



PENALTIES FOR FORMER CHAIR OF MOUNT ISA ABORIGINAL HOUSING CORPORATION

In the Federal Court in Brisbane yesterday Justice John Logan handed down penalties to Ms Leigh Kerkhoffs, the former chair of the Aboriginal and Torres Strait Islander Corporation for Welfare Services (ATSIC Welfare Services), for breaches of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

ATSIC Welfare Services is a not-for-profit corporation based in Mount Isa, Queensland, that provides affordable rental accommodation for Aboriginal and Torres Strait Islander people in the local area. The corporation owns and manages about 30 residential properties.

The Registrar of Indigenous Corporations, Anthony Beven, commenced civil penalty proceedings in the Federal Court against Ms Kerkhoffs in June 2013.

Justice Logan made four declarations of contravention and disqualified Ms Kerkhoffs from managing any Aboriginal and Torres Strait Islander corporation for a period of five years. Ms Kerkhoffs was also ordered to pay compensation of \$31,414 to ATSIC Welfare Services and a pecuniary penalty of \$50,000 to the Commonwealth of Australia.

The court found that between 2009 and 2012 Ms Kerkhoffs failed to act with due care and diligence, failed to act in good faith and improperly used her position to gain a personal advantage for herself. Ms Kerkhoffs was also found to have not taken reasonable steps to ensure the corporation kept proper books and records.

Ms Kerkhoffs effectively controlled the corporation yet failed to ensure the corporation kept adequate financial records or collected rent from all its tenants. Rent of \$388,051 owing to the corporation, including \$23,194 owed by Ms Kerkhoffs, was written off by Ms Kerkhoffs and three other directors in 2009. As a result the corporation was insolvent in 2012 and could not pay its creditors or make repairs and maintenance to tenants' properties.

In October 2012 Ms Kerkhoffs also caused the corporation to sign a contract for the sale of a corporation property to herself and her husband for \$52,000 below the market value. At the time the corporation was insolvent and about to be placed into special administration. A special administrator was appointed by the Registrar on 15 October 2012 and terminated the contract.

Ms Kerkhoffs was also found to have caused the corporation to make unauthorised payments of \$8,220.17 to herself.

'The breaches of duties under the CATSI Act by Ms Kerkhoffs were serious,' said Mr Beven. 'Her actions placed at risk the affordable housing of many Aboriginal people in Mt Isa in order to benefit herself and this is not acceptable'.

Ms Kerkhoffs consented to the four declarations of contravention made by the court.



Background

For more information about this matter see the Registrar’s media release of 4 July 2013 (ORIC MR1314 -03) and for more information about disqualification see the Registrar’s fact sheet: *Disqualifications from managing corporations under the CATSI Act*. Both items are available at www.oric.gov.au.

Media contact

Patricia Gibson (02) 6146 4743
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