



IN THE SUPREME COURT OF BERMUDA

Bankruptcy Jurisdiction

1998: No. 21 and 1998: No. 423

IN THE MATTER OF BANKRUPTCY ACT 1989 AND

IN THE MATTER OF JULIAN ERNEST SINCLAIR PHILLIPS HALL

EXPARTE RULING

Date of Hearing: 5th January, 2009

Date of Ruling: 19th January, 2009

Mr. Paul Harshaw for Official Receiver

1. On 5th January, 2009 an Exparte Application was heard in chambers seeking the following orders.
 - a. that the Official Receiver be granted leave to summons persons named below, pursuant to section 29 of the Bankruptcy Act 1989 to appear before this court at a time and place to be fixed and to produce any documents in his or her custody or power relating to the Bankrupt.
 - b. that the official Receiver be granted leave to defer filing of the report under section 32 of the Act until after the hearings under section 29 of the Act are concluded.

The question is whether in the circumstances, this would be a reasonable exercise of discretion at this time.

2. This matter is of some vintage. It is now about nine years since the Bankrupt had been so adjudged on the 26th January, 2000.
3. The record shows, that despite notice of the names in the summons and their relationships with the Bankrupt and despite questions and answers exchanged between them and the Official Receiver over the years, no section 29 examinations have ever been held.
4. However reports have been completed and a section 32 hearing was conducted before the courts with the culmination of a vacated ruling sometime in 2008.
5. Consequently a directions hearing was conducted on 20th August, 2008. At that hearing the Official receiver received orders allowing him to withdraw his section 32 report and to submit further questions to the Bankrupt and to file a new section 32 report upon receipt of the answers to those questions.
6. On 3rd November, 2008 a further hearing was conducted on an application for a contempt order against the Bankrupt and or an extension of time for a filing of the answers.
7. The contempt order was refused; the extension granted and deemed to be complied with. The Official Receiver was granted a further.....days to file his section 32 report counting from the date of that ruling.
8. To date no section 32 report has been filed except for the purposes of this exparte application.
9. There is no doubt that a grant of the orders sought will significantly contribute to the further delay of these proceedings with doubtful benefit. Further, unlike the present application, all of the previous orders were made in open court with the Bankrupt given opportunity to be heard. I think in the circumstances this ought to have been an application with notice to the Bankrupt.
10. In all the circumstances it is my view that it would not be a reasonable exercise of discretion to at this time grant an order in the terms sought by the summons, except however that a final period of fourteen days will be allowed the official Receiver to file his section 32 Report.

Dated this day of January, 2009

Hon. Carlisle Greaves
Puisne Judge