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TRANSCRIPT OF PROCEEDINGS

O/N H-1250621

FEDERAL COURT OF AUSTRALIA

VICTORIA REGISTRY

MIDDLETON J

No. NSD 818 of 2020

**IN THE MATTER OF VAH NEWCO NO. 2 PTY LTD (IN LIQUIDATION) AND VB
INVESTCO PTY LTD (IN LIQUIDATION)**

MELBOURNE

10.14 AM, THURSDAY, 30 JULY 2020

MR D. SULAN appears with MR D. KROCHMALIK for the plaintiffs

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THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

5 HIS HONOUR: Before I take appearances, I need to make a procedural order,
which I will do now. The court notes that section 17(1) of the Federal Court of
Australia Act 1976 requires that the jurisdiction of the court be exercised in open
court, but section 17(4) of the Act allows for the public to be excluded if the court is
satisfied that their presence would be contrary to the interests of justice. The court
must balance the importance of this matter being heard and determined and open
10 justice. Justice requires this hearing be conducted as soon as practicable and that it is
not to be delayed indefinitely, pending the end of the current viral pandemic. The
best practical arrangements in the circumstance of the pandemic have been put in
place to allow interested members of the public or the press to observe or listen to the
hearing.

15 The arrangements set forth in paragraph 1 of the orders below are identified. With
this in mind, it would be contrary to the interests of justice for the public to have
access to the hearing other than in accordance with the arrangements identified in
paragraph 1 of the orders below because the result of that would be to have the
20 hearing deferred indefinitely. The court orders, in this proceeding and in the
proceeding 864 of 2020 on that basis, the following:

- (1) Pursuant to section 17(4) of the Act, the public be excluded from this hearing
listed at 10.15 am on 30 July 2020, other than by the following arrangements:
 - 25 a. any member of the public is able to join the hearing by the Microsoft
Teams platform by providing an email address to the Associate to
Middleton J as stipulated in the court notice of proceedings and;
 - b. any member of the public is able to listen to the hearing via the
Microsoft Teams platform by dialling the number and ID allocated to
the hearing published on the court list.
- 30 (2) Members of the public who attend the hearing via the methods in paragraph 1
of these orders do so on the condition that they are:
 - a. permitted to observe or listen to the hearing but are in no
circumstances permitted to participate in the hearing;
 - 35 b. prohibited from making any recording or photographic record of the
hearing or any part thereof by any means whatsoever, with the
exception of media representatives and;
 - c. advised that any failure to observe conditions (a) and (b) may
constitute a contempt of court and be punishable as such.

I will now take appearances in 818, thank you. Doctor – Mr Sulan, thank you. Sorry, Mr Sulan, are you there? I can't hear you. You may be on mute.

5 MR D. SULAN: Your Honour, can you hear me now?

HIS HONOUR: I can. Yes, thank you, Mr Sulan.

MR SULAN: Your Honour, can you hear me?

10 HIS HONOUR: I can hear you.

MR SULAN: Thank you, your Honour. I will just try seems to be something wrong with the computer I was using. It's Sulan and I appear with Mr Krochmalik for the plaintiffs.

15 HIS HONOUR: Yes, Mr Sulan.

MR SULAN: I'm not anticipating any other appearances in 818.

20 HIS HONOUR: All right. In 818, is there anyone who wishes to be heard in relation to the orders that have been sought? If I hear no one I will assume that no one wishes to address the court on the form of orders or any substantive matter. All right. Mr Sulan, I have had the opportunity of reading the material in support of the application and your helpful submissions, and I did receive this morning a minute of
25 order in relation to this particular matter. Is there anything different in the order that I had received this morning than what I had, I think, seen before?

MR SULAN: I think the only change is in order 8 of the proposed short minutes of order, which just changed the date or the time by which someone must give notice of
30 application to vary or discharge as being one business day rather than two.

HIS HONOUR: Yes.

MR SULAN: Yes, and – but – sorry, I will just find out, there's another change
35 I believe, in – and in 4(a)(i) there has been a change originating process to publish a notice via the Halo platform.

HIS HONOUR: All right. Let me just look at that. If they're not registered on the Halo platform then you've still got an obligation to send something out by email or
40 whatever other address you have, is that as I understand the gist of 4(a)?

MR SULAN: Yes. So that's covered in (ii) and following.

HIS HONOUR: Thank you, and let me just check that again. Yes. All right, I
45 understand. Well, I am prepared to make those orders as sought, based upon the submissions and the affidavit material, so those orders will be made now and will be put up on the court portal for everybody to see and I will publish my reasons,

hopefully early next week, as to why I've made those orders. Those reasons will be made public, obviously, on the portal.

MR SULAN: Thank you, your Honour.

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HIS HONOUR: Thank you. Call the next matter please.

MATTER ADJOURNED at 10.22 am INDEFINITELY