

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TE WHANGANUI-A-TARA ROHE**

**CIV—2018-485-792**

BETWEEN

LARA MAREE BENNETT,  
JOHN HOWARD ROSS FISK and  
RICHARD MICHAEL LONGMAN  
Applicants

AND

EBERT CONSTRUCTION LIMITED (in  
receivership and liquidation)  
Respondent

AUCKLAND VENTILATION SERVICES  
LTD  
First Interested Party

TASLO STEEL SECURITY LIMITED  
Second Interested Party

On the papers:

Counsel: M G Colson and R L Pinny for the Applicants

Orders: 28 November 2018

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**ORDERS OF CHURCHMAN J**

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[1] In my decision in this matter of 12 November 2018, I made certain orders appointing the applicants, receivers and managers of the Retentions Account. I specifically reserved leave for them to return to the Court for further directions as required.<sup>1</sup>

[2] By memorandum of counsel dated 26 November 2018, the applicants have sought an order varying certain aspects of my 12 November decision.

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<sup>1</sup> *Bennett & Ors v Ebert Construction Ltd* [2018] NZHC 2934 at [140](d).

[3] A review of the memorandum confirms that the variation sought are of a technical nature only and do not prejudice any party with an interest in the Retentions Account. Accordingly, I am prepared to deal with the application for variation on a without notice basis.

[4] I vary the orders made in the 12 November 2018 decision as follows:

- (a) the Applicants are appointed as joint and several Court-appointed receivers and managers to the retention fund presently held by Ebert in a bank account (number [REDACTED]) titled “Ebert SC Retentions” (the **BNZ Retentions Account**) (the **Fund**);
- (b) the Receivers are permitted to transfer the balance of the BNZ Retentions Account to another bank account provided it is established solely to hold the balance of the Fund and any accrued interest on the terms set out in this order (the **Retentions Account**);
- (c) the Applicants’ undertaking that, pending further order of the Court, the balance of the Retentions Account will not fall below the level of interest earned on it, applies to the Fund howsoever represented (i.e. whether in the BNZ Retentions Account or, subsequently, any other bank account).

[5] Other than as expressly varied, the directions set out in the decision of 12 November 2018 remain in force.

Churchman J