



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1868/2016

JOESPH DAVID HAYES, ANDREW JOHN GRENFELL AND CONOR JOHN MCELHINNEY IN THEIR CAPACITY AS FOREIGN REPRESENTATIVES OF PUMPKIN PATCH ORIGINALS LIMITED (ADMINISTRATORS APPOINTED) (IN RECEIVERSHIP)

Plaintiff

PUMPKIN PATCH ORIGINALS LIMITED (ADMINISTRATORS APPOINTED) (IN RECEIVERSHIP) ARBN 083 321 046

Defendant

ORDER

JUDGE: JUSTICE JAGOT

DATE OF ORDER: 26 October 2016

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The interlocutory process dated, and filed by the plaintiffs in these proceedings on, 26 October 2016 be returnable *instanter* and *ex parte*.
2. Until the date set out in order 7 below or until further order, pursuant to Article 19 of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law (**Model Law**), but subject to the rights of, or which would apply to, any secured party, receiver, receiver and manager or controller (each as defined in the *Corporations Act 2001 (Cth)* (**Corporations Act**)) under Part 5.3A in Chapter 5 of the *Corporations Act* if that Part applied to the defendant, including the entitlements of any secured party, receiver, receiver and manager or controller to do any act or thing in relation to the defendant or its assets, which that secured party, receiver, receiver and manager or controller is permitted or authorised to do, or which it is not restricted from doing, under that Part:
 - (a) any enforcement process or execution against the defendant's assets be stayed;




- (b) the administration or realisation of all the defendant's assets in Australia be entrusted to the plaintiffs;
 - (c) any person (other than the plaintiffs) within the jurisdiction of the Court be restrained from transferring, encumbering or otherwise disposing of any assets of the defendant;
 - (d) the restrictions set out in the table at the end of section 440B of the Corporations Act apply in relation to the exercise of the rights of any person in property of the defendant, or other property used or occupied by, or in the possession of, the defendant;
 - (e) subject to the provisions of the Corporations Act, all powers normally available to administrators appointed under the provisions in Part 5.3A of the Corporations Act be made available to the plaintiffs in respect of the property of the defendant located in Australia, as if Part 5.3A applied to the defendant and the plaintiffs had been appointed as administrators of the defendant under that Part; and
 - (f) any court proceeding against the defendant, or in respect of the property of the defendant, in Australia be stayed.
3. Pursuant to rule 15A.3(3) of the *Federal Court (Corporations) Rules 2000* (Cth), on or before 28 October 2016, the plaintiffs serve on the defendant copies of:
- (a) the originating process dated 26 October 2016 filed in these proceedings; and
 - (b) the supporting affidavit.
4. For the purposes of order 3 above, such service may be effected by the service on the defendant's registered office in New Zealand located at 439 East Tamaki Road, East Tamaki, Auckland, New Zealand, and its registered office in Australia located at 'Macquarie Link', Suite 7A, 277 Lane Cove Road, Macquarie Park NSW 2113.
5. In respect of Rule 15A.6 of the FCA Corporations Rules, the plaintiffs must:



- (a) on or before 2 November 2016, send a notice of the filing of the originating process in these proceedings in accordance with Form 20 to each person in Australia whose claim to be a creditor of the defendant is known to the plaintiffs; and
 - (b) on or before 2 November 2016, cause to be published a notice of the filing of the originating process in this proceeding in accordance with Form 20 in *The Australian* newspaper.
6. For the purposes of paragraph 5(a) above, the notice of the filing of originating process may be given by the plaintiffs by:
 - (a) sending such notice by email to any creditor (including a person claiming to be a creditor) of the defendant for whom the plaintiffs have a current email address; or
 - (b) sending such notice to the postal address or facsimile number, or otherwise sending such notice in a manner provided for by the Corporations Act or the *Corporations Regulations* 2001 (Cth), to any creditor (including a person claiming to be a creditor) not being a creditor referred to in sub-paragraph (a); and
 - (c) causing such notice to be made available on the website maintained by the plaintiffs at <http://www.mcgrathnicol.com>.
7. The matter be listed for hearing before the Corporations Duty Judge on 10 November 2016 at 9.15am.
8. Each party and each creditor, or person claiming to be a creditor of the defendant, have liberty to apply on 3 days' notice.

Date that entry is stamped: 26 October 2016


Registrar