

Mills Oakley
ABN: 51 493 069 734

20 April 2018

Your ref:
Our ref: KZL/ACB/5119286

All correspondence to:
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Dear Sir

Mio Art Pty Ltd v Mango Boulevard Pty Ltd & Ors
Supreme Court of Queensland proceeding SC No. 1714 2011 ("Proceeding")

Our client: Traditional Values Management Ltd (In Liquidation) ("TVM") in its capacity as responsible entity of the Blue Diamond Deposits Trust No. 1

1. We refer to:
 - (a) our client's request for further and better particulars dated 9 August 2017; and
 - (b) your client's further and better particulars dated 26 September 2017 (**Answer**).
2. In your client's defence to our client's counterclaim dated 23 June 2017, your client asserts that:

"...it and its solicitors have salvage and litigation liens over any moneys payable to the Plaintiff under the SSA and the DGI, and entitlement to be paid costs awarded in favour of the Plaintiff as a consequence of its efforts to ensure that the SSA and the DGI were duly performed by the First and Fourth Defendants, and "just allowances" for its efforts as trustee, on behalf of the "Spencer Family Trust", to recover the benefit of the performance of the SSA and the DGI by the First and Fourth Defendants, for the bankrupt estates of Mr Spencer and the Second Defendant and the Spencer Family Trust, in priority to any other party."

3. In our view, the Answer does not adequately particularise your client's asserted claim, in breach of rule 157 of the *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**).
4. Please provide full particulars and details of the costs incurred in relation to each proceeding referred to in the Answer, namely proceedings BS1999/06, BS1714/11, BS4352/12, BS11109/12, BS9991/16, BS1383/17 and CA6003/17 (**Claim Proceedings**), separately identifying for each Claim Proceeding:
 - (a) solicitors' fees, counsels' fees and legal disbursements;

- (b) costs orders made in favour of the Plaintiff, and the amounts which have been paid pursuant to these costs orders;
 - (c) costs and expenses (other than solicitors' fees) incurred by the Plaintiff; and
 - (d) the remuneration claimed by the Plaintiff (if any).
5. If any amount is claimed with respect to the Plaintiff's remuneration as trustee of the Spencer Family Trust (**Trust**), please provide:
- (a) details of the basis on which the Plaintiff claims this remuneration; and
 - (b) particulars of how this remuneration has been quantified.
6. We note that paragraph 3(f) of the Answer refers to litigation funding costs. Please provide further details of these funding arrangements, including the name of the funder and the method used to calculate the amount claimed for litigation funding costs.
7. We also call for production of the following documents pursuant to rule 222 of the UCPR which are relevant to the Plaintiff's claim to priority over our client:
- (a) the deed establishing the Trust;
 - (b) the tax invoices rendered to the Plaintiff for legal costs, accounting work, professional directors fees in relation to any of the Claim Proceedings;
 - (c) the costs agreements between the Plaintiff and its solicitors and counsel in relation to each of the Claim Proceedings;
 - (d) the retainer agreements with the accountants who provided the accounting services claimed under 3(e) of the Answer;
 - (e) the agreement with the professional director for whom costs are claimed under 3(e) of the Answer; and
 - (f) the litigation funding agreement that supports the payment of litigation funding costs claimed at paragraph 3(f) of the Answer.
8. Please note that this is a request for further particulars and the production of documents pursuant to rules 157 and 222 of the UCPR.
9. Please provide the requested information and documents by no later than **5pm on 4 May 2018**.

Yours faithfully



**ARIEL BORLAND
PARTNER**