

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDING LIST

S ECI 2020 00306

BETWEEN:

DAVID SHIMSHON

First Plaintiff

JULIAN COUGAN

Second Plaintiff

- and -

MLC NOMINEES PTY LIMITED (ACN 002 814 959)

First Defendant

NULIS NOMINEES (AUSTRALIA) LIMITED (ACN 008 515 633)

Second Defendant

ORDER

JUDGE: The Honourable Justice Waller

DATE MADE: 12 May 2025

ORIGINATING PROCESS: Writ filed on 22 January 2020

HOW OBTAINED: On return of the plaintiffs' summons filed 26 February 2025

ATTENDANCE: K Loxley, of counsel, with R Howe, of counsel, for the plaintiffs
K Foley SC with G Ayres, of counsel, for the defendants

OTHER MATTERS:

- A. By summons filed 26 February 2025, the plaintiffs sought approval of their settlement of this proceeding pursuant to s 33V of the *Supreme Court Act 1986* (Vic) (the '**Act**') and other relevant orders.
- B. This order gives effect to the reasons for judgment in *Shimshon v MLC Nominees Pty Ltd* [2025] VSC 249 approving the settlement on substantially the terms sought by the plaintiffs.
- C. **Group Members** means those persons who meet the definition of 'Group Members' as set out in paragraph 3 of the second further amended statement of claim dated 24 September 2024 and who have not previously opted out of the proceeding.



- D. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015* ('**Rules**').

THE COURT ORDERS THAT:

Settlement of proceeding

1. Pursuant to s 33V of the Act:
 - (a) the settlement of this proceeding is approved on the terms set out in the Settlement Deed appearing at pages 14 to 34 of the confidential exhibit NA-10 of the confidential affidavit of Nina Abbey dated 26 March 2025 and Settlement Distribution Scheme ('**SDS**') appearing at pages 77 to 89 of exhibit NA-9 of the non-confidential affidavit of Nina Abbey dated 26 March 2025;
 - (b) the SDS is to be given effect; and
 - (c) the settlement monies advanced by the defendants under the Settlement Deed and SDS are to be distributed to Group Members in accordance with the SDS.
2. Pursuant to s 33ZF of the Act, the plaintiffs be authorised *nunc pro tunc*, to enter into and give effect to the Settlement Deed for and on behalf of all Group Members.
3. Pursuant to s 33ZB(a) of the Act, the persons affected and bound by the settlement are the parties to the Settlement Deed and the Group Members.
4. Pursuant to s 33ZF of the Act:
 - (a) Maurice Blackburn Pty Ltd is appointed as Settlement Administrator (as defined in clause 1 of the SDS);
 - (b) The Trustee for the MLC Super Fund, NULIS Nominees (Australia) Limited, is appointed as Settlement Distributor (as defined in clause 1 of the SDS); and
 - (c) Mr Joseph Robert Desoisa of Ernst & Young is appointed as Expert Consultant (as defined in clause 1 of the SDS),and each is to act in accordance with the SDS, subject to any direction of the Court.
5. The Settlement Administrator and Settlement Distributor have liberty to apply in relation to any matter arising under the SDS.
6. The plaintiffs and defendants are, as soon as practicable and within 30 days following receipt of the Final Report (as defined in the SDS) by the Settlement Distributor and its



provision to the Court, jointly to apply to the Court for orders dismissing the Proceeding with no order as to costs ('**Final Orders**').

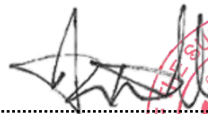
Plaintiffs' approved costs and plaintiffs' reimbursement

7. Pursuant to ss 33V(2) and/or 33ZF of the Act, for the purposes of the SDS, the plaintiffs' costs of the proceeding and the costs of the Settlement Administrator be approved in the amount of \$19,593,763.18, such amount comprising:
 - (a) the amount of \$19,459,027.70 for the costs payable to Maurice Blackburn in its capacity as solicitor for the plaintiffs up to and including 16 April 2025 (including the costs of the report of Ian Ramsey-Stewart, the Court appointed costs referee); and
 - (b) the amount of \$134,735.48 for the costs of Maurice Blackburn Pty Ltd in acting as the Settlement Administrator,(being the 'Plaintiffs' Approved Costs' as defined in the SDS).
8. Pursuant to ss 33V(2) and/or 33ZF of the Act, for the purposes of the SDS, the 'Plaintiffs' Reimbursement' (as defined in the SDS), be approved in the amount of \$30,000 payable to each of the plaintiffs.
9. All previous costs orders made in the proceeding prior to the date of these orders be vacated with effect from the date on which the Final Orders are made.

Confidentiality

10. Pursuant to r 28A.06 of the Rules and/or ss 17(b) and 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court's inherent jurisdiction, the following documents are confidential and are to be held on the Court file and are not to be published or disclosed without the prior leave of the Court to any person or entity other than the plaintiffs and their legal advisors and the Court:
 - (a) the confidential affidavit of Nina Abbey (including any annexures, exhibits or appendices) dated 26 March 2025;
 - (b) the report of the independent costs referee Ian Ramsey-Stewart (including any annexures, exhibits or appendices) dated 21 March 2025.

DATE AUTHENTICATED: 12 May 2025


The Honourable Justice Waller

