

Transcript of Proceedings

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Date: 5 December, 2003 ✓

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 562 of 2003

PETER JOHN MORRIS and
TODD WILLIAM KELLY

Applicants

and

MARKS CONTRACTORS (QLD) PTY LTD
(ADMINISTRATORS APPOINTED)

First Respondent

and

STATELAND PTY LTD

Second Respondent

CAIRNS

..DATE 01/12/2003

JUDGMENT

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 the administrator of Marks Contractors (Queensland) Pty Ltd for an extension of the time within which the company must consider a resolution passed by a meeting of creditors. The application is made pursuant to section 444B of the Corporations Act (the Act).

The meeting of creditors was held on the 11th of November 2003. The creditors are essentially in two groups, firstly, a major contractor, Stateland Pty Ltd and a group of other creditors who, in a block, have agreed to the resolution. The resolution however, required some further negotiations be undertaken between the two groups before the final terms could be presented to the company for its acceptance.

The limit provided by section 444B is 21 days and any application for an extension of that time must be made within that period. As the limitation expires within the next day or so, this application is made as a matter of urgency.

Within the group of creditors who have agreed to the resolution, some have the potential to make claims pursuant to the Subcontractors Charges Act. The effect of delay in the consideration by the company of the terms of arrangement will delay their opportunity to enforce claims in that way. Against that, the arrangement provides benefits to those persons and to the broader creditors generally.

The period of the extension is relatively short and given the fact that further negotiations were necessary before the

company could consider the resolution and the deed of
arrangement generally, it seems to me that the extension ought
to be granted. The discretion to do so is unfettered, apart
from it having to be exercised judicially.

In those circumstances I am prepared to grant the extension
and make orders in terms of the draft initialled by me and
placed with the papers.
