



Transcript of Proceedings

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State Reporting Bureau
Date: 5 December, 2003 ✓

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 497 of 2003

PETER JOHN MORRIS and
TODD WILLIAM KELLY

Applicants

and

THE PORT HERITAGE RESORT PTY LTD

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, pursuant to section 596B of the Corporations Act 2001 (the Act), for the public examination and production of books and records held by two people who had significant dealings with the company, Port Heritage Resort Pty Ltd, in liquidation.

The application is made by Mr Peter Morris, the liquidator, of the company. The two persons whose examination is required are Anthony Joseph Ingwersen and David Bonaventure Ingwersen, both of whom are directors of a company Ingwersen and Lansdown Securities Ltd.

The history which has attracted the interests of the liquidator concerns two loan agreements entered into on the 22nd of August 2001, secured by registered mortgages over the company's property. The loan amounts collectively exceeded \$10.6 million. The second loan - of \$1 million - called for interest payment of \$500,000 to be made irrespective of when the loan was repaid. Those particular dealings will be important matters for the liquidator to examine.

In his application the liquidator has sought, not only the public examination of the two individuals, but the production of books and records at a time prior to the examination.

The power to require that production appears to arise from the exercise of the inherent jurisdiction of the Court. Ms Stanley, who appeared on behalf of the applicant, referred me to rule 1.8 of the Corporations Rules, schedule 1A to the

Uniform Civil Procedure Rules and to section 118 of the
Supreme Court Act 1991.

I have been referred particularly to the discussion of the
exercise of this power in re: Equitycorp Financer Ltd (1992)
10ACLC302 where Justice Young discussed the relevant
considerations in making such an order.

I am satisfied that I have the discretion to make the order in
the terms sought. The circumstances in which the two
transactions were made are ones in which one would expect the
liquidator to have an interest and the prior production of the
relevant documents will of course facilitate the expeditious
handling of the public examination.

For these reasons I make orders in terms of the draft
initialled by me and placed with the papers.
