



Issued: 11 November 2016 5:03 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2015/00237028

### TITLE OF PROCEEDINGS

First Plaintiff	Stephen Ernest Vaughan and Ian Richard Hall in their capacity as Liquidators of BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777
Second Plaintiff	BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777
First Defendant	J Mazzetti Pty Ltd ATF J Mazetti Pty Limited Staff Superannuation Fund & ORS ACN 006705602
Second Defendant	Peter Brian Haywood and Bronwen Menai Haywood as trustees for the Haywood Superannuation Fund
Number of Defendants	5

### DATE OF JUDGMENT/ORDER

Date made or given	9 November 2016
Date entered	11 November 2016

### TERMS OF JUDGMENT/ORDER

This matter is listed for Directions on 5 December 2016 9:30 AM before the Supreme Court - Civil at Supreme Court Sydney.

#### THE COURT ORDERS THAT:

1. Subject to all just exceptions in respect of objections as to relevance and as to form, the first defendant may rely at the hearing on an affidavit of Fiona Bilton, if the same is served by 14 November 2016, covering the subject matter outlined in the affidavit of Peter Salvatore Gandolfo of 7 November 2016; and provided that leave is reserved to the other parties to apply to vary or set aside this order on the ground that they cannot meet the evidence contained in any such affidavit in time for the hearing, any such application to be made by 28 November 2016 and to be returnable on 5 December 2016.

#### THE COURT FURTHER ORDERS THAT:

2. The fifth defendant have liberty to approach me, initially in chambers, for non-contentious orders which would avoid or reduce the necessity for its appearance at the final hearing.

#### THE COURT FURTHER ORDERS THAT:

3. The first plaintiffs would be justified in:

- converting the balance of each FX CSA denominated in foreign currency into Australian dollars and depositing the proceeds into the "BBY Ltd FX Trust" account number 553619268;
  - converting the balance of each Futures CSA denominated in foreign currency into Australian dollars and depositing the proceeds into the "BBY Futures Client Seg" account number 553619284;
- and

c) converting the balance of each SAXO CSA denominated in foreign currency into Australian dollars and depositing the proceeds into the "BBY Ltd Saxo Buffer" account number 553619356; and thereafter closing each such foreign currency account.

4. The first plaintiffs would be justified in directing ADM to pay to the second plaintiff an amount in Australian dollars calculated by converting the balances in each of the ADM Accounts into Australian dollars at prevailing exchange rates, and setting off amounts payable by ADM to the second plaintiff in respect of the ADM Accounts against amounts payable by the second plaintiff to ADM in respect of the ADM Accounts.

AND IN THESE ORDERS:

ADM means ADM Investor Services International Limited.

ADM Accounts means the accounts maintained by ADM for the second plaintiff numbered: C LBMZP100, C LBMZP101, C LBMZP102, and C LBMZP103.

CSA means any of the 47 client segregated accounts of the second plaintiff identified in paragraph 37 of the affidavit of Stephen Ernest Vaughan affirmed 2 October 2015.

FX CSA means each of the 14 CSAs listed beneath the heading "FX" in Appendix 12.1 to the Supplementary CSA Report, being part of Exhibit SV-16 to the affidavit of Stephen Vaughan affirmed 15 June 2016.

Futures CSA means each of the 11 CSAs listed beneath the heading "Futures" in Appendix 12.1 to the Supplementary CSA Report, being part of Exhibit SV-16 to the affidavit of Stephen Vaughan affirmed 15 June 2016.

Recoveries has the same meaning as the orders made herein on 19 October 2015.

SAXO CSA means each of the 7 CSAs listed beneath heading "Saxo" in Appendix 12.1 to the Supplementary CSA Report, being part of Exhibit SV-16 to the affidavit of Stephen Vaughan affirmed 15 June 2016.

THE COURT FURTHER ORDERS THAT:

5. The proceedings be adjourned to 5 December 2016 at 9.30am before me for further directions.

6. The plaintiffs in each proceeding lodge with my Associate and serve their written submissions by 7 December 2016.

7. The defendants lodge and serve their written submissions by 21 December, provided that the fourth defendant may lodge and serve its submissions by 23 December 2016.

8. Any party wishing to do so may lodge and serve any written submissions in reply by 25 January 2017, provided that the fifth defendant may lodge and serve its submissions in reply by 30 January 2017.

9. The plaintiff bring in a proposed stopwatch regime, having consulted with the other parties, on 5 December 2016.

10. Liberty to apply by arrangement with my Associate on 3 days' notice, any such notice to specify the issues to be raised and the relief to be sought.

## SEAL AND SIGNATURE



Signature	Chris D'Aeth
Capacity	Principal Registrar
Date	11 November 2016

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

## FURTHER DETAILS ABOUT Plaintiff(s)

First Plaintiff

Name Stephen Ernest Vaughan and Ian Richard Hall in their capacity as Liquidators of BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777

Address  
Telephone  
Fax  
E-mail  
Client reference

Second Plaintiff Name BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777

Address  
Telephone  
Fax  
E-mail  
Client reference

**Legal representative for plaintiffs**

Name EMANUEL JOHN POULOS  
Practicing certificate number 36117  
Address Level 11  
5 Martin Place  
SYDNEY NSW 2000  
DX address DX 388 Sydney NSW  
Telephone 02 9258 6000  
Fax 02 9258 6999  
Email emanuel.poulos@ashurst.com

**FURTHER DETAILS ABOUT Defendant(s)**

**First Defendant**

Name J Mazzetti Pty Ltd ATF J Mazetti Pty Limited Staff Superannuation Fund & ORS ACN 006705602

Address Australian Tax Masters Level 1  
714 - 716 Glen Huntly Road  
CAULFIELD SOUTH VIC 3162

**Second Defendant**

Name Peter Brian Haywood and Bronwen Menai Haywood as trustees for the Haywood Superannuation Fund

Address C/- Mills Oakley Lawyers Level 12  
400 George Street  
SYDNEY NSW 2000

**Third Defendant**

Name Clive Riseam

Address

**Fourth Defendant**

Name Securities Exchanges Guarantee Corporation Limited

Address 20 Bridge Street  
SYDNEY NSW 2000

**Fifth Defendant**

Name David Nadin

Address C/- Arnold Bloch Leibler, Chifley Tower Level 24  
2 Chifley Square

SYDNEY NSW 2000