

IN THE SUPREME COURT OF NEW SOUTH WALES
EQUITY DIVISION
SYDNEY REGISTRY
CORPORATIONS LIST

No. 2015/00237028

IN THE MATTER OF BBY LIMITED (RECEIVERS AND MANAGERS APPOINTED)
(IN LIQUIDATION)

ACN: 006 707 777

**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**
First Plaintiff

BBY LIMITED (RECEIVERS AND MANAGERS APPOINTED)(IN LIQUIDATION)
ACN 006 707 777
Second Plaintiff

**J MAZZETTI PTY LTD ACN 006 705 602 as Trustee for
J MAZZETTI PTY LIMITED STAFF SUPERANNUATION FUND (and Others)**
First Defendants

FILED

17 SEP 2015



INTERLOCUTORY PROCESS

A. DETAILS OF APPLICATION

This application is made under s 500(2) of the Corporations Act 2001 and s 63(10) of the Trustee Act 1925 (NSW).

The application is for leave to proceed against BBY Ltd (In Liquidation) under s 500(2) of the Corporations Act in respect of the directions and orders set out below.

Filed on behalf of: the First Defendants

Prepared by:

Partners Legal

of Level 13, 636 St Kilda Road

MELBOURNE VIC 3004

by their agents, Bamford Lawyers

Level 11, 14 Martin Place

SYDNEY NSW 2000

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Ref: JGB150061

Attention Mr. Bamford

On the facts stated in the affidavit of Julian Mazzetti filed on 21 August 2015, the First Defendants apply for the following relief against the Plaintiffs:

DIRECTIONS

1. That the group of former clients of the Second Plaintiff (“**BBY**”) described by the First Plaintiff (“**the Receivers**”) as the ETO/Equites product group be divided into 2 product groups, namely:
 - (a) Options Clients; and
 - (b) Equities Clients.
2. That the firstnamed First Defendant, J Mazzetti Pty Ltd ACN 006 705 602 as Trustee for J Mazzetti Pty Ltd Staff Superannuation Fund (“**Mazzetti**”) be appointed as a representative defendant to represent the interests of all Options Clients, being all former clients of BBY who as at 15 May 2015 held open positions in Exchange Traded Options.
3. That on or before 2 October 2015 the Receivers make file and serve an affidavit disclosing to the best of the Receivers’ knowledge details of:
 - (a) any demands for payment by Options Clients of any liability owed to BBY outstanding as at 15 May 2015; and
 - (b) their attempts to locate or create client ledgers for Option Clients, including but not limited to attempts to obtain relevant information from the ASX Clear System and from the audit packs of BBY.
4. By 2 October 2015 the Receivers obtain from ASX Clear and make available to Partners Legal a schedule of collateral held for Option Clients as at 15 May 2015 and the market value of open option positions of Options Clients as at that date.
5. By 2 October 2015 the Receivers provide particulars to Partners Legal of the accounts totalling approximately \$2.4m or such other sum withdrawn by the Receivers on or about 19 May 2015 from bank accounts and cash management accounts of Options Clients held at financial institutions external to BBY using BBY’s third party authorities.

ORDERS

6. That the sum of \$192,863,290 (being Cash Collateral of \$22,051,208 and \$169,812,082 as Stock Collateral) be returned to the Option Clients less an adjustment for the amount of the closing market value of the Option Clients’ Open Positions as at 15 May 2015, or such other date as this Honourable Court may determine.
7. Further or alternatively, by 2 October 2015 the Plaintiffs process to and record on the Option Clients’ accounts with BBY all trades and transactions that have occurred on the Receivers’ instructions since their appointment as receivers.
8. The sums totalling approximately \$2.4m or such other sum withdrawn by the Receivers on or about 19 May 2015 from bank accounts and cash management accounts of Options

Clients held at financial institutions external to BBY using BBY's third party authorities, forthwith be returned to those accounts by the Plaintiffs.


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John Gerald Bamford
Solicitor for the First Defendants

This application will be heard by the Honourable Justice Brereton at Law Courts Building Sydney

at 9:00 am on 23/9/15

B. NOTICE TO RESPONDENT

TO: the Respondents (being the Plaintiffs in this proceeding)

C/- Ashurst Australia

Lawyers

Level 11, 5 Martin Place

Sydney NSW 2000

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 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 Bamford Lawyers for the applicants.

D. SERVICE

The applicants' address for service is —

C/- Bamford Lawyers
Level 11, 14 Martin Place
Sydney, NSW 2000

It is intended to serve a copy of this interlocutory process on the plaintiffs.