

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 3/08/2023 3:17:41 PM AEST  
Date Accepted for Filing: 3/08/2023 4:42:27 PM AEST  
File Number: VID605/2023  
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v PAUL RYAN  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: First Case Management Hearing  
Time and date for hearing: 18/08/2023, 9:30 AM  
Place: Court Room Not Assigned, Owen Dixon Commonwealth Law Courts Building Level 7, 305 William Street, Melbourne



*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 2  
(rules 2.2 and 15A.3)

## Originating process

No. VID of 2023

Federal Court of Australia  
District Registry: Victoria  
Division: General

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
Plaintiff

and

**PAUL RYAN**  
Defendant

### A. DETAILS OF APPLICATION

This application is made under sections 180(1), 181(1)(a), 182(1), 206C(1), 1317E and 1317G of the *Corporations Act 2001* (Cth) (**Act**).

The nature of the proceeding is an application for:

- (a) declarations of contravention of civil penalty provisions against the Defendant;
- (b) orders that the Defendant pay to the Commonwealth a pecuniary penalty; and
- (c) an order that the Defendant be disqualified from managing corporations for a period to be determined by the Court.

In this Originating Process, terms which are defined in the Concise Statement dated 3 August 2023 have the same meaning as they do in that document.

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, the 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	
<b>Address for service</b> (include state and postcode)	Level 34, 55 Collins St, Melbourne VIC 3000



## B. ORDERS SOUGHT

On the facts stated in the Concise Statement, the Plaintiff seeks the following orders against the Defendant:

1. A declaration, pursuant to s 1317E of the Act, that by:
  - (a) resolving in his capacity as a director of Dixon Advisory & Superannuation Services Pty Ltd (**DASS**), at a meeting of DASS's board of directors held on 22 December 2021, to:
    - (i) approve a revised constitution for the company (**Revised DASS Constitution**); and
    - (ii) put the Revised DASS Constitution to the sole shareholder of DASS, E&P Operations Pty Ltd (**E&P Ops**), to approve and adopt; and/or
  - (b) resolving in his capacity as a director of E&P Ops, by circulating resolution dated 22 December 2021, to:
    - (i) approve the adoption of the Revised DASS Constitution; and
    - (ii) authorise the execution of the 'resolution of sole member' giving effect to the Revised DASS Constitution; and/or
  - (c) resolving in his capacity as a director of DASS, by circulating resolution dated 24 December 2021, to:
    - (i) approve the terms of, and the transactions contemplated by, the deed of acknowledgement of debt (**Deed**) and entry into and performance by DASS of the Deed; and
    - (ii) authorise the execution of the Deed by DASS; and/or
  - (d) resolving in his capacity as a director of E&P Ops by circulating resolution dated 24 December 2021 to:
    - (i) approve the terms of, and the transactions contemplated by, the deed of acknowledgement of debt (**Deed**) and entry into and performance by E&P Ops of the Deed; and



(ii) authorise the execution of the Deed by E&P Ops,

the Defendant contravened section 181(1)(a) of the Act in his capacity as a director of DASS.

3. Further or alternatively, a declaration pursuant to s 1317E of the Act that, by his conduct as set out in 1 above, the Defendant contravened s 180(1) of the Act in his capacity as a director of DASS.
4. Further or alternatively, a declaration pursuant to s 1317E of the Act that by his conduct as set out in 1 above, the Defendant contravened s 182(1) of the Act in his capacity as a director of DASS.
5. A declaration that the contraventions in 1, 2, 3 and/or 4 above:
  - (a) have materially prejudiced DASS's ability to pay its creditors, within the meaning of s 1317G(1)(b)(ii) of the Act; and/or
  - (b) were serious, within the meaning of s 1317G(1)(b)(iii) of the Act.

**C. PECUNIARY PENALTIES**

6. An order, pursuant to section 1317G of the Act, that the Defendant pay to the Commonwealth a pecuniary penalty or pecuniary penalties of an amount or amounts to be fixed by the Court.

**D. OTHER ORDERS**

7. An order, pursuant to s 206C(1) of the Act, disqualifying the Defendant from managing corporations for a period to be determined by the Court.
8. An order that the Defendant pay the Plaintiff's costs.
9. Such further or other orders as the Court deems appropriate.



Date: 3 August 2023

*Johnson Winter Slattery*

.....  
Johnson Winter Slattery  
Solicitors for the Plaintiff  
Signed by Tom Jarvis, Partner

This application will be heard by the Federal Court of Australia at Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne, Victoria at \_\_\_\_\_ am/pm on \_\_\_\_\_

**E. NOTICE TO DEFENDANT**

TO: PAUL RYAN of [REDACTED]

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.

**F. FILING**

Date of filing:

.....  
Registrar

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



## G. 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 7  
120 Collins Street  
Melbourne VIC 3000

It is intended to serve a copy of this originating process on each Defendant.