



## High Court clarifies circumstances in which Court should order a new creditors' meeting

In a recent case, Re Power Builders (Surrey) Ltd (2008) EWHC 2607 (Ch), the High Court had to consider the circumstances in which it is appropriate for the Court to order the summoning of a new creditors' meeting following a successful challenge to the chairman's decision regarding a particular creditor's entitlement to vote.

There are a number of key points arising from the case:-

- The Court will not summon a new meeting in every case because this is likely to involve expense both for creditors and also for the office holder whose fees have to be paid in priority to any dividend for creditors.
- Whether it is appropriate to summon a new meeting will to some extent depend on the question on which the vote has been taken, i.e. whether there are complex resolutions to be voted upon or, simply, a choice between two different liquidators.
- Subject to that, however, the default position will be as follows:-
  - If the chairman has refused to allow the creditor to vote for his full entitlement (either because the chairman has rejected the creditor's proof or only admitted it in part), the Court will usually summon a new meeting. Otherwise, the creditors' meeting would be treated as having made a decision, which it had not made at all.
  - If the creditor has been allowed to vote but his vote has been declared invalid on appeal, the Court will not normally summon a new meeting. This is because the outcome of the meeting can readily be deduced by eliminating that particular creditor's vote.
- Where the outcome of the meeting would not be affected by the decision on the amount of the claim, this was a strong reason for not holding a new meeting.

For a more detailed report on the case, please see Insolvency update case study 4 Dec 08.

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