



Issued: 31 May 2021 3:59 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2021/00084223

TITLE OF PROCEEDINGS

First Applicant	The Trustee for Project Volar Creditors' Trust ABN 41124353207
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Corporation subject of the proceeding	The Trustee for Project Volar Creditors' Trust
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DATE OF JUDGMENT/ORDER

Date made or given	31 May 2021
Date entered	31 May 2021

TERMS OF JUDGMENT/ORDER

VERDICT, ORDER OR DIRECTION:

Hearing of Interlocutory Process filed 28 May 2021.

Ex tempore judgment delivered on orders under Trustee Act.

Black J makes orders in accordance with the Short Minutes of Order initialled by him and placed in the file.

THE COURT ORDERS THAT:

1. Pursuant to s 81 of the Trustee Act 1925 (NSW) ("Act"):

(a) the Plaintiffs be empowered and authorised, in processing and adjudicating on a Trust Creditor's (as that term is defined by the Project Volar Creditors' Trust Deed dated 17 November 2020) (each a "Trust Creditor" and collectively "Trust Creditors") debt or claim, to require that any Trust Creditor wishing to provide any further evidence in support of their debt or claim, must do so by 14 June 2021; and

(b) the Plaintiffs be empowered and authorised to process and adjudicate on a Trust Creditor's debt or claim on the basis of the information and particulars provided by the Trust Creditor on or before 14 June 2021.

2. Pursuant to s 63 of the Act, the Plaintiffs are justified in requiring any that any Trust Creditor wishing to provide any further evidence in support of any debt or claim, do so by no later than 14 June 2021.

3. Pursuant to s 81(3) of the Act, order 6 of the Orders made on 6 April 2021 in this proceeding ("6

April Orders") be varied such that it reads as follows:

"Pursuant to s 81 of the Act, the Trustees are empowered and authorised, in processing and adjudicating on the claims of Trust Creditors, to proceed on the basis that, for the purposes of the application of reg 5.6.53(1) by clause 7.3(b) of the Trust Deed (and notwithstanding reg 5.6.53(1)), Trustees may admit all or part of a formal proofs of debt or claim, reject all or part of a proof of debt or claim or require further evidence in support of it, by the later of:

- (a) if the Trustees give notice in writing to a Trust Creditor that further evidence is required in support of the formal proof of debt or claim submitted by that Trust Creditor: 28 days after the Trustees receive a sufficient written answer to the notice (which the Trustees may require the Trust Creditor to give within 14 days of the notice being given); or
- (b) otherwise, 17 August 2021,

or by such earlier date as the Trustees consider appropriate."

4. Order 7 of the 6 April Orders be varied such that it reads as follows:

"Pursuant to s 63 of the Act, the Trustees are justified in admitting all or part of a formal proof of debt or claim, rejecting all or part of a proof of debt or claim, or requiring further evidence in support of it, by the later of:

- (a) if the Trustees give notice in writing to a Trust Creditor that further evidence is required in support of the formal proof of debt or claim submitted by that Trust Creditor: 28 days after the Trustees receive a sufficient written answer to the notice (which the Trustees may require the Trust Creditor to give within 14 days of the notice being given); or
- (b) otherwise, 17 August 2021,

or by such earlier date as the Trustees consider appropriate."

5. Pursuant to s 81(3) of the Act, order 10 of the 6 April Orders be varied such that it reads as follows:

"Pursuant to s 81 of the Act, the Trustees are empowered and authorised, in processing and adjudicating on the claims of Trust Creditors, to proceed on the basis that, for the purposes of the application of reg 5.6.66(1) by clause 7.3(b) of the Trust Deed (and notwithstanding reg 5.6.66(1)), if notice has been given in accordance with subregulation 5.6.65(1), the Trustees may take the following steps by the later of:

- (a) if the Trustees give notice in writing to a Trust Creditor that further evidence is required in support of the formal proof of debt or claim submitted by that Trust Creditor: 28 days after the Trustees receive a sufficient written answer to the notice (which the Trustees may require the Trust Creditor to give within 14 days of the notice being given); or
- (b) 17 August 2021,

or such earlier date as the Trustees consider appropriate:

- (c) admit a formal proof of debt or claim received by the Trustees; or
- (d) reject it; or
- (e) admit part of it and reject part of it,

and in each case, give notice of the Trustees' decision to the Trust Creditor who submitted the proof."

6. Order 11 of the 6 April Orders be varied such that it reads as follows:

"Pursuant to s 63 of the Act, if notice has been given in accordance with subregulation 5.6.65(1), the Trustees are justified in taking the following steps by the later of:

(a) if the Trustees give notice in writing to a Trust Creditor that further evidence is required in support of the formal proof of debt or claim submitted by that Trust Creditor: 28 days after the Trustees receive a sufficient written answer to the notice (which the Trustees may require the Trust Creditor to give within 14 days of the notice being given); or
(b) 17 August 2021,

or such earlier date as the Trustees consider appropriate:

(c) admit a formal proof of debt or claim received by the Trustees; or
(d) reject it; or
(e) admit part of it and reject part of it,

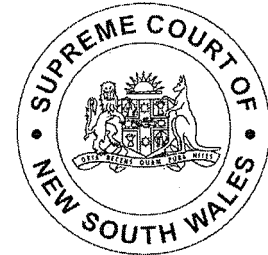
and in each case, give notice of the Trustees' decision to the Trust Creditor who submitted the proof."

7. The Plaintiffs are, within 3 business days of the making of these orders, to take all reasonable steps to cause notice of these orders to be given to the Trust Creditors (including persons or entities claiming to be Trust Creditors) in the manner prescribed by order 1(c) of the 6 April Orders.

8. In these proceedings, the Plaintiffs and any Trust Creditor have liberty to make any other application concerning the Project Volar Creditors' Trust, on 2 business days' notice to the Associate to Justice Black and to the Trustees, specifying the relief sought.

9. These orders be entered forthwith.

SEAL AND SIGNATURE



Signature Chris D'Aeth
Capacity Principal Registrar
Date 31 May 2021

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.

