

Order NOT Entered

FEDERAL COURT OF AUSTRALIA

No: (P)VID562/2010

DISTRICT REGISTRY: VICTORIA

DIVISION: GENERAL

**IN THE MATTER OF SONRAY CAPITAL MARKETS PTY LTD
(IN LIQUIDATION)) (ACN 104 482 993)**

**GEORGE GEORGES AND JOHN ROSS LINDHOLM (IN THEIR CAPACITY AS
JOINT AND SEVERAL LIQUIDATORS OF SONRAY CAPITAL MARKETS PTY
LTD (IN LIQUIDATION)) and others/another named in the schedule
Plaintiffs**

ORDER

JUDGE: Justice Gordon

DATE OF ORDER: 5 September 2011

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. The Liquidators have leave to amend the Interlocutory Process filed on 5 July 2011 in accordance with the proposed amended Interlocutory Process dated 5 September 2011.
2. Pursuant to r 9.05 of the *Federal Court Rules 2011* Sonray Capital Markets Pty Ltd (in Liquidation) be joined as a party in this Interlocutory Process as a Second Plaintiff.
3. Pursuant to rr 2.13(3) and (5) of the *Federal Court (Corporations) Rules 2000* (Cth):
 - (a) Seaborn International Pty Ltd as trustee for the Seaborn Family Trust be added as a Defendant to the proceeding and be appointed to represent himself and all clients of Sonray claiming an entitlement to any foreign currency in any of the Segregated Accounts held by Sonray, excluding any investors claiming an entitlement to the sum of USD \$778,630.49 in HSBC Singapore account numbered 260-696760-178 USD;

- (b) Maryland Pty Ltd as trustee for the Norwegian Trust be added as a Defendant to the proceeding and be appointed to represent itself and all clients of Sonray in relation to the determination of the question of the basis upon which a client's entitlement to be paid money from the Segregated Accounts is to be determined;
- (c) Alisante Pty Ltd and Bon River Pty Ltd be added as Defendants and be appointed to represent all clients of Sonray that transferred shares from that client's Holder Identification Number (HIN) to the HIN of a Trading Platform;
- (d) Roland Mark Ward as trustee for the Award Superannuation Fund (ABN 66 473 078 418) be added as a Defendant to the proceeding and be appointed to represent himself and all clients of Sonray claiming an entitlement to financial instruments and/or money held by Interactive Brokers excluding those clients represented by Alisante Pty Ltd and Bon River Pty Ltd pursuant to paragraph 3(c) hereof;
- (e) Efax Pty Ltd (ACN 001 886 120) be added as a Defendant to the proceeding and be appointed to represent itself and all clients of Sonray claiming an entitlement to shares acquired on the instructions of Sonray on behalf of clients of Sonray that instructed the acquisition of shares and paid or released money to Sonray for the purchase thereof, and dividends paid or declared on the relevant shares, which shares and dividends are held by or on behalf of Saxo, excluding:
 - (i) those clients represented by Alisante Pty Ltd and Bon River Pty Ltd pursuant to paragraph 3(c) hereof; and
 - (ii) clients of Sonray that instructed the acquisition of shares and paid or released money to Sonray for the purchase thereof, which shares are presently held by or on behalf of Saxo, but who used a form of client agreement and disclosure document different to that used by Efax Pty Ltd subject to a determination of whether it is appropriate that such clients are in the same class or category of client as Efax Pty Ltd.

4. Each of the parties named in order 3, be indemnified out of the Segregated Accounts for their expenses reasonably incurred in so acting, in accordance with the Indemnity Costs Protocol filed by the Liquidators.

5. Pursuant to r 2.13(1) of the *Federal Court (Corporations) Rules 2000*:

- (a) Maryland Pty Ltd as trustee for the Norwegian Trust have leave to be heard in the proceeding in relation to the question of its entitlement to the sum of USD \$778,630.49 in HSBC Singapore account numbered 260-696760-178 USD until further order;
and
 - (b) Travel Arcade Pty Ltd and Robert Joseph Scolaro be granted leave to be heard by way of written submissions by Robert Joseph Scolaro dated 1 August 2011.
6. By 14 September 2011 the Liquidators provide to the parties a proposed statement of agreed facts.
 7. By 21 September 2011 each of the parties (other than the Liquidators) provide to the Liquidators and every other party:
 - (a) a notice stating whether they agree or disagree with each of the facts set out in the Liquidators' statements of proposed agreed facts; and
 - (b) a statements of any proposed agreed facts not included within the Liquidator's statement in order 6, together with any supporting documents.
 8. By 28 September 2011 the Liquidators file and serve a statement of agreed facts.
 9. By 5 October 2011 the parties file and serve any affidavits containing evidence that is referred to in the notice served pursuant to order 2(d) of the orders of the Court made on 2 August 2011, but which is not the subject of the agreed statement of facts in order 8.
 10. By 5 October 2011 the Liquidators file and serve any further affidavits on which they propose to rely.
 11. By 10 October 2011 the Liquidators file submissions in accordance with the submissions template filed by the Liquidators.
 12. By 17 October 2011 the parties file submissions in accordance with the submissions template filed by the Liquidators and address each question upon which that party wishes to be heard.
 13. The Liquidators' costs and expenses of this application be costs in the liquidation.
 14. Liberty to apply generally.

Date that entry is stamped:

Deputy District Registrar