

ON APPEAL FROM THE FULL COURT OF THE FEDERAL COURT OF AUSTRALIA
BETWEEN:

AUSTRALIAN SECURITIES &
INVESTMENTS COMMISSION

Appellant

AND

10

KIM SAMUEL JAQUES

First Respondent



AUSTRALIAN PROPERTY CUSTODIAN
HOLDINGS LIMITED ACN 095 474 436
(RECEIVERS AND MANAGERS APPOINTED)
(IN LIQUIDATION) (CONTROLLERS APPOINTED)

Second Respondent

SUBMISSIONS OF THE APPELLANT

20 **Part I: Publication**

1. These submissions are in a form suitable for publication on the internet.

Part II: Issues arising

2. The same issues arise in this appeal as are set out in Part II of the submissions filed by the Appellant (ASIC) in proceeding M79 of 2018 (**Lewski Appeal**).

Part III: Section 78B of the *Judiciary Act 1903* (Cth)

3. ASIC considers that no notice need be given in compliance with this provision.

Part IV: Reasons for judgment of primary and intermediate court

4. The reasons and judgments of the primary judge and intermediate court are set out in Part IV of ASIC's submissions in the Lewski Appeal.

30 **Part V: Facts**

5. ASIC repeats the recitation of facts set out in Part V of its submissions in the Lewski Appeal.

Part VI: Argument

6. ASIC repeats the argument set out in Part VI of its submissions in the Lewski Appeal.

Part VII: Orders sought

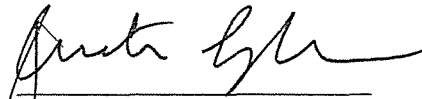
7. ASIC seeks the following orders:

- (a) The appeal is allowed.
- (b) Paragraphs 2-6 of the orders of the Full Court of the Federal Court of Australia made on 1 November 2017 in proceeding VID784/2014 be set aside and in their place, the following orders be made:
 - “2. *The appeal is dismissed.*
 - 3. *The appellant pays ASIC’s costs of the appeal.*”
- (c) The proceedings be remitted to the Full Court for determination of ASIC’s cross-appeal.
- (d) The first respondent pay ASIC’s costs of the appeal to the High Court.

10 **Part VIII: Length of oral argument**

- 8. The estimated time required for ASIC’s oral argument in this proceeding is included in the estimate of time in ASIC’s submissions in the Lewski Appeal.

Date: 6 July 2018



JUSTIN GLEESON

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