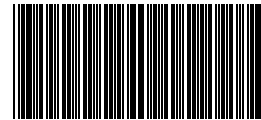




Filed: 14 September 2018 5:18 PM



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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	Gunns Plantations Limited (in Liquidation)
Second Cross Claimant	Gunns Limited (in Liquidation)(Receivers & managers Appointed)
First Cross Defendant	Andrew Gray
Second Cross Defendant	Mathew Gary Wallace

FILING DETAILS

Filed for	Andrew Gray, Cross Defendant 1 Mathew Gary Wallace, Cross Defendant 2
Filed in relation to	Cross-Claim 2
Legal representative	ROSS JAMES DRINNAN
Legal representative reference	
Telephone	02 9230 4000
Your reference	120709959

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 (KPMG - Commercial List Cross-Claim Response to Second Cross-Claim.pdf)

[attach.]

SECOND CROSS-CLAIM COMMERCIAL LIST CROSS-CLAIM RESPONSE

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial
Registry	Sydney
Case number	2018/00076580

TITLE OF PROCEEDINGS

First Plaintiff	Giabal Pty Ltd
Second Plaintiff	Geoffry Underwood
First Defendant	Gunns Plantations Limited (in Liquidation)
Number of defendants	11

TITLE OF THIS SECOND CROSS-CLAIM

First Cross-Claimant	Gunns Plantations Limited (in Liquidation) (First Defendant)
Second Cross-Claimant	Gunns Limited (in Liquidation) (Receivers & Managers Appointed) (Second Defendant)
First Cross-Defendant	Andrew Gray (Tenth Defendant)
Second Cross-Defendant	Matthew Wallace (Eleventh Defendant)

FILING DETAILS

Filed for	Andrew Gray , First Cross-Defendant Matthew Wallace , Second Cross-Defendant
Legal representative	Ross Drinnan Allens
Legal representative reference	18917
Contact name and telephone	Ross Drinnan (02) 9230 4931
Contact email	Ross.Drinnan@allens.com.au

PRELIMINARIES

- A Headings are used in this document (**Cross-Claim Response**) for convenience only. They do not form part of the First and Second Cross-Defendants' response to the Amended Second Cross-Claim Commercial List Cross-Claim Statement filed by the First and Second Cross-Claimants on 31 August 2018 (the **Cross-Claim Statement**).
- B The terms in the Amended Commercial List Statement filed by the Plaintiffs on 6 August 2018 (**ACLS**) and in the Amended Commercial List Response (**KPMG ACLR**) filed by the First and Second Cross-Defendants (as Defendants) on 27 August 2018 have the same meaning in this Cross-Claim Response, unless otherwise defined or stated. The First and Second Cross-Defendants do not admit any factual assertions contained in, or in any way implied by, any defined term used in the ACLS and repeated in this document.

A NATURE OF DISPUTE

- 1 The Plaintiffs in this representative proceeding have brought claims against 11 Defendants, including the First and Second Cross-Claimants and the First and Second Cross-Defendants, on behalf of themselves and Group Members, in relation to their investments in the Gunns Woodlot Schemes.
- 2 In each of their Commercial List Responses filed on 20 July 2018, the First and Second Cross-Claimants deny that the Plaintiffs or Group Members are entitled to the relief claimed by them against the First and Second Cross-Claimants.
- 3 However, for the purposes of this Second Cross-Claim only, the First and Second Cross-Claimants allege that if they are liable to the Plaintiffs then the First and Second Cross-Defendants are also liable on the basis set out in the Cross-Claim Statement.
- 4 The First and Second Cross-Defendants deny that they are liable to the Plaintiffs or to the First and Second Cross-Claimants for the reasons set out herein.

B ISSUES LIKELY TO ARISE

The First and Second Cross-Defendants agree with the statement of "Issues Likely to Arise" in this Second Cross-Claim set out in Part B of the Cross-Claim Statement.

C RESPONSES TO CROSS-CLAIMANTS' CONTENTIONS

Allegations made by the Plaintiffs

1. In answer to paragraph 1, the First and Second Cross-Defendants:
 - (a) repeat their responses in paragraphs 12-64, 70-78, 86 and 97-103 of the KPMG ACLR;
 - (b) repeat the defences raised in paragraphs 107-109 of the KPMG ACLR.

Contribution at law or equity

2. In answer to paragraph 2, the First and Second Cross-Defendants:
 - (a) deny the allegations in paragraph 2;
 - (b) further, if (which is denied) they are liable for the same damage and to make contribution as pleaded in paragraph 2, then they:
 - (i) repeat the facts and matters raised in:
 - (A) paragraphs 104-106 of the KPMG ACLR; and
 - (B) for the purposes of this Cross-Claim Response only, paragraphs 1-3 of section C of the First Cross-Claim Commercial List Cross-Claim Statement filed by the First and Second Cross-Defendants (as Cross-Claimants) on 20 July 2018, concerning the responsibility of others for the same loss or damage;
 - (ii) say that the First and Second Cross-Claimants and other parties referred to in the paragraphs pleaded in sub-paragraph (i) above have primary responsibility for any loss and damage of the kind pleaded in paragraph 103 of the ACLS.

Denial of relief

3. The First and Second Cross-Defendants deny that the First and Second Cross-Claimants are entitled to the relief set out in the Amended Cross-Summons filed on 31 August 2018 against the First and Second Cross-Defendants.

D QUESTIONS APPROPRIATE FOR REFERRAL TO A REFERREE

None.

E MEDIATION STATEMENT

A mediation has not yet taken place in the proceedings. The First and Second Cross-Defendants are willing to proceed to mediation at an appropriate time. They consider that the Second Cross-Claim should be mediated at the same time as the principal claim.

SIGNATURE OF LEGAL REPRESENTATIVE

Signature



Capacity

Solicitor for the First and Second Cross-Defendants

Date of signature

14 September 2018