IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CIV 2015-404-989
CIV 2015-404-990
CIV 2015-404-991
CIV 2015-404-992
CIV 2015-404-994
[2016] NZHC 1564

BETWEEN	DAMIEN GRANT AND STEVEN KHOV AS LIQUIDATORS OF AK GROUP LTD (IN LIQUIDATION), CHK HOSPITALITY LTD (IN LIQUIDATION), BUCKLANDS BEACH LTD (IN LIQUIDATION) AND STANMORE BAY LTD (IN LIQUIDATION) Applicants
AND	RAJWINDER SINGH GREWAL, RAVINDER KAUR, JOTI JAIN and SATWANT SINGH Respondents

Hearing:	2 June 2016
Counsel:	A Ho for Applicants R S Grewal, in person A R Gilchrist for Ravinder Kaur D Ryken for Joti Jain G Aulakh for Satwant Singh
Judgment:	11 July 2016

JUDGMENT OF HEATH J

This judgment was delivered by me on 11 July 2016 at 4.00pm pursuant to Rule 11.5 of the High Court Rules

Registrar/Deputy Registrar

Solicitors:
Brent James Norling/Alden Ho, Auckland
Counsel:
A R Gilchrist, Auckland
D Ryken, Auckland
G Aulakh, Auckland

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The applications

[1] AK Group 2006 Ltd (AK Group), Bucklands Beach Ltd (Bucklands), CHK Hospitality Ltd (CHK) and Stanmore Bay Ltd (Stanmore) were each placed in liquidation on 11 December 2014. These companies are part of what is known as the "Masala" group.

[2] The original liquidator, Mr Gilbert, resigned in favour of Messrs Grant and Khov (the liquidators). They have had carriage of the administration of each of the companies in liquidation since their appointment on 5 February 2015.

[3] Following their appointment, the liquidators took orthodox steps to obtain records of each company so that they could ascertain the respective assets and liabilities.[1] Difficulties were encountered. They led the liquidators to apply to this Court for orders requiring directors and former directors to deliver up documents to them. In particular, application was made against:

(a) Mr Grewal[2] and Mr Satwant Singh,[3] in respect of AK Group,

(b) Mr Grewal in respect of Bucklands,[4]

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1 Companies Act 1993, s 253: headed "principal duty of liquidator".
2 CIV-2015-404-989.
3 CIV-2015-404-991.
4 CIV-2015-404-992.

(c) Mr Grewal in respect of CHK,[5] and

(d) Mr Grewal, Ms Ravinder Kaur and Ms Joti Jain, in respect of Stanmore.[6]

[4] Orders were made by consent, on 29 July 2015.[7] Mr Tolhurst, a solicitor, appeared on behalf of all four respondents to consent. On 2 October 2015, service of the orders was effected at the address for service provided; namely, Mr Tolhurst's office. By filing Court documents on behalf of the four respondents, Mr Tolhurst had warranted authority to act for each.

[5] The liquidators took the view that Mr Grewal, Mr Singh, Ms Kaur and Ms Jain had not complied with the terms of the orders. They applied to the Court for orders that each be held in contempt. Those applications were filed on 18 November 2015, and were served by courier on Mr Tolhurst, after he had confirmed that he had authority to accept service on behalf of all four respondents.

[6] A hearing took place on 17 February 2016, at which Muir J adjourned the contempt applications for a defended hearing and made consent orders designed to ensure relevant documents were provided promptly to the liquidators.[8] Later, the applications were set down for hearing before me on 2 June 2016. I am asked to determine whether the respective respondents are in contempt and, if so, what sanction should be imposed to mark the disobedience.

Background

[7] Each of the four companies carried on a business as an Indian restaurant. The liquidators took a variety of steps in an endeavour to obtain all company records from which to reconstitute its affairs, and determine what could be done for the benefit of creditors.

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5 CIV-2015-404-990.
6 CIV-2015-404-994.
7 The orders are set out at para [8] below.
8 The orders are set out at para [10] below.

[8] On 29 July 2015, I made an order requiring the four respondents to produce to the liquidators all books, records and documents relating to the business accounts or affairs of each of the companies in liquidation, and requiring Mr Grewal to attend for examination on oath before the liquidators.[9] The order was in these terms:

> 1. After reading the originating application for orders to produce books, records and documents and to attend interview, the affidavits of Prashika Chand and after hearing Mr Ho on behalf of the applicants and Mr Tolhurst on behalf of the respondents, this Court orders by consent that:
>
> a. Rajwinder Singh Grewal, Satwant Singh, Ravinder Kaur and Joti Jain are to produce to the applicants all books records and documents relating to the business, accounts or affairs of AK Group 2006 Limited (In liquidation), (CIV 2015-404-989 and CIV 2015-404-991), CHK Hospitality Limited (In Liquidation) (IV 2015-404-990), Bucklands Beach Limited (In Liquidation) (CIV 2015-404-992), Stanmore Bay Limited (In Liquidation) (CIV 2015-404-994), CK Hospitality Limited (In Liquidation) and CK Investments 2013 Limited (In Liquidation);
>
> b. Rajwinder Singh Grewal is ordered to attend an interview under oath or affirmation at 16 Piermark Drive, Albany, Auckland on 28 September 2015 at 10am; and
>
> c. Costs are to be determined on the papers.

[9] The contempt applications[10] came before Muir J on 17 February 2016. The Judge's minute of that hearing records Mr Gilchrist as counsel for Mr Grewal, Mr Singh and Mr Kaur, with Mr Nabney appearing for Ms Jain. Mr Tolhurst is also shown as attending, as "solicitor on the record for all Respondents".

[10] Before that hearing, Mr Gilchrist had sought an adjournment. That was refused, but he was given leave to renew before Muir J. At the hearing on 17 February 2016, Mr Nabney consented to the adjournment. Mr Ho, for the liquidators, initially opposed the application. However, as part of a wider consent order, an adjournment was granted. Muir J said:

> [4] On the basis of the information currently before the Court and with the reservations always necessary where the affivavit evidence is incomplete,

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9 The jurisdiction for the order requiring delivery of documents springs from s 261 of the Companies Act 1993, whereas the power to order an examination is found in s 266. Generally, see *ANZ National Bank Ltd v Sheahan and Lock* [2013] 1 NZLR 674 (HC) at paras [32]–[67].

10 See para [5] above.

there was apparent non-compliance with the court's orders at the time the interlocutory applications were made. The position has, however, been subsequently complicated by seizure of a substantial number of company records by the New Zealand Police and by the late delivery of approximately 30 boxes of documents to the liquidators which have yet to be reviewed by them. With a view to practical arrangements for delivery of all records in the respondent's possession or control I stood the matter down for discussion between counsel. I have now been provided with a handwritten consent memorandum in the following terms:

> " All respondents shall within 10 working days comply with the order dated 29 July 2015 in the following manner:
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> (a) Produce all books, records and documents (physical and electronic) relating to the business, accounts or affairs of AK Group 2006 Limited (In Liquidation), CHK Hospitality Limited (In Liquidation), Bucklands Beach Limited (In Liquidation), Stanmore Bay Limited, CK Hospitality Limited (In Liquidation) and CK Investments 2013 Limited (In Liquidation);
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> (b) Rajwinder Singh Grewal shall attend an interview under oath or affirmation at 16 Piermark Drive, Albany, Auckland
>
> (c) In the event that any respondent does not have in their possession or control any books records and documents as recorded above at (a) then they file and serve an affidavit which lists the categories of books, records or documents:
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> (i) That the respective respondent had in their possession or control;
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> (ii) When the respective respondent ceased to have in their possession or control; and
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> (iii) To the best of their knowledge the individual or entity that has possession or control.
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> This proceeding is called into the Duty Judge List as soon after 3 March 2016 as can be accommodated.
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> This proceeding is set down for a 1 day hearing on the first available date available to the Court and counsel."

Preliminary comments

[11] By the time the applications came before me, the four respondents had made differing arrangements for legal representation. Mr Gilchrist appeared for Ms Kaur. Mr Grewal appeared in person, having relieved Mr Gilchrist of his instructions. Mr Ryken appeared to make submissions on behalf of Ms Jain, and Mr Aulakh, for Mr Singh.

[12] Both Mr Singh and Ms Jain suggested that Mr Tolhurst did not have authority to act for them at the time the consent order was made on 29 July 2015. The evidence in relation to Ms Jain's position was such that I was prepared to hear and determine the liquidators' application against her. The position in respect of Mr Singh was different. The contempt application against him has been adjourned until 21 July 2016, so that I can hear from Mr Tolhurst before determining what should be done. This judgment deals only with those issues arising on the applications to have Mr Grewal, Ms Kaur and Ms Jain held in contempt.

Contempt: legal principles

(a) Liability

[13] Applying principles restated in *Solicitor-General v Miss Alice*,[11] the liquidators must prove, beyond reasonable doubt, that the alleged conduct amounts to a contempt and the state of mind required to establish a deliberate breach is present. That said, "slackness or laxity" in compliance with Court orders will not necessarily excuse the conduct. In *Norbrook Laboratories Ltd v Bomac Laboratories Ltd*,[12] I said:

> [40] The administration of justice requires all people against whom Court orders are made to comply with the orders. In order to ensure compliance it is necessary for those who have responsibilities to ensure compliance to take adequate steps to ensure the orders are obeyed. Slackness or laxity in arranging for Court orders to be complied with is just as offensive to the administration of justice as wilful disobedience of a Court order. Without adequate steps being undertaken to comply with a Court order the administration of justice can be brought into disrepute. In my view a sufficient degree of slackness or laxity in ensuring compliance with a Court order may be punished by a fine if the Court is satisfied beyond reasonable doubt that the failure to take adequate care has resulted in the contempt.

[14] The need to focus on the precise terms of the order in issue and the acts or omissions and conduct of the person alleged to be in contempt was emphasised by the Supreme Court, in *Siemer v Solicitor-General*.[13] In that case, Mr Siemer had been required to remove certain statements from a website that he operated. In

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11 *Solicitor-General v Miss Alice* [2007] 2 NZLR 783 (HC) at para [30], applying *Duff v Communicado Ltd* [1996] 2 NZLR 89 (HC) at 98.

12 *Norbrook Laboratories Ltd v Bomac Laboratories Ltd* HC Auckland CIV-2002-404-1732, 18 December 2003 at para [40].

13 *Siemer v Solicitor-General* [2010] 3 NZLR 767 (SC).

confirming that the High Court was correct to hold that his failure to do so constituted a breach, the Supreme Court focussed on the "plain meaning of the words in the passages".[14]

[15] An order requiring persons associated with a company to produce relevant company records is one that demands close attention from its recipient. Almost invariably, a liquidator comes to administration of the company without prior knowledge of the way its business was conducted. He or she must obtain relevant information from the company's directors, including its accounting and other records. Without co-operation from those from whom information is sought (whether orally or in the form of documentation) it is almost impossible for a liquidator to reconstitute the affairs of the company and to determine what, if any, action can be taken to maximise returns to creditors.

[16] Failure to comply with a Court order of the type that I made on 29 July 2015,[15] and the later order of Muir J of 17 February 2016,[16] impedes a liquidator's quest to achieve a prompt and orderly realisation and distribution of assets. A wilful decision to delay compliance with the obligation imposed by the order, as well as a deliberate decision not to comply, is an act that not only frustrates a liquidator's ability to perform his or her statutory functions, but also brings the administration of justice into disrepute. That is why penalties are required to mark contemptuous conduct. Such orders also operate to deter, by signalling to others that non-compliance with Court orders will not be tolerated.

(b) Penalty

[17] In *Solicitor-General v Miss Alice*, a Full Court of this Court[17] took the view that a penalty ought to be assessed through application of a methodology akin to that used for sentencing a criminal offender.[18] In that case, the Full Court was concerned with an alleged breach of a written (as opposed to implied) undertaking by counsel (Mr Moodie who, by the time of the litigation, had changed his name by deed poll to

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14 Ibid, at para [69].
15 See para [3] above.
16 See para [6] above.
17 John Hansen, Baragwanath and Potter JJ.
18 *Solicitor-General v Miss Alice* [2007] 2 NZLR 783 (HC), at para [88].

"Miss Alice") not to disclose documents discovered under Court processes and, if contempt were proved, what penalty should be imposed.

[18] Having found Miss Alice to be in contempt, the Full Court[19] discussed the question of penalty, saying:[20]

> *Decision*
>
> …
>
> [92] Adopting the analogy of s 8(g) of the Sentencing Act 2002, and fixing the penalty at the minimum appropriate, we consider the minimum penalty appropriate to be one of suspension [from legal practice] of three months, to take effect upon delivery of this judgment, and a fine of $5000. That is the order of this Court.

[19] It is often difficult to determine the level of fine that should be imposed, in the event that a contempt deserving of such a penalty is proved. In *Queen Elizabeth the Second National Trust v Netherland Holdings Ltd*,[21] Dunningham J considered a range of authorities on this topic.[22] Fines in excess of $5,000 seem to be reserved for cases involving persistent intentional breaches of an order, or engaging in conduct that amounts to a "systematic campaign" to breach an order in a manner designed to bring a party to civil litigation into disrepute.

[20] In *Queen Elizabeth the Second National Trust v Netherland Holdings Ltd*, Dunningham J imposed a fine of $5,000 to respond to breaches of an interim injunction forbidding steps being taken that were contrary to a statutory conservation covenant on land protecting outcrops of remnant kanuka woodland.[23] Of that amount, 90 percent was ordered to be paid to the applicant because it was a statutory body "funded by the Crown and by public donations".[24]

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19 John Hansen, Baragwanath and Potter JJ.

20 *Solicitor-General v Miss Alice* [2007] 2 NZLR 783 (HC) at paras [89]–[93].

21 *Queen Elizabeth the Second National Trust v Netherland Holdings Ltd* [2014] NZHC 1094.

22 Ibid, at para [38].

23 See also, to similar effect, *Solicitor-General v Krieger* [2014] NZHC 172 at paras [58]–[64] in the context of breach of a permanent injunction restraining disclosure of confidential information that had come into the possession of the contemnor inadvertently.

24 As to apportionment of fines, see paras [21] and [22] below. While indemnity costs were also ordered, an attempt to impose a sentence of community work failed.

(c) Apportionment of fines

[21] In this case, if a monetary penalty were ordered, I would need to decide whether it should be paid to the Crown, or apportioned between the liquidators (who have sought to enforce the orders) and the Crown.

[22] The ability to apportion a fine was confirmed by the Court of Appeal in *Taylor Bros Ltd v Taylors Group Ltd*.[25] Delivering the judgment of the Court, Cooke P said:[26]

> In *Quality Pizzas Ltd v Canterbury Hotel Employees' Industrial Union* [1983] NZLR 612, this court held that there is inherent jurisdiction to order a writ of sequestration of the property of a company which is in contempt of court; but that the lesser alternative of a fine is available. By parity of reasoning, and with the assistance of the United States and New South Wales authorities, we think that the jurisdiction regarding a fine must and does extend to ordering that part of it be paid to a complainant who has set the Court proceedings in motion. … Perhaps there is no fundamental objection in principle to accepting even that the court could order the whole fine to be paid to the complainant. We think, however, that this would be to go too far the contempt jurisdiction exists in the public interest as a sanction to ensure that orders of the court are complied with. An element of amends to the public institution should always be present in a fine.

Analysis

(a) Introductory comments

[23] The liquidators accept that Mr Grewal, Ms Kaur and Mr Singh have now complied with the relevant Court orders, and have purged their contempt. Their position with regard to Ms Jain is slightly different. She has acknowledged that there are electronic documents under her possession or control in a personal email account. Ms Jain has instructed an independent contractor to sift through the emails and to provide to the liquidators copies of those that relate to any of the companies.

[24] So far as Mr Grewal and Ms Kaur are concerned, the liquidators seek orders that they be fined and ordered to pay costs. As well as seeking similar orders against

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25 *Taylor Bros Ltd v Taylors Group Ltd* [1991] 1 NZLR 91 (CA).
26 Ibid, at 93.

Ms Jain, the liquidators also apply for two separate orders to ensure that she completes her obligations to deliver documents to them; namely:[27]

> (a) Ms Jain will provide all relevant documents in respect of [AK Group], [CHK], [Bucklands], [Stanmore], [CHK] and CK Investments 2013 Limited (in Liquidation) from her email jotibhat@gmail.com to the [liquidators] by 30 May 2016; and
>
> (b) Ms Jain shall provide all such relevant documents to the applicants in a readable format with a covering affidavit detailing the document and its relation to the respective company and confirm that apart from the emails provided in the affidavit, there are no further documents either from jotibhat@gmail.com or any other email account in her possession or control, relating to [AK Group], [CHK], [Bucklands], [Stanmore], [CHK] and CK Investments 2013 Limited (in Liquidation).

[25] Orders are sought apportioning any fines imposed against Mr Grewal, Ms Jain and Ms Kaur in a manner that provides payment of some of the fines to the liquidators.

(b) Mr Grewal

[26] Mr Grewal has been shown as a director of AK Group, Bucklands, CHK and Stanmore since 1 December 2014, although he claims that he was manipulated by a Mr Chahil in carrying out those roles. I am satisfied that he became aware of the orders made on 29 July 2015 shortly after they were made.

[27] On 2 February 2016, about six months after my order was made, Mr Grewal informed the liquidators that 97 boxes of documents were available to be uplifted from his home in Royal Oak. When those documents were taken into the liquidators'

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[27] CK Investments 2013 Ltd is another company within the Masala Group of which Mr Grant and Mr Khov are liquidators. That company has been included in the order to ensure that all relevant documents relating to group activities are obtained.

possession and control, on the same day, Mr Grewal confirmed that these were all the documents that he held.

[28] On 11 February 2016, in belated compliance with another of the orders I had made,[28] Mr Grewal attended an examination conducted by the liquidators at their office. Mr Chahil attended with him, as a support person. Consistent with Mr Grewal's position, I understand that the liquidators also believe that he was a puppet-master who exercised control over the management of the companies. He is not shown as a director in the records held by the Registrar of Companies.

[29] When he attended for examination on 24 February 2016, Mr Grewal delivered a further six boxes of documents, and two central processing units. That demonstrates that Mr Grewal held (or had access to) more documents than he had originally made available to the liquidators, on 2 February 2016. Again, Mr Grewal confirmed he had no other documents. A further 44 boxes of documents were later delivered to the liquidators.

[30] In accordance with Muir J's order of 17 February 2016, Mr Grewal attended for a second examination at the liquidators' office. A third examination took place on 10 March 2016. On 15 March 2016, Mr Grewal provided a password to the liquidators so that they could access an email account called Masalabucklands@gmail.com The liquidators accept that once the password was delivered Mr Grewal had complied with obligations imposed by the two orders.

[31] Mr Grewal has sworn two affidavits, one on 2 March 2016 and the other on 24 March 2016. In the first of those, he confirms that he was a director of AK Group (from 1 July 2012 to 6 March 2013, and from 1 April 2013 until liquidation), CHK (from 1 February 2012), Bucklands (from 1 March 2013) and Stanmore (from 1 December 2014). Mr Grewal deposes that, in about July 2013, the Inland Revenue Department removed a large number of the approximately 200 boxes of company records over which he had control. From that evidence, I am satisfied that Mr Grewal had access to all relevant documents that he subsequently arranged to be

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[28] The order is set out at para [8] above.

delivered to the liquidators, at least until July 2013 and after they were returned to him, between July 2015 and January 2016.

[32] The dates on which the documents were returned are provided by Mr Grewal in his affidavit evidence. He says that about 130 boxes were returned in July 2015; a further 10 to 15 in October/November 2015; and 35 to 40 in January 2016. Mr Grewal's evidence that he returned all documents at that time is inconsistent with what subsequently occurred, when additional documents, a central processing unit and a password were delivered to the liquidators.[29] Mr Grewal's deposition that the liquidators uplifted all documents returned by the Inland Revenue Department from his home in Royal Oak on 2 February 2016 is consistent with his evidence of what was made available to the liquidators on that date.[30]

[33] Mr Grewal also refers to the execution of a search warrant by police officers on 7 December 2015. He says that about 25 to 30 bags of documents were uplifted from an address in Westhaven Drive; 20 to 25 bags from an address in Bell Road and his Royal Oak property. Those documents, he deposes, continue to be held by the Police.

[34] Mr Grewal contends that he has never "wilfully refused or failed to comply with the Court order", but had difficulties in doing so because he was serving a sentence of home detention from 18 October 2015 to 29 February 2016. His detention does not seem to have affected his ability to attend for examination before the liquidators on 11 and 24 February 2016. And, he had the ability to ask the liquidators to uplift them.

[35] In my view, Mr Grewal had a number of documents in his possession or control that he ought to have delivered to the liquidators on learning of the order of 29 July 2015. His sentence of home detention is not relevant to that obligation as it did not commence until 18 October 2015. Nor does the excuse offered about documents being seized by the Inland Revenue Department or the Police, because at least some of the relevant documents had been delivered back to Mr Grewal between

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[29] See paras [28]–[30] above.
[30] See para [27] above.

July 2015 and January 2016.[31] I am satisfied beyond reasonable doubt that Mr Grewal deliberately decided either not to comply with the order, or to delay, in order to frustrate the liquidators in the exercise of their statutory duties.

[36] I consider that Mr Grewal's conduct represents the most serious of the breaches of the orders. Having regard to applicable principles, I find him in contempt of Court and order that he pay a fine of $10,000.[32] A fine of that amount is required to denounce the conduct, to hold Mr Grewal accountable for bringing the administration of justice into disrepute, and to deter others from acting in this way. It also takes account of the nature of the orders in issue and the need for the Courts to support liquidators in their endeavours to obtain information about a company's affairs.[33] I deal with apportionment of the fine and costs later.

(c) Ms Kaur

[37] By affidavits sworn on 2 and 23 March 2016, Ms Kaur has confirmed that she has no physical or electronic documents in her possession or control that fall within the scope of the orders made by myself or Muir J.

[38] Without the need for her to be cross-examined, Mr Ho advised me that the liquidators are satisfied that she has no physical books, records or documents in her possession or control.

[39] Mr Gilchrist, on behalf of Ms Kaur, submitted that there were no documents in her possession or control that she could have delivered to the liquidators in terms of the 29 July 2015 order. That order, unlike Muir J's of 17 February 2016, did not cast any obligation on her to provide to the liquidators an affidavit stating that she held no documents. Muir J's order provided for such an affidavit to be completed and delivered to the liquidators within 10 working days of the date of his order. While there is some dispute about whether an affidavit provided on 2 March 2016 complied sufficiently, there is no doubt that her second affidavit of 23 March 2016 did.

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31 See para [31] above.
32 See paras [17]–[20] above.
33 This Court's supervisory role over liquidators in discussed in *ANZ National Bank Ltd v Sheahan and Lock* [2013] 1 NZLR 674 (HC) at paras [122]–[139].

[40] Although it could be argued that Ms Kaur was technically in default of obligations under the 17 February 2016 order, I do not consider that she had the requisite intent to flout the order deliberately.[34] I dismiss the application that she be held in contempt, but make no order as to costs in her favour.

(d) Ms Jain

[41] In an affidavit sworn on 21 August 2015, Ms Jain deposed that she had possession of about 134 boxes of documents. They were said to be stored in a unit. She deposed that she had been in India but had instructed people in New Zealand to go through the boxes and to make them available to the liquidators if necessary. When she returned, Ms Jain says that she realised some documents had not been made available to the liquidators. Arrangements were made for them to be uplifted.

[42] On 21 January 2016, Ms Jain deposed that any other documents relating to the companies of which she was a director were held by Mr Grewal. It transpired that there were boxes of documents in her garage. They seem to have been removed from her property. Ms Jain says she did not examine them, or know who uplifted them. She does indicate that the person who came to get the documents was driving a "Masala van".

[43] I consider there is some doubt about whether Ms Jain deliberately breached the order of 29 July 2015 in relation to physical documents. But, the position is different in respect of electronically generated documents. Ms Jain had advised the liquidators that there was one generic email account: nzmasala@gmail.com She told them that her personal email address, jotibhat@gmail.com, was not used for company purposes. Yet, that is the account on which she says emails are held which could take some 30 to 40 hours to sort.[35] On 16 May 2016, Ms Jain confirmed that she would engage a contractor to review emails within her personal account and produce them to the liquidators.

[44] Ms Jain denies having wilfully refused or failed to comply with the Court order. However, Ms Jain accepts that she was aware that documents were left at her

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[34] See para [13] above.
[35] See para [19] above.

property in Bell Road but did not realise what they were until she returned from India. She too asserts that documents were taken either by the Police or Inland Revenue Department.

[45] In my view, at least, Ms Jain deliberately failed to disclose to the liquidators the existence of documents held electronically on her personal email account, or to take steps to have them delivered up. I do not accept that Ms Jain believed that documentation did not come within the scope of the order. Such a suggestion is implausible in the circumstances.

[46] I consider that Ms Jain should be held in contempt and ordered to pay a fine of $5,000. I consider that the differences in the fines ordered to be paid by Mr Grewal and Ms Jain reflect their respective culpability, and do not give rise to an unjust disparity in the way each has been treated.

Apportionment of fines

[47] In *Taylor Bros Ltd v Taylors Group Ltd*[36] the Court of Appeal explained that the "contempt jurisdiction exists in the public interest as a sanction to ensure that orders of the Court are complied with". As a result, an "element of amends to the public institution should always be present in a fine".

[48] I consider that the fine should be apportioned as to 50 percent each between the Crown and the liquidators. As between the companies in liquidation:

(a) Because Mr Grewal has been a director of all companies, the 50 percent of the fine payable to the liquidators by him shall be apportioned as among the four companies;

(b) So far as Ms Jain is concerned, the 50 percent of her fine payable to the liquidators shall be received on account of the Stanmore liquidation.

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[36] *Taylor Bros Ltd v Taylors Group Ltd* [1991] 1 NZLR 91 (CA) at 93, set out at para [21] above.

Costs

[49] I now deal with questions of costs.

[50] Mr Ho's primary submission was that indemnity costs should be ordered. Alternatively, he submitted that costs should be fixed and paid to the liquidators on a 2B basis, with an uplift of 50 percent. During the course of submissions I learnt that Mr Ho was an in-house solicitor with the company operated by the liquidators and did not in fact render fees for his time. Rather, he is paid a salary.

[51] I gave leave for Mr Ho to file a memorandum identifying the extent to which he had worked on the applications and how his time had been apportioned among the various liquidations. As Mr Ho was about to go away on leave, I accepted a memorandum from the senior in-house counsel, Mr Norling. He is also solicitor on the record in respect of the liquidators' applications.

[52] I am satisfied that the charge-out rates for Mr Norling and Mr Ho are both reasonable. Mr Norling frankly admitted that time records meant that the liquidators were unable to allocate particular time to the cases against individual respondents. In those circumstances, a "broad brush" approach to costs is required.

[53] Because of the closely held nature of the companies, I consider that a breach of the Court orders should be marked by an order that Mr Grewal and Ms Jain be jointly and severally liable for a sum of $20,000 (assessed globally as to both costs and disbursements), payable to the liquidators.

[54] In respect of the costs ordered, there is a need to apportion the share payable to the liquidators among the various companies. In the circumstances, I propose to take a robust approach. 25 percent of the amount paid to the liquidators shall be allocated to each of the four companies.

Result

[55] The applications for contempt orders against Mr Grewal are granted. He is ordered to pay a fine of $10,000. One half of that is payable as a debt due to the

Crown, with the other half as a debt due to the liquidators (in that capacity in respect of each of the four applicant companies) in the portions I have ordered.[37]

[56] The application for contempt orders against Ms Kaur is dismissed, with no order as to costs.

[57] The application for a contempt order against Ms Jain is granted. She is ordered to pay a fine of $5,000. One half of that is payable as a debt due to the Crown, with the other half as a debt due to the liquidators of Stanmore.

[58] I do not consider that it is necessary to make the additional orders sought against Ms Jain.[38] I expect the documents to be available to the liquidators no later than 29 July 2016. If they were not provided by then, the liquidators are granted leave to reapply, by memorandum.

[59] I make an order that Mr Grewal and Ms Jain are jointly and severally liable to pay to the liquidators of the four applicant companies the sum of $20,000, representing costs and disbursements (on a global basis) awarded in their favour. The liquidators shall allocate the moneys received among the four applicant companies, in equal shares.

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P R Heath J

Delivered at 4.00pm on 11 July 2016

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37 See para [48] above.
38 See para [24] above.