

In the High Court of New Zealand
Auckland Registry
I Te Kōti Matua O Aotearoa
Tāmaki Makaurau Rohe

CIV-2015-404-1833
CIV-2015-404-2869

-
- between:* **Financial Markets Authority**
Applicant
- and:* **PTT Limited (in liquidation)**
First Respondent
- and:* **Maxwell Foster Limited (in liquidation)**
Second Respondent
- and:* **Gibson McLeod Limited (in liquidation)**
Third Respondent
- and:* **Alba International Limited (in liquidation)**
Fourth Respondent
- and:* **Steven Robertson (in receivership)**
Fifth Respondent
- and:* **Lisa Jane Robertson**
Sixth Respondent
- and:* **Steven Robertson and Xavier Trustees Limited as
trustees of the Steven Robertson Family Trust**
Seventh Respondents

Affidavit of John Howard Ross Fisk in support of application by
Receivers and Liquidators for directions and associated orders

Dated: 11 September 2020

Before: The Honourable Justice Palmer

Reference: Daniel Kalderimis (daniel.kalderimis@chapmantripp.com)
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**AFFIDAVIT OF JOHN HOWARD ROSS FISK IN SUPPORT OF
APPLICATION BY RECEIVERS AND LIQUIDATORS FOR DIRECTIONS
AND ASSOCIATED ORDERS**

I, John Howard Ross Fisk, chartered accountant of Auckland, swear:

Introduction

- 1 I am a chartered accountant, licensed insolvency practitioner and a partner at the firm PricewaterhouseCoopers (PwC) in Auckland where I lead the national Restructuring practice.
- 2 I have more than 25 years' experience in dealing with business recovery services, and have acted as a receiver in relation to a number of complex appointments, including Pike River Coal Limited, Lombard Finance & Investments Limited, Strategic Finance Limited and Ross Asset Management.
- 3 Although this affidavit precedes any orders being made relating to the hearing of proceedings CIV-2015-404-1833 and CIV-2015-404-2869 together, it is intended to support the applications for directions and orders in respect of both.

Background to receiverships and liquidations

- 4 On 13 August 2015, David Bridgman and I were appointed as receivers and managers of the first to seventh respondents pursuant to section 522 and 523 of the Financial Markets Conduct Act 2013 (FMCA).¹
- 5 At the same time as that appointment, the High Court granted asset preservation orders (APOs) sought by the applicant, the Financial Markets Authority (FMA), over the assets held by the entities in receivership.
- 6 On 10 December 2015, by consent, the High Court ordered that the sixth respondent, Mrs Lisa Jane Robertson (now Ms Lisa Jane Coates), be released from receivership and management in light of the parties' position that it did not appear that Ms Coates had committed any criminal offence, but that the APOs should continue over her assets given the possibility that civil claims could be made against her.²
- 7 On 11 December 2015, David Bridgman and I were appointed liquidators of the first to fourth respondents (the PTT Group) pursuant to section 241(2)(c) of the Companies Act 1993. As noted by the Court at the time, ordinarily we would have been disqualified from acting as liquidators of the PTT Group because of our position

¹ Sealed interim orders preserving assets and appointing receivers, and receivers and managers of respondents' property, 13 August 2015, CIV-2015-404-1833.

² Minute, Hinton J, 10 December 2015, CIV-2015-404-1833.



as Receivers of those companies. As Receivers appointed under the FMCA, however, we were to act in the interests not only of the secured creditors, but "*in the public interest and in the interests of unsecured investors*".³

- 8 On 26 July 2016, the Court made orders releasing the PTT Group from both receivership and the APOs.⁴ Accordingly, on 11 August 2016, after filing our last receivers report for the PTT Group, Mr Bridgman and I resigned as receivers of the PTT Group.
- 9 As at the date of this affidavit therefore, Mr Bridgman and I are presently:
- 9.1 receivers of the fifth and seventh respondents (in this capacity I refer to us herein as the *Receivers*); and
- 9.2 liquidators of the first to fourth respondents (in this capacity I refer to us herein as the *Liquidators*);
- 10 The APOs remain in place in respect of the assets held by the Receivers, and certain assets of the sixth respondent.⁵

Duty to "aggrieved persons"

- 11 As noted above, our role as Receivers under the FMCA is atypical in the sense that we were not specifically appointed to act in the interest of a secured creditor. Instead, our appointment is subject to s 522 of the FMCA, and as such we are required to act in the best interests of "*aggrieved persons*". In this case, the FMA characterised those aggrieved persons as:⁶

...members of the public who have paid money into a scheme that the first to fifth respondents may be operating fraudulently, whereby those funds are being used without the clients' knowledge or consent

- 12 Accordingly, we have proceeded through the receiverships with a view to attaining the most just distribution of available assets to those aggrieved persons. We have also been mindful of the fact that our receiverships were brought to an end largely to avoid the duplication of costs across the liquidations and receiverships, but submitted to the court that as liquidators we would remain well placed to "*act in the interests of 'aggrieved persons' by protecting*

³ Minute, Bell AJ, 11 December 2015, CIV-2015-404-2869 (and CIV-2015-404-1175).

⁴ Minute, Palmer J, 26 July 2016 (in relation to Memorandum of counsel of receivers in relation to (1) receivers' reports and (2) company receiverships and asset protection orders, CIV 2015-404-1833, 5 July 2016).

⁵ Subject to numerous variations.

⁶ *Financial Markets Authority v PTT Limited (in rec)* [2015] NZHC 2204, [5].

and realising the [PTT Group's] assets".⁷ As the majority of the creditors of the PTT Group fall within the category of aggrieved persons our role as Liquidators has not conflicted with our previous role as Receivers.⁸

Distribution Options

- 13 Mindful of our exceptional role to act in the best interests of aggrieved persons, we have considered the various distribution options available to us as Receivers of Steven Robertson and the Steven Robertson Family Trust (the *Trust*) and Liquidators of the PTT Group.
- 14 Determining the appropriate method for agreeing claims against the assets across the receiverships and liquidations is not simple. The intermingling of the affairs of Mr Robertson and the various entities means that it is not necessarily a straightforward exercise of examining documentation to establish which entity a claim may be rightly against.
- 15 Additionally, in the case of Mr Robertson's customers, the documentation itself may not necessarily be an accurate reflection of the intended relationship that the customer had with Mr Robertson or one of the entities. For example, a number of Mr Robertson's personal creditors had intended to buy company products. These individuals have been treated as creditors of Mr Robertson, but there is no principled reason why they should be treated differently as a result of the manner in which Mr Robertson conducted the accounts of the PTT Group, as well as his personal accounts.
- 16 I still do not consider that claims we have received in the receiverships and liquidations to date are an accurate reflection of the overall likely creditor position. This is based on our discussions with the FMA and attempts to reconcile claims received against available banking records. Further work would be required to more accurately determine this position, although we consider that it is likely to be uneconomic to attempt to definitively identify all creditors.
- 17 Whichever method is used to determine how the available assets are distributed it will inevitably have the effect of favouring some claimants at the expense of others. This is the nature of insolvency but the issue is compounded in this matter due to claims and assets

⁷ Memorandum of counsel of receivers in relation to (1) receivers' reports and (2) company receiverships and asset protection orders, CIV 2015-404-1833, 5 July 2016, [8].

⁸ As noted by the court in the Minute of Bell AJ dated 11 December in CIV-2015-404-2869 and CIV-2015-404-1175 at [4] (granting orders placing the PTT Group into liquidation and appointing Mr Bridgman and I as Liquidators)

being spread across multiple entities and the available assets in any given entity not necessarily matching the available claims.

- 18 There is a large mismatch between where the major part of the assets are held, being the Trust, and where the major part of the creditors (and in particular, the aggrieved persons) lie, being the PTT Group and Steven Robertson personally (though, as noted above, Steven Robertson's personal creditors could, in some cases, be alternatively categorised as creditors of the PTT Group).
- 19 Accordingly, I consider that the most equitable way to distribute the assets currently under our control would be to 'effectively' pool the assets of all entities and make them available on a pro-rata basis for distribution to all creditors of all of the entities. There is a question as to the treatment and any priority that may be required to be afforded to certain creditors claiming a secured interest (the *Caveators*), which I comment on later in my affidavit.
- 20 Because, however, the entities are both individuals (in the case of Mr Robertson) and companies (in the case of the PTT Group), simply applying for pooling orders under the Companies Act 1993 is not possible. Instead, the Receivers and Liquidators are proposing a mechanism whereby the 'effective' pooling of the assets can be achieved through:
 - 20.1 lifting the APOs over the assets held by the Receivers, subject to a sufficient amount being reserved for payment to creditors of Steven Robertson and the Trust (as to be calculated by the Receivers and Liquidators following the approval, in principle, of the proposal for distribution);
 - 20.2 permitting the transfer of the remaining funds in the receivership to be transferred by the Receivers to the Liquidators pursuant to the settlement agreement reached between the Receivers, Steven Robertson, the Trust and the Liquidators;
 - 20.3 pooling the assets of the PTT Group;
 - 20.4 distributing the assets of the Receivership to the receivership creditors in the manner described, in principle, in this affidavit; and
 - 20.5 distributing the assets of the Liquidation to the liquidation creditors in the manner described, in principle, in this affidavit.
- 21 Alternatively, if the court considers it is able to simply pool the assets of the entities across both the receiverships and liquidations, the same result can be achieved through such an order. For the

reasons provided at [17] above, however, we have presented the distribution proposal on the basis that such an order is not possible.

- 22 Subject to finalising the creditors' claims and amounts available for distribution after costs of the receiverships and liquidations (as well as the other matters addressed in this affidavit), our current estimate of the result of this proposed distribution is set out in **Schedule A** of this affidavit.
 - 23 I recognise that, when compared with other options for distribution, the effect of these orders, however granted, will be that some creditors are individually worse off than they would be if an alternative distribution method was adopted, but some creditors will also be better off than under certain alternatives. When looked at as a whole, our proposal would seem to be the most equitable way of distributing assets between all of the creditors and achieving the Court's original aim in appointing myself and Mr Bridgman as receivers of all the entities; namely, to act in the best interests of the aggrieved persons. I set out below the proposed 'effective' pooling of all assets and creditors, and then discuss the alternative of treating each entity separately and the consequences of adopting each.
- Confidential settlement agreements**
- 24 In order to give effect to the proposed distribution methodology, we, the Receivers and Liquidators, have reached two separate confidential settlements:
 - 24.1 the first, with Lisa Coates (nee Robertson), settles the claims the Liquidators and PTT Group have against Ms Coates, and the claims Ms Coates may have against any assets held by the Receivers and Liquidators; and
 - 24.2 the second, with Mr Robertson and the Trust, settles claims between the PTT Group, the Liquidators and the fifth and seventh respondents.
 - 25 I have not exhibited copies of those confidential agreements, but will do so if it would assist the Court (at present, these agreements are awaiting the signature of Mr Bridgman only, who will sign them early next week). For now, I provide a broad overview of the effect of them below.
 - 26 The first agreement has the effect that Ms Coates will not be treated as a creditor of the receiverships and liquidations.
 - 27 The second agreement is conditional upon two further directions given by this Court. In short, in exchange for the Liquidators and PTT Group relinquishing claims against Mr Robertson and the Trust, that settlement releases all claims Mr Robertson and the Trust have to assets in the receiverships and permits their transfer (including

those held in the Trust) to the Liquidators for distribution to creditors. This was practically the simplest method for releasing the assets of the Trust for payment to the creditors but requires the following directions in order to take effect:

- 27.1 as a prerequisite to the transfer of assets from the Trust to the Liquidators, the Court must lift the APOs that remain in place over the assets. As part of the condition of lifting the APOs, the Receivers' request that the Receivers retain a sufficient share of the assets to satisfy, on a pari-passu basis as calculated across the whole pool of unsecured creditors across the receiverships and liquidations, the claims of Mr Robertson's and the Trust's creditors. The amount required to be retained by the Receivers will depend on the court's directions in respect of Caveators. The Liquidators will abide by any such order; and
- 27.2 as receivers of Mr Robertson and the Trust, Mr Bridgman and I are required to sign the deed of settlement, together with the corporate trustee, on behalf of the Trust. Though Mr Robertson and Ms Coates have signed deeds of release of the trustees, the Trust has a number of potential discretionary beneficiaries and the trustees accordingly request that the Court make orders directing that the transfer may take place in accordance with and sanctioning the deed.

'EFFECTIVE' POOLING OF ALL ASSETS AND CREDITORS

- 28 I set out below the likely result of an 'effective' pooling of all assets and creditors. This distribution methodology accords most closely with what we understand our obligations as receivers for the aggrieved persons is, and balances this with our obligations as Liquidators.
- 29 **Creditors of Steven Robertson, the Trust, and the PTT Group**
I set out at Appendix A an estimated distribution statement which shows the estimated effect of pooling all assets and all unsecured creditors and distributing the assets without recognising any special preference for any group of creditors. Under this option the distribution to creditors would likely be between 31.55 cents in the dollar and 56.04 cents in the dollar. The difference in the range is the value of claims received to date vs. the value of total possible claims, as estimated by the FMA. Given the publicity of Mr Robertson's criminal offending, and the amount of time that has passed since the receiverships began, I consider that recovery will be more likely at the higher end of that range. However, should additional claims be received the rate of distribution will also decrease.
- 30 The major benefit of this option is that it will be much more efficient and, accordingly, cheaper than the alternative options, leaving more

money available to distribute to the creditors, and in particular, the aggrieved persons. This largely comes from not having to deal with the various claims that entities may have against each other which arise from the free flow of funds between entities, particularly out of the PTT Group and into Mr Robertson and the Trust. It also ensures that all creditors receive an equitable distribution regardless of whether, as a result of Mr Robertson's conduct, the entity against which the creditor has a claim has assets or not.

- 31 As noted earlier, and regardless of the approach the court directs, a question arises as to how we, as Receivers appointed pursuant to the FMCA, are required to deal with the claimed security interests of the Caveators.

The Caveators

- 32 At the time Mr Bridgman and I were appointed receivers of the Trust it owned a property at 73-75 Woodhill Park Road, Waimauku, Auckland (the *Property*). The Property was subject to a mortgage in favour of the ANZ and had caveats registered against the title by

[REDACTED]

- 33 On 10 October 2016 the High Court ordered that the Property could be sold to meet costs associated with the criminal proceedings brought by the FMA against Steven Robertson with the balance of the proceeds to be held by the Receivers.¹⁰ The loan secured by ANZ's mortgage was repaid in full. [REDACTED]

[REDACTED] were not repaid the amounts claimed by them; however prior to sale of the Property, on 25 January 2017, the Court ordered that sufficient funds be set aside from the sale so that their claims could be paid at a later date if so ordered.

- 34 In our view, the Caveators would not appear to fall within the category of aggrieved persons for the purposes of our appointment as Receivers. Those persons were limited to members of the public who paid money into fraudulent schemes of Mr Robertson and the PTT Group. To our knowledge, the interest notified by the Caveators was in respect of money advanced to Mr Robertson in circumstances that would not fall within this category. Further, the caveats were registered before any of the PTT Group companies existed.

⁹

[REDACTED]

¹⁰ Minute (No 2), Palmer J, 10 October 2016, CIV-2015-404-1833.

— *Status as "secured" creditors*

35 In addition to the above, there are numerous issues with the instruments that the Caveators claim to support their unregistered mortgages. For example, in respect of [REDACTED] claim:

35.1 the Receivers have been provided with two separate documents said to give rise to the mortgageable interest:¹¹

- (a) one is an unsigned Term Loan Agreement dated 28 October 2008, under which [REDACTED] loaned \$127,658.00 to the trustees of the Trust, which purported to apply an interest rate of 11%. This document is expressly referred to in the Mortgage Instrument, but that instrument secures only the principal amount against the Property;
- (b) the second is a Deed of Acknowledgment of Debt of \$127,658.00, which does appear to be signed by the relevant parties, but is undated. This Deed does not refer to any mortgageable interest and expressly provides that the Principal is to be repaid on demand with nil interest.

36 In respect of the claim by [REDACTED], we understand that the caveat was lodged on the basis of an underlying unregistered mortgage interest in respect of a loan of \$50,000 from [REDACTED] on 25 May 2010. To our knowledge, that loan was repaid in full. [REDACTED] claim that the caveat remained on the title in respect of a further advance to the Trust made on 17 May 2013; though we have not been provided with an underlying mortgage instrument in respect of that claimed interest.

— *Regardless of status, question as to priority*

37 In the event the Caveators interests are treated as secured, as Receivers appointed in the interests of aggrieved persons, we will then require directions as to the priority we must afford to them. Ordinarily, we would apply the regular priority rules contained in sections 30 and 30A of the Receiverships Act 1993, however on their face those sections would appear not to apply to our actions as Court-appointed receivers for a group other than secured creditors.

38 We are mindful of our general duties as receivers to act in good faith and for proper purposes, but must also exercise our powers in the best interests of the aggrieved persons.

39 As Receivers, therefore, we seek directions as to whether the ordinary regime of paying priority claims to secured creditors would

¹¹ There are numerous other issues with these documents, which would be explored at any hearing on the matter.

apply to us as receivers when we have not been appointed in the interests of a secured creditor.

- 40 On the distribution proposal in **Schedule A**, therefore, we have presently treated the Caveators' principal interest in the same manner as all other creditors.

Lisa Coates

- 41 At the time we were appointed receivers of Mr Robertson personally, we were also appointed receivers of his wife at the time, Ms Coates. During the course of the criminal and receivership/liquidation proceedings Mr Robertson and Ms Coates have separated, and orders were made ending our receivership over Ms Coates' assets.¹² I understand that this separation is now permanent.

- 42 As noted above, Ms Coates and the Receivers and Liquidators have now reached an agreement to settle any claims Ms Coates may have against assets in receivership, or in liquidation, and any claims that the Receivers and Liquidators and PTT Group may have against her, including those alleged in the statement of claim.

Harrington Group Limited (Removed)

- 43 I mentioned one other matter. Neither Mr Bridgman nor I are currently liquidators of Harrington Group Limited (*Harrington*), it having been previously placed into liquidation on 28 March 2014 and removed from the companies register on 28 January 2015. I understand that no distribution was paid to creditors from the liquidation.
- 44 It appears from the FMA's criminal proceedings that Harrington was another entity through which Mr Robertson ran his business and that it was a precursor to PTT Limited in the same way PTT Limited was a precursor to Maxwell Foster Limited.¹³
- 45 I confirm we have received claims from creditors of Harrington totalling \$331,127.50 although we are not currently in a position to deal with those claims given the removed status of Harrington, and consequently having not been appointed as receivers or liquidators of that company.
- 46 On the proposed distribution methodology, no distribution to the Harrington creditors is proposed as we do not properly, as receivers or liquidators, owe obligations to those creditors.

¹² Minute, Hinton J, 10 December 2015, CIV-2015-404-1833.

¹³ See, eg, *R v Robertson* [2019] NZHC 2032 at [43] and [85].

Fairest distribution

- 47 We consider that the above distribution proposal provides the fairest result, in light of our obligations as receivers to the aggrieved persons and as liquidators of the PTT Group.
- 48 We accordingly seek directions and orders from the Court in the two proceedings seeking to give effect to that distribution method. We understand that some creditors may wish to be heard on that proposal, which is why we have sought specific service directions on those creditors that will be affected by the proposed distribution.
- 49 Below, I briefly address an alternative methodology based on a distribution of the un-pooled assets, and treating each group of creditors separately.

B POOL NO ASSETS AND CREDITORS

- 50 The alternative to effectively pooling the assets and creditors is to unwind each of the entities separately and distribute the assets amongst the creditors of the respective entities.
- 51 Given the informal way in which money passed between entities those creditors will often also include other entities within the group for repayment of monies advanced. This will have the effect of indirectly making money available from certain entities to pay the creditors of other entities but it is a much more complicated process and results in certain creditors receiving more towards their respective claims than creditors of other entities within the group.
- 52 Such a distribution method would incur significant increased costs in the administration of both the receiverships and liquidations in order to deal with the competing claims between various entities and the effective 'unravelling' of Mr Robertson's improper management of those entities.
- 53 In some cases, proceeding in this way will benefit individual creditors more than if the assets were 'effectively' pooled. On our preliminary calculations, this would be true particularly for the Caveators, but for most other groups of creditors, and particularly those that fall within the category of aggrieved persons, the ultimate distribution would be less than they would be entitled to receive under the 'effective' pooling of the assets. For example, our preliminary calculations estimate that if we were to proceed without any pooling, personal creditors of Mr Robertson would be likely to recover only, as an approximation, between 15 and 19 cents in the dollar, as opposed to up to 56 cents in the dollar with the benefit of the 'effective' pooling.
- 54 For that reason, we have sought the specific service and publication directions to put creditors on notice of the proposal and to raise any objections before the matter is heard.



DIRECTIONS SOUGHT

- 55 We consider that it is just, and in the interest of the aggrieved persons in whose interest the original receivership orders were granted, that the 'effective' pooling directions and orders be made permitting the Receivers and Liquidators to proceed with distribution in an ultimately pari-passu manner.
- 56 If, however, the court does not agree with the in-principle proposal presented above and in the accompanying applications for directions, we will provide a further affidavit setting out in further detail the alternative methods.

Sworn at Auckland
On 11 September 2020
before me:

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)
)

John Howard Ross Fisk



Ellyse Johnson
Solicitor
Auckland

A Solicitor of the High Court of New Zealand

**APPENDIX 1 – ESTIMATED DISTRIBUTION STATEMENT FOR
POOLING OF ALL ENTITIES**

Assets		Note		
Description			Assets Available	Assets Available
Steven Robertson Cash Held	1		\$18,947.46	\$18,947.46
Steven Robertson Jewellery & Watches	2		\$46,650.00	\$46,650.00
Steven Robertson Family Trust Cash Held	3		\$1,819,623.99	\$1,819,623.99
PTT Limited Cash Held	4		\$200.69	\$200.69
Maxwell Foster Limited Cash Held	5		\$24.82	\$24.82
Alba International Limited Cash Held	6		\$41,882.13	\$41,882.13
Gibson McLeod Limited Cash Held	7		\$0.00	\$0.00
Total Assets			\$1,927,329.09	\$1,927,329.09

Creditors

Description			Claims Received	Possible Claims
Steven Robertson Creditors	8		\$962,252.02	\$1,519,172.02

Steven Robertson Family Trust Creditors	9	\$426,787.00	\$426,787.00
PTT Employee Preferential Creditors	10	0.00	\$1,383.41
PTT Limited IRD Preferential Creditor	11	\$17,350.42	\$17,350.42
PTT Limited Creditors	12	\$1,036,413.42	\$2,398,059.84
Maxwell Foster Limited Creditors	13	\$382,300.00	\$569,100.00
Alba International Limited Creditors	14	\$0.00	\$0.00
Gibson McLeod Limited Creditors	15	\$2,300.00	\$2,300.00
Unknown Entity Creditors	16	\$58,950.00	\$193,050.00
Total Creditors		\$2,886,352.86	\$5,127,202.69
Unpaid Administration Costs			
Professional Fees Paid by FMA	17	\$0.00	\$0.00
Receivers' Unpaid Work in Progress	18	\$29,826.83	\$29,826.83
Liquidators' Unpaid Work in Progress	19	\$66,579.60	\$66,579.60

PwC Costs to Complete	20	\$65,000.00	\$65,000.00
Chapman Tripp Unpaid Receivership Fees	21	\$10,325.29	\$10,325.29
Chapman Tripp Unpaid Liquidation Fees	22	\$62,882.38	\$62,882.38
Chapman Tripp Costs to Complete	23	\$75,000.00	\$75,000.00
Total Administration Costs		\$309,614.10	\$309,614.10
Summary			
Total Assets		\$1,927,329.09	\$1,927,329.09
Less Total Administration Costs		\$309,614.10	\$309,614.10
Total Available for Creditors		\$1,617,714.99	\$1,617,714.99
Total Creditors		\$2,886,352.86	\$5,847,604.69
Creditor Shortfall	24	(\$1,268,637.87)	(\$3,509,487.70)
Creditor Distribution (cents in \$)	25	0.5605	0.3155

Notes to Estimated Distribution Statement

- 1 Cash currently held by Receivers. Comprised of cash held on appointment, the net proceeds of sale of certain asset sales and an insurance refund.
- 2 Jewellery & Watches held by Receivers. Estimated to realise value based on valuations obtained in 2015.
- 3 Cash currently held by Receivers of Steven Robertson. Comprised of the net proceeds of sale of the property at 73-75 Woodhill Park Road, Waimauku, Auckland.
- 4 Cash currently held by Liquidators. Comprised of cash held on appointment and a utility refund.
- 5 Cash currently held by Liquidators. Comprised of cash held on appointment.
- 6 Cash currently held by Liquidators. Comprised of cash held on appointment.
- 7 Company did not have a bank account, cash held or any other assets on appointment.
- 8 Personal creditors of Steven Robertson. Includes creditors who purportedly purchased shares in the various companies. Possible claims is the total of claims received plus additional potential creditors identified by the FMA.
- 9 Claims against the Steven Robertson Family Trust [REDACTED]
[REDACTED] Assumption that these claims will not be given preferred status on the basis of the caveats previously registered over the property at 73-75 Woodhill Park Road, Waimauku, Auckland.
- 10 No employee preferential claims have been received. However, a payroll provided shortly after appointment as receivers indicates some wages may have been unpaid. Unclear if employees or contractors.
- 11 IRD has filed a preferential claim in the liquidation of PTT Limited for unpaid GST and PAYE.
- 12 Creditors of PTT Limited being primarily investors. There is no differentiation between premium and standard investors. Possible claims is the total of claims received plus additional potential creditors identified by the FMA.
- 13 Creditors of Maxwell Foster Limited being primarily investors. There is no differentiation between premium and standard investors. Possible claims is the total of claims received plus additional potential creditors identified by the FMA.
- 14 No claims have been received against Alba International Limited. One investor purportedly purchased shares in Alba and had deposited money into Alba's bank account. For the purpose of pooling we have treated this creditor as a creditor of Mr Robertson. We would treat this creditor as a creditor of Alba if the entities were not pooled.



- 15 One claim has been received indicating an investment was made through Gibson McLeod Limited. It is not anticipated that there are any further Gibson McLeod creditors.

- 16 Creditors where claims appear to exist but it is not clear from the available documentation against which entity such a claim should sit.

- 17 \$387,245.95 has been paid by the FMA to PwC and FMA for work done in relation to the receiverships and liquidations. The FMA is entitled to recover these from the available assets but has indicated it does not intend to do so.

- 18 Outstanding fees and expenses of the Receivers calculated based on work done but unpaid.

- 19 Outstanding fees and expenses of the Liquidators calculated based on work done but unpaid.

- 20 Estimate of additional fees and expenses to be incurred by the Receivers and Liquidators to bring the receivership and liquidation to a conclusion.

- 21 Outstanding fees and expenses of the Solicitors for the Receivers calculated based on work done but unpaid (as at 31 August 2020).

- 22 Outstanding fees and expenses of the Solicitors for the Liquidators calculated based on work done but unpaid (as at 31 August 2020).

- 23 Estimate of additional fees and expenses to be incurred by the Solicitors for the Receivers and Liquidators to bring the receivership and liquidation to a conclusion.

- 24 Estimated shortfall to all creditors following distribution.

- 25 Estimated distribution rate for distribution where all assets and creditors are pooled.