

Type of Order: DISCIPLINARY CONSENT ORDER

Date of Order: 11 May 2022

Committee name: REGULATION AND CONDUCT COMMITTEE ('the Committee')

Details of IP: Robert Sadler of Sadlers Ltd an IPA member and Licensed Insolvency Practitioner (IP).

Summary of complaint: An Order by the Committee is made in relation to findings from an Inspection Visit during which it was identified that;

Mr Sadler, in his capacity as Administrator of a Company,

1. breached the Fundamental Principle of Competence and Due Care of the Insolvency Code of Ethics when he failed to comply with paragraphs 46, 47(1), 78(2)(a), 49(1) and 76(2) of Schedule B1 to the Insolvency Act 1986, and Rule 18.6(1) of the Insolvency Rules 2016, by failing to:
  - a. Provide a copy of any Administrators proposals
  - b. Evidence of proposals being issued to creditors
  - c. Evidence that a decision procedure was requested, or that a decision was not required
  - d. Provide evidence that a Statement of Affairs was requested, provided or the requirement revoked
  - e. Provided copies of progress reports
  - f. Provide evidence that the relevant notice was issued and consent of creditors was obtained to extend the Administration
2. breached the Fundamental Principle of Objectivity of the Insolvency Code of Ethics when he failed to determine whether acceptance of the appointment would create any threats to his actual or perceived independence before
  1. agreeing to accept the insolvency appointment, and
  2. appointing legal advisors who also acted as solicitors to the Company.
3. Mr Sadler in his capacity as Supervisor of a company in Creditors Voluntary Arrangement (CVA), breached the Fundamental Principle of Competence and Due Care of the Insolvency Code of Ethics when he
  - a. breached the provisions of SIP 3.2 paragraphs 10, 11 (d) and 12 by failing to demonstrate that proper steps had been taken at all stages of the CVA, and/or

- b. inappropriately held a physical meeting of the company's creditors to approve the CVA proposals without the requisite majority to do so as required by S247ZE of the Insolvency Act 1986 and R2.31 of the Insolvency Rules 2016, and/or
- c. failed to issue an annual report for the period to 30 January 2021 within a period of two months after the end of the 12-month period as required under R2.41(4)(a) & R2.41(7) of the Insolvency Rules 2016.

Accordingly, Mr Sadler was found liable to disciplinary action under the IPA's Articles of Association.

#### Summary of sanctions:

##### Allegation 1

The Committee agreed that the conduct was 'serious' with reference to the Common Sanctions Guidance (CSG) because of the number of basic, statutory, and regulatory failings identified on the one case.

The CSG provided for a a Severe Reprimand and a fine of £5,000 as a starting point where there has been a serious failure to comply with the Fundamental Principle of Competence and Due Care.

Aggravating factors identified by the Committee were Mr Sadler's failure to respond to the IPA in a timely manner, his failure to accept the allegation and the fact that the conduct was a repeat of issues identified previously.

The Committee imposed a disciplinary order that Mr Sadler be Severely Reprimanded and pay a fine of £7,500

##### Allegation 2

The Committee agreed that the conduct was 'serious' with reference to the CSG because Mr Sadler had failed to consider the perceived threat to his independence of using solicitors retained by the holding company that had made the appointment.

The CSG provided for a Severe Reprimand and a fine of £5,000 as a starting point for a serious failure to comply with the Fundamental Principle of Objectivity.

The Committee decided to impose a disciplinary order that Mr Sadler be Severely Reprimanded and pay a fine of £5,000.

##### Allegation 3

The Committee agreed that the conduct was 'serious' with reference to the CSG because Mr Sadler had proceeded with a CVA that affected third parties' rights on valuation of leases and claims without

evidence that there were any discussions with creditors and third parties who were affected by the terms of the CVA proposal.

The CSG provided for a Severe Reprimand and a fine of £5,000 as a starting point, where there had been a serious failure to comply with the fundamental principle of Competence and Due Care.

The Committee agreed that Mr Sadler's lack of co-operation, lack of acceptance of the charge and poor regulatory history were all aggravating factors. No mitigating factors were identified.

The Committee decided to impose a disciplinary order that Mr Sadler be Severely Reprimanded and pay a fine of £7,000.

The Committee agreed that as Mr Sadler's poor regulatory history had been considered as an aggravating factor on more than one allegation, the overall fine should be reduced to £18,500.