

1 February 2017

Report to the Creditors
of
Equititrust Limited
(Receiver Appointed) (In Liquidation)
(Receivers and Managers Appointed)
A.C.N. 061 383 944
("the Company")

I refer to my previous reports and provide an update on the Liquidation of the Company.

To assist creditors this report has been prepared in the following headings:-

1. Asset Realisations
2. Statutory Investigations
3. EIF Proceedings
4. EPF Proceedings
5. EIF Receiver Claim
6. Federal Court Examinations
7. Committee of Inspection
8. Attachments

1. Asset Realisations

The Liquidators are continuing to liaise with the Receivers of the Equititrust Income Fund (EIF) and the Equititrust Premium Fund (EPF) in regards to their respective asset recoveries.

2. Statutory Investigations

As creditors are aware from my previous report, ASIC has requested that a supplementary Section 533 report be prepared which the Liquidators are in the process of preparing.

3. EIF Proceedings

Creditors will be aware from my previous report of the proceedings commenced by the Liquidators in regards to the EIF. A chronology of the key dates in regards to these proceedings to date was attached in Schedule A of the previous report. Creditors are advised that there is no further update on the claim in regards to Paul Steer and KPMG since the previous report. Creditors are advised a meeting was held with the insurer's legal representatives in November 2016 in respect to a potential settlement however no settlement was reached.

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4. EPF Proceedings

Creditors will be aware from my previous report of the proceedings commenced by the Liquidators in regards to the EPF. A chronology of the key dates in regards to these proceedings to date was attached in Schedule B of the previous report. Creditors are advised that there is no further update on the claim in these proceedings.

5. EIF Receiver Claim

As creditors will recall, there are a number of claims between the Receiver of the EIF and the Liquidators which are currently subject to negotiations. Creditors will be provided with the outcome of these claims once they have been resolved.

6. Federal Court Examinations

Following the receipt of information from former directors of the Company and certain beneficiaries of the EPF, provided in confidence, I commenced investigations in relation to various transactions. A summary of the key events and action taken to date is listed below:

- AET SPV Management Pty Ltd (“AET”) was a joint venture vehicle involving, amongst others, Morgan Stanley Australia Ltd and Balmain NB Commercial Mortgages Ltd. AET acquired the Australian loan book of Bank of Scotland International (“BOSI”). BOSI was a banker to the EPF and was owed approximately \$7 million (“the BOSI Debt”).
- MS Asia Debt Acquisition Limited was incorporated in Hong Kong in June, 2012. In July, 2012, it acquired the BOSI Debt from AET, together with associated securities.
- I have arranged funding to further investigations into the above and to conduct a claim, should I decide to proceed. The litigation funder is Vannin Capital Operations Limited (“Vannin”). On 1 December, 2016, the Supreme Court of Queensland approved the Liquidators’ entry into the litigation funding agreement with Vannin and also the retainer of solicitors, Russells, to continue the investigation of these matters and, subject to further review, to institute legal proceedings in relation to these matters, should I decide to proceed.
- The subject matter of the claims under investigation is highly sensitive. There are also issues of confidentiality and legal professional privilege. The claims are the subject of written opinions from two separate Senior Counsel. Those opinions, and substantial other evidence, were tendered to the Supreme Court of Queensland on the application for approval of the litigation funding agreement and the retainer of Russells. The proceedings in the Supreme Court of Queensland have, for those reasons, been sealed, by order of Justice Burns made on 1 December 2016.
- On 19 January, 2017, the Liquidators succeeded in an application to the Federal Court of Australia for orders for the examination of certain persons in relation to these matters. The application was heard by Justice Greenwood. The court’s brief reasons are here: <http://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2017/2017fca0016>
- Creditors and investors will note the following from the judgment:
 - *In relation to the application under s 596B, the application is supported by an affidavit as required by s 596C(1). Section 596C(2) provides that the affidavit in support of that application “is not available for inspection except so far as the court orders”. The statute thus contemplates that the factual circumstances in support of the application under that section will not be publicly disclosed except so far as the*

Court orders. The affidavit of Mr Russell in support of the application for orders under s 596B addresses factual matters which seek to establish that each summons is directed to "the corporation's examinable affairs".

- *Having regard to s 596C(2), I propose to be circumspect about the factual matters I recite in these reasons going to the question of whether the applicants have demonstrated that each summons concerns an examination about a corporation's examinable affairs.*
- His Honour therefore made the following order:-
 - *Subject to any matters of fact addressed by the Hon Justice Greenwood in reasons for judgment published arising out of the Court's consideration of an application by the applicants filed on 22 December 2016, the contents of the applicant's written outline of submissions dated 18 January 2017 be treated as confidential, pursuant to s 37AF of the Federal Court of Australia Act 1976 (Cth) (the "FCA Act") until further order and not be provided or disclosed to the public except with the leave of a Judge of the Court, having regard to s 37AG(1)(a) of the FCA Act.*
- Finally, pursuant to Section 596C of the Act, the affidavit filed in the Federal Court for the orders for examination under Section 596B of the Act is not available for public inspection.
- In conformity with the approach of both Courts, the liquidators are, at this stage, unable to provide any more details of the claims which we are considering.
- The examinations will take place both in Brisbane and Sydney. The dates of the Sydney examinations are set for 8, 14 and 15 March 2017. At the time of writing this report only the first return date for the Brisbane examinations has been set to be held on 22 February 2017. I will inform creditors should further dates be set.
- For reasons of efficiency and economy, we propose to confine the first round of the examinations to certain examinees and also to secure certain documents from various companies, banks etc. Once this first round of examinations is concluded, the Liquidators will give further consideration to the claims under investigation. The Liquidators will then consult with Vannin. I may conduct further examinations either of persons already examined or of other persons, including, possibly, former officers of the Company. I may commence proceedings.

I expect that I will be able to provide more information once the first round of examinations has been concluded, since they will be conducted in public. Please accept the above as notice of the examinations as required by Section 596E of the Act.

7. Committee of Inspection ("COI")

I refer to the comments in my previous update in relation to the COI, in particular that there were insufficient numbers on the COI to allow it to achieve its purpose. Accordingly at the meeting of creditors convened and held on 21 October 2016, creditors resolved that the following people be appointed to the COI:

- Stuart Norton;
- Greg Heighes; and
- John Bristow.

8. Attachments

I attach the Liquidators' schedule of remuneration incurred for the period 1 September 2016 to 31 December 2016 at **Annexure A**. This can be summarised as follows:

Period (Month, Year)	Remuneration (excl GST) (\$)
September 2016	27,810
October 2016	35,256
November 2016	11,926
December 2016	3,162
Total	78,154

ASIC Notices

Creditors should be aware that all advertisements in respect of insolvency matters are now located on the ASIC's website: <http://www.insolvencynotices.asic.gov.au>.

Should you have any queries regarding the winding up of the Company please do not hesitate to contact Nick Charlwood of this office.

Yours faithfully,



BLAIR PLEASH
LIQUIDATOR

