



IN THE SUPREME COURT OF WESTERN AUSTRALIA

COR/152/2019

BETWEEN:

**Neil Raymond CRIBB as liquidator of
BULLION BOURSE PTY LTD (IN
LIQUIDATION) (ACN 140 221 067**

First Plaintiff

AND

Jacinta LAM -and-

First named First Defendant

Jake BASSINGTHWAIGHTE -and-

Second named First Defendant

**Jacinta Lam And Jake
BASSINGTHWAIGHTE as trustee for JL & JB
SUPERFUND (ABN 64 914 295 400) -and-**

Third named First Defendant

Bradley JOHNSTON -and-

First named Second Defendant

Lynette JOHNSTON -and-

Second named Second Defendant

**Bradley Johnston And Lynette JOHNSTON as
trustee for THE BRAD JOHNSTON
SUPERANNUATION FUND (ABN 87 192 709
918) -and-**

Third named Second Defendant

**Benjamin Noel LAMOTHE as trustee for THE
LAMOTHE LIFETIME SUPER FUND (ABN
97 488 743 083) -and-**

Third Defendant

Hylton Hugh Kirk SMITH -and-

First named Fourth Defendant

David John BENTLEY -and-

Second named Fourth Defendant

Aaron Peter Joseph JOHANSEN -and-

Fifth Defendant

Shaun POTTER -and-

First named Sixth Defendant

Susan WILLERS -and-

Second named Sixth Defendant

Zenom WILLERS -and-

Third named Sixth Defendant

Finlay Alasdair HARRISON

Seventh Defendant

**ORDER OF MASTER SANDERSON
MADE 20 October 2020**

UPON THE APPLICATION of the plaintiff by amended originating process filed 18 May 2020, AND UPON READING the affidavits of Neil Raymond Cribb sworn 26 July 2019, 30 August 2019, 4 December 2019, 27 May 2019, 10 July 2020 and 12 October 2020; the affidavit of Christophe Paul Benoit Hannecart affirmed 4 September 2019; the affidavit of Carmen Anne Leah Boothman sworn 11 December 2019; the affidavit of Benjamin Didier Welsh sworn 5 February 2020; the affidavit of Cameron Joseph Sutton sworn 29 June 2020; the affidavit of Bradley Steven Johnston sworn 30 June 2020; and the affidavit of Lynette Robyn Johnston sworn 30 June 2020, AND UPON the application being determined on the papers, AND FOR reasons published 22 September 2020, IT IS ORDERED THAT:

1. The [REDACTED] entitled to possession of the following goods which remain in the plaintiff's possession:
 - (a) 10 x 1kg Perth Mint silver bars; and
 - (b) 131 x 100oz Perth Mint silver bars.
2. The [REDACTED] entitled to possession of 296 of the 1kg Perth Mint silver bars in the plaintiff's possession
3. The [REDACTED] entitled to possession of 74 of the 1kg Perth Mint silver bars in the plaintiff's possession
4. The remaining 151 x 1kg Perth Mint silver bars in the plaintiff's possession are property of Bullion Bourse Pty Ltd (In Liquidation) (Company) and are to be realised in the ordinary course of the liquidation of the Company.
5. The 39 x 10oz Perth Mint silver bars which remain in the plaintiff's possession are property of the Company and are to be realised in the ordinary course of the liquidation of the Company.
6. The plaintiff is justified in treating the [REDACTED] as entitled to possession of the 42 x 5kg ABS silver bars which remain in the plaintiff's possession.

Collection

7. Orders 18 and 20 to 21 of the orders made on 30 July 2019 (July Orders) and order 3 of the orders made on 12 September 2019 (September Orders) shall apply to the collection of the goods the subject of orders 1 to 3 and 6 herein (Relevant Goods) with the following modifications:
 - (a) "Owner" shall mean the relevant defendant(s) in these proceedings;
 - (b) "Identified Goods" shall mean the Relevant Goods;
 - (c) "Collection Levy" shall mean any amounts already paid by the Owner(s) to the plaintiff plus the amounts set out at paragraph 7 of these orders;

- (d) order 20 of the July Orders be deleted and replaced with "All Identified Goods must be collected by the relevant Owner(s) as soon as possible and in any event by no later than 30 November 2020"; and
- (e) the word "substantially" be inserted after the words "a release in" in order 3(a) of the September Orders.

Costs levy

- 8. The plaintiff is justified in asserting an entitlement to an indemnity (in an amount to be agreed between the plaintiff and the corresponding defendant or otherwise determined by the Court) secured by an equitable lien against the goods the subject of these orders, for the payment of his costs, expenses and remuneration relating to identifying, preserving and returning the goods (which are not the subject of order 12) (Costs Levy).
- 9. By no later than Friday, 30 October 2020, the plaintiff shall file and serve an affidavit containing a full itemisation / timesheets of the plaintiff's claimed costs, expenses and remuneration (including the name of the practitioner, a description of the task completed by the practitioner, the hourly rate of the practitioner, the time charged by the practitioner for the task and the amount claimed in respect of that task) insofar as they relate to [REDACTED] in respect of:
 - (a) RSM (for the period 12 December 2019 to 9 July 2020 and any future costs); and
 - (b) HWL (for the period 12 December 2019 to 9 July 2020 and any future costs); and
 - (c) Brinks (for the period of 12 December 2019 to 9 July 2020 and any future costs).
- 10. By no later than Friday, 13 November 2020, the plaintiff and [REDACTED] shall confer with a view to exploring whether the parties can agree the amount of any Costs Levy claimed by the plaintiff.
- 11. The matter be listed for a special appointment for approximately 1 hour on a date not before Friday, 13 November 2020 for the Court to determine the amount of any Costs Levy not otherwise agreed by the parties.
- 12. The plaintiff's costs of orders 7 to 10 be treated as costs in the liquidation.

Costs of this Application

- 13. There be no order as to costs.

BY THE COURT

MASTER C SANDERSON