



Federal Court of Australia  
District Registry: Queensland  
Division: General

No: QUD591/2015

**GRAEME CLARKE AND MARION CLARKE IN THEIR CAPACITY AS  
TRUSTEES OF THE G&M CLARKE SUPERANNUATION FUND**  
Plaintiff

**SANDHURST TRUSTEES LIMITED ACN 004 030 737**  
Defendant

### **ORDER**

**JUDGE:** JUSTICE LEE

**DATE OF ORDER:** 11 April 2018

**WHERE MADE:** Sydney

#### **THE COURT ORDERS THAT:**

In these Orders:

**Administration Costs** has the same meaning as it does in the Settlement Deed.

**Group Member(s)** means the persons and entities described in paragraph 5 of the further amended statement of claim, other than any such person or entity who has opted out of the proceeding.

**Indemnity Fee** has the same meaning as it does in the Settlement Scheme.

**Plaintiffs' Costs** has the same meaning as it does in the Settlement Deed.

**Settlement Deed** means the Settlement Deed executed on 22 December 2017 which is behind tab 1 of Confidential Exhibit JMS1 to the affidavit of Janice Mary Saddler affirmed on 6 February 2018.

**Settlement Scheme** means the Settlement Scheme which is behind tab 2 of Confidential Exhibit JMS1 to the affidavit of Janice Mary Saddler affirmed on 6 February 2018, as amended on 11 April 2018.

1. Pursuant to s 33V of the *Federal Court of Australia Act 1976 (Cth)* (**Act**) the settlement of the representative proceeding and the claims of the plaintiffs and each Group Member be approved on the terms set out in the Settlement Deed and the Settlement Scheme including payment in accordance with the Settlement Scheme of:



- (a) the Indemnity Fee in the amount of \$5,055,000.00;
  - (b) the Plaintiffs' Costs in the amount of \$4,909,024.49; and
  - (c) the Administration Costs in the amount of \$260,000.00 (subject to further order).
2. Shine lawyers be appointed administrator of the Settlement Scheme.
  3. The amended originating application and the further amended statement of claim be dismissed.
  4. The administrator and any Group Member have leave to approach the Court to seek directions in relation to the administration of the Settlement Scheme.
  5. Forthwith upon the conclusion of the administration of the Settlement Scheme, the administrator is to file a report which includes confirmation of the amount that has been charged in relation to the administration of the Settlement Scheme, which will be considered by the Court in the determination of any variation to Order 1(c) above.
  6. All previous unsatisfied costs orders in the proceeding be vacated.
  7. There be no order as to costs of the proceeding.
  8. Pursuant to ss 37AF and 37AG(1)(a) of the Act, until further order of the Court, in order to prevent prejudice to the proper administration of justice, Exhibit JMS1 to the confidential affidavit of Janice Mary Saddler affirmed on 13 March 2018 is not to be published or made available and not to be disclosed to any person or entity.
  9. Pursuant to ss 37AF and 37AG(1)(a) of the Act, until further order of the Court, in order to prevent prejudice to the proper administration of justice, Confidential Exhibit DJ3 to the affidavit of Diane Lesley Jones affirmed 11 April 2018, is not to be published or made available or disclosed to any person or entity other than Counsel for the parties to the proceeding.
  10. Other than Orders 8 and 9 (which apply generally), pursuant to s 33ZB of the Act, the persons and entities affected and bound by the balance of these orders, including the s 33V order, are the plaintiffs, the defendant and the Group Members who have not opted out of the proceeding.
  11. The hearing commencing on 29 October 2018 be vacated.



Date that entry is stamped: 17 April 2018

*Warrick Soden*  
Registrar