

**COURT OF APPEAL**

**MUIR JA**

**Appeal No 7708 of 2010  
DC No 506 of 2008**

**TICKING PTY LTD ACN 117 547 323 ATF  
FOR THE SULZBERGER INVESTMENT TRUST**

**First Defendant/First  
Respondent/First  
Applicant**

**and**

**GRANT ANDREW SULZBERGER**

**Second Defendant/  
Second Respondent/  
Second Applicant**

**and**

**SUZANNE ROBERTA BATCHELOR**

**Third Defendant/  
Third Respondent/  
Third Applicant**

**and**

**SPOILT PTY LTD (ABN 40 002 670 493)  
TRADING AS DISCOUNT BEDDING**

**Plaintiff/Appellant/  
Respondent**

**BRISBANE**

**DATE 28/10/2010**

**ORDER**

**MUIR JA:** The applicants/respondents apply for security for costs of the appeal in the sum of \$25,300. That is made up of the estimated costs of the appeal of \$16,000, and the cost of today's application at \$9,300. The respondent/appellant takes a pragmatic approach to the application.

Mr Collins, who appears for the respondent, does not oppose the ordering of security, but submits that the costs are excessive for a matter of limited complexity. He takes exception to security being provided for the costs of today's application, particularly in the amount estimated, and makes the point that costs are not intended to provide full indemnity to an applicant.

Mr Wilson, who appears for the applicants, points out that the estimates are provided by a reputable trusts assessor and are also supported by an experienced practitioner. It seems to me to be appropriate to take into account the way in which the respondent has sought to confine the costs of today. I think there is merit also in the submission that this is a matter which comes on appeal from the District Court; is not of particular complexity; and costs are not intended to provide for indemnity.

It does seem to me that the amounts for the costs of today, with great respect to those who have estimated them, are singularly high, having regard to the way in which the matter has been handled. Taking those matters into account it seems to me that the appropriate amount of security should be \$16,000.

The orders are: the appellant provides security for the respondents' costs of the appeal in the sum of \$16,000 in a form satisfactory to the Registrar within 28 days of today's date. If security is not provided by that time the appeal will stand dismissed without further order, and the appellant is to pay the respondents' costs of the appeal, and of this application, to be assessed on the standard basis. If security is provided, the costs of this application be the party's costs in the appeal.