

Form 59
Rule 29.02

Affidavit

No VID 95 of 2010

Federal Court of Australia
District Registry: Victoria
Division: General

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

Respondents


Affidavit of: **Damian John Templeton**
Address: 147 Collins Street, Melbourne, Victoria
Occupation: Chartered Accountant

Date: 29 August 2011

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Signed:



Taken by:

Nick Kelton 29/8/11

Filed on behalf of the Receivers and Managers

Prepared by Tony Troiani

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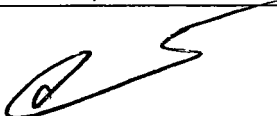
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I, Damian John Templeton, of 147 Collins Street, Melbourne, Victoria, Chartered Accountant, make oath and say:

- 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 20 years experience as an insolvency practitioner.
- 2 On 25 February 2010, the Federal Court of Australia made orders ("**Receivership Appointment Orders**") that receivers and managers be appointed to each of the schemes listed in Annexure A to the Appointment Orders ("**Initial Schemes**"). Pursuant to the Appointment 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, "**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 Receivership 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 Initial Schemes and the SY21 Scheme, "**Schemes**").
- 5 On 13 May 2011, I was appointed together with, Mr Hennessy, as joint and several liquidators of the Eighteenth Defendant, The Glen Centre Hawthorn Pty Ltd ("**TGCH**") and the Twentieth Defendant, Twinview Nominees Pty Ltd ("**Twinview**").

Signed:



Taken by:

Nick Uelker 29/8/11

6 I am authorised to swear this affidavit on behalf of the Receivers and the liquidators of TGCH and Twinview.

7 Statements in this affidavit are made from my own knowledge or to the best of my knowledge, information and belief.

Purpose of directions

8 I swear this affidavit in support of the Receivers' interlocutory process dated 29 August 2011.

Circular to Investors

9 On 11 February 2011, the Receivers sent a circular to all investors which indicated, amongst other things, that the expected dividend to investors upon finalisation of the winding up of the various schemes was in the order of 8-10 cents in the dollar.

Now produced and shown to me marked **DJT-137** is a true copy of this circular.

Proofs of debt submitted

10 On 10 June 2011, the Liquidators sent circulars to creditors of TGCH and Twinview in which, amongst other things, proofs of debt were requested to be submitted.

Now produced and shown to me marked **DJT-138** are true copies of these circulars.

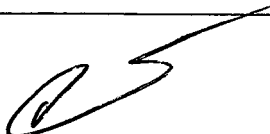
11 The Liquidators have received the following proofs of debt from creditors of TGCH:

Table A: TGCH Proofs of Debt

No.	Creditor	Proof of debt	Nature of claim
1	Baker & McKenzie	\$10,166.36	Legal fees
2	Breese Pitt Dixon	\$3,850.00	Surveying services
3	Gross Waddell	\$10,499.50	Advertising/leasing costs
4	Illario G. Cortese	\$3,745.50	Architectural services
5	Bridgehead Properties Pty Ltd	\$477,420.81	Management fees
6	Metropolitan Fire and Emergency Services Board	\$1,826.00	Attendance on false alarm
7	Louton Pty Ltd	\$100,000.00	Investor damages
8	Robuck Metals Pty Ltd	\$235,000.00	Investor damages
9	ABK Group Pty Ltd	\$58,850.00	Investor damages

Now produced and shown to me marked **DJT-139** are true copies of the above proofs of debt.

Signed:



Taken by:

Wade Uelba 29/8/11

12 The Liquidators have received the following proofs of debt from creditors of Twinview:

Table B: TGCH Proofs of Debt

No	Creditor	Proof of debt	Nature of Claim
1	Baker & McKenzie	\$3,065.25	Legal services
2	Resolve air-conditioning & Mechanical Services	\$3,575.00	Supply/install air conditioner
3	Bridgehead Properties Pty Ltd	\$452,913.37	Management Fees
4	Australian Taxation Office	\$21,067.72	Tax
5	Louton Pty Ltd	\$100,000.00	Investor damages
6	Robuck Metals Pty Ltd	\$235,000.00	Investor damages

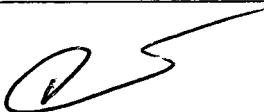
Now produced and shown to me marked **DJT-140** are true copies of the above proofs of debt.

13 The Liquidators are satisfied that, apart from the above debts which I have described as "Investor damages", the debts appear to have been incurred by TGCH and Twinview in the management of the trust assets.

14 On 1 August 2011, the Liquidators sent circulars to the creditors of TGCH and Twinview which indicated, amongst other things, that the payment of a dividend had been deferred pending directions from the Court on the issue of the trustee's right of indemnity.

Now produced and shown to me marked **DJT-141** are true copies of these circulars.

Signed:



Taken by:

Nick Kelton 29/8/11

Filed on behalf of the Receivers and Managers

Prepared by Tony Troiani
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Ref: N Kelton:MAT: 03-5503-4607

Form approved 01/08/2011

SWORN by the deponent
at Melbourne
in State
on 29/8/11
Before me:

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)
)
Signature of deponent

Nick Kelton

Signature of witness
Nicholas James Kelton
Level 50, 600 Bourke Street, Melbourne, Vic. 3000
An Australian Legal Practitioner within the meaning
of the Legal Profession Act 2004.

Name of witness

Address of witness

Signed:

[Signature]

Taken by: