



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID163/2017

**MCKAY SUPER SOLUTIONS PTY LIMITED (ACN 110 853 024) (AS TRUSTEE
FOR THE MCKAY SUPER SOLUTIONS FUND)**

Applicant

BELLAMY'S AUSTRALIA LIMITED (ACN 124 272 108)

Respondent

ORDER

JUDGE: JUSTICE BEACH

DATE OF ORDER: 13 March 2020

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. Pursuant to sections 33V and 33ZF of the *Federal Court of Australia Act 1976* (the Act), the Proposed Settlement of the proceeding be approved upon the terms set out in the:
 - (a) Settlement Agreement dated 27 November 2019 exhibited as “Confidential Exhibit MGC-9” to the affidavit of Mathew Chuk affirmed on 6 March 2020, as varied by the Deed of Variation dated 13 December 2019 exhibited as “Confidential Exhibit MGC-10” to the Chuk affidavit (together, the **Settlement Agreement**); and
 - (b) Settlement Scheme, exhibited as “Exhibit MGC-14” to the Chuk affidavit and the Loss Assessment Formula exhibited as “Confidential Exhibit MGC-15” to the Chuk affidavit (together, the **Settlement Scheme**).
2. Pursuant to s 33ZF of the Act, the Applicant be authorised, *nunc pro tunc*, to enter into and give effect to the Settlement Agreement (and all transactions contemplated by it) for and on behalf of all Group Members, being those persons who meet the definition of group members in the Amended Originating Application and who did not file an opt out



notice by 29 January 2018 or by leave of the Court before 18 December 2019 (**Group Members**).

3. Pursuant to 33ZF of the Act, Group Member Yanlin Huang will be treated as if she complied with paragraph 4 of the orders made on 8 December 2017.
4. Pursuant to section 33ZB and section 33ZF of the Act, the persons affected and bound by the Proposed Settlement are the Applicant, the Respondent, Group Members, Slater & Gordon Ltd and IMF Bentham Limited.
5. Pursuant to section 33ZF of the Act, Slater & Gordon Ltd be appointed Administrator of the Settlement Scheme and is to act in accordance with the rules of the Settlement Scheme, subject to any direction of the Court.
6. Pursuant to ss 33V(2) and 33ZF of the Act:
 - (a) the Applicant's Reimbursement Payment, as defined in the Scheme, is approved in the amount of \$30,000;
 - (b) the Applicant's Legal Costs, as defined in the Settlement Scheme, are approved in the amount of \$3,561,421.13 (including GST) and are to be apportioned on a pro rata basis between all participating Group Members (being those who are to receive a distribution from the Scheme) and deducted from the settlement sum; and
 - (c) the Administration Costs, as defined in the Settlement Scheme, are approved in the amount of \$203,264.70 (including GST).
7. The Applicant be granted leave, nunc pro tunc, to file the confidential expert report of Catherine Mary Dealehr filed 6 March 2020 in support of orders 6(b) and 6(c) above.
8. For the avoidance of doubt, orders 1 to 3 of the orders made by the Court on 3 April 2018 shall be taken on and from 13 March 2020 as having been superseded by the present orders to the extent of any inconsistency.
9. Slater & Gordon Ltd has liberty to apply for directions in connection with the Settlement Scheme.



10. Pursuant to ss 37AF and 37AG(1)(a) of the Act, until further order, in order to prevent prejudice to the proper administration of justice, the contents of the exhibits marked Confidential Exhibits MGC-3, MGC-4, MGC-6, MGC-9, MGC-10, MGC-15 and MGC-19 to the Chuk affidavit, and confidential expert report of Catherine Mary Dealehr dated 6 March 2020, not be disclosed to any person or entity except to the docket Judge, his or her personal staff, any officer of the Court authorised by the docket Judge, the Applicant, its legal representatives, or IMF Bentham Limited, such permitted disclosures to be upon terms that none of those parties or persons disclose that material or any part thereof to any person or entity.
11. The proceeding be dismissed with no orders as to costs and on the basis that all previous orders for costs be vacated with effect from the date of the completion of the administration of the Settlement Scheme, being the date on which the final distribution from the Settlement Fund is confirmed to the Court by the Applicant and Respondent.

Date that entry is stamped: 13 March 2020

Sia Lagos
Registrar