

SUPREME COURT OF
VICTORIA
COMMERCIAL COURT
BULLETIN
No. 2/2011



Matter: Altain Khuder LLC v IMC Mining Inc & Anor

Judge: Croft J

Date: 28/1/2011

Citation: [2011] VSC 1

Subject: ARBITRATION – Recognition and enforcement of foreign arbitral award – Extent to which applicant for recognition and enforcement must establish existence of an arbitration agreement and a foreign arbitral award binding on the parties to the arbitration agreement in pursuance of which it was made – Extent of onus on a party resisting enforcement on the basis of the defences or grounds for resisting enforcement under the *International Arbitration Act 1974 (Cth)* and the *Convention on the recognition and Enforcement of Foreign Arbitral awards, New York, 1958* (“New York Convention”) – Proper procedure, and appropriateness of ex parte application, applying for recognition and enforcement of foreign arbitral award under *Supreme Court (Miscellaneous Civil Proceedings) Rules 2008*, Order 9, and in accordance with Practice Note 2 of 2010 – Arbitration Business: *International Arbitration Act 1974 (Cth)*, ss 2D, 3(1), 8, 9 and 39; New York Convention, Articles II, IV and V.

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Matter: Re AXA Asia Pacific Holdings Ltd

Judge: Croft J

Date: 28/1/2011

Citation: [2011] VSC 4

Subject: SCHEMES OF ARRANGEMENT – Acquisition of shares and cancellation of rights – Application for meeting under 411(1) Corporations Act 2001 (Cth) – *Factors to consider at meeting stage – Independent expert’s opinion of the schemes – Performance risk – Exclusivity period – No-talk and no shop – Deemed warranty – Information for shareholders and rightsholders – Sections 411 and 412 Corporations Act 2001 (Cth).*

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Matter: Altain Khuder LLC v IMC Mining Inc & Anor (No 2)

Judge: Croft J

Date: 3/2/2011

Citation: [2011] VSC 12

Subject: COSTS – Special costs orders – Indemnity costs – *Colgate Palmolive Company v Cussons Pty Ltd* [1993] FCA 536; (1993) 46 FCR 225 – *Ugly Tribe Co Pty Ltd v Sikola* [2001] VSC 189 – Special circumstances to justify an indemnity costs order – Indemnity costs in arbitration matters – In circumstances of an application to resist enforcement of an international arbitral award – *A v R* [2009] 3 HKLRD 389 – *Wing Hong Construction Limited v Tin Wo Engineering Company Limited* [2010] HKEC 919 – *Taigo Ltd v China Master Shipping Ltd* [2010] HKCFI 530 – *Hung Wan Construction Co Ltd v Hong Kong Housing Authority* [2010] HKCFI 650 – *Civil Justice Reform* (Hong Kong) – *Rules of the High Court* (Hong Kong), Order 1A, Rule 1 – *Civil Procedure Act 2010* (Vic), section 7.

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