

**IN THE HIGH COURT OF NEW ZEALAND
DUNEDIN REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
ŌTEPOTI ROHE**

**CIV-2019-412-61
[2019] NZHC 1675**

UNDER Part 16 of the Companies Act 1993

IN THE MATTER OF an application under the Companies Act
1993 for liquidation of the defendant
companies

BETWEEN THE FINANCIAL MARKETS
AUTHORITY
Plaintiff

AND FINANCIAL PLANNING LIMITED
First Defendant

AND IMPACT ENTERPRISES LIMITED
Second Defendant

Hearing: 17 July 2019
(On the papers and by telephone conference)

Counsel: J S Cooper QC for the Plaintiff

Judgment: 17 July 2019

**JUDGMENT OF ASSOCIATE JUDGE LESTER
(with Reasons to follow)**

This judgment was delivered by me on 17 July 2019 at 4.55pm
pursuant to rule 11.5 of the High Court Rules

Registrar/Deputy Registrar
17 July 2019

[1] The plaintiff has sought on a Pickwick basis an order appointing interim liquidators to Financial Planning Ltd and Impact Enterprises Ltd.

[2] I held a telephone conference with Ms Cooper QC this afternoon (Wednesday 17 July 2019) to discuss the application.

[3] Ms Cooper explained the steps taken to bring the application to the attention of the defendant companies, that is again on a Pickwick basis. The sole director of both companies is a Mr Kloogh. Mr Kloogh has a Dunedin solicitor acting for him in his personal capacity. The plaintiff approached that solicitor asking if she was authorised to accept service on behalf of the defendant companies in this application. No reply was received. The solicitor was put on notice by the plaintiff that the plaintiff was going to make this application and again put on notice that I had convened the telephone conference on 17 July 2019.

[4] Approximately 20 minutes prior to the telephone conference the solicitor advised the plaintiff that she was not in receipt of instructions for Mr Kloogh in his capacity as a director, nor was she acting for the two defendant companies.

[5] Copies of the papers were served at the registered office of the two defendant companies, albeit today.

[6] While it may be the case that Mr Kloogh in his capacity as director is not represented by the solicitor contacted and that she may not act for the defendant companies, I infer that she will have sought instructions from Mr Kloogh in relation to the approach to her by the plaintiff. Mr Kloogh has chosen not to give her instructions in relation to this issue or to instruct other counsel who could have contacted the plaintiff in that regard.

[7] The matter is urgent and so I now make an order placing the first and second defendants into interim liquidation.

[8] That is, there will be an *order* in terms of para 1(a) through to para 1(k) of the without notice application dated 12 July 2019.

[9] In addition, there is to be an *order* that this file not be searched without leave of the Court.

[10] The orders are timed at 4.15pm today, Wednesday 17 July 2019.

[11] I will issue a Reasons for Judgment shortly.

Associate Judge Lester

Solicitors:
Charlotte Allan, Financial Markets Authority, Auckland
Copy to counsel: J S Cooper QC, Auckland