



IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL COURT
CORPORATIONS LIST

Case: S ECI 2021 03110

S ECI: 27/08/2021 02:36 PM

**IN THE MATTER OF GUNNS PLANTATIONS LIMITED (IN LIQUIDATION)
(RECEIVERS AND MANAGERS APPOINTED) (ACN 091 232 909)**

**DANIEL MATHEW BRYANT and CRAIG DAVID CROSBIE (in their capacities as
joint and several Liquidators of GUNNS PLANTATIONS LIMITED (IN
LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED)) (ACN 091 232 909)**
First Plaintiffs

and

**GUNNS PLANTATIONS LIMITED (IN LIQUIDATION) (RECEIVERS AND
MANAGERS APPOINTED) (ACN 091 232 909)**

Second Plaintiff

ORIGINATING PROCESS

Date of document: 27 August 2021
Filed on behalf of: the Plaintiffs

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

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(Justin Vaatstra – jvaatstra@abl.com.au)

A. DETAILS OF APPLICATION

This application is made under section 473 of the *Corporations Act 2001* (**Act**) and / or sections 60-10, 70-35 and 90-15 of the *Insolvency Practice Schedule (Corporations)* (**IPSC**) and the inherent jurisdiction of the Court.

The Plaintiffs seek orders in relation to matters that have arisen in the winding up of the Second Plaintiff. The Second Plaintiff is part of the Gunns group of companies (**Gunns Group**), of which the First Plaintiffs are also joint and several Liquidators.

On the facts stated in the supporting affidavit, the Plaintiffs claim –

Notice of application

1 An order pursuant to section 90-15 of the IPSC and/or rule 2.04 of the *Supreme Court (General Civil Procedure) Rules 2015* that the First Plaintiffs are permitted and justified in giving notice of this Originating Process to all creditors of the Second Plaintiff, including those creditors who were present in person or by proxy at any meeting of creditors, by causing copies of:

- (a) this Originating Process;
- (b) the Affidavit of Craig David Crosbie dated 13 July 2021; and
- (c) Form 16 pursuant to rule 9.2 of the *Supreme Court (Corporations) Rules 2013*

to be published on the websites maintained by the First Plaintiffs (www.pwc.com.au) and the Plaintiffs' solicitors, Arnold Bloch Leibler (www.abl.com.au).

First Plaintiffs' remuneration

2 An order pursuant to section 473 of the Act and/or sections 60-10 and 90-15 of the IPSC determining that the First Plaintiffs be paid the sum of \$887,023.00 plus GST as costs, expenses and remuneration reasonably incurred in relation to the liquidation of the Second Plaintiff for the period of 1 September 2016 to 31 December 2020 (**Remuneration**).

3 A direction that the First Plaintiffs are entitled to be paid the Remuneration out of the Second Plaintiff's property and that they be entitled to a lien over the Second Plaintiff's property in respect of those costs, expenses and remuneration.

4 An order that the First Plaintiffs be indemnified in respect of their costs of and incidental to this application out of the Second Plaintiff's property and that they be entitled to a lien over the Second Plaintiff's property in respect of those costs.

Early destruction of books and records of the Gunns Group

5 A direction pursuant to sections 70-35 and / or 90-15 of the IPSC that the First Plaintiffs are justified and otherwise acting properly and reasonably in proceeding on the basis that they are entitled to destroy the books and records of the Gunns Group two months after the completion of the liquidation.

Other matters

6 An order that any person affected by this application have liberty to apply on two days' notice.

7 An order that the Plaintiffs have liberty to apply.

8 Such further or other orders as the Court deems fit.

DATE: 27 August 2021

Arnold Bloch Leibler

ARNOLD BLOCH LEIBLER
Solicitors for the Plaintiffs

This application will be heard by _____ in Court No. _____, Supreme Court, 210 William St, Melbourne at 10:30 am on 4 October 2021.

B. NOTICE TO DEFENDANT

Not applicable.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable.

D. FILING

Date of filing:

PROTHONOTARY

This originating process is filed by Arnold Bloch Leibler of Level 21, 333 Collins Street, Melbourne, VIC, 3000, solicitors for the plaintiffs.

E. SERVICE

The plaintiffs' address for service is C/- Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne, VIC, 3000.

It is intended to serve a copy of this originating process on each defendant and on any person listed below:

- (a) Messrs Mark Korda and Bryan Webster in their capacities as receivers and managers of the Second Plaintiff, by their solicitors Ashurst.
- (b) the Australian Securities and Investments Commission.