

Premium Income Fund

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Litigation update – Federal Court Proceedings 140 of 2011

The Federal Court Proceedings 140/2011 which was heard before Justice Dowsett on both Wednesday 6 July and Thursday 7 July this week will continue before his Honour on Monday 11 July 2011.

Wellington Capital is seeking the following orders:

- a declaration that the notice of meeting of members of the Premium Income Fund dated 16 May 2011 issued by the first, second and third defendants, is invalid.
- a declaration that the defendants contravened s 252G of the Corporations Act;
- a declaration that the second and third defendants contravened s 671B of the Corporations Act;
- a declaration that the meeting of members of the Premium Income Fund purportedly held on 23 June 2011 was:
 - inquorate;
 - dissolved pursuant to clause 10.6 of the Constitution of the Premium Income Fund;
- a declaration that any resolution purported to be passed at the meeting of members in the Premium Income Fund purportedly held on 23 June 2011, including the resolution purporting to adjourn the meeting to 14 July 2011, is invalid; and
- an order restraining the defendants by themselves, their servants or agents or howsoever otherwise, from proceeding with the meeting of unit holders of the Premium Income Fund as described in the notice of meeting of the Premium Income Fund dated 16 May 2011.

The Premium Income Fund Action Group Incorporated, Peter Grenadier and Charles Hodges are seeking the following orders:

- the Notice of Meeting dated 16 May 2011 was, and remains, valid and efficacious;
- clause 10.3 of the Constitution is invalid;
- the meeting of the members of the Fund on 23 June 2011 was:
 - quorate;
 - further or alternatively, pursuant to the Constitution of the Fund, quorate for the purposes of the resolutions passed at that meeting.
- Mark Hodges validly chaired of the meeting of the members of the Fund on 23 June 2011;
- Mark Hodges remains the chairman at the commencement of the meeting of the members of the Fund adjourned to 14 July 2011 for the purpose of conducting the election of the chairman; and
- a declaration that that upon the true construction of section 253E of the Corporations Act 2001 (Cth), the Plaintiff and its associates are not entitled to vote on any of resolutions 1 to 4 at the meeting of the members of the Fund adjourned to 14 July 2011.

A further update will be provided on Monday 11 July 2011 once the hearing before Justice Dowsett is finalised.

For further information please contact:

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