

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 2/05/2016 1:42:49 PM AEST 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:	VID514/2015
File Title:	In the matter of Avestra Asset Management Ltd (in liquidation) (ACN 119 227 440)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



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

Dated: 2/05/2016 4:37:08 PM AEST

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.



Form 2 Amended originating process

(rules 2.2 and 15A.3)

(Amended pursuant to paragraph 4 of the Order of Beach J made on 29 April 2016)

Federal Court of Australia

No. VID514/2015

District Registry: Victoria

Division: General

IN THE MATTER OF AVESTRA ASSET MANAGEMENT LTD (IN LIQUIDATION) (ACN 119 227 440)

Australian Securities & Investments Commission

Plaintiff

Avestra Asset Management Ltd (in liquidation) (ACN 119 227 440) and others
named in the Schedule

Defendants

A. DETAILS OF APPLICATION

This application is made under sections 206C, 206E, 461, 464, 472, 1101B, 1317E, and 1323 and 1324 of the *Corporations Act 2001 (the Act)* and section 21 of the Federal Court of Australia Act 1976 (the FCA Act).

The nature of the proceeding is as follows:

1. An application for orders that the 1st defendant be wound up (and that an official liquidator be appointed for the purposes of the winding up) pursuant to sections 461(1)(k) on the ground that it is just and equitable that the 1st defendant be wound up.
2. Further, pending determination of the application for final relief, an application for orders:
 - a. pursuant to s 472(2) of the Act appointing a provisional liquidator to the 1st defendant;
 - b. alternatively:

Filed on behalf of
Prepared by
Tel
Email
Address for service

Plaintiff
Savas Miriklis
+61 3 9280 3200 Fax +61 3 9280 3444
savas.miriklis@asic.gov.au
Australian Securities and Investments Commission
Level 7, 120 Collins Street, Melbourne, Victoria 3000



- i. pursuant to ss 1323(1)(h)(ii) and (3) and/or 1101B(1), (4)(g) and (5) of the Act, appointing receivers to managed investment schemes of which the defendant is the responsible entity or trustee;
- ii. pursuant to ss 1323 and/or 1101B of the Act, appointing receivers to the remaining property of the defendant;
- iii. further or alternatively, injunctions pursuant to ss 1323 and/or 1101B of the Act.

3. Further, an application for:

- a. declarations of contravention against each of the defendants, pursuant to s 1317E(1) of the Act and s 21 of the FCA Act; and
- b. disqualification orders against each of the 2nd and 3rd defendants, pursuant to sections 206C(1)(a)(i), 206E(1)(a)(i) and/or 206E(1)(a)(ii) of the Act; and
- c. injunctions against each of the 2nd and 3rd defendants, pursuant to s 1324(1) of the Act.

B. CLAIM FOR FINAL RELIEF

By way of final relief the plaintiff claims:

- 1 An order pursuant to s 461(1)(k) and s464 of the Act for the winding up of the 1st defendant on the ground that it is just and equitable that it be wound up.
- 2 An order that Simon Alexander Wallace-Smith and Robert Scott Woods, official liquidators, of Deloitte Touche Tohmatsu, 555 Bourke Street, Melbourne, Victoria, be appointed as joint and several liquidators of the 1st defendant for the purposes of the winding up.

Declarations of contravention: Avestra Asset Management Ltd

- 3 The declarations of contravention against the 1st defendant set out in Annexure 1 to this originating process.

Declarations of contravention: Paul John Rowles

- 4 The declarations of contravention against the 2nd defendant set out in Annexure 2 to this originating process.



Disqualification and injunction: Paul John Rowles

5 An order, pursuant to sections 206C(1)(a)(i), 206E(1)(a)(i) and/or 206E(1)(a)(ii) of the Act, disqualifying the 2nd defendant from managing corporations for such period as the Court considers appropriate.

6 Further, an injunction, pursuant to section 1324(1) of the Act, restraining the 2nd defendant, whether by himself or by others, from:

(a) carrying on a business concerning financial products or financial services;

(b) providing financial product advice; or

(c) dealing in financial products,

for such period as the Court considers appropriate.

Declarations of contravention: Clayton Dempsey

7 The declarations of contravention against the 3rd defendant set out in Annexure 3 to this originating process.

Disqualification and injunction: Clayton Dempsey

8 An order, pursuant to sections 206C(1)(a)(i), 206E(1)(a)(i) and/or 206E(1)(a)(ii) of the Act, disqualifying the 3rd defendant from managing corporations for such period as the Court considers appropriate.

9 Further, an injunction, pursuant to section 1324(1) of the Act, restraining the 3rd defendant, whether by himself or by others, from:

(d) carrying on a business concerning financial products or financial services;

(e) providing financial product advice; or

(f) dealing in financial products,

for such period as the Court considers appropriate.

310 Costs.

411 Such further or other orders as may be just and necessary, as the Court sees fit.



C. CLAIM FOR INTERLOCUTORY RELIEF

By way of interlocutory relief the plaintiff claims:

Provisional liquidators

- 1 An order pursuant to s 472(2) of the Act that Simon Alexander Wallace-Smith and Robert Scott Woods, official liquidators, of Deloitte Touche Tohmatsu, 555 Bourke Street, Melbourne, Victoria (**the provisional liquidators**), be appointed as joint and several provisional liquidators to the 1st defendant.
- 2 An order that the provisional liquidators shall, within 42 days of their appointment, or such other time as the Court considers appropriate, provide to the Court and to the plaintiff a report as to the provisional liquidation of the 1st defendant, including:
 - (a) in relation to the 1st defendant generally:
 - (i) the assets and liabilities of the defendant;
 - (ii) any suspected contravention of the Act by the 1st defendant or any of its current or former directors or any other person, whether in relation to any of the Schemes (as defined in the Annexure to this originating process) or otherwise;
 - (b) in relation to each of the Schemes:
 - (i) the nature and identity of the assets or scheme property and any liabilities of the Scheme;
 - (ii) the identities of the members of the Scheme and the nature and extent of their interest in the Scheme;
 - (iii) the amount of any profits or losses suffered by each member of the Scheme in relation to their investment;
 - (iv) the most appropriate manner and timing of managing and realising any assets or scheme property of the Scheme so as to most benefit its members; and
 - (v) a recommendation whether the Scheme should continue in operation or should be wound up.
- 3 An order conferring powers on the provisional liquidators, in addition to the powers conferred on them by the Act, to investigate into and report on:



- (a) the matters set out at paragraph 2 of this order; and
- (b) any other matter referred to in the affidavit of Glenn John Childs sworn 9 September 2015.

Alternatively to paragraphs 1-3 above:

Receivers, freezing orders and injunctions

- 4 An order pursuant to s 1323(1)(h)(ii) and (3), alternatively s 1101B(1), (4)(g) and (5), of the Act that, Simon Alexander Wallace-Smith and Robert Scott Woods, official liquidators, of Deloitte Touche Tohmatsu, 555 Bourke Street, Melbourne, Victoria (**the receivers**) be appointed, without giving security, as joint and several receivers and managers of the scheme property of the Schemes (as defined in the Annexure to this originating application) to:
 - (a) identify, collect and secure the assets or scheme property;
 - (b) discharge the defendant's duties in relation to the Schemes (whether as responsible entity of the registered Schemes or trustee of the unregistered Schemes);
 - (c) provide reports to the Court as referred to in paragraph 5.

- 5 The receivers shall, within 42 days of their appointment, or such other time as the Court considers appropriate, provide to the Court and to the plaintiff a separate report as to the affairs of each of the Schemes, including:
 - (a) the nature and identity of the assets or scheme property and any liabilities of the Scheme;
 - (b) the identities of the members of the Scheme and the nature and extent of their interest in the Scheme; and
 - (c) the amount of any profits or losses suffered by each member of the Scheme in relation to their investment;
 - (d) the most appropriate manner and timing of managing and realising any assets or scheme property of the Scheme so as to most benefit its members; and
 - (e) a recommendation whether the Scheme should continue in operation or should be wound up;
 - (f) any suspected contravention of the Act by the 1st defendant or any of its current or former directors or any other person, in relation to the conduct of the Scheme.



- 6 Subject to these orders, and any further or other order of the Court, the receivers shall have all powers necessary:
- (a) to do any of the things specified in paragraph 4; and
 - (b) to enable them to carry out and complete the inquiries and reports referred to in paragraph 5.
- 7 The defendant by its officers, agents and/or employees immediately:
- (a) make available to, and allow inspection by, the receivers during business hours of any books (as defined in s 9 of the Act), records and other papers relating to the Schemes in the possession, custody or control of the 1st defendant (saving all just exceptions); and
 - (b) allow the receivers to copy any such books, records or other papers.
- 8 The 1st defendant by its officers, agents and/or employees answer such questions as the receivers may reasonably require them to answer as to any of the matters under inquiry (saving all just exceptions).
- 9 An order pursuant to s 1101B(1), (4)(a) and (5) that the 1st defendant be restrained, until further order, from carrying on a financial services business, within the meaning of Chapter 7 of the Act, except in relation to the Schemes.
- 10 Further to paragraph 4:
- (a) An order pursuant to s 1323(1)(h)(ii) and (3), alternatively s 1101B(1), (4)(g) and (5), of the Act that the receivers also be appointed, without giving security, as joint and several receivers and managers of the property of the 1st defendant, other than scheme property of any of the Schemes; or
 - (b) Alternatively, an order pursuant to s 1323(1)(f), (1)(g), (1)(h) and (3) of the Act and s 23 of the *Federal Court Act* 1976 (Cth) (**Federal Court Act**), alternatively s 1101B(1), (4)(j) and (5) of the Act prohibiting any person, until further order, from:
 - (i) taking, sending or transferring out of Australia; or
 - (ii) selling, charging, mortgaging or otherwise dealing with or disposing of, any property of the 1st defendant, other than any dealing in the assets or scheme property of the Schemes done by, or with the authority of, the receivers.



- 11 The receivers appointed pursuant to paragraphs 4 and/or 10(a) shall be entitled to reasonable remuneration and reasonable costs and expenses properly incurred in the performance of their duties and the exercise of their power as receivers and managers, as may be fixed by the Court on the application of the receivers.

Disposal of books and records

- 12 Further to 4 and 9 above, an order pursuant to s 1323(1)(h) and (3) of the Act and s 23 of the Federal Court Act, alternatively s 1101B(1), (4)(j) and (5), of the Act that, until further order, and subject to paragraphs 4 and 7 above, the 1st defendant be restrained whether by itself, its servants, agents and employees or otherwise howsoever from disposing of, destroying, amending, altering, parting with possession of, or causing, procuring, assisting or permitting the destruction, amendment, alteration or parting with possession of, all and any books, papers, records, books of account, ledgers, journals, banking records, computer records or other documents of any type whatsoever recording or evidencing any dealings of in relation to the scheme property.

Confidential Exhibits

- 13 An order pursuant to s 37AF of the Federal Court Act that in order to preserve confidentiality over personal information of individuals who are members of the Schemes or other relevant offshore schemes, the specific exhibits to the affidavit of Glenn John Childs sworn 9 September 2015 that are marked 'Confidential' are to be kept confidential and are not to be disclosed to other persons without the express consent of all parties, or of the named individuals, or by order of the Court.

Other orders

- 14 Liberty to apply.
- 15 Costs reserved.
- 16 Such further or other relief as the Court considers appropriate.

Date: ~~9 September 2015~~ 2 May 2016

A handwritten signature in blue ink, appearing to read 'Savas Miriklis'.

Savas Miriklis
Legal Practitioner for the
Australian Securities and Investments Commission



This application will be heard by the Federal Court of Australia at 305 William Street,
Melbourne a.m. / p.m. on



D. NOTICE TO DEFENDANT(S) (IF ANY)

TO: The Defendant
Avestra Asset Management Ltd
Level 1
2 Miami Key
BROADBEACH WATERS QLD 4218

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.

E. FILING

Date of filing:

.....
Registrar

This originating process is filed by Savas Miriklis, Legal Practitioner for the plaintiff.

F. SERVICE

The plaintiff's address for service:

Australian Securities and Investments Commission
Level 7
120 Collins Street
Melbourne, Victoria 3000

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



Annexure Defined expressions

Schemes means the following registered managed investment schemes:

- (a) Avestra Advantage Fund (ARSN 136 421 497);
- (b) Excela Australian Equity Income Accelerator Fund (ARSN 139 641 946);
- (c) Emergent Fund (ARSN 130 533 747);
- (d) Generator Fund (ARSN 127 699 754); and
- (e) Maximiser Fund (ARSN 130 533 685).
- (f) LCL Capital Absolute Returns Fund (ARSN 125 377 746);
- (g) Managed Investment Account Service (ARSN 164 487 389);
- (h) Valensworth Fund (ARSN 600 622 080); and
- (i) Pegasus Australia Geared Fund (ARSN 136 421 282);

and the following unregistered managed investment schemes;

- (j) the Avestra Credit Fund (or any other name by which it is known);
- (k) the Convalo Diversified SIV Fund;
- (l) the Convalo Accelerator Fund;
- (m) the Convalo Property Fund.

property means all real or personal property, assets or interests in any property of any kind, within or outside Australia, including any property held otherwise than as sole beneficial owner.

scheme property has the meaning as defined in section 9 of the Act in relation to registered managed investment schemes, and an equivalent meaning in relation to the property of any unregistered managed investment scheme.



Annexure 1: Declarations of contravention sought against the 1st defendant

Part II: AAM's takeover of AG Financial and cross-investments of the AG Schemes in AAM's wholesale schemes

Part II.B.1(a): Direct use of scheme property of the Advantage Fund to acquire shares in AG Financial – unauthorised related party transactions

1 A declaration under s 1317E of the Act that the 1st defendant (**AAM**) contravened section 208(1) of the Act (as modified by s 601LC) on 20 and 21 March 2013, in that it gave a financial benefit out of the scheme property of the Advantage Fund to itself, alternatively to AFM Global Pty Ltd (later renamed Bridge Global Securities Pty Ltd) (**Bridge Global Securities**), by making a purchase of shares of Excela Ltd (later renamed AG Financial Ltd) (**AG Financial**) that contributed to:

- (a) AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the Accelerator, Emergent, Generator and Maximiser Funds (together, the **AG Schemes**), for reward; and
- (b) Bridge Global Securities being appointed as fund manager of the AG Schemes, for reward,

without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act. (para 112.1 of the Points of Claim)

2 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 30 May 2013, in that it gave a financial benefit out of the scheme property of the Advantage Fund to itself, alternatively to AG Financial, by making a purchase of shares of AG Financial Ltd that:

- (a) contributed to AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the AG Schemes, for reward; and
- (b) raised share capital for AG Financial,

without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act. (para 112.2 of the Points of Claim)



3 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on or around 12 July 2013, in that it gave a financial benefit out of the scheme property of the Advantage Fund to itself, alternatively to AG Financial, by making a purchase of shares of AG Financial Ltd that:

(a) contributed to AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the AG Schemes, for reward; and

(b) raised share capital for AG Financial,

without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act. (para 112.3 of the Points of Claim)

Part II.B.1(b): Direct use of scheme property of the Advantage Fund to acquire shares in AG Financial – failure to give priority to interests of scheme members

4 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(c) of the Act on 20 and 21 March 2013 in that, in making a purchase of shares of AG Financial using scheme property of the Advantage Fund, it failed to act in the best interests of the members of the Advantage Fund and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 114.1 of the Points of Claim)

5 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(c) of the Act on 30 May 2013 in that, in making a purchase of shares of AG Financial using scheme property of the Advantage Fund, it failed to act in the best interests of the members of the Advantage Fund and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 114.2 of the Points of Claim)

6 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(c) of the Act on or around 12 July 2013 in that, in making a purchase of shares of AG Financial using scheme property of the Advantage Fund, it failed to act in the best interests of the members of the Advantage Fund and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 114.3 of the Points of Claim)



Part II.B.2: Indirect use of scheme property of the Advantage Fund to acquire shares in AG Financial – unauthorised related party transactions

- 7 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 20 or 21 March 2013, in that it gave a financial benefit to itself indirectly out of, or in a way that could endanger, the scheme property of the Advantage Fund, by making a purchase of shares of AG Financial Ltd on behalf of the Worberg Global Fund that contributed to AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the AG Schemes, for reward, without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act. (para 118.1 of the Points of Claim)
- 8 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on or around 12 July 2013, in that it gave a financial benefit to itself, alternatively to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage Fund, by making a purchase of shares of AG Financial Ltd on behalf of the Worberg Global Fund that:
- (a) contributed to AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the AG Schemes, for reward; and
 - (b) raised share capital for AG Financial,
- without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act. (para 118.2 of the Points of Claim)
- 9 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on or around 19 July 2013, in that it gave a financial benefit to itself, alternatively to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage Fund, by making a purchase of shares of AG Financial Ltd on behalf of the Worberg Global Fund that:
- (a) contributed to AAM acquiring control over, and obtaining a majority shareholding in, AG Financial, and becoming appointed as responsible entity of the AG Schemes, for reward; and
 - (b) raised share capital for AG Financial,



without obtaining the approval of the members of the Advantage Fund in accordance with ss 217 to 227 of the Act (para 118.3 of the Points of Claim).

Part II.B.3: Use of scheme property of the Advantage, Worberg Global, Canton and Safecrest Funds to acquire shares in AG Financial – failure to provide financial services efficiently, honestly and fairly

- 10 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchases of shares in AG Financial on behalf of the Canton Fund, the Worberg Global Fund and the Advantage Fund on 20 and 21 March 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.1 of the Points of Claim)
- 11 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchase of shares in AG Financial on behalf of the Advantage Fund on or around 30 May 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.2 of the Points of Claim)
- 12 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchase of shares in AG Financial on behalf of the Safecrest Fund on 3 July 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.3 of the Points of Claim)
- 13 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchase of shares in AG Financial on behalf of the Safecrest Fund on 4 July 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.4 of the Points of Claim)
- 14 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchases of shares in AG Financial on behalf of the Advantage, Canton and Worberg Global Funds on or around 12 July 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.5 of the Points of Claim)
- 15 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchases of shares in AG Financial on behalf of the



Canton, Worberg Global and Safecrest Funds on or around 19 July 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.6 of the Points of Claim)

- 16 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with its purchase of shares in AG Financial on behalf of the Safecrest Fund on 1 August 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.7 of the Points of Claim)
- 17 A declaration s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act by its operation of the Safecrest Fund between 1 July 2013 and 31 December 2013, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 121.8 of the Points of Claim)

Part III: The Avestra Credit Fund

Part III.B.1(a): Loans to AAM from the Avestra Credit Fund – unauthorised related party transactions

- 18 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 27 February 2014, in that it gave a financial benefit to itself, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to itself out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 255.1 of the Points of Claim).
- 19 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 4 March 2014, in that it gave a financial benefit to itself, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to itself out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 255.2 of the Points of Claim).



Part III.B.1(b): Loans to AAM from the Avestra Credit Fund – failure to provide financial services efficiently, honestly and fairly

- 20 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to itself out of the Avestra Credit Fund on 27 February 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 257.1 of the Points of Claim)
- 21 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to itself out of the Avestra Credit Fund on 4 March 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 257.2 of the Points of Claim)

Part III.B.2(a): Loans to AG Financial from the Avestra Credit Fund – unauthorised related party transactions

- 22 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) between 20 and 25 February 2014, in that it gave a financial benefit to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to AG Financial out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 261.1 of the Points of Claim).
- 23 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 28 March 2014, in that it gave a financial benefit to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to AG Financial out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 261.2 of the Points of Claim).
- 24 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 24 April 2014, in that it gave a financial benefit to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to AG Financial out of the Avestra Credit Fund, without obtaining the approval of the



members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 261.3 of the Points of Claim).

- 25 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 2 May 2014, in that it gave a financial benefit to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Emergent and Maximiser Funds, by giving an unsecured loan to AG Financial out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 261.4 of the Points of Claim).
- 26 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 26 June 2014, in that it gave a financial benefit to AG Financial, indirectly out of, or in a way that could endanger, the scheme property of the Advantage, Accelerator Emergent and Maximiser Funds, by giving an unsecured loan to AG Financial out of the Avestra Credit Fund, without obtaining the approval of the members of the Advantage, Accelerator Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act (para 265 of the Points of Claim).

Part III.B.2(b): Loans to AG Financial from the Avestra Credit Fund – failure to provide financial services efficiently, honestly and fairly

- 27 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to AG Financial out of the Avestra Credit Fund between 20 and 25 February 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 267.1 of the Points of Claim)
- 28 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to AG Financial out of the Avestra Credit Fund on 28 March 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 267.2 of the Points of Claim)
- 29 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to AG Financial out of the Avestra Credit Fund on 24 April 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 267.3 of the Points of Claim)



30 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to AG Financial out of the Avestra Credit Fund on 2 May 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 267.4 of the Points of Claim)

31 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of an unsecured loan to AG Financial out of the Avestra Credit Fund on 26 June 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 267.5 of the Points of Claim)

Part III.B.3: Loan to Zenith City Investments Ltd – failure to provide financial services efficiently, honestly and fairly

32 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act in connection with giving of a loan to Zenith City Investments Ltd out of the Avestra Credit Fund on or around 6 May 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 269 of the Points of Claim)

Part III.B.4(a): Investments of scheme property of the Accelerator Fund into the Avestra Credit Fund – unauthorised related party transactions

33 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on or around 2 June 2014, in that it gave a financial benefit to itself (as trustee of the Avestra Credit Fund), out of the scheme property of the Accelerator Fund, by the making of a cash investment into the Avestra Credit Fund, without obtaining the approval of the members of the Accelerator Fund in accordance with ss 217 to 227 of the Act (para 272.1 of the Points of Claim).

34 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 1 July 2014, in that it gave a financial benefit to itself (as trustee of the Avestra Credit Fund), out of the scheme property of the Accelerator Fund, by the making of a cash investment into the Avestra Credit Fund, without obtaining the approval of the members of the Accelerator Fund in accordance with ss 217 to 227 of the Act (para 272.2 of the Points of Claim).



Part III.B.4(b): Investments of scheme property of the Accelerator Fund into the Avestra Credit Fund – failure to give priority to interests of scheme members and to comply with the Constitution of the Accelerator Fund

- 35 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(c) of the Act in making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, in that AAM failed to act in the best interests of the members of the Accelerator Fund. (para 274.1 of the Points of Claim)
- 36 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(m) of the Act in relation to the making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, in that AAM failed to record that investment in the Accelerator Fund's ledger of securities transactions, in contravention of s 286(1)(a) of the Act and cl 11.1 of the Constitution of the Accelerator Fund. (para 274.1 of the Points of Claim)
- 37 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(c) of the Act in making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, in that AAM failed to act in the best interests of the members of the Accelerator Fund. (para 274.2 of the Points of Claim)
- 38 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(m) of the Act in relation to the making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, in that AAM failed to record that investment in the Accelerator Fund's ledger of securities transactions, in contravention of s 286(1)(a) of the Act and cl 11.1 of the Constitution of the Accelerator Fund. (para 274.2 of the Points of Claim)



Part IV: Inter-fund transfers and offshoring of the Canton and Worberg Global Funds

Part IV.B.1: Failure to provide monthly investor reports for the AG Schemes – failure to provide financial services efficiently, honestly and fairly

39 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act by reason of its failure to provide regular investment reports to members of the AG Schemes following its appointment as responsible entity of those schemes on 30 January 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 358 of the Points of Claim)

Part IV.B.2: Change of investment mandate for the Accelerator, Generator and Maximiser Funds – failure to notify members of material change in investment risk

40 A declaration under s 21 of the FCA Act that AAM contravened section 1017B(1) of the Act from 30 January 2014, in that it failed to give notice to members of the Maximiser Fund of material changes to the investment risk associated with the Maximiser Fund before, or as soon as practicably after, the Maximiser Fund first became materially exposed to investments in Malaysian shares and equity derivatives. (para 365.1 of the Points of Claim)

41 A declaration under s 21 of the FCA Act that AAM contravened section 1017B(1) of the Act from no later than 2 September 2014, in that it failed to give notice to members of the Accelerator and Generator Funds of material changes to the investment risk associated with the those funds before, or as soon as practicably after, the Accelerator and Generator Funds first became materially exposed to investments in Malaysian shares and equity derivatives. (para 365.2 of the Points of Claim)

42 Alternatively to paragraphs 40 and 41 above, a declaration under s 21 of the FCA Act that AAM contravened section 1017B(1) of the Act on 7 February 2014, in that the notice given to members of the Accelerator, Generator and Maximiser Funds the information that was reasonably necessary for them to understand the nature and effect of the change to each Fund's investment mandate. (para 367 of the Points of Claim)

Part IV.B.3(a): Transfer of scheme property of the Maximiser Fund to the Bridge Global CMC Fund – unauthorised related party transaction

43 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) between 30 April 2014 and 1 June 2014, in that it gave a financial benefit to Bridge Global Absolute Return Fund SPC (**Bridge Global SPC**) (as



operator of the Bridge Global CMC Fund), out of the scheme property of the Maximiser Fund, by the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund and the redemptions of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund, without obtaining the approval of the members of the Maximiser Fund in accordance with ss 217 to 227 of the Act. (para 371 of the Points of Claim)

Part IV.B.3(b): Cross-investments of scheme property of the AG Schemes to the Bridge Global CMC Fund – unauthorised related party transactions

44 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 2 June 2014, in that it gave a financial benefit to Bridge Global SPC (as operator of the Bridge Global CMC Fund), out of the scheme property of the Accelerator and Generator Funds, by making investments out of the Accelerator and Generator Funds into the Bridge Global CMC Fund, without obtaining the approval of the members of the Accelerator and Generator Funds in accordance with ss 217 to 227 of the Act. (para 375.1 of the Points of Claim)

45 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 1 July 2014, in that it gave a financial benefit to Bridge Global SPC (as operator of the Bridge Global CMC Fund), out of the scheme property of the Accelerator Fund, by making an investment out of the Accelerator Fund into the Bridge Global CMC Fund, without obtaining the approval of the members of the Accelerator Funds in accordance with ss 217 to 227 of the Act. (para 375.2 of the Points of Claim)

46 A declaration under s 1317E of the Act that AAM contravened section 208(1) of the Act (as modified by s 601LC) on 1 October 2014, in that it gave a financial benefit to Bridge Global SPC (as operator of the Bridge Global CMC Fund), out of the scheme property of the Emergent and Maximiser Funds, by making investments out of the Emergent and Maximiser Funds into the Bridge Global CMC Fund, without obtaining the approval of the members of the Emergent and Maximiser Funds in accordance with ss 217 to 227 of the Act. (para 375.3 of the Points of Claim)

Part IV.B.3(c): Cross-investments of scheme property of the AG Schemes to the Bridge Global CMC Fund – failure to exercise reasonable care and diligence or to provide financial services efficiently, honestly and fairly

47 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(b) of the Act, in connection with its transfer of investments held by the Canton Fund directly to



the Bridge Global CMC Fund and redemption of units held by Maximiser Fund in the Canton Fund in exchange for units in the Bridge Global CMC Fund between 30 April 2014 and 1 June 2014, in that AAM failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in AAM's position. (para 378.1 of the Points of Claim)

- 48 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act, in connection with its transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund and redemption of units held by Maximiser Fund in the Canton Fund in exchange for units in the Bridge Global CMC Fund between 30 April 2014 and 1 June 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 378.1 of the Points of Claim)
- 49 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(b) of the Act, in connection with its investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014, in that AAM failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in AAM's position. (para 378.2 of the Points of Claim)
- 50 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act, in connection with its investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 378.2 of the Points of Claim)
- 51 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(b) of the Act, in connection with its investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014, in that AAM failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in AAM's position. (para 378.3 of the Points of Claim)
- 52 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act, in connection with its investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 378.3 of the Points of Claim)
- 53 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(b) of the Act, in connection with its investments out of the scheme property of the Emergent



and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, in that AAM failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in AAM's position. (para 378.4 of the Points of Claim)

- 54 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act, in connection with its investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 378.4 of the Points of Claim)

Part IV.B.4: Cross-investments of scheme property of the AG Schemes to the Bridge Global CMC Fund – failure to exercise reasonable care and diligence or to provide financial services efficiently, honestly and fairly

- 55 A declaration under s 1317E of the Act that AAM contravened section 601FC(1)(b) of the Act, in connection with its:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the investments held by the Emergent and Maximiser Funds in the Advantage Fund; and
- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,

between 1 April 2014 and 8 September 2014, in that AAM failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in AAM's position. (para 381 of the Points of Claim)

- 56 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(a) of the Act, in connection with its:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the



investments held by the Emergent and Maximiser Funds in the Advantage Fund,
and

- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,

between 1 April 2014 and 8 September 2014, in that AAM failed to do all things necessary to ensure that it provided the financial services covered by its AFS licence efficiently, honestly and fairly. (para 381 of the Points of Claim)

Part V: Managing conflicts of interest

- 57 A declaration under s 21 of the FCA Act that AAM contravened section 912A(1)(aa) of the Act between 20 March 2013 and 1 February 2015, in that it did not have in place adequate arrangements for the management of conflicts of interest arising wholly, or partially, in relation to activities undertaken by AAM in the provision financial services as part of its financial services business. (para 424 of the Points of Claim)



Annexure 2: Declarations of contravention sought against the 2nd defendant

Part II: AAM's takeover of AG Financial and cross-investments of the AG Schemes in AAM's wholesale schemes

Part II.D.1: Direct and indirect use of scheme property of the Advantage Fund to acquire shares in AG Financial

- 58 A declaration under s 1317E of the Act that the 2nd defendant (**Rowles**) contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on 20 or 21 March 2013, in that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 152.1 of the Points of Claim)
- 59 Alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on 20 or 21 March 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 152.1 of the Points of Claim)
- 60 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 30 May 2013, in that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 152.2 of the Points of Claim)
- 61 Alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 30 May 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 152.2 of the Points of Claim)
- 62 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 12 July 2013, in



that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 152.3 of the Points of Claim)

63 Alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 12 July 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 152.3 of the Points of Claim)

64 Further or alternatively to paragraphs 58 to 59 above, declarations under s 1317E of the Act that Rowles contravened:

(a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on 20 and 21 March 2013, he was involved in AAM's contraventions of s 208(1) of the Act referred to in paragraphs 1 and 7 of Annexure 1 above; and

(b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on 20 and 21 March 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 4 of Annexure 1 above. (para 154.1 of the Points of Claim)

65 Further or alternatively to paragraphs 60 to 61 above, declarations under s 1317E of the Act that Rowles contravened:

(a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 2 of Annexure 1 above; and

(b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 5 of Annexure 1 above. (para 154.2 of the Points of Claim)



- 66 Further or alternatively to paragraphs 62 to 63 above, a declaration under s 1317E of the Act that Rowles contravened:
- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 12 July 2013, he was involved in AAM's contraventions of s 208(1) of the Act referred to in paragraph 3 and 8 of Annexure 1 above; and
 - (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 6 of Annexure 1 above. (para 154.3 of the Points of Claim)
- 67 A declaration under s 1317E of the Act that Rowles contravened section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 19 July 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 9 of Annexure 1 above. (para 154.4 of the Points of Claim)
- 68 In the further alternative to paragraph 64 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on 20 and 21 March 2013 (referred to in paragraphs 1, 4, 7 and 10 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
 - (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 155.1 of the Points of Claim)
- 69 In the further alternative to paragraph 65 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 30 May 2013 (referred to in paragraphs 2, 5 and 11 of Annexure 1 above), in that he:



- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 155.2 of the Points of Claim)
- 70 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 3 July 2013 (referred to in paragraph 12 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 155.3 of the Points of Claim)
- 71 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 4 July 2013 (referred to in paragraph 13 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 155.4 of the Points of Claim)
- 72 In the further alternative to paragraph 66 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 12 July 2013 (referred to in paragraphs 3, 6, 8 and 14 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 155.5 of the Points of Claim)
- 73 Alternatively to paragraph 67 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 19 July 2013 (referred to in paragraphs 9 and 15 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), and s 912A(1)(a) of the Act. (para 155.6 of the Points of Claim)
- 74 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 1 August 2013 (referred to in paragraph 16 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 155.7 of the Points of Claim)
- 75 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its operation of the Safecrest Fund between 1 July 2013 and 31 December 2013 (referred to in paragraph 16 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 155.8 of the Points of Claim)

Part II.D.2(a): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Advantage Fund

76 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Emergent Fund into the Advantage Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme property of the Emergent Fund, without having obtained the approval of members of the Emergent Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 158.1 of the Points of Claim)

77 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Advantage Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 158.2 of the Points of Claim)

78 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Advantage Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme



property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and

- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 158.3 of the Points of Claim)

Part II.D.2(b): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Canton Fund

79 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Canton Fund on 1 August 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Canton Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 161 of the Points of Claim)

Part II.D.2(c): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Worberg Global Fund

80 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Emergent Fund into the Worberg Global Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Emergent Fund, without having obtained the approval of members of the Emergent Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 164.1 of the Points of Claim)



81 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Worberg Global Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 164.2 of the Points of Claim)

82 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Worberg Global Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 164.3 of the Points of Claim)

Part II.D.2(d): Cross-investment of scheme property of the Generator Funds into the Safecrest Fund

83 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Generator Fund into the Safecrest Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Safecrest Fund) out of the scheme property of the Generator Fund, without having obtained the approval of members of the Generator Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and



- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 167.1 of the Points of Claim)

84 A declaration under s 1317E of the Act that Rowles contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Generator Fund into the Safecrest Fund on 2 August 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Safecrest Fund) out of the scheme property of the Generator Fund, without having obtained the approval of members of the Generator Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Rowles was involved in Bridge Global Securities' contravention of s 208(1). (para 167.2 of the Points of Claim)

Part II.D.3: Substantial shareholder notice contraventions

85 A declaration under s 21 of the FCA Act that, on or around 5 April 2013, Rowles contravened section 1308(2), alternatively 1308(4), of the Corporations Act, by making, or authorising of statements in substantial shareholder notices given by AAM to ASX Limited omitting a matter, namely the voting power in AG Financial obtained by AAM:

- (a) without which the document was, to Rowles knowledge, misleading in a material respect;
- (b) alternatively, without having taken reasonable steps to ensure that the document did not omit any matter or thing without which the document would be misleading in a material respect. (para 171 of the Points of Claim)

86 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 20 and 21 March 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial to more than 20% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.1 of the Points of Claim)

87 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 671B(1) of the Act between 26 March and 5 April 2013 by not having given the information required by s 671B(3) of the Act to the Australian Securities Exchange (ASX) within 2 business days of AAM becoming aware of the information (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.2 of the Points of Claim)

88 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act on 30 May 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial from a starting point of between 20% and 90% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.3 of the Points of Claim)

89 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 671B(1) of the Act on or around 3 June 2013 by not having lodged a substantial shareholding notice in respect of the acquisition made on 30 May 2013 (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.4 of the Points of Claim)

90 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 24 June and 2 August 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial from a starting point of between 20% and 90% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.5 of the Points of Claim)

91 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 6 July and 6 August 2013 by not having given the information required by s 671B(3) of the Act to the ASX within 2 business days of AAM becoming aware of the information (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 172.6 of the Points of Claim)

Part II.D.4: The AG Financial takeover and cross-investment of the AG Schemes in AAM's wholesale schemes – breach of director's duty of reasonable care and diligence

92 A declaration under s 1317E of the Act that Rowles contravened s 180(1) of the Act between 20 March 2013 and 31 December 2013, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 1 to 17 of Annexure 1 and paragraphs 86 to 91 of Annexure 2 above, and



thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Rowles, and had the same responsibilities within the corporation as Rowles. (para 176 of the Points of Claim)

93 A declaration under s 1317E of the Act that Rowles contravened s 180(1) of the Act between 1 May 2013 and 2 August 2013, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent Bridge Global Securities from engaging in,

the conduct upon which ASIC alleges that Bridge Global Securities committed the contraventions referred to in paragraphs 76 to 84 of Annexure 2 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Rowles, and had the same responsibilities within the corporation as Rowles. (para 180 of the Points of Claim)

Part III: The Avestra Credit Fund

Part III.C.1: The loans to AAM from the Avestra Credit Fund

94 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AAM (in its personal capacity) on 27 February 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 18 of Annexure 1 above. (para 277.1 of the Points of Claim)

95 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AAM (in its personal capacity) on 4 March 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 19 of Annexure 1 above. (para 277.2 of the Points of Claim)

96 Further or alternatively to paragraph 94 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in



respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AAM (in its personal capacity) on 27 February 2014 (referred to in paragraphs 18 and 20 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 278.1 of the Points of Claim)

97 Further or alternatively to paragraph 95 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AAM (in its personal capacity) on 4 March 2014 (referred to in paragraphs 19 and 21 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 278.2 of the Points of Claim)

Part III.C.2: The loans to AG Financial from the Avestra Credit Fund

98 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial between 20 and 25 February 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 22 of Annexure 1 above. (para 281.1 of the Points of Claim)

99 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 28 March 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 23 of Annexure 1 above. (para 281.2 of the Points of Claim)



- 100 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 24 April 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 24 of Annexure 1 above. (para 281.3 of the Points of Claim)
- 101 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 2 May 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 25 of Annexure 1 above. (para 281.4 of the Points of Claim)
- 102 A declaration under s 1317E of the Act that Rowles contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 26 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 26 of Annexure 1 above. (para 281.5 of the Points of Claim)
- 103 Further or alternatively to paragraph 98 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial between 20 and 25 February 2014 (referred to in paragraphs 22 and 27 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
 - (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 282.1 of the Points of Claim)
- 104 Further or alternatively to paragraph 99 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 28 March 2014 (referred to in paragraphs 23 and 28 of Annexure 1 above), in that he:



- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 282.2 of the Points of Claim)
- 105 Further or alternatively to paragraph 100 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 24 April 2014 (referred to in paragraphs 24 and 29 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 282.3 of the Points of Claim)
- 106 Further or alternatively to paragraph 101 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 2 May 2014 (referred to in paragraphs 25 and 30 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 282.4 of the Points of Claim)
- 107 Further or alternatively to paragraph 102 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 26 June 2014 (referred to in paragraphs 26 and 31 of Annexure 1 above), in that he:



- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 282.5 of the Points of Claim)

Part III.C.3: The loans to Zenith City Investments from the Avestra Credit Fund

108 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its entry into a loan agreement with Zenith City Investments on or around 6 May 2014 (referred to in paragraph 32 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 284 of the Points of Claim)

Part III.C.4: Investments of scheme property of the Accelerator Fund into the Avestra Credit Fund

109 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, in that he failed to act in the best interests of the members of the Accelerator Fund. (para 287.1 of the Points of Claim)

110 Further or alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(f)(i) of the Act, in respect of AAM's contravention of s 601FC(1)(m) of the Act in connection with AAM's making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014 (referred to in paragraph 36 of Annexure 1 above), in that he failed to take all steps that a reasonable person would take, if they were in Rowles's position, to



ensure that AAM complied with s 286(1) of the Act and cl 11.1 of the Constitution of the Accelerator Fund.. (para 287.1 of the Points of Claim)

- 111 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, in that he failed to act in the best interests of the members of the Accelerator Fund. (para 287.2 of the Points of Claim)
- 112 Further or alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(f)(i) of the Act, in respect of AAM's contravention of s 601FC(1)(m) of the Act in connection with AAM's making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014 (referred to in paragraph 38 of Annexure 1 above), in that he failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 286(1) of the Act and cl 11.1 of the Constitution of the Accelerator Fund.. (para 287.2 of the Points of Claim)
- 113 Further or alternatively to paragraphs 109 and 110 above, a declaration that under s 1317E of the Act that Rowles contravened section 209(2) (as modified by s 601LA) and/or s 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, he was involved in AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 601FC(1)(m) of the Act referred to in paragraphs 33, 35 and 36 of Annexure 1 above. (para 289.1 of the Points of Claim)
- 114 Further or alternatively to paragraphs 111 and 112 above, a declaration that under s 1317E of the Act that Rowles contravened section 209(2) (as modified by s 601LA) and/or s 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, he was involved in AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 601FC(1)(m) of the Act referred to in paragraphs 34, 37 and 38 of Annexure 1 above. (para 289.2 of the Points of Claim)



Part III.C.5: The Avestra Credit Fund – breach of director’s duty of reasonable care and diligence

115 A declaration under s 1317E of the Act that Rowles contravened s 180(1) of the Act between 20 February 2014 and 1 July 2014, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 18 to 38 of Annexure 1 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM’s circumstances and occupied the office held by Rowles, and had the same responsibilities within the corporation as Rowles. (para 293 of the Points of Claim)

Part IV: Inter-fund transfers and offshoring of the Canton and Worberg Global Funds

Part IV.C.1: Failure to provide monthly investor reports for the AG Schemes

116 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM’s contravention of s 912A(1)(a) of the Act in relation to its failure to provide monthly investor reports to members of the AG Schemes from 30 January 2014 (referred to in paragraph 39 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles’s position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles’s position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 383 of the Points of Claim)

Part IV.C.2: Non-disclosure, or inadequate disclosure, of change of investment mandate of the AG Schemes

117 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM’s contravention of s 1017B(1) of the Act in relation to its failure, from 30 January 2014, to give notice to members of the Maximiser Fund of material changes to the investment risk associated



with the Maximiser Fund before, or as soon as practicably after, the Maximiser Fund first became materially exposed to investments in Malaysian shares and equity derivatives (referred to in paragraph 40 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 385.1 of the Points of Claim)

118 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 1017B(1) of the Act in relation to its failure, from no later than 2 September 2014, to give notice to members of the Accelerator and Generator Funds of material changes to the investment risk associated with the Accelerator and Generator Funds before, or as soon as practicably after, those funds first became materially exposed to investments in Malaysian shares and equity derivatives (referred to in paragraph 41 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 385.2 of the Points of Claim)

119 Alternatively to paragraphs 117 and 118 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 1017B(1) of the Act in relation to its failure, in the notification of 7 February 2014, to give members of the Accelerator, Generator and Maximiser Funds the information that was reasonably necessary for them to understand the nature and effect of the change to each Fund's investment mandate (referred to in paragraph 42 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 385.3 of the Points of Claim)



Part IV.C.3: Investments of scheme property of the AG Schemes into the Bridge Global CMC

Fund

120 Declarations under s 1317E of the Act that Rowles contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 43 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 47 of Annexure 1 above. (para 389.1 of the Points of Claim)

121 Declarations under s 1317E of the Act that Rowles contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 44 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 49 of Annexure 1 above. (para 389.2 of the Points of Claim)

122 Declarations under s 1317E of the Act that Rowles contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July



2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 45 of Annexure 1 above; and

- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 51 of Annexure 1 above. (para 389.3 of the Points of Claim)

123. Declarations under s 1317E of the Act that Rowles contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 46 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 53 of Annexure 1 above. (para 389.4 of the Points of Claim)

124. Alternatively to paragraph 120 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014 (referred to in paragraphs 43, 47 and 48 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 390.1 of the Points of Claim)



125 Alternatively to paragraph 121 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014 (referred to in paragraphs 44, 49 and 50 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 390.2 of the Points of Claim)

126 Alternatively to paragraph 122 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014 (referred to in paragraphs 45, 50 and 51 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 390.3 of the Points of Claim)

127 Alternatively to paragraph 123 above, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1); s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014 (referred to in paragraphs 46, 52 and 53 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 390.4 of the Points of Claim)

Part IV.C.4: Investments of scheme property of the AG Schemes into the Hanhong High-Yield Fund

128 A declaration under s 1317E of the Act that Rowles contravened section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the investments held by the Emergent and Maximiser Funds in the Advantage Fund; and
- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,

between 1 April 2014 and 8 September 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 55 of Annexure 1 above. (para 393 of the Points of Claim)

129 Alternatively, a declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the investments held by the Emergent and Maximiser Funds in the Advantage Fund; and
- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,



between 1 April 2014 and 8 September 2014 (referred to in paragraphs 55 and 56 of Annexure 1 above), in that he:

- (d) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Rowles's position;
- (e) alternatively, failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 394 of the Points of Claim)

Part IV.C.5: Inter-fund transfers and offshoring of the Canton and Worberg Global Funds -- breach of director's duty of reasonable care and diligence

130 A declaration under s 1317E of the Act that Rowles contravened s 180(1) of the Act between 30 January 2014 and 8 September 2014, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 39 to 56 of Annexure 1 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Rowles, and had the same responsibilities within the corporation as Rowles. (para 398 of the Points of Claim)

Part IV: Managing conflicts of interest

131 A declaration under s 1317E of the Act that Rowles contravened s 601FD(1)(f)(i) of the Act between 20 March 2013 and 6 January 2015, in respect of AAM's contravention of s 912A(1)(aa) of the Act in relation to its failure to have in place adequate arrangements for the management of conflicts of interest, in that he failed to take all steps that a reasonable person would take, if they were in Rowles's position, to ensure that AAM did not contravene s 912A(1)(aa) of the Act. (para 426 of the Points of Claim)



Annexure 3: Declarations of contravention sought against the 3rd defendant

Part II: AAM's takeover of AG Financial and cross-investments of the AG Schemes in AAM's wholesale schemes

Part II.E.1: Direct and indirect use of scheme property of the Advantage Fund to acquire shares in AG Financial

- 132 A declaration under s 1317E of the Act that the 3rd defendant (**Dempsey**) contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on 20 or 21 March 2013, in that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 184.1 of the Points of Claim)
- 133 Alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on 20 or 21 March 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 184.1 of the Points of Claim)
- 134 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 30 May 2013, in that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 184.2 of the Points of Claim)
- 135 Alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 30 May 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 184.2 of the Points of Claim)
- 136 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 12 July 2013, in



that he failed to act in the best interests of the members of the Advantage Fund, and failed to give priority to the members' interests in circumstances where there was a conflict between the interests of the members of the Advantage Fund and AAM's own interests. (para 184.3 of the Points of Claim)

137 Alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(e) of the Act by authorising, procuring or being concerned in or party to the purchase of shares of AG Financial by AAM on behalf of the Advantage Fund on or around 12 July 2013, in that he made improper use of his position as an officer to gain an advantage for AAM. (para 184.3 of the Points of Claim)

138 Further or alternatively to paragraphs 132 to 133 above, declarations under s 1317E of the Act that Dempsey contravened:

(a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on 20 and 21 March 2013, he was involved in AAM's contraventions of s 208(1) of the Act referred to in paragraphs 1 and 7 of Annexure 1 above; and

(b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on 20 and 21 March 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 4 of Annexure 1 above. (para 186.1 of the Points of Claim)

139 Further or alternatively to paragraphs 134 to 135 above, declarations under s 1317E of the Act that Dempsey contravened:

(a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 2 of Annexure 1 above; and

(b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 5 of Annexure 1 above. (para 186.2 of the Points of Claim)



140 Further or alternatively to paragraphs 136 to 137 above, a declaration under s 1317E of the Act that Dempsey contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 12 July 2013, he was involved in AAM's contraventions of s 208(1) of the Act referred to in paragraph 3 and 8 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 30 May 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 6 of Annexure 1 above. (para 186.3 of the Points of Claim)

141 A declaration under s 1317E of the Act that Dempsey contravened section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to the purchase of shares by AAM on behalf of the Advantage Fund on or around 19 July 2013, he was involved in AAM's contraventions of s 601FC(1)(c) of the Act referred to in paragraph 9 of Annexure 1 above. (para 154.4 of the Points of Claim)

142 In the further alternative to paragraph 138 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on 20 and 21 March 2013 (referred to in paragraphs 1, 4, 7 and 10 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 187.1 of the Points of Claim)

143 In the further alternative to paragraph 139 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 30 May 2013 (referred to in paragraphs 2, 5 and 11 of Annexure 1 above), in that he:



- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 187.2 of the Points of Claim)
- 144 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 3 July 2013 (referred to in paragraph 12 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 187.3 of the Points of Claim)
- 145 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 4 July 2013 (referred to in paragraph 13 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 187.4 of the Points of Claim)
- 146 In the further alternative to paragraph 140 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 12 July 2013 (referred to in paragraphs 3, 6, 8 and 14 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(c) and s 912A(1)(a) of the Act. (para 187.5 of the Points of Claim)
- 147 Alternatively to paragraph 141 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its purchases of shares in AG Financial on or around 19 July 2013 (referred to in paragraphs 9 and 15 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), and s 912A(1)(a) of the Act. (para 187.6 of the Points of Claim)
- 148 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its purchase of shares in AG Financial on 1 August 2013 (referred to in paragraph 16 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 187.7 of the Points of Claim)
- 149 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its operation of the Safecrest Fund between 1 July 2013 and 31 December 2013 (referred to in paragraph 16 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 187.8 of the Points of Claim)

Part II.E.2(a): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Advantage Fund

150 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Emergent Fund into the Advantage Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme property of the Emergent Fund, without having obtained the approval of members of the Emergent Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 190.1 of the Points of Claim)

151 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Advantage Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 190.2 of the Points of Claim)

152 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Advantage Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as responsible entity of the Advantage Fund) out of the scheme



property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and

- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 190.3 of the Points of Claim)

Part II.E.2(b): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Canton Fund

153 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Canton Fund on 1 August 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Canton Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 193 of the Points of Claim)

Part II.E.2(c): Cross-investment of scheme property of the Emergent and Maximiser Funds into the Worberg Global Fund

154 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Emergent Fund into the Worberg Global Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Emergent Fund, without having obtained the approval of members of the Emergent Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 196.1 of the Points of Claim)



155 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Worberg Global Fund on 1 May 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 196.2 of the Points of Claim)

156 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Maximiser Fund into the Worberg Global Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Worberg Global Fund) out of the scheme property of the Maximiser Fund, without having obtained the approval of members of the Maximiser Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 196.3 of the Points of Claim)

Part II.E.2(d): Cross-investment of scheme property of the Generator Funds into the Safecrest Fund

157 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Generator Fund into the Safecrest Fund between 1 and 2 July 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Safecrest Fund) out of the scheme property of the Generator Fund, without having obtained the approval of members of the Generator Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and



- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 199.1 of the Points of Claim)

158 A declaration under s 1317E of the Act that Dempsey contravened section 209(1) of the Act (as modified by s 601LA) in relation to the investment of scheme property of the Generator Fund into the Safecrest Fund on 2 August 2013, in that:

- (a) the investment amounted to the giving of a financial benefit by Bridge Global Securities to AAM (as trustee of the Safecrest Fund) out of the scheme property of the Generator Fund, without having obtained the approval of members of the Generator Fund in accordance with ss 217-227 of the Act, in contravention of s 208(1) of the Act (as modified by s 601LC); and
- (b) by authorising, procuring or being concerned in or party to the making of that investment, Dempsey was involved in Bridge Global Securities' contravention of s 208(1). (para 199.2 of the Points of Claim)

Part II.E.3: Substantial shareholder notice contraventions

159 A declaration under s 21 of the FCA Act that, on or around 6 August 2013, Dempsey contravened section 1308(2), alternatively 1308(4), of the Corporations Act, by making, or authorising of statements in substantial shareholder notices given by AAM to ASX Limited omitting a matter, namely the voting power in AG Financial obtained by AAM:

- (a) without which the document was, to Dempsey's knowledge, misleading in a material respect;
- (b) alternatively, without having taken reasonable steps to ensure that the document did not omit any matter or thing without which the document would be misleading in a material respect. (para 203 of the Points of Claim)

160 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 20 and 21 March 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial to more than 20% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.1 of the Points of Claim)

161 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 671B(1) of the Act between 26 March and 5 April 2013 by not having given the information required by s 671B(3) of the Act to the ASX within 2 business days of AAM becoming aware of the information (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.2 of the Points of Claim)

162 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act on 30 May 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial from a starting point of between 20% and 90% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.3 of the Points of Claim)

163 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 671B(1) of the Act on or around 3 June 2013 by not having lodged a substantial shareholding notice in respect of the acquisition made on 30 May 2013 (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;



- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.4 of the Points of Claim)

164 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 24 June and 2 August 2013 by having acquired relevant interests in AG Financial that increased its voting power in AG Financial from a starting point of between 20% and 90% (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.5 of the Points of Claim)

165 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 606(1) of the Act between 6 July and 6 August 2013 by not having given the information required by s 671B(3) of the Act to the ASX within 2 business days of AAM becoming aware of the information (of which AAM was convicted on 16 December 2014), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 204.6 of the Points of Claim)

Part II.E.4: The AG Financial takeover and cross-investment of the AG Schemes in AAM's wholesale schemes – breach of director's duty of reasonable care and diligence

166 A declaration under s 1317E of the Act that Dempsey contravened s 180(1) of the Act between 20 March 2013 and 31 December 2013, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 1 to 17 of Annexure 1 and paragraphs 160 to 165 of Annexure 3 above, and



thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Dempsey, and had the same responsibilities within the corporation as Dempsey. (para 208 of the Points of Claim)

167 A declaration under s 1317E of the Act that Dempsey contravened s 180(1) of the Act between 1 May 2013 and 2 August 2013, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent Bridge Global Securities from engaging in,

the conduct upon which ASIC alleges that Bridge Global Securities committed the contraventions referred to in paragraphs 150 to 158 of Annexure 3 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Dempsey, and had the same responsibilities within the corporation as Dempsey. (para 212 of the Points of Claim)

Part III: The Avestra Credit Fund

Part III.D.1: The loans to AAM from the Avestra Credit Fund

168 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AAM (in its personal capacity) on 27 February 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 18 of Annexure 1 above. (para 296.1 of the Points of Claim)

169 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AAM (in its personal capacity) on 4 March 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 19 of Annexure 1 above. (para 296.2 of the Points of Claim)



170 Further or alternatively to paragraph 94 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AAM (in its personal capacity) on 27 February 2014 (referred to in paragraphs 18 and 20 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 297.1 of the Points of Claim)

171 Further or alternatively to paragraph 95 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AAM (in its personal capacity) on 4 March 2014 (referred to in paragraphs 19 and 21 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 297.2 of the Points of Claim)

Part III.D.2: The loans to AG Financial from the Avestra Credit Fund

172 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial between 20 and 25 February 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 22 of Annexure 1 above. (para 300.1 of the Points of Claim)

173 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 28 March 2014, he was involved in



AAM's contravention of s 208(1) of the Act referred to in paragraph 23 of Annexure 1 above. (para 300.2 of the Points of Claim)

- 174 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 24 April 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 24 of Annexure 1 above. (para 300.3 of the Points of Claim)
- 175 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 2 May 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 25 of Annexure 1 above. (para 300.4 of the Points of Claim)
- 176 A declaration under s 1317E of the Act that Dempsey contravened section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM (as trustee of the Avestra Credit Fund) having entered into an unsecured loan agreement with AG Financial on 26 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 26 of Annexure 1 above. (para 300.5 of the Points of Claim)
- 177 Further or alternatively to paragraph 172 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial between 20 and 25 February 2014 (referred to in paragraphs 22 and 27 of Annexure 1 above), in that he:
- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
 - (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 301.1 of the Points of Claim)
- 178 Further or alternatively to paragraph 173 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in



respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 28 March 2014 (referred to in paragraphs 23 and 28 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 301.2 of the Points of Claim)

179 Further or alternatively to paragraph 174 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 24 April 2014 (referred to in paragraphs 24 and 29 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 301.3 of the Points of Claim)

180 Further or alternatively to paragraph 175 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 2 May 2014 (referred to in paragraphs 25 and 30 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 301.4 of the Points of Claim)



181 Further or alternatively to paragraph 176 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1) and/or s 912A(1)(a) of the Act in relation to its entry into an unsecured loan agreement with AG Financial on 26 June 2014 (referred to in paragraphs 26 and 31 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC) and s 912A(1)(a) of the Act. (para 301.5 of the Points of Claim)

Part III.D.3: The loans to Zenith City Investments from the Avestra Credit Fund

182 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its entry into a loan agreement with Zenith City Investments on or around 6 May 2014 (referred to in paragraph 32 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 303 of the Points of Claim)

Part III.D.4: Investments of scheme property of the Accelerator Fund into the Avestra Credit Fund

183 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, in that he failed to act in the best interests of the members of the Accelerator Fund. (para 306.1 of the Points of Claim)

184 Further or alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(f)(i) of the Act, in respect of AAM's contravention of



s 601FC(1)(m) of the Act in connection with AAM's making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014 (referred to in paragraph 36 of Annexure 1 above), in that he failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 286(1) of the Act and cl 11.1 of the Constitution of the Accelerator Fund.. (para 306.1 of the Points of Claim)

- 185 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(c) of the Act by authorising, procuring or being concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, in that he failed to act in the best interests of the members of the Accelerator Fund. (para 306.2 of the Points of Claim)
- 186 Further or alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(f)(i) of the Act, in respect of AAM's contravention of s 601FC(1)(m) of the Act in connection with AAM's making of an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014 (referred to in paragraph 38 of Annexure 1 above), in that he failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 286(1) of the Act and cl 11.1 of the Constitution of the Accelerator Fund.. (para 306.2 of the Points of Claim)
- 187 Further or alternatively to paragraphs 183 and 184 above, a declaration that under s 1317E of the Act that Dempsey contravened section 209(2) (as modified by s 601LA) and/or s 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on or around 2 June 2014, he was involved in AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 601FC(1)(m) of the Act referred to in paragraphs 33, 35 and 36 of Annexure 1 above. (para 308.1 of the Points of Claim)
- 188 Further or alternatively to paragraphs 185 and 186 above, a declaration that under s 1317E of the Act that Dempsey contravened section 209(2) (as modified by s 601LA) and/or s 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM making an investment of scheme property of the Accelerator Fund into



the Avestra Credit Fund and then transferring the Accelerator Fund's unitholding in the Avestra Credit Fund to the Bridge Global CMC Fund on 1 July 2014, he was involved in AAM's contraventions of s 208(1), s 601FC(1)(c) and/or s 601FC(1)(m) of the Act referred to in paragraphs 34, 37 and 38 of Annexure 1 above. (para 308.2 of the Points of Claim)

Part III.D.5: Failure to disclose information regarding the Avestra Credit Fund in response to ASIC notice

189 A declaration under s 21 of the FCA Act that on 8 December 2014, Dempsey contravened section 1308(2) of the Act, by making, or authorising the making of, statements in a document submitted to ASIC omitting a matter, namely any information regarding the Avestra Credit Fund, without which the document was, to Dempsey's knowledge, misleading in a material respect. (para 311 of the Points of Claim)

Part III.D.6: The Avestra Credit Fund – breach of director's duty of reasonable care and diligence

190 A declaration under s 1317E of the Act that Dempsey contravened s 180(1) of the Act between 20 February 2014 and 1 July 2014, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 18 to 38 of Annexure 1 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Dempsey, and had the same responsibilities within the corporation as Dempsey. (para 315 of the Points of Claim)

Part IV: Inter-fund transfers and offshoring of the Canton and Worberg Global Funds

Part IV.D.1: Failure to provide monthly investor reports for the AG Schemes

191 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 912A(1)(a) of the Act in relation to its failure to provide monthly investor reports to members of the AG Schemes from 30 January 2014 (referred to in paragraph 39 of Annexure 1 above), in that he:



- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 400 of the Points of Claim)

Part IV.D.2: Non-disclosure, or inadequate disclosure, of change of investment mandate of the AG Schemes

192 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 1017B(1) of the Act in relation to its failure, from 30 January 2014, to give notice to members of the Maximiser Fund of material changes to the investment risk associated with the Maximiser Fund before, or as soon as practicably after, the Maximiser Fund first became materially exposed to investments in Malaysian shares and equity derivatives (referred to in paragraph 40 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 402.1 of the Points of Claim)

193 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 1017B(1) of the Act in relation to its failure, from no later than 2 September 2014, to give notice to members of the Accelerator and Generator Funds of material changes to the investment risk associated with the Accelerator and Generator Funds before, or as soon as practicably after, those funds first became materially exposed to investments in Malaysian shares and equity derivatives (referred to in paragraph 41 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 402.2 of the Points of Claim)



194 Alternatively to paragraphs 117 and 118 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contravention of s 1017B(1) of the Act in relation to its failure, in the notification of 7 February 2014, to give members of the Accelerator, Generator and Maximiser Funds the information that was reasonably necessary for them to understand the nature and effect of the change to each Fund's investment mandate (referred to in paragraph 42 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 912A(1)(a) of the Act. (para 402.3 of the Points of Claim)

Part IV.D.3: Investments of scheme property of the AG Schemes into the Bridge Global CMC Fund

195 Declarations under s 1317E of the Act that Dempsey contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 43 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 47 of Annexure 1 above. (para 406.1 of the Points of Claim)

196 Declarations under s 1317E of the Act that Dempsey contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund



on 2 June 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 44 of Annexure 1 above; and

- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 49 of Annexure 1 above. (para 406.2 of the Points of Claim)

197 Declarations under s 1317E of the Act that Dempsey contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 45 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 51 of Annexure 1 above. (para 406.3 of the Points of Claim)

198 Declarations under s 1317E of the Act that Dempsey contravened:

- (a) section 209(2) of the Act (as modified by s 601LA) in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, he was involved in AAM's contravention of s 208(1) of the Act referred to in paragraph 46 of Annexure 1 above; and
- (b) section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 53 of Annexure 1 above. (para 406.4 of the Points of Claim)

199 Alternatively to paragraph 195 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect



of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its redemption of units held by investors in the Canton Fund in exchange for units in the Bridge Global CMC Fund and the transfer of investments held by the Canton Fund directly to the Bridge Global CMC Fund between 30 April and 1 June 2014 (referred to in paragraphs 43, 47 and 48 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 407.1 of the Points of Claim)

200 Alternatively to paragraph 196 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Accelerator and Generator Funds into the Bridge Global CMC Fund on 2 June 2014 (referred to in paragraphs 44, 49 and 50 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 407.2 of the Points of Claim)

201 Alternatively to paragraph 197 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Accelerator Fund into the Bridge Global CMC Fund on 1 July 2014 (referred to in paragraphs 45, 50 and 51 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as



modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 407.3 of the Points of Claim)

202 Alternatively to paragraph 198 above, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 208(1), s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its investments out of the scheme property of the Emergent and Maximiser Funds into the Bridge Global CMC Fund on 1 October 2014 (referred to in paragraphs 46, 52 and 53 of Annexure 1 above), in that he:

- (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (b) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 407.4 of the Points of Claim)

Part IV.D.4: Investments of scheme property of the AG Schemes into the Hanhong High-Yield Fund

203 A declaration under s 1317E of the Act that Dempsey contravened section 601FC(5) of the Act in that, by having authorised, procured or been concerned in or party to AAM's:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the investments held by the Emergent and Maximiser Funds in the Advantage Fund; and
- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,

between 1 April 2014 and 8 September 2014, he was involved in AAM's contravention of s 601FC(1)(b) of the Act referred to in paragraph 55 of Annexure 1 above. (para 410 of the Points of Claim)



204 Alternatively, a declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(b), alternatively s 601FD(1)(f)(i), of the Act, in respect of AAM's contraventions of s 601FC(1)(b) and/or s 912A(1)(a) of the Act in relation to its:

- (a) making of *in specie* redemptions of investments held by the Emergent and Maximiser Funds in the Worberg Global Fund;
- (b) making of *in specie* redemptions of the investments held by the Advantage Fund in the Worberg Global Fund, and subsequently making *in specie* redemptions of the investments held by the Emergent and Maximiser Funds in the Advantage Fund; and
- (c) substantial reinvesting of the Malaysian shares and equity derivatives received from those redemptions as scheme property of the Emergent and Maximiser Funds into the Hanhong High-Yield Fund,

between 1 April 2014 and 8 September 2014 (referred to in paragraphs 55 and 56 of Annexure 1 above), in that he:

- (d) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position;
- (e) alternatively, failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM complied with s 208(1) (as modified by s 601LC), s 601FC(1)(b) and s 912A(1)(a) of the Act. (para 411 of the Points of Claim)

Part IV.D.5: Inter-fund transfers and offshoring of the Canton and Worberg Global Funds – breach of director's duty of reasonable care and diligence

205 A declaration under s 1317E of the Act that Dempsey contravened s 180(1) of the Act between 30 January 2014 and 8 September 2014, in that he:

- (a) authorised, procured or was concerned in or party to; or
- (b) failed to take reasonable steps to prevent AAM from engaging in,

the conduct upon which ASIC alleges that AAM committed the contraventions referred to in paragraphs 39 to 56 of Annexure 1 above, and thereby failed to exercise his powers and discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were a director or officer of a corporation in AAM's circumstances and occupied the office held by Dempsey, and had the same responsibilities within the corporation as Dempsey. (para 415 of the Points of Claim)



Part V: Managing conflicts of interest and Dempsey's conduct as a member of the compliance committee

- 206 A declaration under s 1317E of the Act that Dempsey contravened s 601JD(1)(b) of the Act between 20 March 2013 and 1 February 2015, in that, in his role as a member of AAM's compliance committee, he failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Dempsey's position. (para 428 of the Points of Claim)
- 207 A declaration under s 1317E of the Act that Dempsey contravened s 601FD(1)(f)(i) of the Act between 20 March 2013 and 6 January 2015, in respect of AAM's contravention of s 912A(1)(aa) of the Act in relation to its failure to have in place adequate arrangements for the management of conflicts of interest, in that he failed to take all steps that a reasonable person would take, if they were in Dempsey's position, to ensure that AAM did not contravene s 912A(1)(aa) of the Act. (para 429 of the Points of Claim)

SCHEDULE



Federal Court of Australia

No. VID 514/2015

District Registry: Victoria

Division: General

AVESTRA ASSET MANAGEMENT LIMITED (IN LIQUIDATION) (ACN 119 227 440)

1st Defendant

PAUL JOHN ROWLES

2nd Defendant

CLAYTON DEMPSEY

3rd Defendant