

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 21/08/2020 7:52:05 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:	VID556/2020
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v RI ADVICE GROUP PTY LTD (ACN 001 774 125)
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: 21/08/2020 8:51:33 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

No. of 2020

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

RI ADVICE GROUP PTY LTD (ACN 001 774 125)

Defendant

A DETAILS OF APPLICATION

This application is made under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**) and ss 1101B, 1317E and 1317G(1)(a) of the *Corporations Act 2001* (Cth) (**Corporations Act**).

The plaintiff seeks:

- a) declarations of contraventions of s 912A(1) of the Corporations Act under s 21 of the Federal Court Act and/or s 1101B(1)(a) of the Corporations Act;
- b) declarations of contraventions of s 912A(5A) of the Corporations Act under s 1317E of the Corporations Act;
- c) pecuniary penalty orders under s 1317G(1)(a) of the Corporations Act in an amount to be determined by this Honourable Court following determination of the matters referred to in the Concise Statement, on the basis that the “pecuniary penalty applicable” within the meaning of s 1317G(4) (and thus the maximum pecuniary penalty available pursuant to s 1317G(2)) is the greater of:
 - (i) 50,000 penalty units; and
 - (ii) 10% of the annual turnover (as defined in s 761A of the Corporations Act) of the IOOF Group (as defined in the Concise Statement) for the 12-month period ending

Filed on behalf of (name & role of party)	The Plaintiff		
Prepared by (name of person/lawyer)	Andrew Christopher		
Law firm (if applicable)	Webb Henderson		
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(include state and postcode)	Andrew.Christopher@webbhenderson.com		



at the end of the month in which the defendant (**RI**) contravened, or began to contravene, s 912A(5A),

and the plaintiff will make submissions as to the appropriate size or range of penalty in due course at the penalty stage;

- d) compliance orders under s 1101B(1)(a) of the Corporations Act; and
- e) costs.

On the facts stated in the accompanying Concise Statement, the plaintiff seeks the relief stated below.

DECLARATIONS

1 Declarations that RI:

- a) contravened ss 912A(1)(a), (b), (c), (d) and (h) of the Corporations Act at all times from 15 May 2018 to 12 March 2019; and
- b) contravened ss 912A(1)(a), (b), (c), (d) and (h) and (5A) of the Corporations Act at all times from 13 March 2019 to:
 - (1) the date of judgment; alternatively
 - (2) 1 May 2020; alternatively
 - (3) 1 November 2019,

as a result of its failure to have and to have implemented (including by its authorised representatives) policies, plans, procedures, strategies, standards, guidelines, frameworks, systems, resources and controls which were reasonably appropriate to adequately manage risk in respect of cybersecurity and cyber resilience, and as a result of this conduct, it:

- (i) failed to do all things necessary to ensure that the financial services covered by its licence are provided efficiently, honestly and fairly, and thereby contravened s 912A(1)(a) of the Corporations Act;
- (ii) failed to comply with the condition of its license requiring it to establish and maintain compliance measures that ensure, as far as is reasonably practicable, that it complies with the provisions of the financial services laws (which relevantly comprise ss 912A(1)(a), (d) and (h) of the Corporations Act), and thereby contravened s 912A(1)(b) of the Corporations Act;
- (iii) failed to comply with the financial services laws (which relevantly comprise ss 912A(1)(a), (b), (d) and (h) of the Corporations Act), and thereby contravened s 912A(1)(c) of the Corporations Act;



- (iv) failed to have available adequate resources (including financial, technological and human resources) to provide the financial services covered by the licence and to carry out supervisory arrangements, and thereby contravened s 912A(1)(d) of the Corporations Act;
- (v) failed to have adequate risk management systems, and thereby contravened s 912A(1)(h) of the Corporations Act; and
- (vi) by reason of the contraventions of each of ss 912A(1)(a), (d) and (h) of the Corporations Act referred to in sub-paragraphs (b)(i), (iv) and (v) above, contravened s 912A(5A) of the Corporations Act.

2 Alternatively to paragraph 1 above, declarations that RI:

- a) contravened ss 912A(1)(a), (b), (c), (d) and (h) of the Corporations Act on:
 - (1) 15 May 2018; and/or
 - (2) 12 March 2019; and/or
- b) contravened ss 912A(1)(a), (b), (c), (d) and (h) and (5A) of the Corporations Act on:
 - (1) 13 March 2019; and/or
 - (2) 1 November 2019; and/or
 - (3) 1 May 2020,

as a result of its failure to have and to have implemented (including by its authorised representatives) policies, plans, procedures, strategies, standards, guidelines, frameworks, systems, resources and controls which were reasonably appropriate to adequately manage risk in respect of cybersecurity and cyber resilience, and as a result of this conduct, it:

- (i) failed to do all things necessary to ensure that the financial services covered by its licence are provided efficiently, honestly and fairly, and thereby contravened s 912A(1)(a) of the Corporations Act;
- (ii) failed to comply with the condition of its license requiring it to establish and maintain compliance measures that ensure, as far as is reasonably practicable, that it complies with the provisions of the financial services laws (which relevantly comprise ss 912A(1)(a), (d) and (h) of the Corporations Act), and thereby contravened s 912A(1)(b) of the Corporations Act;
- (iii) failed to comply with the financial services laws (which relevantly comprise ss 912A(1)(a), (b), (d) and (h) of the Corporations Act), and thereby contravened s 912A(1)(c) of the Corporations Act;
- (iv) failed to have available adequate resources (including financial, technological and human resources) to provide the financial services covered by the licence and to



carry out supervisory arrangements, and thereby contravened s 912A(1)(d) of the Corporations Act;

- (v) failed to have adequate risk management systems, and thereby contravened s 912A(1)(h) of the Corporations Act; and
- (vi) by reason of the contraventions of each of ss 912A(1)(a), (d) and (h) of the Corporations Act referred to in sub-paragraphs (b)(i), (iv) and (v) above, contravened s 912A(5A) of the Corporations Act.

3 Further to paragraphs 1 and 2 above, declarations that RI contravened ss 912A(1)(a) and (c) and (5A) of the Corporations Act at all times since 23 August 2019 as a result of its failure to properly review the effectiveness of, and remediate where necessary in a timely manner, its cybersecurity controls (including those of its authorised representatives) relevant to the cybersecurity incident in August 2019 involving its authorised representative Empowered Financial Partners Pty Ltd, and as a result of this conduct it failed to do all things necessary to ensure that the financial services covered by its licence are provided efficiently, honestly and fairly.

PECUNIARY PENALTIES

4 RI pay pecuniary penalties in relation to each of the contraventions of s 912A(5A) of the Corporations Act referred to in paragraphs 1(b)(vi), alternatively 2(b)(vi), and, further, 3 above.

COMPLIANCE ORDERS

- 5 RI must, within 3 months of the date of these Orders, have and have implemented (including by its authorised representatives) policies, plans, procedures, strategies, standards, guidelines, frameworks, systems, resources and controls which are reasonably appropriate to adequately manage risk in respect of cybersecurity and cyber resilience.
- 6 RI must, within 5 months of the date of these Orders, provide the plaintiff with a written report of a suitably qualified independent expert (**Expert**) confirming RI's compliance with paragraph 5 above.
- 7 The identity of the Expert and the terms of his or her retainer are to be agreed between the plaintiff and RI, or failing agreement are to be determined by the Court.
- 8 The Expert is to commence their work by no later than 3 months from the date of these Orders.
- 9 The costs of the Expert are to be paid by RI.

OTHER ORDERS

- 10 RI pay the plaintiff's costs.
- 11 Such further or other orders as the Court thinks fit.

Date: 21 August 2020



A handwritten signature in blue ink, appearing to read 'Andrew John Christopher'.

Signed by Andrew John Christopher

Lawyer for the Plaintiff

This application will be heard by the Federal Court of Australia at 305 William Street Melbourne at *am/*pm on 2020.

B NOTICE TO DEFENDANT

TO: RI ADVICE GROUP PTY LTD (ACN 001 774 125).

c/- IOOF Holdings Limited

Level 6

161 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, 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 APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

Not applicable



D FILING

Date of filing:

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Registrar

This originating process is filed by Andrew Christopher for the plaintiff.

E SERVICE

The Plaintiff's address for service is

Andrew Christopher

Webb Henderson

Level 18, 420 George St, Sydney NSW 2000

Email Andrew.Christopher@webbhenderson.com.

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