

Lifting the Corporate Veil

By Mark Diamond, Solicitor

Q: When is limited liability not limited liability?

The above question almost sounds like the start of a joke, except it's not and, as Bennett Griffin has recently proved in the Court of Appeal, the consequences are no laughing matter.

What started as our client's debt claim for £1,800 back in 2005 had by April 2011 escalated to the Court of Appeal with a director of the debtor company at risk of a legal bill in excess of £100,000.

For Bennett Griffin's client, the story is a happy one; they recovered their legal costs and they were justified in following our advice to pursue the director in question for what would otherwise have been a costs bill swallowed up in the liquidation of the debtor company. And for company directors, the story is a worthwhile reminder of their duties and obligations to the company.

In this case, when Bennett Griffin raised questions as to a particular director's discharge of his duties and obligations in relation to the conduct of the litigation that followed our client's debt claim, he was found wanting and his actions caused the Court of Appeal to find that he should be personally liable for the bill of costs the debtor company could not pay.

Primarily, the case is a good result for our client. But for the firm, the outcome, which will no doubt be followed as a precedent for future claims of this type, is a reflection of the dedication shown by Darren Edwards, Peter Bennett and Mark Diamond of the firm's Company and Commercial Department throughout the case.

A: When the person seeking to rely on the limited liability acts without proper and expert advice.

If you have any questions on dispute resolution or the duties of directors, please do not hesitate to contact a member of our Company and Commercial Department on 01903 706 950.