

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 ANNE RASIAH

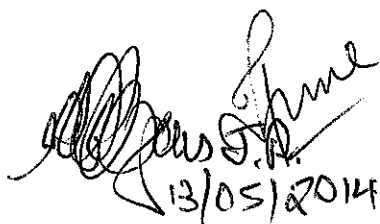
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Filed on behalf of: The Third Defendant  
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I, ANNE RASIAH of 41/31 Colley Terrace, Glenelg in South Australia, make oath and say that:

- 1 I together with my husband Jeyarasa am the Third Defendant in this proceeding.
- 2 I am currently retired. Until my retirement about 25 years ago, I was a nurse.
- 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 2013, my husband and I were ordered to act as representative defendants in this proceeding on behalf of the members of the 2005 Timbercorp Table Grape Project (ARSN 113 512 236) (Project).
- 5 As all emails relating to this proceeding were sent to my husband Jeyarasa's email address, my husband provided me with printed copies of the documents that M+K Lawyers sent to him.
- 6 On or about 3 October 2013, my husband provided with an email from Mr Yu-chiao Hsueh of M+K Lawyers addressed to us that enclosed copies of the Plaintiff's settlement offer (Offer). This email and its attachments have been exhibited to my husband's affidavit as **confidential exhibit JR-1**. The email is privileged and my husband Jeyarasa and I do not waive that privilege.
- 7 In between receiving this email and subsequently attending a telephone conference with my husband Jeyarasa, Messrs Garry Bigmore QC and Samuel Hopper of Counsel and Mr Yu-chiao Hsueh of M+K Lawyers, I read and considered the Offer.

V-3522991:1

  
13/05/2014

PAGE 1 OF 2

- 8 On 15 November 2013, I attended a telephone conference with my husband Jeyarasa, Messrs Garry Bigmore QC and Samuel Hopper of Counsel and Mr Yu-chiao Hsueh of M+K Lawyers. During this telephone conference, Counsel provided their advice to me and my husband verbally and indicated that a written advice would be provided to us afterwards.
- 9 I had the opportunity to ask questions about the proceeding and the advice but I did not have any questions beyond what my husband asked during the conference. Towards the end of our conversation, I instructed M+K Lawyers that we accepted the Offer on the basis of the advice given to us as I believed it was in my best interest and the best interests of the other growers in the Project to accept the Offer.
- 10 On or about 18 November 2013, my husband provided me with an email from Mr Yu-chiao Hsueh of M+K Lawyers addressed to both of us enclosing 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.
- 11 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.

Sworn by ANNE RASIAH )

at GLENELG in the State of South Australia )

this 13TH day of May 2014 )

Before me: ..... J.A. )

*A Justice of the Peace in and  
for the State of South Australia.*  
ROBERT JOHN HUGHES J.P. 21013

**4 BYRON STREET  
GLENELG SA 5045**