

Law report review

Law



Law Review – Schwartz: In the matter of Babybelle Pty Ltd (ACN 116 052 683) [2007] FCA 1469 (September 2007) In the case of Schwartz: In the matter of Babybelle Pty Ltd, the Federal Court of Australia makes a decision over the application Mr. Schwartz filed under section s 206G(2) of the Corporation Act 2001, which seeks to allow him to be appointed as the director of Babybelle Corporation. Section 206B(2) of the act allows a person (Mr. Schwartz) to be exempted from the law and serve as director for a corporation in spite of previous convictions.

Judge Gordon J's reasoning in the case is that the information submitted in support of the application is unsatisfactory. Judge Gordon J sites from *Adam v Australian Securities and Investments Commission* (2003) 46 ACSR 68, that Mr. Schwartz needs to show sufficient evidence that he can honestly perform the duties as the director of the corporation with regards to the public's best interest. From the evidence presented to the Judge, his decision was that Mr. Schwartz did not present evidence as to who Babybelle deals with and why Mr. Schwartz was the only person able to serve in the director position. It is the recommendation of Judge Gordon that Mr. Schwartz's application be dismissed. The Judge also concluded that the plaintiff could submit a new application with more detail and supporting evidence which further backs his character since his convictions. In addition, Mr. Schwartz could provide more in depth information on the company and its customers, thereby allowing the court to make a sound judgment as to the best interest of the public in allowing Mr. Schwartz to serve as director of the corporation.