

IN THE FEDERAL COURT OF AUSTRALIA  
VICTORIA DISTRICT REGISTRY  
DIVISION: GENERAL

VID 95 of 2010

IN THE MATTER OF THE *CORPORATIONS ACT 2001*

and

IN THE MATTER OF MARK RONALD LETTEN  
(and others described in the Schedule)

AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION

Applicant

MARK RONALD LETTEN AND OTHERS  
(as described in the schedule)

Respondents

SIXTEENTH AFFIDAVIT OF DAMIAN JOHN TEMPLETON

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Filed on behalf of the Receivers and Managers by:

**MALLESONS STEPHEN JAQUES**

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Level 50, 600 Bourke Street

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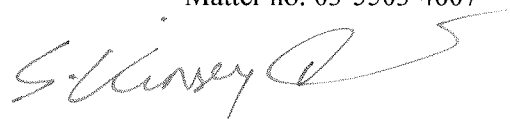
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Ref: S Kinsey:MAT

Matter no: 03-5503-4607

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On 27 August 2010 I, **DAMIAN JOHN TEMPLETON**, of KPMG, 147 Collins Street, Melbourne, in the State of Victoria, Chartered Accountant, make oath and say -

- 1 I am a partner of the Australian KPMG partnership specialising in restructuring and insolvency work. I hold a Bachelor of Business (Accountancy) from the Royal Melbourne Institute of Technology, I am a Member of the Institute of Chartered Accountants in Australia and a Member of the Insolvency Practitioners Association of Australia, I am an official liquidator and have approximately 19 years experience as an insolvency practitioner.
- 2 On 25 February 2010, the Federal Court of Australia made orders (“**Orders**”) that receivers and managers be appointed to each of the schemes listed in Annexure A to the Orders. Pursuant to the Orders, I was appointed together with my partner, Philip Arthur Hennessy, as joint and several receivers and managers of the property of each of the second to sixteenth and eighteenth to forty-fifth defendants in this proceeding (collectively with the Letten Entities listed at paragraph 4 entities, “**Letten Entities**”) and as joint and several receivers and managers of the property of the schemes (each a “**Receiver**” and, collectively, the “**Receivers**”).
- 3 On 4 March 2010, the Federal Court of Australia made orders (“**SY21 Appointment Order**”) pursuant to which I was appointed together with my partner, Philip Arthur Hennessy, as joint and several receivers and managers of the property of the scheme defined in Annexure A to the SY21 Orders to mean “*the funds invested, contributed or deposited by investors for the purpose of acquiring an interest in the project known as SY21 Retail Complex Project*” (“**SY21 Scheme**”).
- 4 On 30 July 2010, the Federal Court of Australia made orders (“**Additional Schemes Appointment Order**”) pursuant to which I was appointed together with my partner, Philip Arthur Hennessy, as joint and several receivers and manager of the property of each of the forty-sixth to fifty-fourth defendants in this proceeding (collectively with the Letten Entities listed at paragraph 2, “**Letten Entities**”) and as joint and several receivers and managers of the property of the Additional Schemes as defined in the Additional Schemes Appointment Order (collectively with the schemes listed in Annexure A to the Orders and the SY21 Scheme, “**Schemes**”).
- 5 I am authorised to swear this affidavit on behalf of the Receivers.
- 6 Statements in this affidavit are made from my own knowledge or to the best of my knowledge, information and belief.
- 7 I refer to my affidavits sworn on 22 February 2010, 23 March 2010, 26 March 2010, 30 March 2010, 12 April 2010, 27 April 2010, 20 May 2010, 27 May 2010, 1 June 2010, 9 June 2010, 11 June 2010, 28 July 2010, 29 July 2010, 18 August 2010 and 24 August 2010 in this proceeding and also to the Affidavit of David Michael Charles Willis sworn on 25 June 2010.



## Receivers' Further Disclosure Reports

8 By paragraph 12 of the Additional Schemes Appointment Order, the Court ordered that on or before 27 August 2010 or such other date as the Court allows, the Receivers prepare and file with the Court a separate report in relation to each of the Additional Schemes (“**Further Disclosure Reports**”) and provide a copy of the Further Disclosure Reports to the parties to the proceeding as to the following matters:

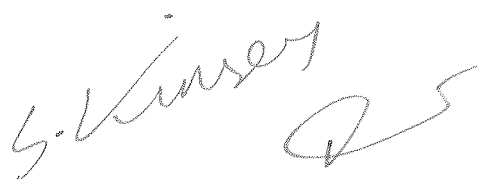
- (a) the nature and identity of the Property of the Additional Scheme;
- (b) the claims (actual, contingent and other) of third parties in relation to the Property of the Additional Scheme including, but not limited to, whether the Property of the Additional Scheme has been given as security for any debt or liability and if so, the nature of the security and the debt or liability so secured;
- (c) the identities of the Investors and the nature and extent of their interests;
- (d) the solvency of the Additional Scheme;
- (e) the most appropriate manner and timing of managing and realising any assets or Property of the Additional Scheme so as to most benefit the Investors;
- (f) a recommendation regarding the distribution of the property of the Additional Scheme (after payment of amounts due to any relevant Secured Lenders and other priority creditors); and
- (g) identification of circumstances which might render the Receivers' recommendations regarding distribution of Scheme assets inappropriate for the Additional Scheme.

9 Pursuant to paragraph 12 of the Additional Schemes Appointment Order, the Receivers have prepared a Further Disclosure Report for each of the Additional Schemes as follows:

- (a) Tomasetti House Joint Venture (Report # 18);
- (b) Aurora Park Project (Report # 19);
- (c) Moorhouse Shopping Centre Project (Report # 20);
- (d) Cass Bay Spur Project (Report # 21);
- (e) Mount Hutt Project (Report # 22).

10 Now produced and shown to me and marked “**DJT-43**” is a copy of the Disclosure Report in relation to the Tomasetti House Joint Venture (Report # 18).

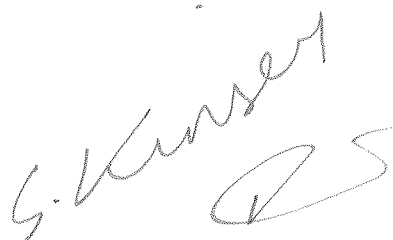
11 Now produced and shown to me and marked “**DJT-44**” is a copy of the Disclosure Report in relation to the Aurora Park Project (Report # 19).



- 12 Now produced and shown to me and marked “DJT-45” is a copy of the Disclosure Report in relation to the Moorhouse Shopping Centre Project (Report # 20).
- 13 Now produced and shown to me and marked “DJT-46” is a copy of the Disclosure Report in relation to the Cass Bay Spur Project (Report # 21).
- 14 Now produced and shown to me and marked “DJT-47” is a copy of the Disclosure Report in relation to the Mount Hutt Project (Report # 22).


**Basis of preparation**

- 15 The Further Disclosure Reports have been prepared by the Receivers on the basis of the books and records of the Letten Entities and the Schemes, as well as discussions with various parties which have taken place during the Receivers’ investigations into the Letten Entities since the making of the Orders by the Federal Court of Australia including:
- (a) Mr Letten;
  - (b) Mr Paul Lane;
  - (c) Mr Mark Salmon;
  - (d) former employees of Mr Letten or entities controlled by Mr Letten; and
  - (e) Mr Peter Bate.
- 16 The Receivers’ investigations have largely focused on constructing or reconstructing the history and historical financial performance of the Additional Schemes, based on the books and records available to the Receivers, and thereby responding to the matters set out in order 12 of the Additional Schemes Appointment Order.



SWORN by the deponent at Melbourne in the State of Victoria )

before me: )

  
..... )  
*Signature of authorised witness* )

..... )  
*Name of authorised witness* )  
*(block letters)* )

..... )  
*Address of authorised witness* )

Samantha Kinsey  
Level 60, 600 Bourke Street, Melbourne, Vic 3000  
An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004

..... )  
*Capacity in which authorised witness takes affidavit* )



..... )  
*Signature of deponent* )

**SCHEDULE OF DEFENDANTS**

**Mark Ronald Letten**  
First Defendant

**LGH Holdings Limited ACN 077 191 943**  
Second Defendant

**211 Wellington Road Pty Ltd ACN 092 663 860**  
Third Defendant

**Bluemist Holdings Pty Ltd ACN 097 306 922**  
Fourth Defendant

**Dellwood Holdings Pty Ltd ACN 098 505 803**  
Fifth Defendant

**Enmore Enterprises Pty Ltd ACN 082 158 487**  
Sixth Defendant

**Firbark Arch Pty Ltd ACN 059 464 381**  
Seventh Defendant

**Glenline Pty Ltd ACN 098 532 364**  
Eighth Defendant

**Gerling Holdings Pty Ltd ACN 091 726 457**  
Ninth Defendant

**LGH Administration Pty Ltd ACN 077 165 069**  
Tenth Defendant

**LGH Finance Pty Ltd ACN 078 859 248**  
Eleventh Defendant

**Low Head Village Pty Ltd ACN 091 731 958**  
Twelfth Defendant

**Nicholson Street Pty Ltd ACN 069 104 089**  
Thirteenth Defendant

**Holloway Crest Pty Ltd ACN 091 731 967**  
Fourteenth Defendant

**Roseberry Enterprises Pty Ltd ACN 091 826 229**  
Fifteenth Defendant

**Simms Investments Pty Ltd ACN 093 504 511**  
Sixteenth Defendant

**SY21 Retail Pty ACN 107 874 564**  
Seventeenth Defendant

---

Filed on behalf of the Receivers and Managers by:  
**MALLESONS STEPHEN JAQUES**  
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Melbourne VIC 3000

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**The Glen Centre Hawthorn Pty Ltd ACN 089 906 543**  
Eighteenth Defendant

**Castello Holdings Pty Ltd ACN 088 204 175**  
Nineteenth Defendant

**Twinview Nominees Pty Ltd ACN 097 307 278**  
Twentieth Defendant

**Yarra Valley Golf Pty Ltd ACN 066 632 479**  
Twenty-First Defendant

**Adina Rise Pty Ltd ACN 083 181 122**  
Twenty-Second Defendant

**Albright Investments Pty Ltd ACN 088 204 166**  
Twenty-Third Defendant

**Ashfield Rise Pty Ltd ACN 093 504 806**  
Twenty-Fourth Defendant

**Bradfield Corporation Pty Ltd ACN 088 204 371**  
Twenty-Fifth Defendant

**Copeland Enterprises Pty Ltd ACN 093 504 824**  
Twenty-Sixth Defendant

**Devlin Way Pty Ltd ACN 088 264 813**  
Twenty-Seventh Defendant

**First Hazelwood Pty Ltd ACN 093 505 303**  
Twenty-Eighth Defendant

**Glenbelle Pty Ltd ACN 097 306 646**  
Twenty-Ninth Defendant

**Glenvale Way Pty Ltd ACN 088 287 021**  
Thirtieth Defendant

**Greenview Lane Pty Ltd ACN 093 505 312**  
Thirty-First Defendant

**Hallmark Corporation Pty Ltd ACN 083 180 812**  
Thirty-Second Defendant

**Moorleigh Holdings Pty Ltd ACN 088 287 058**  
Thirty-Third Defendant

**Norton Ridge Pty Ltd ACN 078 821 066**  
Thirty-Fourth Defendant

**Raleigh Glen Pty Ltd ACN 088 204 380**  
Thirty-Fifth Defendant

**Redcrest Holdings Pty Ltd ACN 100 836 486**  
Thirty-Sixth Defendant

**Suri Corporation Pty Ltd ACN 093 505 321**  
Thirty-Seventh Defendant

**Sutton Rise Pty Ltd ACN 088 204 399**  
Thirty-Eighth Defendant

**The Virtual Mlmer Pty Ltd ACN 065 374 665**  
Thirty-Ninth Defendant

**Tivendale Pty Ltd ACN 093 505 349**  
Fortieth Defendant

**Tulloch Downs Pty Ltd ACN 078 895 048**  
Forty-First Defendant

**Maining Pty Ltd ACN 100 790 485**  
Forty-Second Defendant

**Topglen Pty Ltd ACN 096 857 564**  
Forty-Third Defendant

**Allblue Pty Ltd ACN 100 836 388**  
Forty-Fourth Defendant

**Aranbay Pty Ltd ACN 098 532 319**  
Forth-Fifth Defendant

**Melville Corporation Pty Ltd ACN 091 911 045**  
Forty-Sixth Defendant

**Tilley Lane Pty Ltd ACN 086 136 361**  
Forty-Seventh Defendant

**HPSC Pty Ltd ACN 059 930 139**  
Forty-Eighth Defendant

**Jensdale Pty Ltd ACN 098 367 974**  
Forty-Ninth Defendant

**Oakdale Rise Pty Ltd ACN 091 598 908**  
Fiftieth Defendant

**Maywood Investments Pty Ltd ACN 091 599 218**  
Fifty-First Defendant

**Acetrain Pty Ltd ACN 100 820 282**  
Fifty-Second Defendant

**Sage Bay Pty Ltd ACN 097 306 628**  
Fifty-Third Defendant

**Tobago Holdings Pty Ltd ACN 093 504 520**  
Fifty-Fourth Defendant

AUSTRALIAN SECURITIES AND INVESTMENTS  
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MARK RONALD LETTEN AND OTHERS

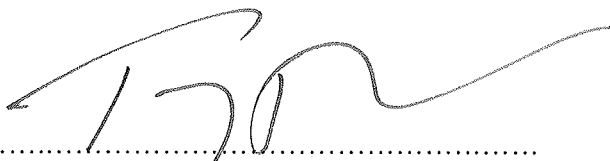
Respondents

CERTIFICATE OF COMPLIANCE

Order 14, rule 5A

I, **MARK ANTHONY TROIANI**, certify to the Court that the affidavit of **DAMIAN JOHN TEMPLETON** sworn on 27 August 2010 filed on behalf of the Receivers complies with Order 14, rule 2 of the Federal Court Rules.

Date: ..... 27 August 2010 .....



.....  
Mark Anthony Troiani  
Mallesons Stephen Jaques  
Solicitor for the Receivers

---

Filed on behalf of the Receivers and Managers by:

**MALLESONS STEPHEN JAQUES**

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**EXHIBIT "DJT-43"**

This is the exhibit marked "DJT-43" referred to in the affidavit of **DAMIAN JOHN TEMPLETON** sworn on 27 August 2010.

Before me:.....

  
Samantha Kinsey  
Level 50, 600 Bourke Street, Melbourne, Vic. 3000  
An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004.

**"DJT-43"**  
**Disclosure Report for the  
Tomasetti House Joint Venture**

---

Filed on behalf of the Receivers and Managers by:

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Before me:.....



Samantha Kinsey  
Level 50, 600 Bourke Street, Melbourne, Vic. 3000  
An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004.

**"DJT-44"**  
**Disclosure Report for the  
Aurora Park Project**

---

Filed on behalf of the Receivers and Managers by:

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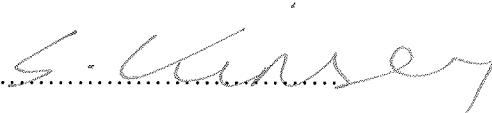
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**EXHIBIT "DJT-45"**

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Before me:.....

  
Samantha Kinsey  
Level 50, 600 Bourke Street, Melbourne, Vic. 3000  
An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004.

**"DJT-45"**  
**Disclosure Report for the**  
**Moorhouse Shopping Centre Project**

---

Filed on behalf of the Receivers and Managers by:

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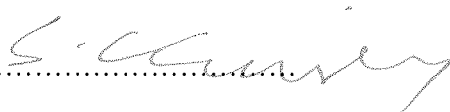
MARK RONALD LETTEN AND OTHERS  
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**EXHIBIT "DJT-46"**

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Before me:.....



Samantha Kinsey  
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An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004.

**"DJT-46"**  
**Disclosure Report for the  
Cass Bay Spur Project**

---

Filed on behalf of the Receivers and Managers by:

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**EXHIBIT "DJT-47"**

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Before me:.....  


Samantha Kinsey  
Level 50, 600 Bourke Street, Melbourne, Vic. 3000  
An Australian Legal Practitioner within the meaning  
of the Legal Profession Act 2004.

**"DJT-47"  
Disclosure Report for the  
Mount Hutt Project**

---

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