

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 16/05/2023 2:55:30 PM AEST
Date Accepted for Filing: 16/05/2023 3:04:55 PM AEST
File Number: VID350/2023
File Title: AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v
MONEY3 LOANS PTY LTD ACN 108 979 406
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



Sia Lagos

Registrar

Important Information

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 date of the filing of the document is determined pursuant to the Court's Rules.

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

Originating application



No. _____ of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Applicant

MONEY3 LOANS PTY LTD (ACN 108 979 406)

Respondent

To the Respondent

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:

Place: 305 William Street, Melbourne, VIC, 3000

The Court ordered that the time for serving this application be abridged to:

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)	Hugh Copley		
Law firm (if applicable)			
Tel	1300 935 075	Fax	1300 729 000
Email	hugh.copley@asic.gov.au		
Address for service (include state and postcode)	Level 20, 240 Queen Street, Brisbane Qld 4000		



Details of claim

For the purposes of this application:

ASIC means the Applicant, the Australian Securities and Investments Commission.

Concise Statement means the Concise Statement dated 16 May 2023 accompanying this originating application.

Consumer, consumer(s) or consumers as the particular context in which term appears indicates, refer to and mean Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6, including individually or collectively.

Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 each have the meaning as identified in the Concise Statement.

Credit Contracts means each of the credit contracts between Money3 and each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 as identified in the Concise Statement.

Credit Act means the *National Consumer Credit Protection Act 2009* (Cth).

Federal Court Act means the *Federal Court of Australia Act 1976* (Cth).

Licence means Australian credit licence 389067 as held by the Respondent.

Relevant Period means 8 May 2019 to 18 February 2021.

Money3 means the Respondent, Money3 Loans Pty Ltd ACN 108 979 406.

This application is made by ASIC under sections 166, 167 and 177 of the Credit Act and sections 21 and 23 of the Federal Court Act to obtain the declarations, injunction, payment of pecuniary penalties and other relief sought below, arising from the contraventions by Money3 of sections 128, 130(1), 131(1), 133(1), 47(1)(e), 47(1)(g) and 47(4) of the Credit Act.

On the grounds stated in the accompanying Concise Statement, ASIC seeks the relief sought below:

Declarations

The following declarations pursuant to section 166(2) of the Credit Act and/or section 21 of the Federal Court Act.

1. A declaration that Money3 contravened section 128 of the Credit Act in respect of the Credit Contracts with each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 by failing to comply with section 128(c) of the Credit Act by entering into a credit contract with the Consumer who would be a debtor under the contract



without, within 90 days before the day the contract was entered into, making an assessment whether the Credit Contract would be unsuitable for the Consumer as required by section 129 of the Credit Act.

2. A declaration that Money3 contravened section 128 of the Credit Act, in respect of the Credit Contracts with each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 by failing to comply with section 128(d) of the Credit Act by entering into a credit contract with the Consumer who would be a debtor under the contract without, within 90 days before the day the contract was entered into:
 - a. making reasonable inquiries about the Consumer's requirements and objectives in relation to the Credit Contract, as required by section 130(1)(a) of the Credit Act;
 - b. making reasonable inquiries about the Consumer's financial situation, as required by section 130(1)(b) of the Credit Act; and/or
 - c. taking reasonable steps to verify the Consumer's financial situation, as required by section 130(1)(c) of the Credit Act.
3. A declaration that Money3 contravened section 130(1) of the Credit Act, in respect of the Credit Contracts with each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 by failing, before making an assessment under section 128(c) of the Credit Act, to:
 - a. make reasonable inquiries about the Consumer's requirements and objectives in relation to the Credit Contract;
 - b. make reasonable inquiries about the Consumer's financial situation; and/or
 - c. take reasonable steps to verify the Consumer's financial situation.
4. A declaration that Money3 contravened section 131(1) of the Credit Act, in respect of the Credit Contracts with each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 by failing to assess the Credit Contracts as unsuitable for the Consumer(s) on the basis that:
 - a. pursuant to section 131(2)(a) of the Credit Act, it was likely that the Consumer would be unable to comply with their financial obligations under the Credit Contract, or could only comply with substantial hardship; and/or
 - b. pursuant to section 131(2)(b) of the Credit Act, the Credit Contract would not meet the Consumer's requirements or objectives if the Credit Contract was entered into.
5. A declaration that Money3 contravened section 133(1) of the Credit Act, in respect of the Credit Contracts with each of Consumer 1, Consumer 2, Consumer 3, Consumers 4 and 5, and Consumer 6 by entering into a credit contract with the Consumer(s) who would be



a debtor under the contract in circumstances where the Credit Contract was unsuitable on the basis that:

- a. pursuant to section 133(2)(a), it was likely that the Consumer would be unable to comply with their financial obligations under the Credit Contract, or could only comply with substantial hardship; and/or
 - b. pursuant to section 133(2)(b), the Credit Contract would not meet the Consumer's requirements or objectives if the Credit Contract was entered into.
6. A declaration that Money3 failed to ensure that its representatives were adequately trained, and are competent, to engage in the credit activities authorised by the Licence during the Relevant Period, and thereby contravened section 47(1)(g) and (4) of the Credit Act.
7. A declaration that during the Relevant Period, Money 3 failed to take reasonable steps to ensure that its representatives comply with the credit legislation (which relevantly comprises sections 128, 130(1), 131(1) and 133(1) of the Credit Act), and thereby contravened section 47(1)(e) and (4) of the Credit Act.

Pecuniary penalties

8. An order pursuant to section 167(2) of the Credit Act that Money3 pay a pecuniary penalty in respect of the contraventions of:
- a. section 128 of the Credit Act, as referred to in paragraphs 1 and 2 above;
 - b. section 130(1) of the Credit Act, as referred to in paragraph 3 above;
 - c. section 131(1) of the Credit Act, as referred to in paragraph 4 above;
 - d. section 133(1) of the Credit Act, as referred to in paragraph 5 above; and
 - e. section 47(4) of the Credit Act, as referred to in paragraphs 6 and 7 above.

Injunctive relief / compliance orders

9. An order pursuant to section 23 of the Federal Court Act and/or section 177 of the Credit Act that Money3 implement a compliance program at its cost that includes:
- a. the implementation of appropriate systems, policies and procedures in relation to its responsible lending obligations under Divisions 3 and 4 of Part 3-2 of the Credit Act;
 - b. training delivered by a suitably qualified external entity agreed between Money3 and ASIC (or, failing agreement, determined by the Court), to every relevant Money3 employee and any other person involved in lending to consumers (including contractors, and whether engaged or employed by Money3 or any other



person or entity) to familiarise themselves with each of the systems, policies and procedures, the subject of (a) above;

- c. the appointment of a suitably qualified independent expert agreed between Money3 and ASIC (or, failing agreement, determined by the Court), to prepare a written report on the adequacy and efficacy of the program implemented by Money3 under (a) and (b) above; and
- d. the provision of the independent expert's report (as referred to in (c) above) to ASIC within 9 months of the date of the order.

Other orders

10. Costs.
11. Such further or other orders as the Court thinks fit.

Applicant's address

The Applicant's address for service is:

Australian Securities and Investments Commission
Level 20, 240 Queen Street, Brisbane Qld 4000
Email: Hugh.Copley@asic.gov.au

The Applicant's address is Level 20, 240 Queen Street, Brisbane Qld 4000.

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 16 May 2023

A handwritten signature in blue ink, appearing to read 'H Copley', written over a horizontal dotted line.

Signed by Hugh Copley
Solicitor for the Applicant