

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**

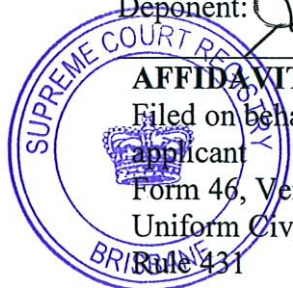
**AFFIDAVIT**

**PETER JUSTIN HEGARTY** of Suite 3.02, Level 3, 99 Elizabeth Street, Sydney,  
Lawyer solemnly and sincerely affirms and declares:

- [1] I am the principal of Hegarty Legal, and the solicitor on the record for the first and second applicants.
- [2] I have previously sworn an affidavit on 17 December 2021 (**Previous Affidavit**) in relation to the first and second applicants' separate question application filed on 16 December 2021 (**Separate Question Application**).
- [3] I make this further affidavit in support of the Separate Question Application.

Deponent: 

Taken by: 



**AFFIDAVIT**  
Filed on behalf of the first and second  
applicant  
Form 46, Version 1  
Uniform Civil Procedure Rules 1999  
Rule 431

**HEGARTY LEGAL**  
Suite 3.02, Level 3, 99 Elizabeth Street,  
Sydney NSW 2000  
Phone No: 02 9056 1746  
Fax No: 02 9056 1735  
Email: [stuartb@hegartylegal.com.au](mailto:stuartb@hegartylegal.com.au)

## Exhibit

- [4] Exhibited hereto and marked “**PJH-4**” is a bundle of documents to which I will refer in this affidavit (**Exhibit**).
- [5] My firm maintains a file in relation to this matter (**File**), as it does with all matters it is retained in relation to. Relevantly, it is the practice at my firm that letters, emails and the like that are sent and received by solicitors at my firm are saved to the File as and when they are so sent and received.
- [6] Hereunder I depose to certain correspondence being sent and received, as the case may be, by solicitors at my firm other than myself. I have done that on the basis that I am informed by the File of those matters and believe them to be true.
- [7] On 27 October 2021 at 10:11am, I received a letter by email from Ms O’Connor of Gadens, a true copy of which appears at page 1 of the Exhibit.
- [8] On 2 November 2021 at 10:47am, I received an email from Ms O’Connor of Gadens, a true copy of which appears at page 4 of the Exhibit.
- [9] On 3 November 2021 at 11:39am, I sent a letter to, inter alia, Ms O’Connor of Gadens, a true copy of which appears at page 7 of the Exhibit.
- [10] On 3 November 2021 at 4:36pm, I received an email from Ms O’Connor of Gadens, a true copy of which appears at page 13 of the Exhibit.
- [11] On 10 January 2022 at 5:10pm I sent a letter by email to, inter alia, Ms O’Connor of Gadens, a true copy of which appears at page 14 of the Exhibit.
- [12] On 14 January 2022 at 10:20am I received a letter by email from Ms O’Connor of Gadens, a true copy of which appears at page 20 of the Exhibit.

## My Experience

- [13] I have practised as a solicitor for 20 years, primarily in the areas of insolvency and commercial litigation.
- [14] I have held an unrestricted practicing certificate since 2008 as a Partner of Thomsons Lawyers (now known as Thomson Geer) and subsequently as Principal of Hegarty Legal from 2017 to date.
- [15] In my experience as a solicitor, I have had the day to day conduct of a large number of matters and in a variety of proceedings in the superior and lower courts in New

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Deponent:



Taken by:



South Wales (as well as other jurisdictions) and have regularly been involved in the costs assessment process in those proceedings.


[16] It is based on my experience as set out above that I make this affidavit and express the opinions in respect of the likely costs to be incurred by the Applicants in these proceedings.

**Estimate of Costs**

[17] At paragraph 25 of my previous affidavit I gave an estimate as to the costs of conducting a hearing on the issue of the quantum of the liquidators remuneration and expenses. By way of clarification, that estimate dealt only with the costs of conducting the hearing itself and the preparation of the legal representative prior to that hearing. The estimate did not include the costs of getting to that point, for instance the costs of preparing the necessary evidence.

[18] I have set out in the below table a more detailed estimate of the costs of any hearing of the quantum issue, including all costs of preparing the quantum issue for hearing:

Task No.	Task	Estimated cost for instructing solicitor including disbursements (ex GST) (\$)	Estimated cost for Counsel (ex GST) (\$)
1.	Liaising with liquidators and preparation of particulars sought by Mr Whyte	10,000	5,000
2.	Attendances at case management hearings and associated preparation (say 10 hours)	4,000	6,000
3.	Various correspondence with the solicitors for Mr Whyte	5,000	2,000
4.	Preparation of evidence, including (Assume	100,000	25,000

Deponent: 

Taken by: 

	approximately 3500 pages with no more than 3 pages per disputed time entry and some disputes being common over multiple time entries)		
5.	Review of evidence received from Receiver	5,000	5,000
6.	Preparation of any evidence in reply	10,000	2,500
7.	Preparation for hearing	30,000	30,000
8.	Hearing (Assume 10 day hearing assuming each disputed time entry would take no more than ten minutes of court time for evidence in chief and cross-examination and submissions and some disputes being common over multiple time entries)	70,000	80,000
9.	Reviewing transcript and preparing written closing submissions	15,000	30,000
10.	Outlay – Transcript(10 days at say \$2,500/day	25,000	
11.	Outlay – Flights (\$500 x 5), accommodation (\$250/night) for solicitors (2 for trial and part of preparation) and witnesses (say average 1.5 for length of trial).	14,000	

Deponent:



Taken by:

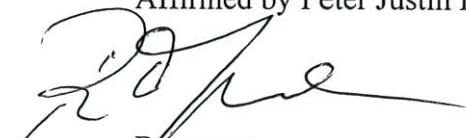


12.	Outlay – Couriers, copying, miscellaneous	5,000	
	<b>Total Estimated Costs</b>	293,000	185,500


[19] As set out in the above table I estimate that the total costs of resolving the quantum issue will be approximately \$478,500 excluding GST.

[20] All facts and circumstances herein deposed to are within my own knowledge, save where stated to be from information only, and my means of knowledge and sources of information appear on this my affidavit.

Affirmed by Peter Justin Hegarty on 4 February 2022 at Sydney in the presence of:



Deponent



Name: Simone Bryant  
Qualification: Solicitor

Deponent:



Taken by:

