

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY
I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE
COMMERCIAL PANEL

CIV-2019-404-

UNDER section 284 of the Companies Act 1993, section 66
of the Trustee Act 1956 and Part 19 of the High
Court Rules 2016

IN THE MATTER of HALIFAX NEW ZEALAND LIMITED (IN
LIQUIDATION)

AND of an application by **MORGAN JOHN KELLY** and
PHILIP ALEXANDER QUINLAN

First Applicants

AND of an application by **HALIFAX NEW ZEALAND
LIMITED (IN LIQUIDATION)**

Second Applicant

AND of an application by **MORGAN JOHN KELLY** and
PHILIP ALEXANDER QUINLAN

Third Applicants

AFFIDAVIT OF MORGAN JOHN KELLY IN SUPPORT OF:
(A) ORIGINATING APPLICATION FOR DIRECTIONS
(B) INTERLOCUTORY APPLICATION FOR ANCILLARY ORDERS

AFFIRMED 24 SEPTEMBER 2019

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McAugh**

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I, **MORGAN JOHN KELLY**, insolvency practitioner, of Sydney, Australia, solemnly and sincerely affirm:

Introduction

1. I (together with my partner Philip Alexander Quinlan) am a joint and several liquidator of:
 - (a) Halifax Investment Services Pty Ltd (In Liquidation) ACN 096 980 522 ("**Halifax AU**"); and
 - (b) the Second Applicant, Halifax New Zealand Limited (In Liquidation) (NZCN 2130897) ("**Halifax NZ**"),

together, the "**Halifax Group**".
2. I am a partner of KPMG Australia. Previously, I was a partner of Ferrier Hodgson, an accounting firm also based in Australia. On 17 June 2019, Ferrier Hodgson merged with KPMG. I have had over 25 years of experience in restructuring and financial investigation. A copy of my curriculum vitae outlining my relevant professional qualifications and experience is annexed to the AU Affidavit (as defined below) at **pages 1 to 4** of the annexed exhibit.
3. Mr Quinlan is also a registered liquidator and a partner of KPMG (and was previously a partner of Ferrier Hodgson). Mr Quinlan has over 14 years of experience in restructuring and financial investigation. A copy of Mr Quinlan's curriculum vitae outlining his relevant professional qualifications and experience is annexed to the AU Affidavit (as defined below) at **pages 5 to 6** of the annexed exhibit.
4. I affirm this affidavit in support of the originating application filed by Mr Quinlan and me (together, the "**Liquidators**"), Halifax NZ and Mr Quinlan and me in our capacity as trustees of a trust created by regulation 246 of the Financial Markets Conduct Regulations 2014 ("**Trustees**") (the Liquidators, Halifax NZ and the Trustees being referred to together below as the "**Applicants**") ("**Directions Application**"). The Directions Application seeks a range of orders, particularly directions relating to issues concerning money and other property that was required to be held on trust by Halifax NZ for its clients.
5. The Applicants have, together with the Directions Application, filed an interlocutory application seeking directions in respect of:
 - (a) applications which may be made by Halifax Group clients to be appointed as representative respondents in respect of the Directions Application;
 - (b) notification to clients of the Directions Application and of their right to apply for joinder as a respondent to the Directions Application or otherwise applying for leave to be heard;
 - (c) seeking leave to commence the Directions Application by way of originating application (rather than by way of statement of claim);
 - (d) protection of confidential information; and

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(e) other ancillary orders to the Directions Application.

("Interlocutory Application").


6. This affidavit is also filed in support of the Interlocutory Application.
7. The facts and matters I depose to in this affidavit are true and within my own knowledge, or have come to my knowledge from the source or sources to which I will refer, in which case I believe them to be true to the best of my knowledge, information or belief.

Summary

8. The Directions Application is an application for directions that involves complex factual and legal issues. For reasons that appear below, the Directions Application is filed in New Zealand (and asks for directions in respect of the liquidation of Halifax NZ) but is closely related to an interlocutory process seeking directions and judicial advice in relation to Halifax AU filed in the Federal Court of Australia on 2 July 2019 ("**AU Directions Application**").
9. On 26 June 2019, I affirmed an affidavit in support of the AU Directions Application ("**AU Affidavit**"). The AU Affidavit, and the exhibit marked "Exhibit MJK-1" ("**Exhibit**") and the confidential exhibit marked "Confidential Exhibit MJK-1" ("**Confidential Exhibit**") referred to in it, are annexed to this affidavit marked "**MK-1**", "**MK-2**" and "**MK-3A**" and "**MK-3B**", respectively.
10. On 26 July 2019, I affirmed a second affidavit that corrected and clarified some aspects of the AU Affidavit ("**Second AU Affidavit**"). The Second AU Affidavit is annexed to this affidavit marked "**MK-4**".
11. On 29 July 2019, I affirmed a third affidavit that corrected a typographical error in the AU Affidavit ("**Third AU Affidavit**"). The Third AU Affidavit is annexed to this affidavit marked "**MK-5**".
12. Throughout this affidavit, I will refer to various parts of the AU Affidavit, the Exhibit and the Confidential Exhibit, as well as the Second AU Affidavit.

Halifax NZ

13. Halifax NZ is a New Zealand company that was incorporated on 21 May 2008. In 2013, Halifax AU purchased a controlling interest in Halifax NZ. Halifax AU owns 70% of the shares in Halifax NZ. Andrew Gibbs (a director of Halifax NZ) and Kaye Williams own the remaining 30% of the shares. A copy of the Companies Office extract for Halifax is at **pages 21 to 22** of the Exhibit.
14. Prior to the appointment of administrators to Halifax NZ, it operated as a provider of financial services, which dealt in financial products on behalf of its clients.
15. On 27 November 2018, Mr Quinlan, Stewart McCallum and I were appointed administrators of Halifax NZ. On 22 March 2019, at the watershed meeting in the administration of Halifax NZ, I was appointed as a liquidator of Halifax NZ, together with Mr Quinlan and Mr McCallum. On 9 May 2019, Mr McCallum resigned from his appointment as a liquidator of Halifax NZ.

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16. More information about the administration of Halifax NZ can be found in the reports to creditors of Halifax AU and Halifax NZ prepared in the course of the administration of each of those companies. Copies of those documents are at **pages 23 to 246** of the Exhibit.

Halifax AU

17. Halifax AU is an Australian company incorporated on 30 May 2001. A copy of a search from the Australian Securities and Investments Commission ("**ASIC**") in respect of Halifax AU is at **pages 7 to 20** of the Exhibit.
18. Prior to the appointment of administrators to Halifax AU, it operated as a provider of financial services, which dealt in financial products on behalf of its clients.
19. On 23 November 2018, Mr Quinlan, Mr McCallum and I were appointed administrators of Halifax AU. On 20 March 2019, I was appointed as a liquidator of Halifax AU, together with Mr Quinlan and Mr McCallum. Mr McCallum has also resigned as a liquidator of Halifax AU.

The Directions Application and the AU Directions Application

20. On 22 August 2019, Gleeson J delivered a judgment in the Australian Directions Application. The judgment of Gleeson J is annexed to this affidavit and marked "**MK-6**". In that judgment, her Honour said, in particular, at [59]-[60] and [76]-[77], that she favoured a joint hearing of the AU Directions Application and the Directions Application, if this Court were amenable to that course of action. However, her Honour said at [78]-[80] (especially at [79]) that she considered that that issue should be resolved only after (1) the parties who will respond to the Liquidators' application have been identified; (2) the issues between them and the Liquidators have been defined; and (3) their views have been sought as to the most efficient and effective way of proceeding in this case.
21. With respect, I am of the opinion that the determination of the issues in the Directions Application and the AU Directions Application will require co-ordination between the New Zealand High Court and the Federal Court of Australia, for the reasons outlined throughout this affidavit. In my view, the best way for the Directions Application to proceed is in conjunction with the AU Directions Application, by way of the High Court of New Zealand and the Federal Court of Australia sitting together and hearing all of the evidence and submissions (to the extent relevant) before each of the two Courts. I discuss this issue in more detail at paragraphs 215 to 226 of the AU Affidavit.
22. If the Federal Court later issues a letter of request, we would seek to make submissions to the High Court in support of the High Court acceding to the request. If the High Court agrees to provide assistance to the Federal Court, we would seek to have the High Court and the Federal Court coordinate case management steps to allow for the applications to be managed and determined in parallel.
23. The purpose of this affidavit is to explain with some greater specificity the factual and legal issues that have arisen in respect of funds and property held by Halifax NZ for the benefit of its clients, and to seek to explain to the Court

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why the Liquidators are pursuing the course of action outlined in the Directions Application and the AU Directions Application.

24. This affidavit covers the following areas:
- (a) the structure of the Halifax Group and its business and Halifax NZ's place in the Halifax Group;
 - (b) the various trading platforms offered by the Halifax Group and particularly Halifax NZ;
 - (c) the funds flow, pooling and commingling that has occurred in respect of Halifax NZ's assets, and the implications of that commingling on the liquidation process;
 - (d) a description of the AU Directions Application;
 - (e) the involvement of the Financial Markets Authority ("FMA") and the appointment of trustees under a separate trust by the FMA; and
 - (f) the need for the orders sought from the High Court of New Zealand in respect of Halifax NZ.

Structure of Halifax Group and its business

25. Halifax NZ and Halifax AU operated in conjunction with each other, both in their interactions with clients and how the business was conducted behind the scenes. A summary of how the Halifax Group operated is set out at paragraphs 11 to 20 and 30 to 50 of the AU Affidavit.

Trading platforms offered by Halifax NZ

26. Clients invested through Halifax AU or Halifax NZ in a range of different financial products on a number of different online trading platforms. Financial products traded on the platforms were either "exchange-traded" financial products, which are, or are indexed to, a wide range of equities, futures or options, or "over-the-counter" ("OTC") financial products, which are not listed on a regulated exchange but are traded via private contracts between two parties.
27. The various platforms included those known as Interactive Broker New Zealand ("IB NZ"), Interactive Broker Australia ("IB AU"), MetaTrader 4 ("MT4") and MetaTrader 5 ("MT5").
28. Halifax NZ was party to an Interactive Brokers Institutional Services Customer Agreement with Interactive Brokers ("**Halifax NZ - IB Agreement**"). A copy of the Halifax NZ – IB Agreement is at **pages 12 to 25** of the Confidential Exhibit.
29. Where Halifax NZ was facilitating access to platforms offered by Halifax AU, it did so as an "introducing broker". As an introducing broker, Halifax NZ introduced clients onto Halifax AU's trading platforms and received commissions in connection with those introductions. At **pages 286 to 292** of the Exhibit is a Clearing and Settlement Program Agreement entered into between Halifax AU and Halifax NZ dated 1 July 2013, which sets out the arrangement between those companies.

30. The exchange-traded financial products were available for trading through the IB AU, IB NZ, MT4 and MT5 platforms. OTC products were available for trading through MT4 and MT5 and the IB NZ platform.
31. Clients of Halifax AU and clients of Halifax NZ were able to trade on all of the platforms regardless of whether they had executed a CSA with Halifax AU or Halifax NZ, although it was necessary for a client to first have an account set up and funded in connection with the relevant platform for the client to be able to trade on that platform.
32. The various platforms and financial products are described in more detail in paragraphs 51 to 89 of the AU Affidavit.

Funds flow and commingling

33. The key issue raised in the Directions Application is how to deal with the commingled and deficient pool of funds held by both Halifax NZ and Halifax AU, which appear to be a large part of the trust funds. This section of my affidavit explains how, based on the investigations of the Liquidators and our team, I believe that commingling came to be and the implications of the commingling, as well as explaining certain case studies that highlight how the commingling affects certain clients.
34. I deal with issues related to this in the following paragraphs of the AU Affidavit:
- (a) **Accounts held by Halifax AU and Halifax NZ** – I explain the various accounts controlled by the Halifax Group at paragraphs 90 to 101 of the AU Affidavit.
 - (b) **Assets held by Halifax AU and Halifax NZ** – I explain the various assets and funds held by the Halifax Group at paragraphs 102 to 138 of the AU Affidavit. This includes the assets and monies held in the various trading platforms and assets held by way of hedging.
 - (c) **Funds Flow** – I explain the funds flow, or how money moved within the Halifax Group, from paragraphs 139 to 148 of the AU Affidavit.
 - (d) **Tracing** – I explain investigations into the possibility of tracing undertaken by the Liquidators and their staff at paragraphs 149 to 154 of the AU Affidavit.
 - (e) **Commingling** – I explain how the funds controlled by the Halifax Group have become commingled across clients, accounts, trading platforms and jurisdictions from paragraphs 155 to 194 of the AU Affidavit.
 - (f) **Case Studies** – I discuss various examples of commingling, by reference to specific client accounts, from paragraphs 195 to 199 of the AU Affidavit.
 - (g) **Summary** – I summarise the results of the above from paragraphs 200 to 212 of the AU Affidavit.



35. This section of this affidavit summarises the issues relating to the flow of funds and commingling very briefly, largely from the perspective of Halifax NZ.

Funds flow

36. Ian Sutherland, a senior employee of KPMG and one of the staff members working on the liquidation of Halifax NZ and Halifax AU has prepared a funds flow memorandum that explains how funds flowed through various accounts controlled by the Halifax Group and he has also prepared a case study memorandum which explains the feasibility of tracing individual investor funds. Mr Sutherland swore two affidavits in the AU Directions Application, exhibiting those documents. I have reviewed the funds flow memorandum and the case study memorandum and I discuss them throughout the AU Affidavit. I do not repeat those paragraphs here.

FMA involvement and Financial Markets Conduct Regulations 2014

37. The FMA has been in contact with the Liquidators from time to time in respect of the progress in the liquidation and in respect of matters concerning the Halifax Group.
38. During those communications the FMA has indicated the intention to appoint Philip Quinlan and me as trustees of a trust created by regulation 246 of the Financial Markets Conduct Regulations 2014 ("FMCR") in respect of Halifax NZ ("**Regulation 246 Trust**"). On 18 September 2019, the FMA appointed Mr Quinlan and me as trustees of the Regulation 2416 Trust.
39. The Regulation 246 Trust is over:
- (a) derivatives investor money (as defined in the FMCR);
 - (b) derivatives investor property (as defined in the FMCR);
 - (c) money or property held by a hedging counterparty as a result of the use of derivatives investor money or derivatives investor property in authorised hedging activities; and
 - (d) any obligations owed by a hedging counterparty to the derivatives issuer that have arisen from the use of derivatives investor money or derivatives investor property.
40. Halifax NZ (under the control of the Liquidators) remains as trustee of the balance of the assets.
41. A summary of the relevant products in which clients invested is described at paragraphs 119 to 134 in the AU Affidavit.
42. The products traded on the MT4 and MT5 platforms are virtual in nature. In other words, when a client invests in a financial product (which may include stocks, foreign currency or derivatives) on the MT4 or MT5 platform, the relevant Halifax Group entity does not always purchase that product (although the Halifax Group did hedge client positions from time to time as described at paragraphs 61 to 68 of the AU Affidavit). Instead, the client essentially purchased a promise to be paid an amount (being the value of the stock) at the time that they chose to close the position. It is not clear to me

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whether that is a derivative product in terms of the Financial Markets Conduct Act 2013.

43. If funds had been held in separate accounts and there was no commingling, it would be a more straightforward task to identify the property which may be subject to the Regulation 246 Trust. In my view, it is at least to a very large extent, not practicable or feasible to ascertain what money and property is actually subject to any Regulation 246 Trust, if any, in the current circumstances. The reasons for that follow:
- (a) the same funds have been used for investment in multiple products, that is, as with the funds invested in other platforms, there has been commingling as between clients, as between platforms and as between Halifax AU and Halifax NZ;
 - (b) the funds deposited are not traceable to individual clients; and
 - (c) in the case of an investment on the MT4 or MT5 platform, no cash actually moves into any sub-account on the opening of an investment, so no cash is actually transferred to an account as collateral or margin for any open position.
44. As matters currently stand, it may not be possible for Mr Quinlan and me, as the Trustees appointed by the FMA in respect of the Regulation 246 Trust, to ascertain what property is, or may be, subject to that trust. Identifying the property that might be subject to the Regulation 246 Trust, and distributing that property, is, as I understand it, a key task to be performed by the trustees of any Regulation 246 Trust. For my part, I will be uncertain as to the manner in which that property should be identified and distributed. For that reason, Mr Quinlan and I will (in that additional capacity) seek directions in the same, or substantially the same, form as those sought by the Liquidators and Halifax NZ.

AU Directions Application and letter of request

45. As can be seen from the above section discussing funds flow and commingling, it is my view that the funds held by both Halifax NZ and Halifax AU are essentially one deficient mixed trust fund.
46. The Directions Application accordingly asks for directions (at the final hearing) in respect of money which might be considered to be under the control of Halifax NZ. Clients of both Halifax NZ and Halifax AU may have claims in respect of the same deficient mixed fund.
47. Accordingly, before the Directions Application was filed, the AU Directions Application was filed in the Federal Court of Australia. A copy of the AU Directions Application is annexed to this affidavit and marked "MK-7". For completeness, copies of the orders obtained in the AU Directions Application proceeding to date (on 4, 29 and 30 July 2019 and 22 August 2019) are annexed to this affidavit and marked "MK-8", "MK-9", "MK-10" and "MK-11", respectively.
48. As set out in the Funds Flow Memorandum, approximately 98% of funds held by the Halifax Group are commingled across each of the trading platforms, across the vast majority of the client accounts in the Halifax Group, and as

between clients investing through Halifax AU and clients investing through Halifax NZ. The affected New Zealand clients therefore have a direct interest in any directions the Federal Court of Australia may give with respect to how to deal with the commingled funds. In my respectful view, it is desirable that the affected clients from both countries have visibility of and access to the Directions Application to allow their views to be heard if they so wish. The same also applies in reverse in respect of the AU Directions Application.

Need for directions/orders

49. The directions/orders requested by the Liquidators cover a wide range of separate issues relating to the same pool of funds. This section of my affidavit addresses the various orders that are sought and the reasons why I am uncertain as to the appropriate way for the funds held to be distributed to the clients of Halifax NZ.

Pooling

50. The primary reason for requesting orders (or judicial advice, as described in the AU Directions Application) as to whether some, or all, funds (and if so which funds) held should be pooled for the purpose of distribution is outlined in more detail above.

Foreign currency

51. Funds currently held in Halifax NZ controlled accounts are held in a number of currencies. In order to make distributions to clients, there will need to be a process by which the entitlements of each individual client are calculated.
52. That process might be achieved by converting all foreign currency held by Halifax NZ (and Halifax AU) into a single currency (for example, Australian Dollars). Another option would be to not convert the currency, but to carry out the calculations on the basis of a notional exchange rate conversion at some specified date.
53. Clients (and any representative respondents or other respondents to the Directions Application) may have differing views as to whether, when and how foreign currency amounts should be converted. For that reason, in order to facilitate the calculation and distribution of amounts to creditors, the Liquidators seek directions from the Court on the appropriate approach for dealing with funds held in foreign currency.

Sale, closing out and realisation and date of calculation of value

54. The majority of the investments placed by clients on the various platforms still remain open. Accordingly, the value of the assets held by each of Halifax NZ and Halifax AU on behalf of its clients continues to fluctuate.
55. Before the Liquidators can make a distribution to clients, the Liquidators will need to realise the extant investments on the various platforms, except to the extent that any investments might be able to be distributed in specie. Depending on the type of investment, any extant investments may need to either be sold, closed out or otherwise realised.

56. Again, clients (and representative respondents to the Directions Application) may have differing views as to whether, when and how the Liquidators should sell, close out or realise the extant investments.
57. Another question which is inherently tied to the issue concerning the selling, closing out or realisation of extant investments is the date on which the value of each client's investment should be calculated. As there are a number of open positions, the present value of some clients' claims will, theoretically, have increased since the date of appointment of administrators to Halifax NZ. This will be the case where the value of a client's open positions has increased since the date of appointment of administrators.
58. The opposite will be true where the value of a client's open positions has decreased since the date of appointment of administrators.
59. Accordingly, a question arises as to the date at which the value of any particular clients' claim should be calculated. Three obvious dates upon which the value of claims could be calculated are:
- (a) the date of appointment of administrators to Halifax AU (23 November 2018);
 - (b) the date of appointment of administrators to Halifax NZ (27 November 2018); or
 - (c) the date of the realisation of the relevant investment.
60. There might be other dates to calculate the value of a clients' claim. Different groups of respondents are likely to have different views as to the appropriate date for the value of investor claims to be calculated depending on whether the value of their claim has increased or decreased in the period between the appointment of administrators and the eventual closing out of the relevant position.

Netting off

61. In situations where the same client has multiple accounts, it may be the case that they have positive net account balances and negative net account balances in various accounts.
62. The Liquidators seek directions as to whether they would be justified in setting off the amounts owing to the same client under different accounts.

Disregarding small balances

63. Some clients have very small claims. In some circumstances, the cost of dealing with those claims may outweigh the value of them.
64. Accordingly, the Liquidators seek directions as to whether they would be justified in treating clients who (after netting off any negative balance or balances (assuming such an order is granted)) have a credit balance of (or equivalent in value to) AU\$100 (or some other amount directed by the Court) or less as having no right to participate in the distribution of funds by the Liquidators.



Interlocutory application

Notification to clients of the Directions Application

65. The Interlocutory Application requests orders in respect of notification of the Directions Application to Halifax NZ's clients and for investors who wish to be joined as respondents or otherwise to be heard to make application to that effect by a certain date.
66. As set out above, there are thousands of clients who are affected by the orders sought in the Directions Application (and potentially all investors in Halifax NZ and Halifax AU). However, these clients are located around the world and notification of a kind equivalent to personal service would be impracticable because:
- (a) the number of clients would make personal service prohibitively expensive and time consuming; and
 - (b) in many instances, no physical address is known for the clients.
67. The Liquidators have email addresses for 12,130 of the Halifax Group client accounts and unsecured creditors, and postal addresses for 24 of the client accounts for which they have no email address. There are approximately 39 accounts associated with clients or unsecured creditors who we are not realistically able to contact, but who may access a Halifax Group website, or one of the trading platforms offered by the Halifax Group from time to time.
68. As the Directions Application is confined to the distribution of trust funds, there does not appear to be any basis upon which other creditors of Halifax NZ, including trade creditors, need to be notified of the Directions Application.
69. In order to notify all clients in an efficient but proper manner, we propose to (as set out in more detail in the Interlocutory Application):
- (a) send them copies of the Directions Application and any orders made in respect of the Interlocutory Application and advise that copies of these relevant documents and the supporting affidavits are also available on the Ferrier Hodgson or KPMG websites, by email where we have email addresses and by post if we do not;
 - (b) post a message on the Halifax NZ website advising visitors of the Directions Application and providing a link to the relevant documents;
 - (c) publish a message on the Halifax Group platforms; and
 - (d) posting copies of the Directions Application, supporting affidavits and any orders obtained in respect of service on either Ferrier Hodgson or KPMG's website.
70. In my view, the orders that are sought in the Interlocutory Application, in conjunction with our regular communications to clients, will result in as many potentially interested parties being notified of the Directions Application and given an opportunity to take part if they wish to do so as is reasonable in the circumstances.



71. For completeness, I note that similar orders were previously granted by the Court, in respect of an application by Mr Quinlan and myself as administrators of Halifax NZ to extend the convening period under section 239AT of the Companies Act 1993 (Judgment of Wylie J dated 18 December 2018 in CIV-2018-404-2756, [2018] NZHC 3390). We have not had any objections raised by clients in relation to documents being provided electronically as a result of these orders to date.

Representative respondents

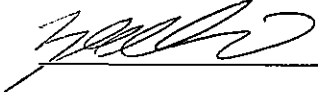
72. Mr Quinlan and I expect that various clients (or groups of clients) may wish to raise issues which they say distinguish them from other clients (or groups of clients). For instance, there may be issues said to arise from the fact that the value of the investments of some clients since the date of appointment of Administrators has increased as a proportion of the total pool of funds whilst it has decreased for other clients; and, possibly, other issues.
73. At the same time, I am concerned to keep the number of representatives within reasonable bounds having regard to costs and, in particular, the need to preserve the trust funds so far as possible. For these reasons, the Applicants wish to seek the guidance (by way of directions) of the High Court of New Zealand and the Federal Court of Australia (in a concurrent case management hearing – linked by audiovisual link) as to the management of, and as to what should be communicated to investors about, possible disparate groups of investors represented by a representative.
74. The Liquidators do not propose contending for any particular position at the hearing of the Directions Application. It would be any representative respondents (and any other investors who are joined as respondents to the Directions Application or who are granted leave to intervene so as to make submissions) who would be in effect the contradictors in relation to the differing views which may be taken in relation to the questions which are posed for directions in the nature of judicial advice. The Liquidators propose adopting an essentially neutral stance, but doing whatever they can to assist the Court so far as possible to determine the Directions Application efficiently and fairly.

Conclusion

75. For all of the reasons outlined above, I believe that the relief sought in the Directions Application and the Interlocutory Application, and ultimately cooperation with the Federal Court of Australia in respect of the AU Directions Application, is necessary and appropriate in respect of the directions sought as to the distribution of funds to clients of the Halifax Group.
76. The Liquidators regard the resolution of the Directions Application as being urgent because they are aware of many investors who have expressed the strong need for funds that they have invested to be distributed to them urgently. Further, I believe that the issue of the timing of the sale, closing out or realisation of extant investments is urgent. The value of extant investments has, in aggregate, increased significantly since the appointment of Administrators in November 2018. However, were there to be a substantial downturn in global markets, that might in turn have a significant impact on returns to investors. Global markets are inherently uncertain.



AFFIRMED at Sydney this 24 day of
September before me:





Morgan John Kelly

A person authorised to administer oaths in
New South Wales

Zachary Rymer
NSW JP # 227189