



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID561/2017

ALISON COURT

Applicant

SPOTLESS GROUP HOLDINGS LIMITED (ACN 154 229 562)

Respondent

ORDER

JUDGE: JUSTICE MURPHY

DATE OF ORDER: 09 September 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**), settlement of the proceeding upon the terms set out in the Deed of Settlement and the Settlement Distribution Scheme (and any annexures therein) filed by the Applicant (together, the **Settlement**) be approved.
2. Pursuant to sections 33V and 33ZF of the Act, the Applicant is authorised *nunc pro tunc* for and on behalf of Group Members to enter into and give effect to the Settlement and the transactions contemplated for and on behalf of Group Members.
3. Pursuant to section 33ZB of the Act, the persons affected and bound by the Settlement are the Applicant, the Respondent and Group Members.
4. Pursuant to sections 33V and 33ZF of the Act, Slater and Gordon Ltd be appointed *nunc pro tunc* from 18 June 2020 as Administrator of the Settlement Distribution Scheme and is to act in accordance with the Court approved Settlement Distribution Scheme.
5. Pursuant to sections 33V(2), 22 and/or 23 of the Act and the Funding Terms approved by the Court on 8 May 2019:



- (a) “Legal Costs and Disbursements”, being legal costs and disbursements of the Applicant on a solicitor and own client basis, including those incurred in connection with the proceeding on her own behalf and on behalf of all Group Members in the proceeding, be approved in the amount \$7,856,318;
 - (b) “Project Costs”, further to the proportion of the Applicant’s Legal Costs and Disbursements paid by the Funders, are approved in the amount of \$340,345;
 - (c) “Funders’ Remuneration”, be approved in the amount \$19,500,324, being 22.5% of the settlement sum (net of costs);
 - (d) the “Applicant’s Reimbursement Payment”, being the Applicant’s reasonable claim for compensation for the time and/or expenses incurred in the interests of prosecuting on behalf of Group Members as a whole be approved in the amount \$25,000; and
 - (e) the “Administration Project Costs”, being costs and disbursements incurred by the Applicant in connection with the administration of the Settlement Distribution Scheme be approved in the amount \$211,165, without prejudice to the right of the Administrator to make application to the Court for approval of further “Administration Project Costs”.
6. Pursuant to rule 28.67 of the *Federal Court Rules 2011* (the **Rules**):
- (a) the report of Catherine May Dealehr dated 21 August 2020; and
 - (b) the supplementary report of Catherine May Dealehr dated 26 August 2020;
- be adopted as varied to allow an uplift of 15% on Slater and Gordon’s conditionally incurred professional fees.
7. Pursuant to section 33ZF of the Act or otherwise, upon the coming into effect of orders 1, 2, 4 and 5 above, each of the undertakings given by:
- (a) the Applicant;
 - (b) Slater and Gordon;
 - (c) Investor Claim Partner Pty Ltd;
 - (d) ICP Capital Pty Ltd;



- (e) Therium Australia Limited; and
- (f) Therium Litigation Finance AF IC,

to each other and to the Court to comply with their obligations under the funding terms attached as Annexure A to the orders of the Honourable Justice Murphy made 8 May 2019 be discharged.

8. Pursuant to rule 2.43(1) of the Rules, all amounts paid into Court by or on behalf of the Applicant as security for the Respondent's costs of the proceeding, and any interest accrued on those amounts, be repaid to the solicitors for the Applicant.

Confidentiality

9. Until further order, pursuant to section 37AG(1)(a) of the Act, on the ground that the order is necessary to prevent prejudice in the proper administration of justice:

- (a) the confidential annexures MGC-21 and MGC-33 to the affidavit of Mathew Glen Chuk dated 28 August 2020;
- (b) the unredacted confidential annexures MGC-34 and MGC-35 to the affidavit of Mathew Glen Chuk dated 28 August 2020;
- (c) the unredacted affidavit of John Walker dated 28 August 2020, and its annexures (**Walker Affidavit**);
- (d) the unredacted affidavit of Neil Andrew Purslow dated 28 August 2020, and its annexures (**Purslow Affidavit**); and
- (e) the passages set out in Annexure A to these orders, being redactions to mask commercially sensitive information in the Walker Affidavit and Purslow Affidavit,

be:

- (i) confidential and not be published or made available to any person;
- (ii) marked or designated as confidential; and
- (iii) held on the Court file in accordance with (i) and (ii) hereof until further order of the Court.



10. The Funders will file forthwith versions of the Walker Affidavit and the Purslow Affidavit in which the passages set out in Annexure A and Annexure B to these orders have been redacted.
11. Pursuant to section 37AG(1)(a) of the Act, on the ground that the order is necessary to prevent prejudice in the proper administration of justice:
 - (a) the confidential annexures MGC-32, MGC-36, MGC-37 and MGC-39 to the affidavit of Mathew Glen Chuk dated 28 August 2020;
 - (b) the report of Catherine May Dealehr dated 21 August 2020; and
 - (c) the supplementary report of Catherine May Dealehr dated 26 August 2020; and
 - (d) the passages set out in Annexure B to these orders, being redactions to mask information which is sensitive if the litigation is to continue, in the Walker Affidavit and Purslow Affidavit,be, until the expiry of the appeal period in respect of these Orders or determination of any appeal if filed, or further order:
 - (i) confidential and not be published or made available to any person;
 - (ii) marked or designated as confidential;
 - (iii) held on the Court file in accordance with (i) and (ii) hereof.
12. Upon the expiry of the appeal period in respect of these Orders or determination of any appeal if filed, the Funders will forthwith file versions of the Walker Affidavit and the Purslow Affidavit in which the passages set out in Annexure A to these orders have been redacted.

Late registrants

13. Pursuant to section 33ZF of the Act, the following Group Members are deemed to be Registered Group Members for the purposes of the Deed of Settlement and the Settlement Distribution Scheme and will be treated as if they complied with paragraph 8 of the orders made on 21 February 2020:
 - (a) L&J Stagoll ATF the Stagoll Super Fund A/C; and



- (b) Deborah Jane Evans and James Robert Newton Morey in their capacity as executors of the estates of Daryl Garfield Ritchie, deceased.

Further listing

14. The Applicant has liberty to apply to re-list the proceeding as soon as practicable after completion of the distribution of the Settlement Sum (and must in any event do so no later than thirty days after such completion) so that final orders can be made, including orders that:

- (a) the proceeding be dismissed on the basis that the dismissal is a defence and absolute bar to any claim (either directly or indirectly) or proceeding by the Applicant or any Group Member in respect of, or relating to, the subject matter of the proceeding, without prejudice to:
- (i) the right of any party to the Deed of Settlement to make an application to enforce the Deed of Settlement in a new proceeding; or
 - (ii) the right of any Registered Group Member to make application to the Court in accordance with the terms of the Settlement Distribution Scheme; or
 - (iii) the right of the Administrator of the Settlement Distribution Scheme to refer any issues relating to the Settlement Distribution Scheme to the Court for direction or determination in accordance with the terms of the Settlement Distribution Scheme; and
- (b) there be no order as to costs as between the Applicant and the Respondent.

Date that entry is stamped: 9 September 2020

Sia Lagos
Registrar



ANNEXURE A

#	DOCUMENT	CONFIDENTIAL PART
Evidence of the Funders		
1.	Affidavit of John Walker, unsworn, filed 28 August 2020	Paragraph [61] – partial, second and third sentences. Paragraph [62] – partial, from the words ‘the ICP bookbuild’ Paragraph [66] – partial, first sixteen words
2.	Affidavit of Neil Andrew Purslow, unsworn, filed 28 August 2020	Paragraph [42]-[43] – whole
3.	Annexure NAP-3 to the affidavit of Neil Andrew Purslow, filed 28 August 2020	Page 63 – partial, the entirety of columns four and five in numerated rows “one” and “two” of the table (being all figures in columns four and five)
4.	Annexure NAP-4 to the affidavit of Neil Andrew Purslow, filed 28 August 2020	Partial – text in box under the heading “Payable in accordance with the terms of the policy”
5.	Annexure NAP-5 to the affidavit of Neil Andrew Purslow, filed 28 August 2020	Partial – text in box under the heading “Payable in accordance with the terms of the policy”



ANNEXURE B

#	DOCUMENT	CONFIDENTIAL PART
Evidence of the Funders		
6.	Affidavit of John Walker, unsworn, filed 28 August 2020	Paragraph [61] – partial, from the word ‘\$30m’ to and including the word ‘discounts’. Paragraph [65](a) – whole Paragraph [65](b) – whole
7.	Affidavit of Neil Andrew Purslow, unsworn, filed 28 August 2020	Paragraph [44] – whole