

ASIC v. Rich

In winning its case against Greaves (the chairman of the board of directors and finance and audit committee of One.Tel), ASIC enhanced the importance of the ASX corporate governance guidelines by successfully arguing that the corporate governance literature is relevant when deciding that Greaves failed to show due care and diligence. Justice Austin stated that the literature on corporate governance may be ‘sometimes vague and less compelling... Nevertheless in my opinion this literature is relevant to the ascertainment of the responsibilities ... (of) Mr Greaves’ (*ASIC v. Rich* 2003 NSWSC 85, 24 February 2003).

It was also held that the skills and experience Greaves possessed were also relevant to determine that he had responsibilities greater than other non-executive directors. Greaves was a chartered accountant and had substantial business experience, having been a finance director and chief financial officer of large listed Australian public companies.

It is suggested the Greaves judgement will have considerable impact on future cases involving directors and collapsed companies — HIH Insurance, in particular.

Case examined

ASIC v. Rich 2003, NSWSC 85, 24 February 2003.