



Administrative Appeals Tribunal

ADMINISTRATIVE APPEALS TRIBUNAL)
) No. 2019/8307
TAXATION AND COMMERCIAL DIVISION)

Re: Trajan Kukulovski
Applicant

And: A Committee convened under section 40-45
of the Insolvency Practice Schedule (Corporations)
Respondent

TRIBUNAL: Deputy President S A Forgie

DATE: 7 January 2021

PLACE: Melbourne

DECISION

UPON APPLICATION of the applicant lodged on 16 December 2019 for review of a decision of the respondent dated 13 December 2019 AND UPON the parties' having reached agreement as to the terms of a decision that would be acceptable to them AND UPON their having lodged on 22 December 2020 a written agreement setting out those terms AND UPON BEING SATISFIED that a decision consistent with those terms is within the power of the Tribunal to make, and that it is appropriate to make, IT IS DECIDED BY CONSENT that:

1. the reviewable decision of the respondent dated 13 December 2019 to cancel the applicant's registration as a liquidator is set aside;
2. the applicant's registration as a liquidator is suspended for a period of 3 years from 15 January 2020;
3. the applicant's registration as a liquidator is subject to the condition that:
 - (1) during the period from 15 January 2023 to 14 January 2026, the applicant must not consent to be appointed and/or act in any role for which registration as a liquidator is at the time required, unless that appointment is on a joint basis with another registered liquidator whose registration is not subject to any condition that restricts the circumstances in which that person may consent to be

appointed and/or act in a role for which registration as a liquidator is at the time required. The applicant must ensure that no recovery is made from any entity to which he is appointed and acts in a joint capacity in accordance with this condition of costs that would not have been incurred had the appointment been on other than a joint basis;

4. the decision of the respondent on 13 December 2019 to direct ASIC to publish its report is set aside, and in substitution thereof, ASIC is directed to publish a summary of its concerns as set out in Annexure A.



ANNEXURE A

Summary of ASIC's Concerns

ASIC's concerns related to Mr Kukulovski's roles as voluntary administrator, deed administrator and liquidator/joint liquidator of Timplatter Pty Ltd (Tin), Adelaide Street Holdings Pty Ltd (ASH), and Western Jetz Pty Ltd (WJ) between 2009 and 2013, including:

- Mr Kukulovski failed to adequately supervise staff on the ASH and WJ external administrations, resulting in some monies of those administrations being used to pay unrelated expenses of \$190,000 and \$10,000.
- The monies in question were not deposited into their respective liquidation bank accounts as required by the *Corporations Regulations 2001*.
- Mr Kukulovski also failed to report the receipt of these monies to creditors.
- The forms lodged with ASIC by Mr Kukulovski for these administrations failed to properly account for these monies and accordingly, the forms were false or misleading.
- Mr Kukulovski failed to adequately supervise staff on the ASH and Tin external administrations, resulting in the monies of those administrations being used for the payment of legal fees for an unrelated external administration.
- Further, these monies were deposited into Mr Kukulovski's firm account instead of being paid into liquidation bank accounts, in breach of the *Corporations Regulations 2001*.

Since the Committee's decision, ASIC performed a review of the lodgement requirements for Mr Kukulovski and identified the following additional concerns in Mr Kukulovski's external administrations during the period 1 November 2017 to 15 January 2020:

- non-lodgement of forms required under the Act;
- other issues related to the non-lodgement or lodgement of forms required under the Act that are separate to the non-lodgements above;
- the late lodgement of various forms required under the Act; and
- issues related to notices of meetings of creditors, minutes of meetings of creditors and timing of lodgements related to meetings of creditors held.