

An insolvency practitioner, regulated by the IPA, came before the Disciplinary Tribunal. Two complaints were made against him, namely:-

Complaint 1

He, in his capacity as liquidator of a company, when discussing settlement of the costs of the company's former liquidator,

*(a) failed to inform him that he had drawn a substantial sum in respect of his own fees, and/or
(b) failed to inform him that he had agreed with an adviser that no fees would be paid to the former liquidator and/or that the insolvency practitioner would be allowed to take fees on the understanding that the former liquidator would not be entitled to take his fees, in breach of:*

(i) paragraph 36 of the Insolvency Code of Ethics (issued 2014), and/or

(ii) the fundamental principle of integrity as set out in paragraph 4 of the Insolvency Code of Ethics (issued 2014), and/or

(iii) the fundamental principle of professional behaviour as set out in paragraph 4 of the Insolvency Code of Ethics (issued 2014).

Complaint 2

In breach of the fundamental principle of professional competence and due care of the Insolvency Code of Ethics, the practitioner

(a) failed to pay an amount payable to the former liquidator, a person employed or authorised to assist in the preparation of a statement of affairs or of accounts, in breach of Rule 4.218(3)(k) Insolvency Rules 1986 and/or Rule 6.42(4)(d) Insolvency (England and Wales) Rules 2016, and/or

(b) paid out of assets of the company his own remuneration in priority to an amount payable to the former liquidator, a person employed or authorised to assist in the preparation of a statement of affairs or of accounts, in breach of Rule 4.218(3)(k), (o) and (q) Insolvency Rules 1986 and/or Rule 6.42(4)(d), (h) and (j) Insolvency (England and Wales) Rules 2016.

Both complaints were admitted by the practitioner. The only matter in issue was the severity of the penalties.

Having regard to the foregoing matters and the agreed facts, the unanimous decision of the Tribunal was to impose

for complaint 1:

(a) a severe reprimand and

(b) a fine of £12,500;

for complaint 2:

a) a severe reprimand and

(b) a fine of £3,000.

In addition, the practitioner was ordered to pay costs of £15,000.

The Tribunal directed that, because of potential risk to the personal security of persons affected, an anonymised note of their findings be published.