

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 23/11/2020 3:43:55 PM AEDT 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 Application - Form 15 - Rule 8.01(1)
File Number:	NSD1088/2020
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v BHF SOLUTIONS PTY LTD ACN 631 775 123 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing
Time and date for hearing:	18/12/2020, 9:30 AM
Place:	Court Room 22A, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 25/11/2020 11:15:35 AM AEDT

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.

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



Amended Originating application

No. NSD 1088 of 2020

Federal Court of Australia
District Registry: New South Wales
Division: General

Australian Securities and Investments Commission

Applicant

BHF Solutions Pty Ltd (ACN 631 775 123) and another named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this 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: [Registry will insert time and date]

Place: Level 17, Law Courts Building, Queens Square, Sydney NSW 2000

The Court ordered that the time for serving this application be abridged to [Registry will insert date, if applicable].

Date:

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

Filed on behalf of (name & role of party) Australian Securities and Investments Commission, Applicant

Prepared by (name of person/lawyer) Kim Turner, Solicitor

Law firm (if applicable) Australian Securities and Investments Commission

Tel (02) 9911 2230 Fax (02) 9911 2414

Email kim.turner@asic.gov.au

Address for service Level 5, 100 Market Street, Sydney, NSW 2000
(include state and postcode)



Details of claim

On the grounds stated in the ~~Concise Statement~~ Statement of Claim filed in these proceedings and served with this Amended Originating Application, the Applicant claims:

Against the First Respondent (BHF Solutions Pty Ltd)

1. Declarations pursuant to s 166 of the *National Consumer Credit Protection Act 2009* (Cth) (**NCCP Act**) that the First Respondent contravened s 29 of the NCCP Act by engaging in the following credit activity without holding an Australian Credit Licence (**ACL**) under s 35 of the NCCP Act authorising the First Respondent to engage in that activity:
 - ~~a. entering into a credit contract with Abigail Clara Mbugua on or about 31 March 2020 (**Mbugua Credit Contract**) under which the First Respondent was a credit provider;~~
 - a. entering into a credit contract with Leah Morrow on or about 18 October 2019 (**Morrow Credit Contract**) under which the First Respondent was a credit provider;
 - ~~b. entering into a credit contract with Mark van Kleef on or about 18 February 2020 (**van Kleef Credit Contract**) under which the First Respondent was a credit provider; and~~
 - b. carrying on a business of providing credit, being credit the provision of which the National Credit Code in Schedule 1 to the NCCP Act (**Code**) applies to, from on or around 12 September 2019.
2. An injunction pursuant to s 177(1)(a) of the NCCP Act to restrain permanently the First Respondent, whether by itself, its servants, agents or employees, from:
 - a. engaging in a credit activity of being a credit provider under a credit contract, within the meaning of item 1(a) of s 6(1) of the NCCP Act;
 - b. engaging in a credit activity of carrying on a business of providing credit, within the meaning of item 1(b) of s 6(1) of the NCCP Act;
 - c. in any way attempting to engage in or being involved in the activities referred to in sub-paragraphs (a) and (b) above.
3. An interim injunction pursuant to s 177(3) of the NCCP Act to restrain, until the determination of this proceeding or further order, the First Respondent, whether by itself, its servants, agents or employees, from:
 - a. engaging in a credit activity of being a credit provider under a credit contract, within the meaning of item 1(a) of s 6(1) of the NCCP Act;



- b. engaging in a credit activity of carrying on a business of providing credit, within the meaning of item 1(b) of s 6(1) of the NCCP Act;
 - c. in any way attempting to engage in or being involved in the activities referred to in sub-paragraphs (a) and (b) above.
4. Costs.
 5. Such further or other orders or relief as the Court thinks appropriate.

Against the Second Respondent (Cigno Pty Ltd)

6. Declarations pursuant to s 166 of the NCCP Act that the Second Respondent contravened s 29 of the NCCP Act by engaging in the following credit activity without holding an ACL under s 35 of the NCCP Act authorising the Second Respondent to engage in that activity:
 - a. ~~performing obligations and exercising rights of the First Respondent in relation to (i) the Mbugua Credit Contract, (ii) the Morrow Credit Contract; and (iii) the van Kleef Credit Contract;~~
 - d. ~~providing a credit service to Abigail Clara Mbugua on or about 31 March 2020;~~
 - b. providing a credit service to Leah Morrow on or about 18 October 2019, 2 December 2019 and 11 January 2020. ~~and~~
 - e. ~~providing a credit service to Mark van Kleef on or about 18 February 2020.~~
7. An injunction pursuant to s 177(1)(a) of the NCCP Act to restrain permanently the Second Respondent, whether by itself, its servants, agents or employees, from:
 - a. engaging in a credit activity of ~~performing the obligations, or exercising the rights,~~ of a credit provider in relation to a credit contract or proposed credit contract, within the meaning of item 1(c) of s 6(1) of the NCCP Act;
 - b. engaging in a credit activity of providing a credit service, within the meaning of item 2 of s 6(1) of the NCCP Act;
 - c. in any way attempting to engage in or being involved in the activities referred to in sub-paragraphs (a) and (b) above.
8. An interim injunction pursuant to s 177(3) of the NCCP Act to restrain, until the determination of this proceeding or further order, the Second Respondent, whether by itself, its servants, agents or employees, from:



- a. engaging in a credit activity of ~~performing the obligations, or exercising the rights,~~ of a credit provider in relation to a credit contract or proposed credit contract, within the meaning of item 1(c) of s 6(1) of the NCCP Act;
 - b. engaging in a credit activity of providing a credit service, within the meaning of item 2 of s 6(1) of the NCCP Act;
 - c. in any way attempting to engage in or being involved in the activities referred to in sub-paragraphs (a) and (b) above.
9. Costs.
10. Such further or other orders or relief as the Court thinks appropriate.

Applicant's address

The Applicant's address for service is:

Place: Level 5, 100 Market Street, Sydney NSW 2000

Email: kim.turner@asic.gov.au

The Applicant's address is Level 5, 100 Market Street, Sydney NSW 2000

Service on the Respondent

It is intended to serve this application on all Respondents

Date: 23 November 2020

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

Signed by Kim Turner
Lawyer for the Applicant



Schedule

No. NSD 1088 of 2020

Federal Court of Australia

District Registry: New South Wales

Division: General

Second respondent: Cigno Pty Ltd (ACN 612 373 734)