

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

CIV-2019-404-2049

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

INTERLOCUTORY ORDER

Russell
McAugh

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TO: the clients of Halifax New Zealand Limited (in liquidation) ("**Halifax NZ**") and Halifax Investment Services Pty Limited (in liquidation) ("**Halifax AU**")

AND TO: the Financial Markets Authority

1. The interlocutory application made by Morgan John Kelly and Philip Alexander Quinlan on 12 December 2019 was determined by the Honourable Justice Venning on 19 December 2019.

2. The determination was made without a hearing.

3. The following orders were made:

(a) in their capacity as trustees, appointed on 18 September 2019 by the Financial Markets Authority, of a trust created by regulation 246 of the Financial Markets Conduct Regulations 2014 ("**Regulation 246 Trust**") and for the purposes of s 38(2) of the Trustee Act 1956, the applicants are allowed to be paid remuneration for professional services performed, and to be indemnified for any costs and expenses incurred, in relation to:

(i) their appointment as trustees of the Regulation 246 Trust; and

(ii) the administration of the Regulation 246 Trust, from their appointment as trustees on 18 September 2019 until the distribution of property subject to the Regulation 246 Trust is completed,

and to pay those amounts out of the property subject to the Regulation 246 Trust or with which the property subject to the Regulation 246 Trust has been commingled;

(b) the remuneration, costs and expenses of the applicants in their capacity as liquidators of Halifax NZ and the remuneration, costs and expenses of the applicants as voluntary administrators and the remuneration, costs and expenses of the applicants as trustees of the Regulation 246 Trust in the amounts set out in paragraphs 116, 254, 261, 262, 263 and 273 of the affidavit of Morgan John Kelly affirmed on 12 December 2019 may be paid from time to time out of some or all of the following accounts of Halifax NZ ("**Accounts**"), pending the determination of the application for directions filed by the applicants (together with Halifax NZ) on 25 September 2019 in proceeding CIV-2019-404-2049:

(i) ANZ Business Current Account 01-0121-0135307-02;

(ii) ANZ Foreign Currency Account 205964USD00001;

(iii) ANZ Foreign Currency Account 205964EUR00001; and

(iv) IB Proprietary Account U1439482,



(as referred to in para 31 of Mr Kelly's affidavit);

- (c) the remuneration, costs and expenses identified in paras (a) and (b) above may be paid from the Accounts prior to any distributions to clients of Halifax NZ or other persons beneficially entitled to the funds in the Accounts;
- (d) the application and sealed orders in this proceeding are to be posted on the webpage maintained by KPMG Australia for the purpose of the liquidation of Halifax NZ (<https://www.ferrierhodgson.com/au/creditors/halifax-new-zealand-limited>) within five working days of sealing of these orders;
- (e) leave reserved.

DATE: 19 December 2019



ISABELLA WILSON
DEPUTY REGISTRAR

(Registrar/Deputy Registrar)

