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

GREAT SOUTHERN MANAGERS AUSTRALIA LIMITED (ACN 083 825 405) (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) INCLUDING IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 TO THE FURTHER AMENDED ORIGINATING PROCESS

First Plaintiff

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

Second Plaintiff

GREAT SOUTHERN OLIVE 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

GREAT SOUTHERN OLIVE PROCESSING PTY LTD
(ACN 128 547 437) (IN LIQUIDATION)

Eighth Plaintiff

JAMES GERARD THACKRAY

First Defendant

ANTHONY GREGORY MCGRATH

Second Defendant

COLIN MCINTOSH NICOL AND SIMON ANDREW READ

Third Defendants

THE GROWERS LISTED IN SCHEDULE 8 OF THE
FURTHER AMENDED ORIGINATING PROCESS

Fourth Defendants



INTERLOCUTORY PROCESS FOR ORDERS
UNDER SECTIONS 447A(1), 477(2B) AND 511
OF THE CORPORATIONS ACT 2001 (CTH)

Date of Document: 12 August 2010
Date of Filing: 12 August 2010
Filed on behalf of: The plaintiffs

Assess No. 493178
Fees \$351.00

12 AUG 2010

Prepared by
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FILED
12 AUG 2010
CENTRAL OFFICE
SUPREME COURT

12/8.

A. DETAILS OF APPLICATION

This application is made under ss. 447A(1), 477(2B) and 511 of the *Corporations Act 2001* (Cth) (**Act**).

On the facts stated in the supporting affidavit of Andrew John Saker sworn 12 August 2010 (**Saker Affidavit**) and the supporting confidential affidavit of Andrew John Saker sworn 12 August 2010 (**Confidential Saker Affidavit**), the fourth, fifth, sixth and seventh plaintiffs (**Liquidators**) in their capacities as joint and several liquidators of the first plaintiff (**GSMAL**) and the second plaintiff (**GSOC**) apply for the following relief:

Amendment to Further Amended Originating Process

1. Leave be granted that the Minute of Further Re-Amended Originating Process annexed and marked "A" to this application stand as the Originating Process in these proceedings.

Termination of Head Leases

2. Directions under s. 511 of the Act that the Liquidators (in their capacities as joint and several liquidators of GSOC) are justified in causing GSOC to assign, terminate, surrender or otherwise deal with:
 - (a) the lease agreement between GSOC and GSMAL undated and entered into on or about 1 May 2009 (**Steak Plains Head Lease**) in relation to Lot 2 in Deposited Plan 1130925 (**Steak Plains Property**);
 - (b) the lease agreement between GSOC to GSMAL dated 6 June 2008 registered as dealing number AE10920 (**Collaroy Head Lease**) against Lot 4685 in Deposited Plan 767849 and Lot 5045 in Deposited Plan 43596 (**Collaroy Property**),

(together the **NSW Head Leases**) and (the NSW Steak Plains Head Lease and the Collaroy Head Lease, together, the **NSW Properties**).
3. Directions under s. 511 of the Act that the Liquidators (in their capacities as joint and several liquidators of GSMAL) are justified in causing GSMAL:
 - (a) not to resist the termination of the NSW Head Leases;
 - (b) not to apply for relief against forfeiture in respect of the termination of the NSW Head Leases; and

- (c) to give vacant possession of the NSW Properties to GSOC upon termination of, assignment of, surrender of or dealing with the NSW Head Leases.

Effect of termination of Collaroy Head Leases

4. A declaration and determination under s. 511 of the Act that upon termination of, assignment of, surrender of or dealing with the Collaroy Head Lease GSMAL has:
- (a) no right, interest or lien arising under the Collaroy Head Lease:
- (i) in, against or with respect to any future harvest of the olive trees planted on the Collaroy Property (**GSOC Collaroy Harvest**); or
- (ii) in, against or with respect to those assets owned by GSOC to be sold pursuant to the NSW Sale Contract, as that term is defined in paragraph 7(a) below (**Collaroy Sale Assets**),
- (such rights, interests or liens comprise the **GSMAL Collaroy Rights**); and
- (b) no claim, demand or cause of action arising under or in relation to the Collaroy Head Lease against GSOC or the former administrators or Liquidators of GSOC in relation to:
- (i) the GSOC Collaroy Harvest; or
- (ii) the Collaroy Sale Assets,
- (**GSMAL Collaroy Claims**).

Effect of termination of Steak Plains Head Leases

5. A declaration and determination under s. 511 of the Act that upon termination of, assignment of, surrender of or dealing with the Steak Plains Head Lease GSMAL has:
- (a) no right, interest or lien arising under the Steak Plains Head Lease or the Great Southern 2008 Diversified Olives Income Project (ARSN 124 197 897) (**2008 Olive Scheme**):
- (i) in, against or with respect to the olive produce derived from the 2010 harvest and any future harvest of the olive trees planted on the Steak Plains Property (**GSOC Steak Plains Harvest**); or

- (ii) in, against or with respect to any asset to be sold pursuant to the NSW Sale Contract and listed in Schedule B (**Steak Plains Sale Assets**),

(such rights, interests or liens comprise the **GSMAL Steak Plains Rights**);
and

- (b) no claim, demand or cause of action arising under or in relation to the Steak Plains Head Lease against GSOC or the former administrators or Liquidators of GSOC in relation to:

- (i) the GSOC Steak Plains Harvest; or
(ii) any Steak Plains Sale Asset,

(GSMAL Steak Plains Claims).

6. A declaration and determination under s. 511 of the Act that upon termination of, assignment of, surrender of or dealing with the Steak Plains Head Lease none of the fourth defendants listed in Schedule C (each a **Steak Plains Grower**) has any:

- (a) right, interest or lien in, against or with respect to:

- (i) the GSOC Steak Plains Harvest; or
(ii) the Steak Plains Sale Assets,

(together any such rights, interest or liens comprise the **Growers Steak Plains Rights**); or

- (b) claim, interest or cause of action against GSMAL or GSOC, or the former administrators or Liquidators or in respect of any of the Steak Plains Sale Assets (**Growers Steak Plains Claims**),

arising under any Steak Plains Head Lease, any lease between GSMAL (as sublessor) and a Steak Plains Grower (as sublessee) listed in Schedule C (**Steak Plains Subleases**).

Approval of Sale of Olive Properties

7. The Liquidators (in their capacity as liquidators of GSOC) are justified in entering into and performing:

- (a) the sale agreement between the Liquidators, GSOC and Australian Executor Trustees Limited ABN 84 007 869 794 as custodian of the RFM Riverbank (ARSN 112 951 578) (**RFM**) dated 30 July 2010, in terms which are substantially the same as the agreement set out in confidential attachment AJS-182 to the Confidential Saker Affidavit (**NSW Sale Contract**);
 - (b) the replacement deed of co-ownership between Lachlan Farming Limited (ACN 082 230 028), RFM and GSOC, in terms which are substantially the same as the agreement set out in attachment AJS-170 to the Saker Affidavit (**Replacement Deed of Co-Ownership**); and
 - (c) all other agreements which are reasonably necessary to give effect to the sale of the Collaroy Sale Assets and the Steak Plains Sale Assets to RFM (**Other Agreements**).
8. Directions under s. 511 of the Act that, upon the termination of the Steak Plains Head Lease, the Liquidators are justified in making, doing and executing such documents or doing such things as are reasonably necessary to enter and give effect to the NSW Sale Contract, Replacement Deed of Co-Ownership and the Other Agreements without further regard to any GSMAL Collaroy Right, GSMAL Steak Plains Right, GSMAL Steak Plains Claim, Growers Steak Plains Rights or Growers Steak Plains Claim.
9. The entry into of the:
- (a) NSW Sale Contract;
 - (b) Replacement Deed of Co-Ownership; and
 - (c) Other Agreements,
- are approved under s.477(2B) of the Act.

Application of proceeds of NSW Sale Contract

10. A direction under s. 511 of the Act that the Liquidators are justified, upon any completion of the sale provided for in Order 7, in paying to GSOC 42% of the net proceeds of the NSW Sale Contract in respect to the Collaroy Sale Assets, after the deduction by the Liquidators at any time of the fees, costs and expenses referred to in Order 6 (a) to (c) of the orders of this Honourable Court on 27 May 2010 (**27 May**

Orders) as applicable to the sale of the Collaroy Sale Assets under the NSW Sale Contract, provided that where GSOC has previously paid those fees, costs and expenses referred to in Order 6(a) to (c) of the 27 May Orders that relate to the NSW Sale Contract from the net proceeds of any Sale Asset (as that term is defined in Order 6 of the 27 May Orders), that amount shall be deducted from the net proceeds received from the sale of the Collaroy Sale Assets and paid into the Fund created by Order 6 of the 27 May Orders by way of reimbursement of those fees, costs and expenses previously paid by GSOC out of the Sale Assets.

11. A direction under s. 511 of the Act that the Liquidators are justified, upon completion of the sale of the Steak Plains Sale Assets provided for in Order 7, in paying to GSOC, 58% of the net proceeds of the NSW Sale Contract in respect of the Steak Plains Sale Assets, after the deduction by the Liquidators at any time of the fees, costs and expenses referred to in Order 6 (a) to (c) of the 27 May Orders as applicable to the sale of the Steak Plains Sale Assets, be paid into the Fund created by Order 6 of the 27 May Orders, provided that where GSOC has previously paid those fees, costs and expenses referred to in Order 6 (a) to (c) that relate to the NSW Sale Contract from the net proceeds of any Sale Asset (as that term is defined in Order 6 of the 27 May Orders), that amount shall be deducted from the net proceeds received from the sale of the Steak Plains Sale Assets and paid to GSOC by way of reimbursement for those fees, costs and expenses previously paid by it.
12. The net proceeds of the Steak Plains Sale Assets, shall be held, and the rights of claimants against those net proceeds shall be determined, in the manner provided by the application of orders 6 to 13 of the 27 May Orders.

Service of interlocutory process on the Steak Plains Growers

13. Pursuant to Part 1 rule 1.3(2) and 2.7 of the *Supreme Court (Corporations) Rules 2004 (WA) (Corporations Rules)* and Order 72 rule 4 and Order 72 rule 5 of the *Rules of the Supreme Court 1971 (WA)*, service of this interlocutory process on each of the Steak Plains Growers be effected by:
 - (a) sending by pre-paid post a letter substantially in the form attached as Schedule D to the registered address of each Steak Plains Grower as reflected in the books and records of GSMAL;
 - (b) publishing a copy of this interlocutory process on the websites of the Liquidators; and

- (c) advertising the publication of this interlocutory process in The West Australian, The Melbourne Age and The Australian in substantially the form attached as Schedule E.

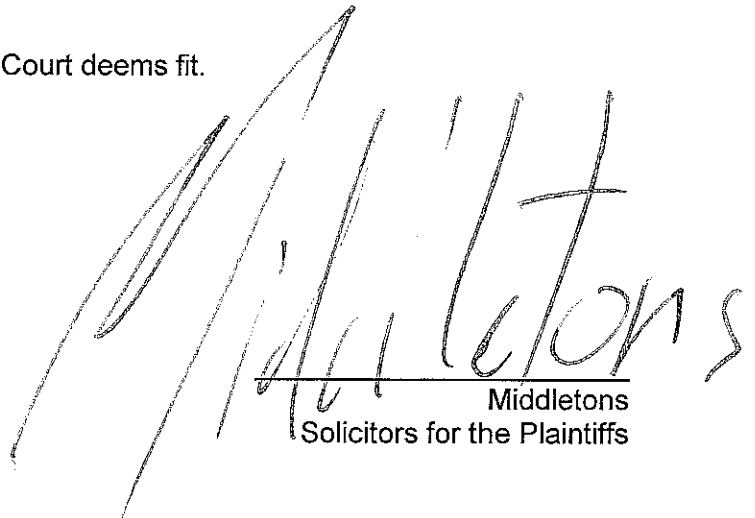
Confidentiality

14. The Confidential Saker Affidavit and its attachments:
- be placed in a sealed envelope marked "*Confidential- Not to be Accessed for Inspection except so far as the Court orders*"; and
 - not be available for inspection so far as the Court orders; and
 - any application to inspect the document be referred to a Judge or Master of the Court with 3 days notice thereof to be provided to the plaintiffs.

Other

15. An order that the plaintiffs' costs of this application be paid from the assets of GSMAL and GSOC.
16. There be granted to any person affected by these orders general liberty to apply on 3 business day's notice to the plaintiffs and the first, second and third defendants, until further order.
17. Such further or other orders as the Court deems fit.

Date: 12 August 2010


Middletons
Solicitors for the Plaintiffs

This application will be heard by

at the Supreme Court, Stirling Gardens, Barrack Street, Perth

at 9:30 am/pm

on Wed, 1 September 2010



B. NOTICE TO DEFENDANT(S) (IF ANY)

Not applicable.

C. APPLICATION FOR WINDING UP ON GROUNDS OF INSOLVENCY

Not applicable.

D. FILING

Date of filing: 12 August 2010

K.F. Chapman
Principal Registrar

This interlocutory process is filed by Middletons, solicitors for the plaintiffs.

E. SERVICE

The Plaintiff's address for service is Middletons, Level 2, 6 Kings Park Road, West Perth, Western Australia, 6005.

The plaintiffs intend to serve a copy of this interlocutory application on the Australian Securities and Investment Commission.

It is not intended to serve a copy of this interlocutory process on any other person.

SCHEDULE A
ORIGINATING PROCESS
