



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID698/2022

IN THE MATTER OF TRIPLE MMM HOLDINGS PTY LTD (ADMINISTRATORS APPOINTED) (ACN 629 584 238) IN ITS PERSONAL CAPACITY AND ITS CAPACITY AS TRUSTEE FOR TRIPLE MMM UNIT TRUST (ABN 13 537 443 405)

MATTHEW RUSSELL HUTTON AND MATTHEW WAYNE CADDY IN THEIR CAPACITY AS JOINT AND SEVERAL ADMINISTRATORS OF TRIPLE MMM HOLDINGS PTY LTD (ADMINISTRATORS APPOINTED) (ACN 629 584 238) IN ITS PERSONAL CAPACITY AND ITS CAPACITY AS TRUSTEE FOR TRIPLE MMM UNIT and another named in the schedule
Plaintiffs

ORDER

JUDGE: JUSTICE MCELWAINÉ

DATE OF ORDER: 28 November 2022

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. The originating process dated 25 November 2022 be made returnable *instanter*.
2. Pursuant to s 447A of the *Corporations Act 2001* (Cth) (**Act**):
 - a. the liabilities of the First Plaintiffs (**administrators**) in their capacity as joint and several administrators of the Second Plaintiff (**company**) pursuant to the terms of the draft funding deed annexed to the affidavit of Matthew Russell Hutton dated 27 November 2022 (**funding deed**), will be limited in the manner provided for by the funding deed;
 - b. the operation of s 443A(2) of the Act is modified, so far as it applies to the liability of the administrators in their capacity as joint and several administrators of the company pursuant to the funding deed, so as to permit the liability of the administrators to be limited in the manner provided for by the funding deed;
 - c. the operation of s 443A(1) of the Act is modified, so far as it applies to the liability of the administrators in their capacities as joint and several



administrators of the company pursuant to the funding deed, that if the indemnity of the administrators under section 443D of the Act from the company is insufficient to meet any amount for which the administrators may be liable arising out of or in connection with the funding deed, then the administrators will not be personally liable to repay any such amount to the extent of that insufficiency.

3. Within two business days of these orders being made, the administrators are to take all reasonable steps to give notice of these orders to the creditors of the company (including persons claiming to be creditors) and the lender under the funding deed by means of a circular:
 - a. to be published on the website maintained by the administrators in respect of the administration of the company; and
 - b. to be sent by email or by post to all known creditors and the lender under the funding deed.
4. Liberty be granted to any person who can demonstrate sufficient interest to discharge or modify these orders on the giving of three business days' written notice to the Plaintiffs and the Court.
5. The administrators' costs of and incidental to this application be costs in the administration of the company.

THE COURT DIRECTS THAT:

6. Pursuant to s 90-15 of the *Insolvency Practice Schedule (Corporations)*, the administrators are justified and acting reasonably in:
 - a. entering into, and causing the company to enter into, the funding deed; and
 - b. making drawdowns under the funding deed.

Date that entry is stamped: 28 November 2022


Registrar



Schedule

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Second Plaintiff

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MMM UNIT TRUST (ABN 13 537 443 405)