

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 5/09/2023 9:14:17 AM AEST  
Date Accepted for Filing: 5/09/2023 1:31:37 PM AEST  
File Number: QUD190/2022  
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v  
SUNSHINELOANS PTY LTD (ACN 092 821 960)  
Registry: QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: To Be Advised  
Time and date for hearing: To Be Advised  
Place: To Be Advised



*Sia Lagos*

Registrar

### Important Information

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 date of the filing of the document is determined pursuant to the Court's Rules.

Form 15  
Rules 8.01(1); 8.04(1)

Amended pursuant to the leave granted by Justice  
Derrington on 4 September 2023.

Signed:  Date: 4 September 2023  
Scott Couper, Gadens



**SECOND FURTHER AMENDED ORIGINATING APPLICATION**

FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: QUEENSLAND  
DIVISION: GENERAL

No. QUD 190 of 2022

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Applicant

**SUNSHINELOANS PTY LTD (ACN 092 821 960)**

Respondent

To the Respondent

The Applicant applies for the relief set out in this second further amended application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Commonwealth Law Courts Building, 119 North Quay, Brisbane

Date:

Signed by an officer acting with the authority of the District Registrar

**Filed on behalf of:**

Prepared by:

Law firm (if applicable):

Tel: (07)3231 1651

Email: scott.couper@gadens.com

**Address for service:**

**Australian Securities and Investments Commission,  
Applicant**

Scott Couper, Solicitor for the Applicant

Gadens Lawyers

Fax: (07) 3229 5850

Level 11

111 Eagle Street

BRISBANE QLD 4000 Attention: Scott Couper



## **Details of second further amended application**

For the purposes of this second further amended application:

**Credit Act** means the *National Consumer Credit Protection Act 2009* (Cth).

**Credit Code** means the *National Credit Code* at schedule 1 to the Credit Act.

**Federal Court Act** means the *Federal Court of Australia Act 1976* (Cth).

1. This second further amended application is made by the Applicant under sections 166, 167 and 177 of the Credit Act and section 21 of the Federal Court Act to obtain the declarations, injunction and the payment of pecuniary penalties set out below, arising from the contraventions by the Respondent of:
  - (a) sections 23A(1), 24(1A), ~~and 31A(1) and 31B~~ of the Credit Code, and
  - (b) section 47(1)(d) of the Credit Act.
2. On the grounds stated in the Second Further Amended Concise Statement, the Applicant seeks the following orders:
  - (a) a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(a) of the Credit Code on 670,609 occasions by entering into SACCs on terms which imposed a monetary liability prohibited by section 23A(1) of the Code, being the Amendment Fee, which was not permitted under section 31 A(1) of the Code.
  - (aa) in the alternative to (a), a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(a) of the Credit Code on 61 occasions in respect of the Example Consumers listed at Schedule 1 to the Further Amended Concise Statement (save for those Consumers numbered 16, 18, 19, 27 and 32), or such of those Example Consumers where the Respondent is found by this Court to have breached that section, entering into SACCs on terms which imposed a monetary liability prohibited by section 23A(1) of the Code, being the Amendment Fee, which was not permitted under section 31A(1) of the Code.



- (b) a declaration that by reason of the conduct identified in declaration (a) above, or in the alternative (aa), the Respondent also contravened section 47(1)(d) of the Credit Act.
- (c) a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(b) of the Credit Code on 12,693 occasions by requiring payment of an amount in respect of a monetary liability that cannot be imposed consistently with the Credit Code, being the Amendment Fee which was a monetary liability prohibited by section 23A(1) of the Credit Code, and not permitted under section 31A(l) of the Credit Code.
- (ca) in the alternative to (c), a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(b) of the Credit Code on 61 occasions in respect of the Example Consumers listed at Schedule 1 to the Further Amended Concise Statement (save for those Consumers numbered 16, 18, 19, 27 and 32), or such of those Example Consumers where the Respondent is found by this Court to have breached that section, by requiring payment of an amount in respect of a monetary liability that cannot be imposed consistently with the Credit Code, being the Amendment Fee which was a monetary liability prohibited by section 23A(1) of the Credit Code, and not permitted under section 31A(l) of the Credit Code.
- (d) a declaration that by reason of the conduct identified in declaration (c), or in the alternative (ca), above, the Respondent also contravened section 47(1)(d) of the Credit Act.
- (e) a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(b) of the Credit Code on 8,376 ~~9,367~~ occasions by accepting payment of an amount in respect of a monetary liability that cannot be imposed consistently with the Credit Code, being the Amendment Fee which was a monetary liability prohibited by section 23A(1) of the Credit Code, and not permitted under section 31A(l) of the Credit Code.
- (ea) in the alternative to (e), a declaration that between 1 July 2016 and 2 November 2020 the Respondent contravened section 24(1A)(b) of the Credit Code on 61 occasions in respect of the Example Consumers listed at Schedule 1 to the Second Further Amended Concise Statement (save for those Consumers numbered 16, 18, 19, 27 and 32), or



such of those Example Consumers where the Respondent is found by this Court to have breached that section, by accepting payment of an amount in respect of a monetary liability that cannot be imposed consistently with the Credit Code, being the Amendment Fee which was a monetary liability prohibited by section 23A(1) of the Credit Code, and not permitted under section 31A(1) of the Credit Code.

- (f) a declaration that by reason of the conduct identified in declaration (e), or in the alternative (ea), above, the Respondent also contravened section 47(1)(d) of the Credit Act.
- (g) an order that the Respondent pay pecuniary penalties in respect of its contraventions of sections 24(1A)(a) and 24(1A)(b) of the Credit Code.
- (h) an injunction pursuant to section 177(1) of the Credit Act restraining the Respondent from further contraventions of 23A(1), 24(1A), and 31A(1) and ~~31B~~ of the Credit Code and section 47(1)(d) of the Credit Act.
- (i) costs.

**Applicant's address**

The Applicant's address for service is:

Gadens Lawyers  
Attention: Scott Couper  
Level 11, 111 Eagle Street  
Brisbane Qld 4000  
scott.couper@gadens.com

The Applicant's address is - Level 20, 240 Queen Street, Brisbane in the State of Queensland

**Service on the Respondent**

It is intended to serve this second further amended application on the Respondent.

Date: ~~3 June 2022~~ ~~03 April 2023~~ ~~24 July 2023~~ 4 September 2023

A handwritten signature in blue ink, appearing to read "Scott Couper", written over a horizontal line.

Signed by Scott Couper, Gadens Lawyers Solicitor for the Applicant