



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID434/2015

CHERYL WHITTENBURY

Applicant

VOCATION LIMITED (ACN 166 631 330) and others named in the schedule

Respondent

ORDER

JUDGE: JUSTICE ANASTASSIOU

DATE OF ORDER: 23 July 2021

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. Pursuant to s 33V of the *Federal Court of Australia Act 1976* (Cth) (the **Act**), settlement of the proceeding is approved upon the terms set out in:

(a) the Settlement Agreement dated 30 November 2020 executed by the Applicant, the Respondents and, the Cross Respondents (together, **Respondents**), Slater and Gordon, Maurice Blackburn, Omni Bridgeway Limited and International Litigation Funding Partners Pte Ltd; and

(b) the Settlement Distribution Scheme (and any annexures therein) as annexed to the affidavit of Andrew Paull dated 11 March 2021.

(together, **Settlement Documents**).

2. Pursuant to s 33ZF of the Act or otherwise, the Court authorises the Applicant nunc pro tunc for and on behalf of the Group Members (being those persons who meet the definition of “Group Member” in the Second Further Amended Consolidated Statement of Claim and who did not file an opt out notice) (**Bound Group Members**)



to enter into and give effect to the Settlement Documents and the transactions contemplated for and on behalf of Group Members.

3. Pursuant to s 33ZB of the Act, the persons affected and bound by the settlement of the proceedings be the Applicant, the Respondents, the Bound Group Members, Omni Bridgeway Limited and International Litigation Funding Partners Pte Ltd.

Applicant's Costs and Expenses

4. Pursuant to s 54A(3) of the Act and r 28.67(1) of the *Federal Court Rules 2011* (Cth), the report of Catherine Dealehr (appointed as referee pursuant to Order 11 made by the Court on 17 December 2020) (**Costs Referee**) be adopted.
5. Pursuant to s 33V of the Act for the purposes of the Settlement Distribution Scheme approved pursuant to Order 1 the following distributions from monies paid under the settlement be approved:
 - (a) \$6,505,760.10 for the funding commission payable under group members' funding agreements with Omni Bridgeway Limited (which amount, aggregated with the amount in sub-paragraph (b) below, is the "Aggregate Funding Commission" referred to in clause 4.1(b) of the Settlement Distribution Scheme);
 - (b) \$4,413,588.04 for the funding commission payable under group members' funding agreements with International Litigation Funding Partners Pte Ltd (which amount, aggregated with the amount in sub-paragraph (a) above, is the "Aggregate Funding Commission" referred to in clause 4.1(b) of the Settlement Distribution Scheme);
 - (c) \$5,191,294.07 (being the amount approved as fair and reasonable by the Costs Referee) for the legal costs and disbursements referred to as the "Slater and Gordon Costs" in clause 4.1(g) of the Settlement Distribution Scheme;
 - (d) 7,567,385.66 (being the amount approved as fair and reasonable by the Costs Referee) for the legal costs and disbursements referred to as the "Maurice Blackburn Costs" in clause 4.1(g) of the Settlement Distribution Scheme;



- (e) \$20,000.00 for the Applicant’s reasonable claim for compensation for time spent and/or expenses incurred in the interests of prosecuting the proceeding on behalf of Group Members as a whole (referred to as the “Applicant’s Reimbursement Payment” in clause 4.1(g) of the Settlement Distribution Scheme);
- (f) \$158,144.50 for the costs and disbursements of the administration of the Settlement Distribution Scheme from the date of the approval of the Settlement to the date of completion of distribution of the Settlement Sum (referred to as the “Administration Costs” in clause 4.1(g) of the Settlement Distribution Scheme).

Appointment of Administrators

- 6. Pursuant to s 33ZF of the Act, Slater & Gordon Ltd and Maurice Blackburn Pty Ltd be appointed jointly as Administrators of the Settlement Distribution Scheme to act in accordance with the Settlement Distribution Scheme subject to any direction of the Court, and to have the powers and immunities conferred by the Settlement Distribution Scheme on the Administrators.

Late Registrants

- 7. Pursuant to s 33V and/or s 33ZF of the Act, for the purposes of the Settlement Distribution Scheme approved pursuant to Order 1, any group member who registered a claim following the Court’s orders made on 17 December 2020 up to and including 4 March 2021 is a “Registered Group Member” within the meaning of sub-paragraph (c) of the definition of that term in cl 11 of the Settlement Distribution Scheme.

Other

- 8. The proceeding be dismissed (including for the avoidance of doubt all Cross Claims) 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 or any



Respondent in relation to the subject matter of the proceeding, without prejudice to and without derogating from:

- (a) the right of any party to the Settlement Agreement to make an application to enforce the Settlement Agreement in a new proceeding; or
 - (b) the right of any Registered Group Member to make application to the Court in accordance with the terms of the Settlement Distribution Scheme; or
 - (c) 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; or
 - (d) the right of any Respondent to bring any cross-claim in respect of their liability in relation to a proceeding brought or a demand made by any person who is not a Bound Group Member against any of the Respondents or their Related Parties in respect of the Proceeding (whether arising at common law, in equity or under statute). “Related Parties” as used herein has the meaning set out in the Settlement Agreement. In relation to the Second Respondent, “Related Parties” has the interpretation set out at cl 2.1(m) of the Settlement Agreement.
9. There be no order as to costs as between the Applicant and the Respondents.
 10. All costs orders previously made in the proceeding are vacated.
 11. 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.

Confidentiality

12. Pursuant to ss 37AF and 37AG(1) of the Act in order to prevent prejudice to the proper administration of justice, the following documents be treated as confidential, not be published or made available and not be disclosed to any person or entity except to Anastassiou J, his or her personal staff, any officer of the Court authorised by Anastassiou J, the Applicant, her legal representatives, Omni-Bridgeway Ltd and



International Litigation Funding Partners, and 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:

- (a) the unredacted form of the First Affidavit of Andrew Paull dated 11 March 2021;
- (b) the Second Confidential Affidavit of Andrew Paull dated 11 March 2021;
- (c) the unredacted form of the Affidavit of Andrew Watson dated 11 March 2021;
- (d) Confidential Opinion of Richard Attiwill QC and William Edwards dated 11 March 2021; and
- (e) report of Cate Mary Dealehr dated 5 March 2021.

Date that entry is stamped: 23 July 2021

Sia Lagos
Registrar



Schedule

No: VID434/2015

Federal Court of Australia
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Second Respondent PRICEWATERHOUSECOOPERS (A FIRM) (ABN 52 780 433
757)
Third Respondent MARK EDWARD HUTCHINSON
Fourth Respondent MANVINDER GREWAL
Fifth Respondent JOHN SYDNEY DAWKINS

FIRST CROSS CLAIM

Cross-Claimant VOCATION LIMITED (ACN 166 631 330)
Cross Respondent THE PARTNERS OF JOHNSON WINTER & SLATTERY

SECOND CROSS CLAIM

Cross-Claimant PRICEWATERHOUSECOOPERS (A FIRM) (ABN 52 780 433
757)
Cross Respondent THE PARTNERS OF JOHNSON WINTER & SLATTERY

THIRD CROSS CLAIM

Cross-Claimant PRICEWATERHOUSECOOPERS (A FIRM) (ABN 52 780 433
757)
Cross Respondent MARK EDWARD HUTCHINSON
Second Cross
Respondent MANVINDER GREWAL
Third Cross
Respondent JOHN SYDNEY DAWKINS
Fourth Cross
Respondent STEPHEN JOHN TUCKER
Fifth Cross Respondent MICHELLE KIM TREDENICK



Sixth Cross Respondent DOUGLAS JAMES HALLEY

Seventh Cross Respondent VOCATION LIMITED (ACN 166 631 330)

FOURTH CROSS CLAIM

Cross-Claimant JOHN SYDNEY DAWKINS

Cross Respondent THE PARTNERS OF JOHNSON WINTER & SLATTERY

FIFTH CROSS CLAIM

Cross-Claimant THE PARTNERS OF JOHNSON WINTER & SLATTERY

Cross Respondent MARK EDWARD HUTCHINSON

Second Cross Respondent MANVINDER GREWAL

Third Cross Respondent JOHN DAWKINS

Fourth Cross Respondent STEPHEN JOHN TUCKER

Fifth Cross Respondent MICHELLE KIM TREDENICK

Sixth Cross Respondent DOUGLAS JAMES HALLEY

Seventh Cross Respondent VOCATION LIMITED (ACN 166 631 330)

CROSS CLAIM

Cross-Claimant MARK EDWARD HUTCHINSON

Cross Respondent THE PARTNERS OF JOHNSON WINTER & SLATTERY

CROSS CLAIM

Cross-Claimant MANVINDER GREWAL

Cross Respondent THE PARTNERS OF JOHNSON WINTER & SLATTERY

