

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

CIV-2013-404-1447

UNDER Part 17, Subpart 7 of the High Court Rules 2008
IN THE MATTER of enforcement of Court order
BETWEEN DAMIEN GRANT and STEVEN KHOV as
liquidators of VIVID BUILDERS LIMITED
(IN LIQUIDATION)
Entitled Parties
AND MOHAMMED BARAHMI
Liable Party

Hearing: 11 December 2013

Counsel: A Ho for the Entitled Parties
No attendance by or on behalf of the Liable Party

Date of Minute: 11 December 2013

MINUTE OF WYLIE J

Solicitors / Counsel:

Mr B J Norling and Mr A Ho, Waterstone Insolvency, Albany (Email: brent@waterstone.co.nz and alden@waterstone.co.nz)

[1] Messrs Grant and Khov are the liquidators of Vivid Builders Ltd (in liquidation). Mr Barahmi is a former director of Vivid Builders. The liquidators have been endeavouring to secure Mr Barahmi's attendance for the purpose of interviewing him regarding the affairs of the company pursuant to s 261 of the Companies Act 1993. They have been unable to secure Mr Barahmi's co-operation.

[2] The liquidators obtained an order from this Court on 16 August 2013 requiring Mr Barahmi to attend an interview on 29 August 2013 at 2:00 pm. Mr Barahmi did not attend. Subsequently, the liquidators spoke to Mr Barahmi on three separate occasions requesting that he make himself available for an interview. He has not done so.

[3] On 7 November 2013 the liquidators sought an order for Mr Barahmi's arrest pursuant to r 17.84 of the High Court Rules. Gilbert J, in a minute issued on that day, declined to make an order because there was no evidence that Mr Barahmi was aware of the order made by the Court on 16 August 2013. He varied the order to require Mr Barahmi to attend at 16 Piermark Drive, Albany, Auckland at 2:00 pm on 28 November 2013 for the purpose of being interviewed. He directed that a copy of the sealed order of the Court and a copy of the minute should be served on Mr Barahmi without delay so that he could make arrangements to comply. He further indicated that if Mr Barahmi failed, without proper excuse to comply with the order, he would be vulnerable to arrest pursuant to r 17.84.

[4] An affidavit has been filed by a Marcel Fouche. The affidavit confirms that the Court order and Gilbert J's minute were served on Mr Barahmi on 13 November 2013. They were served on Mr Barahmi personally and he acknowledged his identity.

[5] The Court has received a memorandum dated 29 November 2013 from Mr Ho, as counsel for Messrs Grant and Khov. He has advised that Mr Barahmi failed to comply with the Court order.

[6] A further affidavit of service has been filed by Mr Fouche confirming that a copy of Mr Ho's memorandum, an email from the High Court Registrar dated 3 December 2013, and a covering letter informing Mr Barahmi that the matter was to be called today was served on 6 December 2013.

[7] The matter has been called this morning. There was no appearance by Mr Barahmi. There is no explanation for his failure to comply with the Court order made by Gilbert J.

[8] I have considered the Court order. I am satisfied that the terms of the order were clear and unambiguous. I am further satisfied that Mr Barahmi was served with the order and that he has not complied with it. The fact that he has persistently failed to comply, notwithstanding requests from the liquidators and orders of this Court, shows a wilful and inexcusable disregard of the Court order.

[9] Accordingly, I issue a warrant for Mr Barahmi's arrest pursuant to r 17.84.

[10] Mr Barahmi is to be brought before a Judge as soon as reasonably practical following his arrest so that arrangements can be made for him to be interviewed by Messrs Grant and Khov.

A handwritten signature in black ink, consisting of a long horizontal stroke followed by a vertical stroke and a small loop at the end.

Wylie J