

IN THE MATTER OF RUSSELL ISLANDS PLANTATION ESTATES LIMITED (IN
PROVISIONAL LIQUIDATION)
AND
IN THE MATTER OF THE COMPANIES ACT (CAP. 175)
AND
IN THE MATTER OF AN APPLICATION BY INTERNATIONAL COMTRADE AND
SHIPPING LIMITED

High Court of Solomon Islands
Palmer J.)

Civil Case No. 243 of 2001

Hearing: 30th September 2002
Ruling: 30th September 2002

Mr. C. Ashley: *for the Applicant (International Comtrade & Shipping Limited)*
Mr. J. Apaniai: *for the Respondent (Russell Islands Plantation Estates Limited)*
Mr. J. Sullivan: *for the Petitioning Creditor Mobil Oil Australia Pty Ltd and for Sol-Law (a creditor)*
Mr. P. Lavery: *for Objectors Claudio Kabasi, Leonard Oge, Kwaeria Tabuke, Joe Haluepu and Allen
Komelo (creditors and employees of the Respondent)*
Mr. Idu Rara: *Objector in person (creditor)*

Palmer J.: On 4th September 2002 I made certain orders including the calling of a meeting of the Creditors and Members of the Respondent ("RIPEL") pursuant to section 198(1) of the Companies Act (Cap. 175) to be held on or about Thursday 26th September 2002. The orders made also included the holding of an Information Meeting to be chaired by the Public Solicitor, in this instant, Mr. Lavery for the purpose of explaining the contents and effect of the Scheme Documents, (which comprise the Notice summoning the meeting, the Advertisement of the Meeting, the Form of Proxy, the Explanatory Statement, the Scheme of Arrangement and other accompanying documents) to the employees of RIPEL who also are creditors of the company. I understand Mr. Lavery had discharged his duties as imposed on him by order of this court. This is supported by his affidavit filed 18th September 2002 in which was attached a copy of his report of the conduct of numerous meetings convened by him at Yandina. No adverse report or objection has been received regarding the conduct of those meetings. I am satisfied he has discharged his duties as required of him.

Mr. Lavery now in his usual capacity as the Public Solicitor, with Mr. Idu Rara in his personal capacity, apply to this court for adjournment citing allegations of impropriety which have come to their knowledge in the conduct of the voting carried out at the Meeting of the Creditors and Members. They say these are likely to have a direct bearing on the decision to be made by this court whether to sanction the said Scheme of Arrangement proposed by the Applicant or not.

I have considered the delay in filing Notice of Intention to appear at this hearing. However I am not satisfied that they should be shut out in view of what is now being raised. I give leave to Mr. Lavery on behalf of his clients and Mr. Idu Rara to be heard.

Mr. Lavery and Mr. Idu Rara ask for time to file appropriate evidence before this court in support of their objections. Mr. Ashley for the Applicant objects to any further adjournment. He wants the matter to proceed without further delay. I have heard Mr. Sullivan and Mr. Apaniai.

Apart from the consideration of the Scheme of Arrangement itself, this court has duty to hear any objections or complaints, which would have a direct bearing on how the Meeting of Creditors and Members was conducted and its outcome. Where impropriety is alleged, these must be given vent by this court. The question whether these allegations are frivolous or vexatious or without substance or vice versa, can only be determined after giving opportunity to Mr. Lavery and Mr. Idu Rara to be heard, that is adducing evidence in support of their allegations.

I am satisfied in the circumstances an adjournment of the Applicant filed 26th September 2002 should be granted.

It appears that there may be allegations raised against Solomon Islands National Union of Workers ("SINUW"). Accordingly they should be joined in these proceedings and given opportunity to be heard. All relevant documents should be served on it as well.

The Summons is adjourned. Any affidavits sought to be relied on by any of the Objectors should be filed within seven days. Any other affidavits, which the other parties wish to rely on, are to be filed seven days thereafter, and the Summons to be re-listed for hearing thereafter. There is liberty to apply on one-day notice. Mr. Idu Rara should seek the assistance of a lawyer during the adjournment. Costs should be in the cause.

ORDERS OF THE COURT:

1. Summons of the Applicant filed 26th September 2002 is adjourned.
2. Any affidavits, which any of the Objectors wish to rely on during the hearing of the said Summons should be filed within seven (7) days.
3. Any affidavits in reply by any other party should be filed seven (7) days thereafter.
4. The Summons to be listed for hearing immediately thereafter.
5. Any notice to cross-examine Deponents of any affidavit should be served one day before the hearing date.
6. Join SINUW as a party in these proceedings for the purposes of this Summons.
7. Relevant court documents including affidavits to be served on SINUW.
8. Liberty to apply on one-day notice.
9. Costs in the cause.

ALBERT R. PALMER

THE COURT.