00200 81896 n the High bourt of Justice <u>Companies (Windingup)</u> Mr Justice Taughan Milliams In the Matter of the Companies Acts 1862 to 1890 In the Matter of Thomas Edward Brinsmead Jo, Her Mayeshis High Court of Justice D 26 augus 11896 The humble Selition of The Court doth order that all parties concerned do attend hereon on the fue of at the James William Richardson of day of the 189 No III Grosvenor Park, Camberwell Gate at the Royal Courts of Justice Roy in the Country of London, Muilder and Strund, London and hereof give Notice forthwith. Theweth as follows :-A Company under the name of Thomas Edward Brinsmead & Sons Limited (hereinafter called the Company) was on the 22rd of July 1896 incorporated by registration under the Companies Acts 1862 to 1890. The Registered office of the Company is at ME 94 Cannon Street in the billy of London. The nominal capital of the Company is \$100,000 divided into 18,000 Ordinary Shares of 25 each and 2000 Deferred shares of £ 5 each. The Seliconer believes that the greater part of the Ordinary shares in the Company have been allotted by the Directors to applicants therefor under the prospectus hereinafter mentioned and that 3000 , Ordinary shares and 2000 Deferred shares have been allotted to the pretended Kindor Davis hereinafter referred to. The fletitioner is unable to state how many shares in or which amount has been partices or credited as part up by the the Company have been allotted as the Directors have refused to allow the Register to be inspected on his behalf alleging that they have closed the same under the power confired on them by Section 33 of the Companies Act 1862.

The objects for which the Company was established according to its Memorandum of Association are as follows: -· (A) To acquire and take over as a going concern and carry on the business of Mianofork Manufacturers now carried on by Thomas Edward Brinsmead Edward George Stanley Brinsmead and Sydney Walter Brinsmead at Bartholomew Works, Bartholomew Road. Kentish Jour in the County of Middlesex under the shile or firm of "Thomas Edward Brinsmead & Sons' Logether with the whole of the real and personal property and assets of the proprietors of that business used in connection therewith a belonging there to and with a rew thereto to adopt and carry into effect (either with or without modifications) the agreement dated the 2nd day of July 1896 and made between Joseph Henry Davis of the one part and Stephenson Hilson and of the other part." They other objects and set forth in the said Memmandum of Association of the Company. The agreement of the 200 July 1896 referred to in the said Memorandum of Association provided for the sale by the said Joseph Henry Davis to the Company of (1.) the business of Sianoforte Manufacturers in such agreement stated to have been carried on by Thomas Edward Brinsmead, Edward George Manley Brinismead and Sydney Walter Brinismead at the Bartholomew Works, Bartholomew Iload Kentish Your with the plant and effects in and about such Works and also the exclusive right to use as part of the name of the Company the words "Thomas Edward Grinsmead Vilons", -

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and also (2.) a Lease of a factory situate at Indinand Sheet, Carndon Your, together with a tain Machinery plan and effects in and about such factory, and under such agreement the consideration the sale was to be the sum of to 16, 650 to be satisfied as to the sum of £10,000 by the alletment to the Vendor of the whole of the said 2000 Deferred Shares of the Company, and as to the balance of 2 66, 650 in cash and payable as to 20 per cent of the said Cash as a deposit on the day on which the Company should proceed to allahment, and as to the balance of the said cash and as to the said shares on the 14 of deplember 1896 when the purchase was to be completed. The said Joseph Henry Davis is a person of no means whatever residing in one room in afinall housein therewelly for which he pays a rent of fire shillings a week and is a mere dummy whose name is used in the said agreement and in the agreements of the 1th July 1896 hereinafter menhored as the nominee of or agent for the Company promotes who have promoted the said bompany. Between the 22 nd and the 24 th of July 1896 there were wice lated in all parts of the Kingdom a very large number (believed to amount to over three quarters of a million) copies of a financial fournal or pamphlet called "The Sines for " containing copies of the prospectus of the said Bompany with a laudatory article concerning the Company and on the 27 th and 28th of July 1896 I large number of copies of the said prospectus were issued to the public and full advatisements of such prospectus were issued in all the leading Daily Newspapers of the 28th 29th and 30th fully According to a notice at the head of the said prospectus 8: so issued on the 27th and 28 th of July and published

in the Newspapers the list of applications for shares was to open on the 28th July 1896 and close on the 29 14 instant for your and the following day for the Country and it was provided that ten shillings per share was to be paid upon application to 2. 10per share on allotment and the balance of to 2 in hus instalments at one and two months after allotment respectively on the whole amount might be paid up in full on allotment the shares ranking for dividend from the date of payment. The said prospectus stated amongst other things 9. that the Company had been formed for the purpose of acquiring corrupnig on and consider a by extending the hunness of plianoforte Manufacturers, now carried on by Thomas Edward Brinsmead Bons af Ferdinand Sheet bamden From and Bartholomew Work's Bartholomew Road Hentish Town and with such prospectus were circulated grossly maccurate prints or pictures purporking to show the said Gerdinand Sheet factory as a large factory in fill work with conspicuous sign boards or labels across the same bearing the words "Thomas Edward Brunsmead Sons flimpit Works" A firm of flianoforte Manufacturers bearing the name of John Brinsmead Honshawing a large factory in Hentish Your (within a few minutes walk of Bartholomew Road & Fredinand Street) has been established for unwards of 50 years and has acquired a great reputation in the Musical Frade as manufacturers of pianofiles and such frmiss generally known to the public as "Brinsmeads or Brinsmead Hons' and their pianos are universally known as Bunimead pianos The said prospectus contained comumber of inaccurate //. and misleading statements and was purposely so famed as to induce the public who were not aware that there were two frmis of pianofor te Manufacturers in London bearing the name of Brinimed di lons to believe that the bompany had been formed for the purpose of acquiring the business of the old and well known firm of John Brinsmead Clons above referred to.

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12. The Petitioner upon the faith of the statements contained in the aforesaid prospectus (a copy of which was sent to him) on the 28th of July 1890 applied for 25 ordinary shares in the said bompan and on the 30th of filly 1894 received a letter stating as the facts were that the Directors had allotted to him the said 25 shares and the Sections has paid 2 125 upon such shares.

13. "Your Getitioner has now ascertained and it is the fact that no trisiness whatever was ever carried on by Thomas Edward Brinsmead Hons at the said Ferdinand Street Works that they had not and never had any interest in those premises.

14. The facts as to the carrying on of the business of Pianofork Manufacturers at the said Bartholomew Road Works are as follows.

In October 1894 the said Thomas Edward ~ Brinsmead and his two sons Edward George Shanler, Brinsmead and Sydney Walter Brinsmead with another man named Albert Joseph Wilcox who up to that time had been employed as ordinary mechanic by the said firm of John Brinsmead YJons were dismissed from their employment and on or about the 27 th of October 189 4 they commenced to carry a in partnership upon equal kross as to profit and loss at the said Barthdomew Road Works the buines of Transfork Manufacturers under the name of " I. Brinsmead Yons. This business was carried on unde Articles of Partnership dated the 27th Uctober 1894 under which it was provided that the capital of the firm was to be £ 320 of which £80 was contribute. by the said Thomas Edward Brinsmead 280 by the said Wilcow and the remaining £ 140 was to be brought in by the said Edward George Stanley Brinima and Lydney Walter Brinsmead out of their shares of the profits of the business. The said business was

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carried in ity the said three Brinsmeads and Wilcox under the name of J. Brinsmead Your until the 21th of November 189 5 on which day on the hearing of an action brought against them by the said John Bunsmead Hons an injunction was granted to restriction. the said Thomas Edward Brinsmead Sams an improvedion was granted to restrain the raid thomas Edward Brinnerad and his said 2 sons and the said Albert Joseph Wilcox (amongst other things) from ming the name of "J. Brinsmead Hons' or any other name calculated to lead to the belief that they were carrying on the brinnes of the said John Brinsmead Hons. By an Indenture dated the 22 nd 16 November 1895 it was agreed that the partnership between the said three Bunimers and Wilcox, creaked by the said Indenture of the 27th October 1894 should be dissolved and that the said three Brinsmeads a should pay to the said Albert Joseph Wilcox the capital of £80 brought into the business by him by two instalments of £ 40 each on the 22 nd of November 1896 and the 22 nd of November 1897 and that such payments should be r accepted by the said Albert Joseph Wilco in full discharge of all his interest in the business. 17. In the month of February 1890 the said Thomas Edward Brinsmead

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and his said two sons having committee numerous breaches of the said injunction our order was made in the said action ordering them to pay the casts of a Mation

to commit them to prison for their breach of the said injunction the Plaintiffs therein not pressing for a committal.

In the month of March 1896 a limpany (hereinafter called the first leompany) bearing the name of "Thomas Edward Brinsmead Hens Limited was registered with a capital of 28000 in shares of £1 each and the said Thomas Edward Brinsmead and his said 2 cans by an Agreement dated the 27th March 1896 agreed to sell the business of Tianoforte Manufacturers stated to be then carried on by them at the Bartholomew Road Works and the exclusive right to use the name Thomas Edward Brinsmead Hans as part of the name of the said first leampany to such leampany for 26000 to be satisfied by 6000 shares of 21 each and by an Agreement dated the 2nd April 18 gle it was prairided that the said 6000 shares should be allotted as to 150 shares to the said Thamas Edward Brinsmead and his said 2 sons as to 2000 shares to a Mr. Oli and as to 3850 to one Francis Richard Jordan who had registered the said first learnpany and is hereinafter referred to. 19. By resolutions dated the 22 nd April and 9th May 189 6 it was resolved that the said first Company should be wound up and that the said Francis Richard Jordan should be the Liquidator thereof and such resolutions were regulared at doment House on the 29th of June 1896.

The said Thomas Edward Brinsmead and his said two sons upon being challenged to show how they had acquired the aforesaid or business from the said first learnpany produced an Agreement dated the 16th May 1894 by which the raid Francis Richard Jordan as Liquidator of the said firit leompany agreed

or purported to agree to resell to them the said business carried on at Bartholomeur Works with the exclusive right to use the name of Thomas Edward Brinsmead Hons and all the plant and effects used in connection with the business for a sum sufficient to pay the debts of the said firit bompany and the costs of the liquidation thereof.

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By an Agreement dated the 1st July 21. 1596 and made between the said Thomas Edward Brinsmead, Edward George Stanley Brinsmead and Sydney Walter Brinsmead of the one part and the said a Joseph Henry Davis of the other part the said three Brinsmeads agreed to sell and the said Joseph Kenny Davis agreed to purchase the business stated To be carried on by the said three Brinsmeads at the said Bartholomew Road Works logether with the plant and effects therein and the eachusive right to use as part of the name of the leompany the words "Thomas Edward Brinimead & Lons' for the sum of £ 6,000 to be satisfied. as to the sum of £ 1000 in cash and as to the remaining sum of £ 5000 in shares of the loompany which was in such agreement referred to as about to be formed in the mame of Thomas Edward Brinsmead + Sons Limited and the purchase was to be completed on the 1st of September 1896.

22. The said Bartholomus Roud works consist of a small workshop of two rooms held by the said 3 Brinsmeads for a term of 3 years from lehuistmas 1894 at a rent of £ 55 per annum (initiaing rates and taxes) and the busines done at such works up to the time of the formation of this Company was extremely small (considerably lefs than 200 marios having been sold from the said Works since the same were spened in (Ictober 1894) and the said business was so unpropiable, and the said 3 Bunameads so implumious that they were unable to pay the quarkers rent which became due in respect of the said Bartholomew Hoad Works as Midsummer 1896 and the Landlord of the premises had to distrain for such rent in addition to which there were two judgment debto against the said 3 Buinomeads which they were unable to satisfy until they did so out of the moneys received by them for the promotion of this Company. The facts as to the Ferdinand Sheet Works referred to in the said prospectus are as follows. The said Works consist of a factory in or in rear of Ferdinand Speel Camden Town which was until lakely used by the schme and Immusch belieber Works Timiled now in Liquidation and on or about the 30th of June 1896, Henry William alabore and the said Francis Richard Jordan / who were then momening or otherwise actively engaged in the formation of the Company) dequired a Lease or the right to a Lease of such Factory at a rack rental of \$ 224 per annum and they at about the same time nuchased from the Liquidator of the said Electric Works Company a boiler steam enqui dynamo motor and certain other machinery in the

said Factory which had been used by that Company of the ring of ± 337 the greak paid after the 29th of July 1896. By an agreement dated the 1" July 1896 and made between the said Henry William alabore and Francis Richard fordam of the one part and the said preph Henry Davis of the other part the said Alaboue and fordam agreed to let to the said Joseph Henry David or to a Company to be formed by him for the purpose the said Ferdinand Street Factory at the rent of 2 250 per amum and they acqued to sell to the said Joseph Henry Davis the machinery and chattels purchased for £ 337 as above montioned for the sum of £ 9000 to be paid as to £1,000 in each (of which £700 was to be paid on the 1th of September 1896) and as to the balance of \$8000 at the same time and in the same proportion in each and shares as the said Joseph Henry Davis should receive his purchase money on a resale of the premises to a Company to be formed by him and to be called Thomas Edward Brinemead of Sons Limited. At the time of the first if ie of the said prospectus the said Ferdinand feel Factory was an - almost empty factory no work being carried on there and the labels or signloards referred to in paragraph I were in fact not put up until after the 22 day of July 1896 and were then put up (as the Delitioner charges) solely in order that they might be made to

appear in the pictures published with the said Prospectus as above mentioned and thereby to represent that the said Thomas Edward Brinimens and his said two sons were in fact carrying on business at the said Zerdinand Short Zoutony On the 28" day of July 1896 an action of John Brissmead Hons & Thomas Edward Kirinismes V Tons Limited 1896, B. Nº 3243 was commenced in the chancery Dirsion of this bound and a Mation for an Injunction in such action was heard before Mr Justice North on the 7th 8th and 11th of august 1896 and by the Order dated the Mt august 1896 made upon such Motion, the bompany was restrained from using the name of Thomas Edward Brinsmead & Some Limited or. the word Hermiomead in connection with the manufacture sale or here of prance without adding thereto an express statement that the bompany , are distinct from and have no connection with the old firm of John Brisismead Hons." The whole substratum of the learnpany, so far as it ever had any, is some. 28. On the 12th of August 1896 an action of Keihardson v Brinsmead 1896 R. Nº 1364 was commenced in the lebancery Division of this bourt and upon the hearing before Mr. Justice Chitry on the 19th of august 1896 of a Mation to restrain the Directors of the bonyang from paying over to the Vendor any further part of the purchase money payable under the said bonkard of the 2nd fuly 1896 the said Directors by their bounsel alleged that the whole of the purchase consideration payable under such beanhait had already been fully paid or satisfied although such purchase money other than the deposit was not payable under such bonhact until the 1th of September 1896.

My an agreement filed with the Registrar of Joint Stock Companies on the 12" of august 1896 the Company agreed to allos to the said Joseph Henry Davis 2000 Deferred shares and 2000 ordinary shares of the bompany as fully paid up in satisfiction of 2 25,000 part of the purchase money payable under the said bonhad of the 2 July 1896

The Petitioner charges that in the promotion of the Company the promoters and directors thereof have been quilty of a grap fraud and that the Company was in fact promoted for the purpose of obtaining from the public large sums of money for the length of the promoters under the pretence of prunchasing a brisniefs and a facts which are practically worthleps.

The petitioner submits that the bompany ought to be wound up and proceedings taken to set aside the said Agreement of the 2nd July 1896 and the sale thereby made to the learnpany and to obtain the cancellation of any shares ifued as part of the puchas money payable under such agreement and also a return of any cash paid under such Agreement.

Upwards of JO shareholders have already taken proceedings to obtain the removal of their names from the register of the bompany, on the ground of missepresentation in the prospectus and unless such proceedings can be prevented or rendered ineffective these is serious danger that before a windengy commences, a large number of shareholders may " "being such proceedings obtain privily

of payment over the remaining shaceholders who or a large number of whom have an equal right to complain of the formation of this Company.

33 If the larmony to wound up upon this petition it is believed that there will be a large surplus of a fet distributable among the shareholders of the learnpany but unlife the remaining afer of the bompany are at once property by the appointment of a Liquidator or otherwise there is great danger that such remaining afets will be misapplied and that there will be great difficulty in recovering the same for the use either of breditors or shareholders of the Company. The Directors of the bompany are the said Thomas 34. Edward Brinsmead and his 2 sons and Jacob Bradford & Lomaa (who is an undischarged Bankups) and bedinin H Ballanhone and the whole of such Directors are persons of little or no means and have conspired with the said Joseph Henry Davis Francis Richard fordaw and the other promoters of this bompany for the purpose of obtaining popepion of the manage subscribed by the public for shares in the bompany upon the faith of the raid prospectus. It is just and equitable that the bompany shall be wound up by the bourt It is important and in the interest of the breditors and 36. shareholders of the teompany that the remaining afer thereof . and in particular the moneys becoming payable by shareholder upon their shares should be taken popepion of by some persons appointed by the bourd. Your pethoner therefore humbly prarpas follows .. 1. That Thomas beduced Brinsmead & Sons Limited may be wound up by the bour under the provisions of the bompanies ach 1862 to 1890 and that a prairional Liquidator may te forthwith appointed and that for such purposes all necessary and proper directions may be given. Or that such Order may be made in the premises as to the bourt shall seem meet And your Delitioner will aver may

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In the High bourt of Justice Set 1062 10100 I referred tom the . Companies (Minding Up) M. Justice Taughan Will Edula Linted Red A Re bompanies Acts 1862 6 1890 in the second se & motor owe Re Thomas Edward Å, Brinsmead & Sons Lime Ş H. Wind Up the Company 7.61 the saturdi marked it will 1-1096. Defactore The is the schild marked of & Commi Walter Maskell John Steel 35 Bedford Row day. Petitioners Solicity

In the High bourt of Justice learnpanies Minding up) Mr Regissur Hood Nº 10 200 of 1896 **6670**768 Thursday the Ht day of hovember In the Matter of the Companies of Acts 1862 10 1890 and -In the Matter of Thomas Edward Brinsmead Hon's Limited From the application of George Hapyllon Barnes the "A simpany by Summars dated 15 " August 1897 and Ennes " upon bearing the Solictors for the applicant and r " Malter Maskell as Solicitor representing on the question of interest the persons set out in the 2nd colimm of The Schedule bereto and upon reading the arder to und up dated the 2rd December 1896 the Lest of Conhibitories filed the 9th July 1897 and the Afficient of George Stapplon Barries filed the 28th actober 1897 It is ardered that the said official Receiver and Liquidator be at liberty twende the several persons whose names we set forth in the 2nd column of the Schedule hereto from the List of beneputritories of the above named beaupany and to redify the register of members of the above named Company accordingly And It is Ordered that the said Official Receiver and Liquidator be at liberty to admit the said several persons to prove in the winding up of the above named bingany as breachers for the sums set forth opposite their respective names in the Ht column of the suid Schedule being the amornets paid by the said several persons respectively

in respect of their shares und in the 5th column of the said schedule ~ being the assessed costs of the said several persons in respect of their proceedings against the learnpary to rectify the Register und rescued the lembace And wis Ordered that the sund Official Meawer and Ligundator be at literby to admit the said several ~ persons to prove in the winding up of the above named bornpany as breachors for interest at the rate of IH. 0.0 per cent per amum in respect of the sums set for the opposite their respective names in the Ht column of the said Schedule such interest to be calculated from the respective dutes of payment of the said Sums to the bornpany down to the respective dates of repayment shereof to the respective persons mentured in the H Stork (Schedule) Registrar Accord to a free and for - f05 1 . · · ·

The Schedule

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