

IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
CORPORATIONS LIST

S CI 2015

IN THE MATTER OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

BETWEEN

ANTHONY GREGORY MCGRATH, JOSEPH DAVID HAYES, MATTHEW WAYNE CADDY AND ROBERT MICHAEL KIRMAN AS RECEIVERS AND MANAGERS OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

First Plaintiffs

BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

Second Plaintiff

**AFFIDAVIT OF JOSEPH DAVID HAYES "JH-14"**

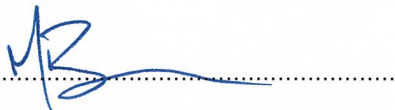
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Date sworn: 16 December 2015  
Filed on behalf of: The Plaintiffs  
Prepared by:  
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This is the exhibit marked "**JH-14**" now produced and shown to Joseph David Hayes at the time of swearing his affidavit on 16 December 2015.



**Exhibit "JH-14"**

**Circular to debenture-holders dated 1 April 2014**



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**Banksia Securities Limited**  
**ACN: 004 736 458**  
**(Receivers and Managers Appointed)(In Liquidation) ("BSL")**

**Circular to Debenture Holders**

**1 April 2015**

We refer to our last circular to debenture holders dated 13 November 2014 where we provided an update on the resolution of BSL's legal claims, summarised the remaining trading aspects of the receivership and confirmed the return to date of 80 cents in the dollar to debenture holders and our expectation for an overall return on 82 to 83 cents in the dollar (excluding any costs or recoveries associated with litigation).

Provided below is a further update in relation to the resolution of BSL's legal claims, noting that these remain the major outstanding assets to be realised in the Receivership.

**1 Litigation update**

**1.1 Court ordered mediation**

As noted in our previous circular, following the conclusion of the last (unsuccessful) mediation process, we commenced proceedings against BSL's former auditors, directors and officers, and former legal advisors by filing a Statement of Claim against the various defendants on 7 November 2014.

Following the commencement of proceedings, a directions hearing was held on 15 December 2014. At the hearing, the Trustee applied for orders referring the proceedings to mediation, which was generally supported by the defendants. Accordingly, a court ordered mediation has now been scheduled for 13 April 2015.

We maintain the view that a mediated outcome remains in the best interests of debenture holders and therefore intend to continue to work constructively with all parties to maximise the potential of a successful outcome at the further mediation.

We also note however, that in the event that the mediation is unsuccessful and/or a global settlement is not subsequently achieved, the Court indicated an availability to the list the matter for trial in the second week of February 2016.

**1.2 Liquidators' claims**

At the directions hearings held on 27 February 2015 the Liquidator advised the Court that:

- the Liquidators and Receivers are working co-operatively to progress the BSL proceedings whilst minimising any doubling up of work or costs; and
- if the mediation is not successful, the Liquidators will seek to take over the conduct of BSL's proceeding against the various defendants from the Receivers and will apply to join the Trustee to the proceeding to ensure that BSL's proceedings are appropriately pursued whilst minimising the risk of any doubling up of costs that may result from separate parties

Since the directions hearing, the Liquidators have commenced proceedings against the Trustee, albeit that these proceedings will not be served prior to the scheduled mediation (and may thereafter be joined in some way to the existing proceedings). The Liquidator has also caused a further class action to be commenced. Again, if this proceeding is continued it will be served after the mediation with a view to it being heard with the other proceedings.



## McGrathNicol

The Receivers and Liquidators are anxious to avoid any unnecessary cost occasioned by duplication of claims. The steps being taken by the Liquidators are intended to ensure that all claims are preserved and are brought before the court so that they may all proceed to a resolution as expeditiously as possible.

### 1.3 The Class Action

The Class Action proceedings continue. In the event that the mediation is unsuccessful, it is anticipated these Proceedings will run concurrently with the BSL proceedings.

Any queries in relation to the Class Action should be referred to the Class Action solicitors via [info@banksiaclassaction.com.au](mailto:info@banksiaclassaction.com.au).

### 1.4 Estimated outcome

The ongoing pursuit of BSL's claims continues to preclude the possibility of a further repayment in the short to medium term.

Debenture holders have received 80 cents in the dollar to date, and whilst our previous guidance was in the range of 82 to 83 cents in the dollar, this was provided on the basis of excluding any costs or recoveries associated with litigation.

Our estimated outcome guidance has not changed, although as noted in our previous circular is heavily dependent on the outcome of the mediation/litigation process. We hold approximately \$26 million in funds, which are required to meet ongoing liabilities, fund both the Receivers' and Liquidators' costs associated with the litigation process, as well as meeting any potential cost orders made against BSL.

At the conclusion of the next mediation process, we will revisit the funds under management, and the prospect of a further dividend in the near term.

## 2 Receivership update

The trading aspects of the Receivership are now minimal, with only a small number of remaining impaired loan assets to be realised. We sold and exited BSL's ex-Head Office in Kyabram in December 2014.

## 3 Conclusion

We appreciate that the update provided above relates to complex legal issues. We are nevertheless hopeful that it is helpful to debenture holders to understand the progress of BSL's various claims and the upcoming milestones in the resolution of those claims.

We continue to liaise closely with the Debenture Holder Committee and will endeavour to provide substantive updates to the debenture holder community on a regular basis where necessary.

We will be in contact again following the mediation.

For further information, please continue to contact Link Market Services on 02 8767 1029 or [banksia@linkmarketservices.com.au](mailto:banksia@linkmarketservices.com.au).

Dated 1 April 2015

Tony McGrath  
Receiver and Manager

Joseph Hayes  
Receiver and Manager