

**SUPREME COURT OF QUEENSLAND**

REGISTRY: BRISBANE  
NUMBER: BS 10478 OF 2011

**IN THE MATTER OF EQUITITRUST LIMITED ACN 061 383 944**

First Applicant: **EQUITITRUST LIMITED ACN 061 383 944**

AND

Second Applicant: **BLAIR ALEXANDER PLEASH AND RICHARD ALBARRAN  
IN THEIR CAPACITY AS LIQUIDATORS OF  
EQUITITRUST LIMITED (IN LIQUIDATION) (RECEIVERS  
AND MANAGERS APPOINTED) (RECEIVER APPOINTED)  
ACN 061 383 944**

Respondents: **THE MEMBERS OF THE EQUITITRUST INCOME FUND  
ARSN 089 079 854 AND THE MEMBERS OF THE  
EQUITITRUST PRIORITY CLASS INCOME FUND ARSN  
089 079 729**

**APPLICATION**

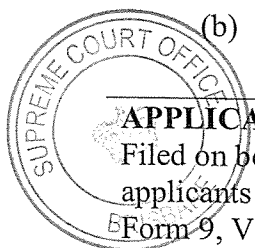
TAKE NOTICE that the first and second applicants are applying to the Court for the following orders:

**Order on admission**

1. That the remuneration of the second applicants be approved and fixed in the sum of \$87,319 plus GST for the work they and their employees performed in carrying out the work they were required to perform under paragraph 1 of the order of Justice Boddice dated 2 April 2019, in the period 2 April 2019 to 20 April 2020.

**Declaration**

2. A declaration that the second applicants are entitled to be indemnified out of the assets of the Equititrust Income Fund ARSN 089 079 854 (EIF) in respect of:
  - (a) the expenses they incurred as administrators of the first applicant; and
  - (b) the remuneration and expenses they incurred as liquidators of the first applicant;



**APPLICATION**

Filed on behalf of the first and second applicants

Form 9, Version 1

Uniform Civil Procedure Rules 1999  
Rule 31

**HEGARTY LEGAL**

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to extent:

- (c) such amounts were reasonably and properly incurred; and
- (d) such amounts concern remuneration, are fixed by the court; and
- (e) such amounts are attributable to EIF; and
- (f) such amounts as are attributable to the winding up of the first applicant and EIF; and
- (g) such amounts as are attributable to the winding up of the first applicant and EIF and any other trust, equally between those trusts,

pursuant to section 10 of the Civil Proceedings Act 2011 (Qld), rule 658 of the *Uniform Civil Procedure Rules 1999* (Qld) and/or the court's inherent jurisdiction.

### **Separate question**

3. In the alternative to paragraph 2, that the question of whether the second applicants are entitled to be indemnified out of the assets of the EIF in respect of:

- (a) the expenses they incurred as administrators of the first applicant; and
- (b) the remuneration and expenses they incurred as liquidators of the first applicant;

to extent:

- (c) such amounts were reasonably and properly incurred; and
- (d) such amounts concern remuneration, are fixed by the court; and
- (e) such amounts are attributable to EIF; and
- (f) such amounts as are attributable to the winding up of the first applicant and EIF; and
- (g) such amounts as are attributable to the winding up of the first applicant and EIF and any other trust, equally between those trusts,

pursuant to rule 483 of the UCPR and/or the court's inherent jurisdiction.

4. Further to paragraph 3, such directions for the determination of the question at paragraph 3 as the court considers appropriate pursuant to rule 367 of the UCPR and/or the court's inherent jurisdiction.

### **Strike out**

5. In the alternative to paragraphs 3 and 4, that paragraphs 16 and 21 of the points of defence be struck out pursuant to rule 658 of the UCPR and/or the court's inherent jurisdiction.

#### Payment on account

6. Further to paragraph 2 or 3, subject to further order, the applicants be indemnified from the property of EIF for all proper costs and expenses (including legal costs on a full indemnity basis) incurred by them to date in relation to the Indemnity Application, and in the future, with such amounts to be paid by Mr David Whyte in his role as Court appointed receiver of the EIF (**Receiver**) to the applicants from the property the EIF, within 14 days of demand for payment (accompanied by copies of the tax invoices or other documents evidencing the costs and expenses) being made on the said Receiver, from time to time, pursuant to rule 658 of the UCPR and/or the court's inherent jurisdiction.

#### Costs

7. The Receiver pay the first and second applicants' costs of this application on such basis as the court considers appropriate.

This application will be heard by the Court at Brisbane on 17 December 2021 at 10:00 am.

Filed in the Brisbane Registry on: 16 December 2021

Registrar:



If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the applicant intends to rely on the following affidavits:

[1] Affidavit of Peter Hegarty affirmed 17 December 2021.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 30 minutes (directions only)

Signed: *Hegarty Legal.*

Description: Solicitor for the first and second applicants  
Dated: 16 December 2021

To be served on:

David Whyte in his role as Court appointed Receiver of the  
Equititrust Income Fund  
of: His solicitors, Gadens

and:

the respondents  
of: Pursuant to the order of Williams J made 4 November 2021