

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY
I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

CIV-2019-404-

UNDER Part 19 of the High Court Rules 2016 and ss 255 and 257 of the Companies Act 1993

IN THE MATTER OF **CBL CORPORATION LIMITED (IN LIQUIDATION)**,
a duly incorporated company having its registered office at Level 16, 45 Queen Street, Auckland

AND IN THE MATTER OF an application by **NEALE JACKSON** and **BRENDON JAMES GIBSON**, insolvency practitioners of KordaMentha, Level 16, 45 Queen Street, Auckland

Applicants

ORIGINATING APPLICATION FOR ORDERS UNDER
SECTIONS 255(4) AND 257(2) OF THE COMPANIES ACT 1993
14 MAY 2019

Russell
McLeagh

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TO the Registrar of the High Court at Auckland

THIS DOCUMENT NOTIFIES YOU THAT:

1. The applicants, Neale Jackson and Brendon James Gibson, of Auckland, insolvency practitioners, apply for orders that:
 - (a) the application under ss 255(4) and 257(2) of the Companies Act 1993 ("**Act**") is permitted to be commenced by originating application;
 - (b) pursuant to s 255(4)(b) of the Act, the provisions of s 255(2)(c)(ii) are modified in relation to the applicants to provide that the applicants are not required to send the documents listed in s 255(2)(c)(ii) to every shareholder, but are instead required to post those documents on KordaMentha's website (www.kordamentha.com) and send copies to the Registrar of Companies;
 - (c) pursuant to s 255(4)(b) of the Act, the provisions of s 255(2)(d) are modified in relation to the applicants to provide that the applicants are not required to send the reports required under s 255(2)(d) to every shareholder, but are instead required to post those reports on KordaMentha's website (www.kordamentha.com) and send copies to the Registrar of Companies;
 - (d) pursuant to s 257(2)(b) of the Act, the provisions of s 257(1) are modified in relation to the applicants to provide that the applicants are not required to send the documents listed in s 257(1)(a) to every shareholder, but are instead required to post those documents on KordaMentha's website (www.kordamentha.com) and send copies to the Registrar of Companies;
 - (e) the application and sealed orders in this proceeding are to be posted on KordaMentha's website (www.kordamentha.com) at the same time as the documents listed in s 255(2)(c)(ii);
 - (f) any shareholder of CBL Corporation has leave to apply to the Court (on notice) within 15 working days of the application and sealed orders being posted to KordaMentha's website to vary or set aside these orders;
 - (g) leave is reserved to the applicants to apply further in respect of any ancillary orders; and
 - (h) the applicants' solicitor/client costs of this application are an expense incurred by the applicants in carrying out their duties as liquidators.

2. The grounds on which each order is sought are as follows:
 - (a) it is in the interests of justice that the application be commenced by originating application;
 - (b) the Act imposes reporting obligations on liquidators that would require the applicants to provide documents by post to around 1,500 shareholders of CBL Corporation at least every six months;
 - (c) the applicants are concerned at the expense involved in providing the required documents to shareholders in this way;
 - (d) the applicants have proposed to provide the same information to shareholders by posting it online rather than mailing the documents to them;
 - (e) the cost of posting hard-copy documents outweighs the benefit to shareholders of receiving the same information on paper;
 - (f) the proposed method of providing information to shareholders is consistent with the applicants' duty to carry out the liquidation in a reasonable and efficient manner;
 - (g) there is unlikely to be any detriment to shareholders, especially in circumstances where CBL Corporation is insolvent; and
 - (h) in the event that there is detriment to shareholders, this is appropriately addressed by the proposed procedural orders because they provide any affected shareholders with an opportunity to be heard and have the orders varied or set aside, if the Court considers that appropriate after hearing from the shareholder.
3. The application is made in reliance on ss 248(1)(a), 255 and 257 of the Companies Act 1993, rules 7.46 and 19.5 of the High Court Rules 2016, *Re Dominion Finance Holdings Ltd (in liq)* HC Auckland CIV-2009-404-6606, 1 October 2009, *Re FCS Loans Ltd (in liq)* [2013] NZHC 1190, *Re Jackson* [2018] NZHC 2583, and the affidavit of Neale Jackson affirmed on 14 May 2019.
4. The application is made without notice to any other party on the following grounds:
 - (a) that requiring the applicants to proceed on notice would cause undue delay or prejudice to the applicants; and
 - (b) that the interests of justice require the application to be determined without serving notice of the application.

5. I certify that:
- (a) the grounds set out in paragraph 4 on which the application relies are made out; and
 - (b) all reasonable inquiries and all reasonable steps have been made or taken to ensure that the application contains all relevant information, including any opposition or defence that might be relied on by any other party, or any facts that would support the position of any other party.

DATED: 14 May 2019



S P Pope
Solicitor for the applicants
09 367 8844

This document is filed by **SARAH POLLY POPE**, solicitor for the applicants, of Russell McVeagh. The address for service of the applicants is Level 30, Vero Centre, 48 Shortland Street, Auckland 1010.

Documents for service on the applicants may be left at that address for service or may be:

- (a) posted to the solicitor at PO Box 8, Auckland 1140; or
- (b) left for the solicitor at a document exchange for direction to DX CX10085.