

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 10/03/2017 9:57:24 AM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	VID238/2017
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v WEALTH & RISK MANAGEMENT PTY LTD & ORS
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing
Time and date for hearing:	31/03/2017, 9:30 AM
Place:	Court Room Not Assigned, Owen Dixon Commonwealth Law Courts Building Level 7, 305 William Street, Melbourne



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 14/03/2017 9:59:29 AM AEDT

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



ORIGINATING PROCESS

No. of 2017

**Federal Court of Australia
District Registry: Victoria
Division: General**

IN THE MATTER OF WEALTH & RISK MANAGEMENT PTY LTD (ACN 161 722 514)

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

WEALTH & RISK MANAGEMENT PTY LTD (ACN 161 722 514) AND OTHERS

ACCORDING TO THE SCHEDULE

Defendants

A. DETAILS OF APPLICATION

This application is made under section 21 of the *Federal Court of Australia Act 1976* (Cth), (the **FCA Act**) and sections 1101B, 1317E, 1317G(1E) and 1324(1) of the *Corporations Act 2001* (Cth) (the **Act**).

The plaintiff seeks declarations of contraventions of the Act and the *Australian Securities and Investments Commission Act 2001* (Cth) (the **ASIC Act**), pecuniary penalty orders, injunctions and ancillary orders, including costs against the first, second and third defendants.

In this Originating Process, terms which are defined in the Concise Statement dated [INSERT] have the same meaning as they do in that document.

On the facts stated in the Concise Statement, the plaintiff seeks:

AGAINST THE FIRST DEFENDANT

1. A declaration pursuant to s 1317E of the Act, that the first defendant has at all times since 1 December 2015 contravened s 961L of the Act by failing to take reasonable steps to ensure that its authorised representatives complied with ss 961B, 961G and 961J of the Act.

Filed on behalf of:	Australian Securities & Investments Commission, Plaintiff
Prepared by:	Nathalie Pietsch, Lawyer, ASIC
Tel	(03) 9280 3539 Fax
Email	Nathalie.pietsch@asic.gov.au
Address for service	Level 7, 120 Collins Street, Melbourne Vic 3000 Attention: Nathalie Pietsch



2. Pursuant to s 1317G(1E) of the Act, orders that the first defendant pay pecuniary penalties in respect of its contravention of s 961L of the Act.
3. Pursuant to s 1101B of the Act or s 21 of the FCA Act, declarations that the first defendant has since 1 December 2015 contravened s 912A(1) of the Act by:
 - (a) failing to do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly; and
 - (b) failing to take reasonable steps to ensure that its representatives comply with the financial services laws.

AGAINST THE SECOND DEFENDANT

4. Pursuant to s 1101B(1) of the Act or s 21 of the FCA Act, declarations that the second defendant has since 1 December 2015 contravened:
 - (a) s 911A of the Act, alternatively, s 911B of the Act, by providing financial product advice within the meaning of s 766B of the Act by making recommendations intended to influence persons in making a decision in relation to superannuation interests and life products (or that could reasonably be regarded as being intended to have such an influence) to acquire, vary and/or dispose of an interest in superannuation interests or life products, and thereby carrying on a financial services business and/or providing a financial service in this jurisdiction without holding an AFSL or otherwise being authorised by an AFSL holder;
 - (b) s 12DA of the ASIC Act, by causing advertisements and statements to be published on the internet representing that:
 - i. the second defendant provides credit and/or personal loans;
 - ii. the second defendant offers 'fast cash', 'cash now' and cash payments within 24 to 72 hours of receipt of an Application Form;
 - iii. the second defendant is an Australian Credit Licence holder; or an authorised credit representative of an Australian Credit Licensee,being representations made in trade or commerce in relation to financial services that were misleading or deceptive or likely to mislead or deceive.



- (c) s 1041H of the Act, by causing advertisements and statements to be published on the internet representing that:
- i. the second defendant provides credit and/or personal loans;
 - ii. the second defendant offers 'fast cash', 'cash now' and cash payments within 24 to 72 hours of receipt of an Application Form;
 - iii. the second defendant is an Australian Credit Licence holder; or an authorised credit representative of an Australian Credit Licensee,
- being representations in relation to a financial product or a financial service that were misleading or deceptive or likely to mislead or deceive.

AGAINST THE DEFENDANTS

5. Pursuant to s 1101B(1) of the Act or s 21 of the FCA Act, a declaration that each of the defendants contravened s12CB of the ASIC Act by:
- (a) providing misleading information to members of the public about the nature of the products and services offered by the first, second and third defendants ; and/or
 - (b) providing advice to clients that:
 - i. was not in their best interests;
 - ii. was not appropriate to their circumstances;
 - iii. failed to give priority to the client's interests; and/or
 - (c) employing unfair tactics against members of the public so as to obtain fees and commissions,
- and thereby engaged in conduct in trade or commerce in connection with the supply or possible supply of financial services to a person that was in all the circumstances unconscionable.
6. An order pursuant to s 1101B(1) and/or s 1324(1) of the Act that the defendants be restrained, whether by themselves, their servants, agents and employees or otherwise, from:



- (a) carrying on a business related to, concerning or directed to financial products or financial services within the meaning of section 761A of the Act;
 - (b) providing any of the following services:
 - i. providing financial product advice within the meaning of section 761A of the Act;
 - ii. dealing in financial products within the meaning of section 761A of the Act;
 - (c) in any way holding themselves out as doing the things in (a) or (b) above.
7. An order that the defendants pay the plaintiff's costs.
8. Such further or other orders as the Court considers appropriate.

Date: 2 March 2017


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Nathalie Pietsch
Solicitor for the Australian Securities and Investments Commission

This application will be heard by the Federal Court of Australia at 305 William Street, Melbourne at _____ on _____ 2017.

B. NOTICE TO DEFENDANTS

TO:

WEALTH & RISK MANAGEMENT PTY LTD (ACN 161 722 514)

Level 3 NORTH TOWER, 424 ST KILDA RD MELBOURNE VIC 3004

JECA HOLDINGS PTY LTD (ACN 609 298 820)

Level 3 NORTH TOWER, 424 ST KILDA RD MELBOURNE VIC 3004



YES FP PTY LTD (ACN 607 165 159)

Level 5, 70 CITY RD SOUTHBANK VIC 3006

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable

D. FILING

Date of filing:

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Registrar

This originating process is filed by Nathalie Pietsch for the Plaintiff.

E. SERVICE

The Plaintiff's address for service is:

Australian Securities and Investments Commission
 Level 7, 120 Collins Street
 MELBOURNE VIC 3000



It is intended to serve a copy of this originating process on each defendant.

**SCHEDULE****No. of 2017****Federal Court of Australia
District Registry: Victoria
Division: General****IN THE MATTER OF WEALTH & RISK MANAGEMENT PTY LTD (ACN 161 722 514)****AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

WEALTH & RISK MANAGEMENT PTY LTD (ACN 161 722 514)

First Defendant

JECA HOLDINGS PTY LTD (ACN 609 298 820)

Second Defendant

YES FP PTY LTD (ACN 607 165 159)

Third Defendant

