

IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR 35 OF 2010

IN THE MATTER OF GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION)

GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 1 TO THE APPLICATION

First Plaintiff

GREAT SOUTHERN OLIVES COMPANY LIMITED (ACN 121 381 208) (IN LIQUIDATION)

Second Plaintiff

GREAT SOUTHERN OLIVES HOLDINGS PTY LIMITED (ACN 111 092 374) (IN LIQUIDATION)

Third Plaintiff

ANDREW JOHN SAKER

Fourth Plaintiff

MARTIN BRUCE JONES

Fifth Plaintiff

DARREN GORDON WEAVER

Sixth Plaintiff

JAMES HENRY STEWART

Seventh Plaintiff

JAMES GERARD THACKRAY

First Defendant

ANTHONY GREGORY MCGRATH

Second Defendant

COLIN MCINTOSH NICOL

Third Defendant

THE GROWERS LISTED IN SCHEDULE 8 OF THE APPLICATION

Fourth Defendants

INTERLOCUTORY PROCESS

Date of Document: 10 May 2010
 Date of Filing: 10 May 2010
 Filed on behalf of: The plaintiffs

Prepared by
Middletons
 Level 2
 6 Kings Park Road
 WEST PERTH WA 6005

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A. DETAILS OF APPLICATION

This application is made under the *Supreme Court (Corporations) (WA) Rules 2004* Pt 1 r 1.8.

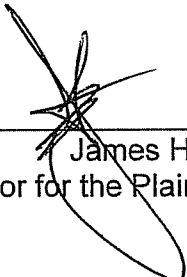
The applicant, applies for the following relief –

1. Leave be granted that the requirement that this interlocutory process be supported by an affidavit pursuant to Part 2 Rule 4 of the *Supreme Court (Corporations) (WA) Rules 2004* be dispensed with.
2. Leave be granted to add Mr Simon Andrew Read, in his capacity as receiver and manager of Great Southern Managers Australia Limited (in liquidation) as a further third defendant in these proceedings.
3. Leave be granted that Bendigo and Adelaide Bank Limited (ACN 068 049 178) be joined as the 4065th fourth defendant in these proceedings.
4. Leave be granted that the Minute of Amended Originating Process annexed and marked "A" to this application stand as the Originating Process in these proceedings.
5. An order that the confidential affidavits sworn in relation to these proceedings by:
 - (a) Jerome Clement Gumley sworn 19 April 2010;
 - (b) Brian Arthur Miles sworn 21 April 2010; and
 - (c) James Gerard Thackray sworn 30 April 2010,

and the annexures attached to those confidential affidavits and any affidavits filed in these proceedings referring to affidavits ordered to be confidential in these proceedings:

- (d) be placed in a sealed envelope and marked '*Confidential – Not to be Accessed for Inspection except so far as the Court orders*';
- (e) not be available for inspection so far as the Court orders; and
- (f) any application to inspect the confidential affidavits or the attachments thereto be referred to a Judge or Master of the Court within 3 days notice thereof to be provided to the solicitors for the plaintiffs.

Date: 10 May 2010


James Healy
Solicitor for the Plaintiffs

B. NOTICE TO DEFENDANTS

TO: **THE FIRST TO THIRD DEFENDANTS**
C/- Mr Nick Anson
Minter Ellison Lawyers
Rialto Towers
525 Collins Street
MELBOURNE VIC 3000

THE FOURTH DEFENDANTS

BEFORE THE JUDGE IN CHAMBERS ON WEDNESDAY 12 MAY 2010 AT 10:30 AM
If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with and an order made, in your absence.

C. FILING

This interlocutory process is filed by James Healy for the plaintiff.

D. SERVICE

The applicants address for service is 6 Kings Park Road, West Perth, Western Australia.

It is intended to serve a copy of this interlocutory process on each defendant and any persons listed below –

AUSTRALIAN SECURITIES AND INVESTMENT COMMISSION

C/- Mr Andrew Tregear
Litigation Counsel, Chief Legal Office
Australian Securities and Investments Commission

Level 24, 120 Collins Street
Melbourne VIC 3000

BENDIGO AND ADELAIDE BANK LIMITED
C/- Ms Belinda Thompson and Mr Matthew McCarthy
Allens Arthur Robinson
Level 27
530 Collins Street
MELBOURNE VIC 3000

GP LEVVEY PTY LTD
MR PHILLIP CAPICCHIANO
THOSE OF THE FOURTH DEFENDANTS LISTED SCHEDULE A TO THE
NOTICE OF APPEARANCE PREPARED BY CLARENDON LAWYERS DATED
AND FILED ON 3 MAY 2010
C/-Mr-Mark-Bland-
Clarendon Lawyers
Level 17
Rialto North Tower
525 Collins Street
MELBOURNE VIC 3000