

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY
I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU 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)**

BETWEEN

**MORGAN JOHN KELLY and PHILIP ALEXANDER
QUINLAN** (in their capacity as liquidators)

First Applicants

**HALIFAX NEW ZEALAND LIMITED (IN
LIQUIDATION)**

Second Applicant

**MORGAN JOHN KELLY and PHILIP ALEXANDER
QUINLAN** (in their capacity as trustees)

Third Applicants

(continued on next page)

INTERLOCUTORY ORDER

Judicial officer: Venning J



**Russell
McAugh**

Counsel: E Holmes

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AND

CHOO BOON LOO

First Respondent

ELYSIUM BUSINESS SYSTEMS PTY LTD

Second Respondent

JASON PAUL HINGSTON

Third Respondent

ATLAS ASSET MANAGEMENT PTY LTD (as trustee for the Atlas Asset Management Trust)

Fourth Respondent

FIONA McMULLIN

Fifth Respondent

ANDREW PHILLIP WHITEHEAD and **MARLENE WHITEHEAD** (as trustees for the Beeline Trust)

Sixth Respondents

ANDREW PHILLIP WHITEHEAD

Seventh Respondent

JEFFREY JOHN WORBOYS

Eighth Respondent

HONG KONG CAPITAL HOLDINGS PTY LIMITED

Ninth Respondent



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

AND TO: the Respondents

AND TO: the Financial Markets Authority

1. The interlocutory application made by:

- (a) Morgan John Kelly and Philip Alexander Quinlan (in their capacity as liquidators of Halifax NZ) ("**Liquidators**");
- (b) Halifax NZ; and
- (c) Morgan John Kelly and Philip Alexander Quinlan (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),

(together, the "**Applicants**"),

on 30 May 2022 was determined by the Honourable Justice Venning on 2 June 2022.

2. The determination was made without a hearing.

3. The following orders were made:

- (a) that despite orders 3(q) to 3(v) of the orders made by Venning J on 19 May 2021 ("**NZ Orders**"), the Liquidators are justified in:
 - (i) allowing clients more than the time periods set out in order 3(v)(i) and (ii) of the NZ Orders to perform the respective actions referred to therein (save for the actions referred to in order 3(s)(ii) (ie to dispute their entitlement)) in the manner contemplated by the First Investor Notice referred to in order 3(b) below; and
 - (ii) in the event a client submitted a query regarding the Investor Portal or the Distribution Notice (as those terms are defined in the NZ Orders) within 35 days of the Distribution Notice, allowing that client 35 days from the later of:
 - (aa) the date of the First Investor Notice (as that term is defined in paragraph 3(b) below); or
 - (bb) the date the Liquidators respond to that client's query,

to notify the Applicants of any dispute of the kind referred to in order 3(s)(ii) of the NZ Orders;



- (b) that, in implementing the actions referred to in order 3(a) above, within 2 working days of the later of the date of these orders and the date of equivalent orders being made in the Federal Court of Australia, the Liquidators are to provide a copy of the orders and a communication to investors substantially in the form set out at pages 35 to 37 of Exhibit MJK-12 to the affidavit of Morgan John Kelly affirmed 24 May 2022 in support of this application ("**Kelly Affidavit**") ("**First Investor Notice**");
- (c) that, in implementing the actions referred to in order 3(a) above, at least 3 working days prior to the closure of the Investor Portal such that it will become inaccessible to investors, the Liquidators are to provide a communication to investors substantially in the form set out at page 38 of the Kelly Affidavit;
- (d) that the Applicants' costs of and incidental to this application be costs and expenses in the liquidation of the Halifax NZ and be paid out of the funds and accounts listed in order 3(g) of the orders made by Venning J on 2 July 2020 in these proceedings; and
- (e) such further or other orders as the Court considers appropriate.

Date: 3 June 2022



(Registrar/Deputy Registrar)

R KUMAR
DEPUTY REGISTRAR