



**Australian Government**  
**Australian Financial Security Authority**

## **NOTICE PURSUANT TO SECTION 139ZL OF THE *BANKRUPTCY ACT 1966* (CTH)**

NO: SA 660/17/9  
RE: DENIS GERALD CRAWFORD

The Proper Officer  
Sarabeau Pty Ltd  
8375 Glenelg Highway  
WARRAYURE VIC 3301

**Denis Gerald Crawford** ('the Debtor') became bankrupt on 4 July 2017.

**Gess Michael Rambaldi and Andrew Reginald Yeo** ('the Trustees') are the Trustees of the above administration.

I, Andrew Hegarty of Level 4, Darling Park 3, 201 Sussex Street, Sydney NSW 2000, as delegate of the Official Receiver, require you, in accordance with section 139ZL(1) of the *Bankruptcy Act 1966* (Cth) ('the Act'), being a person from whom any money is due or accruing, or may become due to the Debtor, to:

**Pay to Gess Michael Rambaldi and Andrew Reginald Yeo, an amount of \$71,614.11 by way of deducting 15% of payments received by Sarabeau Pty Ltd for invoices issued as a result of the Debtor's personal services, commencing on the first payment after receipt of this notice until such time as the net liability of \$71,614.11 has been satisfied.**

The facts and circumstances by which this notice applies to you are set out in the schedule attached to this notice.

**If the Debtor resigns or his employment with you is otherwise terminated, payment of the balance of contributions outstanding at the date of termination should be deducted from his termination pay.**

**This notice shall be taken to be complied with if payment is made by you to the Trustees.**

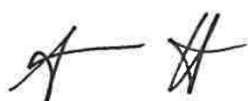
Payment can be made by Electronic Funds Transfer to the following account:

Bank: **Macquarie Bank**  
BSB: **183334**  
Account No: **293600201**  
Account Name: **Pitcher Partners Insolvency Trust**  
Reference: **Bankrupt Estate of Denis Crawford**

## NOTES:

1. A person who refuses or fails to comply with a notice under section 139ZL of the Act is guilty of an offence punishable upon conviction by imprisonment not exceeding six months (see subsection section 139ZO(1) of the Act). The court may, in addition to imposing a penalty, order you to pay to the Trustees an amount not exceeding the amount that you failed to pay to the Trustees in accordance with this notice(see subsection section 139ZO(2) of the Act).
2. Pursuant to section 139ZP of the Act, any action to dismiss the Debtor, injure the Debtor in his or her employment or alter the position of the Debtor to his or her prejudice, because of the giving of this notice, may render an employer liable, upon conviction, to imprisonment for six months.
3. A corporation which fails to comply with this notice, upon conviction, may become liable to payment of a pecuniary penalty calculated in accordance with subsection 4B(3) of the *Crimes Act 1914* (Cth), and may be ordered to pay to the Trustees an amount not exceeding the amount referred to in this notice.
4. If the employer of a Debtor receives a notice under section 139ZL of the Act and the employment of the Debtor subsequently ceases, the employer must, within 21 days of the cessation, give notice in writing to the Trustees stating the specific date that the Debtor ceased to be employed by the employer. Failure to do so is an offence of strict liability punishable by 2 penalty units pursuant to subregulation 6.20(1) of the *Bankruptcy Regulations 1996* (Cth).
5. Pursuant to subsection 139ZM(1) of the Act, the court, on application by you or another interested person, may make an order setting aside this notice on the basis of the facts and circumstances set out in this notice. Pursuant to subsection 139ZM(1A), the application must be made to the court not later than 60 days after the day the notice was given to you or, if the application to the court is made by another interested person, it must be made within 60 days of the day the applicant became aware that the notice had been given.

DATED this 3<sup>rd</sup> day of July 2020



*Andrew Hegarty*

DELEGATE OF THE OFFICIAL RECEIVER

Telephone: 02 8233 6905

Email: [or.notices@afsa.gov.au](mailto:or.notices@afsa.gov.au)

## ***BANKRUPTCY ACT 1966 (CTH)***


### **SCHEDULE TO NOTICE ISSUED PURSUANT TO SUBSECTION 139ZL(1) DATED THIS 3<sup>RD</sup> DAY OF JULY 2020**

1. Denis Gerald Crawford ('the Debtor') became bankrupt on 4 July 2017 pursuant to a Sequestration Order made in the Federal Circuit Court.
2. Gess Michael Rambaldi and Andrew Reginald Yeo ('the Trustees') are the Trustees of the administration.
3. The Debtor is required to make compulsory contribution payments to the Trustees in accordance with subsection 139P(1) of the *Bankruptcy Act 1966* (Cth) ('the Act').
4. Compulsory income contribution assessments were made by the Trustees and issued to the Debtor pursuant to section 139W of the Act for respective contribution assessment periods.
5. The Debtor has been assessed by the Trustees as liable to pay the following in respect of his contribution liability:

| <b>Contribution Assessment Period ('CAP')</b> | <b>Liability</b>   |
|---|--------------------|
| CAP 1: 4 July 2017 to 3 July 2018             | \$21,889.13        |
| CAP 2: 4 July 2018 to 3 July 2019             | \$38,441.78        |
| CAP 3: 4 July 2019 to 3 July 2020             | \$11,283.20        |
| <b>Total assessed</b>                         | <b>\$71,614.11</b> |
| <i>LESS: contributions paid to date</i>       | <i>\$0.00</i>      |
| <b>Further contributions to be collected</b>  | <b>\$71,614.11</b> |

6. The Debtor has been reminded of his contribution liability, most recently by way of correspondence dated 14<sup>th</sup> May 2020.
7. The Trustees submit that:
  - The Debtor is a fencer & wool classer by profession;
  - The Debtor is currently employed by, or has otherwise conducted services on behalf of Sarabeau Pty Ltd (ABN: 84 150 212 169) ('Sarabeau') in the form of stock work, fencing and other farm duties,
  - The income derived by Sarabeau is the result of personal services provided by the Debtor with the company's income being deemed to be income of the Debtor at approximately \$3,138 per fortnight net.
8. The payments set out in this notice represent a reasonable amount of the Debtor's net monthly income, being 15%.
9. You are a person either whom:
  - a. Pursuant to paragraph 139ZK(1)(a) of the Act, you are a person from whom money is due or accruing, or may become due to the Debtor;

- b. Pursuant to s139ZK(1)(e) of the Act, you are a person who is liable to pay money or transfer property wholly or principally in consideration of personal services supplied by the Debtor after the commencement of the bankruptcy, whether the services were supplied to you or to some other person;
- c. Pursuant to s139ZK(1)(f) of the Act, you are a person who has received money or property wholly or principally in consideration of personal services supplied by the Debtor after the commencement of the bankruptcy, whether the services were supplied to you or to some other person.

A handwritten signature in black ink, appearing to read 'Andrew Hegarty', with a stylized flourish at the end.

*Andrew Hegarty*  
DELEGATE OF THE OFFICIAL RECEIVER

## **BANKRUPTCY ACT 1966 – RELEVANT PROVISIONS**

### **Section 139ZL – Official Receiver may require persons to make payments**

- (1) *If a bankrupt is liable to pay to the trustee a contribution under section 139P or 139Q, the Official Receiver:*
- (a) *if the Official Trustee is the trustee—on the initiative of the Official Receiver; or*
  - (b) *if a registered trustee is the trustee—on application by the trustee;*

*may require a person to whom this Subdivision applies, by written notice given to the person, to make a payment or payments to the trustee in accordance with this section in or towards the discharge of the liability of the bankrupt to make the contribution.*

- (2) *The notice must set out the facts and circumstances, and in particular must specify the money or property, because of which the Official Receiver considers that this Subdivision applies to the person to whom the notice is given.*
- (3) *The notice may either:*
- (a) *require payment of so much of the money, or of the value of the property, as does not exceed the amount, or the total of the amounts, of the contribution that the bankrupt is liable to pay; or*
  - (b) *in the case of a person who is liable to pay money to or on behalf of the bankrupt, require the person, out of each payment that the person becomes liable from time to time to make, to pay such amount as is set out in the notice until the liability of the bankrupt to pay the contribution has been discharged.*
- (4) *The notice may either:*
- (a) *require a payment to be made immediately the money becomes due or is held, the authority becomes exercisable, the liability arises or the money or property is received, as the case requires; or*
  - (b) *require a payment to be made at a time or within a period set out in the notice, not being a time that occurs, or a period that commences, before the money becomes due or is held, the authority becomes exercisable, the liability arises or the money or property is received, as the case requires.*
- (5) *After the Official Receiver has given a notice to a person under subsection (1), the Official Receiver may at any time, by a further notice given to the person, revoke or amend the first-mentioned notice.*
- (6) *If the Official Receiver gives a notice under this section, the Official Receiver must send a copy of the notice to the bankrupt and, if a registered trustee is the trustee, to the trustee.*
- (7) *A notice to be given under this section to the Commonwealth, a State or a Territory, or to an authority of the Commonwealth, of a State or of a Territory, is taken to be duly given if it is given to a person who, by any law, regulation, appointment or authority, has the function of paying, or in fact pays, money on behalf of a Department of the Commonwealth, of that State or of that Territory, or on behalf of that authority, as the case may be.*
- (8) *If a person is required by a notice under this section to pay to the trustee the value of any property, the requirement is taken to be complied with if the property is transferred to the trustee.*
- (9) *A person making a payment or transferring property in accordance with this section is taken to have been acting under the authority of the bankrupt and of all other persons concerned and is entitled to be indemnified out of the estate of the bankrupt in respect of the payment or transfer.*
- (10) *An amount payable by a person to the trustee under this section is recoverable by the trustee as a debt by action against the person in a court of competent jurisdiction.*

### **Section 139ZM – Power of Court to set aside notice**

- (1) *If the Court, on application by a person to whom a notice has been given under section 139ZL or by any other interested person, is satisfied that this Subdivision does not apply to the person on the basis of the alleged facts and circumstances set out in the notice, the Court may make an order setting aside the notice.*
- (1A) *The application must be made:*
- (a) *not later than 60 days after the day the notice under section 139ZL was given to the applicant; or*
  - (b) *if the applicant is another interested person—not later than 60 days after the day the applicant became aware that the notice has been given.*
- (2) *A notice that has been set aside is taken not to have been given.*

### **Section 139ZN – Charge over property**

- (1) *If a notice under section 139ZL is given to a person to whom this Subdivision applies because the person is liable to transfer, or has received, any property as mentioned in paragraph 139ZK(1)(e) or (f):*
  - (a) *the property is charged with the liability of the person to make payments as required by the notice; and*
  - (b) *if the person makes the payments or transfers the property to the trustee, the property ceases to be subject to the charge.*
- (2) *Subject to subsection (3), a charge under subsection (1) has priority over any existing or subsequent mortgage, lien, charge or other encumbrance over the property in favour of an associated entity of the bankrupt, and has that priority despite any other law of the Commonwealth or any law of a State or Territory.*
- (3) *A charge under subsection (1) does not have priority over a mortgage, lien, charge or other encumbrance in favour of an associated entity of the bankrupt if that entity satisfies the Court that that mortgage, lien, charge or other encumbrance arose from a transaction that was entered into at arm's length and for valuable and adequate consideration provided by that entity.*
- (4) *If any property being land is subject to a charge under subsection (1), the Official Receiver may certify by signed writing that the land is subject to a charge under that subsection and may lodge the certificate with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory in which the land is situated.*
- (5) *The officer with whom the certificate is lodged may register the charge as nearly as practicable in the way in which mortgages over land are registered under the law in force in the State or Territory in which the land is situated.*
- (6) *The trustee has power to sell any property over which a charge exists under subsection (1) and, if the property is so sold, then, subject to any charges that have priority over the first-mentioned charge, the proceeds of the sale are, to the extent of the charge, to be applied in or towards the discharge of the liability to make a payment or payments to the trustee of the person to whom the notice was given.*

### **Section 139ZO – Failure to comply with notice**

- (1) *A person who refuses or fails to comply with a notice under section 139ZL is guilty of an offence punishable upon conviction by imprisonment for a period not exceeding 6 months.*
- (2) *If a person is convicted of an offence against subsection (1) in relation to the refusal or failure of the convicted person or another person to comply with a notice under section 139ZL, the court that convicted the person may, in addition to imposing a penalty on the convicted person, order that person to pay to the trustee an amount not exceeding the amount, or the total of the amounts, that the convicted person or the other person, as the case may be, refused or failed to pay to the trustee in accordance with the notice.*

### **Section 139ZP – Employer not to dismiss or injure bankrupt because of giving of notice**

- (1) *If a notice under section 139ZL is given to the employer of the bankrupt, the employer must not dismiss the bankrupt, injure the bankrupt in his or her employment, or alter the position of the bankrupt to the bankrupt's prejudice, because of the giving of the notice.*

*Penalty: Imprisonment for 6 months.*

- (2) *In a prosecution for an offence against subsection (1), it is not necessary for the prosecutor to prove that the defendant's reason for the action charged was the giving of the notice but it is a defence to the prosecution if the defendant proves that the action was not taken because of the giving of the notice.*
- (3) *If an employer is convicted of an offence against subsection (1) constituted by dismissing a bankrupt, the court that convicted the employer may order the employer:*
  - (a) *to reinstate the bankrupt to the position that the bankrupt occupied immediately before the dismissal or a position no less favourable than the first-mentioned position; and*
  - (b) *to pay to the bankrupt the whole or part of the wages lost by the bankrupt because of the dismissal.*