

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-51"**

Date sworn: 16 December 2015  
Filed on behalf of: The Plaintiffs  
Prepared by:  
**Ashurst Australia**  
Level 26  
181 William Street  
MELBOURNE VIC 3000

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Attention: Ross McClymont  
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This is the exhibit marked "JH-52" now produced and shown to Joseph David Hayes at the time of swearing his affidavit on 16 December 2015.

  
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**Exhibit "JH-52"**

Email from Don McKenzie to Joseph Hayes

dated 30 May 2014

**From:** Don & Liz McKenzie [mailto:donandlizmckenzie@bigpond.com]

**Sent:** Friday, 30 May 2014 12:29 PM

**To:** Joe Hayes

**Cc:** Tony McGrath; 'Doug Crow'; 'Laurie Cogger'; c\_m\_hayes@bigpond.com; 'Russ Goodear'; 'rob lea'; 'Susan Pitman'; elliott@eastmelbourne.net; bandhiloyd@bigpond.com

**Subject:** RE: Banksia - Committee Update - Trustee Fees

Tony & Joe

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At the outset, thanks again for presenting a further opportunity to consider the matter of payment of fees to Trust Co.

I have now had responses from all Committee members in this regard and they have given due consideration to the information you forwarded on 19<sup>th</sup> May 2014.

With the exception of one member, all other members are very firmly of the view that no payment should be made to the Trust Co unless directed to do so by the Court (in accordance with our previous decision).

The Committee is very definite in their view and do not consider that any further discussion is necessary to address matter.

I also point out that should Trust Co continue to pursue the Court action, a member of the Committee would certainly be prepared to take the position of Contradictor.

Regards

Don