**Elaine Mulvaney**

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**The Court Manager**

**Money Claim Online**

**County Court Business Centre,**

**St Katharine's House,**

**21-27 St Katharine's Street,**

**Northampton, NN1 2LH**

**cc Mr Liam Connolly, Rowberry Morris Solicitors**

**17 Castle Street**

**Reading**

**Berkshire**

14th September 2015

By recorded delivery

Dear Sirs

**Claim No B4QZ56D1**

I refer to the Notice of Hearing of Application in relation to the above claim. For personal reasons due to the terminal illness of a close family member, I am no longer in a position to continue pursuing this matter and will not be able to attend the hearing on 21st September 2015 at the County Court in Reading.

I accept that this may mean that the judgement against the Applicant Mr. Barry Tapscott and the Warrant of Control number 0A085128 may be set aside and the Claimant’s claim against Mr. Barry Tapscott (the “Applicant”) may be struck out.

I would ask that the court does not make an order for the Applicant’s costs in making the application. I made strenuous efforts to contact the Applicant both before and during the making of the claim.

I enclose copies of the following documents:-

1. Email dated 1st April 2015 addressed to the registered office of Ambar Drainage Limited (“AD”) and emailed to the three office email addresses for AD, all of which had been used by me previously to correspond with the Applicant and from which the Applicant had sent invoices and other correspondence to me;
2. Email dated 24th April 2015 addressed to the registered office of AD and again emailed to the three office email addresses for AD;
3. Copy letter dated 8th April 2015 addressed to the usual residence of the Applicant and sent by first class post;
4. Copy letter dated 8th April 2015 addressed to Mr. Barry Tapscott as Director of AD and sent to the registered office of AD together with proof of delivery from the Royal Mail showing this was signed for on 10th April 2015;
5. Copy letter dated 24th April 2015 addressed to Mr. Barry Tapscott as Director of AD and sent to the registered office of AD together with proof of delivery from the Royal Mail showing this was signed for on 27th April 2015;
6. Notice of Issue of Claim no B4QZ56D1 showing claim was issued on 15th May 2015;
7. Copy Form N215 dated 18th May 2015 together with proof of postage to the Court, to the principal office of the company and to the Applicant’s usual residence with proof of delivery from the Royal Mail showing the copies to the Court and to the principal office of the company were signed for on 19th and 20th May 2015 respectively.

On the basis of the above I believe I took all reasonable steps to alert the Applicant about the matter both before submitting the claim and throughout the process and he had ample opportunity to respond and to make his defence.

In paragraph 9 of his Witness Statement the Applicant claims that he was not aware as to whether or not the Claimant did file further particulars. Yet the evidence referred to in paragraph 7 above shows that, even if the Applicant did not receive the further particulars sent to his usual residence on 18th May 2015, as one of only two directors of AD he would have been aware of the further particulars sent to the company of which there is clear proof of delivery. I therefore believe that, contrary to the Applicant’s statement in paragraph 9 of his Witness Statement, he was in fact aware that the Claimant did file further particulars.

In paragraph 10 of his Witness Statement the Applicant claims that he did not actually realise that proceedings had been issued against him personally yet he says that he sent the court papers on to AD’s liquidators. He therefore admits that he did receive the papers sent to him by the court which named him as Second Defendant. Costs should not be awarded to the Applicant due to his failure to read those papers properly and costs should not be awarded because he ignored the claim form and did nothing other than pass the paperwork on. The claim form sent to the Defendants including Mr. Tapscott is very clear, it sets out guidance on the front page headed “Important Note”, it reminds each recipient in more than one place to read all the guidance notes carefully and in particular not to ignore the claim form and do nothing. It makes it clear that a Defendant can simply respond to the claim online. Had the Applicant simply done so at that time the matter may well have been resolved then without the need for the current application.

In paragraph 11 of his Witness Statement the Applicant claims that he only noticed that the claim included him personally when the liquidators mentioned it to him and that this was after the deadline for acknowledgement. However Mr. Tapscott had a full 14 days to file an acknowledgement of service. He was still a director of the company during that time. He was aware of the claim both personally and as a director of the company as the court papers were sent to both the principal office of the company and to Mr. Tapscott’s usual residence. It was incumbent on Mr. Tapscott, as it is upon any individual who receives court papers, carefully to read documentation sent to him personally and as a director of the company and, if necessary, to act upon it. He should have had mechanisms in place at that time to ensure that important documentation addressed to him and to the company did not get overlooked or ignored and was dealt with appropriately. He should not have delegated his responsibility for his personal behavior and his behavior as a director in matters such as this to anyone else including the liquidators.

In fact neither Mr. Tapscott nor indeed the company took the time to file such an acknowledgement and Notice of Judgement was therefore issued on 5th June 2015.

In view of the above, I do not believe the Applicant acted as promptly as possible in the circumstances, I took all reasonable steps to alert the Applicant about the matter and he had ample opportunity to respond and to make his defence at a much earlier stage. This particular matter as to whether the Applicant should have been a party the claim may well have been resolved then without the need for the current application and thus saved the court’s time. I would therefore humbly ask that the court does not make an order for Mr. Tapscott’s cost in making this application.

I have sent as copy of this letter and enclosures to the applicant’s legal representative Liam Connolly of Rowberry Morris Solicitors.

Please can you confirm if there is anything else I need to do at this time.

Yours sincerely

**Elaine Mulvaney**