

14 July 2014

## Report to the Investors

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.

### Claim against Equititrust Income Fund ("EIF")

At present, there are a number of ongoing issues between the Company and the Receiver of the EIF.

As per the comments in my previous update, negotiations are continuing with respect to the most appropriate manner for the issues to be progressed. In the event that the claims cannot be resolved via negotiation, it is likely that mediation will take place between the relevant parties.

### KPMG Application to set aside Summonses

I refer to the comments in my previous update in relation to the hearing on 24 March 2014. As noted, the Judge reserved his decision following the hearing.

On 27 June 2014 Justice Foster delivered judgment on the auditors application seeking to set aside the examination summonses directed to them. The auditors were unsuccessful and the examinations of the auditors can now proceed. The auditors solicitors have indicated that they may appeal this decision.

### Public Examinations

In previous reports to investors and to creditors, I advised that:

- The liquidators have entered into a litigation funding deed with International Litigation Partners No.1 Ltd ("the litigation funder") which has been approved by the Court.
- A claim has been commenced in the Federal Court by Piper Alderman on behalf of the Liquidators ("EIF Proceeding"). The EIF proceeding includes in it the claims which were originally contemplated as being made on behalf of the unitholders in the Equititrust Income Fund ("EIF") as a class action. The litigation funder is funding this proceeding.
- Public examinations are to be conducted on a number of individuals, including directors of the company and the auditor of the company. The litigation funder has agreed to fund the examinations.
- The public examinations are currently listed to be conducted in Brisbane from 21 July to 25 July 2014 and in Sydney on 15, 17 and 18 September 2014.

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I have previously reported that the Liquidators' investigations indicate that there are a number of potential claims that might be available, including:

- Unfair preferences:
  - Against non-related entities including CFC, Nyst Lawyers, Pogetti Capital and Strategic Assets.
  - Against related entities including various directors, Guardian Capital and MM Holdings Pty Ltd.
- Uncommercial transactions:
  - Waiver of management fee.
  - Transactions with Tucker & Cowen.
  - Transactions with MM Holdings Pty Ltd.
- Breaches of directors' duties:
  - Waiver of management fee.
  - Transactions with Tucker & Cowen.
  - Transactions with MM Holdings Pty Ltd.
- Insolvent trading.

The topics that were originally to be investigated in the examinations included the various claims set out above.

Due to the limited funds available to the Liquidators, we requested that the litigation funder provide funds for the examinations. The litigation funder has agreed to fund the examinations, which means that the Company does not have to bear the cost of the examinations unless the claims are successful and the funder becomes entitled to its funding fee.

However, the funder is only prepared to fund investigations which are aimed at determining whether the claims made in the EIF proceeding have sufficient prospects of success that they should continue.

All of the claims made in the EIF proceeding are claims relating to the EIF. They do not include claims for unfair preferences, uncommercial transactions or insolvent trading. Some claims for breaches of directors' duties are included, but only those that relate to the management of the EIF, not claims relating to the Equititrust Premium Fund or to the Company more generally.

This means that the Liquidators will not be using the examinations to investigate those other claims, or to investigate the Company's affairs broadly. The investigations will centre on the EIF proceeding and the claims made in the EIF proceeding. The Liquidators have made this decision because they consider that this is the best use of the limited resources available to them.

This does not mean that the Liquidators have determined that the other claims that might be available to them do not have good prospects of success. It also does not mean that the Liquidators have made a final decision not to investigate those other claims, or that they will not pursue them now or at a later stage. It may also be possible for the Liquidators to conduct further public examinations to investigate claims that aren't included in the current examinations.

Although the focus of the examinations will be the EIF proceeding, it is likely that the investigations to be conducted at the examinations will also result in information being obtained about the company generally, and about the other claims that aren't being specifically investigated as part of the EIF claims.

The litigation funder has indicated that it may be prepared to fund other claims that are uncovered in the course of the investigations (including e.g. insolvent trading or preference claims), which could include funding investigations of those claims. However, the litigation funder is not currently funding the Liquidators to specifically investigate those other claims.

The Liquidators understand that creditors of the company and unitholders in the Equititrust Premium Fund (rather than the EIF) may wish to see the Liquidators use the examinations to investigate claims that will benefit them directly, such as the claims set out above. However, the Liquidators have limited funds available to carry out investigations and as set out above we presently intend to use the examinations for carry out the investigations which the litigation funder is prepared to fund.

If any creditor or investor wants to make a proposal which would allow the Liquidators to widen the scope of the current public examinations beyond the claims made in the EIF proceeding, please contact me immediately.

## **Claim by the Liquidators**

I refer to the comments in my previous update in relation to the claim filed on 27 September 2014. Unit Holders are encouraged to visit the following link for further information:

<http://www.piperalderman.com.au/class-actions/equititrust-limited>

## **Committee of Inspection (“COI”)**

I refer to the comments in my previous update in relation to the COI. The Liquidators are currently considering the necessity and estimated expense to appoint a replacement COI.

## **Unit Holder Offer**

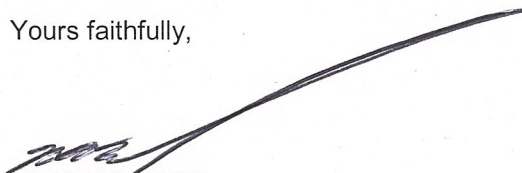
The Liquidators have been made aware of an offer being made to unit holders to purchase their unit holding in the Equititrust Income Fund. The Liquidators recommend that Unit Holders seek their own advice prior to proceeding with any such offer.

## **Liquidators Remuneration**

Please find enclosed monthly schedules for the remuneration incurred from 1 June 2014 – 30 June 2014 in the amount of \$10,254.06 plus GST.

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

Yours faithfully,



**BLAIR PLEASH**  
**LIQUIDATOR**

**Equitrust Limited (Receiver Appointed) (In Liquidation) (Receivers and Managers Appointed)**  
**Remuneration Report: Calculation of Remuneration**  
**For the Period 1 June 2014 to 30 June 2014**

Schedule 1

Employee	Position	\$/hour	Total hours	Total \$	Administration Hours	Administration (\$)	Assets Hours	Assets (\$)	Creditor Hours	Creditors (\$)	Litigation Hours	Litigation (\$)	Investigations Hours	Investigation (\$)
Blair Pleash	Appointee/Partner	640.00	3.00	1,920.00	1.10	704.00	-	-	-	-	1.90	1,216.00	-	-
Timothy Cook	Senior Associate	590.00	0.70	413.00	-	-	0.50	295.00	0.20	118.00	-	-	-	-
Jovan Singh	Senior Manager	525.00	5.10	2,677.50	-	-	-	-	0.30	157.50	4.80	2,520.00	-	-
Rory Gillespie	Supervisor	430.00	8.00	3,440.00	-	-	-	-	3.90	1,677.00	-	-	4.10	1,763.00
Evelyn Sanchez	Senior 1	375.00	0.20	75.00	0.20	75.00	-	-	-	-	-	-	-	-
Chermaine Doyle	Intermediate 2	275.00	0.90	247.50	-	-	-	-	0.30	82.50	0.50	137.50	0.10	27.50
Nicholas Charwood	Intermediate 2	275.00	0.20	55.00	-	-	-	-	-	-	-	-	0.20	55.00
Cynthia Cheung	Intermediate 2	275.00	0.20	55.00	-	-	-	-	-	-	-	-	-	-
Tony Li	Junior Accountant	165.00	0.50	82.50	-	-	-	-	0.20	55.00	-	-	-	-
Sarah Xia	Administration Assistant	140.00	0.20	28.00	0.20	28.00	-	-	-	-	-	-	-	-
Lauren Regan	Administration Assistant	135.00	5.70	769.50	5.70	769.50	-	-	-	-	-	-	-	-
Nicolle Dawkins	Administration Assistant	135.00	0.60	81.00	0.60	81.00	-	-	-	-	-	-	-	-
Lysa Aripin	Administration Assistant	135.00	0.40	54.00	0.40	54.00	-	-	-	-	-	-	-	-
<b>Subtotal</b>			<b>25.70</b>	<b>9,898.00</b>	<b>8.20</b>	<b>1,711.50</b>	<b>0.50</b>	<b>295.00</b>	<b>5.40</b>	<b>2,172.50</b>	<b>7.20</b>	<b>3,873.50</b>	<b>4.40</b>	<b>1,845.50</b>
<b>GST (10%)</b>				<b>989.80</b>										
<b>Total (incl. GST)</b>				<b>10,887.80</b>		<b>208.72</b>				<b>402.31</b>		<b>537.99</b>		<b>419.43</b>
<b>Average \$/hour</b>				<b>423.65</b>										

Schedule 2

Internal Disbursements	
Description	Amount (\$)
Storage	356.06
Postage & Handling	1.00
<b>Total</b>	<b>356.06</b>