

Warden Sharratt SM was not satisfied that the legislature, in authorising solicitors to issue plaints had intended to exclude barristers.

He held that the decision of *Exmin Pty Ltd v Australian Gold Resources Ltd* had no application to the facts of the case.

No orders were made in respect of the strike out application.

### WARDEN'S COURT DECISIONS ON-LINE

The Department of Industry and Resources has, at the request of the Mining Industry and Liaison Committee, posted on its website, the decisions of the Warden's Courts Decisions for 2000-2004. The website also provides a useful summary of the legislation considered and the findings made in each of the decisions. The decisions can be located at:

<http://www.doir.wa.gov.au/mineralsandpetroleum/B5D17898876D4B27AA2CB34E0A5D35BD.asp>

### REASONABLE APPREHENSION OF BIAS OF MINING WARDEN\*

*Synergy Equities Group Ltd v Morellini* (Perth Warden's Court, Warden Calder SM 11 May 2004, ex tempore decision)

*Bias – Application for Warden to disqualify himself – Plaints for Forfeiture and Objections to Exemption Applications*

Synergy Equities Group Limited (Synergy) is the holder of Mining Leases 70/815 and 816 (Tampia Tenements) and Mining Lease 15/621 (Bulla Bulling Tenement). Synergy is the applicant for exemption with respect to each of the Tampia Tenements and the defendant to a plaint by Mr Morellini affecting Mining Lease 70/815 (Tampia Proceedings)<sup>1</sup>. Synergy is also the applicant for exemption and defendant to a plaint by Mr Morellini with respect to the Bulla Bulling Tenement (Bulla Bulling Proceedings). In July 2003 Warden Calder SM delivered his report and recommendations in the Bulla Bulling Proceedings<sup>2</sup>. The Warden found for Mr Morellini, refusing the application for exemption and recommending forfeiture of the Bulla Bulling Tenement. The Warden made adverse findings regarding the evidence given by Synergy's Managing Director as well as adverse findings of fact about Synergy's actions and intentions in relation to compliance with the expenditure obligations of the Bulla Bulling Tenement.

Synergy sought orders from the Warden that he disqualify himself from the Tampia Proceedings, by reason of his findings of fact and findings upon the credibility of Synergy's material witness in the Bulla Bulling Proceedings, on grounds that his findings in the previous decision may create an apprehension that he may not bring an impartial mind to the matter and give Synergy a fair

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\* Mark Gerus, Blakiston & Crabb.

<sup>1</sup> See [2003] WAMW 21, *Morellini v Synergy Equities Group Ltd*.

<sup>2</sup> *IPT Systems Ltd v Morellini* [2003] WAMW 5, see (2003) 22 ARELJ at 427.