

FEDERAL COURT OF AUSTRALIA

Parties: **AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION v MARK RONALD LETTEN AND
OTHERS**

File number(s): **VID95/2010**

Registrar: **JUDICIAL REGISTRAR LUXTON**

Date of decision: **12 JULY 2022**

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
GENERAL DIVISION**

VID95/2010

BETWEEN: **AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION
Applicant**

AND: **MARK RONALD LETTEN AND OTHERS
Respondent**

REGISTRAR: **JUDICIAL REGISTRAR LUXTON**

DATE OF ORDER: **12 JULY 2022**

WHERE MADE: **MELBOURNE**

THE COURT ORDERS AND DIRECTS THAT:

For the purposes of fixing the remuneration sought by the Receiver in the Remuneration Application for the period 1 January 2020 to the Finalisation Date (**Relevant Period**) and to which the Receiver is properly entitled and the costs and expenses he properly incurred in the performance of his duties and the exercise of his powers as Court appointed receiver and manager (as required by paragraph [1] of the order of Justice Davies dated 21 January 2022):

1. The Receiver's remuneration, costs and expenses for the Relevant Period are fixed in the sum of \$521,383.50 (excluding GST).
2. Within 7 days of the date of this order, the Receiver serve on any other party, the Secured Lender and the Investors:
 - (a) a copy of these orders; and
 - (b) an email or cover letter which informs them that the reasons for decision of Judicial Registrar Luxton dated 12 July 2022 are available on the secure section of the Investors' website at www.kpmg.com.au/lettenschemes.

3. Service of the documents referred to in paragraph [2] of this order be effected in the same manner as required by paragraph [4] of the order of Justice Davies dated 21 January 2022.

Note: For the purposes of this order:

- (a) **Corporate Defendants, Scheme and Secured Lender** have the meanings ascribed to those terms in the orders of Justice Gordon made in this proceeding on 25 February 2010 (**Appointment Order**), 4 March 2010 (**SY21 Appointment Order**) and 30 July 2010 (**Additional Schemes Appointment Order**);
- (b) **Receiver** has the meaning ascribed to **Receivers** in the orders of Justice Gordon made in this proceeding in the Appointment Order, the SY21 Appointment Order and in the Additional Schemes Appointment Order as amended following the order of Justice Gordon made in this proceeding on 29 April 2015 allowing the discharge of Mr Philip Arthur Hennessy as receiver and manager of the property of the Schemes;
- (c) **Remuneration Application** means the application of the Receiver by interlocutory process dated 22 December 2021 for approval of his remuneration, costs and expenses in respect of the Relevant Period.

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
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VID95/2010

BETWEEN: **AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION
Applicant**

AND: **MARK RONALD LETTEN AND OTHERS
Respondent**

REGISTRAR: **JUDICIAL REGISTRAR LUXTON**

DATE: **12 JULY 2022**

PLACE: **MELBOURNE**

REASONS FOR DECISION

1. Pursuant to paragraph [8] of the orders of Justice Davies dated 21 January 2022 (see below), I am required to fix the Receiver’s remuneration, costs and expenses for the period 1 January 2020 to the Finalisation Date (**Relevant Period**), and to deliver short written reasons for my determination. These are my reasons. I note that the orders define “Finalisation Date” by reference to the affidavit of Damian John Templeton sworn 22 December 2021 (**65th Affidavit**). Mr Templeton states at [29] that he estimates “that all actions in the receiverships will be finalised by mid-2022”.
2. These reasons adopt the same structure as my reasons in respect of earlier claims made in this matter. Where helpful, I have repeated from my earlier reasons the history of the proceeding and some relevant authorities.
3. The orders made and reasons given in this proceeding use common defined terms. As in my earlier reasons, I will use those defined terms without repeating the definitions, save where it is necessary to do so for reasons of clarity.
4. Where these reasons refer to a dollar amount, that amount is exclusive of any applicable GST.

5. The orders of 21 January 2022 relevantly provide as follows:

- ...
1. A Registrar of the Court review the amounts specified in the Schedule to this order and fix the remuneration to which the Receiver is properly entitled and the costs and expenses he properly incurred in the performance of his duties and the exercise of his powers as Court appointed receiver and manager of each of the entities and schemes to which he was appointed receiver and manager by the Appointment Order, the SY21 Appointment Order and the Additional Schemes Appointment Order for the period 1 January 2020 to the Finalisation Date (“**Relevant Period**”).
 2. The Receiver is justified in treating the costs of the liquidation of the Corporate Defendants as expenses of the receiverships.
 3. By no later than 4 pm on the fourteenth day after the date of this order, the Receiver is to serve upon all investors identified by the Receiver to be investors in any of the Schemes (“**Investors**”):
 - a. a copy of these orders;
 - b. a circular:
 - i. advising the Investors of the Remuneration Application;
 - ii. informing them that by no later than 21 days after service under this order (“**Objection Period**”) any Investor may file and serve a notice in writing identifying any of the Receiver’s claims for remuneration, costs and expenses to which they object, together with a short but specific statement outlining the nature and grounds of the objection and the amount (if any) they say is claimable; and
 - iii. informing them that a copy of the Remuneration Application and affidavit material filed in support of the Remuneration Application may be provided to each Investor upon request made to the email address maintained by the Receiver being lettenschemes@kpmg.com.au;
 - c. a copy of the Remuneration Application;
 - d. a copy of each affidavit and submissions filed in support of the Remuneration Application, together with the exhibits thereto.
 4. Service for the purposes of paragraph 3 may be effected:
 - a. in the case of paragraphs 3(a) and 3(b):
 - i. by email in respect of Investors who have notified the Receiver that email is their preferred method of communication; and
 - ii. otherwise by ordinary post; and
 - b. in the case of paragraphs 3(c) and 3(d), by providing copies of the documents to the Investors upon request.
 5. Any Investor and any other party, who wishes to do so, shall file and serve within 21 days after the date of service under paragraph 3 a notice in writing identifying any of the Receiver’s claims for remuneration, costs or expenses to which they object, together with a short but specific statement outlining the nature and grounds of the

objection and the amount (if any) they say is claimable in the form of Annexure 1 to these Orders.

6. As soon as reasonably practicable after the expiration of the Objection Period, the Registrar will advise the Receiver if the Registrar requires further information to fix the remuneration, costs and expenses for the Relevant Period and copies of any such further information provided to the Registrar will also be provided to ASIC.
7. If the Registrar requests further information to fix the remuneration, costs and expenses, the Receiver will provide such further information within 14 days of receipt of the Registrar's request.
8. As soon as reasonably practicable after receipt of the further information referred to in paragraph 7, the Registrar is to fix the Receiver's remuneration, costs and expenses for the Relevant Period and deliver short written reasons for his or her determination.
9. The Receiver, any other party, and any Investor may apply to the Court to review the Registrar's determination and the Court may review the Registrar's determination.

6. This is the sixth tranche of the Receiver's remuneration, costs and expenses to be fixed in this proceeding. Claims in respect of the first and second periods of 25 February 2010 to 2 July 2010 and 3 July 2010 to 31 December 2011 were fixed by Deputy District Registrar Pringle and District Registrar Scott respectively. The claim in respect of the third period of 1 January 2012 to 31 March 2013 was originally fixed by me. The Receivers applied to review that determination (see *Australian Securities and Investments Commission v Letten (No 23)* [2014] FCA 985). The Receiver appealed that decision (see *Templeton v Australian Securities and Investments Commission* (2015) 108 ACSR 545; [2015] FCAFC 137 (*Templeton v ASIC*)). The review was then reheard (see *Australian Securities and Investments Commission v Letten (No 25)* [2016] FCA 1127 (*Letten (No 25)*)). The claims in respect of the fourth and fifth periods of 1 April 2013 to 31 December 2015 and 1 January 2016 to 31 December 2019 (with additional components) were fixed by me.

7. Each of the Appointment Order, the SY21 Appointment Order and the Additional Schemes Appointment Order sets out an entitlement of the Receiver to reasonable remuneration and reasonable costs and expenses properly incurred. Although the orders differ slightly in their terms, it is useful to set out the common parts of each order:

... the Receivers shall be entitled to reasonable remuneration and reasonable costs and expenses properly incurred in the performance of their duties and the exercise of their powers as receivers and managers [of] the Property of [each Scheme], as may be fixed by the Court on the application of the Receivers, such sum to be calculated on the basis of the time reasonably spent by the receivers and managers, their partners and staff, at the rates specified in Annexure B to [this Order]...

Annexure B is in each case in the same form:

	\$ (excluding GST)
Partner	595
Director	520
Associate Director	475
Manager	420
Assistant Manager	320
Senior Analyst	280
Analyst	210
Administration	140

In the first, second and third periods, the Receivers chose to reduce those rates by 10%. The Receiver was under no obligation to make such a reduction, and chose not to do so in respect of the fourth period, fifth period and the Relevant Period.

8. This determination of remuneration, costs and expenses differs from the determinations in respect of the first to fifth periods in that it comprises both claims for work already done (as per the earlier claims) and also prospective claims for work to be done in the future to finalise each of the receiverships. It therefore requires a consideration of the reasonableness of estimates of future remuneration, costs and expenses.

Authorities

9. In my decision concerning the claim for remuneration and expenses in respect of the fifth period, I set out some relevant authorities. For ease of reference, I have set out those authorities again in the following paragraphs.
10. In *Hutchins, in the matter of Ardenberg Pty Ltd (in liq) (Administrators Appointed) (No 2)* [2020] FCA 1424 (*Ardenberg*), Yates J cited the summary of principles set out by Brereton J in *In the matter of Say Enterprises Pty Ltd* [2018] NSWSC 396 at [6] (citations omitted):

- (1) A receiver is entitled to the costs, charges and expenses properly incurred in the discharge of the receiver's ordinary duties, or in the performance of extraordinary

services that have been sanctioned by the Court.

- (2) The ultimate question is what amount of remuneration is 'reasonable', and this involves considering whether the work in respect of which remuneration is claimed was reasonably undertaken in the due course of the receivership, and whether the amount claimed for it is a fair and reasonable reward for it. The objective is to award a sum or devise a formula which will reasonably and fairly compensate the receiver for the time and trouble expended in the execution of his or her duties and the responsibility he or she has assumed.
- (3) The receiver bears the onus of justifying the reasonableness and prudence of the tasks undertaken for which remuneration is sought, and the reasonableness of the remuneration claimed for them.
- (4) Remuneration may be allowed on the basis of a fixed salary, a commission on receipts, or a *quantum meruit* having regard to the time, trouble and responsibility involved. It is a matter for the Court to determine what basis is appropriate in the particular case, having regard to the principle that the remuneration must be reasonable.
- (5) If a time-based approach is adopted, the Court is guided by professional scales of charges, with emphasis on the broad average or general rate charged by persons of the relevant status and qualifications who carry out the relevant type of work. The Court will usually act on time sheets created in the receiver's office, provided that they do significantly more than merely detail the total number of hours spent by the receiver and officers of particular grades on his or her staff.
- (6) By analogy, the task involves consideration of the matters referred to in *Corporations Act*, s 425(8), which applies to receivers appointed under an instrument, namely:
 - (a) the extent to which the work performed by the receiver was reasonably necessary;
 - (b) the extent to which the work likely to be performed by the receiver is likely to be reasonably necessary;
 - (c) the period during which the work was, or is likely to be, performed by the receiver;
 - (d) the quality of the work performed, or likely to be performed, by the receiver;
 - (e) the complexity (or otherwise) of the work performed, or likely to be performed, by the receiver;
 - (f) the extent (if any) to which the receiver was, or is likely to be, required to deal with extraordinary issues;
 - (g) the extent (if any) to which the receiver was, or is likely to be, required to accept a higher level of risk or responsibility than is usually the case;
 - (h) the value and nature of any property dealt with, or likely to be dealt with, by the receiver;
 - (i) whether the receiver was, or is likely to be, required to deal with:
 - (i) one or more other receivers; or
 - (ii) one or more receivers and managers; or
 - (iii) one or more liquidators; or

- (iv) one or more administrators; or
 - (v) one or more administrators of deeds of company arrangement;
 - (j) the number, attributes and behaviour, or the likely number, attributes and behaviour, of the company's creditors;
 - (k) if the remuneration is ascertained, in whole or in part, on a time basis:
 - (i) the time properly taken, or likely to be properly taken, by the receiver in performing the work; and
 - (ii) whether the total remuneration payable to the receiver is capped;
 - (l) any other relevant matters.
- 7 Many of those factors — in particular, pars (d)–(e) and (g)–(h) — have as their unifying theme the concept of proportionality (being the relationship of the work done and the remuneration claimed to the value of the estate), which is an important consideration in determining reasonableness.
- 8 It will rarely be appropriate for a Judge to review a decision of a Registrar on remuneration on an item-by-item basis.
- 9 In respect of disbursements, no Court approval or specific order is necessary in the absence of a challenge, although receivers should scrutinise them to ensure that they are reasonable and properly payable, and the Court has an inherent jurisdiction to review receivers' disbursements as they are officers of the Court. However, a receiver may seek a direction that he would be justified in paying certain disbursements in order to obtain prior protection in respect of such a disbursement.

11. In *Letten (No 25)*, Davies J noted at [15] that:

The Full Court stated that the onus was on the Receivers to justify the reasonableness and prudence of the tasks undertaken. The Court is not obliged to make specific positive findings about the work necessary and appropriate to be done, the appropriate level of seniority and whether the work was done efficiently. The Court is entitled to take the practical course of looking at the matter more generally in assessing reasonableness and then applying, if thought necessary, any appropriate discounts. The Court observed at [60] that it is neither sensible nor cost effective for the Court, on reviewing the remuneration claimed, to proceed by some line by line analysis using some building blocks or bottom up approach to build up an amount which the Court then determines to be reasonable remuneration based upon detailed findings concerning those matters. The Full Court held at [60] that it was appropriate to take a broad approach and appropriately discount, without making any specific findings. The Full Court was critical of the primary judge for applying an overall discount without identifying the effect that specific issues had on the overall outcome.

12. In *Templeton v ASIC* the Full Court commented at [30]:

Generally, the language of the orders, and the context in which they were made, permit of proportionality being considered in order to assess the question of reasonable remuneration. Indeed, the question of proportionality is an anterior question to consider in order to determine whether time was reasonably spent. If the relevant work plan underpinning the actual time spent and the allocation of personnel at the requisite level of seniority was disproportionate to the

nature, importance and complexity of the task and the benefit to be achieved from the task, then it might be said that the time spent on the task was not time *reasonably* spent.

The above paragraph was noted by Black J in *Re Idylic Solutions Pty Ltd* (2016) 34 ACLC 16-036; [2016] NSWSC 1292 at [36]. Black J went on to make the following *obiter* comments at [50]:

It seems to me that the recent case law suggests that a claim for remuneration based on hourly rates should at least be tested by reference to a percentage of realisations and possibly, in an appropriate case, displaced by remuneration on that basis or by a mixed approach. In my view, evidence as to the percentage that remuneration constitutes of realisations will at least provide a measure of objective testing of the proportionality of the remuneration claimed and will identify those cases in which there ought to be real concern in that respect. In this case, the liquidators, properly, also led evidence that allowed their claim for remuneration on a time-based basis to be tested against the result on a percentage of realisations basis, which I will address below.

These comments were noted by Bathurst CJ (with whom Beazley P, Gleeson JA, Barrett AJA and Beach AJA agreed) in *Sanderson as Liquidator of Sakr Nominees Pty Ltd (in liquidation) v Sakr* (2017) 93 NSWLR 459 at [56]-[58] as follows:

Further, as was pointed out by Black J in *In the matter of Idylic Solutions Pty Ltd* (2016) 115 ACSR 581; [2016] NSWSC 1292 at [50], evidence as to the percentage that remuneration constitutes of realisation, will at least provide a measure of objective testing of the reasonableness of the remuneration claimed and will identify those cases in which there ought to be a real concern in that respect.

I would add two matters. First, the mere fact that the work performed does not lead to augmentation of the funds available for distribution does not mean the liquidator is not entitled to be remunerated for it. The most obvious example is work done by a liquidator in complying with his or her statutory obligations. As Farrell J pointed out in *Warner, Re GTL Tradeup Pty Ltd* at [71] it is relevant to consider whether the work was necessary to be done. If it was, there is no reason the liquidator should not be remunerated for it.

Secondly, there are commonly cases where work is undertaken in an unsuccessful attempt to recover assets whether at the request of creditors or otherwise. Provided it was reasonable to carry out the work and the amount charged for it was reasonable, there is no reason a liquidator should not recover remuneration for undertaking the work. Indeed, as was pointed out in *Hall v Poolman* (2009) 75 NSWLR 99; [2009] NSWCA 64 at [128]-[129] there is a public interest in liquidators bringing recovery proceedings such as proceedings against directors for breach of duty or insolvent trading and proceedings for recovery of unfair preferences. However, the liquidator is obliged to make any decision to bring such proceedings with care, and negligence in the exercise of the power to bring proceedings may lead to a liquidator being deprived of costs: *Hall v Poolman* at [144]-[145].

In turn, these comments were noted with apparent approval by Yates J in *Ardenberg* at [20]. Further, Yates J emphasised at [45] the comments of the Full Court in *Templeton v ASIC* at [52] concerning “the inappropriateness of engaging in a hindsight analysis of known returns rather than focusing on the expected realistic returns at the time the work

was performed.” More recently, *Ardenberg, In the matter of Say Enterprises Pty Ltd* and *Sakr Nominees* were cited with approval by Farrell J in *Jahani, in the matter of Ralan Group Pty Ltd (in liquidation)* [2022] FCA 107 at [162]-[165].

No Objection

13. Paragraph [5] of the orders of 21 January 2022 (see above) provided an opportunity for any Investor and any other party to object to any of the Receiver’s claims for remuneration, costs and expenses. Pursuant to paragraph [3] of the orders, the Receiver was required to serve certain documents on the investors by 4:00 pm on 4 February 2022. In turn, any notice setting out an objection was required to be filed and served within 21 days after the date of service of documents by the Receiver. Such notice was required to identify the claims objected to, and to set out a short but specific statement outlining the nature and grounds of the objection and the amount (if any) the objecting party says was claimable.
14. On the basis of the matters set out in the affidavit of Mr Templeton sworn 7 July 2022 (**66th Affidavit**), I am satisfied that the investors were served in accordance with paragraph [3] of the orders. As was the case with the claim in respect of the fifth period, although there may be scope for argument that the reference at page 1 of the Receiver’s letter dated 2 February 2022 to 23 February 2022 as the date by which any objection had to be notified was inaccurate for the small number of investors served by post (given the delays in delivery by post), I am satisfied that any such inaccuracy would have been cured by the provision of a copy of the order dated 21 January 2022.
15. Unlike in earlier periods, no notice of objection was received by the Court or by the Receiver.

Claim

16. The Receiver’s claim for remuneration, costs and expenses for the Relevant Period is set out in the 65th Affidavit and the exhibits to that affidavit. A summary of the claim is set out in tabular form in the 65th Affidavit at [113] as follows:

Scheme (excl. GST)	Receiver's fees	Receiver's disbursements	Legal fees	Legal disbursements (incl. counsel)
General – costs and expenses incurred to 10 December 2021	\$250,190	\$8,310	\$127,476.45	\$41,253.50
General – costs and expenses to be incurred to finalisation	\$57,500	-	\$12,523.55 (including discount)	\$24,130
Total	\$307,690	\$8,310	\$140,000	\$65,383.50

17. In considering the claim, I have reviewed the 65th and 66th Affidavits (including the exhibit to the 65th Affidavit). The exhibit includes tables with narrative entries for the work performed by the Receiver and his staff (exhibit DJT-317 at Tab 1), and also for the work performed by the Receiver's solicitors (exhibit DJT-317 at Tab 2). Also exhibited are the fee slips of counsel (exhibit DJT-317 at Tab 3) and tables which break down the Receiver's remuneration by work phase and staff level (exhibit DJT-317 at Tab 4). This review has enabled me to form a view as to the reasonableness of those claims.
18. As noted in my earlier reasons, the Receiver is entitled to his "reasonable costs and expenses properly incurred in the performance of his duties and the exercise of his powers". I am not required to tax those costs and expenses. Rather, I am required to determine whether those costs and expenses were reasonable and were properly incurred by the Receiver (and, prospectively, whether it would be reasonable and proper for the Receiver to incur future costs and expenses in the amounts set out in the 65th Affidavit).
19. I remain of the view that it is was necessary for the Receiver to retain solicitors and counsel. Various issues arose during the Relevant Period for which legal advice and

representation was necessary. These included the continued involvement of the Receiver in this proceeding.

Receiver's Fees

20. As noted above, I have considered the narrative entries for the work performed by the Receiver and his staff, as well as the summary tables. The breakdown of work by staff level differs substantially from that in respect of the fifth period. In that earlier period, 71% of the total number of hours were performed by the two most junior staff levels (Analyst and Administration Staff). In comparison, in the Relevant Period, 6% of the work was performed by staff at those levels. Further, in the Relevant Period, 70% of the work was performed by Senior Analysts (the next level up from Analyst) and 21% by Directors (the second most senior level).
21. I note from the 65th Affidavit that the receiverships are nearing finalisation. Much of the work appears to have directed towards matters including the fourth distribution to investors (at [43]), taxation calculations (at [35]), ASIC and ATO lodgements (at [52] and [56]), the remuneration applications (at [36]-[40]) and the discharge applications (at [41]-[42]). These are significant matters. In this context, it is unsurprising that the work tended to be performed by staff at a higher level. Also, although the seniority level of staff performing the bulk of the work rose from one period to the next, it should be noted that the Senior Analyst level rate (\$280 per hour) is both relatively low and the next level up from the Analyst level rate (\$210 per hour). In all of these circumstances, I do not believe that it is necessary to apply any discount as a consequence of work being performed at higher levels than in the preceding period.
22. On a review of the narrative entries for the Relevant Period, I have identified a small number of instances where it appears that the work performed (in each case by a Senior Analyst) could have at least in part been performed by administrative staff. These are set out in the table below:

Date	Position	Rate	Time detail	Fee
16/11/20	Senior Analyst	280	Preparing notification to investors of delay in final distribution - printing, purchasing envelopes and stamps, preparing emails.	1,148
21/9/21	Senior Analyst	280	Preparing mailout, writing envelopes, printing circular, going to post office, preparing email circular distribution, completing statement of posting.	1,344
30/9/21	Senior Analyst	280	Confirming failed email recipients for investor circular dated 21-Sep, updating investor records.	532

Given the small number of instances, the uncertainty as to the appropriate breakdown of professional and administrative work for the relevant entries, and the relatively low rate (\$280 per hour) actually charged, I do not believe that it is necessary to apply any discount as a consequence of these entries.

23. The Receiver has provided a summary of the work to be performed to finalisation (65th Affidavit at [60]) as follows:

- a) completing and submitting the Sixth Claim;
- b) completing and submitting the Second Discharge Application;
- c) dealing with outstanding payments to be distributed out of the fourth distribution;
- d) dealing with unclaimed monies from the previous distributions;
- e) preparing and submitting any business activity statements and annual administration returns due before the liquidation and receivership of each Letten Entity is finalised;
- f) dealing with any investor queries in the interim;
- g) paying fees and disbursements approved by the Court;
- h) drafting and emailing a final circular to investors;
- i) preparing and submitting forms notifying ASIC and ATO of the retirement of each Letten Entity;
- j) closing the website relating to the receivership of the Letten Entities; and
- k) closing the bank accounts.

He estimates his remuneration to complete this work to be \$57,500. Given the range and nature of the tasks, this appears to me to be reasonable.

24. I am satisfied that the Receiver's claim for remuneration in the amount of \$250,190 for the period 1 January 2020 to 10 December 2021 is fair and reasonable. Similarly, I am satisfied that the Receiver's claim for remuneration in the amount of \$57,500 for the period 11 December 2021 to the Finalisation Date is fair and reasonable.

Receiver's Disbursements

25. During the Relevant Period, the Receiver has incurred disbursements (other than legal fees) in the amount of \$8,310 (65th affidavit at [105]-[106]). Those disbursements are said to be comprised as follows (at [105]):

The majority of the Common Fund costs and expenses incurred by me and staff in relation to the Schemes pursuant to the Court Orders during the Sixth Claim Period include printing, postage and advertising costs associated with communicating with investors.

Notwithstanding the uncertainty arising from the use of the expressions "majority" and "include", it appears to me that the disbursements are reasonable and were properly incurred by the Receiver. The amount does not appear to be excessive given the nature of the tasks undertaken by the Receiver, noting in particular the communications which were made necessary by reason of the fourth distribution.

Legal Fees & Disbursements

26. I have considered the claim for the Receiver's legal fees and disbursements (including counsel's fees). In doing so, I have reviewed the narrative entries for the work undertaken to date by the Receiver's solicitors in the Relevant Period, as well as the fee slips issued by counsel. I have also considered the estimate of legal fees and disbursements likely to be incurred up to the Finalisation Date (65th Affidavit at [93]-[98]). Notably, although the solicitors estimate that their total fees incurred and to be incurred during the Relevant Period will total \$160,000, they have agreed to cap their fees at \$140,000 (subject to some limited exceptions which may not arise). Similarly, counsel for the Receiver has agreed to cap his fees to finalisation at \$22,880 (this does

not include fees already charged). Overall, whilst the amounts claimed are substantial (solicitor's fees of \$140,000 and disbursements (including counsel) of \$65,383.50), I am satisfied that they are reasonable and were properly incurred by the Receiver.

Conclusion

27. In accordance with the findings set out above, the Receiver's remuneration, costs and expenses are determined as follows:

Receiver's Fees	\$307,690
Receiver's Disbursements (excl. Legal Fees)	\$8,310
Legal Fees and Disbursements	\$205,383.50
Total	\$521,383.50

28. I fix the Receiver's remuneration, costs and expenses for the Relevant Period in the total sum of \$521,383.50 (excluding GST) in accordance with the calculations set out above. I will make orders accordingly.



Tim Luxton
Judicial Registrar
12 July 2022