



Federal Court of Australia

District Registry: Western Australia

Division: General

No: WAD276/2021

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION and another/others
named in the schedule
Plaintiff

MICHAEL JEFFERSON DUNJEY and another/others named in the schedule
Defendant

ORDER

JUDGE: JUSTICE FEUTRILL

DATE OF ORDER: 1 June 2023

WHERE MADE: Perth

THE COURT NOTES THAT:

- A. For the purposes of these orders the 'Scheme' and 'Liquidator' have the meanings given in the orders of Justice Feutrill dated 21 April 2023 in this proceeding (**April Orders**).

THE COURT ORDERS THAT:

Appointment of receivers

1. Pursuant to section 57 of the *Federal Court of Australia Act 1976* (Cth), Mr Matthew James Donnelly and Mr Sean Holmes be appointed, jointly and severally, as receivers and managers (**Receivers**), without security, of all property (as defined in the *Corporations Act 2001* (Cth)), whether within or outside the State of Western Australia, of:
 - (a) the second defendant;
 - (b) the Ascent Trust (formerly the Dunjey Family Trust) (**Trust**);
 - (c) the Scheme (together, the **Property**).
2. The need for the Receivers to file a guarantee under rr 14.21 and 14.22 of the *Federal Court Rules 2011* (Cth) be dispensed with.
3. To the extent it has not already occurred, the second defendant is to immediately give over possession of all its property (as defined in the *Corporations Act*), whether within



or outside the State of Western Australia and whether it be held on trust or in its own right, together with all books and records relating to that property to the Receivers.

4. The Receivers have the following powers:
 - (a) the power to do all things necessary or convenient to be done, in Australia and elsewhere, for or in connection with, or as incidental to the attainment of the objectives for which the Receivers are appointed including, without limitation, for the identification, preservation and securing of all of the Property for the benefit of creditors;
 - (b) the powers set out in section 420 of the *Corporations Act* provided that wherever in that section the word 'corporation' appears, it shall be taken to refer to the second defendant, the Trust and the Scheme; and
 - (c) the power to require, by request in writing, the first defendant and any employee, agent, banker, solicitor, stockbroker, accountant, consultant or other professionally qualified person who has provided services or advice to the first defendant or the second defendant to provide such reasonable assistance (including access to any documents, books or records to which the first defendant or second defendant has a right of access or control) to the Receivers as may be required from time to time.
5. Upon being called upon to do so, the Receivers must deliver up that part of the Property that is property of:
 - (a) the second defendant, to the liquidators appointed pursuant to order 3 of the April Orders;
 - (b) the Scheme, to the liquidators appointed pursuant to order 5 of the April Orders; and
 - (c) the Trust, to the receivers appointed pursuant to order 8 of the April Orders.

Receivership remuneration and indemnity orders

6. The Receivers shall be entitled to reasonable remuneration properly incurred in the performance of their duties arising in connection with their appointment and in the exercise of their powers as may be approved by the Court on the application of the Receivers, together with all costs, expenses and disbursements.



7. The Receivers' remuneration is to be calculated on the basis of time reasonably spent by the Receivers and any partner or employee of the firm to which the Receivers are attached, at the standard rates of the Receivers' firm from time to time for work of that nature.
8. The Receivers' remuneration, costs, expenses and disbursements are to be paid from the Property.
9. The Receivers be indemnified from the Property against any claim, liability, proceedings, cost, charge or expense however arising and whether past, present or future, fixed or ascertained, actual or contingent, known (actually or contingently) or unknown which they may incur or be subject to as a result of or in connection with their appointment.
10. The above orders are not to affect the rights of any prior encumbrances over the Property, including the rights of any secured creditor.
11. For the avoidance of doubt, the entitlement of the Receivers to be paid or indemnified from the Property under orders 8 and 9 is not restricted or in any way limited by whether they are acting as receivers of property of the first defendant, the second defendant, the Trust or the Scheme and they are entitled to treat the Property as a single combined pool of property for those purposes.
12. The Receivers' costs in respect of the above orders be payable from the Property.
13. The Receivers have liberty to apply on 48 hours' written notice.

Dissolution of non-publication order

14. The interim non-publication order made at paragraph 14 of the April Orders is dissolved.
15. Paragraph 14 of today's orders is stayed until 4.15pm on 2 June 2023 (AWST).
16. The first defendant has liberty to apply to the Court to extend the stay referred to in paragraph 15 of these orders.
17. The first defendant is to pay the plaintiff's costs of the first defendant's interlocutory application for suppression and non-publication orders.



General

18. The time for Western Australian Newspapers Limited, an interested non-party, to comply with paragraph 18 of the April Orders to file and serve its submissions, and any affidavit material, in opposition to the the first defendant's application for a suppression and non-publication order is extended to Friday 26 May 2023.

Date that entry is stamped: 1 June 2023

Sia Lagos
Registrar



Schedule

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Interested Person	SEAFLOWER PTY LTD
Interested Person	GD PROJECT LIVING PTY LTD ACN 624 182 083
Interested Person	MATTHEW DONNELLY AND SEAN HOLMES OF DELOITTE FINANCIAL ADVISORY PTY LTD, AS THE PROVISIONAL LIQUIDATORS OF ASCENT INVESTMENT AND COACHING PTY LTD ACN 127 668 553
Interested Person	JOHN GERVASE SHANAHAN
Interested Person	WEST AUSTRALIAN NEWSPAPERS LIMITED ("WAN")
Second Defendant	ASCENT INVESTMENT AND COACHING PTY LTD ACN 127 668 553