

**In the High Court of New Zealand
Wellington Registry
I Te Kōti Matua o Aotearoa
Te Whanganui-ā-Tara Rohe**

CIV 2012-485-2591

Under the Companies Act 1993 and the High Court Rules
In the matter of Ross Asset Management Limited (in liquidation) and related entities

John Howard Ross Fisk and David John Bridgman, as liquidators of Ross Asset Management Limited (in liquidation), Dagger Nominees Limited (in liquidation), Bevis Marks Corporation Limited (in liquidation), United Asset Management Limited (in liquidation), McIntosh Asset Management Limited (in liquidation), Mercury Asset Management Limited (in liquidation) Ross Investments Management Limited (in liquidation) and Ross Unit Trusts Management Limited (in liquidation)

Applicants

Memorandum of counsel for the Applicants in response to interlocutory application for joinder of Eoin David Fehsenfeld

16 April 2018

BELL GULLY


BARRISTERS AND SOLICITORS

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May it please the Court:

1. Counsel refers to the notice of interlocutory application for joinder of Eoin David Fehsenfeld as a respondent to this proceeding and the memorandum of counsel filed in support of that application.
2. The Liquidators do not oppose the joinder of Mr Fehsenfeld as a respondent to the Liquidators' Application and will abide by the Court's decision on his application.
3. Counsel for the Liquidators will liaise with counsel for Mr Fehsenfeld and the *amicus* as to allocation of speaking time between them at the hearing so as to ensure it is completed in one day. In the unlikely event that agreement cannot be reached on this then they will revert to the Court.
4. Counsel further advises that the Liquidators do not intend themselves to join any other investor with an opposing interest to Mr Fehsenfeld (i.e. one who supports the Alternative Model or Rising Tide Model) to the proceeding, in order to "balance" the appeal rights. They will, though, advise the investors that if any one of them wishes to join the proceeding as a respondent in order to provide such "balance", the Liquidators would take the same approach to that application for joinder as to Mr Fehsenfeld's application. That is, not to oppose any such application and simply abide the Court's decision.
5. If Mr Fehsenfeld or any other investor appeals the Liquidators assume that the appellant will be "making the running" on such an appeal rather than simply leaving the progress of the appeal to the Liquidators.
6. Counsel respectfully supports Mr Fehsenfeld's request for his application for joinder to be determined on the papers.



M G Colson / R L Pinny
Counsel for the Applicants

16 April 2018