

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Labour Inspector (Mark Horn) (Applicant)

**AND** P A Green Limited (Respondent)

**REPRESENTATIVES** Mr Horn  
No appearance

**MEMBER OF AUTHORITY** Dzintra King

**INVESTIGATION MEETING** 19 February 2002

**DATE OF DETERMINATION** 7 March 2002

**DETERMINATION OF THE AUTHORITY**

Mr Horn, a Labour Inspector, applied pursuant to s.234 Labour Relations Act 2000 for compliance with demand notices issued to the respondent, P. A. Green Limited. Mr Horn also asked that the directors of Green Ltd be made personally liable for unpaid minimum wages and holiday pay. While I have every sympathy with the ex-employees who now find themselves owed monies they face two problems in terms of reclaiming those monies.

The company has been struck off the Register of Companies. That means that there is no legal entity against which legal proceedings can be taken.

Secondly, s.234 applies only where the company is in receivership or liquidation (which it is not) or where there are reasonable grounds for believing that the company does not have sufficient assets to pay the amount in full. Both of these criteria are predicated upon the company still existing as a legal entity. Once the company has been struck off there is no legal entity against which any action can be taken. There is no provision for the directors of a struck off company to be rendered liable for unpaid minimum wages or holiday pay.

It is with regret, therefore, that I am unable to make an order of the kind sought.

Dzintra King  
Member Employment Relations Authority

