

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 4/04/2019 3:30:20 PM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Interlocutory process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 3
File Number:	NSD2142/2018
File Title:	AN APPLICATION BY NEIL ROBERT CUSSEN AND MATTHEW JAMES DONNELLY IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF BIG UN LIMITED (ADMINISTRATORS APPOINTED)
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 8/04/2019 4:25:42 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 3
(rules 2.2 and 15A.4, 15A.8 and 15A.9)

Interlocutory process

Federal Court of Australia
District Registry: New South Wales
Division: Corporations List

No. NSD2142 of 2018

IN THE MATTER OF BIG UN LIMITED (SUBJECT TO DEED OF COMPANY ARRANGEMENT)

ACN 106 399 311

**NEIL ROBERT CUSSEN AND MATTHEW JAMES DONNELLY IN THEIR CAPACITY AS
JOINT AND SEVERAL DEED ADMINISTRATORS OF BIG UN LIMITED (SUBJECT TO
DEED OF COMPANY ARRANGEMENT) ACN 106 399 311**

Plaintiffs

A. DETAILS OF APPLICATION

This application is made under section 444GA of the *Corporations Act 2001* (Cth) ("**Act**") and rule 1.8 of the *Federal Court (Corporations) Rules 2000* (Cth).

The applicants, Neil Robert Cussen and Matthew James Donnelly in their capacity as joint and several deed administrators of Big Un Limited (Subject to Deed of Company Arrangement) ACN 106 399 311 ("**Plaintiffs**"), seek orders that they have leave to transfer 80% of the existing shares of Big Un Limited (Subject to Deed of Company Arrangement) ACN 106 399 311 ("**Company**") to WOW World Digital Pty Ltd ACN 629 978 570 pursuant to section 444GA(1)(b) of the Act and in accordance with clause 9.1(d) of the deed of company arrangement of the Company dated 15 January 2019 ("**DOCA**").

On the facts stated in the supporting affidavit of Neil Robert Cussen sworn 29 March 2019 ("**Affidavit**"), the Plaintiffs seek orders that:

1. The Plaintiffs are granted leave to transfer 80% of the existing shares of the Company to WOW World Digital Pty Ltd ACN 629 978 570 pursuant to section 444GA(1)(b) of the Act and in accordance with clause 9.1(d) of the DOCA.
2. Pursuant to section 447A(1) of the Act and/or section 90-15 of the *Insolvency Practice Schedule (Corporations)* (Schedule 2 to the Act), the Plaintiffs may jointly or severally:
 - (a) execute on behalf of the members of the Company, share transfer forms and any other documents ancillary or incidental to effecting the transfer of the shares referred to in order 1; and

Filed on behalf of:	Plaintiffs/Applicant
Prepared by:	Scott Harris
Law firm:	Hogan Lovells
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Email:	Scott.Harris@hoganlovells.com / James.Hewer@hoganlovells.com
Address for service:	Level 17, 20 Martin Place, Sydney NSW 2000
Ref:	754787.000003



- (b) enter, or procure the entry of, the name of WOW World Digital Pty Ltd ACN 629 978 570 or its nominee into the share register of the Company in accordance with order 1.
3. By 26 April 2019, the Plaintiffs give notice of this application in substantially the form of the notice attached to this Interlocutory Process and marked "A" ("**Proposed Notice**") to:
 - (a) all members of the Company;
 - (b) all classes of creditors of the Company; and
 - (c) the Australian Securities and Investments Commission ("**ASIC**").
4. In respect of the classes of persons stipulated in order 3(a) and 3(b):
 - (a) notice of this application shall be effected by the Plaintiffs by:
 - (i) causing the Proposed Notice to be sent by post to all members of the Company;
 - (ii) causing an email attaching the Proposed Notice to be sent to each of the persons falling within the classes of persons stipulated in order 3(a) and 3(b), for which emails are known to the Plaintiffs;
 - (iii) uploading a copy of the Proposed Notice, this Interlocutory Process and the Affidavit to the Deloitte website (<https://www2.deloitte.com/au/en/pages/finance/topics/insolvency-matters.html>); and
 - (iv) lodging an advertisement for a period of one day in a newspaper in general circulation in Australia; and
 - (b) notice of this application need not be given by any other means.
5. The Confidential Exhibit "NRC-2" to the Affidavit be kept confidential and sealed by this Honourable Court until further order.
6. By 10 May 2019, the Plaintiffs file any supplementary affidavits deposing to:
 - (a) the Plaintiffs' compliance with orders 3 to 4 inclusive;
 - (b) any correspondence or communications received by the Plaintiffs from each of the persons falling within the classes stipulated in order 3(a) to 3(c) in relation to the application, and the responses sent by the Plaintiffs to those persons; and
 - (c) any further matters relating to this application.
7. The Plaintiffs file any supplementary submissions in support of this application by 10 May 2019.
8. This application be listed for hearing in the week commencing 13 May 2019.



9. The Plaintiff's costs of this application be costs in the administration of the DOCA.
10. The Plaintiffs may serve documents required to be served by the *Federal Court (Corporations) Rules 2000* (Cth) by email.
11. Liberty to apply to the Plaintiffs and any person falling within the classes of persons in orders 3(a) to 3(c) on three days' notice.

Date: 4 April 2019

A handwritten signature in blue ink, consisting of several fluid, connected strokes.

.....

Signature of Plaintiff's legal practitioner

This application will be heard by _____ at the Federal Court of Australia, Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000 at _____ am/pm on _____.

B. NOTICE TO DEFENDANT

Not applicable.

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.

Before appearing before the Court, you must, except if you have already done so or if you are the plaintiff in this proceeding, file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff in the originating process.

Note Unless the Court otherwise orders, a respondent that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. FILING

This Interlocutory Process is filed by Hogan Lovells, solicitors for the Plaintiffs.

D. SERVICE

The Plaintiff's address for service is c/ Hogan Lovells, Level 17, 20 Martin Place, Sydney NSW 2000, Attention: Scott Harris.

It is not intended to serve a copy of this originating process on any person other than as provided for in order 3.



NOTICE TO SHAREHOLDERS

[DATE]

Dear Shareholder

Big Un Limited (Subject to Deed of Company Arrangement) ACN 106 399 311– Application for court approval for a transfer of 80% of your shares

We refer to the appointment of Matthew James Donnelly and I of Deloitte Financial Advisory Pty Ltd as joint and several deed administrators ("**Deed Administrators**") of Big Un Limited (Subject to Deed of Company Arrangement) ACN 106 399 311 ("**Company**") on 15 January 2019 under the *Corporations Act 2001* (Cth) ("**Act**").

This letter provides information about:

1. an application ("**Application**") which I have made, as joint and several Deed Administrator of the Company, to the Federal Court of Australia ("**Court**") for approval to transfer 80% of your shares in the Company to WOW World Digital Media ACN 629 978 570 ("**Proponent**") as part of a deed of company arrangement ("**DOCA**") approved by the creditors of the Company at the second meeting of creditors on 20 December 2018 ("**Second Creditors' Meeting**");
2. the steps which you will need to take if you wish to appear at the Court hearing on the Application, which is scheduled for [● 2019 at ● am/pm]; and
3. the information which is available to assist you in deciding whether to appear at the Court hearing.

Background

On 24 August 2018, Mr Donnelly and I were appointed as joint and several voluntary administrators of the Company. At a meeting held on 20 December 2018, the creditors of the Company resolved to enter into the DOCA proposed by the Proponent. On 15 January 2019, the DOCA was executed by all parties.

The DOCA

Under the DOCA, subject to the satisfaction of certain conditions, including those detailed below, 80% of the shares of each of the shareholders of the Company will be transferred to the Proponent in exchange for \$350,000 being payable into a deed fund established under the DOCA ("**Deed Fund**"). The Deed Fund will also comprise other assets of the Company, being any refund of GST due to the Company from the Australian Taxation Office, and the benefit of any claims or causes of action the Company may have against third parties (including its directors and officers, and former directors and officers) ("**Third Party Claims**").

The transfer of shares under the DOCA is conditional on, amongst other things, the following:



1. an Order being made by the Court under section 444GA of the Act giving the Deed Administrators leave to transfer 80% of the Company's shares to the Proponent ("**Share Transfer**"); and
2. the Australian Securities and Investments Commission ("**ASIC**") granting such exemptions or modifications from the requirements of Chapter 6 of the Act as are necessary to permit the Share Transfer to occur without the approval of the shareholders of the Company.

These conditions must be satisfied by 30 March 2019 or such other date that may be agreed upon by the Deed Administrators and the Proponent.

Upon effectuation of the DOCA, a Creditors' Trust will be established and the Deed Fund (after payment of approved fees, costs and expenses) will be transferred to the Creditors' Trust for the purpose of paying a dividend to creditors (and, in the event that there are surplus funds available from the recovery of Third Party Claims once all creditors' claims are paid in full, shareholders of the Company as at 24 August 2018) in accordance with the terms of the Creditors Trust Deed.

All claims of creditors of the Company, including any claims held by any persons in their capacity as shareholders of the Company, will be extinguished and transferred to the Creditors' Trust to be adjudicated by the Trustee of the Creditors' Trust in accordance with the Creditors' Trust Deed (save in cases where the Company is insured against such claim under a contract of insurance entered into before our appointment as administrators, where separate provisions apply).

In the event that either an Order under section 444GA or relief from ASIC is not obtained by 30 March 2019, or such other date as may be agreed between the Deed Administrators and the Proponent, the Deed Administrators will convene a meeting of Creditors of the Company to consider the future of the Company and options including that:

1. the Company vary the DOCA; or
2. the DOCA terminate and the Company be wound up.

Court approval for the transfer of shares

As contemplated by the DOCA, to effect the transfer of 80% of the shares of each of the current shareholders in the Company, I have made the Application to the Court.

A copy of the Application and supporting affidavit is available to you. Details of how you can obtain a copy are set out below.

The Federal Court of Australia will hear the Application at [●] on [●]. The Court is located at the Law Courts Building, 184 Phillip Street, Queens Square, Sydney NSW 2000.

How does the Application affect you?

If the Application is approved, the other conditions to implementation of the DOCA are satisfied and the Proponent has made the necessary payment as required under the DOCA:

1. I will transfer 80% of the shares you hold in the Company to the Proponent;
2. you will be bound by the terms of the DOCA in accordance with section 444G of the Act; and
3. any claims you have against the Company in your capacity as shareholder will be extinguished. Such claims will be transferred to the Creditors' Trust and adjudicated by



the Trustee of the Creditors' Trust in accordance with the Creditors' Trust Deed. This will not affect any claims you may have against third parties. Please also note that separate provisions of the DOCA apply (further details of which can be provided on request) in the event that the Company is insured under a contract of insurance entered into prior to our appointment as administrators of the Company in respect of any claim you may have against the Company in your capacity as shareholder.

Can you participate in the Court hearing?

You should seek independent legal, financial and taxation advice before making a decision to take any action in relation to the Application.

If you wish to appear in Court to oppose the Application, you must file and serve on us a notice of appearance, in the prescribed form and any affidavit on which you intend to rely on at the hearing. The notice of appearance and affidavit should be served on us by no later than [●] 2019.

If no documents are served on us by [●] 2019 you may be prevented from taking part in the Application.

Our address for service is c/- Hogan Lovells, Level 17, 20 Martin Place, NSW 2000 (Attention: Scott Harris / James Hewer) or scott.harris@hoganlovells.com / james.hewer@hoganlovells.com.

What information is available to assist you?

To assist you in deciding whether to appear at the Court hearing:

1. a copy of the following Court documents in relation to the Application is available on the Deloitte website (www2.deloitte.com/au/en/pages/finance/topics/insolvency-matters):
 - (a) the Application;
 - (b) the supporting Affidavit of Neil Robert Cussen, sworn 29 March 2019; and
 - (c) orders made by the Court at the first return date of the Application on [●] 2019; and
2. our reports to creditors under section 72-225 of the *Insolvency Practice Rules (Corporations) 2016* are also available on the Deloitte website.

Alternatively, you may request copies of those documents from us and they can be emailed to you. Please contact Jessica Szeto of my office (jszeto@deloitte.com.au and +61 (02) 9840 6768) if you would like us to email you copies of the above documents.

Yours sincerely

Neil Robert Cussen

Joint and Several Deed Administrator.