

SUPREME COURT OF QUEENSLAND

Duplicate

REGISTRY: Brisbane
NUMBER: 10478/2011

In the matter of **EQUITITRUST LIMITED ACN 061 383 944**

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

Before: Justice Applegarth

Date: 21 November 2011

Initiating document: Application filed 15 November 2011, and oral application made by the Australian Securities and Investments Commission on 21 November 2011

THE ORDER OF THE COURT IS THAT:

1. Pursuant to section 601ND (1)(a) of the *Corporations Act 2001* (Cth) (the "**Act**):-
 - (a) Equititrust Limited ACN 061 383 944 be directed to wind up the Equititrust Income Fund ARSN 089 079 854, established by Deed Poll dated 9 August 1999 ("**EIF**");
 - (b) Equititrust Limited ACN 061 383 944 be directed to wind up the Equititrust Priority Class Income Fund ARSN 089 079 729 established by Deed Poll dated 9 August 1999 ("**EPCIF**").
2. David Whyte ("**Mr Whyte**") be appointed pursuant to section 601NF(1) of the Act to take responsibility for ensuring that:-
 - (a) the EIF is wound up in accordance with its constitution; and
 - (b) the EPCIF is wound up in accordance with its constitution.
3. Pursuant to section 601NF(2), that Mr Whyte:-



ORDER:

Filed on behalf of the Applicants

TUCKER & COWEN
Solicitors
Level 15
15 Adelaide Street
Brisbane, Qld, 4000.
Tele: (07) 300 300 00
Fax: (07) 300 300 33

- (a) have access to the books and records of Equititrust Limited which concern the EIF and the EPCIF;
 - (b) be indemnified out of the assets of the EIF in respect of any proper expenses or costs incurred in effecting the winding up of the EIF;
 - (c) be indemnified out of the assets of the EPCIF in respect of any proper expenses or costs incurred in effecting the winding up of the EPCIF;
 - (d) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the winding up of the EIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EIF in respect of such remuneration; and
 - (e) be entitled to claim remuneration in respect of the time spent by him and by any servants or agents of BDO who perform work in the winding up of the EPCIF at rates and amounts to be approved by the Court and be indemnified out of the assets of the EPCIF in respect of such remuneration.
4. Pursuant to sections 1101B(1) and 1101B(5) of the Act, Mr Whyte be appointed as:-
 - (a) a receiver of the property of the EIF; and
 - (b) a receiver of the property of the EPCIF,until 4:00pm on Wednesday 23 November 2011, or further earlier order.
5. That nothing in this Order prejudices the rights of the National Australia Bank Limited, Commonwealth Bank of Australia Limited or Bank of Scotland International Ltd, pursuant to any securities any of them hold over Equititrust Limited or the EIF.
6. That by 4pm on Tuesday 22 November 2011, Equititrust Limited publish on its website (www.equititrust.com.au), in pdf form, by way of notice to members of the EIF and EPCIF a copy of this Order, which publication shall be sufficient notice to members of the EIF and EPCIF of this Order.
7. There be general liberty to apply to any person affected by these Orders, including liberty to apply for further directions in accordance with section 601NF(2) of the Act.
8. The parties appearing on this application, save for ASIC, be paid their costs of and incidental to this Application, to be assessed on the standard basis, out of the EIF.
9. The oral application of ASIC be adjourned to 10:00am on Wednesday 23 November 2011.

Signed:

A handwritten signature in blue ink, consisting of several overlapping loops and a final flourish extending to the right.