

DUPLICATE

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE

CIV/2021-404-2299

UNDER

Part 15 of the Companies Act 1993

IN THE MATTER OF an application by **TOWER LIMITED** a duly incorporated company having its registered office at Level 5, 136 Fanshawe Street, Auckland, and carrying on business as an insurance business, for approval of an arrangement

APPLICANT

SEALED INTERLOCUTORY ORDERS OF THE COURT

Dated:

10 December 2021



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Solicitor Acting: Ana Simkiss
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TO: The Registrar of the High Court at Auckland

AND TO: Any person that the High Court directs to be served

1. The without notice interlocutory application for initial orders regarding arrangement under Part 15 of the Companies Act 1993 made by Tower Limited (**Tower**) on 30 November 2021 was determined by Associate Judge Sussock on 10 December 2021.
2. The determination was made without a hearing.
3. The following orders were made:
 - (a) the Originating Application for final orders be set down for a half day hearing on a date on or around 23 February 2022 in consultation with counsel;

Meeting of Shareholders

- (b) Tower shall hold an Annual General Meeting of its shareholders (“Meeting”):
 - (i) at a venue in Auckland at 10:00am NZT on Wednesday 2 February 2022 (or on a date to be determined by Tower and in accordance with Tower’s constitution); and
 - (ii) livestream the Meeting via an online web platform which shareholders can access using a computer, laptop, tablet or smartphone;
- (c) at the Meeting Tower shall put to its shareholders (among other business), a proposed scheme of arrangement (“Arrangement”), as annexed to the accompanying Originating Application for orders approving the Arrangement under Part 15 of the Companies Act 1993 (the “Originating Application”), for their approval by special resolution before consideration by the Court;
- (d) except as otherwise provided in these orders, Tower shall conduct the Meeting in accordance with the constitution of Tower, the provisions of



the Companies Act 1993, the NZX Listing Rules and the ASX Listing Rules;

- (e) the special resolution shall be approved for the purposes of preparing a report for the Court if it is passed by a majority of 75% of the votes of those shareholders entitled to vote and voting on the resolution;
- (f) those Tower shareholders whose names appear in the register of shareholders at the close of business two days prior to the Meeting are entitled to be represented and vote on the Arrangement at the Meeting, or at any adjournment(s) or postponement;
- (g) a shareholder who is entitled to vote at the Meeting but who is unable to attend may appoint a Proxy to attend the Meeting to act generally and vote on their behalf;
- (h) a shareholder is entitled to attend the meeting online or in person with shareholders to be provided with a virtual meeting link in the Notice of Annual Meeting;
- (i) voting will be conducted by poll in accordance with the NZX Listing Rules and Tower's constitution;
- (j) representatives of Computershare Investor Service Limited (or such other company as Tower deems fit) shall act as scrutineers at the Meeting;

Information to shareholders – Notice of Meeting and of Originating Application

- (k) Tower shall:
 - (i) give notice of the Meeting and of the Originating Application by sending to each shareholder, not less than 20 working days before the Meeting, the following documents:
 - (1) a Notice of Annual Meeting, including the resolution proposing the Arrangement that the shareholders will be asked to vote on at the Meeting, together with Explanatory Notes;



- (2) a proxy form for use by shareholders at the Meeting;
- (3) a guide on how to log into the Meeting remotely;
- (4) a copy of the Originating Application; and
- (5) a copy of this Minute;

(together, the "Shareholder Materials")

- (ii) the Shareholder Materials are to be in substantially the same form as those annexed to the affidavit of Michael Peter Stiasny sworn in support of the Originating Application, together with such amendments as are necessary or desirable (including amendments required by NZX or by any other regulatory body), provided that such amendments are not inconsistent with the terms of these interlocutory orders;
- (iii) the Shareholder Materials will be sent to the following persons:
 - (1) those shareholders whose names appear in the register of shareholders at 5:00pm (NZT) on the fourth business day before the Shareholder Materials are sent; and
 - (2) the directors and auditors of Tower;
- (iv) the Shareholder Materials will be sent by ordinary post in hardcopy format to the physical addresses recorded for the shareholder(s) unless the shareholder(s) has elected to receive shareholder materials electronically;
- (v) if a shareholder has elected to receive materials electronically, electronic copies of the Shareholder Materials will be sent to the email address recorded for that shareholder(s);
- (vi) the Shareholder Materials will be made publicly available for inspection and download on Tower's website not less than 20 working days before the Meeting;



- (l) in accordance with its continuous disclosure obligations, Tower will disclose the Shareholder Materials as described at paragraph 3(k)(i) above, on NZX's and ASX's market announcement platforms;
- (m) the Shareholder Materials shall be deemed to have been received by those to whom they were ordered to be sent five working days after being sent as described in paragraph 3(k)(iv);
- (n) Tower shall be granted leave to send the Shareholder Materials to shareholders outside New Zealand in the manner referred to in paragraph 3(k)(iv);
- (o) the following will not constitute a breach of the orders nor invalidate any resolution passed at the Meeting (but if any such failure or omission is brought to the attention of Tower, then it will use its best endeavours to rectify it by the method and in the time most reasonably practicable in the circumstances):
 - (i) the accidental failure or omission by Tower to give the Shareholder Materials to the persons specified in paragraph 3(k)(iii); or
 - (ii) the non-receipt of the Shareholder Materials by those persons;

Powers of Amendment and Adjournment

- (p) Tower is permitted to make such amendments, revisions or supplements to the Arrangement or the Shareholder Materials as Tower may determine are in the best interests of Tower and its shareholders and the Arrangement as so amended will be the Arrangement to be submitted to the shareholders at the Meeting for approval;
- (q) where possible any amendments as referred to in (p) above will be made before Tower distributes the Shareholder Materials as detailed in paragraph 3(k) above and:
 - (i) if the Arrangement or Shareholder Materials are amended before the Shareholder Materials are distributed, Tower will



distribute amended Shareholder Materials as detailed in paragraph 3(k) above; but

- (ii) if any material amendment to a document contained in the Shareholder Materials is made after the Shareholder Materials are distributed, Tower will notify shareholders of amendments by lodging notice on NZX's and ASX's market announcement platforms and the Tower website;
- (r) the Chairperson of the Meeting is permitted to adjourn or postpone the meeting, without first needing to convene the meeting or to obtain any vote of the Tower shareholders regarding the adjournment or postponement;
- (s) subject to the terms of these orders, the Meeting will be conducted in accordance with the provisions of the Companies Act 1993, the NZX Main Board Listing Rules, the ASX Listing Rules and Tower's constitution;

Shareholder opposition

- (t) any shareholder who opposes the Originating Application may, no later than five (5) working days after the Meeting, file a notice of intention to appear in this proceeding advising that they oppose the application;
- (u) within five (5) working days of filing such notice, any shareholder opposing the Originating Application must file a notice of opposition and affidavit evidence in support of that opposition ("Opposition Documents") and serve the Opposition Documents on Tower at Tower's address for service;

Reporting the outcome of the Meeting

- (v) Tower shall notify the outcome of the Meeting by lodging the results on NZX's and ASX's market announcement platforms as soon as practicable after voting at the Meeting is complete and the results are advised to the Chair of the Meeting;



Report to the Court


- (w) Tower will, prior to the Court's consideration of the Originating Application, file with this Court affidavit(s):
- (i) verifying compliance with these initial orders granted by the Court;
 - (ii) annexing copies if amendments have been made as referred to in paragraph 3(p) above;
 - (iii) verifying the actions taken and the resolutions passed by the shareholders at the Meeting;
 - (iv) confirming necessary approvals from IRD or any other party;
- and serve the same documents on any person who has filed a notice of opposition or a notice of intention to appear;

Other

- (x) Tower is granted leave to apply at short notice to vary these interlocutory orders, and to apply for such further interlocutory orders as may be necessary or appropriate;
- (y) the Arrangement remains subject to approval by the Commissioner of Inland Revenue by 9 February 2022;
- (z) if the shareholders do not vote to approve the Arrangement, or if approval from Inland Revenue is not granted, it is recorded that Tower will likely discontinue the Originating Application;
- (aa) dispensing with formal service of the interlocutory application (and the orders made pursuant to it) on any person;
- (bb) costs are reserved to be determined with the Originating Application for final orders.

Date: 10 December 2021

Signature:
(Registrar/Deputy Registrar)


Darica Young
DEPUTY REGISTRAR

