

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

CIV-2007-404-2708

BETWEEN COMMISSIONER OF INLAND
 REVENUE
 Plaintiff

AND F B DUVALL LIMITED
 Defendant

Hearing: 4 December 2009

Appearances: Mr C Wood for plaintiff
 Mr S R G Judd for defendant

Judgment: 4 December 2009

ORAL JUDGMENT OF ASSOCIATE JUDGE DOOGUE

Counsel:

Mr Cyril Wood, Meredith Connell, Auckland – by email: cyril.wood@meredithconnell.co.nz
Mr S R G Judd, Barrister, Auckland – by email: simon@simonjudd.com

[1] The liquidation proceeding in this matter can now be finally resolved. The defendant has paid the amount claimed by the Commissioner in the liquidation proceedings into Court and seeks an order that that amount and any interest thereon be paid to the plaintiffs. I order that the Registrar is to pay the sums that I have just mentioned to Messrs Meredith Connell (attention Mr Wood) on behalf of the Commissioner.

[2] That leaves the issue of costs. There have been quite a number of steps taken in this proceeding along the way including a defended application to stay the liquidation proceedings. I am not at all clear as to what if any costs orders were made as the proceedings found their way through the Court. It seems to me that the fairest position to take on the issues of costs should reflect that the Commissioner in the end has at least been successful on the liquidation application and that if the defendant had not paid into Court then, it seems highly likely that it would have been liquidated. I consider that the Commissioner should therefore have costs on the preparation and filing of the liquidation proceedings as well as the disbursements incidental to it. The Commissioner should also have costs on a 2B basis for the appearance on this matter when it was first called and on today's hearing. Apart from that all other costs are to lie where they fall.

J.P. Doogue
Associate Judge