

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**I Te Koti Matua o Aotearoa  
Te Whanganui-a-Tara Rohe**

**CIV-2017-485-**

UNDER	the Companies Act 1993 and the High Court Rules
IN THE MATTER OF	Ross Asset Management Limited (In liquidation) and related entities
BETWEEN	<b>J H R Fisk and D J Bridgman</b> as Liquidators of Ross Asset Management Limited (In liquidation) and related entities, each being Chartered Accountants of Wellington and Auckland respectively

**Applicants**

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**MEMORANDUM OF COUNSEL AS PROPOSED AMICUS  
DATED 11 DECEMBER 2017**

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**Instructed Counsel:**

PRW Chisnall/J D Haig  
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## **MAY IT PLEASE THE COURT**

1. If it assists this honourable Court, Counsel is available to be appointed Amicus for the Application for Directions by the liquidators, Mr John Fisk and Mr David Bridgeman.
2. Counsel has had the benefit of considering the Application for Directions. No apparent conflict arises as to Counsel being appointed Amicus or any compromise as to the ability of Counsel act independently in such a role.
3. In noting that, and with an abundance of caution, Counsel wishes to bring to the attention of the Court past instructions, and one current instruction, in acting for and against the liquidators, partners and staff of PriceWaterhouseCoopers acting in their capacity as receivers and liquidators, and the firm PriceWaterhouseCoopers.
4. Counsel has been instructed by investors of Ross Asset Management Limited (In liquidation) ("RAM") to act against the liquidators on claims made by the liquidators to set aside payments made by RAM to the investors prior to the liquidation of RAM. All instructions have been completed on full and final settlements being entered into between the investors and the liquidators or such claims have not been taken further by the liquidators. If appointed Amicus, Counsel will not accept any new instructions from any investor in RAM.
5. Counsel has also advised investors in RAM who may have claims in the liquidation of RAM. The advice has been of a general nature and occurred at around the time of the liquidators' appointment to RAM. The instructions have been completed.
6. Counsel has one current instruction from instructing solicitors, Thomas Dewar, to act on behalf of Mr John Fisk and Mr Marcus McMillan as liquidators of Jaiden Limited (In liquidation). Mr Fisk is a partner and Mr McMillan a director in PriceWaterhouseCoopers. The instruction involves a claim for an overdrawn account. The instruction does not relate to any matter, entity or person involved in RAM.
7. Counsel (including when as a partner at Gibson Sheat) has also been instructed by partners and staff of PricewaterhouseCoopers acting in their capacity as receivers and liquidators and as agents of the Official Assignee

on various insolvencies including receiverships and liquidations. All such instructions have been completed. No instruction, in any way, involved and/or is related to any RAM entity or depositor / creditor.

8. Counsel has been instructed, over the years, on various insolvency matters, by clients to act against partners and staff of PricewaterhouseCoopers acting in their capacity as statutory managers, receivers and/or liquidators. All such instructions have been completed and the files closed.
9. Counsel has also been instructed by clients to act against the firm PriceWaterhouseCoopers. The instructions have also been completed.
10. In acting as Amicus, counsel would be seeking to be assisted by Mr Jonathan Haig, a barrister at Port Nicolson Chambers, to act as a junior and to provide assistance as counsel, advice and research. Mr Haig has considerable experience on insolvency matters including applications to this honourable Court for directions as to final distributions to creditors/depositors.
11. It is proposed that fees (including those of Mr Haig) in acting as Amicus are met by the funds held by liquidators. In that regard counsel's proposed charge out rate is \$500.00 plus GST per hour and Mr Haig at \$340.00 plus GST per hour.
12. If this Honourable Court wishes to explore further with Counsel the appointment as Amicus, then Counsel is available for a telephone conference on 4994 051.

**Dated** at Wellington this 11th day of December 2017



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**P R W Chisnall**