

" GB 2 "

This is the exhibit marked "GB2" referred to in the affidavit of George BIRITZ sworn before me this 21/5/02

BY FACSIMILE TRANSMISSION

FAX NO: 9603 6200

IN THE SUPREMEM COURT OF VICTORIA
AT MELBOURNE

NO 11688 of 1990

Between

NATIONAL AUSTRALIA BANK

Plaintiff

and

AXIOM PUMPS PTY. LTD.

Defendant

AFFIDAVIT OF GEORGE BIRITZ FOR THE HONOURABLE CHIEF JUSTICE OF THE SUPREMEM COURT OF VICTORIA PERUSAL

Date of document: 12th December 2002
This document was prepared by: Mr George Biritz
22 Earsdon Street
YARRAVILLE VIC. 3013
Ph: 0412 075791

12th
On December, 2002, I, George Biritz of 22 Earsdon Street, Yarraville 3013 in the State of Victoria, SAY ON OATH:

1. That I am an aggrieved and interested party to this "proceeding" and I make this my Affidavit within my own personal knowledge and belief unless otherwise expressly stated to the contrary.
2. In the High Court of Australia section 71 of the Constitution enable myself the said George Biritz to commence legal action against the Supreme Court of Victoria by applying for remedy and relief pursuant of the High Court Rules 1952, Order 13 rule 1 (l) (e)

Before I am implementing such action which is to achieve the most comprehensive and credible outcome to restore the faith and lives of my family, I have been placed into the situation where I find it necessary and essential to briefly outline the following matters and relevant facts in order to draw it to the attention of the Honorable Chief Justice of the Supreme Court of Victoria.

3. On 1 November 1990, the National Australia Bank ("NAB"), issued a WRIT against Axiom Pumps Pty. Ltd., as a Defendant, No. 11688/1990 in the Supreme Court of Victoria.

The Statement of Claim says:

1. THE Plaintiff and the Defendant are and were at all material times Companies duly incorporated in the State of Victoria and are capable of suing and being sued in their respective corporate names above set out.

2. THE Official Trustee in Bankruptcy as Trustee for George Biritz (also known as Baritz Biritz but hereinafter referred to as George Biritz) is the registered proprietor of all that piece of land being Lot 18 on Plan of Subdivision No. 87615 Parish of Mordialloc County of Bourke and being the whole of the land more particularly described in Certificate of Title Volume 8859 Folio 960 and situated

at and known as 39 Kembla Street, Cheltenham in the State of Victoria (“the said land”)

3. BY an Instrument of Mortgage dated the 16 June 1987 and registered in the Office of Titles on the 17 September 1988 No. N43194E, George Biritz mortgaged the said land to the Plaintiff.
 4. George Biritz has made default under the said Instrument of Mortgage in the Payment of monies there by secured and is still in default in payment of these monies.
 5. THE Defendant is in possession of the said land.
 6. THE Plaintiff is entitled to possession of the said land pursuant to the provisions of the said Instrument of Mortgage and/or pursuant to the provisions of section 78 (1) (6) of the Transfer of Land Act 1958.
4. The Writ is supported by the affidavit on 25 January 1991, by Deponent Michael Douglas Main of 469 La Trobe Street, Melbourne, Solicitor, MAKE OATH AND SAY as:
1. I am a member of the firm Abbot Tout Russell Kennedy, Solicitors for the Plaintiff herein, and I have the care and conduct of this proceeding on behalf of the Plaintiff.
 2. An Appearance on behalf of the Defendant herein was filed with this Honorable Court on the 14th day of November, 1990.
 3. No Defense on behalf of the Defendant has been delivered within the time limited by the Rules or at all.
5. On 25 January 1991 a Default Judgment for Recovery of Land was filed by the solicitors acting for the Plaintiff and obtained “in default of a Defense by the Defendant”.

THE JUDGMENT OF THE COURT IS THAT:

The Plaintiff recover possession of the land described in the endorsement on the Writ as all that piece of land being Lot 18 on Plan of Subdivision No. 87615 Parish of Mordialloc County of Bourke and being the whole of the land more particularly described in Certificate of Title Volume 8859 Folio 960 and situated at and known as 39 Kembla Street, Cheltenham in the State of Victoria and that the Defendant pay the Plaintiff’s costs of \$800.

6. On 6 February 1991 a WARRANT OF POSSESSION was filed by the solicitors acting for the Plaintiff and granted in the Supreme Court of Victoria against Axiom Pumps Pty. Ltd. the Defendant.

The Warrant says:

To: The Sheriff

In respect of the judgment dated 25 January 1991, by which it was adjudged that the Plaintiff National Australia Limited recover possession of the land described

in the Schedule and that the Defendant, Axiom Pumps Pty. Ltd., pay out the Plaintiff's costs of \$800.00, enter the land and cause the Plaintiff National Australia Bank Limited, to have possession of it, and endorse on this Warrant immediately after you have performed all your obligations under it a statement of that date, time and place at which you have executed or attempted to execute the Warrant and the results of the execution and send a copy of the statement to the Plaintiff, National Australia Bank Limited.

SCHEDULE

All that piece of land being Lot 18 on Plan of Subdivision No. 87615 Parish of Mordialloc County of Bourke and being the whole of the land more particularly described in Certificate of Title Volume 8859 Folio 960 and situated at and known as 39 Kembla Street, Cheltenham in the State of Victoria.

7. I, the said George Biritz searched the Court file on this matter following this judgment was handed down.
My personal understanding of the SUPREME COURT RULES is that, WHEN a judgment is handed down, it is recorded on a Court document, commonly known as COURT APPEARANCE SHEET which is recorded on a blue form, and must always be retained on the court file.

This particular form shall record the following details:

The date, Court case No., appearance on behalf of the Plaintiff/Defendant, the decision of the Court, handwritten part by the MASTER or JUDGE of the daily events, who dealt with the hearing, such as adjourned, order being made, judgement being made, etc.

After the hearing, this form together with the Court file is returned to the Pothonotary Office or Registry of Court, and the officer authenticates the order, which can be obtained after by the respective parties.

8. My findings from the search of the file, failed to find any such decision being reached by any judiciary of the Supreme Court. In fact, the "judgment" was authorized by the Pothonotary Office itself without being identified any justice of the Supreme Court of Victoria.
9. I further obtained an Australian Securities & Investment Commission company extract on "Axiom Pumps Pty. Ltd." which states the NAB has never been registered as a secured credit provider for that company.
10. In September 1991 the NAB auctioned the property at 39 Kembla Street, Cheltenham as "mortgagee in possession" of Axiom Pumps Pty. Ltd. asset achieving a sale price of \$390,000, which the NAB consented to sell for that price.

I the said George Biritz as owner (registered proprietor) of 39 Kembla Street, Cheltenham property ever since 1979 when I purchased the real estate, at no relevant time material was credited with any proceeds whatsoever and by whomsoever, neither my company, Axiom Pumps Pty. Ltd. benefited from this unconscionable and deceptive practices.

11. In my view the entire responsibility and as a consequent liability for the action and involvement of the Prothonotary Office rests with the Supreme Court of Victoria under its ^{judicial} ~~judiciary~~ duty and control, given to the fact of the matter, that the Prothonotary Office does not hold any legal capacity, judicial power or statute either inherent nor newly adopted to deliver written judgment without any judicial involvement (by a Master or a Justice) under the name of the Supreme Court of Victoria.

12. The corruption may have grown so wide spread and sophisticated that it threatens to undermine the very fabric of society, but it is not for me the said George Biritz as an ordinary member of the public to set up and conduct investigation into matters relating to the internal affairs of the Supreme Court of Victoria.

13. In summary, I wish to draw attention to the High Court fundamental importance that, justice should not only be done without fear and favour according to law to all manner people, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence, and unless this matter receiving an appropriate attention by the Chief Justice, I have no doubt in my mind that this case shall inevitably shake public confidence in the integrity of the administration of justice by the Supreme Court of Victoria at Melbourne.

Sworn by the Deponent >
 GEORGE BIRITZ >
 At Melbourne in the State of Victoria >
 On this 12th day of December 2002 >



.....

Before me ^{me}

BETTY MAGARAKIS
 DEPUTY REGISTRAR
 COUNTY COURT OF VICTORIA
 MELBOURNE



IN THE HIGH COURT OF AUSTRALIA
[CITY] REGISTRY

No. of 20__

BETWEEN:

[Appellant's / Plaintiff's full name]
Appellant/Plaintiff

and

10

[Respondent's / Defendant's full name]
Respondent/Defendant

NOTICE OF CONSTITUTIONAL MATTER

20 1. The [party whose case raises the matter e.g. plaintiff, appellant, etc] gives notice that this proceeding involves a matter arising out of the Constitution or involving its interpretation within the meaning of Section 78B of the *Judiciary Act* 1903.

2. [State the nature of the matter (e.g. the constitutional issue which is said to arise.)]

3. [State the facts showing the matter is one to which Section 78B of the *Judiciary Act* 1903 applies.]

30 Dated

.....(signed).....
[Name of party / party's solicitor]

To: The Respondent
[respondent's address for service]

[List the Attorneys-General for the Commonwealth and all states and territories.]

[Firm name/Party's name]
[Address for service]

Telephone: [number]
Fax: [number]
Ref: [contact name]