

NZX ANNOUNCEMENT

19 September 2018

Cayman court exonerates Kerr & Naylor, rules against suppression of judgment

In early July a settlement was reached in the Cayman Islands proceedings (the “Petition”) involving the Torchlight Fund LP and Aurora Funds Management, Crown Asset Management Limited and the Accident Compensation Corporation (known as the Petitioners).

Pyne Gould Corporation Limited’s (“PGC”) direct limited partner interests in the Torchlight Fund are currently 70.4% and it owns 100% of Torchlight GP Limited (the fund’s General Partner).

Subsequent to settlement of the Petition, on 16 July 2018 the Court directed that it would proceed to publish its judgment in those proceedings in any event. In its direction of 16 July, the Court explained that a key factor in its decision to publish was to make clear that Mr Kerr and Mr Naylor had been fully exonerated, noting in particular that:

“Mr George Kerr and Mr Russell Naylor have been heavily criticised in the course of these proceedings and their professional standing has been consistently impugned. Not only are Mr. Kerr and Mr. Naylor entitled to know that they have been exonerated but the public is entitled to know it as well. This is a matter of human rights as much as it is a matter of commercial law, and in this context public access to justice is paramount.”

The Court also directed that notwithstanding the submissions of the Petitioners, there was no reason for the judgment to be anonymised.

Notwithstanding the Court’s direction, the Petitioners continued to contend that publication should not ensue.

As a result, the Court convened a hearing on 10 September 2018, at which the Petitioners persisted in arguing that judgment should not be published. The trial Judge rejected the Petitioners’ arguments at the hearing and handed down his judgment setting out his reasons on 13 September 2018 [see judgement attached as an appendix to this release]. This decision confirmed that the judgment in the Petition Proceedings should be published and noted that *“the Court considers the merits of publication to be overwhelming”*. The Judge concluded that:

“The Court affirms that it has the overarching discretion to proceed to give a full judgment notwithstanding the prior disposal of a case. The Court also rules that it has jurisdiction to do so, and in the particular circumstances of these proceedings for the specific reasons identified it is in the interests of justice to give the Judgment.”

Having failed to prevent publication of the judgment before the trial Judge, the Petitioners have indicated that they may now attempt to appeal this decision. However, the trial Judge has indicated that he sees no merit in any appeal and has confirmed in his decision of 13 September that:

“Finally, in light of the clear governing legal principles the Court considers that there are no arguable grounds of appeal and no realistic prospects of an appeal against this

decision succeeding. Nonetheless, the Court shall grant a stay of 14 days before publication as requested by the Petitioners."

The Torchlight Fund's General Partner is hopeful that the judgment will be published soon.

For more details on the settlement, see previous PGC announcements on 11 July 2018 [*PGC to Report Material Uplift from Successful Torchlight Settlements*] and 18 July 2018 [*Torchlight Fund – further settlement detail*].

For more information, please contact: David Lewis +64 21 976 119