

THE NEIL BURNARD TRIAL SUMMARY.

The trial, including legal discussions before jury impanelment, went into the eleventh day. The jury took over a full day in reaching a decision, and reached their verdict just before lunch on Tuesday 06-05-2008.

For those interested, there is an accompanying file on the website that are a copy of the notes I made through the trial. No attempt has been made to tidy them up.

- * The jury found Neil Burnard guilty on all nine counts
- * A rough definition of the charges laid against him was that he had knowingly uttered (and published) words he knew to be false to gain financial advantage. The words were *Kebbel Investment Bank*, of which he claimed to be a director.
- * Although it was a Commonwealth prosecution, the charges were laid under state law, at the direction of ASIC.
- * There were 9 counts involving 6 witnesses. Six involved oral utterances and three referred to published material. It revolved around the words *Kebbel Investment Bank*, with Burnard claiming directorship of the said entity.
- * The defence based its main argument on two bases.

The first was the words *Kebbel Investment Bank* were used universally throughout the *Kebbel Group* of companies as an “internal” trading name. The claim was that there was never any intention it should be interpreted as a “real” bank.

The second related to the fact Richard Beck had ordered its use as a trading name. Questions arose on the use of the reserve word *bank*, and Burnard had checked with Beck, who told him they had legal advice they could use it.

- * During the trial, extended periods of time were lost while legal argument took place on the semantic meaning of *existence* in relation to trading names/labels used by companies. Further time was lost in trying to decide the legal meaning of entity, which is not in any legal dictionary.
- * Sentencing will hopefully take place in six week’s time. This is not a matter of slackness on the part of judge, who has shown an impeccable attention to his duties through the trial. The problem lies in that there are documents and statements of evidence not admissible during the trial, and other matters, that he must take into account in handing down a sentence. If there are any delays, Burnard will be sentenced when the judge gets back from overseas. Meanwhile, the authorities have confiscated his passport, and he must report to the police at the prescribe interval.

- Note 1.** Critical evidence was excluded from jury consideration because it was either external to the period of the charges, or was prejudicial to Burnard. Some of this evidence has implications beyond the trial.
- Note 2.** The judge stated he never looks at anything to do with those involved while presiding over a trial. However, in this case, the evidence showed that senior people, including directors of Kebbel companies, seemed to have used Kebbel Investment Bank in the same manner that Burnard did. He asked the Crown prosecutor if this was the first of a series of court cases, and the Crown prosecutor said no.