



Transcript of Proceedings

Copyright in this transcript is vested in the Crown. Copies thereof must not be made or sold without the written authority of the Director, State Reporting Bureau.

REVISED COPIES ISSUED
State Reporting Bureau
Date: 20 September, 2004

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Claim No 497 of 2003

THE CORPORATIONS ACT 2001

Plaintiff

and

THE PORT HERITAGE RESORT PTY LTD
(RECEIVER AND MANAGER APPOINTED)
(IN LIQUIDATION) ACN 092 089 186

Defendant

CAIRNS

..DATE 17/09/2004

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 for the variation of an order made by me on the 18th of May 2004 for the public examination of four named persons - Raymond Aitken, Mark McIvor, Timothy James and David Tucker.

A further order was made that Mr Aitken and Mr McIvor deliver up certain identified documents 10 days prior to the date set for the examination. Mr Aitken and Mr McIvor have complied with the terms of that order by delivering the documents to the Magistrates Court at Brisbane.

I am informed that the documents so delivered are quite voluminous and the liquidator seeks access to those documents in advance of the hearing for the purpose of pre-examination. Such a step is appropriate, saving both time and expense. It is a matter which has been commented upon in *Re Equity Corp Finance Limited* (1992) 10 ACLC 391. Ordinarily copied documents are delivered directly to the liquidator.

The two examinees, having complied with the order as it was framed, need not, I think, be concerned with whether the liquidator should be allowed to examine the documents. In my view it is clear that the liquidator should have that right and for matters of convenience I would direct the Magistrates Court, on the undertaking of the liquidator's solicitors, to uplift any documents which the liquidator desires to copy. The undertaking given by the solicitors is on the basis that the documents will be maintained and will be returned to the Court prior to the commencement of the public examination.

Now, Ms Stanley, I need to ask you to formally give an undertaking in those terms.

MS STANLEY: I do, your Honour, thank you.

HIS HONOUR: Thank you.
