

*Duplicate*

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE  
NUMBER: BS 10478 OF 2011

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

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

AND

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**

**ORDER**

Before: Justice Boddice

Date: 31 August 2021

Initiating documents: Application filed 13 August 2021 (Court document 226)  
("the substituted service application")

Application filed 13 August 2021 (Court document 228)  
("the winding up application")

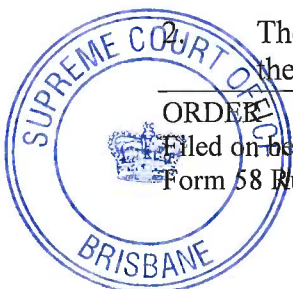
THE ORDER OF THE COURT IS THAT:

1. Notice and service of the winding up application filed by Mr David Whyte (**the Applicant**) and any supporting affidavits be effected on the members of the Equititrust Income Fund ARSN 089 079 854 (**EIF**) and the members of the Equititrust Priority Class Income Fund ARSN 089 079 729 (**EPCIF**) by:
  - (a) placing an advertisement of the Application in *The Australian*, *The Courier-Mail* and the *Gold Coast Bulletin* newspapers;
  - (b) posting a notice of the Application in a prominent location on the Equititrust Limited website of [www.equititrust.com.au](http://www.equititrust.com.au);
  - (c) posting a notice of the Application in a prominent location on the Equititrust Income Fund website of [www.equititrustincomefund.com.au](http://www.equititrustincomefund.com.au); and
  - (d) sending a notice of the Application to all members of the EIF and the EPCIF at their last known email addresses or, if no email address is known, their last known postal addresses.

The form of the advertisement and respective notices be in substantially the same form as the notice set out in "Annexure A" to the substituted service application.

ORDER  
Filed on behalf of the court appointed receiver  
Form 58 Rule 661

GADENS LAWYERS  
Level 11, 111 Eagle Street  
BRISBANE QLD 4000  
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SZC:201110996



3. Service of the winding up application and any supporting affidavits on each of the members of the EIF and EPCIF, pursuant to rule 112 of the *Uniform Civil Procedure Rules 1999* (Qld) (or otherwise), be dispensed with.
4. Service of the winding up application and any supporting affidavits be deemed effected on each of the members of the EIF and the EPCIF fourteen (14) days after those documents are made available in PDF format on the following websites: “www.equititrust.com.au” and “www.equititrustincomefund.com.au”.
5. Service of any further documents to be relied upon by the court appointed receiver in respect of the winding up application be deemed effected on each of the members of the EIF and the EPCIF fourteen (14) days after those documents are made available in PDF format on the following websites: “www.equititrust.com.au” and “www.equititrustincomefund.com.au”.
6. That the Applicant’s costs of and incidental to the substituted service application be costs in the winding up of the EIF.

THE COURT DIRECTS THAT:

7. By 24 September 2021, Blair Pleash (**Mr Pleash**) and Richard Albarran (**Mr Albarran**) (or either, as appropriate) file and serve any application to this Honourable Court (the **Indemnity Application**) for any order or direction as to:
  - (a) whether EL has a claim for indemnity from the property of the EIF in respect of any, or any part of any, expense or liability incurred by Mr Pleash or Mr Albarran in acting as administrators or liquidators of EL (whether incurred in their own name or in the name of EL) insofar as the expense or liability was or is incurred in connection with EL acting as responsible entity for the EIF (an **Administration Indemnity Claim**);
  - (b) whether EL has a claim for indemnity from the property of the EIF in respect of any, or any part of any, other expense or liability incurred or paid by EL in its capacity as responsible entity of the EIF or by Mr Pleash or Mr Albarran in acting as administrators or liquidators of EL (whether incurred in their own name or in the name of EL) insofar as the expense or liability was or is incurred in connection with EL acting as responsible entity for the EIF including any claim the liquidators maintain for their remuneration as liquidators or administrators (a **Recoupment Indemnity Claim**). This includes, but is not limited to, any claim for remuneration in accordance with paragraph 8 of the order of Justice Boddice dated 2 April 2019.
8. The balance of the winding up application is adjourned to 1 October 2021.
9. The parties have liberty to apply on seven days’ notice.
10. Costs reserved.

Signed:

Deputy Registrar

