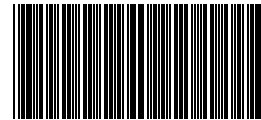




Filed: 19 September 2018 3:46 PM



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Commercial List Response

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2018/00076580

TITLE OF PROCEEDINGS

First Plaintiff	Giabal Pty Ltd
Second Plaintiff	Geoffry Underwood
First Defendant	Gunns Plantations Limited (in Liquidation)
Second Defendant	Gunns Limited (in Liquidation)(Receivers & managers Appointed)
Number of Defendants	11

TITLE OF THIS CROSS-CLAIM

First Cross Claimant	John Eugene Gay
First Cross Defendant	Gunns Plantations Limited (in Liquidation)
Second Cross Defendant	Gunns Limited (in Liquidation)(Receivers & managers Appointed)
Number of Cross Defendants	10

FILING DETAILS

Filed for	Gunns Plantations Limited (in Liquidation), Cross Defendant 1
Filed in relation to	Cross-Claim 4
Legal representative	Benjamin Renfrey
Legal representative reference	
Telephone	(08)82397158
Your reference	B8450

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document,

along with any other documents listed below, were filed by the Court.

Commercial List Response (Fourth Cross Claim CLR (GPL) Signed 19.9.18.pdf)

[attach.]

FOURTH CROSS-CLAIM COMMERCIAL LIST CROSS-CLAIM RESPONSE

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial
Registry	Sydney
Case number	2018/76580

TITLE OF PROCEEDINGS

First plaintiff	Giabal Pty Ltd
Second plaintiff	Geoffrey Edward Underwood
First defendant	Gunns Plantations Limited (In Liquidation) (Receivers and Managers Appointed)
Number of defendants	11

TITLE OF THIS CROSS-CLAIM

Cross-claimant	John Eugene Gay
First Cross-defendant	Gunns Plantations Limited (In Liquidation) (Receivers and Managers Appointed)
Number of Cross-defendants	10

FILING DETAILS

Filed for	Gunns Plantations Limited (In Liquidation) , First Cross-Defendant
Legal representative	Ben Renfrey, Johnson Winter & Slattery
Legal representative reference	B8450
Contact name and telephone	Ben Renfrey 08 8239 7111
Contact email	ben.renfrey@jws.com.au

PRELIMINARIES

- The terms defined in the Amended Commercial List Statement filed by the Plaintiffs on 6 August 2018 (**CLS**) and in the Commercial List Response filed by the First Defendant on 20 July 2018 (**CLR**) have the same meaning in this document, unless otherwise stated.

A NATURE OF DISPUTE

- The First Cross-Defendant, Gunns Plantations Limited (In Liquidation) (Receivers and Managers Appointed) agrees with the general description of the nature of the dispute.
- The First Cross-Defendant disputes the Cross-Claimants' allegations in the Fourth Cross-Claim Commercial List Statement as more fully set out below.

B ISSUES LIKELY TO ARISE

1 The First Cross-Defendant agrees that the issues identified by the Cross-Claimant are likely to arise in the proceedings.

C FIRST CROSS DEFENDANT'S RESPONSES TO CONTENTIONS

1 As to paragraph 1(a), the First Cross-Defendant:

- (a) refers to and repeats against the Cross-Claimant the responses made by the First Defendant in paragraphs 1, 14-52, 56-67, 73-76, 79-80, 87-90 and 101-103 of section C of the CLR;
- (b) admits the matters alleged in paragraph 4(a) of the Amended Commercial List Response of the Fourth Defendant (**ACLR**);
- (c) admits the matters alleged in paragraph 6(a) of the ACLR;
- (d) admits the matters alleged in paragraph 7(a) of the ACLR;
- (e) as to the matters alleged at paragraph 8(a) of the ACLR, repeats against the Cross-Claimant the responses made by the First Defendant in paragraphs 5 and 8 of section C of the CLR and otherwise denies the matters alleged in that paragraph;
- (f) as to the matters alleged at paragraph 9(a) of the ACLR, repeats against the Cross-Claimant the responses made by the First Defendant in paragraphs 5 and 9 of section C of the CLR and otherwise denies the matters alleged in that paragraph;
- (g) as to the matters alleged at paragraph 82(c) of the ACLR,
 - (i) does not plead to the matters alleged in paragraphs 82(c)(i), 82(c)(ii) and 82(c)(iii) as no allegations are made against it in those paragraphs;
 - (ii) admits the matters alleged in paragraph 82(c)(iv);
 - (iii) does not plead to the matters alleged in paragraph 82(c)(v)) as no allegations is made against it in that paragraph; and
 - (iv) does not plead to the matters alleged in paragraph 82(c)(vi) as no allegations are made against it in that paragraph;
- (h) as to the matters alleged at paragraph 82(d) of the ACLR:
 - (i) does not plead to the matters alleged in paragraph 82(d)(i) as no allegations are made against it in that paragraph;
 - (ii) admits the matters alleged in paragraph 82(d)(ii);
 - (iii) does not plead to the matters alleged in paragraph 82(d)(iii) as no allegations are made against it in that paragraph; and
 - (iv) does not plead to the matters alleged in paragraph 82(c)(iv) as no allegations are made against it in that paragraph;
- (i) as to the matters alleged at paragraphs 82(e) of the ACLR,:
 - (i) admits the matters alleged in paragraph 82(e)(i);
 - (ii) does not plead to the matters alleged in paragraph 82(e)(ii) as no allegations are made against it in that paragraph;

- (iii) admits that Mr Chapman controlled the finances of GPL and Gunns Ltd from 2002 to 2009 and otherwise denies the allegations in paragraph 82(e)(iii); and
- (iv) GPL admits the matters alleged in paragraph 82(e)(iv);
- (j) does not plead to the matters alleged in paragraphs 82(f) of the ACLR as no allegations are made against it in that paragraph;
- (k) does not plead to the matters alleged in paragraphs 82(g) of the ACLR as no allegations are made against it in that paragraph;
- (l) does not plead to the matters alleged in paragraph 82(h)(ii) of the ACLR as no allegations are made against it in that paragraph;
- (m) does not plead to the matters alleged in paragraph 82(h)(vii) of the ACLR as no allegations are made against it in that paragraph;
- (n) does not plead to the matters alleged in paragraph 82(h)(xii) of the ACLR as no allegations are made against it in that paragraph;
- (o) does not plead to the matters alleged in paragraph 82(h)(xiii) of the ACLR as no allegations are made against it in that paragraph; and
- (p) does not plead to the matters alleged in paragraph 82(h)(xiv) of the ACLR as no allegations are made against it in that paragraph.

2 As to paragraph 2, the First Cross-Defendant denies that the Cross-Claimant is entitled to the relief set out in the Cross-Summons dated 30 August 2018 against the First Cross-Defendant.

D QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE

1 None.

E MEDIATION STATEMENT

1 The parties have not yet attempted mediation. The First Cross-Defendant is willing to mediate at the appropriate time.

SIGNATURE

Signature of legal representative

Capacity

Date of signature



Benjamin John Perry Bishop, Solicitor employed by Johnson Winter & Slattery

19 SEPTEMBER 2018