

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 20/08/2020 9:58:17 AM 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:	VID551/2020
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v STATE SUPER FINANCIAL SERVICES AUSTRALIA LIMITED
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 that reads 'Sia Lagos'.

Dated: 20/08/2020 11:31:23 AM 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
District Registry: Victoria
Division: General

No. _____ of 2020

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Plaintiff

STATE SUPER FINANCIAL SERVICES AUSTRALIA LIMITED (ACN 003 742 756)
Defendant

A. DETAILS OF APPLICATION

This application is made under ss 19 and 21 of the *Federal Court of Australia Act 1976* (Cth), s 1101B of the *Corporations Act 2001* (Cth) (**Corporations Act**) and ss 12GBA, 12GJ(1), 12GLA and 12GLB of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).

The plaintiff seeks declarations of contraventions of the Corporations Act and the ASIC Act, pecuniary penalty orders and ancillary orders, including costs.

In this Originating Process, terms which are defined in the Concise Statement have the same meaning as they do in the Concise Statement, unless otherwise indicated.

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

Declarations

1. A declaration that, during the period between 21 August 2014 and 30 June 2018 (**Penalty Period**), StatePlus in trade or commerce accepted payment from Advice Clients for the provision of Annual Review Services, which are financial services within the meaning of s 12DI(3)(a) of the ASIC Act, when there were reasonable grounds for believing that StatePlus would not be able to supply the financial services within the period specified, and thereby contravened s 12DI(3) of the ASIC Act.
2. A declaration that when StatePlus issued a statement of advice or record of advice to a Bundled Client that included an Annual Review Representation on each date identified in Annexure B to the Concise Statement, StatePlus gave a disclosure document or statement to Bundled Clients that was 'defective' within the meaning of section 953A(1) of the Corporations Act because the Annual Review Representation related to a future matter, being the provision of an Annual Review Service, and StatePlus did not have reasonable grounds for making the Annual Review Representation.
3. A declaration that, by its conduct in:
 - a. contravening s 12DI(3) of the ASIC Act as referred to in paragraph 1 above;
 - b. giving disclosure documents or statements that were defective for the purposes of s 953A(1) of the Corporations Act as referred to in paragraph 2 above;

Filed on behalf of (name & role of party)

Australian Securities and Investments Commission, Plaintiff

Prepared by (name of person/lawyer)

Tom Jarvis, lawyer for the Plaintiff

Law firm (if applicable)

Johnson Winter & Slattery

Tel +613 8611 1336

Fax +613 8611 1300

Email tom.jarvis@jws.com.au

Address for service

c/- Johnson Winter & Slattery, level 34, 55 Collins St, Melbourne, VIC 3000

(include state and postcode)



- c. failing to provide Annual Review Services to Advice Clients during the Penalty Period as referred to in paragraphs 13 and 19 of the Concise Statement; and
- d. continuing and maintaining throughout the Penalty Period internal procedures, measures and controls and operational and compliance systems that did not ensure compliance with representations made and obligations to all Advice Clients in respect of the Annual Review Services,

StatePlus breached its obligation to do all things necessary to ensure that the financial services covered by its AFSL were provided efficiently, honestly and fairly, and thereby contravened s 912A(1)(a) of the Corporations Act.

4. A declaration that, in the circumstances alleged when StatePlus contravened s12DI(3) of the ASIC Act, StatePlus breached its general obligation as a financial service licensee to comply with financial services laws and thereby contravened s 912A(1)(c) of the Corporations Act.
5. A declaration that, in the circumstances alleged, StatePlus contravened s 912A(1)(b) of the Corporations Act by failing to establish and maintain compliance measures that ensured, as far as is reasonably practicable, that it complied with the provisions of the financial services laws.

Penalty

6. An order pursuant to s 12GBA(1) of the ASIC Act that StatePlus pay to the Commonwealth a pecuniary penalty in respect of the contraventions referred to in paragraph 1 in such amount as the Court considers appropriate.

Other orders

7. An order pursuant to either s 12GLA(2) or 12GLB(1)(a) of the ASIC Act that within 30 days of the order, StatePlus shall take all reasonable steps to cause to be published, at its own expense, a notice in terms the Court considers appropriate on the appropriate part of its website in the same style and format as commensurate notices in StatePlus' website, but in a font not smaller than 10 point.
8. An order that StatePlus pay the plaintiff's costs of and incidental to this proceeding.
9. Such other order as the Court sees fit.

Date: 20 August 2020

Johnson Winter & Slattery

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Tom Jarvis
Johnson Winter & Slattery
Lawyer for the Plaintiff

This application will be heard by _____ at the Owen Dixon Commonwealth
Law Courts Building, 305 William Street Melbourne VIC 3000 at _____*am/*pm on



B. NOTICE TO DEFENDANT

TO: **STATE SUPER FINANCIAL SERVICES AUSTRALIA LIMITED**
(ACN 003 742 756)
Level 28
388 George Street
SYDNEY NSW 2000

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

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

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

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

C. FILING

Date of filing: *[date of filing to be entered by Registrar]*

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Registrar

This originating process is filed by Johnson Winter & Slattery for the plaintiff.

D. SERVICE

The plaintiff's address for service is:

Johnson Winter & Slattery
Level 34
55 Collins Street
Melbourne VIC 3000
Email: tom.jarvis@jws.com.au

Johnson Winter & Slattery's telephone, facsimile, and document exchange numbers are:

Tel: (03) 8611 1336
Fax: (03) 8611 1300

The Plaintiff's address is:

Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

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