

Peter Hamilton represents successful income protection insurer

Peter Hamilton represented successful income protection insurer in its claim against a fraudulent insured and secured the setting aside of two awards by the Financial Ombudsman Service (FOS) on the grounds that they were obtained by fraud.

In 2007, a self-employed steelwork draughtsman, Mr C Parkin, applied to the Cirencester Friendly Society for income protection insurance. He failed to disclose his relevant full medical history and past use of cannabis. Two months after his application was accepted, he made a claim that he was unable to work because of ME (myalgic encephalopathy). Cirencester investigated the claim and rejected it for non-disclosure. Mr Parkin then complained to the FOS. The FOS upheld the complaint. As a result Cirencester paid Mr Parkin £19,000.

Mr Parkin renewed his claim for benefits saying he continued to suffer from chronic fatigue syndrome (CFS), but Cirencester refused the claim. So Mr Parkin made a second complaint to the FOS which was also upheld.

Shortly afterwards, in about August 2012 Cirencester received information which led to the discovery that the Defendant's life style and activities were inconsistent with his descriptions of his symptoms and their disabling severity, and his suffering from CFS.

Earlier, Mr Parkin had said he was incapacitated and could not work. He claimed that he was living with his parents in Yorkshire after the breakdown of his marriage; and he had no hobbies. But the later investigations revealed a huge number of online postings and video clips dating from 2007, from which it was clear that he was living in Cyprus with his wife, and was active, well, very busy with, and even addicted to, his hobby of modifying and upgrading his Noble "supercar", and in driving it fast both on the roads in Cyprus and on a race-track there.

It was clear that Mr Parkin had acted fraudulently in his application for insurance, and his claims for benefit, and that both the FOS awards were obtained by fraud. On the basis that "fraud unravels everything", Cirencester instituted action to have the FOS awards set aside. On 12 May 2015, HH Judge Richard Seymour QC, sitting as a judge of the High Court, gave judgment for Cirencester. He set aside the FOS awards and declared them unenforceable on the grounds of fraud and declared that Cirencester had been entitled to avoid the contract ab initio and said –

"Nemesis overtook him [Mr Parkin] dramatically because, like so many people nowadays – particularly those who seem minded to perpetrate frauds, he seemed incapable of keeping off the Internet and sharing the true nature of his activities through social media".

Mr Parkin was also ordered to repay the £19,000; and indemnity costs, including an interim payment in respect of costs of £200,000.