

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT
BETWEEN

SCI 2013 01477

THE TRUST COMPANY (NOMINEES) LIMITED (ACN 004 134 441)

Plaintiff

and

MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF ALIGN
FUNDS MANAGEMENT LIMITED (RECEIVER & MANAGER APPOINTED)
(ACN 105 684 231) IN ITS CAPACITY AS THE RESPONSIBLE ENTITY OF THE
TIMBERCORP ORCHARD TRUST & ORS

Defendants

AFFIDAVIT OF ANTHONY WILLIAM CORMICK

Date of document: 8 May 2014
Filed on behalf of: The Second Defendant
Macpherson + Kelley
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I, **ANTHONY WILLIAM CORMICK** of 6 Eastern Park Square, Narre Warren South in Victoria, make oath and say that:

- 1 I am the Second Defendant in this proceeding.
- 2 Since about one year ago, I have been the General Manager of Wilson Health, a member of the Wilson Parking group. Prior to this role, I worked in a variety of senior management and consulting roles.
- 3 I make this affidavit from my own knowledge. Where I depose to matters from information or belief, I believe those matters to be true.
- 4 By order made 19 July 2014, I was ordered to act as the representative defendant in this proceeding on behalf of the members of the 2004 Timbercorp Table Grape Project (ARSN 108 648 086) (**Project**).
- 5 On 3 October 2013, I received an email from Mr Yu-chiao Hsueh of M+K Lawyers addressed to me that enclosed copies of the Plaintiff's settlement offer (**Offer**). Now produced and shown to me marked **confidential exhibit AWC-1** is a true copy of the email from M+K Lawyers to me dated 3 October 2013 with its enclosures, including a draft Deed of Compromise. The email is privileged and I do not waive that privilege.
- 6 In between receiving this email and subsequently attending a conference with Messrs Garry Bigmore QC and Samuel Hopper of Counsel and Mr Yu-chiao Hsueh of M+K Lawyers, I read and considered the Offer.



- 7 On 11 November 2013, I attended a conference in person with Samuel Hopper of Counsel and Yu-chiao Hsueh of M+K Lawyers with Garry Bigmore QC attending by telephone. During this conference, Counsel provided their advice to me verbally, indicated that a written advice would be provided to me afterwards and gave me the opportunity to ask questions.
- 8 I recall instructing M+K Lawyers that I accepted the Offer on the basis of the advice given to me as I believed it was in my best interest and the best interests of the other growers in the Project to accept the Offer.
- 9 On 18 November 2013, M+K Lawyers provided me with a copy of Counsel's written advice to my email address. I read and understood Counsel's written advice and did not change my instructions as I still considered it to be in my best interest and the best interests of the other growers in the Project to accept the Offer.
- 10 On about 20 December 2013, I was provided with the final Deed of Compromise with a letter explaining the changes to the deed since I was originally provided with the original draft in October 2013. As I considered the changes did not affect my belief that the Offer was in my best interest and the best interests of the other growers in the Project, I signed the Deed of Compromise soon after.

Sworn by **ANTHONY WILLIAM CORMICK**)

at Melbourne in the State of Victoria)

this 8th day of May 2014)

Before me: af)



Yu-chiao Hsueh
An Australian Legal Practitioner
(within the meaning of the Legal Profession Act 2004)
Level 22, 114 William St, Melbourne 3000 VIC