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5 BEFORE JUSTICE J. FORREST
6 FRIDAY, 16 DECEMBER 2016

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ERIN DOWNIE -v- SPIRAL FOODS PTY LTD & ORS

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MS NICHOLS: If your Honour pleases, I appear for the scheme
11 administrator.

12 HIS HONOUR: I think what we might do, given that there has
13 been some interest in this matter expressed by group
14 members, we might just have to have it called outside.

15 MS NICHOLS: Yes, certainly.

16 MR VARDY: No appearance, Your Honour.

17 MS NICHOLS: As Your Honour is aware, Mr White is in
18 attendance today. I will canvass with Your Honour what
19 might be most convenient to you. We are seeking some
20 orders which I think we have sent to Your Honour's
21 chambers. We are seeking three orders. The first,
22 that you adopt Mr White's report; the second, that you
23 approve administration costs in the amount stated
24 there.

25 HIS HONOUR: Which would follow, if I adopt the report.

26 MS NICHOLS: Indeed. That's the basis on which we say you
27 should approve those costs and there is an order in
28 relation to how those funds be dispersed, namely first
29 from the interest accrued on the settlement fund, and
30 second, from the principal sum.

31 The issues really are very straightforward

1 today, they really involve informing Your Honour about
2 some things that remain outstanding and also to deal
3 with Mr White's report. What would be most convenient
4 for Your Honour?

5 HIS HONOUR: I think we should not detain Mr White any more
6 than is necessary and you can take me through
7 Ms Lubomirska's affidavit, which I have read. Why
8 don't we call Mr White and you can lead him through
9 things. I have got a couple of questions for him as
10 well. I have a copy of Mr White's report in front of
11 me as well. Thanks, Mr White.

12 <JOHN DAVID WHITE, sworn and examined:

13 MS NICHOLS: Is Your Honour content if I ask Mr White some
14 questions?

15 HIS HONOUR: Yes, sure.

16 MS NICHOLS: Mr White, were you appointed as a special
17 referee pursuant to orders made by His Honour on 27
18 July 2016?---Yes, I was.

19 Does that appointment require you to make a report in
20 writing to the court on each occasion on which the
21 administrator of this settlement scheme seeks payment
22 of the costs of administering the settlement
23 scheme?---Yes. The scheme does have that requirement.
24 The orders, sorry, have that requirement.

25 Specifically, were you asked by the court to respond to two
26 questions; one, to determine are the costs sought
27 reasonable in relation to the administration of the
28 settlement dispute and if not, in what amount should
29 they be disallowed?---Yes, that's correct.

30 Have you performed that task and recorded the results of
31 your assessment and stated your opinion in a report

1 dated 10 November 2016?---Yes, I have.

2 Mr White, I don't need to take you to the background which I
3 am sure His Honour is familiar with. You recently
4 performed a very similar exercise in relation to the
5 Kilmore and Murrindindi bushfire class actions?---Yes,
6 I did.

7 Can I just ask you to confirm that you have received a very
8 considerable amount of material in order to perform
9 your task which is set out in the report?---Yes, I
10 have.

11 Were there any aspects in which you felt you were not given
12 adequate material in order to answer the questions that
13 you were asked to opine on?---No, not at all and in
14 fact, any queries that I did have were expeditiously
15 and, almost embarrassingly, quickly responded to by the
16 scheme administrator's staff.

17 Is it correct that you had the opportunity to meet with the
18 scheme administrator's staff in person and ask
19 questions?---Yes.

20 Can you just explain to His Honour very briefly the
21 methodology that you have used to assess the
22 costs?---The methodology is stated in the report and
23 there are in this matter eight separate steps. The
24 first was to establish the basis - - -

25 HIS HONOUR: Just wait a second, Mr White. These are all
26 set out, are they not, in your report?---Yes, Your
27 Honour.

28 Step 1 is at paragraph 48; is that right?---That's correct,
29 sir. Paragraph 12, page 41 details the eight separate
30 steps. The first step is to establish the basis on
31 which the administrator's costs are to be calculated.

1 The second step is to identify the scope of the work
2 done. The third step is to identify the nature of the
3 costs incurred over particular periods of time. The
4 fourth step was to examine the copy invoices and
5 calculate the time spent on the proceeding by each of
6 the lawyers and non-lawyers. The fifth step had two
7 parts: to take samples and examine those samples of
8 work claimed as done by reference to selected operators
9 and selected dates; and the second aspect was to take
10 and examine samples of disbursements claimed by
11 reference to selected service providers and selected
12 dates. The sixth step was to apply the established
13 basis for costing to the work reasonably done. The
14 seventh step was in relation to the number of hours
15 relating to non-recoverable work, by reason of that
16 work not being reasonably incurred or reasonable in
17 amount and if there was any work of that nature, to
18 excise that from the figures. The eighth step was to
19 identify and if any were located, reduce or deduct
20 disbursements which appeared unreasonably incurred or
21 unreasonable in amount.

22 MS NICHOLS: Can I just ask you to confirm your opinion in
23 relation to whether the hourly rates charged were
24 reasonable or not?---The hourly rates charged, in my
25 view, are reasonable and that was canvassed, I think,
26 in paragraphs 48-55 of the report.

27 HIS HONOUR: I was going to ask you and I think the answer
28 is in 48, this is different to Kilmore/Murrindindi in
29 which the orders specified the hourly rates?---Yes, it
30 is, sir, and that led to the additional step, the first
31 step in this matter, which wasn't present in the

1 reports of the Murrindindi and the Kilmore matters. In
2 terms of the hourly rates, as I mentioned in the
3 report, I had the benefit of examining Ms Dealehr's
4 quite extensive report on the solicitor/client costs of
5 the class action proceeding itself and having sighted
6 the memorandum of Judicial Registrar Gourlay of 17
7 August 2015 in respect of Ms Dealehr's report - - -

8 Can I interrupt you there for a moment. Was the situation
9 this: that the court ask Judicial Registrar Gourlay,
10 who is an experienced costs consultant, to examine
11 Ms Dealehr's report and report back if it thought there
12 were any problems with that? Is that roughly how it
13 worked?---Yes, sir, that's correct.

14 So you had Ms Dealehr's report?---Yes, sir.

15 And that had been scrutinised by Judicial Registrar
16 Gourlay?---Yes. Ms Dealehr was of the view in her
17 report that the hourly rates utilised in the main class
18 action proceeding were reasonable and reflected the
19 expertise and experience acquired by Maurice Blackburn
20 in the field of class actions and Judicial Registrar
21 Gourlay effectively agreed. Whilst the scheme document
22 itself doesn't detail the hourly rates, it would appear
23 that Maurice Blackburn adopted them, the hourly rates
24 that were utilised in the main class action proceeding
25 to the work done in relation to the settlement
26 distribution and it follows, in my view, that if
27 Ms Dealehr was of the view that they were appropriate
28 hourly rates and Judicial Registrar Gourlay was of the
29 view that they were appropriate hourly rates and in
30 fact they are the same hourly rates as were specified
31 in both the Murrindindi and the Kilmore East schemes

1 then they are reasonable rates. Also, in my
2 experience, they are rates within the marketplace that
3 one would expect in any event.

4 That was going to be my question, I think. From your own
5 experience are we talking, in terms of the rates are we
6 talking - what are the two scales now? There's
7 standard and - - -?---The two bases of taxation are the
8 standard basis and the indemnity basis.

9 On the standard basis would these fit within the standard
10 basis?---Yes, sir. The difference between standard
11 basis and indemnity basis is really one of a test
12 that's applied by the costs court. On a standard basis
13 all costs reasonably incurred and of reasonable amount
14 should be allowed. On an indemnity basis, if there was
15 a doubt as to whether a cost was reasonably incurred or
16 reasonable in amount the court must determine that in
17 favour of the party claiming costs. That doesn't
18 actually in the end impact on the process that we are
19 going through here. In any event, having - - -

20 You thought with all that exercise you took the view that
21 the rates being charged were appropriate?---Yes, sir, I
22 did. The next step on was that Maurice Blackburn then
23 utilised the elite time recording system to keep
24 records of the time.

25 MS NICHOLS: When do you say about the adequacy of those
26 records that you have seen?---The records are very
27 thorough actually. I must say one sees in practice
28 everything from the scant to the fulsome and the
29 records that were maintained are certainly at the
30 fulsome end of that scale. Maurice Blackburn have a
31 fairly rigorous approach to utilising the time

1 recording system, the time costing system. All file
2 operators, as I understand it, are provided with a
3 memorandum of protocols that are to be utilised and
4 it's a fairly thorough - I have sighted that document,
5 it's a fairly thorough memorandum. In relation to the
6 class actions, I have sighted a separate document which
7 I think is entitled "Tips For Time Costing" or
8 something to that effect and that's specifically in
9 respect to how to deal with time recording in class
10 actions. The system itself is a sold throughout
11 Australia for legal management systems, and indeed the
12 world and the manner in which it's applied is fairly
13 easily identifiable. I recall, if I might digress at
14 this time, during my time on the witness stand in the
15 Murrindindi and the Kilmore matters there was an issue
16 arising as to a "dead man's handle" in the case - - -

17 HIS HONOUR: I think that was my expression?---It was and I
18 took the opportunity to make some further enquiries as
19 to how that would operate and I have been given some
20 fairly detailed information.

21 You had better tell Ms Nichols what we are talking about are
22 Mr White, because Ms Nichols, I think, is not au fait
23 with the discussion we had and this resulted from a
24 question asked by one of the group members and it
25 related to the way in which the time costing program
26 operate, didn't it?---Yes.

27 And my recollection is as to whether in some way it
28 automatically cut in if effectively someone didn't make
29 an appropriate entry or just left the entry rolling.

30 Was that about it?---It was basically, yes, what would
31 happen if you forgot to turn it off, I suppose is the

1 simplest way of putting it, when you recorded. The
2 Elite system doesn't have a dead man's handle but if
3 the time was running for a particularly lengthy period
4 of time, for example overnight is one example, the
5 system itself, the software, would crash and you would
6 have to re-start it and it would be very obvious then
7 when you attempted to re-start, that something had gone
8 horribly wrong. If an operator forgot to - - -

9 What about if he or she goes off and has a cup of coffee
10 though? That's a more risky situation?---If they
11 forgot to do that and had a cup of coffee, when they
12 came back to utilise the system and tried to activate
13 it, they would find that it was already activated. The
14 system does allowed for manual override and in fact,
15 most time costing systems do allow for manual override.
16 In the circumstances where that occurred, the operator
17 would be able to manually override the time that was
18 recorded on the system to reduce it to an appropriate
19 time. As I understand it, the direction given in
20 Maurice Blackburn is that if something like that occur
21 and given human nature it does occur from time to time,
22 as clearly it would be fallacious to suggest that it
23 doesn't. If that does occur, then the file operator is
24 to give their best, most conservative estimate of the
25 time that was expended doing that particular task and
26 manually edit the system to that effect. It would
27 actually show, I suspect, in any event in the daily
28 running sheets - - -

29 When you did your audit, if there was one that seemed to be
30 an extraordinarily long time devoted to what was a
31 simple task, that would show up, wouldn't it?---It

1 would stand out. It would certainly stand out. In
2 fact, I can say that of the percentage that I did
3 examine in some detail, I didn't come across anything
4 that would have concerned me along those lines. So, in
5 effect, whilst there's no physical dead man's handle
6 like when you walk away the time automatically stops -
7 and doubtless that technology will arrive some day -
8 there are some in built safeguards. The quality
9 control protocols that were in place once the time was
10 to be translated into a monthly bill of costs was such
11 that any error like that would immediately be picked up
12 and cross-referenced and I have no doubt that the data
13 processing staff would raise that with the particular
14 operator.

15 MS NICHOLS: In short, the bills, whilst they might
16 initially be a compilation of entries generated through
17 the time costing system they are automatically signed
18 off, as it were, by a lawyer with responsible for the
19 file?---Yes and following a fairly rigorous process
20 through the accounts department of verifying the
21 information that's in those bills.

22 The description for each time entry, meaning what work has
23 actually been done, that is manually entered by the
24 operator, isn't it?---Yes, it is.

25 It's not an automatically generated category; they are
26 bespoke entries for each item?---They are indeed.

27 HIS HONOUR: I know this is jumping around but I have read
28 the report and I know from the last time, there are a
29 couple of things I am interested in. Did you do a
30 stack graph with this case or not?---Yes, Your Honour.
31 It should be the last attachment, attachment 3, to the

1 report.

2 Is there anything untoward about this as you see it in
3 relation to the management of the scheme?---No, there
4 isn't, Your Honour, and in fact although it differs
5 slightly from the Murrindindi and Kilmore matters, in
6 that the size of the paralegal component in those was
7 much larger in an overall sense but that doesn't
8 surprise me in this matter. The bulk of the hack work,
9 if I can put it that way, was generally done by
10 paralegals. But in this matter you had, rather than
11 assessments being done by counsel briefed out, the
12 assessments were done by the scheme administrator's
13 staff, principally Ms Ling and Ms Lubomirska, and that
14 shows in the "Solicitor" column and the "Senior
15 Associate/Special Counsel" columns for the work that
16 was done by those file operators in respect of the
17 assessment of claims.

18 MS NICHOLS: Were you aware whether or not the work of the
19 administrative assistant was built and reflected in
20 that stack graph?---I am aware that the work of the
21 administrative assistant wasn't.

22 Had it been billed it would have been reflected in a
23 non-lawyer category in the stack graph?---It certainly
24 would have been, yes. Might I raise one matter that
25 perhaps, I think, should be - and it's minor. In my
26 view it's minor and it should be on the report. There
27 are two glaring typographical errors that I think for
28 completeness should be corrected. If I can refer you
29 to page 9, paragraph 37 of the report. The last line
30 says: "Costs including disbursements for the period 2
31 June 2016 to 1 June 2016." Clearly that should be "2

1 June 2015 to 1 June 2016". The second is on page 29
2 and that is paragraphs 96(a) and (b) in relation to
3 Mr Curtain QC and Mr Keogh SC, as he then was. In the
4 second line of paragraph 96(a) it reads: "GST
5 exclusive maximum hourly rate allowable to junior
6 counsel." That clearly should be "senior" and the same
7 in paragraph 96(b) which just proves the evils of
8 copying and pasting.

9 HIS HONOUR: I ought to indicate that I have read the report
10 and I am satisfied that it ought to be adopted but if
11 there is anything else you want me to have a look at.

12 MS NICHOLS: Your Honour has read the report. I really was
13 just going to assist Your Honour going through it if
14 that helped but I just want to ask Mr White two things.

15 The first starts at paragraph 113 of the report which
16 concerns the group member whose material - in respect
17 of whom you were provided with material. Can you just
18 explain to - I will give you a minute to get to that
19 part of your report. Can you just explain briefly to
20 His Honour what you did, having received the material
21 that was provided?---On being provided with the
22 material in relation to that aspect of the matter, I
23 isolated in the accounts the work that was done by the
24 scheme administrator in answering the queries raised by
25 the claimant's husband and in respect of the claimant's
26 review. In fact, I had been provided by the
27 administrator's staff with an itemised bill of that
28 work but in fact that was in completed. There was more
29 work that I located in the invoices that I considered
30 was directly referable to those two aspects. Having
31 gone through that exercise, there can be no doubt in my

1 mind, there is no doubt in my mind that the costs
2 having been capped at \$3,000 were most reasonable. In
3 fact, in my view, the costs were substantially more
4 than that and that in those circumstances, there is
5 really no basis for complaint as to the costs that were
6 incurred in respect of the matter. I did consider it
7 necessary to raise the issue though because the conduct
8 of - in a wider sense, the conduct of one claimant or a
9 representative of one claimant can impact on all other
10 claimants in a class action and it seems to me to be
11 something that's integral to the conduct of a class
12 action, that class members must be mindful of the
13 consequences of their actions in that it doesn't
14 necessarily just impact on them alone, it can impact on
15 others.

16 HIS HONOUR: I am not clear about that. You are talking
17 about the diminution in the fund?---Yes.

18 By reason of a cap, which means that the actual costs exceed
19 the cap and that's borne by the other class members; is
20 that the point?---That's the point, yes.

21 MS NICHOLS: Mr White, do you also make the point that the
22 scheme administrators, of necessity, have to spend time
23 dealing with the complaints and issues raised by group
24 members which is part of their job but that incurs
25 costs in and of itself?---Of course.

26 HIS HONOUR: That's part and parcel of the deal if you take
27 on the job. We find that too. If you take on the
28 job you are going to, as we now know from these cases,
29 find that there are some group members who either
30 legitimately or for other reasons have concerns?---Yes
31 and that's human nature.

1 That's part of the deal.

2 MS NICHOLS: Your Honour, I was just going to draw Your
3 Honour's attention to Mr White's conclusion at
4 paragraph 118. No doubt you have read that. I have no
5 further questions for Mr White.

6 HIS HONOUR: I have a couple and you might have something
7 arising out of this.

8 One of the issues it seems to me that's arisen out of this
9 and Murrindindi and Kilmore is whether there is an
10 alternative to getting a solicitor's firm to manage
11 cases such as these. I draw the distinction
12 immediately between a tort claim, where claims have to
13 be assessed individually, and let's say a shareholder
14 claim where things can be done mechanically. I am just
15 wondering if there is any alternative to the solicitors
16 administering the scheme. There is, as you will
17 appreciate, was raised by one of the group members in
18 Kilmore East who referred to an American experience. I
19 have not looked at this but I think this is a
20 longwinded way of saying is there a practical
21 alternative to a solicitor's firm carrying out
22 administration of a scheme that involves individual
23 assessments?---I am not sure that there is, although
24 having regard to what was raised in the Kilmore matter
25 about the American experience, it strikes me that class
26 actions have been around in America and the United
27 States for quite possibly a lot longer than they have
28 been here.

29 Since the mid-60s?---And I understand that a whole industry
30 has grown around the class action process in the United
31 States and it's therefore not surprising that there

1 should be niche firms, maybe of accountants, maybe of
2 lawyers, maybe of others, who deal specifically with
3 certain aspects of the administration of a settlement
4 scheme. In Australia, as I understand it, we are
5 nowhere near that level and I am not certain that our
6 population would necessarily support such a specialised
7 area. So having thought about that, I am not certain
8 that there are better ways but it's quite possibly
9 something that should be looked at in some more detail.

10 These questions are all of a general prospective nature. I
11 am content with what's happened here but I am
12 interested in what we might do in the future. The
13 application of the Supreme Court scale. In each of the
14 other cases - and I have no problem with how it's been
15 applied in this case. Is it necessarily appropriate to
16 apply the Supreme Court scale to administration as
17 opposed to the actual trial?---I think there is
18 probably a case to be made out for the fact that
19 certainly at the paralegal levels the rates may perhaps
20 be lowered a little. Given the way - having examined
21 the administrations in now throw of these matters, I am
22 satisfied that the professional staff, if I can put it
23 that way - the qualified staff - basically do only the
24 work that they really need to do in the matter and I
25 think the hourly rates are entirely appropriate for
26 that sort of work and in fact, there is some case law,
27 as I have mentioned in the report, that would support
28 that view. Insofar as the rates for paralegals,
29 et cetera, are concerned, perhaps there is some ability
30 to review them and perhaps bring them down a little
31 bit, in terms of the work that's done and having

1 regard, I suppose, to things like the rate of pay
2 that's given to paralegals, office overheads of keeping
3 them.

4 I understand that and I understand it's not just looking at
5 the rate of pay, it's the overheads, all the
6 add-ons?---Yes.

7 I think that's helpful though. Clearly your view in
8 relation to the administration of this scheme is that
9 it's been conducted leanly and efficiently and indeed,
10 the solicitors are to be complimented for not charging
11 everything out as they could have?---Yes. My
12 impression of this matter was that it was run
13 extraordinarily lean, extraordinarily efficiently. I
14 suspect that's probably as a result of learning from
15 the other matters as well and I suspect that in future
16 in similar sorts of matters they will become leaner and
17 leaner as time goes by. This was a particularly good
18 exemplar of how, in my view, the process should be run.

19 Ms Nichols, anything else?

20 MS NICHOLS: No, Your Honour.

21 HIS HONOUR: Can I thank you on behalf of John Dixon J and
22 myself for all the efforts you have put in. It's been
23 Herculean. You set yourself a mammoth task and you
24 have achieved it. We are all the wiser for it. As you
25 have just indicated, Mr White, it has been a learning
26 experience and I compliment you and thank you for the
27 assistance you provided as special referee, not only in
28 this case but also in Kilmore East and Murrindindi. So
29 thank you very much and thanks for coming along
30 today?---Thank you, Your Honour.

31 You are excused. Thanks very much, Mr White?---Thank you,

1 sir.

2 And thanks again for all your help.

3 <(THE WITNESS WITHDREW)

4 HIS HONOUR: I propose to adopt Mr White's report. What
5 about a couple of these other issues that are raised in
6 Ms Lubomirska's affidavit?

7 MS NICHOLS: They won't take long, Your Honour. Just in
8 relation to the status of the distribution scheme, Your
9 Honour ordered on 4 November that an initial
10 distribution be made and as you will recall, that
11 distribution was to be 100 per cent of the assessed
12 losses, less relevant deductions. That occurred on 11
13 November of this year.

14 There was only one group member who sadly
15 had died before a distribution could be made and once a
16 grant of representation is achieved, that will be dealt
17 with.

18 HIS HONOUR: That will be paid out.

19 MS NICHOLS: Yes. There is an amount of \$3,515,864.06
20 remaining in the fund. That amount is intended to
21 cover the assessed maximum possible tax liability of
22 the fund. As Your Honour knows, the ATO has expressed
23 a view that the income is assessable.

24 The position of the scheme administrator is
25 it is eminently sensible for this scheme administrator
26 to wait until that matter is determined in Kilmore and
27 Murrindindi.

28 HIS HONOUR: Just let me go back to Ms Lubomirska's
29 affidavit. What's left to be paid out? Where are your
30 orders?

31 MS NICHOLS: It's simply the top-up amount which will be the

1 funds that are left at the end of the day after the tax
2 issue is resolved, less any further administration
3 costs. They fall into two parts.

4 The first part is at paragraph 9.1 and those
5 are for the months of October and November. They have
6 not been assessed and approval for those is not sought
7 today. At 9.3 Ms Lubomirska sets out the reasons why
8 additional costs are likely to be incurred and
9 expresses the view that they are likely to be minimal
10 and the proposal is that once the tax issues are
11 resolved, that the scheme administrator returns to
12 court once and once only so that a final distribution
13 and final costs can be approved, rather than coming
14 back on an interest mitt ant basis simply because that
15 incurs costs itself.

16 HIS HONOUR: Sure. Does it mean at the moment there's
17 roughly \$6 million in funds held by the scheme
18 administrator?

19 MS NICHOLS: \$3.5 million.

20 HIS HONOUR: There's the \$3.5 million which is being held
21 for a prospective tax liability and then there's also
22 the amount which the orders are sought of today.

23 MS NICHOLS: Correct, that's right.

24 HIS HONOUR: There is the potential for a relatively small
25 amount in terms of further administration expenses
26 which is set out at 9.1, as you have indicated, to be
27 claimable but as you have indicated, it's far more
28 sensible to hold that until the tax situation is
29 resolved and then we can make final orders, in effect,
30 dealing with the lot. Is that a fair summary?

31 MS NICHOLS: Indeed, that's exactly what's proposed.

1 HIS HONOUR: Is there anything else you want to tell me
2 about, Ms Nichols?

3 MS NICHOLS: No. Everything else is covered in the
4 affidavit. I will just mention without going to the
5 explanation provided about the \$14,000 in forfeited
6 bonds money. That is there in a trust account. It
7 simply can't be transferred to the controlled moneys
8 account until a bill is rendered and amounts can be set
9 off against that bill. So that can't happen until the
10 costs are approved.

11 HIS HONOUR: That can wait as well until that's sorted out.

12 MS NICHOLS: Once Your Honour approves the costs today that
13 money can be offset. It's a technicality about where
14 the funds are kept. Ms Lubomirska wanted to inform
15 Your Honour because she said something different in her
16 final affidavit.

17 There is reference to two group members who
18 phrased issues on prior occasions and they are dealt
19 with in the affidavit and there's nothing arising.

20 HIS HONOUR: I have read what's said about those.

21 MS NICHOLS: Thank you. There are no other matters that I
22 wish to bring to Your Honour's attention.

23 HIS HONOUR: Thank you very much, Ms Nichols. I thank
24 Ms Lubomirska as well for that very comprehensive
25 affidavit.

26 I am satisfied that I should make each of
27 the orders contained in the draft. I think they have
28 already been sent up electronically. I will make them
29 before lunch today and have them transmitted back to
30 your instructors.

31 MS NICHOLS: Thank you very much, Your Honour.

1 HIS HONOUR: I compliment your instructors and I
2 particularly compliment Ms Lubomirska on the job she's
3 done as scheme administrator. It seems to me that the
4 observations that Mr White made accorded with the way I
5 have understood many the scheme to have been
6 administered and that is in an extraordinarily
7 efficient and capable fashion and the fact that the
8 group members have been paid out rapidly and fulsomely
9 is a attribute to the scheme administrator.

10 I will make those orders and I will grant
11 liberty to apply as well so that hopefully we can come
12 back on one final occasion at some time in the dim
13 distant future and try and sort out the final
14 distribution.

15 MS NICHOLS: Yes, Your Honour.

16 HIS HONOUR: Thank you very much, Ms Nichols, for your
17 assistance.

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