

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



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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

INTERLOCUTORY ORDER

1. The interlocutory application made by:
 - (a) Morgan John Kelly and Philip Alexander Quinlan (in their capacity as liquidators of Halifax NZ ("**First Applicants**");
 - (b) Halifax NZ (in its capacity as trustee of a trust in respect of money and property held on behalf of clients but not subject to the trust of which the Third Applicants are trustees) ("**Second Applicant**"); 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) ("**Third Applicants**"),

on 25 September 2019 was determined (in part) by the Honourable Justice Venning on 2 October 2019.

2. The determination was made without a hearing.
3. The following orders were made:
 - (a) The Second Applicant and the Third Applicants are granted leave to commence the application for directions under s 66 of the Trustee Act 1956 by originating application.
 - (b) The following documents (or parts of documents) filed in this proceeding are subject to confidentiality restrictions:
 - (i) in the interlocutory process dated 3 July 2019 filed in Federal Court of Australia proceeding NSD 2191 of 2018, which is annexed to the affidavit of Morgan Kelly affirmed 24 September 2019 ("**Kelly Affidavit**") and marked "MK-7", the Interactive Brokers ("**IB**") account numbers listed on pages 17 to 19;
 - (ii) in the Australian affidavit of Morgan Kelly dated 26 June 2019 ("**AU Kelly Affidavit**"), which is annexed to the Kelly Affidavit and marked "MK-1":
 - (aa) the account numbers at paragraphs [65(a)], [67], [71], [72], [121] and [125];
 - (bb) the account numbers in items 53 to 61 of the table at paragraph [90];



- (cc) the account numbers in items 9 to 14 of the table at paragraph [95];
- (iii) in the exhibit to the AU Kelly Affidavit marked "Exhibit MJK-1", which is annexed to the Kelly Affidavit and marked "MK-2", the account numbers in the tables at pages 338 to 341;
- (iv) the whole of the exhibit to the AU Kelly Affidavit marked "Confidential Exhibit MJK-1", which is annexed to the Kelly Affidavit and marked "MK-3A" and "MK-3B";
- (v) in the exhibit to the Australian affidavit of Ian Sutherland dated 26 June 2019 ("**AU Sutherland Affidavit**") marked "Exhibit IPS-1", which is annexed to the affidavit of Ian Sutherland sworn 24 September 2019 ("**Sutherland Affidavit**") and marked "IS-2", the account numbers in the tables at pages 46 to 49; and
- (vi) the whole of the exhibit to the AU Sutherland Affidavit marked "Confidential Exhibit IPS-1", which is annexed to the Sutherland Affidavit and marked "IS-3",

("Confidential Information").

- (c) The Confidential Information, and any subsequent reproduction of the Confidential Information in the proceeding, is:
 - (i) not to be included in, or is to be redacted from, any documents disclosed to clients of Halifax NZ or Halifax AU in accordance with the orders at paragraph 3(b) above;
 - (ii) not to be accessed by any person that is not a party to the Directions Application as a result of a request for access to the court file or otherwise and then only on terms that they keep it confidential;
 - (iii) not to be disclosed to any non-party by a party to the Directions Application; and
 - (iv) to be redacted from any publicly available version of minutes, judgments or orders of the Court.

DATE: ~~2 October 2019~~
13 November ✓



(Registrar/Deputy Registrar)

R KUMAR
DEPUTY REGISTRAR