



Quiz

Dangers of Statutory Demands Under The Corporations Law

1. What were the appellants, Kisimul Holdings Pty Ltd, seeking from the Court both at first instance and on appeal?
 - a. Kisimul was seeking to discharge its bankruptcy
 - b. Kisimul was seeking to enforce a statutory demand
 - c. Kisimul was seeking to set aside two statutory demands served on it by Clear Position Pty Ltd
 - d. Kisimul's directors were seeking declarations as to the company's solvency

2. What provision under the *Corporations Act 2001* (Cth) specifically requires that an affidavit accompanying a statutory demand contains the statement: "I believe that there is no genuine dispute about the existence or amount of the debt"?
 - a. Section 459G
 - b. Section 459E
 - c. Section 459J
 - d. The requirement is not specifically found under the Act but rather under the *Supreme Court (Corporation) Rules 1999* (NSW)

3. Why did the Court of Appeal unanimously set aside the statutory demands?
 - a. The demands were set aside pursuant to s 459J(1)(b) of the *Corporations Act 2001* (Cth) given the statement left out of the affidavit left Kisimul in an uncertain position from which the legislation intended it should be protected
 - b. They agreed with the reasoning of Stevenson J in the Court below
 - c. The time for making statutory demands had expired
 - d. No underlying debt existed

4. Under what section of the Corporations Act will a statutory demand be set aside if the accompanying affidavit does not state that the deponent believes that there is no genuine dispute about the existence or amount of the debt?
 - a. Section 459J(1)(b)
 - b. Section 382
 - c. Section 438
 - d. Section 440

5. In order to appeal against an adverse, first instance affirmation of a statutory demand, what should an appellant do?
 - a. Seek a stay of the orders pursuant to the inherent powers of the court
 - b. Seek an extension of time to comply with the demand
 - c. Both a. and b.
 - d. None of the above

Answers:

1. c 2. d 3. a 4. a 5. b