

IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CIVIL DIVISION)

Misc.No. 15/2000

IN THE MATTER of Section 336 of the
Companies Act 1955 (NZ)
as applied in the Cook
Islands by the Companies
Act 1970-71

AND

IN THE MATTER of an application by
MIKE HENRY of Aitutaki
for the reinstatement of
ISLAND TOURS LIMITED

Applicant

JUDGMENT OF QUILLIAM C.J.

This is one of many applications which have been made to the Court for reinstatement of a company which has been struck off the companies' register for non-payment of annual licence fees.

The Registrar of Companies has filed a memorandum recording that a number of notices were sent to the company calling for payment of the outstanding fees, in default of which there would be a striking off. In this case, as in many others, the response of the company's representative was that the notices had not been received. This explanation has been at best unconvincing, and in most cases an aggravation of the default as being dishonest. In the present case the company's representative, through his counsel, now acknowledges that at least one of the notices was received. I have little doubt that the others were also, and were ignored.

Section 450 (1) of the Companies Act 1955 (NZ) provides for a penalty of \$40 per month for any company carrying on business in breach of the Act. The question now is as to the penalty which should be imposed in this case.

As the company carried on business for a total of 26 months while its licence fees remained unpaid the maximum penalty would be \$1040. As the company was undoubtedly notified of the obligation to pay arrears of licence fees the penalty must be more than merely nominal. In the circumstances, with some misgivings, I am prepared to fix

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the penalty at \$120, but it should be clearly understood that in future cases of such long default, and particularly where there is a false denial of having received notices, I would expect to fix a substantially greater penalty.

There will be an order for reinstatement, subject to payment within 7 days of outstanding licence fees of \$20.25, fax costs on the present application (which may already have been paid), and the penalty of \$120.

William C. F.
14/3/00 (13.)