

In the High Court of New Zealand
Tauranga Registry
I Te Kōti Matua o Aotearoa
Tauranga Moana Rohe

CIV-2021-470-00049

under: the Trusts Act 2019 and Part 18 of the High Court Rules 2016

in the matter of: an application under sections 130 and 133 of the Trusts Act 2019 by **William Beau Holland, Natalie Anne Bridges, Peter John Blackwell, Peter John Farmer, Mark Edmond Arundel and Tina Lynn Jennen**, as trustees of the Tauranga Energy Consumer Trust
First plaintiffs

and in the matter of: an application under section 133 of the Trusts Act 2019 by **William Beau Holland, Natalie Anne Bridges, Peter John Blackwell, Peter John Farmer, Mark Edmond Arundel and Tina Lynn Jennen**, as trustees of the TECT Charitable Trust
Second plaintiffs

Sealed Orders

Dated: 20 May 2021



Reference: M D Arthur (michael.arthur@chapmantripp.com)
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SEALED ORDERS

To the first and second plaintiffs

The interlocutory application made by the first and second plaintiffs on 14 May 2020 was determined by the Honourable Associate Judge Gardiner on 19 May 2021. The determination was made on the papers.

The following orders were made:

- 1 Service of this proceeding, including the orders made in this application, will be effected by:
 - 1.1 sending a notice (in essentially the same form as the notice attached to the affidavit of TECT Chairman, Bill Holland) to anyone who was a Consumer (as defined in the TECT Trust Deed) as at 28 January 2021, or who has since become a Consumer, explaining that the Trustees have filed an application to the Court for orders under section 133 of the Trusts Act 2019, with information on how Consumers can access online, download or request a copy of the documents filed in this proceeding, by way of:
 - (a) mail to those whom TECT has a current postal address; and
 - (b) email to those whom TECT has a current email address.
 - 1.2 advertising a notice of the proceedings (in essentially the same form as the advertisement attached to the Holland affidavit) in the Bay of Plenty Times and the Weekend Sun;
 - 1.3 serving the Attorney General (in respect of charitable beneficiaries);
 - 1.4 serving the counsel appointed as independent counsel by the Court; and
 - 1.5 publishing all documents filed to date in this proceeding and a copy of the above notice and advertisement to Consumers on TECT's website.
- 2 No notice of proceeding is required in this proceeding.
- 3 Pursuant to r 4.27, Jane Anderson QC is appointed as Independent Counsel to assist the Court in this proceeding by ensuring that a complete and balanced view is before the Court when determining this proceeding, including any relevant information and arguments in opposition to the orders sought by the first and second plaintiffs.



- 4 The reasonable fees and disbursements of the Independent Counsel shall be met out of the assets of TECT.
- 5 The Independent Counsel:
 - 5.1 is permitted, but not obliged, in her sole discretion, to seek information from TECT, seek and/or receive comments and information from beneficiaries and otherwise consult with any of them, take expert advice, call evidence and cross-examine any witness; and
 - 5.2 in carrying out her role, including the steps she may take in her discretion as set out above, the Independent Counsel is not acting for beneficiaries as a whole or any of them.
- 6 Initial disclosure is not required.
- 7 Evidence is to be given by affidavit.
- 8 Any Consumer or the Attorney-General, should they wish to be heard, and any other person who seeks leave to appear, must file, and serve on the first and second plaintiffs, a notice of appearance or a statement of defence and, any affidavits on which they intend to rely by **2 July 2021**.
- 9 By **9 August 2021** the Independent Counsel must file and serve any evidence on which the Independent Counsel intends to rely at the hearing.
- 10 By **23 August 2021** the first and second plaintiffs must file and serve any further evidence on which they intend to rely at the hearing.
- 11 The plaintiffs must file and serve their submissions no later than **two weeks** before the hearing.
- 12 Any other party, and Independent Counsel, must file and serve their submissions no later than **one week** before the hearing.
- 13 The matter be set down for a full day hearing on the first available date after **20 September 2021** in order to hear the applicants' application for orders under section 133 of the Trusts Act 2019.



- 14 Leave is reserved for any party to seek a telephone conference if it appears necessary to adjust the timetable.

Dated: 23 May 2021



Registrar / Deputy Registrar

STEPHEN HEWLETT
Deputy Registrar
High Court of New Zealand

