

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/09/2016 1:59:56 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:	NSD1679/2016
File Title:	Australian Securities and Investments Commission v Vocation Ltd (In Liquidation) ACN 166 631 330 & Ors
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing
Time and date for hearing:	13/10/2016, 9:30 AM
Place:	Court Room Not Assigned, Level 17 Law Courts Building Queen's Square, Sydney



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

Dated: 29/09/2016 1:48:36 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.

## ORIGINATING PROCESS



Federal Court of Australia

No

of 2016

District Registry: New South Wales

Division: General

IN THE MATTER OF VOCATION LTD (IN LIQUIDATION)

ACN: 166 631 330

**Australian Securities and Investments Commission**

Plaintiff

**Vocation Ltd (in liquidation) ACN 166 631 330 and others named in the Schedule**

Defendants

### A. DETAILS OF APPLICATION

This application is made under sections 180, 206C, 206E, 674(2), 674(2A), 708A(9), 1041H, 1317E and 1317G of the *Corporations Act 2001* (Cth) (the Act) and sections 21 and 23 of the *Federal Court of Australia Act 1976* (Cth).

The Plaintiff claims the First Defendant contravened sub-section 1041H(1) of the Act in relation to statements made by it, or on its behalf, to Australian Securities Exchange Limited (ASX), contravened sub-section 1041H(1) of the Act in relation to statements made by it, or on its behalf, to UBS AG Australia in a due diligence questionnaire, contravened sub-section 674(2) of the Act in failing to comply with its continuous disclosure obligations in relation to actions taken by the Victorian Department of Education and Early Childhood Development and contravened sub-section 708A(9) of the Act in relation to a sub-section 708A(5) notice it provided to ASX; and the Plaintiff seeks declarations against the First Defendant in respect of each contravention.

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Filed on behalf of:	Australian Securities and Investments Commission, the Plaintiff		
Prepared by:	Kim Turner, Solicitor for the Plaintiff		
Tel:	(02) 0911 2230	Fax:	(02) 9911 2414
Email:	kim.turner@asic.gov.au		
Address for service	Level 5, 100 Market Street SYDNEY NSW 2000		



Further, the Plaintiff claims that:

- (a) each of the Second and Third Defendants contravened sub-sections 180(1) and 674(2A) of the Act in that each of them, as a director and/or officer of the First Defendant, failed to discharge his duties to the First Defendant with the degree of care and diligence required, was involved in the First Defendant's contravention of sub-section 674(2), and caused or otherwise permitted the First Defendant to contravene sub-section 674(2) of the Act; and
- (b) each of the Second to Fourth Defendants contravened sub-section 180(1) of the Act in that each of them, as a director and/or officer of the First Defendant, failed to discharge his duties to the First Defendant with the degree of care and diligence required in that each caused or otherwise permitted the First Defendant to make statements or disseminate information that was misleading or deceptive in contravention of subsections 1041H(1) of the Act and to issue a defective sub-section 708A(5) notice in contravention of 708A(9) of the Act,

and the Plaintiff seeks declarations of contravention against each of the Second to Fourth Defendants, banning orders and orders for pecuniary penalties to be paid by each of the Second to Fourth Defendants in respect of each contravention.

On the facts stated in the concise statement filed in these proceedings and served with this originating process (**the Concise Statement**), the plaintiff claims:

**Against the First Defendant (Vocation Limited (in liquidation))**

1. Declarations that the First Defendant contravened sub-section 1041H(1) of the Act in making each of the following representations:
  - (a) the No Suspension Representation (referred to in paragraph 7(a) of the Concise Statement);
  - (b) the Reasonable Grounds Representation (referred to in paragraph 7(b) of the Concise Statement);



- (c) the Continuing Representation (referred to in paragraph 7(c) of the Concise Statement);
  - (d) the School Leavers Representation (referred to in paragraph 14(a) of the Concise Statement);
  - (e) the Offsetting Representation (referred to in paragraph 14(b) of the Concise Statement); and
  - (f) the Expedited Payment Representation (referred to in paragraph 14(c) of the Concise Statement).
2. Declarations under section 1317E of the Act that the First Defendant contravened sub-section 674(2) of the Act by not notifying ASX in the period between 28 August 2014 and 18 September 2014, of the existence of the Withholding and Suspension Information (referred to in paragraph 11 of the Concise Statement).
  3. A declaration that the First Defendant contravened sub-section 708A(9) of the Act in providing the ASX with the Cleansing Notice (referred to in paragraph 2 of the Concise Statement).
  4. Costs.
  5. Such further order or other orders or relief as the Court thinks fit.

**Against the Second Defendant (Mark Hutchinson)**

6. A declaration of contravention under section 1317E of the Act that the Second Defendant contravened sub-section 674(2A) of the Act in that he was involved in the First Defendant's contravention of sub-section 674(2) referred to in paragraph 2 above.
7. Declarations of contravention under section 1317E of the Act that the Second Defendant contravened sub-section 180(1) of the Act in that he failed to discharge his duties to the First Defendant with the degree of care and diligence that a reasonable person would exercise, if he or she were the Group Chief Executive



Officer and Managing Director of a corporation in the First Defendant's circumstances and occupied the office held by the Second Defendant, and had the same responsibilities within the corporation, in causing or otherwise permitting Vocation to contravene:

- (a) sub-section 1041H(1) of the Act in making each of the following representations:
    - (i) the No Suspension Representation;
    - (ii) the Reasonable Grounds Representation;
    - (iii) the Continuing Representation;
    - (iv) the School Leavers Representation;
    - (v) the Offsetting Representation;
    - (vi) the Expedited Payment Representation;
  - (b) sub-section 674(2) of the Act in failing to disclose the Withholding and Suspension Information; and
  - (c) sub-section 708A(9) of the Act in providing the Cleansing Statement to the ASX.
8. Orders pursuant to section 1317G of the Act that the Second Defendant pay to the Commonwealth of Australia a pecuniary penalty, in relation to each civil penalty contravention pleaded against him, in such amount as the Court thinks fit.
  9. Orders pursuant to section 206C of the Act that the Second Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.



10. Further, or in the alternative, orders pursuant to section 206E of the Act that the Second Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.
11. Costs.
12. Such further order or other orders or relief as the Court thinks fit.

**Against the Third Defendant (John Dawkins)**

13. A declaration of contravention under section 1317E of the Act that the Third Defendant contravened sub-section 674(2A) of the Act in that he was involved in the First Defendant's contravention of sub-section 674(2) referred to in paragraph 2 above.
14. Declarations of contravention under section 1317E of the Act that the Third Defendant contravened sub-section 180(1) of the Act in that he failed to discharge his duties to the First Defendant with the degree of care and diligence that a reasonable person would exercise, if he or she were a non-executive director and Chair of the Board of a corporation in the First Defendant's circumstances and occupied the offices held by the Third Defendant, and had the same responsibilities within the corporation, in causing or otherwise permitting Vocation to contravene:
  - (a) sub-section 1041H(1) of the Act in making each of the following representations:
    - (i) the No Suspension Representation;
    - (ii) the Reasonable Grounds Representation; and
    - (iii) the Continuing Representation;



- (b) sub-section 674(2) of the Act in failing to disclose the Withholding and Suspension Information; and
  - (c) sub-section 708A(9) of the Act in providing the Cleansing Statement to the ASX.
15. Orders pursuant to section 1317G of the Act that the Third Defendant pay to the Commonwealth of Australia a pecuniary penalty, in relation to each civil penalty contravention pleaded against him, in such amount as the Court thinks fit.
  16. Orders pursuant to section 206C of the Act that the Third Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.
  17. Further, or in the alternative, orders pursuant to section 206E of the Act that the Third Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.
  18. Costs.
  19. Such further order or other orders or relief as the Court thinks fit.

**Against the Fourth Defendant (Manvinder Gréwal)**

20. A declaration of contravention under section 1317E of the Act that the Fourth Defendant contravened sub-section 180(1) of the Act in that he failed to discharge his duties to the First Defendant with the degree of care and diligence that a reasonable person would exercise, if he or she were the Chief Financial Officer and Company Secretary of a corporation in the First Defendant's circumstances and occupied the office held by the Fourth Defendant, and had the same responsibilities within the corporation, in causing or otherwise permitting Vocation to contravene:
  - (a) sub-section 1041H(1) of the Act in making each of the following representations:



- (i) the School Leavers Representation;
  - (ii) the Offsetting Representation; and
  - (iii) the Expedited Payment Representation; and
- (b) sub-section 708A(9) of the Act in providing the Cleansing Statement to the ASX.
21. Orders pursuant to section 1317G of the Act that the Fourth Defendant pay to the Commonwealth of Australia a pecuniary penalty, in relation to each civil penalty contravention pleaded against him, in such amount as the Court thinks fit.
22. Orders pursuant to section 206C of the Act that the Fourth Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.
23. Further, or in the alternative, orders pursuant to section 206E of the Act that the Fourth Defendant be prohibited from managing a corporation, for such period as the Court thinks fit.
24. Costs.
25. Such further order or other orders or relief as the Court thinks fit.

Date: 28 September 2016

A handwritten signature in blue ink, appearing to read "Kim Turner".

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Kim Turner  
Plaintiff's legal practitioner

This application will be heard by \_\_\_\_\_ at  
Commonwealth Law Courts, Queens Square, Sydney, NSW 2000 at \_\_\_\_\_ am/pm  
on \_\_\_\_\_ 2016.



**B. NOTICE TO DEFENDANTS****TO: Vocation Limited (in liquidation)**

ACN 166 631 330

Registered office

Level 15, 1 Pacific Highway

NORTH SYDNEY NSW 2060

**Mark Edward Hutchinson**

68 Bower Street

MANLY NSW 2095

**John Sydney Dawkins**

61 Keynes Gap Road

EDEN VALLEY SA 5235

**Manvinder Gréwal**

3 Calga Street

ROSEVILLE CHASE NSW 2069

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

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

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

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

**C. FILING**

Date of filing:

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**Registrar**



This originating process is filed by the plaintiff.

**D. SERVICE**

The plaintiff's address for service is Level 5, 100 Market Street, Sydney 2000.  
It is intended to serve a copy of this originating process on each defendant.

**Schedule**

Federal Court of Australia

No.

of 2016

District Registry: New South Wales

Division: General

IN THE MATTER OF VOCATION LIMITED (IN LIQUIDATION)

ACN: 166 631 330

**Defendants**Second Defendant: **Mark Hutchinson**Third Defendant: **John Dawkins**Fourth Defendant: **Manvinder Gréwal**

Date: 28 September 2016