

Update: 30 July 2008 Registered office responsibilities



Fleming Muntz
Solicitors



Summary

Most accountancy practices, and many law firms, allow their premises to be used as the registered office for clients' companies.

This strengthens the professional relationship, but the NSW District Court case of *HP & CJ Sweeney P/L v CA Hill & Assocs P/L* shows that it carries real responsibilities that go beyond re-directing mail.

What were the facts?

A statutory demand for payment of debt was sent to an accountancy practice that acted as the company's registered office. After the demand expired, a summons for the company's winding up was also sent to the practice. The accountant's records showed that he had forwarded both the demand and summons by post to the company's directors, but the Judge was also satisfied that they had not received them.

The company was wound up and the directors claimed the costs of liquidation and having the winding up set aside from the accountant.

What was the decision?

The Court held that ordinary mail was a reasonable way to have sent the demand. However the accountant should have considered the possibility of the documents being lost in the mail and used fax, courier, registered or express post for the more important winding up summons.

What are the lessons?

Acting as a company's registered office means more than being simply a mail re-direction service.

The accountancy practice was negligent because it did not have a system in place to ensure that important documents received as a company's registered office were brought to the attention of the company's directors.

The firm was ordered to pay damages of \$65,857.72 and costs. Unsurprisingly, they also lost the clients.

How can Fleming Muntz help?

Fleming Muntz lawyers are experienced in company law. They can provide advice on corporate compliance obligations for both companies and their advisors.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

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