



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1173/2016

**IN THE MATTER OF GORDON SMITH MARKETING PTY LIMITED
(ADMINISTRATOR APPOINTED) ACN 003 840 168**

**ANDREW SCHWARZ IN HIS CAPACITY AS ADMINISTRATOR OF GORDON
SMITH MARKETING PTY LIMITED (ADMINISTRATOR APPOINTED)
ACN 003 840 168 AND EACH OF THE COMPANIES LISTED IN THE SCHEDULE**
Plaintiff

ORDER

JUDGE: JUSTICE YATES

DATE OF ORDER: 21 July 2016

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The originating process be made returnable instant.
2. Pursuant to s 439A(6) of the *Corporations Act 2001* (Cth) (**the Act**) the convening period within which the plaintiff must convene the second meeting of creditors of Gordon Smith Marketing Pty Limited (administrator appointed) ACN 003 840 168, Rodney Clark Pty Ltd (administrator appointed) ACN 088 072 244 and Rodney Clark Retail Pty Ltd (administrator appointed) ACN 138 806 256 (together, **the Companies**) under s 439A of the Act (**the second meetings**) be extended from 25 July 2016 to 15 September 2016.
3. Pursuant to s 447A(1) of the Act, that Pt 5.3A of the Act operate such that the second meetings may be held, together or separately, at any time during, or within five business days after the end of, the convening period as extended by Order 2, notwithstanding the provisions of s 439A(2) of the Act.
4. The plaintiff, within seven business days of the making of these orders, take all reasonable steps to give notice of the orders to the Companies' creditors (including the persons claiming to be creditors), by means of a circular:



- (a) sent by email transmission to creditors for whom the plaintiff has a current email address; or
 - (b) sent by ordinary post to creditors for whom the plaintiff has only a postal address.
5. Pursuant to s 447A(1) of the Act, that Pt 5.3A of the Act operate such that the requirement on the plaintiff to issue notices under s 439A(3) of the Act be modified such that notice of the second meetings will be validly given to any creditors by, not less than five business days prior to the date of the proposed meeting:
 - (a) giving such notice electronically by email sent to the email address of any creditor (including persons claiming to be creditors) of the Companies for whom or which the plaintiff holds an email address;
 - (b) sending such notice to the postal address or facsimile number, or otherwise as provided for by the Act or the *Corporations Regulations 2001* (Cth), to any creditors not being a creditor referred to in sub-paragraph (a);
 - (c) causing such notice to be made available on the website maintained by the plaintiff's firm at <http://www.asadvisory.com.au/insolvencies>; and
 - (d) causing such notice to be published in *The Australian* newspaper.
6. Pursuant to s 447A(1) of the Act that s 439A(4) of the Act be modified such that the information required under s 439A(4) of the Act to accompany the said notice to creditors may be validly given if it is:
 - (a) available for download from the website that is maintained by the plaintiff; and
 - (b) referred to in the notices issued and published in accordance with Order 5, as being available for download from the website that is maintained by the plaintiff.
7. Liberty to apply be granted to the following parties on giving all other interested parties not less than three business days' notice:
 - (a) any person who can demonstrate sufficient interest (including any creditor of the Companies) for the purpose of modifying or discharging any orders made pursuant to Order 2 and Order 3; and
 - (b) the plaintiff, for the purpose of seeking any further extension of the convening period.
8. The plaintiff's costs of and incidental to this application be costs and expenses in the administration of each of the Companies, and be paid out of the assets of the Companies.



9. Pursuant to s 37AF(2) of the *Federal Court of Australia Act 1976* (Cth), Exhibits Confidential C, Confidential D and Confidential E be kept confidential and not be disclosed to any person without prior leave of the Court. Subject to any extension, this order is to operate until 5.00 pm on 15 September 2016 and is necessary to prevent prejudice to the proper administration of justice.

Date that entry is stamped: 21 July 2016

Warrick Soden
Registrar



Schedule

RODNEY CLARK PTY LTD (ADMINISTRATOR APPOINTED) ACN 088 072 244

RODNEY CLARK RETAIL PTY LTD (ADMINISTRATOR APPOINTED)

ACN 138 806 256