

ROYAL COURT
(Samedi Division)

90.

6th May, 1994

Before: The Deputy Bailiff, and
Jurats Vint and Myles.

In re the Bankruptcy (Désastre) (Jersey) Law, 1990.

**In re Blue Horizon Holidays, Ltd., en désastre on the
application of St. Brelade's Bay Hotel, Ltd.**

Application by Blue Horizon Holidays, Ltd., under Article 7 of the above
Law to recall the *déclaration en désastre* effected on 11th February,
1994.

Mr. David Eves of behalf of Blue Horizon Holidays, Ltd.

JUDGMENT

THE DEPUTY BAILIFF: This is a representation which has been brought by Mr. David Eves, on behalf of Blue Horizon Holidays Ltd, seeking a declaration that the *désastre* of Blue Horizon Holidays Ltd was improperly obtained and should be declared invalid.

Mr. Eves submitted that the petitioning creditor, St. Brelade's Bay Hotel Ltd, had "walked away from the proceedings" and that the *désastre* had accordingly been invalidated.

What the letter from the Advocate for the petitioning creditor, St. Brelade's Bay Hotel Ltd, actually says is this:

"My client Company has instructed me to take no further steps in relation to this matter. It has already incurred enormous costs, over and above the total amount of its claim in the désastre, and is not minded, for purely commercial reasons, to become involved in further expense in relation to this matter".

This was a letter written in response to a summons returnable before the Royal Court on 7th April, 1994, when Blue Horizon Holidays Ltd applied for a stay of the *désastre* proceedings pending appeal to the Court of Appeal.

It is clear that what the lawyers on behalf of the petitioning creditor are actually saying is that the petitioning creditor is unwilling, on grounds of cost, to participate in proceedings brought by Blue Horizon Holidays Ltd not against the petitioning creditor itself but effectively against the Viscount seeking, as I have said, a stay of the *désastre* proceedings pending appeal to the Court of Appeal. There is no obligation on the petitioning creditor to participate and we find that there is no substance in this representation. The application is therefore dismissed.

No authorities cited.