

BETWEEN JANE BOND
 Applicant

AND REACH INVESTMENTS CORPORATION
 LIMITED (in liq)
 Respondent

Member of Authority: Leon Robinson

Representatives: Applicant In Person
 No appearance for Respondent

Determination: 14 March 2007

DETERMINATION OF THE AUTHORITY

[1] The applicant Ms Jane Bond ("Ms Bond") claims bonus monies as arrears of wages from Reach Investments Corporation Limited ("Reach Investments"). She asks the Authority to investigate the matter.

[2] Reach Investments did not attend the investigation meeting scheduled today.

[3] Ms Bond advises the Authority Reach Investments has been placed into liquidation. I have made enquiries and have confirmed that is the status disclosed by the Companies Office register.

[4] Ms Bond lodged her statement of problem in the Authority on 30 January 2007. I was not persuaded to accord the investigation urgency and declined to abridge the time for Reach Investments to lodge its statement in reply. The statement of problem was served on Reach Investments on 1 February 2007.

[5] By facsimile letter dated 16 February 2007, Mr Joshua Lucas of Phil Butler & Associates Limited wrote to the Authority in these terms:-

We wish to apologise for the delay in filing our statement of reply and request that the Authority give the respondent a short extension of time to complete the statement.

We anticipate that we will be able to file the statement in reply by the end of next week.

We thank you for your time.

[6] By a memorandum dated 19 February 2007, I enlarged the time for lodging the statement in reply to 12.00 pm on Friday 23 February 2007. The statement in reply was not lodged within the enlarged time. A printout dated 23 February of the Companies Office register confirmed Reach Investment's current status as registered.

[7] By Minute of 26 February 2007, I directed the matter proceed to investigation meeting today.

[8] Later that same morning, Phil Butler & Associates Limited wrote to the Authority by facsimile and advised:-

*We have been advised by our clients they are being put into liquidation.
As such we will not be filing a statement in reply.*

[9] My enquiries today reveal Reach Investments' liquidation commenced on 23 February 2007. From that point, by section 248 of the *Companies Act 1993* the Authority's investigation as legal proceedings¹ were prohibited in the absence of the liquidator's consent or an order by the Court. That section provides:-

248 Effect of commencement of liquidation

(1) With effect from the commencement of the liquidation of a company,—

(a) The liquidator has custody and control of the company's assets:

(b) The directors remain in office but cease to have powers, functions, or duties other than those required or permitted to be exercised by this Part of this Act:

(c) Unless the liquidator agrees or the Court orders otherwise, a person must not—

(i) Commence or continue legal proceedings against the company or in relation to its property; or

(ii) Exercise or enforce, or continue to exercise or enforce, a right or remedy over or against property of the company:

(emphasis added)

[10] As there is no consent from the liquidator or an order from the Court, I informed Ms Bond the Authority could not continue to investigate.

¹ See *McCready & Dataperfect Holdings Limited*, AA158/01, 12 October 2001, R Monaghan, *Munro & Village Care New Plymouth t/a Highlands Lodge* WA164/04, 26 November 2004, D Asher, *Marshall & Bettalife International Limited*, AA249/05, 5 July 2005, R Monaghan, and *Iosua & Peter Morgan*, AA337/06, 3 November 2006, L Robinson as other instances where investigations were not continued. *Warsame & CCNP Limited*, AA291/06, 13 September 2006, M Urlich is an investigation continued with the liquidator's consent.

[11] Ms Bond indicates her desire to explore the options available to her. In those circumstances, I suspend this investigation and will make no further enquiries. Ms Bond is to advise the Authority of her further intentions if any by 5 June 2007 failing which I direct this investigation shall then be concluded and the file closed.

[12] The liquidator of the respondent company Jollands Callendar is to be served with this Determination. The intituling of this investigation is to be amended to show the respondent's current status.

Leon Robinson
Member of Employment Relations Authority