

Affidavit

No. 1010 of 2017

Federal Court of Australia

District Registry: Victoria

Division: Corporations List

**IN THE MATTER OF ACN 004 410 833 LIMITED (FORMERLY ARRIUM LIMITED)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT) ACN 004 410 833 (AND EACH OF
THE COMPANIES LISTED IN SCHEDULE ONE)**

MARK FRANCIS XAVIER MENTHA and ORS

First Plaintiffs

**ACN 004 410 833 LIMITED (FORMERLY ARRIUM LIMITED) (SUBJECT TO DEED OF
COMPANY ARRANGEMENT) ACN 004 410 833 (AND EACH OF THE COMPANIES
LISTED IN SCHEDULE ONE)**

Second Plaintiffs

EPIC ENERGY SOUTH AUSTRALIA PTY LIMITED (ACN 068 599 815)

Defendant

Affidavit of: **Richard Alexander Lyne**

Address: Polczynski Lawyers, Level 12, 77 King Street Sydney

Occupation: Solicitor

Date: 23 October 2017



Filed on behalf of the Respondent(s)

Prepared by Richard Lyne

Tel 02 9234 1500

Fax 02 9234 1511

Our Ref

SMP:DXM:201919

Email plawyers@plawyers.com.au

Address for Service

Polczynski Lawyers of Level 12, 77 King Street, Sydney NSW 2000

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I **Richard Alexander Lyne**, Solicitor, Polczynski Lawyers, Level 12, 77 King Street, Sydney affirm:

1. I am a Special Counsel in the employ of Polczynski Lawyers, the solicitors for the defendant. EPIC Energy Pty Limited (**EPIC**) and this is my second affidavit sworn in relation to these proceedings.
2. The sources of my knowledge of the facts set out in this affidavit are:
 - (a) my review of the documents and information held by Polczynski Lawyers in relation to the proceeding; and
 - (b) email communications between solicitors conducting the matter on behalf of the plaintiff and the defendant and the Financiers.
3. Exhibited at **RAL6** is a folder of documents which I refer to in this affidavit. Whenever I refer to a document in **RAL6** I shall identify the page or tab number at which the document appears in **RAL6**.
4. Exhibited at **Page 6** of exhibit **RAL6** is a copy of a letter from Polczynski Lawyers to Arnold Bloch Liebler dated 4 October 2017, which was sent by email on 4 October 2017 at 2:18 pm.
5. Exhibited at **Pages 7 to 9** of exhibit **RAL6** is an exchange of emails concerning the filing of the defendants concise statement and consisting of the following emails:
 - (a) email from Arnold Bloch Liebler received at 10.31 am on 9 October 2017; and
 - (b) email from Polczynski Lawyers at 11.21 am on 9 October 2017.





6. Exhibited at **Pages 10 to 11** of exhibit **RAL6** is a copy of a letter (including the attachment referred to) from Arnold Bloch Liebler to Polczynski Lawyers dated 9 October 2017 which was sent by email on 9 October 2017 at 10:31 am.
7. Exhibited at **Pages 12 to 14** of exhibit **RAL6** is a copy of two letters from Polczynski Lawyers to Arnold Bloch Liebler dated 9 October 2017, which were sent by email on 9 October 2017 at 5:38 pm and 5:43 pm.
8. Exhibited at **Pages 15 to 16** of exhibit **RAL6** is a copy of two letters from Polczynski Lawyers to Arnold Bloch Liebler dated 11 October 2017, which were sent by email on 11 October 2017 at 11:54 am and 5.48 pm.
9. Exhibited at **Pages 17 to 21** of exhibit **RAL6** is an exchange of emails between the parties and the Court concerning the listing of the matter for further directions and consisting of the following emails:
 - (a) email from Polczynski Lawyers at 12.00 pm on 11 October 2017;
 - (b) email from Associate to Justice Davies at 2.32 pm on 11 October 2017;
 - (c) email from Polczynski Lawyers at 6.04 pm on 11 October 2017;
 - (d) email from Associate to Justice Davies at 3.20 pm on 13 October 2017;
 - (e) email from Polczynski Lawyers at 7.07 pm on 17 October 2017; and
 - (f) email from Associate to Justice Davies at 9.25 am on 18 October 2017.
10. Exhibited at **Page 22** of exhibit **RAL6** is a copy of a letter from Arnold Bloch Liebler to Polczynski Lawyers dated 13 October 2017 which was sent by email on 13 October 2017 at 4:22 pm.
11. Exhibited at **Pages 23 to 24** of exhibit **RAL6** is a copy of an email received at 12.31 pm on 16 October 2017 from Arnold Bloch Liebler.
12. Exhibited at **Pages 25 to 26** of exhibit **RAL6** is a copy of a letter from Polczynski Lawyers to Arnold Bloch Liebler dated 17 October 2017, which was sent by email on 17 October 2017 at 3:12 pm.
13. Exhibited at **Pages 27 to 29** of exhibit **RAL6** is an exchange of emails concerning the filing of submissions between Arnold Bloch Liebler and King & Wood Mallesons and consisting of the following emails:
 - (a) email from Arnold Bloch Liebler received at 12.59 pm on 17 October 2017;

- (b) email from King & Wood Mallesons received at 2.33 pm on 17 October 2017;
 - (c) email from Arnold Bloch Liebler received at 3.19 pm on 19 October 2017; and
 - (d) email from King & Wood Mallesons received at 4.08 pm on 19 October 2017.
14. Exhibited at **Pages 30 to 37** of exhibit **RAL6** is a copy of a letter (including the orders proposed by the plaintiffs) from Arnold Bloch Liebler to Polczynski Lawyers dated 19 October 2017 which was sent by email on 19 October 2017 at 11.35 am.
 15. Exhibited at **Pages 38 to 39** of exhibit **RAL6** is a copy of an email received at 4.48pm on 20 October 2017 from Arnold Bloch Liebler.
 16. Exhibited at **Pages 40 to 51** of exhibit **RAL6** is a copy of a letter (including the orders proposed by the defendant) from Polczynski Lawyers to Arnold Bloch Liebler dated 20 October 2017, which was sent by email on 20 October 2017 at 4.50 pm.
 17. A copy of the orders proposed by the plaintiffs appears at **Page 32** of exhibit **RAL6**.
 18. A copy of the orders proposed by the first defendant appears at **Page 44** of exhibit **RAL6**.
 19. The Financiers do not propose any orders.

Affirmed by the deponent
at Sydney
in New South Wales
on 23 October 2017
Before me:

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Richard Alexander Lyne


Signature of witness

Kylie Marree Tate
Name of witness

Qualification of witness

Solicitor