

To the Interested Persons as addressed

22 November 2024

Dear Sir/Madam

**KordaMentha Shelf Co (APMSPSAF) Pty Ltd ACN 642 981 799 as trustee for
APM Security Plan Sickness & Accident Fund (In Liquidation) ('the Fund') trust ('Trust')
ABN 57 413 197 086**

Liquidation remuneration and disbursement application

KordaMentha Shelf Co (APMSPSAF) Pty Ltd ('New Trustee') was appointed replacement trustee of the Fund Trust on 22 June 2021 pursuant to an Order of the Supreme Court of New South Wales ('the Court'). Subsequently, on 6 May 2022 by Order of the Court ('the Winding Up Order'), Kate Conneely and I, Scott Langdon, were appointed joint and several liquidators of the Fund. I advise that Kate Conneely subsequently retired as a liquidator of the Fund on 7 February 2024. For the avoidance of doubt, I continue to be appointed as sole liquidator of the Fund ('the Liquidator').

On 29 June 2022, the New Trustee provided notice of its first application seeking approval of the New Trustee's remuneration and disbursements. This was subsequently approved by the Court by Order dated 8 July 2022. On 11 November 2022 and 27 February 2023, the New Trustee provided notice of its second application seeking approval of the New Trustee's remuneration and disbursements. This was subsequently approved by the Court by Order dated 10 March 2023. On 18 May 2023 and 19 July 2023, the New Trustee provided notice of its third application seeking approval of the New Trustee's remuneration and disbursements. This was subsequently approved by the Court by Order dated 28 July 2023.

Pursuant to the Winding Up Order, the Liquidator's remuneration and disbursements are to be paid from the assets of the Trust on an indemnity basis, subject to the Court's review and approval.

Accordingly, on 23 August 2023, the Liquidator sought approval of the (then) Liquidators' remuneration and disbursements. This was subsequently approved by the Court on 28 September 2023.

As detailed in the letter to Interested Persons dated 8 October 2024, the Liquidator is now seeking to apply for the Court's review and approval for the Liquidator's remuneration and disbursements. The Application is in respect to the Liquidator's remuneration and disbursements for the period 14 August 2023 to 21 July 2024.

Enclosed again, for your reference, in respect of the Application, is the:

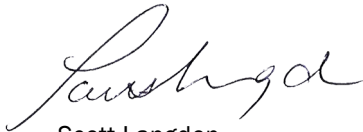
- Background to the Liquidator's appointment at Annexure A
- Interlocutory Process dated 20 November 2024 Annexure B

- Affidavit of Scott Langdon sworn on 20 November 2024 at Annexure C

I advise the Application is presently listed for **9:00am on 27 November 2024**. Any changes to this time will be made known on the KordaMentha website at <https://www.kordamentha.com/creditors/apm-security-plan-sickness-accident-fund>.

Should you have any queries in relation to this matter, please contact Connor Orr of my office on (07) 3338 0225 or by email at connor.orr@kordamentha.com.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Langdon', written in a cursive style.

Scott Langdon
Liquidator

Enc.

Annexure A – Background and Notice of Application

KordaMentha Shelf Co (APMSPSAF) Pty Ltd ('New Trustee') was appointed replacement trustee of the Fund Trust on 22 June 2021 pursuant to an Order of the Supreme Court of New South Wales ('the First Order'). The First Order authorised New Trustee to undertake a course of action in respect of the Trust ('First Course of Action'). The First Order further provided that New Trustee's remuneration and disbursements in respect of the First Course of Action be paid from the assets of the Trust on an indemnity basis, subject to New Trustee making an application to the Court for review of its remuneration and disbursements within 6 months of the date of the First Order.

Subsequently, on 2 November 2021, by further Order of the Supreme Court of New South Wales ('the Second Order'), New Trustee was authorised to undertake a second course of action in respect of the Trust ('Second Course of Action'). As a part of the Second Course of Action, New Trustee was authorised to make an application to the Court to, among other things, seek the Court's direction in relation to the future of the Fund ('Judicial Advice Application'), the Second Order varied the First Order to allow New Trustee to bring its application for review of its remuneration and disbursements in respect of the First Course of Action and the Second Course of Action within four weeks after the Court determines the Judicial Advice Application.

On 6 May 2022, the Court determined the Judicial Advice Application and gave its opinion, advice and direction to the New Trustee that it would be justified in, among other things, bringing proceedings to wind up the Fund ('the Third Order'). The Third Order authorised New Trustee to undertake a further course of action in respect of the Trust ('Third Course of Action'). The Third Order further provided that New Trustee's remuneration and disbursements in respect of the Third Course of Action be paid from the assets of the Trust on an indemnity basis, subject to New Trustee making an application to the Court for review of its remuneration and disbursements within 6 months of the date of the Third Order. On the same day, by Order of the Supreme Court of New South Wales, Scott Langdon and Kate Conneely were appointed as joint and several liquidators of the Fund.

As set out in the Liquidators' update to Interested Persons, dated 15 November 2023, all Property of the Fund has been realised. Since then, the Liquidator has taken steps to consider how the net proceeds of the realisations might be distributed to eligible members of the Fund. These matters were considered in detail in an application for directions from the Court ('Rules Application'), in which the views of Interested Persons were also invited.

On 22 February 2024, the Liquidator obtained orders from the Court in respect of these matters. The full Orders can be found on the KordaMentha website.

In summary, the Orders confirmed:

1. Kate Conneely ceased to be a liquidator of the Fund
2. The Liquidator would be justified in proceeding on the basis that the document entitled "APM Botany Mill Security Plan Sickness & Accident Fund Rules" dated 1 July 2005, contained the Rules which govern the Fund
3. The Liquidator would be justified in proceeding on the basis that members of the Fund who are entitled to participate in a distribution of its assets are those persons who were members immediately prior to Amcor Ltd commencing to make its employees redundant as a consequence of decommissioning the B7 and B8 machines in or around May 2012.

Following the direction of the Court, the Liquidators have proceeded to compile a list of members who may be entitled to participate in a distribution of its assets. On 31 May 2024 the liquidators issued correspondence setting out the Court's orders and invited the members of the Fund to complete a Member Substantiation Form.

In this correspondence, formal notice is provided to all Interested Persons that the Liquidator intends to file its application seeking the Court's review and approval of the Liquidator's remuneration and disbursements for the period 14 August 2024 to 21 July 2024.

Further to this background, enclosed, for your notice, in respect of the remuneration and disbursement Application, is the:

- Interlocutory Process dated 20 November 2024 (Annexure B)
- Affidavit of Scott Langdon sworn on 20 November 2024 (Annexure C).

A copy of the notice of intention to apply for remuneration is available on the KordaMentha website at <https://www.kordamentha.com/creditors/apm-security-plan-sickness-accident-fund>.

Annexure B – Interlocutory Process dated 20 November 2024



Form 3

R.H Kenna (L.S.)
Principal Registrar &
Chief Executive Officer

(rules 2.2, 15A.4, 15A.8 and 15A.9)

IN THE SUPREME COURT OF NEW SOUTH WALES
DIVISION: EQUITY
REGISTRY: SYDNEY
LIST: CORPORATIONS

No 130874 of 2022

IN THE MATTER OF APM SECURITY PLAN SICKNESS & ACCIDENT FUND
ABN: 57 413 197 086

KORDAMENTHA SHELF CO (APMSPSAF) PTY LTD ACN 642 981 799

Plaintiff

**SCOTT DAVID HARRY LANGDON IN HIS CAPACITY AS LIQUIDATOR OF THE APM SECURITY PLAN
SICKNESS & ACCIDENT FUND ABN 57 413 197 086**

Applicant

INTERLOCUTORY PROCESS

A. DETAILS OF APPLICATION

This application is made under sections 60-10(1)(a) and 90-15 of the Insolvency Practice Schedule (Corporations) (**IPS**) being Schedule 2 to the *Corporations Act 2001* (Cth) (**Act**), section 583 of the Act and rule 9.2 of the *Supreme Court (Corporations) Rules 1999* (NSW) (**Rules**).

Through this application, the Applicant, Scott David Harry Langdon in his capacity as liquidator of the APM Security Plan Sickness & Accident Fund ABN 57 413 197 096 (**Fund**), seeks the Court's determination of the remuneration payable to him as liquidator of the Fund.

On the facts stated in the affidavit of Scott David Harry Langdon sworn 27 September 2024 and such further affidavits which may be filed, the Applicant applies for the following relief:

1. An order pursuant to section 583 of the Act and sections 60-10(1)(a) and/or 90-15 of the IPS that the Applicant's remuneration for the period of 14 August 2023 to 21 July 2024 inclusive, be determined in the amount of \$164,768.14 (including GST and disbursements) for the performance of the role of liquidator of the Fund.
2. An order that the Applicant's remuneration, costs and expenses of making this application be paid out of the assets of the Fund.
3. An order that, subject to the order in paragraph 4 below, pursuant to section 7 of the *Court Suppression and Non-publication Orders Act 2010* (NSW), on the grounds that the order is necessary to prevent prejudice to the proper administration of justice and is otherwise necessary in the public interest and that public interest significantly outweighs the public interest in open justice, the confidential exhibit marked "SL-3" (**Document**) to the affidavit of Scott David Harry Langdon

Filed on behalf of: Scott David Harry Langdon in his capacity as liquidator of the Fund, the Applicant

Prepared by:
Ashurst Australia
Lawyers
5 Martin Place
Sydney NSW 2000

Solicitor's Code: 51098
DX: 388 Sydney
Tel: (02) 9258 6000
Fax: (02) 9258 6999
Ref: 1000-122-769

sworn 20 November 2024 is to be marked "confidential" on the Court file and is not to be published or accessed, except pursuant to an order of the Court.

4. An order that the order in paragraph 3 above, does not prevent the Applicant or their legal representatives, servants, agents and/or employees, from disclosing, publishing or accessing the Document and the information contained therein.
5. Such further or other orders as the Court considers appropriate.

Date: 20 November 2024



.....
Bernard Colin Walrut,
Solicitor for the Applicant

This application will be heard by
Queens Square, Sydney at 09:00 AM [am/pm] on 27Nov2024

at Law Courts Building,

B. NOTICE TO RESPONDENT(S)

TO: N/A

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence.

Before appearing before the Court, you must, except if you have already done so or you are the plaintiff in this proceeding, file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff in the originating process.

Note

Unless the Court otherwise orders, a respondent that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. FILING

This interlocutory process is filed by Ashurst Australia, solicitors for the Applicant.

D. SERVICE

The Applicant's address for service is: c/- Ashurst Australia
Lawyers
5 Martin Place
Sydney NSW 2000
Ref: 1000-122-769

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

Australian Securities and Investments Commission

Annexure C – Affidavit of Scott Langdon sworn on 20 November 2024



R.H Kenna (L.S.)
Principal Registrar &
Chief Executive Officer

IN THE SUPREME COURT OF NEW SOUTH WALES

No 130874 of 2022

DIVISION: EQUITY

REGISTRY: SYDNEY

LIST: CORPORATIONS

IN THE MATTER OF APM SECURITY PLAN SICKNESS & ACCIDENT FUND

ABN: 57 413 197 086

KORDAMENTHA SHELF CO (APMSPSAF) PTY LTD ACN 642 981 799

Plaintiff

**SCOTT DAVID HARRY LANGDON IN HIS CAPACITY AS LIQUIDATOR OF THE APM SECURITY PLAN
SICKNESS & ACCIDENT FUND ABN 57 413 197 086**

Applicant

AFFIDAVIT

On 20 November 2024, I, Scott David Harry Langdon of Level 5, Chifley Tower, 2 Chifley Square, Sydney NSW 2000, registered liquidator and chartered accountant, say on oath:

A Introduction

1. I refer to my affidavit sworn 27 September 2024 and filed in these proceedings (**27 September Affidavit**).
2. Unless otherwise defined, capitalised terms used in this affidavit shall have the same meaning as set out in the 27 September Affidavit.
3. I make this affidavit from my own knowledge and the Books and Records, except where otherwise indicated. Where I make this affidavit from facts outside of my personal knowledge, I am informed by the source stated and believe those facts to be true.
4. Exhibited to me at the time of swearing this affidavit are bundles of documents titled "Exhibit SL-2" and "Confidential Exhibit SL-3". Confidential Exhibit SL-3 contains documents which contain legally privileged information. I seek an order under section 7 of the *Court Suppression and Non-publication Orders Act 2010* (NSW) limiting the disclosure of these documents.
5. Unless otherwise stated, where I refer to documents in this affidavit, I do so by reference to the page number in Exhibit SL-2 and Confidential Exhibit SL-3.

Filed on behalf of: Scott David Harry Langdon in his capacity as liquidator of the Fund, the Applicant

Prepared by:

Ashurst Australia
Lawyers
5 Martin Place
Sydney NSW 2000

697154660

A handwritten signature in blue ink, appearing to read "IBan".

Tel: (02) 9258 6000
Fax: (02) 9258 6999
DX: 388 Sydney
Ref: 1000-122-769

A large, stylized handwritten signature in blue ink, appearing to read "Langdon".

B Purpose of this affidavit

6. This affidavit is my second affidavit filed in support of the interlocutory process dated on or about 20 November 2024 seeking the Court's determination of the remuneration payable to me as Liquidator pursuant to sections 60-10(1)(a) and 90-15 of the IPS being Schedule 2 to the *Corporations Act 2001* (Cth), in the amount of \$164,768.14 (including GST and disbursements) from 14 August 2023 to 21 July 2024 inclusive (**Period**).
7. This affidavit is made for the purposes of supplementing the 27 September Affidavit.

C Notice to Interested Persons

8. On 8 October 2024, I instructed my staff to provide notice of this application to Interested Persons (**Remuneration Application Notice**). The Remuneration Application Notice, together with a copy of its annexures (including the 27 September Affidavit), was available for download from the Liquidator's website (<https://kordamentha.com/creditors/apm-security-plan-sickness-accident-fund>) (**Liquidator's Website**) on 8 October 2024 by clicking on "Form 16 - Notice to apply for remuneration (27 September 2024)" in the "Download documents" section of the Liquidator's Website. At pages 2 to 24 of Exhibit SL-2 is a copy of the Remuneration Application Notice and its annexures.
9. The Remuneration Application Notice includes/provides notice of, among other things:
 - (a) the Liquidator's intention to apply to the Court to determine the Liquidator's remuneration; and
 - (b) the 21 day period within which Interested Persons have to object to the Liquidator's application, after being served with the Remuneration Application Notice, by serving on the Liquidator a notice of objection stating the grounds of objection to the remuneration claimed.
10. On 8 October 2024, the Liquidator's staff sent the Remuneration Application Notice (with annexures) to the known email addresses of the Interested Persons identified by the Liquidator at the time. At pages 2 to 4 of Confidential Exhibit SL-3 is a list of the Interested Persons (and their email and/or postal addresses) to whom the Remuneration Application Notice was sent (**Current Interested Persons List**).
11. At page 25 of Exhibit SL-2 is a copy of the covering email sent to the emails addresses of Interested Persons referred to in paragraph 10 above on 8 October 2024. I note that the recipient or "to" field in the email is blank because the Interested Persons were all blind copied such that an Interested Person could not identify another Interested Person the email was sent to.

D Response to notice

12. As at the date of swearing this affidavit, as the Liquidator I have received one response from an Interested Person in respect of the Remuneration Application Notice.
13. On 9 October 2024, I received a response to the Remuneration Application Notice from Mr Gary Lum. At page 5 of Confidential Exhibit SL-3 is a copy of the email from Mr Lum.

14. On 24 October 2024, I caused Connor Orr, an employee of KordaMentha, to respond to the email from Mr Lum referred to in paragraph 13 above. At pages 5 to 6 of Confidential Exhibit SL-3 is a copy of the response to Mr Lum.

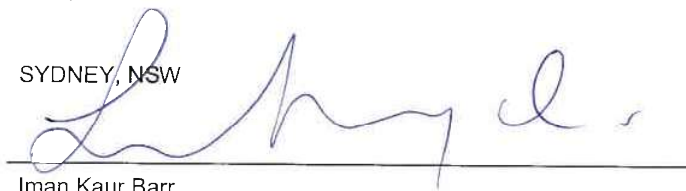
E Corrections to 27 September Affidavit

15. It has come to my attention that the 27 September Affidavit should be corrected as outlined in paragraphs 16 to 17 below.
16. Paragraph 9 of the 27 September Affidavit should refer to "60-10(1)(a)" and not "60-10(1)(c)".
17. Paragraph 9 of the 27 September Affidavit should refer to the affidavit being filed in support of the "interlocutory process to be filed following the expiration of the 21 day notice period provided under the form 16 notice" and not "27 September 2024".

SWORN at

SYDNEY, NSW

Signature of deponent



Name of witness

Iman Kaur Barr

Address of witness

5 Martin Place, Sydney NSW 2000

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have confirmed the deponent's identity using the following identification document:

Current driver licence

Identification document relied on (may be original or certified copy)

Signature of witness



Endorsement by witness: I have signed a scanned copy of the signed document sent to me electronically by the deponent, having witnessed the signature of the deponent over audio visual link in accordance with section 14G(2) of the *Electronic Transactions Act 2000* (NSW).