

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 16/11/2021 3:14:47 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 process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	NSD1188/2021
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v A & M GROUP PTY LTD ACN 138 457 520
Registry:	NEW SOUTH WALES 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

Dated: 16/11/2021 4:02:50 PM 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.



Originating Process

No. of 2021

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

IN THE MATTER OF A&M GROUP PTY LTD (ACN 138 457 520)

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

A&M GROUP PTY LTD (ACN 138 457 520)

Defendant

A. DETAILS OF APPLICATION

This application is made under section 21 of the *Federal Court of Australia Act 1976* (Cth) and section 12GBA (as it stood prior to 13 March 2019) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).

The plaintiff claims that the defendant contravened sections 12DA and 12DJ of the ASIC Act by making representations that were misleading or deceptive or likely to mislead or deceive and using undue harassment or coercion in relation to six of its debtor clients, and seeks declarations against the defendant in respect of each contravention, pecuniary penalty orders and ancillary orders, including costs.

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

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission
Prepared by (name of person/lawyer)	Conrad Gray / Mira Vucic
Law firm (if applicable)	
Tel (02) 9911 2313 / (02) 9911 2334	Fax 1300 729 000
Email	conrad.gray@asic.gov.au / mira.vucic@asic.gov.au

Address for service

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



Declarations

1. Declarations that the defendant:

- (a) between 4 May 2018 and 26 November 2018 in relation to Debtor HC;
- (b) between 30 January 2019 and 15 April 2019 in relation to Debtor TB;
- (c) between 30 January 2018 and 11 February 2019 in relation to Debtor JD;
- (d) between 25 October 2018 and 8 October 2019 in relation to Debtor LH;
- (e) between 25 July 2018 and 28 November 2018 in relation to Debtor RL;
- (f) between 20 February 2018 and 19 February 2020 in relation to Debtor DM,

engaged in conduct in relation to financial services that was misleading or deceptive or was likely to mislead or deceive by representing to the 6 debtors for whom the defendant was the registered debt agreement administrator that:

- (g) creditors had contacted the defendant and that they were, or might be, considering terminating their debt agreement and pursuing legal action; and/or
- (h) creditors had placed their debt agreement under review for termination; and/or
- (i) creditors had requested that their debt agreement be terminated in order to commence legal action; and/or
- (j) their debt agreement was about to be terminated or was in the process of being terminated; and/or
- (k) creditors were assessing their account history and payments and would advise if they wished to terminate their debt agreement to start looking into proceeding with legal action such as bankruptcy and fraud charges; and/or
- (l) creditors had demanded payment within a specified time period, failing which creditors would terminate their debt agreement; and/or
- (m) if their debt agreement was terminated and they were forced into bankruptcy, their financial situation would be examined to determine if they had been able to make payments under their debt agreement; and/or
- (n) they could be charged with fraud and sentenced to imprisonment for failing to make payments under their debt agreement or selling their assets; and/or
- (o) creditors intended to contact their family, friends or work colleagues to recover their debts; and/or
- (p) creditors wanted the defendant to start contacting a debtor's family and friends to recover debts; and/or



- (q) if they were subject to a garnishee order, the creditors would be entitled to take 80 percent of the debtor's income until their debts were fully repaid,

when none of this was true and/or, in so far as any of those representations were made as to any future matter, the defendant did not have reasonable grounds for making those representations, thereby separately contravening s 12DA of the ASIC Act in relation to each of the 6 debtors.

2. Declarations that the defendant:

- (a) between 26 February 2018 and 4 March 2019 in relation to Debtor HC;
- (b) between 10 January 2019 and 15 April 2019 in relation to Debtor TB;
- (c) between 30 January 2018 and 4 April 2019 in relation to Debtor JD;
- (d) between 20 September 2018 and 8 October 2019 in relation to Debtor LH;
- (e) between 16 March 2018 and 29 November 2018 in relation to Debtor RL;
- (f) between 20 February 2018 and 19 February 2020 in relation to Debtor DM,

used undue harassment or coercion in connection with the supply or possible supply of financial services to a consumer, or the payment for financial services by a consumer, in relation to the 6 debtors for whom the defendant was the registered debt agreement administrator by:

- (g) engaging in the conduct set out in paragraph 1 above; and/or
- (h) threatening to contact uninvolved family members, friends, work colleagues or landlords; and/or
- (i) contacting or attempting to contact uninvolved family members, friends and work colleagues; and/or
- (j) pressuring debtors to seek the assistance of family and friends to make payments due under their debt agreements; and/or
- (k) communicating with debtors in a demeaning, condescending and/or offensive manner,

thereby separately contravening s 12DJ of the ASIC Act in relation to each of the 6 debtors.

Pecuniary penalties

3. An order that within 30 days of the date of this order, the defendant pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of the defendant's contraventions of s 12DJ of the ASIC Act.



Other orders

- 4. An order that the defendant pay the plaintiff's costs.
- 5. An order that a copy of the reasons for judgment, with the seal of the Court affixed thereon, be retained on the Court file for the purposes of s 12GG of the ASIC Act.
- 6. Such further or other order as the Court thinks fit.

Date: 16 November 2021

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Conrad Gray
Plaintiff's legal practitioner

This application will be heard by at Law Courts
Building Queens Square, Sydney NSW 2000 at *am/*pm on

B. NOTICE TO DEFENDANT

TO: A & M Group Pty Ltd
ACN 138 457 520
Suite 9
39 Stanley Street
BANKSTOWN NSW 2200

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:

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Registrar

This originating process is filed by the plaintiff.

D. SERVICE

The plaintiff's address for service is Level 5, 100 Market Street Sydney NSW 2000.

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