



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD243/2022

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

MARK FRANCIS MCCABE and another named in the schedule

Defendant

ORDER

JUDGE: JUSTICE MARKOVIC

DATE OF ORDER: 5 April 2022

WHERE MADE: Sydney

PENAL NOTICE

TO: MARK FRANCIS MCCABE & SHABNAM AMIRBEAGGI (as trustee of the estate of Mark Francis McCabe, a bankrupt)

IF YOU:

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
 - (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU TO ABSTAIN FROM DOING,**
- YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.**

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.

THE COURT ORDERS THAT:

Short service

1. Upon the plaintiff's undertaking to pay the usual filing fees, the plaintiff has leave to file in Court the **Originating Process** dated 4 April 2022.



2. In the first instance, service of this Originating Process be dispensed with and the prayers for interim relief at paragraphs [3] – [9] of the Originating Process be made returnable *instanter*.
3. The time for service of this Originating Process and the **Supporting Affidavit** on the defendants, as required by r 2.7(1)(a) of the *Federal Court (Corporations) Rules 2000* (Cth) (**Corporations Rules**), be abridged to 5.00 pm on Wednesday, 6 April 2022 (**Service Time**).
4. The requirement in r 2.7(1)(b) of the Corporations Rules be dispensed with.

Substituted service

5. Personal service on the defendants of the Originating Process and the Supporting Affidavit and its exhibit be dispensed with.
6. Pursuant to r 10.24 of the *Federal Court Rules 2011* (Cth):
 - (a) the Originating Process, the Supporting Affidavit, the plaintiff's submissions and a copy of these Orders (**Initiating Documents**) will be taken to have been served on the first defendant by the following steps occurring on or before the Service Time:
 - (i) sending a copy of the Initiating Documents, together with a hyperlink from which a copy of the exhibit to the Supporting Affidavit can be downloaded, by email to mmcsingapore3@gmail.com; and
 - (ii) serving a hard copy of the Initiating Documents, together with a USB drive containing a copy of the exhibit to the Supporting Affidavit, on any person apparently over the age of sixteen years at:
 - (1) 24 Ferncourt Avenue Roseville NSW 2069;
 - (2) 1 Nardoo Road, Willoughby, NSW 2088; and
 - (3) 11/36A Park Avenue, Mosman, NSW, 2088,or if it is not possible to leave the documents with a person apparently over the age of sixteen years, then by leaving the Initiating Documents in an envelope marked to the attention of the First Defendant at each of the said addresses; and
 - (b) the Initiating Documents will be taken to have been served on the second defendant by the following steps occurring on or before the Service Time:



- (i) sending a copy of the Initiating Documents, together with a hyperlink from which a copy of the exhibit to the Supporting Affidavit can be downloaded, by email to shabnam@crouchamirbeaggi.com.au; and
- (ii) serving a hard copy of the Initiating Documents, together with a USB drive containing a copy of the exhibit to the Supporting Affidavit, on any person apparently over the age of sixteen years present at the offices of Crouch Amirbeaggi, at Suite 403, 55 Lime Street, King Street Wharf, Sydney NSW 2000, or if it is not possible to leave the documents with a person apparently over the age of sixteen years, then by leaving the Initiating Documents in an envelope marked to the attention of the second defendant.

7. The balance of the Originating Process ([10]-[15]) be returnable before the Commercial and Corporations Duty Judge at 2.00 pm on Friday, 8 April 2022.

Interim travel restraint orders

- 8. Pursuant to s 1323(1)(k) and s 1323(3) of the *Corporations Act 2001* (Cth) pending the determination of the relief in [10] to [13] of the Originating Process and, in the first instance until 5.00 pm on Friday, 8 April 2022, the first defendant be prohibited from leaving Australia without the consent of the Court.
- 9. Pursuant to s 1323(1)(j) and s 1323(3) of the Corporations Act by 5.00 pm on Thursday, 7 April 2022, the first defendant deliver up to the Sydney Registry of this Court:
 - (a) all passports, other than the first defendant's passport no. PA4051676 in possession of the second defendant, and other documents permitting international travel in his name which are in his possession, custody or control;
 - (b) any tickets in his name concerning any international travel arrangements made for the 12 month period commencing from 5 April 2022; and
 - (c) any copy in his possession, custody or control of any application in his name for a passport, replacement passport or other document permitting international travel made to the authorities of any country on or after 11 May 2021,to be held by the Court pending the determination of the relief in [10] to [13] of the Originating Process and in the first instance, until 5.00 pm on Friday, 8 April 2022.
- 10. Pursuant to s 23 of the *Federal Court of Australia Act 1976* (Cth) pending determination of the relief in [10]-[13] of the Originating Process and, in the first instance until 5.00 pm



on Friday, 8 April 2022, the first defendant be restrained from applying for the issue of any passport, visa or other document permitting international travel.

Other orders

11. No order as to costs against the second defendant.
12. Costs reserved as against the first defendant.

Date that entry is stamped: 5 April 2022

Sia Lagos
Registrar



Schedule

No: NSD243/2022

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Second Defendant SHABNAM AMIRBEAGGI AS TRUSTEE OF THE ESTATE OF
MARK FRANCIS MCCABE, A BANKRUPT