

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

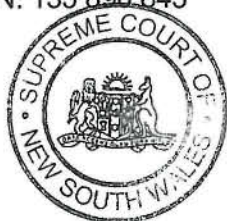
No.

2014/376655

IN THE MATTER OF RETAIL ADVENTURES PTY LIMITED (IN LIQUIDATION)
ABN or ACN: 135 890 845

FILED

23 DEC 2014



Sperling Enterprises Pty Ltd
ACN 001 882 364
Plaintiff

Retail Adventures Pty Limited (In Liquidation) (ACN 135 890 845)
First Defendant

Vaughan Strawbridge, John Lethbridge Greig and David John Frank Lombe in their
capacities as joint and several liquidators of the First Defendant
Second Defendant

AFFIDAVIT SCOTT GEOFFREY HEDGE 23 DECEMBER 2014

On 23 December 2014, I, Scott Geoffrey Hedge of Level 42, 2 Park Street, Sydney, Solicitor, say on oath:

1. I am the solicitor for the Plaintiffs in these proceedings. Exhibited to me now is a bundle of documents marked SGH-1 (**Exhibit SGH-1**).
2. I refer to Schedule 1 of the Originating Process and adopt the defined terms contained therein.
3. On 26 October 2012, the Second Defendants were appointed as administrators of RAPL.
4. On 19 August 2013 the administrators sent creditors a Report to Creditors pursuant to Section 439A of the Corporations Act 2001 (**Report to Creditors**). A copy of the Report to Creditors is at pages 1 - 84 of Exhibit SGH-1.
5. The Report to Creditors contained a proposal outlining the essential terms of a Deed of Company Arrangement (**DOCA Proposal**) that had been proposed by Bicheno Pty Ltd

Deponent

Witness

Filed on behalf of : The First and Second Plaintiff

Prepared by:

COLIN BIGGERS & PAISLEY

Lawyers

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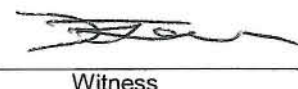
Attention: Heather Collins

6. On 19 August 2013 the administrators of RAPL called for informal proofs of debt to be submitted by all creditors of RAPL. The Funded Creditors are creditors of the First Defendant (**RAPL**) and have submitted informal proofs of debt to the Second Defendants in RAPL's winding up. Exhibited at pages **129 - 132** are copies of the list of Funded Creditors who submitted informal proofs of debt to the administrators of RAPL which were adjudicated on by the administrators for voting purposes prior to the second meeting of creditors.
7. On 2 September 2013, at the second meeting of creditors for RAPL (**Second Creditors Meeting**), a resolution to execute a DOCA was passed. Exhibited at pages **133 - 160** is a copy of the minutes from the second meeting of creditors of RAPL. 606 creditors voted debt of \$46,052,678 in favour of the resolution to approve the proposed DOCA, while 122 creditors voted debt of \$36,490,655 against the resolution.

Application pursuant to section 600A of the *Corporations Act 2001* (Cth)

8. Helenic Pty Ltd as trustee of the Mastrantonis Family Trust formerly trading as Tasty Treats (ACN 130 705 476) and JFK Group Company Ltd applied to the Court as representatives of the Funded Creditors under section 600A of the *Corporations Act 2001* (Cth) to set aside the resolution that RAPL execute a DOCA and for an order that RAPL be wound up.
9. The application was heard by Justice Robb. The application was successful: *Helenic Pty Ltd as trustee of the Mastrantonis Family Trust v. Retail Adventures Pty Ltd (Administrators Appointed)* [2013] NSWSC 1973. DSG appealed the judgment of Justice Robb. The appeal was unsuccessful: *DSG Holdings Australia Pty Ltd v. Helenic Pty Ltd* [2014] NSWCA 96. Copies of each of those judgments are exhibited at pages **161 - 234**.
10. On 3 February 2014, the Second Defendants were appointed Liquidators of RAPL.
11. On 4 February 2014 the Liquidators sent a circular to all creditors of RAPL. A copy of that circular is at page **235** of Exhibit SGH-1.
12. On 24 February the Liquidators sent a circular to all creditors of RAPL. Exhibited at pages **236 - 277** is a copy of that circular.
13. On 11 March 2014 a meeting of creditors of RAPL was held. Exhibited at pages **278 - 329** is a copy of the minutes of that meeting.
14. On 27 March 2014 the first meeting of the Committee of Inspection for RAPL was held. Exhibited at pages **330 - 335** is a copy of the minutes from that meeting.
15. On 13 May 2014 the second meeting of the Committee of Inspection for RAPL was held. Exhibited at pages **336 - 342** is a copy of the minutes from that meeting.


Deponent


Witness

16. On 11 June 2014 the third meeting of the Committee of Inspection for RAPL was held. Exhibited at pages **343 - 346** is a copy of the minutes from that meeting.
17. On 1 July 2014 the Liquidators sent a circular to all creditors of RAPL. Exhibited at pages **347 - 351** is a copy of that circular
18. On 9 July 2014 the Liquidators sent a circular to all creditors of RAPL. Exhibited at pages **352 - 356** is a copy of that circular.
19. On 29 July 2014 the fourth meeting of the Committee of Inspection for RAPL was held. Exhibited at pages **357 - 361** is a copy of the minutes from that meeting.
20. On 4 August 2014 the Liquidators sent a circular to all creditors of RAPL. Exhibited at pages **362 - 365** is a copy of that circular

Settlements

21. On or around 11 June 2014 the Liquidators agreed a settlement proposal, subject to approval by the Committee of Inspection, with DSG, Ms Cameron and Bicheno Investments Pty Ltd. The Liquidators have advised the terms of that settlement in their circular to creditors dated 1 July 2014. A copy of that circular is at pages **366 - 370** of Exhibit SGH-1.
22. In or around July 2014 the Liquidators entered into a settlement agreement with Ms Cameron, the former directors of RAPL, Bicheno and DSG in respect of insolvent trading claims and preference recoveries against those entities and other related parties.
23. The Liquidators have advised the terms of that settlement in their circular to creditors dated 4 August 2014. A copy of that circular is at pages **371 - 374** of Exhibit SGH-1.
24. The settlement funds from that settlement total \$13.84 million.
25. The Liquidators have advised in the circular dated 4 August 2014 that they intend to distribute the \$13.84 million by way of interim dividend. I am informed by the Liquidators and verily believe that a distribution to creditors has been delayed for two reasons:
 - (a) The Liquidators are waiting on tax clearances from the Australian Taxation Office (ATO).
 - (b) The complexity associated with reviewing the debts of landlord creditors.

The Plaintiff

26. The Plaintiff is a creditor of RAPL. The Plaintiff submitted an informal proof of debt, a copy of which is at **375 - 441** of Exhibit SGH-1. On 9 December 2014, the Plaintiff submitted a



Deponent



Witness

formal proof of debt, a copy of which is at pages 442 - 443 of Exhibit SGH-1. The Plaintiff is a Funded Creditor.

SWORN at SYDNEY

Signature of deponent



Name of witness

James Peter Laman

Address of witness

Level 42, 2 Park St, Sydney NSW 2000

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Note: The deponent and witness must sign each page of the affidavit.



[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.]



Deponent



Witness

SCHEDULE

PLAINTIFF/S

Sperling Enterprises Pty Limited

ACN 001 882 364

Plaintiff

DEFENDANT/S

Retail Adventures Pty Limited (In Liquidation)
ACN 135 890 845


First Defendant

Vaughan Strawbridge, John Lethbridge Greig
and David John Frank Lombe in their capacities
as joint and several liquidators of the First
Defendant

Second Defendant



Deponent



Witness