

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

**CIV 2015-404-000347  
[2015] NZHC 1652**

BETWEEN                      DAMIEN GRANT AND STEVEN  
   KHOV  
   Applicants

AND                              ML TRUSTEES 2711 LIMITED  
   Respondent

Hearing:                      On the papers

Counsel:                      B J Norling and A Ho for the Applicants  
   A R Nicholls for the Respondent

Judgment:                      15 July 2015

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**JUDGMENT AS TO COSTS OF ASSOCIATE JUDGE CHRISTIANSEN**

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*This judgment was delivered by me on  
15.07.15 at 4:30pm, pursuant to  
Rule 11.5 of the High Court Rules.*

*Registrar/Deputy Registrar  
Date.....*

[1] Counsel have filed memoranda regarding the fixing of costs. The applicants were successful with their application for a declaration that they were validly appointed as liquidators of Easy Group Limited pursuant to a special resolution of shareholders dated 16 January 2014.

[2] Counsel for the applicants seek an uplift on scale 2B costs claiming the respondent's opposition to the application was unnecessary and should not have been used for the deliberate and irrelevant purpose of endeavouring to bring the liquidators' reputation into disrepute.

[3] The applicants also say that the respondent failed to act reasonably when refusing to accept an offer of compromise.

[4] In the Court's view the compromise offer was not an attractive one and was understandably rejected.

[5] The application was necessary because Justice Heath in a related proceeding declined to confirm the liquidator's appointment, requiring a separate application to be made by the liquidators for that purpose. Furthermore Heath J directed the application be served upon the respondent and [REDACTED]

[6] Before me the liquidators succeeded because the Court was prepared to infer that over a period of time it was clear that the liquidators' appointment had been ratified.

[7] To some extent the liquidators must accept some responsibility for the fact that the special resolution for their appointment was not signed by all signatories required. After all it was the liquidators who had prepared the special resolution.

[8] In the Court's view scale 2B without uplift is appropriate and the Court orders accordingly.

[9] No costs are awarded for the filing of memoranda as to costs.

[10] No costs are allowed for sealing the order in relation to the validity of appointment for the liquidators were obliged to bring the validity application. However the applicants shall be reimbursed the costs of sealing the order for costs.

[11] In the Court's calculation costs (including costs of sealing the order for costs) on a 2B basis amount to \$9,552.

[12] The order may be sealed in that amount.

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**Associate Judge Christiansen**