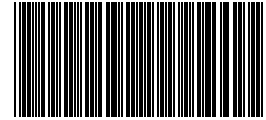




Filed: 8 March 2016 11:33 AM



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Form 3

### INTERLOCUTORY PROCESS – COVERSHEET AND ACKNOWLEDGEMENT

IN THE MATTER OF BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777

#### COURT DETAILS

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

#### FILING DETAILS

Filed for	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, Applicant 1 BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777, Corporation subject of the proceedings 1 BBY Limited (Receivers and Managers Appointed)(In Liquidation) ACN 006 707 777, Applicant 2
Legal representative	EMANUEL JOHN POULOS
Legal representative reference	
Telephone	02 9258 6000
Your reference	02-3003-4959

#### HEARING DETAILS

This application will be heard at Supreme Court Sydney on 14 March 2016 at 10:00 AM

#### ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Interlocutory Application, along with any other documents listed below, were filed by the Court.

Corporations Law Interlocutory Process (Form 3) (239353027\_\_1\_Interlocutory Process dated 8 March 2016.PDF)

[attach.]

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

No 237028 of 2015

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

ACN: 007 707 777

**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  
(AND OTHERS)**

First Plaintiffs

**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 LTD STAFF SUPERANNUATION FUND  
(AND OTHERS)**

First Defendants

**PETER BRIAN HAYWOOD AND BRONWEN MENAI HAYWOOD AS TRUSTEES FOR THE HAYWOOD  
SUPERANNUATION FUND ABN 19 554 375 088**

Second Defendant

**CLIVE RISEAM**

Third Defendant

**SECURITIES EXCHANGES GUARANTEE CORPORATION LIMITED  
ACN 008 626 793**

Fourth Defendant

**DAVID NADIN**

Fifth Defendant

## INTERLOCUTORY PROCESS

### A. DETAILS OF APPLICATION

This application is made under sections 479 and 511 of the *Corporations Act 2001* (Cth) and section 63 of the *Trustee Act 1925* (NSW).

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Filed on behalf of: Plaintiffs  
Prepared by: Emanuel Poulos  
**Ashurst Australia**  
Lawyers  
5 Martin Place  
Sydney NSW 2000

DX: 388 Sydney  
Tel: (02) 9258 6000  
Fax: (02) 9258 6999  
Ref: EP/RYZA/02-3003-4959  
Attention: Emanuel Poulos

On the facts stated in the supporting affidavit of Stephen Ernest Vaughan affirmed on 8 March 2016, the Plaintiffs apply for the following relief:

#### **Interactive Brokers LLC**

1. A declaration that the Plaintiffs are entitled to close out, or alternatively a direction that the First Plaintiffs would be justified in closing out, open derivative positions held by the Second Plaintiff through Interactive Brokers LLC (**IB**) upon termination of the contracts constituted by the "**Online Account Terms**" with the clients to whom those positions are referable.
2. A declaration that the Plaintiffs are entitled to direct, or alternatively a direction that the First Plaintiffs would be justified in directing, the sale of securities held by the Second Plaintiff through IB upon termination of the contracts constituted by the Online Account Terms with the clients to whom those securities are referable.

#### **Saxo Capital Markets (Australia) Pty Ltd**

3. A declaration that the Plaintiffs are entitled to direct, or alternatively a direction that the First Plaintiffs would be justified in directing, the sale of securities held by the Second Plaintiff through Saxo Capital Markets (Australia) Pty Ltd (**SCMA**) upon termination of the contracts constituted by the Online Account Terms with the clients to whom those securities are referable.


#### **Currency**

4. A direction that the First Plaintiffs would be justified, where there are any net liabilities in particular currencies to a counterparty that relate to a Recovery, in directing the relevant counterparty to convert all amounts in currencies other than Australian dollars held by that counterparty into Australian dollars, and applying an amount sufficient to discharge those liabilities.

#### **Definitions**

5. In these orders defined terms have the meanings set out in the Schedule to the orders made in this proceeding on 23 February 2016.

Date: 8 March 2016



.....  
Emanuel Poulos,  
Solicitor for the applicants

This application will be heard by  
Square, Sydney at                      am/pm on

at Law Courts Building, Queens

**B. NOTICE TO RESPONDENT(S)**

TO:

**J Mazzetti Pty Ltd ACN 006 705 602 as trustee for  
J Mazzetti Pty Ltd Staff Superannuation Fund  
(and others) (First Defendants)**

c/- Peter Gandolfo  
Partners Legal  
Level 13  
636 St Kilda Rd, Melbourne VIC 3004

**Clive Riseam (Third Defendant)**

c/- Mark Wilks  
Corrs Chambers Westgarth  
8 Chifley  
8-12 Chifley Square, Sydney NSW 2000

**David Nadin (Fifth Defendant)**

c/- Jonathan Milner  
Arnold Bloch Leibler  
Level 24, 2 Chifley Square, Sydney NSW 2000

**Peter Brian Haywood and Bronwen Menai  
Haywood As Trustees For The Haywood  
Superannuation Fund ABN 19 554 375 088  
(Second Defendant)**

c/- Ariel Borland  
Mills Oakley  
PO Box 453  
Collins Street West, Melbourne VIC 8007

**Securities Exchanges Guarantee Corporation  
Limited ACN 008 626 793 (Fourth Defendant)**

c/- Karen O'Flynn  
Clayton Utz  
Level 15, 1 Blich Street, 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 Ashurst Australia, solicitors for the applicant.

**D. SERVICE**

The applicant's address for service is:

c/- Ashurst Australia  
Lawyers  
5 Martin Place  
Sydney NSW 2000  
Ref: EP/RYZA/02-3003-4959

It is intended to serve a copy of this interlocutory process on each respondent.