

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).

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

AUSTRALIA\JAOR\239376104.01

On the facts stated in the supporting affidavit of Stephen Ernest Vaughan affirmed on 16 March 2016, the Plaintiffs apply for the following relief:

1. A direction or alternatively a declaration that payments into BBY Limited's Client Segregated Accounts (**CSAs**) on or after 18 May 2015 by clients of BBYL with no obligation to BBYL to make the payment on the date of payment into the CSA (the **Post-appointment Erroneous Deposits**) were "*paid into the account in error*" within the meaning of regulation 7.8.03(6)(a) of the *Corporations Regulations 2001* (Cth).
2. A direction that the First Plaintiffs are justified in returning the Post-appointment Erroneous Deposits to the clients from whom they were received, after deduction of costs, expenses and remuneration in accordance with Orders 8 and 13 made in this proceeding on 19 October 2015 and Order 5 made in this proceeding on 23 February 2016.

Date: 16/3/16


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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)**

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

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

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

Clive Riseam (Third Defendant)

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

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

c/- Karen O'Flynn
Clayton Utz
Level 15, 1 Bligh Street, Sydney NSW 2000

David Nadin (Fifth Defendant)

c/- Jonathan Milner
Arnold Bloch Leibler
Level 24, 2 Chifley Square, 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.