

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL DIVISION
CORPORATIONS LIST**

IN THE MATTER OF IPO WEALTH HOLDINGS NO. 2 PTY LTD (ACN 620 610 157)

B E T W E E N

**VASCO TRUSTEES LIMITED (ACN 138 715 009) AS TRUSTEE OF THE IPO
WEALTH FUND (ABN 71 456 233 724)**

Plaintiff

-and-

**IPO WEALTH HOLDINGS NO 2 PTY LTD (ACN 620 610 157) & ORS (according to
the attached Schedule of Parties)**

Defendants

AFFIDAVIT OF MR JAMES PETER MAWHINNEY

Date of Document: 2 September 2020
Telephone: 0410 852 368
Prepared by: Mr James Mawhinney
Level 27, 35 Collins St
Melbourne VIC 3000
Email: james.mawhinney@mayfair101.com

I, James Peter Mawhinney, of 73 McIntyres Road, Park Orchards, Victoria, make oath and say:

1. I am the sole director of the IPO Wealth Pty Ltd (**'Investment Manager'**), the Investment Manager of the IPO Wealth Fund (**'Fund'**).
2. The Investment Manager was responsible for identifying suitably qualified clients to invest in the Fund within the wholesale investor definition of s708 Corporations Act (Cth) 2001.
3. As at 22 May 2020 to the best of my knowledge 181 investors (**'Unitholders'**) had invested approximately \$81,900,000 in the Fund.
4. Also on 22 May 2020 the trustee of the Fund, Vasco Trustees Limited (**'Trustee'**) appointed receivers and managers to IPO Wealth Holdings Pty Ltd (**'Borrower'**) and the Supreme Court of Victoria appointed receivers to the sixteen (16) wholly-owned special purpose subsidiaries.

5. I have been contacted by many unitholders on numerous occasions expressing their frustration with the Trustee including their lack of communication, and that no unitholder - meeting had been called or proposals put forward to unitholders.

Attempts to contact the Trustee

1. On 15 June 2020 KHQ Lawyers wrote on my behalf (see Exhibit JM-1) to the Trustee and Receivers requesting a meeting to discuss a proposal my staff and advisers, including Mr Donald Christie, had drafted but not yet submitted. I attach a copy of the draft proposal at Exhibit JM-2.
2. On 16 June 2020 KHQ Lawyers received separate responses from the Trustee and Receivers, both rejecting the request for a meeting (see Exhibits JM-3a and JM-3b))
3. On 22 June 2020 I appointed Cor Cordis, one of Australia's largest restructuring and insolvency practitioners as voluntary administrators to the Borrower. With their assistance and the assistance of AJ & Co Lawyers in Brisbane, I prepared a draft Deed of Company Arrangement ('DOCA') to put forward to the Court. This DOCA was rejected by Vasco and Dye & Co in Court. I was advised by AJ & Co Lawyers that at least two attempts had been made by Cor Cordis's lawyers to contact the lawyers of the Trustee to discuss the proposal, and that at least one phone call was placed directly with the Trustee. No responses were received as a result of any communication.
4. I am not aware of Vasco or the receivers making any efforts to canvas proposals from other investment managers.
5. AJ & Co wrote to the Trustee on 10 July 2020 seeking why the Trustee had made statements in an "Investor Update" that are false and have the potential to mislead Unitholders in relation to the proposed DOCA (see Exhibit JM-4). No response was received in relation to these statements.
6. On 24 August 2020 I wrote to Mr Dunstan, the Managing Director of the Trustee, to advise that we had drafted a proposal that was "focused on bringing the provisional liquidation of the

IPO Wealth Holdings group to an end and maximising the return for IPO Wealth Fund unitholders via the management and realisation of assets” (see Exhibit JM-5).

7. Mr Dunstan and I spoke the following day for no more than fifteen (15) minutes by video call. During this call Mr Dunstan made it clear that the Trustee was not interested in any proposal that would entail management of the assets by the Mayfair 101 Group unless there was a:
 - a) substantial upfront cash payment; and
 - b) significantly enhanced security position.
8. Mr Dunstan stated that in the absence of these two requirements it would be better to allow the liquidation to proceed.

Unitholder meeting, proposal & resolutions

9. Due to the importance of securing a viable and better commercial outcome for Unitholders than liquidation I decided with the input of staff members and advisers that I would put our proposal directly to Unitholders.
10. I obtained a previously drafted set of resolutions from KHQ Lawyers and consulted with them to finalise the resolutions in a suitable, compliant format.
11. I also obtained assistance from KHQ Lawyers to refine the accompanying Binding Term Sheet which reflected the proposal that was subsequently put to Unitholders.
12. I proceeded to email this proposal (see Exhibit JM-6) to Unitholders on 26 August 2020 and over the course of the following week spoke with numerous unitholders to gauge their interest in the proposed resolutions.
13. Unitholders have had 6 calendar days to review the documentation and seek their own independent advice, which has been encouraged.

Information Sessions

14. To adequately inform Unitholders of the status of the Fund, the proposal and the proposed resolutions, I arranged six one hour information sessions between Thursday 27 August and Monday 31 August via video call to go through a short presentation (see Exhibit JM-7). The sessions had approximately 80 attendees in total. The presentations were delivered in a professional setting and reflected the serious nature of our objective of returning value for unitholders.

15. The topics covered included:

- a) How this situation arose
- b) What is provisional liquidation
- c) What is liquidation
- d) Our proposal
- e) Key assets contributed
- f) Why Vote

16. The sessions included a disclaimer provided in written and spoken format, advising clients that the nature of the information provided included characteristics such as:

- a) general in nature;
- b) not taking into account personal circumstances; and
- c) encouraged the seeking of independent legal and financial advice.

Voting Results

17. As at 11:00pm 1 September 2020 the vote results are as follows (see Exhibit JM-8) -

<i>No</i>	<i>Resolution</i>	<i>Purpose</i>	<i>For</i>	<i>Against</i>	<i>Not voted</i>
1	Constitution Amendment	Empowers unitholders to direct the trustee	110 (70.5%)	7 (4.4%)	66 (25.1%)
2	End provisional liquidation	Trustee to take steps to effect the ending of the Provisional Liquidator's appointments to the Borrower and SPVs	110 (70.5%)	7 (4.4%)	66 (25.1%)

3	Proposal	Proposal put forward to be accepted by the trustee	110 (70.5%)	7 (4.4%)	66 (25.1%)
4	Fee release	Release of accrued Performance Fees to the Investment Manager, less \$250,000	106 (68.4%)	11 (4.4%)	66 (27.3%)
5	Unitholder Capital repayment	Release remaining cash, less \$250,000, to all unitholders	109 (70.4%)	8 (4.5%)	66 (25.1%)
6	Trustee replacement	Retirement of existing trustee	110 (70.5%)	7 (4.4%)	66 (25.1%)

Note: % is based on unit value as is required per the IPO Wealth Fund trust deed.

18. An estimated \$59,572,815 worth of units/votes were counted. Of those Unitholders that voted, approximately 95% were in favour of the proposed resolutions.

Voting constituency

19. All unitholders are wholesale clients within the Corporations Act (Cth) 2001 definition and have \$100,000 or more invested.
20. Those investors with under \$500,000 invested have been required to obtain a certificate from their accountant to demonstrate their compliance with the Corporations Act requirements.
21. Investors over \$500,000 do not require a certificate from their accountant.

Proposal

22. A proposal in the form of a Binding Term Sheet (“**Proposal**”) was provided to all Unitholders (see Exhibit JM-9).
23. The Proposal provided for the acquisition of the loan receivable from the Fund, in exchange for payment of up to A\$77,065,000 over 3 years from the realisation of 15 assets estimated to be valued at \$83.7 million (see Exhibit JM-10).
24. Under the Proposal a General Security Agreement will be granted in favour of the Fund. The substantive transaction documentation will restrict the transfer of any assets.

25. The substantive documentation will be entered into at arms-length with the Trustee, either Vasco or their replacement

26. Assets to be developed and realised include:

- i. 5,000,000 Accloud PLC shares unencumbered and already owned by the Mayfair 101 Group, an asset that is presently capable of being listed on a public stockmarket within 12 months; and
- ii. Okto Holdings Ltd loan facility relating to Isola San Spirito in Venice, a real estate asset capable of being re-financed within 12 months.

27. The new assets holding company (“NewCo”) will hold a board of at least 2 independent directors. These directors are likely to be Unitholders to ensure the Unitholders are adequately represented.

Unitholder letters

28. Due to the Trustee’s decision to bring an application on Monday 31 August 2020 many Unitholders emailed the Supreme Court of Victoria to express their views.

29. Exhibit JM-20 contains a copy of some 32 emails from Unitholders.

SWORN by the said James Mawhinney)
at Melbourne in the State of Victoria on the 2nd)
day of September 2020)
)

Before me:

.....