

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-26"**

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Date sworn: 16 December 2015

Filed on behalf of: The Plaintiffs

Prepared by:

**Ashurst Australia**

Level 26

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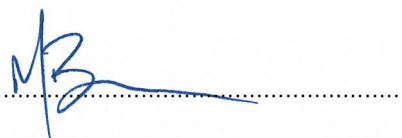
Ref: 03 3000 9288

Attention: Ross McClymont

Email: ross.mcclymont@ashurst.com

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This is the exhibit marked "JH-26" now produced and shown to Joseph David Hayes at the time of swearing his affidavit on 16 December 2015.



**Exhibit "JH-26"**

Email from Rupert Smoker to Ashurst dated

24 October 2013

**From:** Rupert SMOKER [mailto:RSmoker@thetrustcompany.com.au]  
**Sent:** Thursday, 24 October 2013 12:57 PM  
**To:** McClymont Ross 3025  
**Cc:** Peter BRYANT  
**Subject:** RE: Banksia/ Cherry Fund - counsel's advice re claim for additional remuneration

Ross,

Can you confirm whether your Senior or Junior Counsel considered s61(2) of *Trustee Companies* (1984) in their  
advice of 7 October 2013?

Regards

**RUPERT SMOKER**  
Head of Corporate and Debt Capital Markets Trustee Services

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2011 AND 2012 FINALIST  
(LARGE SERVICES AWARD CATEGORY)

