

Corporate Recovery

High Court – Validity of Appointment of Liquidator

Date: Friday 15 March 2013

INSOLVENCY/ APPOINTMENT OF LIQUIDATOR

In the Matter of Managh International Transport Ltd – v – Companies Act

This case concerned the validity of proceedings at a creditors' meeting of Managh International Transport Ltd, when the creditors nominated a different liquidator to the nominee of the company. The company had nominated Patrick Russell as liquidator. Later the same day, the creditors nominated another accountant, John O'Connell, as liquidator.

The validity of the second vote and the question whether Mr. O'Connell or Mr. Russell was the properly appointed liquidator were disputed. A director of the company sought to have the nomination of Mr. O'Connell invalidated.

The application failed on all grounds. The court rejected the challenge to Mr. O'Connell's nomination and held that Mr. O'Connell, not Mr. Russell, had been properly appointed.

The court stated that it appeared to be an attempt by litigation to overturn the choice of liquidator.

The court was sceptical about the status of the applicant. The judge thought that the applicant was not a contributory of the company within the meaning of s. 280, but that he had the status under s. 267 as a director or creditor. The court was of the view that the application might have been an attempt by the applicant to preserve in position a sympathetic person whom he had previously employed to do work for the company and to overturn the choice of liquidator of the creditors.

The judge thought that "the device of getting the co-director to bring this application seeking to overturn the creditors' choice of liquidator is wholly unmeritorious".

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