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SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 50 of 2002

TODD WILLIAM KELLY and  
DEAN ROYSTON McVEIGH

Applicants

and

J & J RESOURCES PTY LTD (In Liquidation)

Respondent

CAIRNS

..DATE 11/06/2002

JUDGMENT

*As corrected  
EF.*

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: This is an application by liquidators of J & J Resources Pty Ltd (In Liquidation) for the public examination of officers of that company and other persons who may have information relevant to the winding up of the company. The examination concerns the moneys which may be due and owing to the company consequent upon its involvement in building contract for work carried out for the Torres Strait Island Coordinating Council.

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The circumstances in which final payments will be made in which the retention sums are due really depends on information which is not presently in the possession of the liquidators. The only way in which the liquidators can be informed about the administration of this particular contract, it seems to me, would be to arrange for examination of relevant persons pursuant to section 596A and 596B of the Corporations Act.

The first of those sections relates to the mandatory examination of officers of the company. In this instance those relevant officers are Alan Arthur James and Bradley Garth James, who were, at the time, directors of the company.

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The order for examination of others, pursuant to section 596B, is a discretionary matter, and it requires my being satisfied that the persons whom the liquidators seek to examine may be able to give relevant information. See Southern Cross Petroleum Sales Pty Ltd (In Liquidation) [1998] South Australia Supreme Court 6617.

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I am satisfied on the material before me that the three persons, Tony Black, John Gesakowski and Greg O'Brien were, at various times, employed by the Gutteridge Haskins & Davey, the consulting engineer, who was the superintendent of the contract work on behalf of the Island Co-ordinating Council. I am satisfied, therefore, that they are persons who may be able to give relevant examination and for that reason I order that they do be publicly examined.

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The liquidators also apply, pursuant to section 597(9) of the Corporations Act, for the production of relevant documents, books and records, which are in their possession or control. Because of the nature of the contractual work undertaken, and for the purposes of accuracy, it is necessary that such books and records be produced and I am therefore prepared to make the order sought in the application.

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HIS HONOUR: I make orders in terms of the draft initialled by me and placed with the papers.

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