

NOTICE OF FILING

Details of Filing

Document Lodged:	Submissions
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File Number:	VID536/2024
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v KEYSTONE ASSET MANAGEMENT LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 612 443 008)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

BETWEEN:

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Plaintiff

and

KEYSTONE ASSET MANAGEMENT LTD (ACN 612 443 008) (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION)
First defendant

PAUL ANTHONY CHIDO
Second defendant

**RECEIVERS' AND LIQUIDATORS' REPLY SUBMISSIONS
FOR HEARING ON 15 JUNE 2026**

A INTRODUCTION

- 1 These submissions are made by the Appointees:
 - (a) in response to the submissions dated 16 February 2026 of the liquidators appointed to Falcon (**FS**), as the Court-appointed contradictors (the **Contradictors**); and
 - (b) also address the additional relief sought by the Appointees in their proposed further amended interlocutory process (a copy of which is in Annexure A; leave to file it will be sought at the hearing on 15 June 2026).
- 2 These submissions assume familiarity with and adopt defined terms used in the Appointees' written submissions dated 10 December 2025 and 29 January 2026 (**KS**).
- 3 In addition to the evidence relied upon in support of their earlier submissions, the Appointees rely upon the nineteenth affidavit of Jason Tracy affirmed on 31 May 2026 (**Nineteenth Tracy Affidavit**).

B RESPONSE TO CONTRADICTIONERS' SUBMISSIONS ON INTERIM DISTRIBUTION

- 4 The Contradictors have asserted two bases of opposition to the proposed interim distribution:

- (a) **First**, the Contradictors submit that in circumstances where much of the proposed interim distribution amount will be paid to the BSCL as the majority unitholder in the SMF, the interim distribution will not serve its intended purpose of alleviating hardship to underlying individual investors: FS [60]-[75].
- (b) **Second**, the Contradictors submit that the proposed interim distribution is premature because further investigation is required to determine whether Falcon may have claims against SMF assets, which claims may be prejudiced if the proposed interim distribution is made now: FS [76]-[85].

5 Neither of those arguments ought to stand in the way of the Court granting the interim distribution relief sought by the Appointees in paragraphs 4 and 5 of the interlocutory process.

B.1 Alleviating hardship to underlying investors

6 As identified at KS [12], on 24 September 2025, MIML entered into the EU with ASIC. Under the EU, MIML committed to enter into transactions by which the Macquarie group would acquire the SMF units then held by MIML for the economic benefit of its underlying investors. The transactions contemplated under the EU have now been effected. In consequence, the current beneficial owner of the units in the SMF that were previously held by MIML, for the benefit of underlying investors, is BSCL as custodian for MFL. It is not in dispute that BSCL will beneficially receive the proportion of the proposed interim distribution that is referable to its proportionate unit holding in the SMF, so the hardship considerations referred to at KS [39] do not apply to investors who invested in the SMF via MIML.

7 However, the hardship to individual investors who invested in the SMF via other custodians, namely ESTL, TTCL and HCNL, has not been alleviated as those custodians have not agreed to enter into equivalent EUs: KS [39]-[49]. These investors comprise approximately 31% of the total investment in the SMF. The number of underlying investors who invested via these custodians is summarised in paragraph 105 of the Nineteenth Tracy Affidavit — for context, as at 12 June 2024, via ETSL, there were approximately 2,815 members of its NQ Super and Pension product and 74 members of its Super Simplifier product with interests relating to the SMF.

8 Although the Compensation Scheme of Last Resort (CSLR) has indicated that it is developing a proposal that would potentially offer upfront compensation to underlying investors who obtain a favourable determination from the Australian Financial

Complaints Authority (AFCA), the Appointees remain of the view that the proposed interim distribution is necessary to address the immediate hardship faced by underlying investors for the reasons explained in paragraph 94 of the Nineteenth Tracy Affidavit.

- 9 At FS [10(b)] and [74], the Contradictors suggest that a more limited interim distribution should be paid to ESTL, TTCL and HCNL that excludes BSCL. The Contradictors do not explain how discrimination between these unitholders would be justified. Whilst the Contradictors identify, correctly, that the SMF constitution does not permit Keystone to discriminate between unitholders *intra* class, they submit that a distribution to unitholders excluding BSCL could be given effect to via a judicial direction. That is not correct. Judicial advice must follow established principles of law and equity, not arbitrary measures even if they may appear to be fair and reasonable.¹ In addition to its obligations under the SMF constitution, Keystone (as responsible entity of the SMF) is subject to an obligation under s 601FC(1)(d) of the Corporations Act to “treat the members who hold interests of the same class equally”. This reflects the equitable maxim that ‘equity is equality’. Section 601FN(2), which is the relevant directions power, “does not authorise the court to confer additional powers upon a responsible entity to which third parties would be made subject, or to interfere with the rights which third parties would otherwise enjoy”.²
- 10 The rationale offered by the Contradictors as to the basis for the proposed discrimination against BSCL — by way of the retention by the Appointees of the amount of the proposed interim distribution that would otherwise be payable to BSCL — is that this would “reduce any prejudice that Falcon would otherwise suffer in the event that it is ultimately found - once the relevant investigations have been concluded - that Falcon has a right to claim against the assets of the SMF”: FS [10(b)]. But, as explained in the next section, save in relation to certain limited amounts for which the Appointees intend to retain a provision, the Appointees have not identified any avenue by which Falcon could establish any claim against the assets of the SMF (cf the ADPF) that would justify limiting or further deferring the proposed interim distribution.

¹ *Re Hazelton Air Charter Pty Ltd* [2002] FCA 529; (2002) 41 ACSR 472, [30]; *Re Timbercorp Securities Ltd (in liq) (No 3)* [2009] VSC 510, [80].

² *Re application of Stacks Managed Investments Ltd (as responsible entity of Premium Mortgage Income Fund)* (2005) 219 ALR 532, [52].

B.2 No prejudice to Falcon from proposed interim distribution

- 11 The Contradictors submit at FS [79]-[80] that the proposed interim distribution is premature and has the potential to cause prejudice to Falcon for the following reasons:

In circumstances where Keystone's establishment of the SMF and ADPF coincided with its assumption of its role as trustee of the CDPF and the making of various payments by Falcon to, or seemingly otherwise on behalf of, Keystone as trustee for the CDPF, there is a real prospect that Keystone as trustee for the CDPF - in prima facie breach of trust may have applied the funds so advanced by Falcon towards the acquisition or service of SMF assets, or in payment of SMF expenses (insofar as this occurred outside of the bank accounts held by the SMF analysed by the Appointees in the Keystone Financial Position Report). This requires further investigation.

If further investigation revealed that funds advanced by Falcon were used by Keystone towards the acquisition or service of SMF assets, or in payment of SMF expenses (insofar as this occurred outside of the bank accounts held by the SMF analysed by the Appointees in the Keystone Financial Position Report):

(a) Falcon would have a claim against Keystone ATF the CDPF *and* against Keystone ATF the SMF as a knowing recipient of funds of trust funds paid in breach of trust; and

(b) Keystone could avail itself of its right of indemnity from SMF assets to satisfy that claim (to which Falcon could be subrogated).

- 12 It is common ground that, save with the possible exception of around \$386,904.04 for which the Appointees propose to retain a provision, the funds from Falcon or the CDPF were *not* co-mingled with SMF unitholder funds and used to acquire the Bell Potter Securities: Nineteenth Tracy Affidavit, [33(a)] and FS [8]. Further, the evidence is that the SMF's 100% unitholding in the ADPF was acquired using the funds of underlying investors in the SMF, not with CDPF-derived funds (and therefore not with any Falcon-derived funds).³
- 13 The Appointees have now undertaken an analysis to trace the funds comprising the total sum of \$18.65m paid by Falcon to CF Capital and Keystone (as trustee of the CDPF) pursuant to the Retirement Deed dated 14 April 2021: see FS [32]. The Appointees have also sought to trace the further sum of \$2,629,073.43 that was identified as having been received into CDPF bank accounts after Falcon's retirement as trustee of the CDPF.⁴ The Appointees' tracing analysis is summarised and explained in paragraphs 67 to 70 of the Nineteenth Tracy Affidavit.

³ Nineteenth Tracy Affidavit, [79], [80], [82(c)]; Sixteenth Tracy Affidavit, [129]-[130].

⁴ Nineteenth Tracy Affidavit, [55].

- 14 Whilst the tracing analysis is not exhaustive and is subject to certain limitations,⁵ to date, adopting a conservative analysis, the Appointees have identified only the following amounts as having been received by Keystone (into account x1976 held in its personal capacity (**Keystone Operations Account**)) from CDPF or CDPF-derived funds:⁶
- (a) transfers from CDPF bank accounts totalling \$603,648.03; and
 - (b) a transfer of \$65,000 in CDPF-sourced funds from CF Capital.
- 15 The Appointees intend to retain a provision of \$668,648.03 to meet potential CDPF claims, comprising the total amount of the payments identified in the preceding paragraph.⁷
- 16 Despite extensive inquiries, the Appointees have not otherwise identified receipt by Keystone of any further amounts of CDPF-derived funds that would justify retention of further provisions. It is highly unlikely that any other amounts of CDPF-derived funds have been received by Keystone for the reasons explained in paragraphs 46-47 and 66 of the Nineteenth Tracy Affidavit, namely:
- (a) with respect to the funds paid by Falcon to Keystone under the Retirement Deed, based on the conservative tracing approach adopted by the Appointees, it is expected that the estimate of the traceable amount of CDPF-derived funds received into the Keystone Operations Account will decrease rather than increase as further bank statements and documents are received;⁸ and
 - (b) with respect to any amounts comprising the \$63,847,115.65 book value of the CDPF units as at the date of Falcon's retirement as trustee on 13 April 2021, based on their investigations to date, the Appointees have identified that the nature of the CDPF's investment in the SPVs appears to have been as equity (by way of a beneficial interest in the shares in the SPVs).⁹ By contrast, the ADPF investments in the SPVs was in the form of debt under the SPV Loan Agreements. Based on the Appointees' investigations, they have not identified any payments being made to the ADPF under the SPV Loan Agreements, or otherwise in respect of its interest in the SPV developments. Rather, under the SPV Loan Agreements, principal and interest was not repayable until the developments were complete, and none of the

⁵ See Nineteenth Tracy Affidavit, [65].

⁶ Nineteenth Tracy Affidavit, [67], [68], [671].

⁷ Nineteenth Tracy Affidavit, [74].

⁸ Nineteenth Tracy Affidavit, [66].

⁹ Nineteenth Tracy Affidavit, [37]-[43].

developments were completed (except for the Red Hill development, but no payments were made to either the CDPF or the ADPF following completion of that development).¹⁰ In light of this relationship, the Appointees do not consider that there could not be any basis for the Falcon to have any claim against the ADPF or the SMF for the book value of the CDPF units.

- 17 The Appointees cannot rule out the possibility that Falcon might be able to establish a knowing receipt claim against Keystone *in its capacity as trustee of the ADPF* — for example, if, subject to further investigations, Falcon could establish that the ADPF received a benefit via the direct or indirect receipt by the SPVs of CDPF-derived funds. But that would be a claim against Keystone *in its capacity as trustee of the ADPF*, not in any other capacity.
- 18 It follows that the Appointees have not identified any evidential or legal basis through which Falcon could establish any knowing receipt claim against Keystone *in its capacity as trustee of the SMF*, given that the sole source of funds that the SMF used to acquire the units in the ADPF was SMF investor funds, not any CDPF-derived funds.¹¹ The SMF did not have any beneficial interest in the ADPF’s loans to the SPVs, or in the SPVs themselves, or in their property.¹² Rather, the relevant assets held by the SMF were the units in the ADPF.¹³ In those circumstances, neither the shares in the SPVs nor the assets of the SPVs are assets held in the SMF or traceable into assets held in the SMF, and any receipts by or for the benefit of the SPVs of CDPF-derived funds (including any Falcon-derived funds) were not receipts by the SMF.¹⁴
- 19 The Appointees have informed the Contradictors that no returns from the ADPF developments will be distributed by the ADPF to the SMF until any priority disputes as between the ADPF and the CDPF are resolved. Accordingly, the proposed interim distribution — which will be made from SMF assets (i.e. the proceeds of the Bell Potter Securities) and *not* ADPF assets — will not affect or prejudice the rights of Falcon to seek to establish a claim to the assets of the ADPF.¹⁵
- 20 For these reasons, and in light of the further provision that the Appointees intend to retain to reflect outflows from the Keystone Operations Account in the periods where the

¹⁰ Nineteenth Tracy Affidavit, [46]-[47].

¹¹ Sixteenth Tracy Affidavit, [129]-[130].

¹² Nineteenth Tracy Affidavit, [82(a)].

¹³ Nineteenth Tracy Affidavit, [82(a)].

¹⁴ Nineteenth Tracy Affidavit, [82(b)].

¹⁵ Nineteenth Tracy Affidavit, [82(d)].

account may have contained CDPF-sourced funds, the Appointees submit that the Court ought to accept that the proposed interim distribution will not, and cannot, cause any prejudice to Falcon and should not be further delayed.

C RELIEF SOUGHT IN FURTHER AMENDED IP WITH RESPECT TO TAX OBLIGATIONS

21 Since the Sixteenth Tracy Affidavit was filed, the Appointees have concluded their consideration of the tax position relevant to the proposed interim distribution, as summarised in paragraph 14 of the Nineteenth Tracy Affidavit.

22 In short, in the Appointees' considered view, the SMF remains eligible to be treated as an "Attribution Managed Investment Trust" (**AMIT**), for tax purposes, for FYs 2024 and 2025. Accordingly, if the Court grants the relief sought with respect to the proposed interim distribution, the Appointees intend to cause Keystone to issue "AMIT Member Annual statements" (**AMMA Statements**) attributing all SMF income to its members,¹⁶ with the consequence that there should be no need to retain a provision from the interim distribution to meet taxation liabilities (as the unit holders, rather than the SMF, will be the relevant taxpayer).

23 Clause 13.29 of the SMF Constitution includes the following obligation with respect to the periodic issuance of AMMA Statements:

The AMMA Statement must be given to each Unitholder of the Trust no later than three months after the end of the Financial Year to which the AMMA Statement relates.

24 By paragraph 9 of the draft further amended interlocutory process, the Appointees seek an order under s 85 of the *Trustee Act 1925* (NSW) (**Trustee Act**)¹⁷ relieving Keystone from any liability for breach of clause 13.29 by the late issuance of the AMMA Statements for FYs 2024 and 2025.

25 Section 85 of the Trustee Act relevantly provides as follows:

- (1) Where a trustee is or may be personally liable for any breach of trust, the Court may relieve the trustee either wholly or partly from personal liability for the breach.
- (2) The relief may not be given unless it appears to the Court that the trustee has acted honestly and reasonably, and ought fairly to be excused for the

¹⁶ Nineteenth Tracy Affidavit, [15].

¹⁷ Which applies to a responsible entity of a managed investment scheme: see *Re Investa Properties Ltd* (2001) 187 ALR 462, [40].

breach of trust and for omitting to obtain the direction of the Court in the matter in which the trustee committed the breach.

26 The Appointees submit that it is appropriate for the Court to make an order relieving them from liability for breach, for the following reasons:¹⁸

- (a) the Appointees' decision that the SMF should issue AMMA Statements before making the proposed interim distribution arises from their desire to confirm the amount of the SMF's tax liabilities and to minimise the amount that they need to retain when making the interim distribution for the benefit of the SMF's unitholders and underlying investors;
- (b) following the Receivers' appointment by the Court on 28 August 2024, they took control of Keystone's funds which had been significantly mismanaged and were required to deal with an array of issues in investigating Keystone's affairs and seeking to recover property for the SMF's unitholders and underlying investors. In these circumstances, the Receivers acted reasonably in prioritising other matters over Keystone's tax affairs until it became necessary for the interim distribution;
- (c) the late issuing of AMMA Statements would cause an administrative task for the members of the SMF eligible to share in the interim distribution, as they would be required to amend their previous year tax returns to account for the additional income attributed to them in the AMMA Statements. Whilst the Appointees could avoid this by instead issuing AMMA Statements with nil income attributed to its members, making Keystone as trustee instead liable for tax on the income, this would reduce the overall proceeds received by the members of the SMF, because Keystone, as trustee, is taxed at the highest marginal rate, and cannot access the tax concessions that members can, primarily the CGT discount. Consequently, attributing income to unitholders is likely to reduce the overall level of taxation on income in the eligible classes of unitholders;
- (d) although there is the administrative burden of updating previous year tax returns, there is no significant prejudice from the late issue of AMMA Statements where:
 - (i) for the qualifying classes, which will have income in FYs 2024 and 2025, the Appointees understand that any amendments to tax lodgings for those years required by the attribution of additional income to unitholders will be handled by the institutional unitholders (that is, BSCL/MFL, ETSL, TTCL and

¹⁸ Nineteenth Tracy Affidavit, [101].

HCNL/Praemium) rather than by underlying investors, and are seeking confirmation of this from the institutional unitholders;

- (ii) for the ADPC class of the SMF, where the units are directly held by individuals or SMSFs, there is no income in FYs 2024 and 2025. Consequently, the issuing of AMMA Statements for these units will not require any amendments to the tax lodgings of unitholders in this class;
- (e) the release of Keystone from any liability for the late issue of AMMA Statements will relieve the Appointees from considering whether there is any liability resulting from breaching clause 13.29 for which they should retain when making the proposed interim distribution.

27 The Appointees intend to give notice to the institutional unitholders and underlying investors of their intention to seek this relief in advance of the hearing on 15 June 2026, and will provide an update to the Court before the hearing as to whether any objections have been received.

D CONFIDENTIALITY

28 The Appointees seek confidentiality orders with respect to Confidential Exhibit JM-24 to the Nineteenth Tracy Affidavit, which contains confidential communications exchanged between the CSLR, AFCA and the Appointees' solicitors. The Appointees seek confidentiality orders under s 37AF(1) of the FCA Act on the ground in s 37AG(1)(a) that they are necessary to prevent prejudice to the proper administration of justice because the relevant correspondence includes the CSLR's and AFCA's preliminary views on the treatment of underlying investors' claims (if successful), and potential compensation mechanisms, which are yet to be resolved or finalised.

E CONCLUSION

29 For the reasons addressed in these submissions, in addition to those advanced in the Appointees' earlier submissions, the Appointees submit that the proposed interim distribution is appropriate and justified, and that relief should be granted in the form sought in paragraphs 4 and 5 of the interlocutory process.

30 The Appointees' updated position — as explained in Section G of the Nineteenth Tracy Affidavit — with respect to the amounts that should be retained from the proceeds of the Bell Potter Securities and withheld from the interim distribution is summarised in Annexure B to these submissions.

- 31 It is appropriate also to grant the relief sought in paragraphs 7 and 8 (confidentiality) and paragraph 9 (relief from liability) of the draft further amended interlocutory process.
- 32 A form of proposed orders is in Annexure C to these submissions.

Date: 31 May 2026

O Bigos
L Freckelton
Norton Rose Fulbright Australia
Solicitors for the Receivers and Liquidators

Annexure A – further amended interlocutory process

Form 3
Rule 2.2, 15A.4, 15A.8 and 15A.9

Further amended interlocutory process

No VID 536 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

KEYSTONE ASSET MANAGEMENT LTD (ACN 612 443 008) (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) and another named in the schedule

Defendants

A. DETAILS OF APPLICATION

This application is made by the First Defendant, Keystone Asset Management Ltd ACN 612 443 008 (receivers and managers appointed) (in liquidation) (**Keystone**) in its capacity as the responsible entity of the Shield Master Fund ARSN 650 112 057 (**Fund**), and Jason Tracy and Glen Kanevsky in their capacity as both joint and several receivers of the property of Keystone (**Receivers**) and joint and several liquidators of Keystone (**Liquidators**).

The application is made under section 601NF(2) of the *Corporations Act 2001* (Cth) (**Corporations Act**), section 90-15 of the *Insolvency Practice Schedule (Corporations)* (IPSC) (being schedule 2 to the Corporations Act), sections 63 and 85 of the *Trustee Act 1925* (NSW) (**Trustee Act**), sections 19, 23 and 57 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**), and rule 14.23 of the *Federal Court Rules 2011* (Cth) (**Federal Court Rules**), and the implied jurisdiction of the Court.

On the facts stated in the supporting affidavit(s), the applicants apply for the following relief:

Realisation and sale of Bell Potter Securities

- 1 An order, pursuant to sections 23 and 57 of the Federal Court Act, and rule 14.23 of the Federal Court Rules, that the Receivers have leave under paragraph 6 of the orders made on 27 August 2024 to realise and sell, and to cause Keystone to realise and sell, the listed equities owned by Keystone as responsible entity of the SMF with Bell Potter Securities Limited which comprise certain scheme property of the Fund (**Bell Potter Securities**).
- 2 A direction and judicial advice, pursuant to section 601NF(2) of the Corporations Act and section 63 of the Trustee Act, that Keystone is justified and is acting reasonably and properly in realising and selling ~~up to 75% of the Bell Potter Securities attributable to each class of the Fund~~, in such manner as the Receivers consider appropriate, at their quoted price based on the current market conditions at the time of realisation and sale and placing the proceeds in interest-bearing accounts.
- 3 A direction and judicial advice, pursuant to sections 19 and 23 of the Federal Court Act, rule 14.23 of the Federal Court Rules, and section 90-15 of the IPSC, that the Receivers and Liquidators are justified and are acting reasonably and properly in realising and selling, and causing Keystone to realise and sell, ~~up to 75% of the Bell Potter Securities attributable to each class of the Fund~~, in such manner as the Receivers consider appropriate, at their quoted price based on the current market conditions at the time of realisation and sale and placing the proceeds in interest-bearing accounts.

Interim Distribution of proceeds of Bell Potter Securities to Fund unitholders

- 4 A direction and judicial advice, pursuant to section 601NF(2) of the Corporations Act and section 63 of the Trustee Act, that Keystone is justified and is acting reasonably and properly in:

- (a) making an interim distribution of up to 75% of the proceeds of realisation and sale of the Bell Potter Securities attributable to each class of the Fund (Interim Distribution), to the members of the Fund (**Unitholders**), without paying Expenses (as defined in the Fund's Constitution) before making the Interim Distribution; and
- (b) applying so much of the Interim Distribution which comprises the proceeds of realisation and sale of Bell Potter Securities attributable to a class of the Fund, among the Unitholders of that class, in proportion to the number of units in that class:
 - (i) where the Unitholders are shown as the registered holder in the register of unitholders described at paragraph 31 of the affidavit of Jason Mark Tracy affirmed on 7 November 2025 (**Twelfth Tracy Affidavit**), except where the register records persons who the Liquidators and Receivers are satisfied no longer hold units in the fund; or
 - (ii) the Liquidators and Receivers are otherwise satisfied that the Unitholder holds units in that class.

5 A direction and judicial advice, pursuant to sections 19 and 23 of the Federal Court Act, rule 14.23 of the Federal Court Rules, and section 90-15 of the IPSC, that the Receivers and Liquidators are justified and are acting reasonably and properly in causing Keystone to make the Interim Distribution in accordance with paragraph 4 above.

Notice to creditors and Minority Custodian Unit Holders and confidentiality

6 A direction and judicial advice, pursuant to sections 19 and 23 of the Federal Court Act, rule 14.23 of the Federal Court Rules, and section 90-15 of the IPSC, that the Receivers and Liquidators are justified and are acting reasonably and properly in notifying creditors of Keystone and Unitholders in the Fund other than those listed in part D below (**Minority Custodian Unitholders**) of this application by the following means of notification, which will include guidance as to how to obtain

copies of this interlocutory process and any supporting affidavits other than confidential affidavits and exhibits:

- (a) where the Receivers and Liquidators have an email address for a creditor or Minority Custodian Unitholder, notifying each such creditor or unitholder, by email;
- (b) where the Receivers and Liquidators do not have an email address for a creditor or Minority Custodian Unitholder but have a postal address for that creditor or unitholder (or have received notification of non-delivery of a notice sent by email in accordance with (a) above), by post; and
- (c) where the Receivers and Liquidators do not have an email or postal address for a creditor or Minority Custodian Unitholder, by publishing a notice on the website maintained by the Receivers and Liquidators at https://www.alvarezandmarsal.com/am_aus_insolvency/keystone-asset-management-ltd.

7 Pursuant to section 37AF, alternatively section 37AI, of the Federal Court Act, an order that the exhibit “Confidential JMT-15” to the Twelfth Tracy Affidavit, and certain identified parts of the Twelfth Tracy Affidavit, and exhibit “Confidential JMT-24” to the nineteenth affidavit of Jason Mark Tracy affirmed on 31 May 2026, be kept “confidential”, placed in a sealed envelope on the Court file, and not to be published or accessed except pursuant to an order of the Court.

8 An order that the Receivers and Liquidators are not required to serve the exhibit “Confidential JMT-15” to the Twelfth Tracy Affidavit, and certain parts of the Twelfth Tracy Affidavit identified as confidential, and exhibit “Confidential JMT-24” to the nineteenth affidavit of Jason Mark Tracy affirmed on 31 May 2026, on the second defendant.

Relief from liability of Keystone for late issue of AMMA Statements

9 Pursuant to section 85 of the Trustee Act, Keystone be relieved from any liability for breach of clause 13.29 of the SMF constitution for issuing “AMMA Statements” to unitholders in the SMF for the financial years ended 30 June 2024

and 30 June 2025 after the period of three months from the end of each of those financial years as provided for in clause 13.29 of the SMF constitution.

General

10 An order that the applicants' costs of this application be costs in the winding up of the Fund.

11 Such further or other orders as the Court considers appropriate.

Date: ~~8 December 2025~~ ~~7 November 2025~~ 31 May 2026

Norton Rose Fulbright Australia
Solicitors for the applicants
Signed by Natasha Toholka, Partner

This application will be heard by the Federal Court of Australia at Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne, Victoria at on

B. NOTICE TO RESPONDENT(S) (IF ANY)

N/A

C. FILING

This interlocutory process is filed by Norton Rose Fulbright Australia for the applicants.

D. SERVICE

The applicants' address for service is:

c/- Norton Rose Fulbright Australia, Level 38, Olderfleet, 477 Collins Street,
Melbourne, VIC 3000

Email: natasha.toholka@nortonrosefulbright.com &
kim.mackay@nortonrosefulbright.com

It is intended to serve a copy of this interlocutory process on any person listed below:

Bond Street Custodians Limited

c/- Allens, Level 37, 101 Collins Street, Melbourne VIC 3000

Equity Trustees Superannuation Limited

c/- Quinn Emanuel Urquhart & Sullivan Level 15, 111 Elizabeth Street, Sydney
NSW 2000

The plaintiff, Australian Securities and Investments Commission

c/- HWL Ebsworth, Level 8, 477 Collins Street, Melbourne VIC 3000

The second defendant, Paul Anthony Chiodo

c/- Velocity Legal, Level 43, 80 Collins Street (North Tower), Melbourne VIC
3000

**Falcon Capital Limited (in liquidation) ACN 119 204 554 as responsible entity
of the First Guardian Master Fund ARSN 635 429 113**

~~e/- King & Wood Mallesons, Level 27, Collins Arch, Melbourne VIC 3000.~~

c/- Mills Oakley, Level 6, 530 Collins St, Melbourne VIC 3000

It is also intended to publish a copy of this interlocutory process on the website of Alvarez & Marsal Australia, and to send members of the Fund an email notifying them of this application and informing them of how to obtain the Court documents should they wish to do so.

Schedule

No VID 536 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Second Defendant:

PAUL ANTHONY CHIDO

Annexure B – amounts to be retained and withheld from Interim Distribution

Description of retention amount	Amount	Affidavit reference explaining basis for retention amount
Invoiced NRFA fees and disbursements	\$210,035.61	Sixteenth Affidavit, [67] Nineteenth Affidavit, [98]
Forecast custodian fees	\$440,000.00	Sixteenth Affidavit, [68] – [69] Nineteenth Affidavit, [98]
Forecast NRFA fees and disbursements	\$14,354,473.76	Sixteenth Affidavit, [70] – [73] Nineteenth Affidavit, [98]
Forecast receivership and liquidation remuneration and expenses	\$12,904,948.60	Sixteenth Affidavit, [70] – [73] Nineteenth Affidavit, [98]
Adverse costs exposure in Filippini Proceeding	\$16,500,000.00	Sixteenth Affidavit, [77] – [78] Nineteenth Affidavit, [98]
Cross-undertaking exposure arising from freezing orders obtained in Filippini Proceeding	\$Nil	Sixteenth Affidavit, [79] – [93] Nineteenth Affidavit, [26] – [27], [98]
Adverse costs exposure in Frolov Proceeding	\$3,000,000.00	Sixteenth Affidavit, [77] – [78] Nineteenth Affidavit, [98]
Potential responsible entity management fees	\$11,911,938.19	Sixteenth Affidavit, [94] – [114] Nineteenth Affidavit, [98]
Contradictor costs	\$428,183.36	Sixteenth Affidavit, [16] – [21] Nineteenth Affidavit, [98]
Creditor claims	\$21,364,588.94	Sixteenth Affidavit, [120] – [123] Nineteenth Affidavit, [97](e), [98]
Contingency	\$8,000,000.00	Sixteenth Affidavit, [138] Nineteenth Affidavit, [84], [98]
Total reserved claims	\$89,114,168.45	Sixteenth Affidavit, [62] Nineteenth Affidavit, [98]
Qualifying Class cash at bank (including Bell Potter Proceeds)	\$194,125,744.41	Sixteenth Affidavit, [62] Nineteenth Affidavit, [98]

Proposed Interim Distribution amount	Up to \$105,011,575.96	Sixteenth Affidavit, [62] Nineteenth Affidavit, [98]
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Annexure C – proposed orders

No VID536 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

KEYSTONE ASSET MANAGEMENT LTD (ACN 612 443 008) (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) and another named in the schedule

Defendants

MINUTE OF PROPOSED ORDERS

JUDGE: JUSTICE MOSHINSKY

DATE OF ORDER: June 2026

WHERE MADE: MELBOURNE

OTHER MATTERS:

- 1 These orders address and determine the application made:
 - (a) by paragraphs 4 and 5 of the amended interlocutory process dated 8 December 2025; and
 - (b) by paragraphs 7 to 9 of the draft further amended interlocutory process dated 29 May 2026, of the First Defendant, Keystone Asset Management Ltd ACN 612 443 008 (receivers and managers appointed) (in liquidation) (**Keystone**) in its capacity as the responsible entity of the Shield Master Fund ARSN 650 112 057 (**Fund**), and Jason Tracy and Glen Kanevsky in their capacity as both joint and several receivers of the property of Keystone

in all its capacities (**Receivers**) and joint and several liquidators of Keystone (**Liquidators**).

- 2 By paragraphs 3 and 4 of the orders made on 11 December 2025, the Court:
- (a) appointed Mr Ross Blakeley and Mr Paul Harlond in their capacity as joint and several liquidators of Falcon Capital Limited (ACN 119 204 554) (in liquidation) as **contradictors** to paragraphs 4 and 5 of the amended interlocutory process; and
 - (b) ordered that the contradictors be indemnified for their reasonably incurred remuneration and costs (including legal costs) of and incidental to their appointment as contradictors out of the assets held by Keystone in its capacity as responsible entity of the Fund.

THE COURT ORDERS THAT:

- 1 The applicants have leave to file their proposed further amended interlocutory process dated 31 May 2026.
- 2 Pursuant to section 601NF(2) of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 63 of the *Trustee Act 1925* (NSW) (**Trustee Act**), Keystone is justified and is acting reasonably and properly in:
- (a) making an interim distribution of up to 75% of the proceeds of realisation and sale of the listed equities that were owned by Keystone as responsible entity of the SMF with Bell Potter Securities Limited attributable to each class of the Fund (**Interim Distribution**), to the members of the Fund (**Unitholders**), without paying Expenses (as defined in the Fund's Constitution) before making the Interim Distribution; and
 - (b) applying so much of the Interim Distribution which comprises the proceeds of realisation and sale of the Bell Potter Securities attributable to a class of the Fund, among the Unitholders of that class, in proportion to the number of units in that class:

- (i) where the Unitholders are shown as the registered holder in the register of unitholders described at paragraph 31 of the affidavit of Jason Mark Tracy affirmed on 7 November 2025 (**Twelfth Tracy Affidavit**), except where the register records persons who the Liquidators and Receivers are satisfied no longer hold units in the fund; or
- (ii) the Liquidators and Receivers are otherwise satisfied that the Unitholder holds units in that class.

- 3 Pursuant to sections 19 and 23 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**), rule 14.23 of the *Federal Court Rules 2011* (Cth), and section 90-15 of the *Insolvency Practice Schedule (Corporations)* (being schedule 2 to the Corporations Act), the Receivers and Liquidators are justified and are acting reasonably and properly in causing Keystone to make the Interim Distribution in accordance with paragraph 2 above.
- 4 Pursuant to section 85 of the Trustee Act, Keystone is relieved from any liability for breach of clause 13.29 of the Fund constitution for issuing “AMMA Statements” to unitholders in the Fund for the financial years ended 30 June 2024 and 30 June 2025 after the period of three months from the end of each of those financial years as provided for in clause 13.29 of the Fund constitution.
- 5 Pursuant to section 37AF of the Federal Court Act, exhibit "Confidential JMT-24" to the nineteenth affidavit of Jason Mark Tracy affirmed on 31 May 2026, be kept "confidential", placed in a sealed envelope on the Court file, and is not to be published or accessed except pursuant to an order of the Court.
- 6 The Receivers and Liquidators are not required to serve exhibit "Confidential JMT-24" to the nineteenth affidavit of Jason Mark Tracy affirmed on 31 May 2026 on the second defendant.
- 7 The applicants’ costs of and incidental to this application are costs in the winding up of the Fund.

Date: June 2026

Schedule

No VID 536 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Second Defendant:

PAUL ANTHONY CHIDO