

Filed on behalf of: The Respondent
Deponent: Mr Glenn Armstrong
Statement: 11th
Exhibit: GAA11
Dated: 04 February 2021

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND & WALES

INSOLVENCY AND COMPANIES COURT

Case No. BR-2020-00363

IN THE MATTER OF GLENN ANTHONY ARMSTRONG

INSOLVENCY AND COMPANIES COURT

BETWEEN:

MS ANNI NAKAMURA

Petitioner

-and-

MR GLENN ANTHONY ARMSTRONG

Respondent

**ELEVENTH WITNESS STATEMENT
OF
MR GLENN ANTHONY ARMSTRONG**

I, Mr Glenn Anthony Armstrong of Carisbrook House, Bedford Road, Milton Keynes MK16 9NQ will say as follows:

1. I am the Respondent in these proceedings, and I make this statement pursuant to paragraph 3 of the Order of Insolvency and Companies Court Judge Mullen, dated 4 November 2020, which requires me to provide a further update as to the progress of the family proceedings under case number BV16D03406 (the “Family Proceedings”) in so far as I am permitted to do so by the family court and in law.

2. I do not propose to repeat the history of the Family Proceedings from their outset, but to instead update the Court, the Petitioning Creditor, and the Supporting Creditors as to the current position in those proceedings. A brief summary of the history of the family proceedings is explained below:

- i. The Final Hearing in the Family Proceedings took place on 2 September 2019 before District Judge Duddridge and continued until 11 September 2019. It had originally been listed for 7 days (to include 1 day for judicial reading time). My ex-wife represented herself throughout the course of the Final Hearing (and for most of the subsequent post ‘Final Hearing’ hearings), having dis-instructed her legal team that had been representing her for several years before the Final Hearing.
- ii. District Judge Duddridge reserved Judgment at the end of the Final Hearing, which Judgment was subsequently handed down formally on 31 October 2019.
- iii. There have now been six Post-Judgment hearings; each before District Judge Duddridge, in order to determine not only the mechanics of the implementation of his Judgment but also the finalisation and drafting of the Final Order.
- iv. The fourth Post-Judgment hearing was a Mention, listed by the District Judge of his own volition. It took place (remotely via CVP) on 22 July 2020, where DJ Duddridge made an Unless Order which required Ms Flynn to provide her comments and/or amendments to the draft of the Final Order in circulation by no later than 4:00pm on 18 August 2020. The Unless Order was made because Ms Flynn had failed to provide any proper commentary on the proposed draft final order following the third post final hearing in January 2020. Ms Flynn had also

indicated in correspondence following the January hearing that she did not think that the proposed final order reflected the findings of DJ Duddridge contained within his Judgment and she maintained that she was in the process of obtaining a transcript of the whole final hearing. It transpired at the Mention hearing on 22 July 2020 that Ms Flynn had not even ordered the transcript despite the lapse of over 6 months since the January hearing.

- v. Shortly before 18 August 2020, being the deadline set by the Unless Order, Ms Flynn reappointed her former solicitors. Her solicitors provided substantive proposed amendments and comments to the draft Final Order, which had been prepared by Counsel, and requested yet a further hearing to finalise the Final Order. It appeared that a vast majority of the proposed amendments effectively sought to re-write DJ Duddridge's judgment. DJ Duddridge confirmed a listing for a 5th Post Judgement Hearing for half a day on 14 October 2020 (being almost 1 year since Judgment was first circulated).
 - vi. The 5th Post Judgment hearing took place on Wednesday 14 October 2020; whilst it had been listed for half a day, it continued until approximately 6:30pm. As a result of Ms Flynn's position in that hearing, we were effectively able to only narrow some of the issues between our respective draft Final Orders.
3. The 5th Post Judgment Hearing also gave rise to a new issue and which related specifically to these bankruptcy proceedings. Our respective Counsel raised the query as to whether DJ Duddridge could seal a Final Order (once agreed) in the family proceedings without that Final Order first being validated, pursuant to S.284 of the Insolvency Act 1986, by the bankruptcy court. My Solicitors have explained to me that, as a matter of law, given these bankruptcy proceedings, DJ Duddridge is unable to seal

a Final Order which deals with the division of assets without that Final Order first being validated by the bankruptcy court.

4. Following the 5th Post Judgment hearing, my Counsel attempted to agree various amendments to, and revisions of, the draft Final Order; however, Ms Flynn – via her Counsel - would not agree or compromise on any of those amendments. Instead, Ms Flynn’s Counsel sought a further hearing before DJ Duddridge to resolve the outstanding drafting issues. My Counsel had sought for those remaining issues to be dealt with on paper in the hope that it would expedite matters; however, a 6th Post Judgment Hearing was listed for 8 January 2021.
5. In the time leading up to the 6th Post Judgment Hearing, Ms Flynn sought to amend the draft Final Order further, changing her mind on numerous points which had previously been agreed, and accepted, both in Post Judgement Hearings and at the Final Hearing in September 2019. Those changes related particularly to the return of my personal keepsakes amongst other technical disputes. My Counsel and my Solicitors sought to remedy the issues in respect of the draft Final Order before the 6th Post Judgement hearing on 8 January 2021; however, Ms Flynn’s Counsel preferred to have DJ Duddridge address them together with his other proposed amendments to the Final Order.
6. In addition, Ms Flynn’s solicitors demanded that I make the s.284 application to validate the Final Order immediately. Their basis for their demand was that I had greater knowledge of the bankruptcy proceedings. Whilst this may be the case, my Solicitors explained to Ms Flynn’s solicitors that although I was not averse to making the application, provided that she funds the necessary works, I was in no position to make the same immediately as a draft of the Final Order, to be validated, had not yet

been agreed and, moreover, where Ms Flynn's continued change of position prevented any agreement being reached. To date, Ms Flynn has refused to fund the application and, regrettably, as a result of her actions in the family proceedings, I am unable to do so at this time.

7. The 6th Post Judgement Hearing on 8 January 2021 lasted for half a day and, thanks to the efforts of DJ Duddridge, resolved the main outstanding issues with the draft Final Order. DJ Duddridge tasked the parties' Counsel with drafting the final amendments and, as he could not make the Final Order (as it required validation) instead made a "Holding Order" with a draft of the Final Orders annexed. As I have said in previous witness statements, I have not been at liberty to disclose the details of the Judgement or the draft Final Order without the express permission from the family court. My Counsel therefore sought, as part of the Holding Order, permission from DJ Duddridge for me to be able to disclose both the Holding Order and draft Final Order into these proceedings.
8. Unfortunately, as has been the case throughout since Ms Flynn re-instructed her legal team in the family proceedings, Ms Flynn's Counsel would not agree to my Counsel's wording of DJ Duddridge's amendments to the draft Final Order or the wording of the Holding Order. I am relieved to be able to now confirm that after extensive additional works, the wording of both the draft Final Order and the Holding Order have been agreed and that both drafts were sent to DJ Duddridge for his approval on 1 February 2021.
9. At the time of making this statement, my Solicitors have not yet received a sealed copy of the Holding Order with the draft Final Order annexed.

10. I have been awarded, what equates to largely, half of the matrimonial property portfolio; the equity from which will be adequate, not to mention the rental income from the same, to settle my debts. However, as recorded in the recital to the draft Final Order, there remain a number of issues between Ms Flynn and me.
11. Firstly, and of note, is Ms Flynn's deliberate attempts to obstruct me in receiving the rental income from my share of the matrimonial property portfolio. Ms Flynn asserts that after expenses, there are no funds due to me which, in my view is plainly wrong. Ms Flynn's approach has had a significant and unfair impact on the creditors in these proceedings, as those substantial rental funds could be used to help towards settling my debts and easing the burden on the creditors. I am advised by my legal team, and I accept, that in order to press ahead and resolve all of these ongoing issues, I must take separate legal action in respect of the rental income in short course.
12. Secondly, there remains the question as to who should make, and also fund, the S.284 validation application in respect of the draft Final Order. I understand that Ms Flynn is the only beneficiary of such an application in that it protects her position over the other creditors should I be made bankrupt. As such, whilst I am awaiting approval of the draft holding order at the time of making this statement my Solicitors have been engaged with Ms Flynn's Solicitors in correspondence as to the costs of that application - particularly in light of both the delay in finalising the draft Final Order, caused by her inaction over the last 12 months, and her position in respect of my rental income.
13. I appreciate that there are certain persons in these proceedings who will claim that I have not been awarded enough to settle my debts. I must stress; however, that a number of creditors' claims in this bankruptcy matter are wholly misconceived. If the sums due to the supporting creditors is to be taken into account at the next hearing in these proceedings, then respectfully, consideration will need to be given to each and every

alleged creditor. I respectfully submit that once my share of the matrimonial assets is received, I will be able to deal with the creditors whose debts are properly due.

14. In the circumstances, I respectfully request that the Petition be adjourned to enable the validation application issue to be resolved and my asset position finally crystallised by way of the final orders, and then for me to address and settle the debts of those creditors whose debts are properly due.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.



04/02/2021

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GLENN ANTHONY ARMSTRONG

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DATE