



Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD2074/2016

**RICHARD JOHN FINDLAY BRADGATE AS TRUSTEE OF THE BRADGATE
SUPERANNUATION FUND**
Plaintiff

ASHLEY SERVICES GROUP LIMITED ACN 094 747 510
Defendant

ORDER

JUDGE: JUSTICE MIDDLETON

DATE OF ORDER: 13 June 2019

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

Approval of settlement

1. Pursuant to sections 33V and 33ZF of the Act, settlement of the proceeding on the terms set out in the Deed of Settlement dated 24 April 2019 (**Settlement Deed**) and the Settlement Distribution Scheme (and any annexures therein) exhibited to the confidential affidavit of Blagoj Petrovski sworn 7 June 2019 (together, **Settlement Documents**) be approved.
2. Pursuant to section 33ZF of the Act, the Court authorises the Applicant *nunc pro tunc* for and on behalf of the Group Members (being those persons who meet the definition of “Group Member” in the Further Amended Statement of Claim and who did not file an opt out notice) to enter into and give effect to the Settlement Documents and the transactions contemplated for and on behalf of Group Members.
3. Pursuant to section 33ZB and section 33ZF of the Act, the persons affected and bound by the settlement of the proceedings and these orders (other than order 8 which applies generally to all persons) be the Applicant, the Respondent, the Cross Respondents and Group Members as defined in order 2 above.



4. Pursuant to section 33ZF of the Act, William Roberts Pty Ltd t/as William Roberts Lawyers be appointed Administrator of the Settlement Distribution Scheme and is to act in accordance with the rules of the Settlement Distribution Scheme.

Costs in the proceeding

5. All costs orders made to date in the proceeding be vacated.
6. There be no order as to costs of the proceeding as between:
 - (a) the Applicant and the Respondent;
 - (b) the Applicant and the Cross Respondents; or
 - (c) the Respondent and the Cross Respondents.
7. Pursuant to section 33ZF of the Act:
 - (a) the costs and disbursements incurred by the Applicant, in connection with the administration of the Settlement Distribution Scheme from the date of the approval of the Settlement Documents to the date of completion of distribution of the Settlement Sum, be approved up to the amount of \$151,250;
 - (b) the Applicant's legal costs and disbursements on a solicitor and own client basis, incurred in connection with the proceeding on its own behalf and on behalf of all Group Members in the proceeding, including the costs of this application, be approved up to the amount of \$3,569,755;
 - (c) IMF Bentham Limited's claim for its project costs be approved in the amount of \$5,949.51;
 - (d) the Applicant's reasonable claim for compensation for the time and/or expenses incurred in the interests of prosecuting the proceeding on behalf of Group Members as a whole, be approved in the amount of \$21,900.

Other Matters

8. Pursuant to s 37AF(1)(b) and s 37AG(1)(a), on the ground that the order is necessary to prevent prejudice to the proper administration of justice and until further order:
 - (a) the affidavit of Ding Pan affirmed on 29 April 2019 including annexures;
 - (b) the affidavit of Blagoj (Bill) Petrovski sworn on 7 June 2019;




- (c) Exhibit BP8 to the affidavit of Mr Petrovski sworn on 7 June 2019;
- (d) paragraphs 8 and 9 of the affidavit of Blagoj (Bill) Petrovski sworn on 12 June 2019; and
- (e) the affidavit of Joseph Anthony Mazzeo sworn on 6 June 2019 including annexures

not be published or disclosed without prior leave of the Court to any person or entity other than the Court, the Applicant, IMF and their legal advisors

- 9. William Roberts have liberty to apply to the Court, including for directions, in relation to any matter referred to in cl10.1 of the Settlement Distribution Scheme. Without limitation, William Roberts may so apply in the manner set out in cl10.3 of the Scheme.
- 10. The proceeding be dismissed, 7 days after the Administrator of the Settlement Distribution Scheme notifies the Court and the parties in writing that the distribution under the Settlement Distribution Scheme is complete.

Date that entry is stamped: 13 June 2019


Registrar



Schedule

No: NSD2074/2016

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CROSS CLAIM

Cross-Claimant ASHLEY SERVICES GROUP LIMITED ACN 094 747 510
Cross Respondent HOLMES MANAGEMENT GROUP PTY LTD
Second Cross
Respondent CARL HOLMES
Third Cross
Respondent MARIE HOLMES

CROSS CLAIM

Cross-Claimant ASHLEY SERVICES GROUP LIMITED ACN 094 747 510
Cross Respondent DELOITTE TOUCHE TOHMATSU
Second Cross
Respondent DELOITTE CORPORATE FINANCE PTY LTD ACN 003 833
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CROSS CLAIM

Cross-Claimant ASHLEY SERVICES GROUP LIMITED ACN 094 747 510
Cross Respondent GRANT THORNTON CORPORATE FINANCE PTY LTD ACN
003 265 987
Cross Respondent ASHLEY SERVICE GROUP LIMITED

CROSS CLAIM

Cross-Claimant GRANT THORNTON CORPORATE FINANCE PTY LTD ACN
003 265 987
Cross Respondent ASHLEY SERVICES GROUP LIMITED
Cross Respondent ASHLEY SERVICES GROUP LIMITED ACN 094 747 510