



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID820/2017

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

REALESTATE EQUITY INVESTMENT TRUST (ARSN 094 623 515) and another
named in the schedule

Defendant

ORDER

JUDGE: JUSTICE MURPHY

DATE OF ORDER: 19 March 2018

WHERE MADE: Melbourne

OTHER MATTERS:

1. By email to the Court dated 19 March 2018, ASIC has confirmed to the Court that: (a) it does not intend to appear at the case management hearing on 20 March 2018; and (b) it consents to the orders proposed herein.
2. The Court considered the "Report to the Court by Nicholas John Martin and Andrew Thomas Sallway of BDO Australia" dated 9 March 2018 that was filed pursuant to the 19 December 2017 Orders.


THE COURT ORDERS AND DIRECTS THAT:

1. Nicholas John Martin and Andrew Thomas Sallway, in their capacities as receivers (the **Receivers**) of the property of Realestate Equity Investment Trust (ARSN 094 623 515) (**REIT**), take all reasonable steps to sell the land at 490 Flinders Avenue, Lara, Victoria (Certificate of Title Volume 9660 Folio 387) (the **Land**).
2. The Receivers have all powers necessary to apply the funds in Commonwealth Bank Accounts 063 158 1037 4836 and 063 158 1037 4828 in the name of Timeline Project Management Pty Ltd, for the sole purpose of paying:
 - (a) out of pocket expenses, marketing expenses, insurance coverage and real estate agent's fees (excluding commissions) and other like expenses incurred in the sale of the Land; and



- (b) conduct money and other reasonable costs incurred by any parties subpoenaed in this proceeding.
3. Until further ordered, the Receivers of REIT are released from any obligation to further investigate the matters the subject of Orders 6 and 7 of the 19 December 2017 Orders, except for the following matters:
 - (a) the status of the Musharakah Agreement (NMJ-23 to the Affidavit of Naomi Johnston sworn 25 July 2017); and
 - (b) such further matters that the Receivers consider are reasonable and necessary to protect the claims of the investors of REIT.
4. Until further ordered, the Liquidators of Timeline Project Management Pty Ltd are released from any obligation to further investigate the matters the subject of Orders 6 and 7 of the 19 December 2017 Orders.
5. Leave is granted to the Receivers to issue a subpoena on Equitable Financial Solutions Pty Ltd (ACN 151 172 039) in substantially the form annexed hereto.
6. By 4.00 pm on 15 June 2018, the Receivers are to file and serve on the Plaintiff a report in respect of the matters in Orders 1, 2 and 3 above.
7. There be liberty to apply by the Plaintiff and the Receivers.
8. The proceeding be listed for a case management hearing on 6 July 2018 at 9.30 am.

Date that entry is stamped: 19 March 2018


Registrar



Schedule

No: VID820/2017

Federal Court of Australia
District Registry: Victoria
Division: General

Second Defendant: TIMELINE PROJECT MANAGEMENT PTY LTD (ACN 145
830 851)



Annexure

Form 43B
Rule 24.13(1)(b)

Subpoena to produce documents

No. 820 of 2017

Federal Court of Australia
District Registry: Victoria
Division: Corporations

**IN THE MATTER OF REALESTATE EQUITY INVESTMENT TRUST (ARSN 094 623 515)
AND TIMELINE PROJECT MANAGEMENT PTY LTD (ACN 145 830 851)**

Australian Securities and Investments Commission
Plaintiff

and

Realestate Equity Investment Trust (ARSN 094 623 515) and another named in the Schedule
Defendants

To: The Director
Equitable Financial Solutions ACN 151 172 039
Level 23, 52 Martin Place
Sydney, NSW, 2000

You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is [date]. (See Note 1)

Filed on behalf of (name & role of party) The First and Second Defendants
Prepared by (name of person/lawyer) Steven Palmer
Law firm (if applicable) Norton Rose Fulbright Australia
Tel +61 3 8686 6000 Fax +61 3 8686 6505
Email steven.palmer@nortonrosefulbright.com Ref 2857525
Address for service Level 15, RACV Tower, 485 Bourke Street, Melbourne, VIC 3000 Email: steven.palmer@nortonrosefulbright.com
(include state and postcode)

APAC-#85031954-v2

[Version 3 form approved 3/09/2014]



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Date:

Signed by an officer acting with the authority
of the District Registrar

Issued at the request of the First and Second Defendants, whose address for service is:

Place: c/- Norton Rose Fulbright Australia, Level 15, RACV Tower, 485 Bourke Street,
Melbourne, VIC 3000

Email: steven.palmer@nortonrosefulbright.com

APAC-#65031854-v2



Details of subpoena

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5–9)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Federal Court of Australia
Victoria District Registry
Commonwealth Law Courts
305 William Street
Melbourne, VIC, 3000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
Federal Court of Australia
Victoria District Registry
Commonwealth Law Courts
305 William Street
Melbourne, VIC, 3000



Schedule of documents

The documents and things you must produce are as follows:

Any bank statements, financial records or correspondence relating to any payments made (or received) by Equitable Financial Solutions Pty Ltd (EFSOL) pursuant to the Musharakah Agreement dated 16 May 2016 between (among others) EFSOL and Lotus Securities Pty Ltd or in relation to the discharge of any mortgage over the land at 490 Flinders Avenue, Lara (Volume 9660 Folio 387).



Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
 - (a) at the address specified in the subpoena for the purpose; or
 - (b) if more than one address is specified - at any of those addresses;so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.



Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

- 9A. The copy of a document may be:

- (a) a photocopy; or
(b) in an electronic form in any of the following electronic formats:

.doc and .docx – Microsoft Word documents
.pdf – Adobe Acrobat documents
.xls and .xlsx – Microsoft Excel spreadsheets
.jpg – image files
.rtf – rich text format
.gif – graphics interchange format
.tif – tagged image format

Applications in relation to subpoena

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
(b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court - arrest

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.



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Schedule

No. 820 of 2017

Federal Court of Australia
District Registry: Victoria
Division: Corporations

Realestate Equity Investment Trust (ARSN 094 623 515)
First Defendant

and

Timeline Project Management Pty Ltd (ACN 145 830 851)
Second Defendant

APAC-#65031954-v2