

CONSENT ORDERS

COURT DETAILS

Court Supreme Court of New South Wales
Division Common Law
List General
Registry Sydney
Case number 329777 of 2009

TITLE OF PROCEEDINGS

First Plaintiff **Geraldine Dorothy Giles**
Second Plaintiff **Vivian Catherine Drady**

First Defendant **Commonwealth of Australia**
Number of Defendants **3**

PREPARATION DETAILS

Prepared for The Plaintiffs
Legal representative Kenneth John Fowlie
Slater & Gordon Lawyers
Legal representative reference KJF:RS:304583
Contact name and telephone Roop Sandhu, (02) 8267 0612

PROPOSED ORDERS BY CONSENT

Provisional settlement approval

1. Pursuant to section 183 of the *Civil Procedure Act 2005* (NSW) (the **Act**), the Court, subject to the determination of any objections filed in accordance with Order 11 below, provisionally approves:
 - (a) the settlement of this proceeding upon the terms set out the Deed of Settlement (the **Deed**) reproduced as pages 1 to 23 of Exhibit JC2 to the second affidavit of Julie Kirsten Clayton made 16 June 2015 (**Confidential Clayton Affidavit**); and
 - (b) the distribution of the Settlement Sum (as defined in the Deed) among the group members in accordance with the Settlement Distribution Scheme (the **Scheme**) (reproduced as Annexure B to the affidavit of Julie Kirsten Clayton made on 24 June 2015).

Settlement class closure

2. Pursuant to section 183 of the Act:

- (a) any group member who wishes to claim compensation from the defendants or any of them in respect of the claims which are the subject of this proceeding (described in the Second Amended Statement of Claim) must, by not later than 4:00pm on 24 July 2015 (**Registration and Objections Date**), deliver to the plaintiffs' solicitors (**Slater and Gordon**) or the Registry a completed "*Fairbridge Group Member Registration Form*" in the form set out in Annexure A to this Order, provided however that any group member who is recorded on the Slater and Gordon database of group members and potential group members (**SG Database**) as at the date of this Order shall be deemed to have registered in accordance with this Order;
 - (b) any group member who does not register in accordance with Order 2(a) above shall remain a group member for all purposes of the proceeding, but in the event of any settlement of the proceeding shall not, without leave of the Court, be permitted to claim compensation pursuant to the settlement.
3. The plaintiffs by their solicitors have leave to inspect the Court file and copy any Fairbridge Group Member Registration Form.
 4. By 4:00pm on 31 July 2015 the plaintiffs by their solicitors:
 - (a) serve on each defendant a list of the persons registered in accordance with Order 2 hereof (**List of Participating Group Members**); and
 - (b) file and serve an affidavit made by a solicitor of Slater and Gordon deposing to compliance with Orders 2 to 4(a) inclusive above.

Notice of Proposed Settlement

5. Pursuant to sections 175(4), 176(1) and 183 of the Act, the content of the notice to group members being Schedule A to this Order (the **Notice of Proposed Settlement**) be approved.
6. Pursuant to sections 176(1) and (2) of the Act, the Notice of Proposed Settlement be given to group members by Slater and Gordon as follows:
 - (a) for persons who are recorded on the SG Database with an email address - by emailing the said Notice to each person at the nominated email address by 4:00pm on 2 July 2015;
 - (b) for persons who are recorded on the SG Database with a postal address – by posting the said Notice to each person at the nominated postal address by 4:00pm on 2 July 2015;
 - (c) for persons who are recorded on a database maintained by the Old Fairbridgians Association (**OFA**) with a postal address and nominated by the OFA as former residents of the Fairbridge Farm School at Molong - by posting the said Notice to

each person at the nominated postal address by 4:00pm on 2 July 2015, provided the OFA consents;

- (d) for persons who are recorded on the database provided by the third defendant to the plaintiffs on 17 April 2014 - by posting the said Notice to each person at the nominated postal address by 4:00pm on 2 July 2015;
- (e) for all other group members - by causing a copy of the Notice to be published by 4.00pm on 2 July 2015:
 - (i) in a weekday edition of each of:
 1. the *Daily Telegraph* newspaper; and
 2. the *Central West Daily* newspaper;
 as a full-page advertisement.
 - (ii) on the Slater and Gordon website at <http://www.slatergordon.com.au/class-actions/current-class-actions/fairbridge-farm-school/>, and thereafter retaining the Notice on the website until not earlier than 4:00pm on 28 July 2015.

7. For the purpose of sending the Notice of Proposed Settlement in accordance with Order 7(d), the third defendant provide to Slater and Gordon a copy of any such database in its possession in the form of an MS Excel spreadsheet or other electronic format by 4pm on 30 June 2015.
8. By not later than 9 July 2015 the plaintiffs by their solicitors file and serve an affidavit deposing to the steps taken in compliance with Orders 6 and 7 above.
9. The costs of and incidental to the procedure set out in Orders 6 to 8 inclusive shall be costs in the cause.

Settlement Distribution Fund

10. Pursuant to Section 173(2) of the Act, alternatively pursuant to Section 183 of the Act, alternatively pursuant to the inherent power of the Court, the Court directs that Slater and Gordon establish a Settlement Distribution Fund for the purpose of the Deed and Scheme.

Group member objections to settlement

11. By 4:00pm on 24 July 2015, any group member who wishes to oppose the Proposed Settlement must deliver to Slater and Gordon or the Registry a "*Notice of Objection to Settlement*" form in the form of Annexure B to these Orders.
12. The plaintiffs by their solicitors have leave to inspect the Court file and copy any Notice filed in accordance with Order 11.

13. Any group member who submits a Notice of Objection to Settlement (**Objector**) must, by not later than 31 July 2015, deliver to Slater and Gordon:
 - (a) a written statement not exceeding two (2) pages in length, identifying the bases on which the Objector wishes to oppose the Proposed Settlement; and
 - (b) any affidavit material upon which they wish to rely in support of their objection to the Proposed Settlement.
14. By 4:00pm on 5 August 2015, the solicitors for the plaintiffs shall deliver to the Associate to his Honour Justice Garling:
 - (a) where any materials have been submitted by Objectors in accordance with Orders 11 and 13 above - a copy of all such materials which:
 - (i) shall pursuant to section 183 of the Act be confidential; and
 - (ii) shall be delivered in a sealed pack marked "*Confidential - not to be opened save by leave of his Honour Justice Garling*"; alternatively
 - (b) where no Objector materials have been submitted in accordance with Orders 11 and 13 above - an affidavit made by a solicitor of Slater and Gordon deposing to the results of Orders 11 to 13 inclusive above.

Timetabling

15. By 4:00pm on 6 August 2015, the solicitors for the plaintiffs shall deliver:
 - (a) to the Associate to his Honour Justice Garling and each Objector any written submissions upon which the plaintiffs propose to rely at the hearing of their application for the Orders set out in paragraphs 17 to 22 below (**Settlement Approval Orders**); and
 - (b) to the Associate to his Honour Justice Garling:
 - (i) the terms of any notice proposed to be given to Participating Group Members in the event that the Settlement Approval Orders are made (**Notice of Settlement Approval**); and
 - (ii) proposed minutes of orders for the giving of the Notice of Settlement Approval to Participating Group Members.
16. Pursuant to Section 183 and 184 of the Act, alternatively the inherent jurisdiction of the Court, the sum of \$3,637,323.86 be approved toward payment of the plaintiffs' costs and disbursements incurred to 31 May 2015.
17. The hearing of the plaintiffs' application for the Orders set out in paragraphs 17 to 26 of Attachment B of the plaintiffs' submissions be adjourned to 21 August 2015.
18. Costs of the plaintiffs' motion filed on 10 June 2015 are reserved.

19. The plaintiffs and each defendant have liberty to apply, upon not less than 24 hours' notice to each other party, by correspondence addressed to the Associate to his Honour Justice Garling.

SEAL AND SIGNATURE

Court seal

Signature

Capacity

Date

