

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

SCI 2013 01478

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

EIGHTH AFFIDAVIT OF YU-CHIAO HSUEH

Date of document: 16 May 2014
Filed on behalf of: The Second and Third Defendants
Macpherson + Kelley
Lawyers
Level 22, 114 William Street
MELBOURNE VIC 3000

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I, **YU-CHIAO HSUEH** of Level 22, 114 William Street, Melbourne, solemnly and sincerely declare and affirm that:

- 1 I am an employee of the firm Macpherson + Kelley Lawyers (**M+K Lawyers**), the solicitors for the Second and Third Defendants, being the persons appointed as representatives of all of the growers in the Timbercorp project of which they are a member (together the **Representative Growers**). I have carriage of this matter on behalf of the Representative Growers under the supervision of my principal, Michael Fernon, and I am authorised to make this affidavit on their behalf.
- 2 Except where otherwise indicated, I make this affidavit from my own knowledge. Where I depose to matters from information or belief, I believe those matters to be true.
- 3 I make this further affidavit in connection with the application for approval of the Deed of Compromise.

Further communications with Kerree Bezencon

- 4 On 16 May 2014, I received an email from Kerree Bezencon and on the same day, I sent an email to Ms Bezencon in reply. Now produced and shown to me marked **confidential exhibit YCH-20** is a true copy of the email from Ms Bezencon to me and my reply dated 16 May 2014. The emails refer to privileged communications relating to legal advice provided to the Representative Growers in which the Representative Growers do not waive privilege.

- 5 I refer to confidential YCH-17, being a chronology of communications between M+K Lawyers, solicitors for the Representative Growers and Ms Bezencon. I have updated the chronology to incorporate the subsequent communications which comprise confidential exhibits YCH-18 to YCH-20. Now produced and shown to me marked **YCH-21** is a true copy of the updated chronology of communications between Ms Bezencon and M+K Lawyers.
- 6 Confidential exhibits YCH-20 and YCH-21 are contained in a sealed envelope and the Representative Growers will make an application for an order that it be kept confidential as the emails refer to communications concerning legal advice provided to the Representative Growers by their legal representatives.

Affirmed by **YU-CHIAO HSUEH**

at *Melbourne* in the State of Victoria)

this *16th* day of May 2014)

Before me:*[Signature]*✓

BEFORE ME.....
Anne Louise McCartney
An Australian Legal Practitioner
(within the meaning of the Legal Profession Act 2004)
Level 22, 114 William St, Melbourne Vic 3000