consequences. The CSG provides for a severe reprimand and a fine of £3,000, as a starting point, where there had been a failure to comply with the Fundamental Principle of Professional Behaviour.</p> <p>When considering the sanction, the Committee opined that the substantial loss to the Debtor was an aggravating factor. The Committee agreed that the starting point of the suggested financial sanction was not proportionate to the estimated amount of loss.</p> <p>The Committee imposed a disciplinary order that Mr Everitt be severely reprimanded, fined £5,000 and required to contribute towards costs.</p> |