

**SUPREME COURT OF WESTERN AUSTRALIA  
COURT OF APPEAL**

**NO: CACV 106 OF 2021  
ORDER**

**Parties to the  
Appeal**

KIPOI HOLDINGS MAURITIUS LIMITED	Appellant
Robert Michael Kirman as joint and several administrator TIGER RESOURCES LIMITED ACN 077 110 304 (SUBJECT TO DEED OF COMPANY ARRANGEMENT)	First named First Respondent
Robert Conry BAUER as joint and several administrator TIGER RESOURCES LIMITED ACN 077 110 304 (SUBJECT TO DEED OF COMPANY ARRANGEMENT)	Second named First Respondent
YINGKOU YANGZHOU TRADE CO LTD	Second Respondent
JINJI RESOURCES FINANCE PTY LTD	Third Respondent

**Date:**

10 November 2021

**Coram:**

BUSS P and MITCHELL JA

**Appearances:**

J Hutton instructed by Clayton Utz for the appellant

P A Walker instructed by Clayton Utz for the appellant

JK Taylor instructed by Norton Rose Fulbright Australia for the First respondent

P Edgar instructed by Norton Rose Fulbright Australia for the First respondent

S Maiden QC instructed by Lavan for the Second and Third respondent

J Abberton instructed by Lavan for the Second and Third respondent

Mr N Wallwork instructed by Lavan for the Second and Third respondent

**ORDER**

IT IS ORDERED THAT:

1. Upon the appellant's undertaking to the court filed 8 November 2021, the orders of Master Sanderson dated 28 October 2021 in COR 69 of 2021 be stayed until the

earlier of 7 days after the Court of Appeal delivers judgment in the Appeal, 31 January 2022, or further order.

2. By 4.00pm AWST on 17 November 2021, by way of security for the appellant's undertaking to the court filed 8 November 2021, the appellant pay into the court the sum of AUD \$8,983,000.
3. If the appellant fails to comply with Order 2, Order 1 is set aside.
4. If the appellant complies with Order 2, then on and from 22 November 2021:
  - (a) Pursuant to section 447A of the Corporations Act 2001 (Cth) (the Act), Part 5.3A of the Act is to operate in relation to the Company as if section 445A of the Act provided that the Deed of Company Arrangement between the Company, the first respondents and the second respondent dated 19 February 2021 (DOCA) may be varied by an order of the Court.
  - (b) Pursuant to section 445A of the Act as so varied and applied to the Company, the DOCA be amended by amending the first and second lines of clause 9.5 of the DOCA to read:

"If any or all of the Conditions Precedent in clause 9.1 are not satisfied by the earlier of 7 days after the Court of Appeal delivers judgment in the Appeal and 31 January 2022, the Deed Administrators may:"

5. The first respondents have leave to rely on the affidavit of Robert Michael Kirman sworn 5 November 2021 in support of their application dated 9 November 2021, together with the affidavit of Robert Michael Kirman sworn 9 November 2021.
6. Any creditor of Tiger Resources Limited affected by these orders has liberty to apply on 3 Business Days' notice.
7. The parties to these proceedings have liberty to apply for further orders including orders extending, varying or discharging the stay.
8. Costs reserved.

<b>Signature of Registrar</b>	<b>J Eaton</b> <b>Court of Appeal Registrar</b>	10 November 2021
-------------------------------	--	------------------