

LEGAL UPDATE

Receiver to bear majority of accountancy costs associated with restoring company to register

In re *Middleview Ltd (Dissolved)* [2015] IEHC 860
(High Court, Cregan J, 21 December 2015)

The High Court, in commercial proceedings following on from a prior order restoring a limited company to the register of companies, ruled that the receiver of the company's assets must bear the majority of the accounting costs associated with the restoration, on the grounds that the receiver had agreed in correspondence to bear such costs in order to protect its own security.

An investment property company defaulted on its loans. Joint receivers had been previously appointed. The company was initially struck off for failure to file annual returns with the CRO. An order restoring the company so that receivers could realise company's assets was made in March 2015. There was no objection from company's director to the restoration order being made. A petitioner provided funding for the accounts preparation as a means to secure its position. There was then a disagreement over the timing of the receivers' appointment. NAMA approved a payment of accountant's fees prior to the company being struck off. Case law was then applied. Debts in issue arose prior to striking off. The Court ordered that the petitioner was to bear costs of years 2010 and 2011 but the directors of the company were to bear 50% of costs for years 2012 and 2013.

Conclusion

A receiver must be aware, following the ruling above, that a receiver may be liable for the accounting costs associated with restoring a company to the register of companies if the facts so determine.

For more information, please call:



JAMES SHERWIN
Partner
D: +353 1 2120450
M: +353 86 6074627
Email: jsherwin@sor.ie
[Online profile](#)

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