

**SHERIFFDOM OF SOUTH STRATHCLYDE DUMFRIES AND GALLOWAY AT  
DUMFRIES**

[2019] SC DUM 17

DUM-SQ2-19

NOTE (No 2) BY SHERIFF GEORGE JAMIESON

in the cause

SCOTTISH WATER BUSINESS STREAM LIMITED

Petitioner

against

MERVYN McMATH

Respondent

**Act: McCartney  
Alt: Debtor absent**

Dumfries 14 February 2019

The sheriff, on the motion of the petitioner to continue the application for settlement, refuses same, refuses sequestration, dismisses the petition and finds the respondent liable to the petitioner in expenses as taxed; allows an account thereof to be given in and remits same, when lodged, to the auditor of court to tax and report.

**NOTE**

[1] This Note supplements my earlier Note prepared at the request of the petitioner's agent in which I explained my reasons for granting warrant to cite the debtor to a calling on 14 February 2019.

[2] At that calling, the petitioner's local agent asked for a continuation of the petition for settlement, the implication being the debtor was not challenging the petitioners as a qualified creditor. The debtor did not appear at the calling; nor was he represented at it.

[3] I asked Mr McCartney to obtain further instructions and I called the case at a later hour in the Ordinary Court. He explained settlement terms had been agreed between the parties, allowing for payment of the debt within six months.

[4] I informed Mr McCartney that I regarded such a continuation as incompetent as section 23(2) of the Bankruptcy (Scotland) Act 2016 only allowed me to continue consideration of the petition for a maximum of 42 days to allow the debtor to pay (i) the debt in respect of which he had become apparently insolvent, and (ii) any other debt due by him to the petitioner.

[5] As Mr McCartney had no instructions to move for an award of sequestration, I accordingly dismissed the petition with taxed expenses in favour of the petitioner.