



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID536/2024

AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION

Plaintiff

KEYSTONE ASSET MANAGEMENT LTD ACN 612 443 008 and another named in the
schedule

Defendant

ORDER

JUDGE: JUSTICE O'CALLAGHAN

DATE OF ORDER: 26 June 2024

WHERE MADE: Melbourne

PENAL NOTICE

TO: KEYSTONE ASSET MANAGEMENT LTD ACN 612 443 008

IF YOU (BEING THE PERSON BOUND BY THIS ORDER):

(A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR

(B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,

YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.



UNDERTAKING:

Jason Tracy and Lucica Palaghia of Deloitte Financial Advisory Pty Ltd (**Deloitte**) undertake to the Court (**Annexure A**) that they will, until further order of the Court:

- (a) verify whether any payments and other transactions proposed to be entered into by the First Defendant constitute Permitted Transactions (as defined in paragraph 3 below) by way of the following process:
 - (i) Simon Milne of CF Capital Investments Pty Ltd (**CF Capital**) to issue proposed payment approvals (**PPAs**) to Deloitte in respect of all proposed transactions;
 - (ii) Deloitte to issue a response to the PPAs either verifying those purchase orders as Permitted Transactions or rejecting those PPAs;
- (b) provide a weekly report to the Plaintiff each Friday listing all Permitted Transactions entered into by the First Defendant during that week and identifying any rejected transactions;
- (c) prepare the report on the financial position of the Shield Master Fund and the Advantage Diversified Property Fund referred to in paragraph 6 below; and
- (d) notify the Plaintiff forthwith if Deloitte becomes aware of any non-compliance with these Orders.

UPON RECEIPT OF THE UNDERTAKING, THE COURT ORDERS BY CONSENT OF THE PLAINTIFF AND FIRST DEFENDANT THAT:

1. Pursuant to sections 1323(1)(h) and (3) of the *Corporations Act 2001* (Cth) and section 23 of the *Federal Court of Australia Act 1976* (Cth) and the Court's inherent jurisdiction, Jason Tracy and Lucica Palaghia of Deloitte be appointed, jointly and severally without giving security, to have full control of any bank account held in the name of the First Defendant, the Shield Master Fund, or beneficially held by either, until further order.



2. Save as provided for by paragraph 3, the First Defendant, by itself, its agents or employees, including the Second Defendant in his capacity as agent of the First Defendant, is restrained until further order from:
 - (a) removing, or causing or permitting to be removed from Australia all real or personal property, assets or interests in property of any kind, within or outside Australia, comprising, further to 1323(2A) of the Corporations Act, the Shield Master Fund (ARSN 650 112 057), the Advantage Diversified Property Fund and the Quantum PE Fund (**the Property**);
 - (b) selling, charging, mortgaging, encumbering or otherwise dealing with, disposing of and/or diminishing the value of all or any of the Property;
 - (c) causing or permitting to be sold, charged, mortgaged, encumbered or otherwise dealt with, disposed of, or diminished in value, all or any of the Property;
 - (d) without limiting the terms of sub-paragraphs (a) to (c) above, incurring new liabilities including, without limitation, liabilities incurred either directly or indirectly, through the use of a credit card, a credit facility, a drawdown facility or a re-draw facility; and
 - (e) without limiting the terms of sub-paragraphs (a) to (d) above, withdrawing, transferring or otherwise disposing of or dealing with, any monies available in any account with any bank, building society or other financial institution (in Australia and elsewhere), in which the First Defendant has any legal or equitable interest.

3. The First Defendant is permitted to enter into the following transactions as validated by Deloitte in accordance with paragraph (a) of the Undertaking above (**Permitted Transactions**):
 - (a) paying or otherwise incurring a liability for legal costs or disbursements reasonably incurred in these proceedings and any criminal proceedings arising from the Plaintiff's investigation into the affairs of the First Defendant (save that any bank, building society or



financial institution may exercise any right of setoff which it may have in respect of a facility afforded by the First Defendant prior to the date of these orders without the need for verification by Deloitte);

- (b) all trustee fees and other amounts payable by the First Defendant from the Property in its capacity as responsible entity and trustee, but only to the extent that, in the opinion of Deloitte, the payment is in the best interests of Shield Master Fund unit holders and underlying investors, including, without limitation, in respect of the following matters:
 - (i) valuer and auditor fees;
 - (ii) legal and professional fees and costs including in respect of the Plaintiff's investigation, the Governance Review Plan and these orders;
 - (iii) investment management fees to CF Capital (including for payment to CF Capital employees);
 - (iv) any applicable insurance premiums, taxes, AFSL fees, ASIC fees and any other regulatory fees or charges;
 - (v) office rent and associated utilities and any other day to day costs of the Shield Master Fund or Advantage Diversified Property Fund; and
 - (vi) third party service providers in connection with the ongoing operation of the Keystone Funds.

- (c) Advantage Diversified Property Fund draw downs under loans for construction, mortgage and senior finance payments, development management fees and other project related costs and expenses, but only to the extent that, in the opinion of Deloitte, the draw down is in the best interests of Shield Master Fund unit holders and underlying investors, for the following projects:
 - (i) 21-23 Norwood Crescent, Moonee Ponds VIC (Norwood Ponds (Land) Pty Ltd (ACN 617 075 411));



- (ii) 33 & 35 Nicholson Street, Bentleigh 3204 VIC (Nicholson Street Bentleigh Pty Ltd (ACN 623 115 926));
 - (iii) 348-350 Warrigal Road, Ashburton 3147 VIC (Warrigal Road Ashburton Pty Ltd (ACN 621 641 165));
 - (iv) 141-145 Augustine Terrace, Glenroy 3046 VIC (Augustine Terrace Glenroy Pty Ltd (ACN 626 000 477));
 - (v) 33 Davidson Street, Port Douglas 4877 QLD (33 Davidson Street Pty Ltd (ACN 615 764 568));
 - (vi) 417 Bellmere Road, Bellmere QLD 4510 (417 Bellmere Road Pty Ltd (ACN 667 543 651));
 - (vii) the Fairmont Port Douglas project, located at 71 to 85 Port Douglas Road, Port Douglas QLD 4877;
 - (viii) the Ritz Carlton Numuka Bay, Fiji project, located at TLTB Ref: No: 4/11/39403, TLTB Ref: No: 4/11/50037898, TLTB Ref: No: 4/11/41543 (Fiji); and
 - (ix) 'La Sessola' JW Marriott, Venice; and payment to CF Capital employees);
- (d) redemptions from Shield Master Fund to the extent otherwise permitted by law.
4. Deloitte shall be entitled to reasonable remuneration and reasonable costs and expenses properly incurred in the performance of their duties pursuant to these orders as may be fixed by the Court on the application of Deloitte, such sum to be calculated on the basis of the time reasonably spent by Deloitte, their partners and staff, at the rates specified in the Consent to Act at **Annexure B** to these orders, such fees to be paid out of the Property.
5. Deloitte shall be entitled to be indemnified out of the Property for any liability properly incurred in performing its duties and discharging its functions pursuant to these Orders.



6. The First Defendant will provide to the Plaintiff by 23 July 2024 a report prepared by Jason Tracy and Lucica Palaghia of Deloitte on the financial position of the Shield Master Fund and the Advantage Diversified Property Fund.
7. Orders 8-10 of the orders of O'Callaghan J made on 18 June 2024 cease to have effect forthwith.
8. The further hearing of the Originating Process be adjourned until not before 6 August 2024.
9. Costs reserved.
10. Each party, Deloitte and any other person who is affected by these Orders to have liberty to apply in relation to any matter arising in connection with these Orders upon giving reasonable notice to the parties and Deloitte.

Date orders authenticated: 26 June 2024


Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



ANNEXURE A



No VID 536 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Securities and Exchange Commission

Plaintiff

Keystone Asset Management Ltd (ACN 612 443 008) and another

Defendants

Undertaking

We, Jason Mark Tracy, of Deloitte Financial Advisory Pty Ltd, Quay Quarter Tower, 50 Bridge Street, Sydney NSW 2000 and Lucica Palaghia of Deloitte Financial Advisory Pty Ltd, 477 Collins St, Melbourne, Victoria, undertake to the Court that we will, until further order of the Court:

- (a) verify whether any payments and other transactions proposed to be entered into by the First Defendant constitute Permitted Transactions (as defined in the orders of the Court made in Proceeding VID 536 of 2024 on 26 June 2024 (**Orders**)) by way of the following process:
 - (i) Simon Milne of CF Capital Investments Pty Ltd (CF Capital) to issue proposed payment approvals (**PPAs**) to Deloitte in respect of all proposed transactions;
 - (ii) Deloitte to issue a response to the PPAs either verifying those purchase orders as Permitted Transactions or rejecting those PPAs;
- (b) provide a weekly report to the Plaintiff each Friday listing all Permitted Transactions entered into by the First Defendant during that week and identifying any rejected transactions;
- (c) prepare the report on the financial position of the Shield Master Fund and the Advantage Diversified Property Fund referred to in the Orders; and
- (d) notify the Plaintiff forthwith if Deloitte becomes aware of any non-compliance with the Orders.

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DATE:

A handwritten signature in black ink, appearing to read 'Jason Mark Tracy', written over a dotted line.

Signed by:

Jason Mark Tracy

A handwritten signature in black ink, appearing to read 'Lucica Palaghia', written over a dotted line.

Signed by:

Lucica Palaghia



ANNEXURE B



CORPORATIONS ACT 2001

CONSENT TO ACT PERFORMING THE FUNCTIONS DETERMINED BY THE ORDER OF THE COURT

To: Keystone Asset Management Limited in its capacity as Responsible Entity of the Shield Master Fund (ARSN 650 112 057) and as trustee of the Advantage Diversified Property Fund and as trustee for the Quantum PE Fund

We, Jason Mark Tracy, of Deloitte Financial Advisory Pty Ltd, Quay Quarter Tower, 50 Bridge Street, Sydney NSW 2000, and Lucica Palaghia of Deloitte Financial Advisory Pty Ltd, 477 Collins St, Melbourne, Victoria hereby consent to act to perform the functions determined by the order of the Court in Federal Court of Australia proceeding number VID 536 of 2024.

We are not aware of any conflict of interest or duty that would make it improper for us to act pursuant to the order of the Court.

The hourly rates to be charged in respect of our work by us and our staff who may perform work are set out in in Schedule A which is attached to this Consent. We acknowledge that our appointment by the Court does not constitute an express or implied approval by the Court of these hourly rates.

DATED this 26th day of June 2024.

A handwritten signature in black ink, appearing to read 'J. Mark Tracy', written over a dotted line.

JASON MARK TRACY

A handwritten signature in black ink, appearing to read 'Lucica Palaghia', written over a dotted line.

LUCICA PALAGHIA



SCHEDULE A | Schedule of Hourly Rates

Position	Hourly rate \$ (excluding GST)
Partner	890
Director	780
Associate Director	675
Manager	580
Senior Analyst	500
Analyst	460
Graduate	350

~TK VA_DOCSVA-A-006



Schedule

No: VID536/2024

Federal Court of Australia

District Registry: Victoria

Division: General

Second Defendant PAUL ANTHONY CHIODO