

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

LIST B
S CI 2013 01477

BETWEEN:

THE TRUST COMPANY (NOMINEES) LIMITED (ACN 000 154 441) Plaintiff

- and -

MICHAEL FUNG in his capacity as receiver and manager of align funds management limited (receiver and manager appointed) (ACN 105 684 231) in its capacity as the responsible entity of the Timbercorp orchard Trust and others according to the attached schedule. Defendant



ORDER

(BELLA VISTA RIGHTS PROCEEDING)



JUDGE OF THE COURT: The Honourable Justice Judd

DATE MADE: 21 March 2014

ORIGINATING PROCESS: Originating Motion dated 25 March 2013 and amended on 13 August 2013

HOW OBTAINED: On receipt of minutes of consent

ATTENDANCE: No appearance, order made on the papers

OTHER MATTERS: Minutes of consent placed on the court file.

The Court notes the following matters:

On 14 January 2014, the parties entered into a deed of compromise in relation to this proceeding. A deed of compromise was also entered into in proceeding S CI 2013 01478 (Kangara Rights Proceeding). The compromises are conditional on, among other things, court approval of both compromises and an order that absent persons represented by the second and third defendants in each case be bound by the relevant compromise, pursuant to r 16.01(4) of the Supreme Court (General Civil Procedure) Rules 2005 (Vic) (Court

Approval).

In these orders, the parties, Timbercorp Securities Limited (in liquidation) ACN 092 311 469 (TSL), and any absent person who wishes to be heard in respect of the application for Court Approval of the compromise of this proceeding, are referred to as an "Interested Party".

The first defendant has been excused by the Court from taking any step in the proceeding, including court appearances, but may do so in respect of certain matters identified in Justice Judd's Orders of 19 July 2013.

Once made, these orders will be posted on the following websites:

- www.mk.com.au (being the website of the solicitors for the second and third defendant, who are appointed to represent the interests of scheme members)
- www.kordamentha.com/creditor-information/Australia/51/07 (being the website of TSL's liquidators relating to the Bella Vista Rights Proceeding)
- www.kordamentha.com/creditor-information/australia/51/15 (being the website of TSL's liquidators relating to the compromise of both proceedings); and
- www.abl.com.au/timbercorp/timbercorp.htm (being the website of the solicitors of TSL's liquidators).



THE COURT ORDERS BY CONSENT THAT:

1. The directions hearing scheduled for 21 March 2014 is vacated.
2. The application for Court Approval of the compromise of this proceeding made by summons dated 12 March 2014 (Approval Application) is set down for hearing on 19 May on an estimate of 1 hearing day.
3. On or before 25 March 2014, any Interested Party is to file and serve any affidavit upon which it intends to rely at the Approval Application.
4. On or before 8 April 2014, any Interested Party is to file and serve any reply affidavit upon which it intends to rely at the Approval Application.

5. On or before 8 May 2014, any Interested Party is to file and serve any written submissions upon which it intends to rely at the Approval Application.
6. On or before 13 May 2014, any Interested Party is to file and serve any reply submissions upon which it intends to rely at the Approval Application.
7. The Approval Application is to be heard together with the application in the Kangara Rights Proceeding for court approval under r 16.01(4) of the Rules made.
8. No order as to costs.

DATE AUTHENTICATED: **9 April 2014**




The Hon. Justice Judd