

**THE HIGH COURT**

**COMMERCIAL**

**[2015 No. 155 COS]**

**IN THE MATTER OF TAZBELL SERVICES GROUP AND IN THE MATTER OF THE COMPANIES ACTS 1963 TO 2013**

**BETWEEN**

**PATRICK GLEESON**

**PETITIONER**

**AND**

**TAZBELL SERVICES GROUP**

**RESPONDENT**

**JUDGMENT of Mr Justice CREGAN delivered ex tempore the 18th day of May 2015**

**Introduction**

1. This is a petition to wind up a company called Tazbell. The petition is brought by Mr. Patrick Gleeson who resides at Nicholstown, Kilcullen, Co. Kildare.

2. The grounds of the petition are that the company allegedly owes Mr Gleeson the sum of €125,000 approx; that there has been a demand, that the demand has not been met and that therefore the company is insolvent and cannot pay its debts.

**Jurisdiction**

3. The jurisdiction to grant a petition to wind up a company is conferred on the courts by section 213 of the Companies Act 1963. One of the grounds is that a company was unable to pay its debts.

4. However, in accordance with well- settled principles of law, it is well established that this is a discretionary ground.

**Discretion**

5. I turn therefore to consider the factors in this case on which I should exercise my discretion.

**(i) Background to the debt**

6. It appears as if Tazbell is a company which is authorised by the Courts Service to collect court fines on behalf of the Courts and the Courts Service.

7. It is also clear from uncontroverted affidavit evidence that Mr Gleeson has had fines imposed on him by the Courts (and orders for costs) of approximately €2950.

8. These fines arise following convictions for various offences including non- display of tax, insurance or NCT, or failure to provide the ODCE a report in the prescribed form in his capacity as liquidator of the insolvent company. These fines remain due and owing.

9. In respect of these fines, the petitioner has sent invoices to the company. These invoices relate to:

1. €2000 for the cost of reading the letters received from Tazbell
2. €4000 for the cost of writing letters to Tazbell
3. €10000 for alleged unauthorised use of his name which he alleges is the subject of a trade mark and is contained in a so called "private trust".

10. This debt is wholly disputed by the company.

11. Mr Gleeson admitted that each €10000 was for trespass or for infringement of his trade mark or alleged trade mark in his name. Insofar as it is a tort, Mr Gleeson's proper remedy is to sue for damages for infringement of his trade mark. He cannot simply pluck a figure out of thin air as he has done in this case.

12. I am satisfied therefore:

1. That the debt is not a bona fide debt
2. That the demand is not a bona fide demand

13. It is also clear that even if it were a bona fide demand, it is disputed. I have no doubt whatsoever that the bringing of this petition was an abuse of process and I so find.

**Standing**

14. Mr Gleeson argued that Mr O' Gara had no standing to oppose his application. I disagree, Mr O' Gara is a director of the company and he has sworn an affidavit to that effect. I accept his evidence.

**Insolvency of the company**

15. There is also evidence before the Court that the company is solvent and indeed is profitable.

**Damage**

16. Moreover there is evidence that the company's bankers became aware of the petition and contacted the company. This has clearly caused the company considerable concern.

**No evidence of a trade mark**

17. Moreover there is no evidence that the petitioner has in fact registered his trade mark, either in the Irish Patents Office, or indeed in the European Patent Office (OHIM).

**Conclusion**

18. I would therefore conclude that:

- (1) The debt is not a bona fide debt;
- (2) The debt is fully contested;
- (3) There is no evidence of a trade mark, let alone evidence of a trade mark infringement;
- (4) The petition is entirely baseless;
- (5) And I would concur with the description in the director's affidavit of Tazbell that the actions of the petitioner are nothing short of a cynical abuse of Court process designed to inflict maximum embarrassment on the company without a shred of justification whatsoever.

I would therefore dismiss the petition.