

**Form 2A**

Rules 2.2 and 15A.3

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL COURT  
REDCREST CORPORATIONS LIST

S ECI 2015 000465

**IN THE MATTER OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION)  
(RECEIVERS AND MANAGERS APPOINTED) (LIQUIDATORS APPOINTED)**

**ABN: 45 004 736 458**

BETWEEN

**ANTHONY GREGORY MCGRATH, JOSEPH DAVID HAYES, MATTHEW WAYNE  
CADDY AND ROBERT MICHAEL KIRMAN AS RECEIVERS AND MANAGERS OF  
BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS  
APPOINTED) ABN 45 004 736 458**

(and others according to schedule 1)

Plaintiffs

**NO DEFENDANT**

**ORIGINATING PROCESS-REDCREST (CORPORATIONS)**

Date of document: 17/12/2015

Filed on behalf of: The Plaintiff

Prepared by:

**Ashurst Australia**

Lawyers

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Case Manager: Michael Sloan

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**A. DETAILS OF APPLICATION**

This application is made under section 424 of the  Corporations Act 2001 (Cth)  Other.

This is an application for directions that the First Plaintiffs as receivers and managers of the Second Plaintiff (BSL) are justified in causing BSL to pay additional remuneration to The Trust Company (Nominees) Limited ABN 14 000 154 441 (formerly Permanent Nominees (Aust) Ltd) (Trust Co) under the Trust Deed for First Ranking Debenture Stock dated 12 December 1994 (as amended from time to time) between BSL and Trust Co (Trust Deed).



On the facts stated in the supporting affidavit, the Plaintiffs claim—

1. A direction that the First Plaintiffs are justified in causing BSL to pay, and BSL is justified in paying, out of the assets of BSL to Trust Co, under clause 18.02 of the Trust Deed, additional remuneration commensurate with the additional duties and responsibilities performed or undertaken by Trust Co in consequence of enforcement of the Trust Deed:
  - (a) from 25 October 2012 to February 2014, in the sum of \$3,960,163 (or such other sum as the court considers appropriate);
  - (b) from February 2014 to the completion of the enforcement of the Trust Deed, in a sum to be determined by the First Plaintiffs (or such other sum as the court considers appropriate).
2. Such further order or other orders as the Court deems fit.

Application Hearing Time Estimate:

1 to 1 days

Date: 17 December 2015

*Ashurst Australia*

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Signature of plaintiff or plaintiff's legal practitioner. The electronic version is to be signed in accordance with the RedCrest protocol for signatures e.g. /s/ Jane Doe or s/ John Doe.

This application will be heard by a Corporations List Judge at 210 William Street Melbourne at a time to be fixed by the court on 1/01/2016.

**B. FILING**

Date of filing: 17/12/2015

This originating process is filed by Ashurst Australia for the plaintiff.

**C. SERVICE**

The plaintiff's address for service is c/- Ashurst Australia, Level 26, 181 William Street, MELBOURNE VIC 3000.

Email address is: michael.sloan@ashurst.com

Contact telephone number is: 03 9679 3000

The name or firm and the business address within Victoria of the case manager legal practitioner for the plaintiff is: Ashurst Australia, Level 26, 181 William Street, MELBOURNE VIC 3000.

Name of the case manager legal practitioner within the firm is: Michael Sloan

Individual email address of the case manager legal practitioner within the firm is: michael.sloan@ashurst.com

Contact telephone number of the case manager legal practitioner is: 03 9679 3027

It is intended to serve a copy of this originating process and supporting affidavit on:

- Trust Co;
- The Liquidators of BSL; and
- The Debenture-holders Committee members

It is also intended that the Plaintiffs will place copies of this Originating Process and supporting affidavit on McGrathNicol's website and to notify the debenture holders of this proceeding and

**SCHEDULE 1**

**SCHEDULE OF PARTIES**

**ANTHONY GREGORY MCGRATH, JOSEPH DAVID HAYES, MATTHEW WAYNE CADDY AND ROBERT MICHAEL KIRMAN AS RECEIVERS AND MANAGERS OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458**

First Plaintiffs

**BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458**

Second Plaintiff

## **SCHEDULE 2**

### **FILING AN APPEARANCE IN REDCREST**

#### RedCrest

All documents to be filed in this proceeding must be filed in RedCrest unless the Court has otherwise ordered in a particular case or unless documents cannot be filed in RedCrest because of an impediment affecting RedCrest itself or affecting general access to RedCrest.

#### These Instructions

The Notice of Appearance is an important document. These instructions set out the basic steps for filing a Notice of Appearance in RedCrest.

#### Self-represented persons – Filing a Notice of Appearance

A self-represented person who is served with an Originating Process–RedCrest and who wishes to contest the claim must–

1. Complete the Notice of Appearance–RedCrest (Corporations) (Form 4A); and
2. Within the time stated in the Originating Process–RedCrest (Corporations), deliver the Notice of Appearance to the Supreme Court Registry.

Assistance will be given by Registry staff to ensure that the Notice of Appearance is correctly completed. Registry staff will then file the Notice of Appearance into the electronic file for the proceeding. There will also be an instruction manual available at Registry for all users.

#### Persons Represented by a Solicitor – Filing a Notice of Appearance

A solicitor who is required to file a Notice of Appearance on behalf of a client must follow the steps below. These are described in more detail in the online instruction manual available on the RedCrest public homepage [www.redcrest.com.au](http://www.redcrest.com.au).

1. If you do not have a username and password for RedCrest, complete and submit the application form available on the RedCrest public homepage at: [www.redcrest.com.au](http://www.redcrest.com.au)

- ("Username and Password Applications"), and await processing and email advice for the assigned username and password. This will usually be provided within 24 hours (weekdays).
2. Assign your practitioner particulars to this case in accordance with the instruction manual.
  3. Complete the Notice of Appearance–RedCrest (Corporations) (Form 4A) using the online form available from the RedCrest public homepage.
  4. File the Notice of Appearance in the case page file for the matter in the manner described in the online instruction manual.
  5. If, by virtue of an order of the Court you are not required to file the Notice of Appearance in RedCrest or the Notice of Appearance cannot be filed in RedCrest because of an impediment affecting RedCrest itself or affecting general access to RedCrest, then you must file a Notice of Appearance–RedCrest (Corporations) (Form 4A) in paper form or such other form or manner as the Prothonotary may allow at the Supreme Court Registry.
  6. For further filings, follow the online instruction manual for the operation of RedCrest available on the RedCrest public homepage [www.redcrest.com.au](http://www.redcrest.com.au).

#### Any Questions?

If you have any questions, please call the RedCrest Help Desk or contact the Supreme Court Registry.

RedCrest Help Desk Contact Details: See RedCrest public homepage.

Supreme Court Registry Level 1, 436 Lonsdale St Melbourne, Tel: (03) 9603 9300, Hours. 9:30 am to 4:00 pm each business day.

\*complete or delete as appropriate.