

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

List B

S CI 2013 01478

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 ORS (ACCORDING TO THE SCHEDULE ATTACHED)

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 21 March 2014

Filed on behalf of: The plaintiff

Prepared by:

Allens

Lawyers

101 Collins Street

Melbourne VIC 3000

Solicitor code: 21455

DX 30999 Melbourne


Tel 9614 1011 Fax 9614 4661

Ref CCHM:120338387

(Clint.Hinchen@allens.com.au)

This is the **Exhibit** marked '**CCH-21**' now produced and shown to **Clinton Charles Hinchen** at the time of swearing his affidavit on 21 March 2014.

Before me



ELYSE KATE ADAMS

of 101 Collins Street, Melbourne
Victoria 3000

An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

**'CCH-21': a true copy of the
email from Mr Hayden Williams
to Allens dated 5 December 2013**

Adams, Elyse

From: Hayden Williams <Hayden.Williams@bendigoadelaide.com.au>
Sent: Thursday, 5 December 2013 4:58 PM
To: Salvo, Alicia
Cc: Michael Colla; Hinchin, Clint
Subject: RE: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Alicia,

Sandhurst as trustee for annuity bond holders does not propose to be a party to the deed of compromise as there is currently no benefit to annuity bond holders in providing the release.

Regards,

Hayden Williams | Manager, Corporate Trusts

Sandhurst Trustees | Level 5 | 120 Harbour Esplanade | Docklands VIC 3008
P: 03 8414 7857 | M: 0478 435 246 | E: hayden.williams@bendigoadelaide.com.au



From: Salvo, Alicia [mailto:Alicia.Salvo@allens.com.au]
Sent: Monday, 2 December 2013 3:45 PM
To: Hayden Williams
Cc: Michael Colla; Hinchin, Clint
Subject: RE: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Dear Hayden

Further to the below email, we have not yet received any response from Sandhurst Trustees Limited.

Please confirm the matters requested below by close of business tomorrow.

Regards

Alicia Salvo
Senior Associate
Allens

Allens > < Linklaters

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M +61 414 151 838
101 Collins Street
Melbourne VIC 3000 Australia
www.allens.com.au

From: Doyle, Alicia
Sent: Tuesday, 19 November 2013 10:23 AM
To: 'Hayden Williams'
Cc: Michael Colla; Hinchin, Clint
Subject: RE: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Dear Hayden

Our client is prepared to cover Sandhurst Trustees Limited's (**Sandhurst's**) reasonable costs incurred in reviewing the draft deeds of compromise for both the Kangara and Bella Vista Rights Proceedings (attached again here for ease of reference), up to a maximum of \$1,000.

As there are only two clauses in each deed which relate to Sandhurst's interests, being:

- the acknowledgement that there will be no surplus available for payment to Sandhurst as set out in recital J; and
- the releases provided in clause 5.1,

our client expects that any time or cost involved for Sandhurst in reviewing the deeds should be minimal.

Please confirm by Wednesday 27 November 2013 whether Sandhurst has any comments on recital J or clause 5.1.

Regards

Alicia Doyle (née Salvo)
Senior Associate
Allens

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Melbourne VIC 3000 Australia
www.allens.com.au

From: Hayden Williams [<mailto:Hayden.Williams@bendigoadelaide.com.au>]
Sent: Friday, 8 November 2013 3:18 PM
To: Salvo, Alicia
Cc: Michael Colla
Subject: RE: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Alicia,

Apologies for the late reply.

At this stage we do not propose to provide a release as detailed in clause 5.1 of the Bella Vista or Kangara Deed of Compromise (Deeds) and have not reviewed the document in any detail. If your client wishes for Sandhurst to be a party to the Deeds please arrange for an indemnity be provided to Sandhurst for any costs that may be incurred by Sandhurst.

Regards,

Hayden Williams | Manager, Corporate Trusts

Sandhurst Trustees | Level 5 | 120 Harbour Esplanade | Docklands VIC 3008
P: 03 8414 7857 | M: 0478 435 246 | E: hayden.williams@bendigoadelaide.com.au



From: Michael Colla [<mailto:Michael.Colla@bendigoadelaide.com.au>]
Sent: Friday, 8 November 2013 2:22 PM
To: Hayden Williams
Subject: FW: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Hi H

As discussed.

Regards

Michael Colla | Manager Property and Mortgage Custody

Sandhurst Trustees | Level 5 120 Harbour Esplanade | Docklands VIC 3008
P: 03 8414 7856 | E: michael.colla@bendigoadeelaide.com.au



From: Salvo, Alicia [\[mailto:Alicia.Salvo@allens.com.au\]](mailto:Alicia.Salvo@allens.com.au)

Sent: Friday, 8 November 2013 12:27 PM

To: Michael Colla

Cc: Hinchin, Clint

Subject: FW: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Dear Michael

Further to our call this morning, I attach the without prejudice correspondence that was sent to Mr O'Brien on 1 October 2013 regarding the above proceeding.

We look forward to Sandhurst Trustees Limited's prompt response to our letter.

Thanks and regards

Alicia Salvo
Senior Associate
Allens

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Melbourne VIC 3000 Australia
www.allens.com.au

From: Salvo, Alicia

Sent: Tuesday, 1 October 2013 3:23 PM

To: frank.o'brien@bendigoadeelaide.com.au

Cc: Michael Fernon; Yu-chiao Hsueh; Hinchin, Clint

Subject: Supreme Court Proceeding No SCI 1478 of 2013 (Kangara Rights Proceeding) - deed of compromise

Strictly confidential and without prejudice

Dear Mr O'Brien

Please see the attached letter and enclosures in respect of the Kangara Rights Proceeding.

Kind regards

Alicia Salvo
Senior Associate
Allens

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