

IN THE MATTER of an Application by the Australian Securities and Investments Commission to the Companies Auditors Disciplinary Board pursuant to section 1292 of the Corporations Act 2001

MATTER NO: 01/VIC22

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION (ASIC)
Applicant

JAMES ANDREW MOONEY
Respondent

DECISION of the Board to exercise its powers under s1292 Corporations Act (the Act). Notice of this decision will be given to the Respondent under s1296(1)(a) of the Act and a copy of that notice will be lodged with ASIC under s1296(1)(b) of the Act.

30 August 2023

Panel:

Maria McCrossin (Panel Chairperson)

Michael Flynn (Business Member)

Ann-Maree Robertson (Accounting Member)

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Introduction

1. This is an Application under s1292(1)(d)(i) of the **Act** lodged with **CADB** by the Australian Securities and Investments Commission (ASIC or Applicant) on 16 May 2022. By this Application, **ASIC** seeks orders with respect to the registration as a company auditor of Mr Andrew James Mooney (Mr Mooney or the Respondent).
2. Prior to the hearing in this matter, ASIC and Mr Mooney jointly filed an agreed statement of facts (Agreed Facts) and proposed consent orders (Proposed Consent Orders) for consideration by this Panel.
3. By the proposed consent orders, Mr Mooney consents to orders that:
 - (a) pursuant to sub-section 1292(9)(b) and (c) of the Act, within 7 days of the date of the order, Mr Mooney provide to ASIC undertakings requiring him to engage in specified conduct, and to refrain from engaging in specified conduct.

In summary, the proposed undertaking provides that Mr Mooney will undertake to ASIC that:

 - (i) From the date of the undertaking to 31 December 2023, Mr Mooney has and will not perform the duties of or otherwise act as a registered company auditor.
 - (ii) After 31 December 2023, Mr Mooney will engage, at his expense, a registered company auditor to peer review (on specified terms) the first three company audits for which Mr Mooney performs the role of either Lead Auditor or Engagement Partner.
 - (iii) Within 12 months of the date of the Board's order, Mr Mooney will complete an additional 20 hours of continuing professional development education activity, covering specified matters which include the subject matter of the 4 contentions the subject of these proceedings.
 - (b) Pursuant to s 223 of the Australian Securities and Investments Commission Act 2001 (Cth), Mr Mooney will pay ASIC's costs in the fixed sum of \$175,000 within 28 days of any order.
4. In relation to proposed order one, the Board notes that Mr Mooney provided an undertaking to ASIC which took effect from 01 June 2023. Pursuant to that undertaking Mr Mooney will not perform the duties of or otherwise act as a registered company auditor, pending orders in these proceedings. The parties confirmed at the hearing that details of this undertaking have been noted

against Mr Mooney's registration on ASIC's public register of company auditors.

5. A hearing was held before the Panel in this matter on 6 August 2023. Ms Neskovcin SC and Ms Folie appeared for the Applicant and Mr Moore KC and Ms Bell appeared for the Respondent.

Proposed Consent Orders – relevant considerations

6. Notwithstanding the parties agree on the Proposed Consent Orders, CADB's jurisdiction only arises under s1292 of the **Act** if a Panel is satisfied that at least one of the three bases set out in that section has been established.
7. Relevantly, s1292(1) provides:

The Board may, if it is satisfied on an application by ASIC or APRA for a person who is registered as an auditor to be dealt with under this section that, before, at or after the commencement of this section:

(d) the person has failed, whether in or outside this jurisdiction, to carry out or perform adequately and properly:

(i) the duties of an auditor; or

(ii) any duties or functions required by an Australian law to be carried out or performed by a registered company auditor;

or is otherwise not a fit and proper person to remain registered as an auditor;

by order, cancel, or suspend for a specified period, the registration of the person as an auditor.

8. We discuss further the nature of our task under s1292(1)(d) of the **Act** below. Even when parties, as they have in this matter, consent to proposed orders under s1292(1)(d), this Panel must be independently satisfied that our jurisdiction may arise before exercising the Board's power to make orders arises under s1292(1)(d) or s1292(9) of the Act.
9. For the reasons the Board referred to in its previous decision in **Wessels**¹, and subject to the caveats referred to in that decision, we accept the parties' submissions that we may proceed to consider this matter by reference to the

¹ Wessels 05/QLD13 Decision of the Board 15 November 2013 paragraphs 6-23 and see also Board's Practice Note CPN1 Pt12.

Agreed Statement of Facts and the Proposed Consent Orders filed and the submissions made by the parties at the hearing of this matter.

Relevant Background to specific Contentions

10. The Agreed Facts outlined below provide relevant background and context. Agreed Facts specifically relevant to each of the contentions pressed by ASIC are referred to in the context of our reasons for conclusion on each of those contentions in this Decision.

Mr Mooney and his place of professional audit practice

11. Mr Mooney is, and since 19 April 2007 has continuously been, registered as a company auditor. Mr Mooney's registration number is 311052.
12. At all relevant times, Mr Mooney's principal place of practice has been BDO Australia at Collins Square, Tower Four, Level 18, 727 Collins Street, Melbourne, Victoria, 3000 (BDO). Mr Mooney is and has been an Audit Partner in the Melbourne office of BDO.

Engage BDR Ltd (Engage)

13. Engage is an internet-based marketplace platform and associated technology solution provider, primarily conducting business in the United States of America. Engage uses proprietary software to assist digital publishers (e.g., websites and social media apps) to sell advertising inventory. Engage provides an advertising exchange platform and makes advertising inventory available to advertising buyers, which include advertisers, their agents and other advertising exchange platforms.
14. Engage generates income from five principal activities, falling under two revenue streams - programmatic and non-programmatic.
15. Engage's programmatic revenue is generated from:
 - a. display advertising sales, including selling banner advertising inventory through digital auctioning technology to platforms and marketplaces; and
 - b. video advertising sales, in which advertising buyers bid for advertising inventory in real time.
16. Engage's non-programmatic revenue is generated from:
 - a. Display advertising sales, which is tag-based, traditionally sold and managed banner advertising campaigns run for direct advertisers.

- b. Video advertising sales which include selling video inventory through tag-based technology to direct advertisers and platforms and marketplaces.
 - c. An influencer marketing platform.
17. Engage was listed on the Australian Securities Exchange (**ASX**) on 14 December 2017.

Appointment of BDO as Auditor of Engage in 2018

18. Engage first became a client of BDO in 2018.
19. On about 10 October 2018, BDO sent a letter containing the terms of engagement for BDO's audit of Engage for the year ended 31 December 2018, signed by Mr Mooney on behalf of BDO. The letter relevantly stated:
- a. BDO accepted the engagement to audit Engage's statements for the financial year ended 31 December 2018 (**2018 Financial Report**).
 - b. The stated objectives of the audit were to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, and to issue an auditor's report that includes BDO's opinion.
 - c. The audit would be conducted by BDO in accordance with the Australian Auditing Standards (ASAs), as part of which BDO will exercise professional judgement and maintain professional scepticism.
20. The audit would be conducted on the basis that the directors acknowledge and understand they have specified responsibilities, including to prepare the financial report which gives a true and fair view in accordance with the Act and ASAs, and to provide BDO with access to all relevant information and any additional information which is requested by BDO.
21. Mr Dhanik, the Chief Executive Officer of Engage, countersigned the letter on behalf of Engage, accepting the terms and conditions outlined therein.
22. On 29 January 2019, Engage held its general meeting and members of Engage passed a resolution to appoint 'BDO East Coast Partnership' as auditor of the company.

The 2018 Audit of Engage by BDO

23. Section 307A (2) of the Act relevantly provides that if an audit firm conducts an audit of the financial report for a financial year, the Lead Auditor for the audit

must ensure that the audit is conducted in accordance with the ASAs.² The Lead Auditor is the registered company auditor who is primarily responsible to the audit firm for the conduct of the audit.³

24. The ASAs apply to an 'auditor' as defined in ASA 200 [13.1(d)]:

Auditor means the person or persons conducting the audit, usually the engagement partner or other members of the engagement team, or, as applicable, the firm. Where an Auditing Standard expressly intends that a requirement or responsibility be fulfilled by the engagement partner, the term 'engagement partner' rather than 'auditor' is used...

25. In the annual auditor statement lodged by Mr Mooney with ASIC for the period 19 April 2019 to 18 April 2020, Mr Mooney disclosed that his appointment as auditor to Engage was as an 'Audit firm' and that his role was 'Lead Auditor' (Lead Auditor).
26. As Lead Auditor Mr Mooney was required by s307A(2) of the Act to ensure that the 2018 audit of the financial statements of Engage for the year ending 31 December 2018 (FY18 Audit) would be performed in accordance with the Auditing Standards.
27. Between 10 October 2018 and 29 March 2019, BDO and Mr Mooney conducted the FY18 Audit together with auditors employed by BDO. The BDO employee auditors worked under the supervision and direction of Mr Mooney, who was Lead Auditor, and the audit engagement partner.
28. The 2018 Financial Report stated that the loss for the consolidated entity after tax was AUD10,840,198 (in 2017: AUD10,566,001). The 2018 Financial Report recorded total assets of AUD9,296,515 (in 2017: AUD18,365,846) and net assets of AUD(6,608,847) (in 2017: AUD696,095).
29. Materiality in the FY18 Audit was set at 1.3% of total revenue, being AUD139,000, and performance materiality was set at 75% of materiality, being AUD104,000.
30. On or about 29 March 2019, Mr Mooney signed an independent auditor's report (2018 Audit Report) in respect of the 2018 Financial Report. The 2018 Audit Report stated that in BDO's opinion, the 2018 Financial Report was in accordance with the Act, including:

² The ASAs are promulgated by the AUASB and have the force of law pursuant to s336 of the **Act**

³ s324AF(1) of the **Act**

- a. Giving a true and fair view for the consolidated entity's financial position as at 31 December 2018 and of its performance for the year ended on that date; and
 - b. Complying with Australian Accounting Standards and the *Corporations Regulations 2001*.
31. On 29 March 2019, The Annual Report of Engage for the year ended 31 December 2018 that included the 2018 Financial Report, and the 2018 Audit Report was published on the ASX.
 32. On 16 January 2020, Engage cancelled BDO's appointment as auditor and appointed another audit firm.

Sub-Section 1292(1)(d) – its ambit and the Board's task

33. This Application is brought under S1292(1)(d)(i) of the Act. That sub-paragraph confers powers on CADB if it is satisfied on an application...for a person who is registered as an auditor to be dealt with under this section, that...the person... *'has failed...to carry out or perform adequately and properly...the duties of an auditor'*.

Duties of an auditor

34. For the reasons the Board has discussed in previous decisions, we are satisfied that the preferable construction of s 1292(1)(d)(i) is one that includes both the statutory duties and the general law duties of an auditor⁴, and it was accepted by the parties that the matters the subject of ASIC's four contentions in this matter fell within the ambit of s1292(1)(d)(i).
35. The audit duties within sub-paragraph (d)(i) related to Mr Mooney's failure to obtain reasonable assurance that the **2018 Financial Report** was free from material misstatement, and the failure to obtain sufficient appropriate audit evidence, as we shall further outline in the context of the four specific contentions.
36. By way of context and overview, the Auditing Standards at the time included the following provisions relevant to identifying the level and standard for the performance of audit duties within the meaning of s1292(1)(d):

Reasonable assurance

- a. An auditor who audits the financial report for a financial year must form an opinion, and report to members, on whether the financial report is in

⁴ *ASIC v Hill* (01/NSW14) at [22]-[23], as followed in *ASIC v Evett* (17/NSW20) at [20]; *ASIC v Loke*(16/NSW20) at [43].

accordance with the Act.⁵ This includes that it complies with the Australian Accounting Standards,⁶ and gives a true and fair view of the financial position and performance of the company⁷ and that the audit of the financial report has been done in accordance with the Auditing Standards⁸. An audit conducted in accordance with the Australian Auditing Standards and relevant ethical requirements will enable the auditor to form that opinion.⁹

- b. The Auditing Standards required the auditor to obtain, as the basis for their opinion, reasonable assurance as to whether the financial report as a whole is free from material misstatement, whether due to fraud or error. Reasonable assurance is a high level of assurance, obtained when the auditor has sufficient appropriate audit evidence to reduce audit risk [being the risk of an inappropriate audit opinion] to an acceptably low level.¹⁰
- c. The ASAs contain objectives, requirements and explanatory material designed to support the auditor in obtaining reasonable assurance. These provisions include:

- i. The overall objectives of the auditor set out in ASA 200 [11], which states:

In conducting an audit of a financial report, the overall objectives of the auditor are:

- a. *To obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial report is prepared, in all material respects, in accordance with an applicable financial reporting framework; and*
 - b. *To report on the financial report, and communicate as required by the Australian Auditing Standards, in accordance with the auditor's findings.*
 - ii. The requirements outlined in ASA 200 which address aspects of how the objectives in (i) are to be achieved, including that the auditor is relevantly required to apply professional scepticism and professional judgement and

⁵ s307 the Act

⁶ s296 the Act

⁷ s297 the Act

⁸ s307A the Act

⁹ ASA 200 [3]

¹⁰ ASA 200[5]

obtain sufficient appropriate audit evidence. They specifically provide as follows:

a. Professional Scepticism

The auditor shall plan and perform an audit with professional scepticism recognising that circumstances may exist that cause the financial report to be materially misstated.

b. Professional Judgement

The auditor shall exercise professional judgement in planning and performing an audit of a financial report.

c. Sufficient Appropriate Audit Evidence and Audit Risk

To obtain reasonable assurance, the auditor shall obtain appropriate audit evidence to reduce audit risk to an acceptably low level and thereby enable the auditor to draw reasonable conclusions on which to base the auditor's opinion.

iii. ASA 200 also contained the following requirements regarding the conduct of the audit in accordance with the ASAs, under the subheading '*Complying with Australian Auditing Standards Relevant to the Audit*':

18. The auditor shall comply with all Australian Auditing Standards relevant to the audit. An Auditing Standard is relevant to the audit when the Auditing Standard is in effect and the circumstances addressed by the Auditing Standard exist.

19. The auditor shall have an understanding of the entire text of an Auditing Standard, including its application and other explanatory material, to understand its objectives and to apply its requirements properly.

20. The auditor shall not represent compliance with Australian Auditing Standards in the auditor's report unless the auditor has complied with the requirements of this Auditing Standard and all other Australian Auditing Standards relevant to the audit.

Documentation

d. ASA 230 concerned audit documentation requirements and included the following relevant provisions:

i. ASA 230 [5], entitled 'Objective', provides:

The objective of the auditor is to prepare documentation that provides:

- a. A sufficient and appropriate record of the basis for the auditor's report; and
- b. *Evidence that the audit was planned and performed in accordance with Australian Auditing Standards and applicable legal and regulatory requirements.*

ii. ASA 230 [8] and [9a] are within the 'Requirements' section of the standard, under the subheading 'Form, Content and Extent of Audit Documentation'. Those paragraphs provide:

8. The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:

- a. *The nature, timing and extent of the audit procedures performed to comply with the Australian Auditing Standards and applicable legal and regulatory requirements;*
- b. *The results of the audit procedures performed, and the audit evidence obtained; and*
- c. *Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgements made in reaching those conclusions.*

9a. In documenting the nature, timing and extent of audit procedures performed, the auditor shall record:

- a. *The identifying characteristics of the specific items or matters tested.*

Response to assessed risks

e. ASA 330 concerns the auditor's response to risks of material misstatements which the auditor has identified and assessed. ASA 330(21) is about substantive procedures responsive to significant risks, and at the relevant time provided:

21. If the auditor has determined that an assessed risk of material misstatement at the assertion level is a significant risk, the auditor shall perform substantive procedures that are specifically responsive to that risk. When the approach to a significant risk consists only of substantive procedures, those procedures shall include tests of details.

ASA 330(4) stated that:

a. 'Substantive procedure' means an audit procedure designed to detect material misstatements at the assertion level. It outlined substantive procedures as comprising:

i. Test of details (of classes of transaction, account balances and disclosures) and;

ii. Substantive analytical procedures.

b. 'Tests of controls' means an audit procedure designed to evaluate the operating effectiveness of controls in preventing or detecting and correcting, material misstatements at the assertion level.

ASA 330[A45] provided:

The nature of the risk and assertion is relevant to the design of tests of details. For example, tests of details related to the existence or occurrence assertion may involve selecting from items contained in a financial report amount and obtaining the relevant audit evidence. On the other hand, tests of details related to the completeness assertion may involve selecting from items that are expected to be included in the relevant financial statement amount and investigating whether they are included.

Nature of the Board's task

37. The nature of the task to be performed by a Panel of the Board when considering the performance of duties by registered company auditor in the context of s1292(1)(d) of the **Act** has been frequently considered by Board decisions, as well as judicially. A detailed discussion of the principles that have emerged from those cases may be found in the Board's decision in *ASIC v Evett*^{10a}. The authorities there referred to stand for several propositions including that the exercise of Board's power under s1292 does not turn on a requirement to be satisfied regarding the alleged conduct as to a legal standard. S1292 does not call upon the Board to determine whether the failure to carry out or perform a relevant duty has breached a general law principle or a specific statutory provision. Rather, the question regarding the relevant

^{10a} 17/NSW20 Evett paragraphs 22-25

evidence is what it demonstrates regarding the adequacy and propriety of the carrying out or performance of relevant duties and that is to be judged by the Board by making an evaluative and subjective determination¹¹.

38. The Board in past decisions has adopted the terminology 'Relevant Benchmark' to refer to the indicative professional standard by reference to which a Panel's evaluation of the level and standard of performance of the duties of a registered company auditor occurs within the meaning of s1292(1)(d)(i). The context for the Board's approach is the relevant legal precedent as to the operation of the Board's jurisdiction - in particular Tamberlin J. in *Dean Willcocks*.¹³
39. The term 'Relevant Benchmark' is simply a descriptive term for the universe of potentially relevant material, being legislation, auditing and accounting standards, ethical pronouncements, and the general law, which are indicative of what proper and adequate professional practice requires, depending on the specific circumstances being considered.
40. Specific duties will differ depending on the role or function being performed under sub-paragraph (d)(i) or (d)(ii), and must always be performed adequately and properly, and applications made by ASIC frequently particularise those duties it is alleged have not been performed adequately, that is, to the minimum professional standard. Whether they have also been performed properly may involve a broader evaluation, of matters such as due care, diligence or the appropriate application of professional judgement and professional scepticism for example. We discuss this further in paragraphs 44-49.
41. The relevant competency or professional standard applying to 'proper' performance of duties and duties/functions within sub-paragraph (d)(i) and (d)(ii) will be the same. This makes sense given both sub-sections apply to registered company auditors. To meet the standard of proper professional practice for the performance of duties within (d)(i) or duties and functions within (d)(ii), a registered auditor must have brought to bear on that performance the professional competence, due care and probity expected of a registered company auditor.
42. The professional standard, and whether it has been met are both matters within the Board's remit to evaluate.
43. The Board considers the professional standard applying for proper performance of duties and duties and functions is high. The community relies

¹¹ See *Albarran v CALDB* [2006] FCAFC 69 at [45]

¹³ *Dean Willcocks* 59 ACSR 698 at [26] – [31] (endorsed in *Albarran and Another v Members of the Companies Auditors and Liquidators Disciplinary Board and Others* [2007] HCA 23 at [20] (**Albarran High Court**))

on registered auditors to serve as independent and objective professionals who provide assurance on the accuracy and reliability of a company's financial reporting when carrying out their duties and functions. Maintaining the public's trust that this will be done consistently and to the high standards to which the profession commits is essential to fostering confidence in Australia's capital markets.

44. As to those matters that are relevant and included within the Relevant Benchmark, the concepts of professional competence and due care identify the expectation that registered auditors must consistently apply the knowledge, skills, and expertise necessary for continuing to be eligible to be registered under the Act.
45. Due care emphasises the need for registered auditors to exercise diligence, thoroughness, and professional scepticism in carrying out their responsibilities. This involves critically assessing information, performing appropriate procedures depending on the role or function being performed, and documenting work done in a clear and comprehensive manner all of which are integral to proper performance.
46. The concepts of professional judgement and professional scepticism while under the umbrella of due care and diligence, are addressed by specific Auditing Standards in ASA200, which include guidance on their application by an auditor. These concepts, and whether they have been appropriately applied by reference to the Auditing Standards and guidance provided, are also very important considerations to a Panel's evaluation as to whether duties have been performed properly.
47. Relevant applicable general law principles are also within the Relevant Benchmark including those that underpin the concepts of professional competence and due care discussed above.
48. Other material within the Relevant Benchmark includes:
 - a. The provisions of the Auditing Standards and their objectives.
 - b. Other relevant legislation, including the Corporations Act, and the Accounting Standards, regulation, and regulatory guidelines.
 - c. Relevant ethical guidelines such as those promulgated by the Accounting Professional and Ethical Standards Board.
 - d. Pronouncements and relevant codes of conduct or other conduct guidelines of the professional accounting bodies including Chartered Accountants Australia and New Zealand, CPA Australia, and the Institute of Public Accountants.

- e. The procedure/compliance manuals of an audit firm for performance of audits and associated procedures that are required by ASA ASQC1.
49. The sources identified above are not necessarily exhaustive and change and evolve over time and may or may not have relevance depending on the circumstances of a particular matter.
50. The Board’s evaluative jurisdiction within s1292(1)(d) is ‘*expressed in wide, and deliberately expansive, terms*’¹⁴ It is not circumscribed, other than by the terms of the sub-section and the relevant interpretation and guidance provided by relevant judicial authority as outlined in previous decisions.
51. We accept that the matters outlined in paragraph 36 are, within the meaning of s1292(1)(d)(i), relevant indicators of the professional standard that was at the time applicable to Mr Mooney’s performance of his duties as Lead Auditor in the FY18 Audit by reference to which it is relevant for this Panel to evaluate whether Mr Mooney performed his duties adequately and properly.
52. We now turn to consider each of the contentions.

Contention One

Outline of Contention

53. Contention One related to the audit work performed in relation to revenue recognition which was identified as a significant risk in the **FY18 Audit**. Based on alleged failures as detailed below it was contended that Mr Mooney failed to obtain reasonable assurance that the **FY2018 Financial Report** was free from material misstatement with respect to revenue recognition.

Background facts

54. The following were the agreed facts in relation to Contention One:
- a. The 2018 Financial Report stated that revenue from contracts with customers was AUD11,443,935. The notes to the report disaggregated that figure into revenue from programmatic services of AUD9,899,458 and revenue from non-programmatic services of AUD1,544,477. The timing of revenue recognition was services rendered at a point in time.
 - b. Engage derived 78% of its revenue from one customer, Simplifi. Simplifi provided programmatic advertising and agency management software for agencies, brands, and media companies.

¹⁴ Albarran High Court per Kirby J at [52].

- c. BDO assessed the risk with respect to revenue in the 2018 Financial Report as significant due to the nature of Engage's revenue generating activities, the presumption of fraud under ASA 240, the significant volume of revenue transactions and additional complexity as to whether Engage acted as principal or agent with respect to its contracts and sales.
- d. BDO's planned response to the identified risks in the FY18 Audit was to:
 - i. Assess a sample of customer arrangements to understand the terms and conditions on which Engage delivered services.
 - ii. Test a sample of customer transactions to ensure the service of work was completed in the current financial period or correctly deferred to future periods.
 - iii. Perform a revenue proof in total comparing total revenues recognised to total cash receipted.
 - iv. Send confirmations of debtor balances for a sample of customers.
 - v. Assess the group accounting policy regarding revenue recognition and presentation.
 - vi. Assess a sample of contractual terms and arrangements with customers.
 - vii. Review disclosure requirements regarding the impact of the new accounting standard.
- e. In determining the audit strategy, BDO determined that substantive procedures alone would be sufficient to address the risks of material misstatement for completeness and accuracy. BDO determined that the substantive procedures would consist of both substantive analytical procedures and other substantive procedures. BDO determined there would be no reliance placed on tests of controls, save for bank reconciliations to be performed monthly.
- f. In designing the audit response and procedures to be performed, BDO determined that the substantive analytical procedures would include:
 - i. reviewing monthly trends in revenue.
 - ii. reviewing margins by month / location / product / geographical area.

- g. In designing the audit response and procedures to be performed, BDO determined that the other substantive procedures would include:
 - i. A revenue proof in total.
 - ii. Confirming revenue cycle-cut off from invoices recorded.
 - iii. Determining application of an appropriate revenue recognition policy; and
 - iv. In respect of Australian Accounting Standards Board (AASB) Standard 15, vouching a sample of sales invoices to supporting documentation.

Inadequate Audit evidence

- 55. The FY18 Audit File record:
 - a. Documented that BDO reviewed Engage's Revenue Recognition Policy and its assessment of AASB 15 for key revenue streams, and BDO determined that Engage's policy was consistent with AASB 15.
 - b. Documented that BDO undertook revenue testing by selecting a sample of revenue transactions from the sales listing and agreeing those transactions to an invoice, a signed contract, and a software generated report.
 - c. Included a standard form of contract entitled *ASA Advertiser Services Agree* for the purpose of testing forfeited prepayment. Engage's revenue recognition policy stated: *There must be no side letters or agreements. Any non-company standard terms and conditions must be approved by the company's legal department and accounting department.* There were no specific contracts that were reviewed for this testing on the FY18 Audit File. Although details including the account number, transaction number and invoice number were recorded as part of the audit file record, the detailed revenue testing audit work paper did not record details of specific contracts, and the identifying characteristics of the specific items tested were not therefore documented on the FY18 Audit File.
 - d. Did not, by reason of (c) above, evidence whether the revenue recognition and measurement criteria of AASB15 had been satisfied, and therefore whether the revenue had been appropriately recognised in the correct period and for the correct amount.
- 56. Mr Mooney's relevant professional audit duty at the time of the FY18 Audit, within the meaning of s1292(1)(d)(i), as identified by ASA 230(5) and (8) and

ASA230(9)(a), was to ensure the FY18 Audit File record satisfied or exceeded the requirements outlined in those standards.

57. The parties agreed and we are satisfied, based on the facts and matters outlined in paragraph 54 and 55, that as the audit response to revenue recognition was to perform substantive testing, tests of controls were not to be relied upon. Validation of the substance/operation of the relevant contracts was part of this substantive testing forming the basis for the audit conclusion that revenue had been appropriately recognised in the proper period and in accordance with AASB15. Details of the specific contracts reviewed [including details that supported the audit conclusion that revenue had been appropriately recognised in the proper period] should have been documented on the **FY18 Audit File**. This information did not form part of the **FY18 Audit File** record.

Inadequate Audit Response to Assessed Risks

58. The substantive procedure for revenue testing determined by BDO to be the appropriate response to the identified risk and designed by BDO for proof of revenue in total in the **FY18 Audit** [as referred to in paragraph 54(g)(iv) above] was to be achieved by:
- a. Agreeing total cash receipts from bank statements to the revenue recorded in the general ledger.
 - b. Obtaining corroborating evidence of explanations for significant differences, and documenting the conclusion reached and considering the need for further work.
59. However, BDO did not undertake sample revenue testing (being tests of details) on the population of revenue recorded in the general ledger because Engage's largest customer, Simplifi, which generated 78% of Engage's total revenue for the year was excluded from the sample of revenue transactions tested. The reason recorded was that a separate analytic had been performed for Simplifi.
60. In respect of Simplifi, and the second largest customer, Beachfront Media, BDO conducted and documented the following analytical procedures:
- (a) Expectations were developed for the annual revenue to be recognised based on total 'impressions' [impressions are also known as a 'view through' and effectively refer to when a user sees a digital advertisement by opening an app or a website in which the advertisement is visible] for the current year and the change in the customer base.

(b) Variances over specified thresholds from expectations were investigated and explanation and corroborative evidence for the variations were sought.

61. However, the **FY18 Audit File** did not record details of either the expectations, or the specified thresholds.
62. Instead, the audit working papers presented the BDO calculations of the revenue growth, the growth of the number of impressions, and the cost per mille (CPM - cost per 1000 ad impressions) as follows:

Revenue	2017 (A)	2018 (B)	Movement (B)-(A)	Movement [(B)- 52%
Simplifi (X)	\$4,408,108	\$6,691,639	\$2,283,531	52%
Beachfront Media	\$67,960	\$475,920	\$407,960	600%
Number of impressions				
Simplifi (Y)	2,764,100,437	4,348,563	1,584,068,126	57%
Beachfront Media	10,388,678	311,999,589	301,610,911	2,903%
CPM				
Simplifi [X/Y/1,000]	\$1.59	\$1.54	(\$0.06)	N/A
Beachfront Media	\$6.54	\$1.53	(\$5.02)	N/A

Where:

- a. trial balance to ensure the completeness of revenue.
- b. Number of impressions: BDO observed an Engage Revenue: BDO obtained the full customer listing with corresponding year to date revenue and reconciled to the employee extracting the data from an internal year to date source report, using Engage's internally generated software.
- c. CPM: Cost per mille (cost per thousands of impressions): calculated by BDO.
- d. Movements: calculated by BDO.

63. Relevant audit work recorded in the FY18 Audit File included:
- a. The revenue growth (i.e. the 'movement' in the table above) for both Simplifi and Beachfront Media was investigated. Commentary recorded with respect to Simplifi included that *'There was a strong correlation between the increase in Revenue and Impression counts in the CY given impressions increased by 57% which corresponded to a 52% increase in revenue.'*
 - b. Sample revenue testing performed for Beachfront Media to address the significant movement.
 - c. Assessment of Simplifi revenue by undertaking debtor testing (i.e. obtaining agreement from Simplifi that the amounts charged were correct) and cut-off testing (i.e. ensuring that revenue was recorded in the correct accounting period) in respect of Simplifi's invoices. It was not in issue that debtor testing and cut-off testing supplement, but do not substitute, the test of details or substantive analytical procedures for revenue.
64. Based on that testing the audit conclusion was that revenue for Simplifi and Beachfront Media was reasonably stated at year end.
65. In addition to the testing of revenues attributable to Simplifi outlined in paragraphs 63(a) and 63(c) above, the audit workpapers document that the BDO audit team also performed analytical procedures for revenue in general by:
- a. Matching cash receipts to recorded revenue as a proof in total procedure.
 - b. Obtaining monthly sales data for the year from the management accounts.
 - c. Comparing trends in revenue against the prior year.
 - d. Determining expectations for the year based on understanding of revenue streams.
 - e. Setting a scope for investigation.
 - f. Investigating anything not in line with the expectations set, or above scope, for which further corroborating evidence was sought.
66. As a result of the above testing, BDO concluded that it was satisfied with the revenue trend line, as it was within BDO's understanding of the business operations and the activity during the year.
67. The parties agreed and we are satisfied that:

- (a) The approach identified by ASA330(21) applied in the circumstances of the FY18 Audit, and that as the audit procedures in the FY18 Audit consisted only of substantive procedures, that those procedures must include tests of details. The testing done in the FY18 Audit did not include adequate tests of details on the entire population of revenue recorded in the general ledger because Simplifi, which represented 78% of the revenue recorded in the FY18 Financial Report, was excluded.
- (b) The approach identified by ASA 520 [5(c)], to evaluate whether the expectations were sufficiently precise to identify a misstatement that may cause the 2018 Financial Report to be materially misstated, applied in the circumstances of the FY18 Audit to the testing of revenue from Simplifi. The analysis done was not sufficiently precise to identify a misstatement that may cause the 2018 Financial Report to be materially misstated. Further, relevant controls and the accuracy and completeness of the information prepared by the client were not tested or validated and provided a low level of assurance over the existence and accuracy of the revenue recognised from Simplifi.
- (c) The approach identified by ASA 330[45], that the nature of the risk and assertion is relevant to the design of tests of details applied in the circumstances of the FY18 Audit. Having assessed recognition of revenue as a significant risk, tests of detail on a sample selected from the entire revenue population in accordance with the planned audit procedure should have occurred, and audit evidence on the completion assertion vouched from a source which would be expected to be included in the revenue amount, and then investigated to confirm that the amount was in fact included in the general ledger. We are satisfied that the evidence established that the sample selected for testing in the FY18 Audit was selected from the sales listing and tests of details undertaken on only 22% of the total revenue.
- (d) The approach identified by ASA 520 [5b], that involved evaluating the reliability of the information used in the substantive analytical procedures applied in the FY18 Audit. We are satisfied that the evidence established that the audit work papers did not record an assessment of the reliability of the impressions data for Simplifi and Beachfront Media.
- (e) The approach identified by ASA 500 [6] and [10] stipulated the auditor shall design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence and when designing tests of controls and tests of details shall determine the means of selecting items for testing that are

effective in meeting the purpose of the audit procedure. We are satisfied that the evidence established that the audit work papers did not document the specific testing performed, that the tests of details performed could only project errors to 22% of the total revenue and that the other procedures conducted, including proof of revenue in total, did not provide an adequate level of assurance that the revenues were not misstated.

68. We refer to ASA 200[5] set out in paragraph 36(a) that identifies the duty for the auditor to obtain, as the basis for their opinion reasonable assurance as to whether the financial report as a whole is free from material misstatement, whether due to fraud or error.
69. The overall objectives of the auditor are set out in ASA 200 [11], which is set out in paragraph 36(c) hereof.
70. Based on our findings and the relevant professional standards referred to in paragraph 67, we are satisfied that Mr Mooney failed, within the meaning of s1292(1)(d) to obtain reasonable assurance, in accordance with the duty identified by ASA 200[5], and the overall objectives of the auditor identified in ASA 200[11], that the **FY2018 Financial Report** was free from material misstatement with respect to revenue recognition.
71. We are satisfied that Contention One has been established.

Contention 2

Outline of Contention

72. Contention 2 related to failures as detailed below, to properly audit a related party transaction, obtain appropriate audit evidence and obtain reasonable assurance the financial report was free from material misstatement as detailed further below.

Background facts

73. The following were the agreed facts in relation to Contention Two:
 - a. The 2018 Financial Report disclosed related party receivables of AUD2,229,032 which were recognised as a current asset at 31 December 2018.
 - b. The Director's Report stated that related party receivables included the following loans, to key management persons and their related parties as follows:

- i. Ted Dhanik in the amount of USD1,313,754, stated to be equivalent to AUD1,864,598;
 - ii. Kuris Rintala in the amount of USD nil; and
 - iii. Andy Dhanik in the amount of USD71,060, stated to be equivalent to AUD100,855.
 - c. Mr Dhanik was a co-founder of Engage and was the chief executive officer (appointed 14 December 2017) and chairman of the Board.
 - d. The Director's Report stated that the above loans were:
 - i. charged at a simple interest rate of 2.78% per annum, [being below what would be charged should these loans be on an arm's length basis].
 - ii. Repayable by 30 June 2019, to be settled in cash.
 - iii. Secured.
 - iv. Approved by the Board of Directors.
 - e. Note 23 to the 2018 Financial Statements, headed 'Related party Transactions' (Related Party note) identified the total amount of loans due from all key management personnel and employees and stated that:
 - i. The secured portion of the loans was \$1,789,070.
 - ii. The unsecured portion of the loans was \$439,962, in respect of which it was noted '*management had not found any indicators of impairment due to continued employment of loan holders and due date of 2019*'.
 - iii. The original repayment date of 30 June 2018 had been extended to 30 June 2019 by a Board resolution.
 - iv. On 20 December 2018, the borrowers had granted security against their individual shareholding.
74. In planning the audit, BDO assessed related party transactions as a non-significant risk at the assertion level.
75. During the planning phase of the FY18 Audit, BDO had documented, from the review of the previous auditor's 2018 half year report, that the previous auditor had included the following qualification:

On 23 August 2018, the Board approved an extension to the maturity of these loans such that they are now scheduled to be repaid on 30 June 2019. We have been unable to obtain sufficient appropriate evidence to assess the terms of these loans and therefore unable to assess the collectability, classification, and valuation of these loans at 30 June 2018.

76. In addition to the evidence available to the previous auditor, BDO obtained a copy of a signed agreement entitled 'Addendum' between Mr Dhanik and Engage dated 20 December 2018 (Addendum) and a copy of a signed Security Deed between Mr Dhanik (as grantor) and Engage (as the secured party) dated 20 December 2018 (Security Deed).
77. BDO also obtained a confirmation from Mr Dhanik confirming, amongst other things: the number of ordinary shares in Engage held by him directly, indirectly, or beneficially and loan balances due to Engage by him or related entities.
78. The audit workpapers show that in the absence of management's assessment of the recoverability of the shareholder loans, BDO performed its own assessment of recoverability.
79. BDO's assessment of the recoverability of the loan to Mr Dhanik entailed:
 - (a) Obtaining a copy of a signed agreement entitled 'Amendment #1 to Promissory Note' between Ted Dhanik and Engage stated to be issued on 30 June 2017 (Amendment #1). This document recorded a maturity date of 30 June 2018 and did not refer to security being held over Mr Dhanik's shares.
 - (b) Obtaining a copy of a Security Deed dated 20 December 2018 by which Mr Dhanik granted Engage a security interest in fully paid ordinary shares in the capital of Engage, to secure his obligations under the loan agreement (described as the promissory note having an issuance date of December 31, 2016, as amended from time to time, including by the Amendment #1 and the Addendum).
 - (c) Obtaining a copy of an Addendum dated 20 December 2018. This relevantly provided that the principal sum loaned by Engage to Mr Dhanik was to be secured by a first ranking security interest, in the form of the Security Deed (clause 2), and that when repayment of the principal sum fell due, amounts owed or payable to Mr Dhanik by Engage would be offset against any amounts owing under the loan (clause 6).

- (d) Obtaining key management personnel confirmation from Mr Dhanik which identified the following:
 - i. The balance of the ordinary shares of 55,949,870 held by or on behalf of him was confirmed by reference to the share register prepared by Engage (which listed those shares as held by First Round Capital LLC).
 - ii. The balance of the loan of USD1,313,754.37 was materially confirmed by reference to schedules provided by Engage and trial balances, which set out a loan balance of USD1,317,478.
 - iii. The confirmation stated that the loan was secured, but it did not identify the details of the security or refer to shares in escrow.
 - (e) Comparing the loan balance with the value of shares held by or on behalf of Mr Dhanik.
80. Both the Addendum and Security Deed were executed after the loan maturity date specified in Amendment #1. Neither the Addendum nor the Security Deed dealt with the extension of the maturity date of the loan agreement or the terms and conditions of the loan agreement other than security.
81. BDO confirmed the extension of the maturity date of Amendment #1 to 30 June 2019 by reference to board minutes dated 23 August 2018. The FY18 Audit File included the following summary of the board minutes: '*[d]iscussed position in relation to third party loans. Related parties requested [sic] extension for repayment of the loans – extension granted until 30 June 2019*' and did not record what other terms and conditions, if any, attached to the loan extensions.
82. The maturity date for the loan had been extended previously. The maturity date of the loan is the basis upon which a loan may be classified as current (that is, receivable in 12 months or less from the balance sheet date) or non-current (receivable in more than 12 months from the balance sheet date) and is also relevant to assessment of the recoverability of a loan.
83. In relation to the shares provided as security for the loan agreement, the Director's Report and an extract dated 27 March 2019 obtained by BDO from Computershare stated that approximately half (being 27,974,935 units held by First Round Capital LLC) were in escrow until 14 December 2019. The escrow was a voluntary escrow such that the shares could be sold with Mr Dhanik's agreement.
84. The **FY18 Audit File** did not:

- a. Include a copy of this escrow agreement.
 - b. Document whether BDO identified that the shares were the subject to the voluntary escrow agreement.
 - c. Document whether BDO identified the terms and conditions of the escrow agreement, including if the shares were available as security for the loan or how the escrow agreement could be varied or terminated.
 - d. Record whether Mr Mooney determined or evaluated the impact of the escrow agreement on the recoverability of the loan to Mr Dhanik.
 - e. Record whether BDO considered the availability and quantum of any amounts payable to Mr Dhanik by Engage to offset the amount owed by Mr Dhanik to Engage under the loan agreement.
85. BDO compared Mr Dhanik's loan balance of USD1,313,754 to the implied equity value of the shares then held on behalf of Mr Dhanik by calculating that value by reference to the share price at 20 March 2019 (the date of testing) of \$0.029 and the number of ordinary shares, being 55,949,870, held as security, to calculate an implied equity value at the relevant date of AUD1,622,546.
86. Based on the comparison between the loan balance and the implied equity value of the shares held as security, BDO assessed that it was satisfied the shareholder loan to Mr Dhanik was recoverable. However, BDO compared a loan balance in USD with an implied equity value calculated in AUD. When both sums were converted to AUD as at 31 December 2018, there was a security shortfall of AUD242,052.
87. The FY18 Audit File did not record whether BDO considered that it was reasonable or appropriate to value the shares held as security on behalf of Mr Dhanik based on their trading price on that day in circumstances where the size of the shareholding, and the sale by the company's chairman and founder of any significant size parcel of shares should the security need to be realised would both be likely to significantly negatively impact the sale price of a large parcel of the shares achievable in the market.
88. There was disclosure in the director's report in the FY 2018 Financial Report that a significant portion of Mr Dhanic's shares were held in escrow until 14 December 2019. This information was not disclosed in the related party note in the **FY 2018 Financial Report**, which only identified the total amount of secured and unsecured loans due from key management personnel and employees.

Relevant duties to be performed adequately and properly

89. In relation to the auditing of the related party transaction we are satisfied that:
- a. Mr Mooney's duty within s1292(1)(d)(i) as Lead Auditor was to apply appropriate professional scepticism to the critical assessment of the audit evidence. Details of this duty were relevantly reflected by ASA 200 [15] and [A20] - [A22] operative at the relevant time.
 - b. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure the nature, timing and extent of the audit procedures designed were responsive to the assessed risk of material misstatement at the assertion level. Details of this duty were relevantly reflected by ASA 330 [6] operative at the relevant time.
 - c. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure there was sufficient appropriate audit evidence as to the recoverability of the shareholder's loan. Details of this duty were relevantly reflected by ASA 500 [6] operative at the relevant time.
 - d. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure that identified related party relationships and transactions were appropriately accounted for and disclosed in accordance with the applicable financial reporting framework, and to evaluate whether the effects of the related party relationships and transactions would prevent the financial report from achieving fair presentation or cause the financial report to be misleading. This evaluation included considering whether the facts and circumstances of the entity's related party relationships and transactions had been appropriately summarised and presented so that the disclosures are understandable. Details of this duty were relevantly reflected in ASA 550 [25] and [A47]. AASB 124 required the entity to disclose in the FY2018 Financial Report the nature of the related party relationship and information about those transactions and outstanding balances necessary for users to understand the potential effect on the financial statements. In this matter that would have included disclosure of the amount of the loan transaction, and the terms and conditions of the security including that the shares were in escrow until 14 December 2019.

Panel findings

90. We are satisfied that in the **FY2018 Audit**:
- a. There was a failure to seek further audit evidence in order to validate the details of the loan extension and the escrow arrangements and to

evaluate how they affected the availability of the shares and therefore the loan recoverability. This was, having regard to the matters identified in paragraph 68(a) a relevant failure within the meaning of s1292(1)(d).

- b. There was a failure to properly calculate the security coverage provided by Mr Dhanik's shares, and to evaluate relevant matters affecting the value to be attributed to that security. This was, having regard to the matters identified in paragraph 68(a) a relevant failure within the meaning of s1292(1)(d).
 - c. There was a failure to assess the impact of the continual extensions of the maturity date of the loan in the context of loan collectability and the current/non-current classification in the FY18 Financial Report and to investigate the reasons for those extensions. This was, having regard to the matters identified in paragraph 68(a) a relevant failure within the meaning of s1292(1)(d).
 - d. There was a failure to design and perform audit procedures that responded to the risk that the loan to Mr Dhanik was not fully recoverable and therefore to the risk that it was materially misstated. This was, having regard to the matters identified in paragraph 68(b) a relevant failure within the meaning of s1292(1)(d).
 - e. There was a failure to ensure there was sufficient appropriate audit evidence as to the recoverability of the shareholder's loan. This was, having regard to the matters identified in paragraph 68(c) a relevant failure within the meaning of s1292(1)(d).
 - f. There was a failure to evaluate whether identified related party transactions and relationships had been appropriately accounted for and disclosed in accordance with the applicable financial reporting framework. This was, having regard to the matters identified in paragraph 68(d), a relevant failure within the meaning of s1292(1)(d).
91. Based on our findings and the relevant professional standards referred to in paragraph 89, we are satisfied that Mr Mooney failed, within the meaning of s1292(1)(d), to obtain reasonable assurance, in accordance with the overall objectives of the auditor identified in ASA 200[11], that the **FY2018 Financial Report** was free from material misstatement with respect to Mr Dhanik's related party loan.
92. We are satisfied that Contention Two has been established.

Contention 3

Outline of Contention

93. Contention Three related to failures in the FY18 Audit, as detailed below, to properly audit costs of sales and media liability including to obtain sufficient appropriate audit evidence and to obtain reasonable assurance the 2018 Financial Report was free from material misstatement, as detailed further below.

Background facts

94. The following were the agreed facts in relation to Contention Three:

- a. The FY2018 Financial Report:
 - i. recorded cost of sales of AUD7,117,937, comprised as follows:
 1. online media costs of AUD7,115,049.
 2. platform service fees AUD nil.
 3. merchant banking fees AUD2,888.
 - ii. did not separately disclose media liability, instead this was included within 'Accrued Expenses' of AUD1,244,209.
- b. In planning the FY18 Audit, BDO assessed the cost of sales and media liability as a non-significant risk at the assertion level.
- c. The audit procedures undertaken by BDO in respect of cost of sales and media liability were as follows:
 - i. Having determined that Engage's internal controls were insufficient to place any reliance on, BDO placed no reliance on tests of controls, except for the two-step authorisation process for all online banking and bank reconciliation performed monthly.
 - ii. In undertaking testing of the media liability account balance:
 1. BDO identified that the media liability account was a debit balance at 31 December 2018 which was inconsistent with BDO's expectation of a credit balance; and
 2. Upon inquiry of Engage, an adjustment was proposed for which Engage provided justification. That adjustment was to

debit cost of sales – online media and credit media liability in the amount of \$295,137.

- d. The FY18 Audit File does not evidence that, having made inquiries of management, BDO evaluated management’s response, or the appropriateness of the adjustment proposed to cost of sales and media liability.
 - e. Instead, BDO undertook its own calculation of the media liability accrual estimate based on reconciling the revised amount as against the supporting documentation, including a reconciliation of the impression reports initially used to record the costs of sales amount (before adjustment on receipt of actual invoices) and the invoices, and recorded their evaluation at G.03 under the heading ‘*BDO workings*’. BDO did not substantively test the accuracy and completeness of the impression reports. Based on this calculation, BDO concluded that management’s revised estimate was reasonable.
 - f. BDO identified there was a risk that the media liability account was incomplete or understated. In response to that risk BDO:
 - i. Developed an expectation of the balance at 31 December 2018 based on:
 - 1. the accounts recorded for accrued cost of sales in December 2018, less invoices for December 2018 recorded as being received at 31 December 2018; and
 - 2. compared this amount to the client’s adjusted balance; and
 - ii. Performed subsequent payments and review of open invoices testing in respect of which samples were selected based on a percentage of performance materiality.
 - iii. The FY18 Audit workpapers for the above procedures record that only one sample selected for testing (in respect of review of open invoices testing) related to the media liability account.
95. BDO’s testing of the media liability accrual relied upon two ‘COGS (cost of goods sold) reports’ for December 2018 provided by Engage to BDO. The FY18 Audit workpapers do not document how Engage calculated ‘cost’ for the purpose of those COGS reports, nor whether BDO satisfied itself that the ‘cost’ amounts recorded in the COGS reports were reliable.

Relevant duties to be performed adequately and properly

96. In relation to the auditing of the recorded cost of sales and media liability we are satisfied that:
- a. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure there was sufficient appropriate audit evidence as to the evaluation of management's response regarding the media liability account and the reason for the variance to determine whether the adjustment proposed by Engage to cost of sales and media liability was appropriate. Details of this duty were relevantly reflected by ASA 500[6] operative at the relevant time. In addition, ASA 500[A22] provided guidance as to the nature of an 'enquiry' and stated: *an enquiry consists of seeking information of knowledgeable persons, both financial and non-financial, within the entity or outside the entity. Enquiry is used extensively throughout the audit in addition to other audit procedures. Enquiries may range from formal written enquiries to informal oral enquiries. Evaluating responses to enquiries is an integral part of the enquiry process.*
 - b. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure the nature, timing and extent of the audit procedures designed were responsive to the assessed risk of material misstatement at the assertion level. In relation to the media liability account, those audit procedures needed to be responsive to obtaining sufficient appropriate audit evidence as to the account balance, and responsive to the assessed risk of the media liability account being misstated. Details of this duty were relevantly reflected by ASA 330 [6] operative at the relevant time.
 - c. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure that the documentation prepared in the FY18 Audit provided a sufficient and appropriate basis for the 2018 Audit Report and provided evidence that the audit was planned and performed in accordance with the Australian Auditing Standards. Details of this duty were relevantly reflected by ASA 230[5] operative at the relevant time.
 - d. Mr Mooney's duty within s1292(1)(d) as Lead Auditor was to ensure there was sufficient appropriate audit documentation to enable an experienced auditor having no previous connection with the audit to understand those matters as we have set out in paragraph 36(d). Details of the duty were relevantly reflected by ASA 230[8b] and [9a] operative at the time.

Panel findings

97. We are satisfied that in the **FY2018 Audit**:
- a. There was a failure to evaluate or obtain further audit evidence about the reason for the variance in the recorded cost of sales to determine whether the adjustment proposed by Engage to cost of sales and media liability was appropriate. This was, having regard to the matters identified in paragraph 96(a), a relevant failure within the meaning of s1292(1)(d).
 - b. There was a failure to design and perform audit procedures that were responsive to the risk identified in paragraph 96(b). The audit workpapers for these procedures record that only one sample selected with respect to open invoices testing related to the media liability account. This was, having regard to the matters identified in paragraph 96(b), a relevant failure within the meaning of s1292(1)(d).
 - c. There was a failure to ensure the **FY18 Audit File** record included copies of the two COGS Reports, which were relied upon for testing the media liability accrual, or details of what the COGS Reports recorded, and a record of whether or how BDO validated the data contained in the COGS Reports. This was, having regard to the matters identified in paragraph 96(c), a relevant failure within the meaning of s1292(1)(d).
98. Based on our findings and the relevant professional duties referred to in paragraph 96, we are satisfied that Mr Mooney failed within the meaning of s1292(1)(d) to obtain reasonable assurance, in accordance with the overall objectives of the auditor identified in ASA 200[11], that the **FY2018 Financial Report** was free from material misstatement with respect to the recorded cost of sales and media liability.
99. We are satisfied that Contention Three has been established.

Contention 4

Outline of Contention

100. Contention Four related to failures as detailed below, to properly audit intangibles – capitalised software costs including to obtain sufficient appropriate audit evidence and to obtain reasonable assurance the 2018 Financial Report was free from material misstatement as detailed further below.

Background facts

101. The following were the agreed facts in relation to Contention Four:
 - a. The 2018 Financial Report stated intangible assets of AUD2,519,265 were recognised as a non-current asset at 31 December 2018 with respect to which:
 - i. intangible assets comprised (after impairment of AUD999,029):
 1. software development costs of AUD6,158,244; and
 2. accumulated amortisation of AUD3,638,979; and
 - b. the capitalisation, valuation and impairment of development costs was considered a critical accounting estimate and judgement.
102. BDO assessed intangible assets as a non-significant risk.
103. BDO separately assessed assets acquired as part of a business combination in 2018 (Adcel acquisition), and the impairment of internally generated software, as significant risks.
104. BDO determined that the recognition criteria for the capitalisation of internally generated software was not satisfied in respect of two projects for which Engage had proposed to capitalise costs - being, Ad Exchange System Monitoring and Ad Exchange User Interface. Engage agreed to expense the costs for those projects at BDO's insistence.
105. In respect of capitalised software, BDO determined that Engage's internal controls were too weak to place reliance on and determined that no reliance would be placed on tests of controls.
106. BDO outlined the recognition and measurement criteria for the capitalisation of internally generated software and obtained management's assessment of meeting the recognition and measurement criteria of internally generated software in respect of five projects to determine whether it complied with the criteria of AASB 138 of probable expected future economic benefits and reliably measured costs.
107. BDO also obtained a schedule of additions for intangible assets which had been capitalised during 2018, and which contained capitalised labour costs under seven individual software projects, derived from employee house and hourly rates.

108. BDO undertook additional testing on each of the seven projects by selecting a sample of monthly labour cost components and from those selecting one employee for each sample to confirm:
- a. The hourly rate used by reference to payroll records.
 - b. The number of hours by reference to '*authorised labour allocations*'.
109. The applicable audit workpapers record:
- a. A description of each project (including whether it was related to development or maintenance).
 - b. The hours spent by month and by technician on each project.
 - c. A costing based on each technician's salary level.
 - d. And, for the nine software additions selected for testing, that BDO reviewed the hours for work completed against labour allocations and recorded a tick in the column '*Agreed to authorised labour allocations*'.
110. The audit workpapers do not document the relevant audit evidence for '*authorised labour allocations*' by reference to which Mr Mooney concluded that labour costs had been appropriately capitalised within each project. The only reference in the relevant audit workpapers to '*authorised labour allocations*' is the comment: '*[t]he expenditure can be measured given the entity's CTO monitors and tracks the individual time spent towards labour on the software development. This has been tested at A1.05. The cost can be reliably attributed to this capitalised asset [sic – asset] given the work specifically related to the development of this feature.*'
111. BDO determined that no reliance would be placed on tests of controls and obtained management's impairment assessment for internally generated software.
112. The audit workpapers did not include a record of any inquiry or analysis by BDO about the budgeted revenues compared to actuals at the cash generating unit level (CGU level), even though this was an indicator of impairment for the entity as a whole.
113. The audit workpapers record that management referred to a decline in revenues and margin in 2017 and 2018 for programmatic revenue and a sharp decline in non-programmatic revenue between 2017 and 2018. BDO relied on revenue forecasts to conclude that management's assessment was reasonable, however the audit workpapers do not demonstrate that BDO undertook any testing or enquiry of underlying assumptions for the revenue forecasts.

Relevant duties to be performed adequately and properly

114. In relation to the auditing of intangibles – capitalised software costs, we are satisfied that:
- a. Mr Mooney’s duty within s1292(1)(d) as Lead Auditor was to ensure there was an audit record and sufficient appropriate audit documentation about the authorised labour allocations referred to in paragraph 110 and the appropriateness of management’s assessment of having met the recognition and measurement criteria for the capitalisation of internally generated software to enable an experienced auditor having no previous connection with the audit to understand those matters we have set out in paragraph 36(d). Details of the duty were relevantly reflected by ASA 230[8b] and [9a] operative at the time.
 - b. Mr Mooney’s duty within s1292(1)(d) as Lead Auditor was to ensure there was sufficient appropriate audit evidence of audit procedures showing that BDO had independently corroborated that the recognition criteria for the capitalisation of internally generated software was satisfied, and in respect of software projects had not been capitalised in the year, and for the ‘authorised labour allocations’. Details of the duty were relevantly reflected in ASA 500[6] which stipulated the auditor shall design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence.
 - c. Mr Mooney’s duty within s1292(1)(d) as Lead Auditor was to ensure there was sufficient appropriate audit evidence as to whether accounting estimates were reasonable. Details of this duty were relevantly reflected at the time by ASA 540. ASA 540[6] is within the section on key concepts of the standard and provided: *This Auditing Standard also requires a separate assessment of control risk when assessing the risks of material misstatement at the assertion level for accounting estimates. In assessing control risk, the auditor takes into account whether the auditor’s further audit procedures contemplate planned reliance on the operating effectiveness of controls. If the auditor does not perform tests of controls, the auditor’s assessment of the risk of material misstatement at the assertion level cannot be reduced for the effective operation of controls with respect to the particular assertion.*

Panel findings

115. We are satisfied that in the **FY2018 Audit:**

- a. There was a failure to properly document relevant audit evidence about the characteristics of the allocation of labour hours which were tested, and the basis for BDO concluding that labour costs had been appropriately capitalised within each project. This was, having regard to the matters identified in paragraph 114(a), a relevant failure within the meaning of s1292(1)(d).
 - b. There was a failure to obtain sufficient appropriate audit evidence of audit procedures showing that BDO had independently corroborated that the recognition criteria for the capitalisation of internally generated software was satisfied, and in respect of software projects had not been capitalised in the year, and in respect of the '*authorised labour allocations*'. This was, having regard to the matters identified in paragraph 114(b), a relevant failure within the meaning of s1292(1)(d).
 - c. Based on the matters referred to in paragraphs 110-113, there was a failure ensure there was sufficient appropriate audit evidence as to whether accounting estimates were reasonable. This was, having regard to the matters identified in paragraph 109(c), a relevant failure within the meaning of s1292(1)(d).
116. Based on our findings above and the relevant professional duties referred to in paragraph 114, we are satisfied that Mr Mooney failed within the meaning of s1292(1)(d) to obtain reasonable assurance, in accordance with the overall objectives of the auditor identified in ASA 200[11], that the **FY2018 Financial Report** was free from material misstatement with respect to intangibles – capitalised software costs.
117. We are satisfied that Contention Four has been established.

Parties' submissions on Proposed Consent Orders

118. The parties jointly submitted, and we accept these matters as relevant and applicable to the exercise of the Board's power to order a sanction under s1292(1)(d)(1) or s1292(9), as follows:
- a. The principle guiding the CADB in the exercise of its sanctions powers is protection of the public.^{15a} The CADB has stated that the protection of the public includes the maintenance of a system under which the public can be confident that the relevant practitioner and all other

^{15a} *Re Young and Companies Auditors and Liquidators Disciplinary Board* (2000) 34 ACSR 425 at [80] (**Young**); *ASIC v Walker* (06/VIC07) at [20.7]

practitioners will know that breaches of duty will be appropriately dealt with.¹⁵

- b. One of the principal factors relevant to the CADB's consideration of sanctions is the seriousness of the matters which have been established.¹⁶
- c. The CADB has exercised its powers under s 1292 of the Act in applications where auditors contravened the applicable professional standards to be met by a registered company auditor.¹⁷ However, as observed by the Board in *ASIC v Walker*, there is a limit to the value of referring to other cases.¹⁸ because each turn on their own facts. There can be a range of factors which mean that even though the words used to describe other cases may indicate that the nature of the contentions was similar, nevertheless the actual matters established may be significantly different. Such factors can include not only the objective circumstances of the particular case but also less tangible matters, such as a respondent's recognition of breaches of duty, attitude to compliance with professional standards generally and willingness to improve. These are all matters relevant to CADB's exercise of its power to order sanctions.¹⁹
- d. In exercising its sanctions power, the personal circumstances of the practitioner are to be given limited consideration by the CADB.²⁰
- e. The absence of evidence as to whether any person suffered loss as a result of the auditor's conduct is not relevant to the CADB's consideration of sanction.²¹
- f. The key consideration for the CADB in determining the appropriate sanction is the seriousness of the Mr Mooney's failures to carry out or perform his duties as an auditor.
- g. Mr Mooney's contraventions are on the lower end of the scale of seriousness but sufficiently serious to warrant the exercise of the CADB's power under s 1292, in the manner proposed by the parties.

¹⁵ *ASIC v Williams* at [1338]; *ASIC v Walker* at [20.1]-[20.4], [20.7].

¹⁶ *ASIC v Walker* at [21.4] [decision of the Board]

¹⁷ The general professional standards to be met by a registered company auditor as informed by the requirements of the auditing standards, relevant provisions and regulations under the Corporations Act and relevant pronouncements by the Accounting Professional and Ethical Standards Board, see *ASIC v Loke*; *ASIC v Evett*; *ASIC v Williams*; *ASIC v Walker*; *ASIC v Wessels*.

¹⁸ At [21.3].

¹⁹ *ASIC v Fiorentino* (03/NSW13) at [997], [1005].

²⁰ *ASIC v Williams* at [1338], [1340]; *ASIC v Walker* at [20.5], [20.7].

²¹ *ASIC v McVeigh* (01/VIC08) at [14.8].

- h. The requirement that a Lead Auditor who is a registered company auditor be appointed to conduct the audit of a listed company (as Engage was at the time of the FY18 Audit), is an important aspect of the regulatory regime administered by ASIC. This requirement is relevant to the efficient operation of Australian capital markets, as it provides investors in listed companies with assurance that the financial reports of those companies are reliable and have been prepared in accordance with the Act, including complying with Auditing and Accounting Standards and providing a true and fair view of the companies' financial position and performance. Compliance with the ASAs is also fundamental to reducing the risk of material misstatement in the Financial Statements. The failure of a registered company auditor to ensure compliance with the relevant ASAs in the conduct of an audit has the potential to undermine confidence in the integrity of Australia's capital markets.
- i. Each of the four contentions relates to key audit matters and disclosures that investors rely on for decision making. Each of the four contentions involved a failure to comply with basic audit requirements, particularly to gather sufficient appropriate audit evidence, and documentation requirements. In other contexts, the Board has found these matters to be areas of fundamental importance for an auditor observing professional standards of auditing.²² As observed by the CADB in *ASIC v Walker*, “[i]f an audit opinion is not supported by sufficient appropriate audit evidence or the audit work is not sufficiently documented in the audit working papers, the value of the audit opinion may be significantly reduced.”²³ Without sufficient appropriate audit evidence, the auditor does not have a basis for their audit opinion.
- j. The first contention, relating to non-compliance with the ASAs in relation to revenue, is the most serious. Revenue is a disclosure matter that investors rely on for decision making. Investors are entitled to assume revenue disclosures comply with the ASAs, reducing the risk of material misstatement in the financial statements. A failure to comply with the ASAs in relation to significant disclosure matters such as revenue has the potential to impact Australia's capital markets and undermine confidence in the integrity of Australia's capital markets.
- k. The second contention, relating to the treatment of a related party loan is also moderately serious. Related party loans are a disclosure matter relevant to investor decision making. The related party loan to Mr Dhanik, the co-founder and CEO, was a significant loan (relative to the

²² *ASIC v Walker* at [21.4]

²³ *ASIC v Walker* at [21.5]

revenue and other assets of the business) secured against a relatively large proportion (i.e. 20%) of Engage's ordinary shares. Mr Mooney acknowledged that he failed to apply professional scepticism in respect of the related party loan to Mr Dhanik. The concepts of professional scepticism and professional judgement embody key tenets of the professional skill an auditor is expected to bring to bear when performing an audit to an appropriate professional standard, and thus deserve special focus.²⁴

- l. The contentions relating to cost of sales and media liability and the proper treatment of capitalised software costs are also of real concern having regard to the nature of the **Engage** business.
- m. While ASIC did not allege there was any material misstatement in the financial statements, the key issue for the CADB's consideration is that the Audit was not prepared in accordance with the applicable ASAs, which created a real risk of material misstatement in the Financial Statements. The CADB has previously ordered a period of lengthy suspension for an auditor who did not comply with the relevant professional standards in respect of an audit, despite no contention that the company's financial statements contained any material misstatement.²⁵
- n. Mr Mooney departed from the relevant standards in ways which were on the lower end of the scale of seriousness, albeit not trivial. Further, Mr Mooney's role as Lead Auditor and engagement partner meant that he was ultimately responsible for the FY18 Audit.
- o. The following matters weigh against the relative seriousness of Mr Mooney's conduct:
 - i. The conduct concerned the audit of one company's financial report, for one financial year, and was not more widespread conduct.
 - ii. There are no allegations, or suggestion, of dishonesty or deliberate impropriety on the part of Mr Mooney.
- p. Mr Mooney's cooperation with ASIC in this proceeding, including agreeing the consent orders, providing the voluntary undertaking and the preparation of the Statement of Agreed Facts are also ameliorating factors. Mr Mooney's consent to the proposed orders reflects his

²⁴ *ASIC v Evett* at [32], see also [33] – [39].

²⁵ *ASIC v Wessels* at [51] [Decision of the Board]

acknowledgement of the failure on his part to properly and adequately perform his duties as a registered company auditor within the meaning of s129291)(d)(i).

- q. The view of ASIC as the regulator about the appropriateness of the proposed orders is relevant, particularly regarding the deterrent effect of the order, but not determinative.²⁶ In previous decisions involving proposed consent orders, the CADB has found that the fact that ASIC joined in the proposed orders was a significant factor. As observed by the CADB, “ASIC is relevantly a guardian of the public interest and is in a good position to appraise the practicalities of the matter and what part those practicalities should have among considerations in favour of accepting the agreed outcome.”²⁷
- r. The substance of the undertaking is of a type contemplated by s 1292(9). The form of the undertakings regarding supervision of future audits and additional education are similar to undertakings ordered by the CADB in other cases involving auditors not meeting the required professional standards.²⁸
- s. The proposed orders and undertakings would have the appropriate deterrent and educative effect on Mr Mooney, and a broader deterrent and educative effect on other registered company auditors.
- t. After 1 January 2024, by reason of the proposed undertakings as to further education, Mr Mooney will have engaged in education covering the subject matter of the standards with which he admits he did not comply. Together with the proposed undertaking regarding supervision of his first three listed company audits, the CADB can have confidence that after 1 January 2024, Mr Mooney will have the appropriate knowledge and understanding to perform his duties and functions as a registered company auditor at a professional standard appropriate to satisfy the Relevant Benchmark.²⁹
- u. Further, should any issues of concern be identified by the peer review process, those issues may be brought to ASIC’s attention promptly, so steps can be taken to ensure there is no threat to the protection of the public. For these reasons, the parties submit that the CADB can be satisfied that the proposed orders and proposed undertakings operate effectively as an adjunct to Mr Mooney’s voluntary undertaking

²⁶ ASIC v Wessels at [49] – [50].

²⁷ ASIC v Loke at [105].

²⁸ e.g., ASIC v Wessels at [60]; ASIC v Loke at [110].

²⁹ ASIC v Loke at [107]

provided on 1 June 2023 and together represent an appropriate sanction.³⁰

- v. As with previous undertakings ordered by the CADB, the proposed undertakings are to be administered by ASIC.³¹ In the event any substantive issues of compliance with the undertakings arise, the Board has jurisdiction under s 1292(9) to make an order to cancel or suspend Mr Mooney's registration based either on a failure to give the undertakings or in the event the undertakings are contravened. ASIC may invoke this jurisdiction by application should it consider it necessary.³²

Decision and Orders

119. As noted above we accept the parties' submissions on the relevant principles and the appropriateness of the sanction proposed in this matter. In particular, and as was noted in the Board's previous decision in *Wessels*³³ the fixing of a period of suspension is not an exact science.
120. The Board in its decision in *Wessels* discussed judicial authority apposite to the Board's jurisdiction and having regard to those principles, we are satisfied that the orders proposed by the parties are certainly within '*the permissible range*'³⁴ of sanctions and there is no proper reason to attempt an alternative formulation.
121. The fact that Mr Mooney and his legal team have cooperated with ASIC with respect to the conduct of these disciplinary proceedings and reached agreement on an order for payment towards the costs incurred by ASIC in this matter are significant ameliorating factors relevant to our conclusion that the proposed sanction is appropriate.
122. At the hearing, the Panel observed Mr Mooney's sincere commitment to properly addressing the consequences of these proceedings including the reasons that gave rise to them. This left us with a positive impression and confidence that he will carry out the proposed undertakings conscientiously. His attitude towards handling these proceedings is, in our view a significant ameliorating factor regarding sanction.
123. Registered auditors are regulated precisely because of the critical role they fulfil as gatekeepers within Australia's financial system. This role demands

³⁰ See e.g., *ASIC v Loke* at [107]-[109]

³¹ See e.g., *ASIC v Loke*

³² *ASIC v Loke* at [110]-[111]

³³ n25 paragraph 48(b) and see paragraph 49 for White J's summary of principles applying to proposed consent sanctions in *ASIC v Rich*.

³⁴ *ASIC v Rich* (2004) 50 ACSR 500 @ [80(2)]

substantial skill, knowledge and extensive experience and the Board acknowledges the challenges involved in maintaining the high professional standards required. When oversights occur and the details of specific audits are considered by CADB, both the public and the audit community may benefit from the opportunity provided to practitioners to develop a shared understanding of the operation of various aspects of the Auditing Standards. This is an essential aspect of the role of the Board's decisions and their publication.

124. We accept that the failures for which Mr Mooney as Lead Auditor in the **FY18 Audit** was responsible are not insignificant, and the undertaking he provided to ASIC on 1 June 2023 not to practise as a registered auditor until 1 January 2024, which has been noted on ASIC's public register of company auditors, reflects that. The Panel may have confidence that by the time the undertaking not to perform any audits has expired, Mr Mooney will have undertaken additional professional development to resume the important role of being a registered company auditor.
125. As to the peer review process proposed, we note it will provide confirmation through the visibility it will provide of Mr Mooney's performance of audits when he resumes practice and should any issues of concern be identified by that process, they will be capable of being brought to ASIC's attention promptly by the operation of the undertakings.
126. For the above reasons we are satisfied that the scope of the proposed undertakings operates effectively to address the matters identified by our findings.
127. For the reasons set out above, we have decided to exercise our powers under s1292 of the **Act** by making the orders set out in paragraph 129 below.
128. It is usual for the Board to publicise its decisions on its website and it may issue a media release. There were no submissions by the parties as to publication and the Board has decided to publish a copy of these reasons on its website.
129. We make the following orders:
 1. Pursuant to sub-section 1292(9)(b) and (c) of the of the *Corporations Act* 2001 (Cth), within 7 days of the date of this order, Mr Mooney provide to the Australian Securities and Investments Commission undertakings requiring him to engage in specified conduct, and to refrain from engaging in specified conduct, in the form attached as Schedule A to these orders [and annexed as Schedule A to this decision].

2. Pursuant to section 223 of the *Australian Securities and Investments Commission Act 2001 (Cth)*, Mr Mooney to pay the Applicant's costs in the fixed sum of \$175,000 within 28 days of the date of this order.

Maria McCrossin
Panel Chairperson

30 August 2023

Glossary

ASA	References to the Australian Auditing Standards that were operative at the time of the 2018 Audit (January 2018-July 2018) (also referred to as Auditing Standards).
AAS	References to the Australian Accounting Standards that that were operative at the time of the 2018 Audit (January 2018 – July 2018) (also referred to as Accounting Standards).
AUASB	Australian Auditing and Assurance Standards Board.
APES 110	The Code of Ethics for Professional Accountants (including International Independence Standards) based on the International Code of Ethics for Professional Accountants (including International Independence Standards) issued by the International Ethics Standards Board for Accountants (IESBA) operative at the time of the 2017 Big Un Audit.
Board	Companies Auditors Disciplinary Board (also referred to as CADB)
Panel	The three members of the Board constituted to deal with this Application under s210A(4) ASIC Act.
CA ANZ	Chartered Accountants Australia and New Zealand.
The Act	Corporations Act 2001 (Cth) as amended

Schedule A

Form of Undertaking

The Respondent, Mr Mooney provides the following undertaking to the Australian Securities and Investments Commission (**ASIC**), having provided to ASIC a voluntary undertaking dated 1 June 2023, pending the determination of the CADB.

Pursuant to the order made by the CADB on [insert date] 2023 in proceedings 01/VIC22, I James Andrew Mooney, registered auditor 311052 undertake to ASIC as follows:

Work as registered company auditor

1. From [insert date of undertaking] to 31 December 2023, I will not perform the duties of, or otherwise act as, a registered company auditor.

Audit reviews by peer reviewer

2. Following the expiration of the period referred to in paragraph 1 above, I shall, at my expense, engage another registered company auditor as a peer reviewer (**Peer Reviewer**), on the terms set out in paragraph 3 to 5 below. I will make the necessary arrangements to enable the Peer Reviewer to undertake a review of the first 3 company audits for which I am either the lead auditor or the engagement partner (**Audits**).
3. In order to enable ASIC to consider whether a prospective Peer Reviewer is suitable, I shall, 30 days prior to the end of the period referred to in paragraph 1, provide ASIC with a curriculum vitae of at least one proposed Peer Reviewer together with draft written terms for the proposed engagement of the Peer Reviewer.
4. I will ensure that a term of the retainer with which the Peer Reviewer must agree to comply is that as soon as practicable, and no later than 3 months after I complete each Audit, the Peer Reviewer will provide ASIC with an opinion in writing as to whether each Audit has in all material respects been conducted in accordance with standards promulgated by

the Auditing and Assurance Standards Board and the Australian Accounting Standards Board (the **Peer Reviewer's Statement**). The Peer Reviewer's Statement must include the reasons on which the opinion is based.

5. I acknowledge the said terms of engagement must be approved in writing by ASIC before the engagement is finalised. I shall not proceed to engage a Peer Reviewer until I have received approval in writing from ASIC.
6. Should the Peer Reviewer's Statement not conclude that the Audits have been conducted in all material respects in accordance with relevant standards, I acknowledge that ASIC is entitled to take such action as it thinks fit.

CPD requirement

7. In the period of 12 months from [date which is [x] days from the CABD's order], I will complete the following training:
 - a. 20 hours of additional continuing professional development education activity (**CPD**) (not including any training I am required to complete to retain my registration as a company auditor).
 - b. The CPD must include training content covering substantive audit matters and the concepts of professional scepticism, professional judgment, the gathering of sufficient appropriate audit evidence, and appropriate audit documentation (**CPD Requirement**).
 - c. The training provider and the training content of the CPD Requirement must be approved in writing in advance by ASIC in accordance with paragraph 10 above no later than 30 days after the date of this undertaking.
 - d. I shall provide ASIC with documentary evidence of satisfactory completion of the CPD Requirement no later than 30 days after I complete the CPD Requirement in accordance with paragraph 10. The documentary evidence to be provided will include evidence that the CPD Requirement completed is distinct from and in addition to the annual training I am required to complete to retain my registration as a company auditor.

Compliance with undertakings

8. Should I become aware that any of the above undertakings have not been complied with, I shall within 5 business days of becoming aware of such issue notify ASIC in writing of the details of the non-compliance including the date on which it occurred and the reasons for which it occurred.
9. I acknowledge that should I fail to comply with any of these undertakings, ASIC is entitled to take such action as it thinks fit in relation to any such non-compliance.
10. The documents required to be provided to ASIC pursuant to these undertakings are to be directed to the attention of the Senior Executive Leader, Financial Reporting & Audit team, ASIC, Level 5, 100 Market Street, Sydney 2000 and service of those documents is also to be effected by email to the attention of brett.crawford@asic.gov.au.