



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID322/2022

MR MATTHEW CADDY AND MR KEITH CRAWFORD IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF KHALED EL-SHEIKH PTY LTD (ADMINISTRATORS APPOINTED) (ACN 089 155 948) AND THE THIRD TO FIFTH PLAINTIFFS and others named in the schedule
Plaintiffs

ORDER

JUDGE: JUSTICE ANDERSON

DATE OF ORDER: 16 June 2022

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

Extension of convening period

1. Pursuant to s 439A(6) of the *Corporations Act 2001* (Cth) (the *Act*) and/or s 90-15 of the Insolvency Practice Schedule (Corporations) (the *IPSC*), the convening period defined in s 439A(5)(b) of the Act in respect of each of the Second to Fifth Plaintiffs (the *Companies*) be extended to 22 August 2022.
2. Pursuant to s 447A(1) of the Act, Part 5.3A of the Act is to operate in relation to each of the Companies such that the meetings of creditors required by s 439A(1) of the Act may be held at any time during, or within five business days after the end of, the convening period as extended by Order 1 above, notwithstanding s 439A(2) of the Act.

Entry into funding agreement

3. Pursuant to s 447A(1) of the Act and/or s 90-15 of the IPSC, Part 5.3A of the Act is to operate in relation to the administration of the Second Plaintiff as if s 443A(1) provides that:
 - (a) the liabilities of the First Plaintiffs (the *Administrators*) incurred with respect to any obligations arising out of, or in connection with, any funding agreement



entered into by the Administrators in the same or substantially the same form as that set out in Annexure **MWC-12** to the affidavit of Matthew Wayne Caddy affirmed on 10 June 2022 (the **Funding Agreement**) are in the nature of debts incurred by the Administrators in the performance and exercise of their functions as joint and several administrators of the Second Plaintiff; and

- (b) notwithstanding that the liabilities referred to in Order 3(a) are debts incurred by the Administrators in the performance and exercise of their functions as joint and several administrators of the Second Plaintiff, the Administrators will not be personally liable to repay such debts or satisfy such liabilities to the extent that the indemnity under s 443D of the Act out of the property of the Second Plaintiff is insufficient to satisfy the debts and/or liabilities incurred by the Administrators arising out of, or in connection with, the Funding Agreement.

- 4. Pursuant to s 90-15 of the IPSC, the Administrators are justified, and would otherwise be acting reasonably in:
 - (a) entering into the Funding Agreement and procuring the Second Plaintiff to enter into the Funding Agreement; and
 - (b) drawing down under the Funding Agreement.

Ancillary orders

- 5. The Administrators (or their solicitors) inform the creditors of the Companies of these orders by means of a circular forwarded by post or e-mail (as the case may be) within seven days after the making of these orders.
- 6. Any person who can demonstrate sufficient interest to vary or discharge order 1 or order 2 above has liberty to apply on not less than 72 hours' notice to the Administrators.
- 7. The Administrators have liberty to apply before Justice Anderson for any purpose connected with the administration of the Companies, including but not limited to seeking a further extension of the convening period prior to 22 August 2022.



8. The Administrators' costs of and incidental to this application be costs and expenses in the administration of the Companies and be paid out of the property of the Companies.

Date that entry is stamped: 16 June 2022

Sia Lagos
Registrar



Schedule

No: VID322/2022

Federal Court of Australia

District Registry: Victoria

Division: General

Second Plaintiff	KHALED EL-SHEIKH PTY LTD (ADMINISTRATORS APPOINTED) (ACN 089 155 948)
Third Plaintiff	EL-SHEIKH FAMILY HOLDINGS PTY LTD (ADMINISTRATORS APPOINTED) (ACN 609 721 735)
Fourth Plaintiff	TRISTAR MEDICAL GROUP PTY LTD (ADMINISTRATORS APPOINTED) (ACN 130 389 589)
Fifth Plaintiff	TRISTAR PROPERTY HOLDINGS PTY LTD (ADMINISTRATORS APPOINTED) (ACN 128 467 461)