

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-32"**

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Date sworn: 16 December 2015  
Filed on behalf of: The Plaintiffs  
Prepared by:  
**Ashurst Australia**  
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181 William Street  
MELBOURNE VIC 3000

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Attention: Ross McClymont  
Email: ross.mcclymont@ashurst.com

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This is the exhibit marked "**JH-32**" now produced and shown to Joseph David Hayes at the time of swearing his affidavit on 16 December 2015.



**Exhibit "JH-32"**

Email from Laurie Cogger to Joseph Hayes dated

16 December 2013

## Galloway, Sarah 3814

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**From:** Laurie Cogger <LCogger@CoggerGurry.com.au>  
**Sent:** Monday, 16 December 2013 2:24 PM  
**To:** Tony McGrath  
**Cc:** 'c\_m\_hayes@bigpond.com'; 'cesymon@westvic.com.au';  
'bandhlloyd@bigpond.com'; 'goodidea@anson.com.au'; 'ramsdn1@inet.net.au';  
'donandlzmckenzie@bigpond.com'; 'susanpitman@ymail.com';  
'robjlea@bigpond.com'; 'robjlea789@gmail.com'; 'elliott@eastmelbourne.net'  
**Subject:** Re: Meeting

Good Afternoon Tony

**Re: Banksia Debenture Holder Committee**  
• **Trustees additional remuneration claim to 31 August 2013**

Firstly, thank you for your advice and input into the above matter. In my view, the outcome from the committee's perspective is as follows:

 It is evident from last Thursday's meeting (12 December 2013) that 'on principle' the Debenture Holder Committee is of the view that the trustee should not be paid the additional claim.


However, the committee does recognise obligations in relation to the matter as detailed in the Trust Deed and counsels quite extensive interpretation of these obligations.

In view of this, the committee has acknowledged a remuneration claim on the basis of time input at generally accepted market rates (which provide for experience and skill). It should be noted the committee is totally relying on your assessment and advice in relation to the quantum of time input and the applicable rate.

On this basis, the committee has acknowledged a payment totalling \$2,325,870 as outlined on page 11 of your presentation. Any 'value add' is embedded in this amount.

It should be made clear the committee makes this payment 'without prejudice' as it does not wish it to impact any potential future class action against the Trust company.

The committee requests that any future claims for remuneration by the Trust company should be on the same basis and fully documented including tasks performed, hours, rates etc.

 Please contact me should you require any further details or clarification in relation to any aspect of the above.  
Yours sincerely

**Laurie Cogger**  
**Committee Member**



Laurie Cogger  
Position | Partner  
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Laurie Cogger  
Position | Certified Financial Planner