

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/02/2022 2:00:32 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: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number: VID100/2022
File Title: IN THE MATTER OF WBHO AUSTRALIA PTY LTD
(ADMINISTRATORS APPOINTED) (ACN 095 983 681) & ORS
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: Hearing
Time and date for hearing: 02/03/2022, 10:30 AM
Place: COURT 6A (Level 6), Owen Dixon Commonwealth Law Courts Building
Level 7, 305 William Street, Melbourne



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 1/03/2022 9:50:42 AM AEDT

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 2

(Rules 2.2 and 15A.3)

Originating process

Federal Court of Australia

No. of 2022

District Registry: Victoria

IN THE MATTER OF WBHO AUSTRALIA PTY LTD (ADMINISTRATORS APPOINTED) (ACN 095 983 681) AND OTHERS SET OUT IN THE SCHEDULE

SALVATORE ALGERI, JASON TRACY, MATTHEW DONNELLY AND DAVID ORR IN THEIR CAPACITIES AS JOINT AND SEVERAL ADMINISTRATORS OF WBHO AUSTRALIA PTY LTD (ADMINISTRATORS APPOINTED) (ACN 095 983 681) AND OTHERS SET OUT IN THE SCHEDULE

First Plaintiffs

A. DETAILS OF APPLICATION

This application is made under sections 439A(6), 443B(8) and 447A of the *Corporations Act 2001* (Cth) (**Act**) and section 90-15 of the Insolvency Practice Schedule (Corporations) (**IPS**).

On the facts stated in the supporting affidavit, the plaintiffs seek the following orders in respect of first plaintiffs and the second to eighteenth plaintiffs set out in the schedule (**Companies**).

Extension of the notice period contained in section 443B(3) of the Act

1 Pursuant to sections 443B(8) and 447A(1) of the Act and section 90-15 of the IPS, Part 5.3A of the Act is to operate in relation to each of the Companies as if:

- (a) the first plaintiffs' personal liability under sections 443A(1)(c) and 443B(2) of the Act begins on 24 March 2022, such that the first plaintiffs are not personally liable for any liability with respect to any property leased, used or occupied by any of the Companies (including amounts payable pursuant to any leases entered into by any of the Companies), from any lessors, in the period from 23 February 2022 to 23 March 2022 inclusive; and

Filed on behalf of the Plaintiffs by:

Prepared by Samantha Kinsey

KING & WOOD MALLESONS

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Level 27 Collins Arch, 447 Collins Street, Melbourne Vic 3000

Ref: SJK: 603-0072630



- (b) the words “within five business days after the beginning of the administration” in section 443B(3) of the Act instead read ‘by 23 March 2022’.

Notice of meeting

- 2 An order pursuant to section 90-15 of the IPS that the requirement of section 75-25(a) of the *Insolvency Practice Rules (Corporations) 2016* (Cth) (**IPR**) for the inclusion, with the notice of meeting dated 24 February 2022 and issued to creditors pursuant to section 75-225 of the IPR (**Notice of First Meeting**) in respect of the first meeting of creditors of the Companies to be held at 12:00pm AEDT on 4 March 2022 (**First Meeting**), of a form for use in appointing a proxy, was satisfied by the first plaintiffs providing a link to the Halo Platform (as defined in the affidavit of David Michael Orr sworn 28 February 2022) (**Halo Platform**) and informing creditors that electronic proxy forms were available on the Halo Platform in the Notice of First Meeting.

Holding of meetings by use of the Halo Platform

- 3 An order pursuant to section 90-15 of the IPS that the Halo Platform satisfies the requirements of section 75-75(1) of the IPR.

General

- 4 An order that the first plaintiffs take all reasonable steps to cause notice of the Court’s orders to be given, within two (2) business days of the making of the orders, to:
- (a) creditors (including persons or entities claiming to be creditors) of each of the Companies, in the following manner:
- (i) where the creditor is a registered user on the Halo Platform, by publishing a notice on the Halo Platform;
 - (ii) where the creditor is not a registered user on the Halo Platform but the First Plaintiffs have an email address for the creditor, by notifying each such creditor, via email, of the making of the orders and providing a link to a website where the creditor may download the orders and the Originating Process; and
 - (iii) by placing scanned, sealed copies of the Originating Process (as may be amended) and the orders on the website maintained by the first plaintiffs at <https://www2.deloitte.com/au/en/pages/finance/articles/wbho-australia-pty-ltd.html>; and
- (b) the Australian Securities and Investments Commission.
- 5 An order that any person who can demonstrate a sufficient interest has liberty to apply to vary or discharge any orders made pursuant to paragraphs 1 to 3 above, on three (3) business days’ written notice to the first plaintiffs and the Court.
- 6 An order that the first plaintiffs have liberty to apply on one (1) business days’ notice to the Court in relation to any variation or discharge of the Court’s orders.



Costs and other orders

- 7 The plaintiffs' costs of and incidental to this application be costs in the administration of each of the Companies, jointly and severally.
- 8 An order that the Court's orders be entered forthwith.
- 9 Any other order that the Court considers fit.

Date: 28 February 2022

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 Samantha Kinsey
 Lawyer for the Plaintiffs
 King & Wood Mallesons

This application will be heard by the Federal Court of Australia at 305 William Street, Melbourne VIC at
 on February 2022.

B. NOTICE TO DEFENDANT(S)

There are no Defendants to this application.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable.

D. FILING

Date of filing: 28 February 2022

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 Registrar

This originating process is filed by Samantha Kinsey for the Plaintiffs.

E. SERVICE

The Plaintiffs' address for service is

King & Wood Mallesons
 Level 27, 447 Collins Street
 Melbourne Vic 3000
 Samantha.Kinsey@au.kwm.com

DX 101 Melbourne



SCHEDULE 1

Federal Court of Australia
 District Registry: Victoria
 Division: Commercial and Corporations List

IN THE MATTER OF WBHO AUSTRALIA PTY LTD (ADMINISTRATORS APPOINTED) (ACN 095 983 681)

Plaintiffs

- Second Plaintiff: WBHO Construction Australia Pty Ltd (administrators appointed) (ACN 149 901 931)
- Third Plaintiff: WBHO Infrastructure Pty Ltd (administrators appointed) (ACN 089 434 220)
- Fourth Plaintiff: Carr Civil Contracting Pty Ltd (administrators appointed) (ACN 100 438 257)
- Fifth Plaintiff: Northcoast Holdings Pty Ltd (administrators appointed) (ACN 009 296 780)
- Sixth Plaintiff: Probuild Constructions (Aust) Pty Ltd (administrators appointed) (ACN 095 250 945)
- Seventh Plaintiff: Probuild Civil Pty Ltd (administrators appointed) (ACN 010 870 587)
- Eighth Plaintiff: PCA (Qld) Pty Ltd (administrators appointed) (ACN 141 148 245)
- Ninth Plaintiff: Probuild Constructions (NSW) Pty Ltd (administrators appointed) (ACN 165 675 874)
- Tenth Plaintiff: Probuild Constructions (VIC) Pty Ltd (administrators appointed) (ACN 165 675 865)
- Eleventh Plaintiff: Probuild Constructions (WA) Pty Ltd (administrators appointed) (ACN 165 676 095)
- Twelfth Plaintiff: Probuild Constructions (QLD) Pty Ltd (administrators appointed) (ACN 166 966 034)
- Thirteenth Plaintiff: ACN 098 866 794 Pty Ltd (administrators appointed) (ACN 098 866 794)
- Fourteenth Plaintiff: Contexx Holdings Pty Ltd (administrators appointed) (ACN 144 707 022)
- Fifteenth Plaintiff: Contexx Pty Ltd (administrators appointed) (ACN 147 249 796)
- Sixteenth Plaintiff: Prodev Murphy Pty Ltd (administrators appointed) (ACN 120 758 803)



Seventeenth Plaintiff: Prodev Investments 4 Pty Ltd (administrators appointed) (ACN 629 246 653)

Eighteenth Plaintiff: Monaco Hickey Pty Ltd (administrators appointed) (ACN 144 945 611)