

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CIV 2000-404-000434**

BETWEEN                      MICHAEL HELSBY KNIGHT  
                                         Applicant

AND                              THE OFFICIAL ASSIGNEE  
                                         Respondent

Hearing:                      3 February 2009

Counsel:                      RB Hucker and LFA Yaqub for Applicant  
                                         NH Malarao and KM Wakelin for Respondent

Judgment:                      25 February 2009 at 10.30 a.m.

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**JUDGMENT OF RODNEY HANSEN J**

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*This judgment was delivered by me on 25 February 2009 at 10.30 a.m.,  
pursuant to Rule 11.5 of the High Court Rules.*

*Registrar/Deputy Registrar*

*Date: .....*

Solicitors:                      Hucker & Associates, P O Box 3843, Shortland Street, Auckland for Applicant  
                                         Meredith Connell, P O Box 2213, Auckland for Respondent

## **Introduction**

[1] Michael Helsby Knight was adjudicated bankrupt in this Court on 14 February 2001. He has made two applications to be discharged. The first was struck out by Faire AJ on 13 December 2005 (*Knight v Independent News Auckland Limited* HC AK B1256-IM00). A further application was refused by Doogue AJ on 9 November 2007. He concluded that it was not in the public interest or the interests of commercial morality that Mr Knight be discharged. He also decided that a discharge was not justified, having regard to Mr Knight's conduct in the course of his bankruptcy.

[2] In January 2008 Mr Knight sought and obtained the Official Assignee's approval to his employment by Wealand International NZ Limited (Wealand) as an assistant branch manager. That job came to an end in May/June and Mr Knight obtained a position with another company, Kiwi Professionals Limited, as an assistant manager. After the Official Assignee declined his request to consent to that employment, Mr Knight proposed returning to his previous position with Wealand. He sought the Official Assignee's consent. The Official Assignee declined to give his consent. He based his decision on the significant potential risks Mr Knight posed to the commercial community.

[3] Mr Knight applies under s 86 of the Insolvency Act 1967 (the Act) for an order reversing or modifying the decision.

## **Issues**

[4] By s 60(g) of the Act, Mr Knight was obliged to notify the Official Assignee of any change in his employment, but he was not required to obtain the Official Assignee's consent unless the job involved participation in the management or control of a business. Section 62 of the Act would then apply. It provides:

### **Prohibition of bankrupt entering business**

- (1) An undischarged bankrupt must not, without the consent of the Assignee or the Court either directly or indirectly,—
  - (a) enter into, carry on, or take part in the management or control of, any business:
  - (b) be employed by a relative of the bankrupt or by any company, trust, trustee, or incorporated society, that is managed or controlled by a relative of the bankrupt.
- (2) Nothing in this section restricts section 151 of the Companies Act 1993.

[5] Mr Hucker's position is that the job would not have required Mr Knight to take part in the management or control of his employer's business and the Official Assignee was wrong to refuse his consent on the basis that it would. He also contends that when refusing consent, the Official Assignee should have identified the way in which the job would involve participation in management and given consideration to conditions which could attach to a grant of consent. Alternatively, Mr Hucker submitted that, if the Official Assignee's consent was required under s 62, he was wrong to refuse it.

[6] Mr Malarao argued that if the job did not involve management of a business and the consent of the Official Assignee was not required, there is no justiciable issue for this Court to determine. If, however, s 62 was engaged, he submitted that nothing would be achieved by a review of the Official Assignee's decision because, as a result of previous convictions for dishonesty offences, Mr Knight is prohibited under s 382 of the Companies Act 1993 from taking part in the management or control of a company. If, contrary to these submissions, the merits of the Official Assignee's decision are considered, Mr Malarao submitted that he was right to refuse consent.

### **Approach to application under s 86**

[7] The approach to be taken to an application under s 86 is not entirely settled. The position is clouded by two conflicting lines of authority. On one side, there is the decision in *Re Callis; Callis v Pardington* (1996) 7 NZCLC 261,211 (CA) in

which it was held, following an English line of authority, that an appellate court should review a decision of the Official Assignee only in cases of fraud, bad faith or unreasonableness. An alternative approach, articulated by Penlington J in *Murray v Official Assignee* HC HAM B318/92 9 September 1992, appears to have been endorsed by the Court of Appeal in *Edmonds Judd v Official Assignee* [2000] 2 NZLR 135 at 144 where Richardson J, giving the judgment of Court, said at [30]:

The judgment of Penlington J in *Murray v Official Assignee* (High Court, Hamilton, B 318/92, 9 September 1992) contains a comprehensive review of the authorities. The Judge concluded that an application under s 86 (generally referred to, including in the marginal heading, as an appeal) is a hearing de novo not an appeal from the exercise of a discretion, and not merely an inquiry as to whether the administrative decision of the Official Assignee was correct. The High Court's function under the section is to consider what in its view is the correct order to make on the material before the Court as measured by the standard of reasonableness. Penlington J added that that the Court in proceeding de novo must, however, always pay due regard to the decision of the Assignee given that the Assignee is charged by statute with the administration of the bankrupt's estate in terms of the Insolvency Act and given that the Assignee has the task of ensuring that the policy of that Act is given effect.

[8] In *Rao v Official Assignee* HC WN CIV 2006-485-004 17 October 2007, Clifford J discussed the two lines of authority and, in the following passage at [24] and [25] synthesised his own view of the proper approach:

[24] My view, having reviewed the authorities, is that I am required to consider the merits of the application on a *de novo* basis and determine, in my own assessment, what decision is reasonable under the circumstances, based on the material presented to me at the hearing. In doing so, however, I must pay due regard to the decision of the Assignee and take into account the Assignee's functions in administering the estate and giving effect to the policy of the Act. The Act provides for the Assignee to exercise his or her discretion in administering the bankrupt's estate and if the Court interferes too readily that statutory policy will be frustrated.

[25] In assessing the merits of the application I am guided by the standard of reasonableness.

[9] I agree with Clifford J's reasoning (which I do not repeat) and his conclusion. Mr Malarao suggested that some further gloss may be added to the test by the subsequent judgment of the Supreme Court in *Austin, Nichols and Co v Stichting Lodestar* [2008] 2 NZLR 141. I do not think the observations in that case call for any qualification to the approach proposed by Clifford J. They were directed to general appeals whereas the appellate function under the Insolvency Act is a

specialised one, to be shaped by the words of s 86 itself and the scheme and purpose of the legislation.

### **Whether s 62 applies**

[10] The job description covering Mr Knight's resumed employment with Wealand as the assistant branch manager of its Auckland office was as follows:

Resolve customer complaints regarding sales and service.

Monitor customer preferences to determine focus of sales efforts.

Direct and coordinate activities involving the recruitment and placement of candidates.

Determine price schedules and discount rates.

Review operational records and reports to project sales and determine profitability.

Direct, coordinate, and review activities in sales accounting and recordkeeping.

Confer or consult with General Manager to plan advertising services and to secure information on customer specifications.

Advise agents on policies and operating procedures to ensure functional effectiveness of business.

Prepare budgets and approve budget expenditures after consultation with General Manager.

Represent company at trade association meetings and job expo's to promote our business both locally and in China.

Plan and direct staffing, training, and performance reviews to develop and control sales and service programs.

Direct clerical staff to keep records of correspondence, maintain current information on tariffs, licenses, and restrictions.

Direct foreign sales agents of candidate shortages and requirements.

[11] The Official Assignee was reliant on this job description. He was being asked to consent prospectively on the basis that Mr Knight's job would conform to the description. Mr Knight's request for consent appears to have been made on the assumption that the job came within s 62, which may explain why the Official

Assignee did not attempt to spell out why he accepted that his consent was required (as Mr Hucker said he should). In his letter of 24 October 2008 he simply stated:

...

The Official Assignee has fully assessed your application and has declined to grant you this consent. The Official Assignee has based this decision on the significant potential risks you pose to the commercial community if consent was granted to allow you to take up this role.

As advised previously you have again recently breached your obligation as a bankrupt under the Insolvency Act 1967 by taking up a management role without gaining the prior consent of the Official Assignee as required, as well as a lack of cooperation in providing required administration information to your insolvency officer Rosalie Stephenson in regard to your previous management role.

This further serious breach of your legal obligations as a bankrupt is a significant concern to the Official Assignee and also indicates that you may treat your commercial obligations in a management role in a similar manner.

This decision is final. If you wish to review this decision then please do so as is your right under s 86 of the Insolvency Act 1967.

[12] In his affidavit filed in opposition to the appeal the Official Assignee elaborates on his reasons for declining consent. He explains that Mr Knight is facing the following charges under the Insolvency Act and the Companies Act 1993. In summarising the factors relevant to his decision, he said at paras 25 – 28 of his affidavit:

25 As communicated to Mr Knight in my letter to him of 24 October 2008 (annexure D), I took into account the following factors in making the decision to decline consent for Mr Knight to be involved in the management of a business:

- (a) The risks posed to the community by Mr Knight; and
- (b) The recent breaches of Mr Knight's obligations as a bankrupt by:
  - (i) Taking up a management role without my consent (thereby breaching s 62(1) of the Insolvency Act 1967); and
  - (ii) Failing to provide information to me when requested to do so (thereby breaching s 60(c) of the Insolvency Act 1967).

26 Additionally, I also considered Mr Knight's past conduct in relation to the management of companies and/or businesses to be relevant.

This conduct has been the subject of several prosecutions by the NEU and the NZ Police, and is the subject of a current prosecution by the NEU as detailed above. In this regard, I refer the Court to my report dated 5 October 2007 (also referred to as the Fourth Report of the Official Assignee), which was filed in respect of Mr Knight's last unsuccessful application for discharge (under this Court file number). That report provides a summary of Mr Knight's past activities that were relevant to the decision the subject of this appeal.

- 27 Notably, at Tab 13 of the Fourth Report are the sentencing notes of Judge Perkins in relation to fraud charges brought by the NZ Police. Mr Knight pleaded guilty to the charges, and on 10 March 2005, he was convicted and sentenced to 18 months imprisonment in relation to four charges of using a forged document to obtain a pecuniary advantage (s 257(1)(a) Crimes Act 1961).
- 28 Finally, I am aware that Mr Knight has recently instigated litigation against third parties. Annexed marked "W" is a copy of a recent costs decision of Allan J.

[13] For present purposes I proceed on the basis that the position with Wealand would not involve Mr Knight entering into or carrying on the business (although for reasons I will later explain, that possibility could not be entirely excluded). The issue is whether the job would involve his taking part in the management or control of the business. That is an assessment to be made on the facts of each case, having regard obviously to the nature of the duties to be performed but also to such matters as the management structure of the business and the level of supervision available.

[14] There is a helpful discussion of the relevant factors in *Tregurtha v NZ Police* HC AK AP123/93 15 October 1993, where Fisher J considered an appeal against a conviction under s 188A of the Companies Act 1955 of taking part in the management of a company within five years of conviction for a crime involving dishonesty. (The equivalent provision in the Companies Act 1993 is s 382.) Fisher J quoted at length from *Commissioner for Corporate Affairs (Vic) v Bracht* (1988) 14 ACLR 728 where Ormiston J discussed the meaning of an equivalent provision of a Victorian statute. The passage quoted by Fisher J concluded:

In the present section I would see the prohibition as covering a wide range of activities relating to the management of a corporation, each requiring an involvement of some kind in the decision-making processes of that corporation. That involvement must be more than passing, and certainly not of a kind where merely clerical or administrative acts are performed. It requires activities involving some responsibility, but not necessarily of an ultimate kind whereby control is exercised. Advice given to management,

participation in its decision-making processes, and execution of its decisions going beyond the mere carrying out of directions as an employee, would suffice. If the respondent had been left to negotiate terms with bankers or providers of credit, although those terms had to be confirmed, there would have been sufficient participation, but not if those acts involved only communication or were merely casual. The negotiation of matters of financial importance, such as the rent of its principal premises, may well lead to an inference that a person is concerned in the management of a company, but not if that involved merely communication of instructions on a single occasion. A combination of these activities may likewise lead to the relevant inference, so long as the defendant is given some measure of responsibility or some area of discretion, or so long as his opinion is given some weight in the decision-making processes of management. Beyond this it is difficult to go, for circumstances and procedures may vary widely from company to company.

[15] Commenting on the judgment of Ormiston J at p 6 of his judgment, Fisher J said:

I agree, and would add only this. One cannot escape the fact that in the end there is a question of degree. In deciding whether the degree has been reached, one can consider the object of the statute on this point ... The greater the degree to which the defendant's activities are supervised, the less likely it is that he or she will be given the scope to re-offend, and vice versa. If the defendant enjoys large unsupervised discretions at a relatively high level of management, the risk to the public, and hence the mischief which the section was designed to avoid, may become unacceptable. ...

[16] The same passage from the *Bracht* decision was quoted by Temm J in *Bird v Pain* HC AK AP52/92 2 June 1992. He then commented at p 4:

The point that I see as being important in that extract from the judgment, is that to be a mere employee would not be caught by the section, nor would the carrying of information in the capacity of a clerk or messenger be regarded as being concerned in the management with which His Honour was involved, or "being engaged" in the management, which is what I concentrate my attention upon. The Judge said it required activities involving some kind of responsibility, not necessarily of an ultimate kind, where control is exercised. Advice given to management, participation in its decision-making processes, the execution of decisions going beyond the mere carrying out of directions as an employee would suffice.

[17] It is implicit in the job description that some level of oversight is envisaged – see, for example, the requirement to confer or consult with the general manager in some areas. This is confirmed by the employment agreement which requires the employee to report to the manager or to any other representative of the employer designated from time to time by the employer. However, the documentation also makes it clear that the general manager would be absent from Auckland in order to



attend to the needs of branches in Wellington and Christchurch. During such times the employee would act independently and unsupervised.

[18] The responsibilities listed in the job description suggest a considerable level of autonomy in areas of critical importance to the business. They include, for example, responsibility for determining price schedules and discount rates and, after consultation, to prepare budgets and approve budget expenditures. In sales and marketing and staffing, the job description indicates significant discretionary decision-making powers. The incumbent is expected to:

- Resolve customer complaints regarding sales and service.
- Direct, coordinate and review activities in sales accounting and record keeping.
- Advise agents on policies and operating procedures ...
- Plan and direct staffing, training and performance reviews ...
- Direct clerical staff to keep records of correspondence ...
- Direct foreign sales agents ...

Of significance also is that the job description involves representing the company at trade association meetings and at promotional events.

[19] These responsibilities clearly go well beyond mere administrative or clerical tasks. The employee has managerial responsibilities in key sectors of the business – financial, sales and marketing and staff supervision. He would have significant decision-making power. There is no assurance that his activities would be systematically monitored. The combination of work functions and other circumstances clearly permit the inference that, if employed, Mr Knight would be engaged in the management of the business and the Official Assignee was entitled to proceed, as he was invited to do, on that basis.

## **Challenge to refusal to consent**

### *Preliminary point*

[20] As earlier noted, Mr Malarao argued that, if s 62 applies, Mr Knight is precluded from seeking to review the decision because, by reason of his previous convictions, he would require the leave of the Court under s 382 of the Companies Act 1993 before taking up a position which involved his taking part in the management of a company. He relied on the common law principle that it is contrary to public policy for the Courts to entertain proceedings where there is no actual outstanding issue in existence between the parties. He cited *Simpson v Whakatane District Court* [2006] NZAR 247, where the principle was discussed by Asher J at [22] – [28], concluding that it is an abuse of process for the Court to receive and determine claims where the decision will have no utility.

[21] In my view, this is not such a case. A challenge to the Official Assignee's decision would not necessarily be an exercise in futility. Mr Knight has the right to seek the Court's leave under s 382. That would achieve nothing if the Official Assignee's refusal to grant consent under s 62 remained in place. This appeal is therefore the first of a two-step process available to Mr Knight if he is to acquire the right to take up the position with Wealand.

### *Ground for refusal*

[22] Assuming the proposed job involved participation in the management of the business under s 62, Mr Hucker submitted the Official Assignee erred in failing to identify the respects in which the job description involved management of the business. He submitted that the Official Assignee should have done so in order to permit the job description to be modified to exclude what was objectionable or to permit the Official Assignee himself to impose conditions on his consent. Mr Hucker pointed out that the purpose of s 62 is not to provide a restraint on employment but to protect the public from loss resulting from financial mismanagement or other managerial incompetence – *Tregurtha* at p 6; *Official*

*Assignee v Carroll* HC AK CRI-2005-404-261 16 December 2005 Courtney J at [19].

[23] I am satisfied there is no merit in this submission. As earlier noted, the request to the Official Assignee was made on the basis that the position came within s 62. The Official Assignee can hardly be criticised for failing to explain precisely why he accepted that to be the case. But even if the question had been put in issue, I would not have expected the Official Assignee to respond by simply pointing to ways in which the job description could be modified so as to avoid engaging s 62. As the earlier discussion makes clear, the issue of whether a job comes within s 62 is a matter of assessment having regard to all the available information. The position would not have ceased to be a managerial one simply by deleting some duties and modifying others.

*Refusal to consent*

[24] Mr Hucker's final submission was that, even if the Official Assignee was right to proceed on the basis that the job would involve taking part in the management of a business, he was wrong to refuse his consent. His main argument was that the Official Assignee had previously agreed to Mr Knight working for the same firm in the same job and there had been no material change of circumstances that would justify a change of heart.

[25] It is the case that in January 2008 the Official Assignee agreed to Mr Knight taking up the position of assistant branch manager with Wealand. The letter from an officer at the Official Assignee's office read, in part, as follows:

With reference to your new job offer, I have consulted our District Manager and it has been concluded that it is in order for you to accept this offer, provided that you are not in a position to incur any liabilities on behalf of the business and you do not have cheque signing authority on the business bank account.

If you do succeed in securing the position offered to you, you are to complete the enclosed Budget Form and return it to me as soon as you have received your first payslip, and you are to ensure that we are to be kept informed of any further changes in your employment situation.

[26] The events which intervened and which the Official Assignee says caused him to change his mind may be summarised as follows:

- On 22 February 2008 the National Enforcement Unit (NEU) of the Ministry of Economic Development laid informations in the Auckland District Court charging Mr Knight with:
  - a) Between 1 January 2007 and 13 September 2007, taking part in the management of a business without the consent of the Official Assignee;
  - b) Between 1 January 2007 and 13 September 2007, within five years of a conviction of a crime involving dishonesty, he took part in the management of a business; and
  - c) Between 1 March 2007 and 13 September 2007, he had failed to disclose to the Official Assignee that he had acquired property to the value of \$26,650.

According to the summary of facts, the companies for whom Mr Knight had worked had a business association with an entity called Graduate House. According to Mr Knight's proposed employment agreement, that is the name under which Wealand trades. While working for the companies, it is alleged that Mr Knight produced significant amounts of memoranda and other written material which were sent to potential clients under a fictitious name and that he was directly involved in the management, acting independently of a director who stood aside and took no active part in the management of a company.

- On 1 May 2008 Mr Knight sought the Official Assignee's authorisation to undertake slightly expanded responsibilities with Wealand trading as Graduate House. In response, the Official Assignee said that, on the face of it, what Mr Knight was proposing appears to be within the terms of the consent of 22 January 2008 but noted that Mr Knight had failed to return the

budget form sent at the time consent was given. When the budget form was provided one week later, it disclosed that Mr Knight had a hire purchase commitment of \$250 per week and that the Inland Revenue Department did not appear to have been receiving PAYE deductions in respect of Mr Knight's salary.

- In June 2008 the Official Assignee received a further employment contract between Mr Knight and another company, Kiwi Professionals Limited, which appeared to have been entered into without the Official Assignee's consent. Through his solicitor, Mr Knight denied that the Official Assignee's consent was required, stating:

None of Mr Knight's responsibilities involves making managerial decisions on behalf of the company. They do not involve making decisions as to future investment in the company and he does not have any responsibility for cheque signing or the handling of any money within the company nor does he give any advice or participate in the decision making process of the company as one would expect of a shareholder, owner, director or otherwise.

- On 7 August the Official Assignee advised he was maintaining his refusal to consent. He said:

The consent has been denied on the basis that there appears to be a significant risk of commercial harm to members of the public and the wider commercial community if Mr Knight is allowed to undertake this role. This assessment is based on the facts that Mr Knight accepted the role without first applying for consent from the Official Assignee despite his knowledge that such prior consent was required (as evidenced by his prosecution in a similar matter and also his previous application for consent for a similar role), a continuing lack of response to information requests from the administering officer for income and budget details over Mr Knight's previous employment, a lack of cooperation with the Official Assignee in regard to requests for information on the current defamation proceedings, and also the long history of Mr Knight's unacceptable commercial activities resulting in several convictions and latterly a decision by the court to refuse Mr Knight's application for release from bankruptcy for a significant period.

These factors lead the Official Assignee to conclude that if Mr Knight is continuing to disregard his continuing obligations to cooperate with the Official Assignee then there is a significant risk that he may also still be inclined to act in a similar matter in regard to his obligations in this role when dealing with members of the commercial community. Therefore the application is denied. As

previously advised if your client disagrees with this decision he may seek a review of this decision by the High Court under s 86 of the Insolvency Act 1967.

The Official Assignee granted limited consent for Mr Knight's previous similar role due to his cooperation with this office at that time in regard to the application and his other obligations. This gave the Official Assignee some reassurance that Mr Knight may act responsibly in that role and supported a willingness to assist his commercial rehabilitation with the limited consent provided. Due to the matters mentioned above the Official Assignee no longer has this assurance and will not expose the commercial community to the risk of potentially significant harm.

- On 26 September Mr Knight sought the Official Assignee's consent to be self-employed. In his application he disclosed that he would be contributing \$500 to the business. The Official Assignee asked for the source of the \$500 capital contribution and again requested the information sought in May in relation to the hire purchase commitment and payment to the Inland Revenue Department.
- On 6 October Mr Knight informed the Official Assignee that in December 2006 he obtained a personal loan of \$25,000 from a finance company which he used to buy a vehicle and other articles which he sold for a profit over the ensuing twelve months. He finally responded to the enquiry made by the Official Assignee on 1 May regarding PAYE payments. He advised that he had no knowledge of the failure of Wealand to make payments.

[27] In my opinion, the Official Assignee does not have to show a change of circumstances in order to justify his change of position. His overriding duty is to come to the right decision. If that requires that he review an earlier decision, he is perfectly at liberty to do so. A change of circumstances is not required. His is not a judicial proceeding; it is an administrative procedure. He is not obliged to act consistently.

[28] Be that as it may, I consider that, contrary to Mr Hucker's submission, the intervening events I have referred to and additional information received, fully entitled the Official Assignee to take a fresh look at Mr Knight's proposals. He had been less than frank with the Official Assignee about his job with Kiwi

Professionals. He was guilty of inordinate delay in providing information about his financial affairs. The further NEU prosecutions had begun, raising new and disturbing questions about Mr Knight's activities during the previous year.

[29] When the Official Assignee reported to this Court under s 109 of the Insolvency Act on 5 October 2007 he referred to the fact that Mr Knight was currently under investigation by the NEU. When charges were laid in February, plainly there was a significant change in circumstances. While Mr Knight was entitled to the presumption of innocence, the Official Assignee could hardly have disregarded the allegations for the purpose of considering whether to give his consent.

[30] These developments fell to be considered by the Official Assignee in the light of a history of offending set out in the Official Assignee's report and conveniently summarised at [9] of the judgment of Doogue AJ. He said:

The main issues that he brought out were that Mr Knight has an extensive criminal history of offending. He noted that Mr Knight had been convicted as long ago as May 1985 of fraudulently using a document to obtain a pecuniary advantage. Mr Knight has spent a considerable amount of his time in Australia. He has been bankrupted there twice. In 1990 he was convicted of managing a company when prohibited. He has been banned indefinitely in New South Wales from being involved in any business. Since his bankruptcy in New Zealand on 14 February 2001, he has been bankrupted in Australia on a second occasion. He has continued offending since he was adjudicated bankrupt in New Zealand in 2001. In 2002 and 2004 Mr Knight was sentenced for offences against the Fair Trading Act. Even since he filed his application for a discharge in 2005, he has offended yet again. In 2005 he was sentenced in the North Shore District Court on four charges of fraudulently using a document to obtain a pecuniary advantage. On that occasion he was sentenced to 18 months imprisonment. Then in 2005 he was prosecuted for managing a company while bankrupt and pleaded guilty.

[31] At [15] Doogue AJ noted that one "particularly troubling aspect" of the case is that Mr Knight had committed fraud offences through carrying on business even during the time when he has been bankrupt. He went on to say:

As well, there is the troubling feature of the case, which I raised during discussion with counsel, that Mr Knight seems intent on returning to the types of business where he has got into trouble in the past and which have resulted in loss being incurred by members of the public. Broadly speaking, those two types of business are sales promotions connected with travel and timeshares and immigrant employment type businesses. If Mr Knight had

developed an employment history in a position where the Court was able to discount any risk to the public and was assured that Mr Knight intended to stay in that position, then the position might be different. But that is not the case and the risk remains. The fact that Mr Knight seems unable to understand the Court's concerns in this area also discloses a troubling lack of insight.

[32] The charges currently faced by Mr Knight appear to arise out of the two types of business activities referred to by the Judge. The job offer which is the focus of this appeal is with one of those businesses, Graduate House, which appears to have continued trading, albeit under the aegis of a different company. In all of the circumstances, the Official Assignee's decision to refuse his consent was the only one reasonably open to him.

## **Result**

[33] The appeal is dismissed.