

**In the Matter of the Companies Acts 1963- 2009 and In the Matter of Aventine Resources Public Limited Liability Company and In the Matter of an Application by the Director of Corporate Enforcement under Section 371 of the Companies Acts 1963 as amended Director of Corporate Enforcement .v. Aventine Resources Public Limited Company – John Liwosz and Anthony William Brown
High Court Proceedings – Record No: 2012/424**

Company: Aventine Resources plc Company Number: 128965

Venue:

High Court, Dublin

Judge:

Mr. Justice Murphy

The Application: Under Section 371 of the Companies Act 1963 (as amended) (“Section 371”) (and also under Section 383(3) of the Companies Act 1963) the Director sought the following Orders:-

1. An Order directing Aventine Resources plc. to make good its default under:
 - (a) Section 159 of the Companies Act, 1963, as amended, to send copies of the Company’s balance sheets and their appendices and the directors’ and the auditors’ reports for the year ended 31 December 2010 to the Company’s members 21 days before the annual general meeting of the Company in accordance with the requirements of that Section; and
 - (b) Sections 127 and 128 of the Companies Act, 1963, as amended, to submit to the Registrar of Companies the Company’s annual return and its appendices for the year ended 31 December 2010 in accordance with the requirements of those Sections; andwithin such time as the Court shall seem fit.
2. An Order directing the directors of the Company, namely John Liwosz and Anthony William Brown to make good their defaults under:
 - (a) Section 150 of the Companies Act, 1963, as amended, to lay the Company’s group accounts for the year ended 31 December 2010 before an annual general meeting of the Company in accordance with the requirements of that Section; and
 - (b) Sections 127 and 128 of the Companies Act, 1963, as amended, and Section 383(3) of the Companies Act, 1963, as amended, to submit to the Registrar of Companies the Company’s annual return and its appendices for the year ended 31 December 2010 in accordance with the requirements of those Sections; andwithin such time as the Court shall seem fit.

3. An Order directing the Company, John Liwosz and Anthony William Brown to comply on a continuing basis with their obligations under Sections 127, 128, 150, and 159 of the Companies Act 1963, as amended.
4. Liberty to re-enter the within proceedings in the event of future non-compliance on the part of the Respondents, each or all of them, with their obligations under Sections 127, 128, 150, and 159 of the Companies Act, 1963, as amended.
5. Such further and other relief as to this Honourable Court shall seem fit, including an Order applying any other provision of the Companies Acts 1963-2009, where necessary.
6. An Order providing for the costs of and incidental to this application pursuant to Section 371(2) of the Companies Act, 1963 against the Respondents on a joint and several basis, or, in the alternative, such further Order in relation to the costs of and incidental to this application as the Court deems fit.

Outcome:

On 5th November 2012, the High Court made an Order in the following terms:-

1. An Order directing Aventine Resources plc. to make good its default under:
 - (a) Section 159 of the Companies Act, 1963, as amended, to send copies of the Company's balance sheets and their appendices and the directors' and the auditors' reports for the year ended 31 December 2010 to the Company's members 21 days before the annual general meeting of the Company in accordance with the requirements of that Section; and
 - (b) Sections 127 and 128 of the Companies Act, 1963, as amended, to submit to the Registrar of Companies the Company's annual return and its appendices for the year ended 31 December 2010 in accordance with the requirements of those Sections; and
2. An Order directing the directors of the Company, namely John Liwosz and Anthony William Brown to make good their defaults under:
 - (a) Section 150 of the Companies Act, 1963, as amended, to lay the Company's group accounts for the year ended 31 December 2010 before an annual general meeting of the Company in accordance with the requirements of that Section; and
 - (b) Sections 127 and 128 of the Companies Act, 1963, as amended, and Section 383(3) of the Companies Act, 1963, as amended, to submit to the Registrar of Companies, the Company's annual return and its appendices for the year ended 31 December 2010 in accordance with the requirements of those Sections; and
3. An Order directing the Company, John Liwosz and Anthony William Brown to comply on a continuing basis with their obligations under Sections 127, 128, 150, and 159 of the Companies Act 1963, as amended.

4. An Order granting the Director liberty to re-enter the proceedings in the future if there is non-compliance.
5. An Order granting the Director the costs of the High Court proceedings against the directors, John Liwosz and Anthony William Brown, on a joint and several basis, such costs to be taxed in default of agreement.