

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/11/2019 9:21:43 AM ACDT 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:	SAD237/2019
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v MOBISUPER PTY LIMITED & ORS
Registry:	SOUTH AUSTRALIA 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 that reads 'Warwick Soden'.

Dated: 6/11/2019 10:21:35 AM ACDT

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.





### **Declarations in relation to Mobi**

1. Declarations pursuant to section 21 of the Federal Court Act that, in the events that happened, Mobi:
  - (a) as providing entity, provided personal advice within the meaning of section 766B(3) of the Corporations Act to each of the relevant Consumers;
  - (b) as providing entity, provided personal advice to each of the relevant Consumers without providing a statement of advice, in contravention of section 946A of the Corporations Act, nor a statement of advice that complied with section 947D of the Corporations Act;
  - (c) contravened section 12DF(1) of the ASIC Act, by engaging in misleading conduct as to the nature, the characteristics and/or the suitability for purpose of a Lost Super Search (being a 'financial service' within the meaning of section 12BAB of the ASIC Act);
  - (d) contravened section 12DB(1)(a) of the ASIC Act, by making false or misleading representations as to the equivalency of cover provided by policies of insurance offered by Mobi; and/or
  - (e) contravened section 12DB(1)(g) of the ASIC Act, by making false or misleading representations as to whether consumers would save fees by opening a superannuation account with the Fund.

### **Declarations in relation to ZIB**

2. A declaration pursuant to section 21 of the Federal Court Act that, in the events that happened, ZIB failed to do all things necessary to ensure that financial services provided by Mobi and/or the CSOs as ZIB's representatives covered by the ZIB AFS Licence were provided efficiently, honestly and fairly, in contravention of section 912A(1)(a) of the Corporations Act.
3. Declarations pursuant to section 21 of the Federal Court Act and section 1317E of the Corporations Act that ZIB contravened section 961K(2) of the Corporations Act insofar as the CSOs, being representatives in respect of which ZIB was a responsible licensee, failed to:
  - (a) act in the best interests of each of the relevant Consumers in contravention of section 961B of the Corporations Act; and



- (b) provide the warning to each of the relevant Consumers required by section 961H of the Corporations Act.
4. Declarations pursuant to section 21 of the Federal Court Act and section 1317E of the Corporations Act that ZIB contravened section 961L of the Corporations Act on the basis of its failure to take reasonable steps to ensure the CSOs, as representatives of ZIB, complied with sections 961B and 961H of the Corporations Act in relation to each of the relevant Consumers.

#### **Declarations in relation to Tidswell**

5. Declarations pursuant to section 21 of the Federal Court Act that, in the events that happened, Tidswell:
- (a) failed to do all things necessary to ensure that financial services provided by
    - (i) Tidswell; and/or
    - (ii) Mobi and/or the CSOs as Tidswell's representatives, covered by the Tidswell AFS Licence were provided efficiently, honestly and fairly, in contravention of section 912A(1)(a) of the Corporations Act;
  - (b) failed to comply with the conditions on its licence, in contravention of section 912A(1)(b) of the Corporations Act;
  - (c) failed to take reasonable steps to ensure that Mobi and/or the CSOs as its representatives complied with financial services laws, in contravention of section 912A(1)(ca) of the Corporations Act; and/or
  - (d) failed to ensure that Mobi and/or the CSOs as its representatives were adequately trained, and were competent, to provide financial services, in contravention of section 912A(1)(f) of the Corporations Act.
6. Declarations pursuant to section 21 of the Federal Court Act and section 1317E of the Corporations Act that Tidswell contravened section 961K(2) of the Corporations Act insofar as the CSOs, being representatives in respect of which Tidswell was a responsible licensee, failed to:
- (a) act in the best interests of each of the relevant Consumers in contravention of section 961B of the Corporations Act; and
  - (b) provide the warning to each of the relevant Consumers required by section 961H of the Corporations Act.



7. Declarations pursuant to section 21 of the Federal Court Act and section 1317E of the Corporations Act that Tidswell contravened section 961L of the Corporations Act on the basis of its failure to take reasonable steps to ensure the CSOs, as representatives of Tidswell, complied with sections 961B and 961H of the Corporations Act in relation to each of the relevant Consumers.

#### **Declarations in relation to Mr Grover**

8. Declarations pursuant to section 21 of the Federal Court Act that, in the events that happened, Mr Grover was knowingly concerned in Mobi's contraventions of section 12DF(1) of the ASIC Act.

#### **Pecuniary penalties**

9. Orders pursuant to section 12GBA(1)(a) of the ASIC Act that Mobi pay pecuniary penalties in an amount that the Court considers appropriate in respect of contraventions of sections 12DF(1) and 12DB(1) of the ASIC Act.
10. Orders pursuant to section 1317G(1E) of the Corporations Act that ZIB pay pecuniary penalties in an amount that the Court considers appropriate in respect of contraventions of sections 961K(2) and 961L of the Corporations Act.
11. Orders pursuant to section 1317G(1E) of the Corporations Act that Tidswell pay pecuniary penalties in an amount that the Court considers appropriate in respect of contraventions of sections 961K(2) and 961L of the Corporations Act.
12. Orders pursuant to section 12GBA(1)(e) of the ASIC Act that Mr Grover pay pecuniary penalties in an amount that the Court considers appropriate for being knowingly concerned in Mobi's contraventions of section 12DF(1) of the ASIC Act.

#### **Other**

13. Further orders under sections 1101B and/or 1324(7) of the Corporations Act and/or sections 12GLA and/or 12GLB of the ASIC Act, including remedial advertising and probation orders, that will be sought in any penalty phase of the matter.
14. Costs.

Date: 6 November 2019



A handwritten signature in blue ink, appearing to read "Conrad Gray".

Conrad Gray  
Plaintiff's legal practitioner

This application will be heard by the Federal Court of Australia, 3 Angas Street,  
Adelaide, South Australia, 5000 at                      am/pm on                      2019.

**B. NOTICE TO DEFENDANTS****TO:**

First Defendant – MOBISUPER PTY LIMITED (ACN 613 581 981)

'Bedford Ca' Level 16

101 Miller Street

NORTH SYDNEY NSW 2060

Second Defendant – ZIB FINANCIAL PTY LIMITED (ACN 609 197 971)

'Bedford Ca' Level 16

101 Miller Street

NORTH SYDNEY NSW 2060

Third Defendant – TIDSWELL FINANCIAL SERVICES LIMITED (ACN 010 810 607)

Ground Floor

50 Hindmarsh Square

ADELAIDE SA 5000

Fourth Defendant – ANDREW RICHARD GROVER

C/- Mills Oakley

Level 6

530 Collins Street

MELBOURNE VIC 3000

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, prescribed form, in the Registry and serve a copy of it on the plaintiff.



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



**C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY**

N/A

**D. FILING**

Date of filing:

.....  
*Registrar*

This originating process is filed by Conrad Gray for the Plaintiff.

**E. SERVICE**

The Plaintiff's address for service is:

Place: Australian Securities and Investments Commission  
Level 5, 100 Market Street  
SYDNEY NSW 2000

Email: [Conrad.Gray@asic.gov.au](mailto:Conrad.Gray@asic.gov.au)

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



## SCHEDULE OF PARTIES

### **AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**

Plaintiff

### **MOBISUPER PTY LIMITED (ACN 613 581 981)**

First Defendant

### **ZIB FINANCIAL PTY LIMITED (ACN 609 197 971)**

Second Defendant

### **TIDSWELL FINANCIAL SERVICES LIMITED (ACN 010 810 607)**

Third Defendant

### **ANDREW RICHARD GROVER**

Fourth Defendant