

Important decision for debtors, lenders and insolvency practitioners

A dispute over Voluntary Arrangements which recently went to the High Court in Manchester on appeal will have important implications for banks, lenders, Insolvency Practitioners and individuals who are involved in individual voluntary arrangements (IVA's).

The question for the Court was – When a certificate of completion is issued at the end of an IVA, is that really the end of the story for the debtor, or could unknown or pre-existing assets still come into play, perhaps even years after the individual believes that his debts are cleared and his IVA concluded?

First case of its kind

The case, which is believed to be the first of its kind, involves an individual whose IVA had come to an end in January 2013. Closing documents including the Certificate of Completion were issued and the Certificate confirmed that the individual had no further liability to creditors bound by the IVA. It was discovered some months following the conclusion that funds owing to the individual as a result of PPI claims were paid to the Supervisor as they were considered to be assets comprised within the IVA which should be utilised for the benefit of creditors. The individual was concerned that these funds could be claimed despite all obligations having been complied with, and the Certificate of Completion confirmed this.

The Court found in favour of the debtor and the decision was upheld by the High Court in Manchester on appeal. The Court has ordered that the proceeds of the PPI claims are due and payable to the debtor. The Court focused on a number of factors and crucial to the decision was the documentation confirming the release of the Supervisor from his role and the cancelling of the debtor's liability to the IVA creditors.

There are thousands of IVA's closing each month so this case will have an impact on the insolvency industry, as well as banks and lenders who are paying out PPI claims and possibly other claims - They need to be sure they are discharging the funds to the right people!

Please note that should your clients require any confidential advice regarding this or any other insolvency matter they are welcome to contact one of our Partners. An initial consultation is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.