IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR/92/2023

EX PARTE:

Richard Scott TUCKER as joint and several administr AERISON GROUP LTD (ACN 614 735 474) (ADMINISTRATORS APPOINTED) and Ors — Plaintiffs

ORDERS OF THE HONOURABLE JUSTICE STRK
MADE ON 13 JUNE 2023

UPON THE EX PARTE APPLICATION of the plaintiffs by an originating process filed on 13 June 2023 made under s 447A of the Corporations Act 2001 (Cth), and s 65-45 and s 90-15 of the Insolvency Practice Schedule (Corporations), forming sch 2 of the Corporations Act, AND AFTER HEARING PR Edgar on behalf of the plaintiffs, IT IS ORDERED THAT:

1. Pursuant to s 90-15(1) of the Insolvency Practice Schedule (Corporations), the first plaintiffs are justified in entering into and performing a funding agreement the subject of a s 443E(5) consent from Commonwealth Bank of Australia, secured lender, to support the working capital needs of the second to eighth plaintiffs (together the Group Companies) and administration costs (Loan Agreement).

2. Pursuant to s 447A of the Corporations Act, pt 5.3A of the Corporations Act is to operate as if s 443A(1) of the Corporations Act provides that any debts or liabilities of the first plaintiffs incurred under the Loan Agreement (including but not limited to monies borrowed, interest in respect of monies borrowed and borrowing costs) are in the nature of debts incurred by the first plaintiffs in performance and exercise of their functions and powers as joint and several voluntary administrators of the Group Companies.

3. Pursuant to s 447A of the Corporations Act, the operation of s 443A(1) of the Corporations Act is modified, insofar as it applies to any liability of the first plaintiffs (in their capacities as joint and several administrators of the Group Companies) pursuant to the Loan Agreement, so that if the indemnity of the first plaintiffs under s 443D of the Corporations Act from the Group Companies is insufficient to meet any amount for which the first plaintiffs might be liable arising out of or in connection with the Loan Agreement, then the first plaintiffs will not be personally liable to repay any such amount to the extent of the insufficiency.

4. Pursuant to s 65-45 of the Insolvency Practice Schedule (Corporations), up to and including 24 July 2023:

    (a) the external administration account for the third plaintiff may be used as the special bank account for the Group Companies;

    (b) the first plaintiffs may transfer any funds received into the administration accounts for the second and fourth to eighth plaintiffs to the administration account for the third plaintiff;

    (c) the first plaintiffs may make payments in relation to the Group Companies from the administration account for the third plaintiff (being the special bank account in accordance with order 4(a) above) and are not required to comply with s 65-25 of the Insolvency Practice Schedule (Corporations) in relation to the Group Companies.

5. Pursuant to s 447A of the Corporations Act, the operation of s 440D is modified so that the words "including any arbitration or adjudication" are inserted in place of "in a court" so that section 440D reads "*During the administration of a company, a proceeding* ~~*in a court*~~ *including any arbitration or adjudication against the company or in relation to any of its property cannot be begun or proceeded with, except with the administrator's written consent or with the leave of the Court*."

6. Any application for access pursuant to O 67B r 11 of the Rules of the Supreme Court 1971 (WA) to inspect the confidential affidavit of Richard Scott Tucker sworn 13 June 2023 filed in these proceedings on 13 June 2023, the annexures referred to therein, and the transcript of the hearing on 13 June 2023:

    (a) be referred to the court; and

    (b) is not be determined until notice of the application is given to the first plaintiffs, by their solicitors, and the first plaintiffs have reasonable opportunity to be heard in opposition to the application for inspection.

7. The costs of the application be treated as costs in the administration of the Group Companies.

8. Any person who can demonstrate a sufficient interest to vary or discharge orders 1 - 7 above (including any creditor of the Group Companies) has liberty to apply to the court on three business days' written notice to the first plaintiffs.

BY THE COURT

THE HONOURABLE JUSTICE L STRK