

**ON APPEAL FROM THE FULL COURT OF THE FEDERAL COURT OF AUSTRALIA**

BETWEEN:

**AUSTRALIAN SECURITIES &  
INVESTMENTS COMMISSION**

Appellant

AND



**MARK FREDERICK BUTLER**

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) Paragraphs 2-6 of the orders of the Full Court of the Federal Court of Australia made on 1 November 2017 in proceeding VID783/2014 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.”*

- (b) The proceedings be remitted to the Full Court for determination of ASIC’s cross-appeal.
- (c) The first respondent pay ASIC’s costs of the appeal to the High Court.

**Part VIII: Length of oral argument**

- 10 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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