
Matthew Blomfield

4 messages

Mike Alexander <Mike@halaw.co.nz>

Mon, Jun 21, 2010 at 3:01 PM

To: robert.rendle@med.govt.nz

Cc: Matthew Blomfield <matt.blomfield@xtra.co.nz>, John Heimsath <John@halaw.co.nz>

Robert,

Further to our earlier discussions I **attach** a summary of the background to the collapse of the various companies identified by you as leading to Matthew's banning as a director. Also, a resume through to 2008. These are both in Matthew's own words.

What I hope they will illustrate for you is that Matthew is a very capable and, for the most part of his working life barring only the last two/three years, a very thorough and successful business person, director and manager. Matthew experienced extraordinary success for a young man. It's clear that, in part, he may have overstretched himself. However, he was also the victim of an extraordinary financial crisis and some bad luck (in terms particularly of the reaction for example of TPF to his advertising campaign and the resulting refusal to pay Cinderella the significant sums owed to that company - see the **attached**). What is clear to us is that Matthew has learned a lot over the last few years. He is also in our experience, fundamentally, a very capable and sound human being. We are not the only ones who think this - witness for example the comments of the Tindall Foundation and others referred to in Matthew's background summary.

Banning him from being a director and/or manager of a company for 5 years is effectively a "life sentence" for someone with Matthew's energy and ability and will penalize him at exactly the time that he is beginning to get things back on track after what has been for him and his family an extraordinarily stressful and traumatic time. We ask that you reconsider.

Sincerely,

MIKE ALEXANDER PARTNER

DDI +64 9 929 0501

MOBILE +64 21 419 925

WEB www.heimsathalexander.com

HEIMSATH ALEXANDER

— Barristers and Solicitors —

2 attachments

 **MB background.pdf**
91K

 **Matthew Blomfield - resume (2008).pdf**
56K

Robert Rendle <robert.rendle@med.govt.nz>

Mon, Jul 5, 2010 at 5:17 PM

To: Mike Alexander <Mike@halaw.co.nz>

Cc: Matthew Blomfield <matt.blomfield@xtra.co.nz>, John Heimsath <John@halaw.co.nz>

Dear Mr Alexander,

I refer to your email of 21 June and the attached resume for Matthew Blomfield and summary of background. We have considered whether these matters can be taken into account after the Deputy Registrar has issued a minute of decision and a final notice of prohibition under section 385(3) to Mr Blomfield.

As you will be aware, under section 385 of the Companies Act 1993, if a person was a director, or involved in the management, of two or more failed companies within the previous 5 years, there is a presumption that mismanagement has been a cause of the failures. The onus rests on that person to satisfy the Registrar that either the manner in which the affairs of all, or all but one, of those companies were managed was not wholly or partly responsible for their failure; or that it would not be 'just and equitable' to exercise the power of disqualification. A period of time is allowed for a director to make representations to the Registrar of Companies for the purpose of discharging this onus. Section 385(5)(a) provides that this period of time must be at least 10 working days.

In determining whether to exercise the power of prohibition, the Registrar considers any representations that are received within the time allowed (in Mr Blomfield's case a period of 20 working days from the date he was served with notice under section 385(5)(a)), and any publicly available information (for example, court judgements and liquidators reports). Mr Blomfield had the opportunity to make submissions to the Registrar, and did so through your letter dated 23 October 2009. The process under section 385 is not an iterative one. After considering Mr Blomfield's representations the Deputy Registrar has determined that it is appropriate to prohibit him under section 385 for a period of five years. The reasons for this decision are set out in Deputy Registrar's Minute of Decision. Having reached a final determination in accordance with the provisions of section 385, the Deputy Registrar will not now consider additional representations. Accordingly, public notice of Mr Blomfield's prohibition will now be arranged in the next available issue of the New Zealand Gazette and Mr Blomfield's name will be added to the list of banned directors available on the Companies Office website.

There is a right of appeal to the High Court under section 370 of the Act. I note that under section 385(7) of the Act the Notice of Prohibition remains in full force and effect pending the determination of any appeal or application for judicial review.

Yours faithfully

ROB RENDLE | Senior Solicitor, Business Services Branch | **Ministry of Economic Development**
DDI +64 4 470 2535 | Fax +64 4 471 1534
Email robert.rendle@med.govt.nz

From: Mike Alexander [mailto:Mike@halaw.co.nz]

Sent: Monday, 21 June 2010 3:02 p.m.

To: Robert Rendle

Cc: 'Matthew Blomfield'; John Heimsath
Subject: Matthew Blomfield

[Quoted text hidden]

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Mike Alexander <Mike@halaw.co.nz>
To: Robert Rendle <robert.rendle@med.govt.nz>
Cc: matt.blomfield@xtra.co.nz, John Heimsath <John@halaw.co.nz>

Fri, Jul 9, 2010 at 3:50 PM

Robert,

Thanks for your response. Our client is considering whether he has the means to formally appeal but in the meantime wishes to confirm with you work that he can do which will not be affected by the prohibition issued by the Companies Office. Our client currently undertakes the following work as a consultant employed by a management company called Abraham Black Limited (sole director and shareholder of which is Warren Powell who is also a director and shareholder of Hell Revolution Limited (Hell Pizza master franchisor)):

- Advisory work on marketing, branding and media placement;
- Advisory work on franchisee matters working along law firms including dealing with insolvent or recalcitrant franchisees;
- Business consultancy for a number of smaller clients mainly in areas of business development;
- Sourcing franchise properties and opportunities for master franchisees.

Can you please confirm none of the above puts Matthew in breach of the prohibition. Any further information you can provide which helps us understand what Matt can and can't do would be much appreciated.

Thank you,

MIKE ALEXANDER PARTNER

DDI +64 9 929 0501

MOBILE +64 21 419 925
WEB www.heimsathalexander.com

HEIMSATH ALEXANDER
— Barristers and Solicitors —

From: Robert Rendle [mailto:robert.rendle@med.govt.nz]
Sent: Monday, 5 July 2010 5:17 p.m.
To: Mike Alexander
Cc: Matthew Blomfield; John Heimsath
Subject: RE: Matthew Blomfield

[Quoted text hidden]

Mike Alexander <Mike@halaw.co.nz>
To: Robert Rendle <robert.rendle@med.govt.nz>
Cc: Matthew Blomfield <matt.blomfield@xtra.co.nz>

Wed, Jul 14, 2010 at 10:36 AM

Okay thanks Robert.

MIKE ALEXANDER PARTNER

DDI +64 9 929 0501

MOBILE +64 21 419 925
WEB www.heimsathalexander.com

HEIMSATH ALEXANDER
— Barristers and Solicitors —

From: Robert Rendle [mailto:robert.rendle@med.govt.nz]
Sent: Wednesday, 14 July 2010 10:31 a.m.
To: Mike Alexander
Subject: RE: Matthew Blomfield

Mike,

Thank you for your email of Friday, 9 July 2010.

As you will be aware word “management” is not defined in the Companies Act 1993, but it has been the subject of judicial consideration in both New Zealand and Australia. You will appreciate that whether a person is deemed to be a director for the purposes of sections 126 and 385 of the Companies Act 1993 can only be determined by looking at the facts of the particular relationship between the individual and the company concerned. It is impossible to answer the question in the abstract by reference to a range of broadly defined tasks that an individual may perform for a range of companies. It is possible that the tasks set out in your email could see the individual concerned deemed to be a director for some companies, but not for others, depending on the particular circumstances of the relationship between your client and the company.

Accordingly, I cannot provide the confirmation requested in your email. It is up to your client to manage his affairs so that he does not act in breach of his prohibition.

Regards,

ROB RENDLE | Senior Solicitor, Business Services Branch | **Ministry of Economic Development**
DDI +64 4 470 2535 | Fax +64 4 471 1534
Email robert.rendle@med.govt.nz

From: Mike Alexander [mailto:Mike@halaw.co.nz]
Sent: Friday, 9 July 2010 3:50 p.m.
To: Robert Rendle
Cc: matt.blomfield@xtra.co.nz; John Heimsath
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[Quoted text hidden]