

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

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*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*

Memorandum of counsel for receivers and liquidators in relation  
to applications for directions and associated orders

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Dated: 11 September 2020

Before: The Honourable Justice Palmer

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**MEMORANDUM OF COUNSEL FOR RECEIVERS AND LIQUIDATORS  
IN RELATION TO APPLICATIONS FOR DIRECTIONS AND  
ASSOCIATED ORDERS**

May it please Your Honour:

- 1 Counsel for the receivers and liquidators of the first to fifth and seventh respondents (the *Receivers and Liquidators*) file this brief memorandum to accompany the applications for directions and associated orders sought.

**Proposed distribution methodology**

- 2 Mr Robertson, the trustees of the Steven Robertson Family Trust (the *Trust*) and Ms Coates (née Mrs Robertson) have now released all claims they have made against the assets subject to the APOs.
- 3 The question now arises as to the most appropriate method of distribution. The Receivers and Liquidators seek directions and associated orders (the *Applications*) to give effect to a proposed distribution whereby creditors of both the receiverships and liquidations insofar as possible share equally in the assets.
- 4 As explained in the affidavit of John Fisk, in the Receivers' and Liquidators' views, this proposal most closely accords with the purpose for which they were originally appointed in those roles; namely to act in the best interests of the aggrieved persons, whether those persons are creditors of Mr Robertson personally, the Trust or one of the PTT companies.
- 5 Counsel anticipate that, if the proposed methodology is approved in principle, a short further affidavit can be filed confirming the ultimate distribution to be made. This may accompany a final application for final ancillary directions.

**Asset preservation orders**

- 6 Counsel have engaged with counsel for the FMA, and understand that the proposed distribution methodology is supported by the FMA; including the necessity for the lifting of the asset preservation orders (*APOs*), on the condition that sufficient funds remain with the receivers for distribution to creditors of the receiverships on the basis proposed.

**Initial directions**

- 7 It may be that initial directions, including as to service of the applications, can be made on the papers. Counsel also confirm their availability to attend a teleconference if this would be more convenient.

Dated: 10 September 2020



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D R Kalderimis / M G A Lister  
Counsel for receivers and liquidators