



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID261/2021

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
Plaintiff

**ALLIANCE INSURANCE BROKING SERVICES PTY LTD ACN 095 376 882**  
and another named in the schedule  
Defendant

**ORDER**

**JUDGE:** JUSTICE ANASTASSIOU

**DATE OF ORDER:** 30 June 2021

**WHERE MADE:** Melbourne

**THE COURT NOTES THAT:**

1. The first defendant (**AIBS**) has given an undertaking to the Court by its counsel that:
  - a. By 4.00pm on two business days from the date of these orders, it will appoint a suitably qualified and independent sales agent to conduct a sale of the business operated by AIBS, with such sale process to be completed by 30 August 2021 or by some other date as directed by the Court.
  - b. By 4.00pm on two business days from the date of these orders, it will appoint John Lindholm, registered liquidator, as investigative Accountant (the **Investigative Accountant**) to:
    - i. inquire into and report to the Court and to ASIC as to the affairs of AIBS, including on the matters set out at paragraph 1.(h) of these orders; and
    - ii. monitor transactions made by AIBS on all of its bank accounts,by executing the letter of engagement that is annexed to this proposed form of order and marked "A".
  - c. It will not revoke the appointment of the Investigative Accountant prior to the delivery by the Investigative Accountant of the Report (as defined in sub-paragraph (h) below).



- d. AIBS shall immediately upon the appointment of the Investigative Accountant:
- i. make available to the Investigative Accountant, and allow inspection by them during business hours of, any books and records or other documents of AIBS; and
  - ii. allow the Investigative Accountant to copy any such books, records or other documents of AIBS.
- e. AIBS will not:
- i. dispose of or destroy any books, records or other documents of AIBS; and
  - ii. otherwise than in the ordinary course of business of AIBS, deal with or dispose of the assets of AIBS without first giving 7 days' notice in writing to ASIC.
- f. AIBS will instruct the Investigative Accountant to, by 23 July 2021 or such further time as the Court allows, inquire into, and to prepare and file a report with the Court (the **Report**) and provide a copy of the Report to the parties as to, the following matters:
- i. a review of the business of AIBS, including the identification of the assets and liabilities of AIBS;
  - ii. a reconciliation of:
    - A. client moneys to identify affected clients and insurers and the quantum of any shortfall; and
    - B. other business accounts to identify any improper transfers of business funds; and
  - iii. the suspected contraventions of the *Corporations Act 2001* (Cth) and any suspected breaches of fiduciary or other equitable duties by the Company, its director, its employees and/or agents as outlined in the affidavit of Andrea Jane Perry made on 26 May 2021.
- g. AIBS by its director, officers, servants and agents shall provide such assistance as the Investigative Accountant may reasonably require in preparing the Report and monitoring the transactions made by AIBS on all its bank accounts as referred to in paragraph 1(b)(ii) above.
- h. AIBS will also instruct the Investigative Accountant that, if within the course of their inquiries referred to in (g) above, any matters come to their



attention that might suggest other possible misconduct by AIBS or its officers, employees or agents, to outline the nature of those matters in the Report.

**THE COURT ORDERS THAT:**

2. The interlocutory process filed on 26 May 2021 is adjourned to a date to be fixed.
3. By 4.00pm on seven days from the date of this order, the first defendant (**AIBS**) file and serve evidence that:
  - a. in accordance with the undertaking it has given to the Court, it has appointed a suitably qualified and independent sales agent to conduct a sale of the business operated by AIBS;
  - b. in accordance with the undertaking that it has given to the Court, it has appointed John Lindholm, registered liquidator, as the Investigative Accountant to do the things referred to in sub-paragraphs 1(b)(ii), 1(g) and 1(h) above;
  - c. \$5 million has been paid into the Trust Account (as defined in the affidavit of Andrea Perry made on 26 May 2021) from Lygon Finance Pty Ltd on the terms outlined in the letter from Corrs Chambers Westgarth dated 8 June 2021 (the **Proposal Letter**);
  - d. the second defendant, Clients Link Investments Pty Ltd (**Clients Link**), Fair Link Investments Pty Ltd (**Fair Link**) have each acknowledged in writing that any liability that may be owed by:
    - i. the second defendant to Clients Link or Fair Link; and
    - ii. Fair Link or Clients Link to AIBS,in respect to the loans or investments between them that are referred to in the affidavit of Andrea Perry made on 26 May 2021 have been partially discharged with immediate effect by reason of the payment of the \$5 million referred to in sub-paragraph (c); and
  - e. the National Australia Bank Limited, as the secured creditor, has been informed of the matters outlined in paragraphs 3(b) and 3(c).
4. If the first defendant fails to comply with any part of paragraph 3 above, the plaintiff (**ASIC**) has liberty to apply to have the interlocutory process listed for an urgent hearing.
5. Costs are reserved.



**THE COURT DIRECTS THAT:**

6. AIBS write to affected insurers and National Australia Bank Limited to:

- a. notify them of the proceeding; and
- b. inform them that the AIBS business is to be sold;

in substantially the same form that is annexed to these orders and marked "B".

7. AIBS publish a prominent notice on its website and its social media pages in substantially the same form that is annexed to these orders and marked "B".

Date that entry is stamped: 30 June 2021

*Sia Lagos*  
Registrar



## **Schedule**

No: VID261/2021

Federal Court of Australia

District Registry: Victoria

Division: General

Second Defendant      RENATO DE MARIA



**Annexure A – Letter of engagement**

Annexure A begins on the next page.



[KPMG letterhead]  
Alliance Insurance Broking Services Pty Ltd  
c/-  
Corrs Chambers Westgarth  
Level 25, 567 Collins Street  
Melbourne VIC 3000

[XX] June 2021

Dear Director

## **Investigative Accountant's Review for Alliance Insurance Broking Services Pty Ltd**

We set out in this letter (and attached appendices) the terms and conditions under which KPMG contracts with Alliance Insurance Broking Services Pty Ltd ("AIBS") to undertake an Investigative Accountant's Review as directed by the Federal Court of Australia.

This letter (**Engagement Letter**), together with KPMG's Terms and Conditions of Business, as attached in Appendix 1 (**Terms**), and the scope, as attached in Appendix 2, confirms our understanding of the services to be provided (**Services**) and the terms of the Engagement.

### **1. Scope**

The scope of work to be undertaken is set out in Appendix 2 to this letter and is directed towards the issues that have been identified as being critical to the investigation being undertaken by the Australian Securities and Investments Commission ("ASIC"). Our role will broadly involve:

- undertaking an Investigative Accountant's Review as per the scope of work set out in Appendix 2;
- monitoring transactions made by AIBS on its bank accounts; and
- reporting to the Court and to ASIC on the matters set out in Appendix 2.

### **2. Timing**

We will commence our work immediately upon signing of the Engagement Letter and receipt of the required information, with the report to be completed by 23 July 2021.

We are committed to meeting your required timeframes, however our ability to meet the timetable will be dependent upon receiving without undue delay the full co-operation of the director and other relevant personal, and upon the timely and accurate disclosure of all the information that may be needed.

During our work we will maintain regular contact with you, to keep you informed of our progress.

### **3. Engagement team**

Our proposed team will consist of KPMG professionals with the appropriate knowledge and experience. The engagement will be performed under the direction of John Lindholm, a Partner within KPMG Restructuring Services. Heile Clark, an Associate



Director within KPMG Restructuring Services, will manage the Engagement. We will draw upon additional KPMG resources as considered appropriate.

#### **4. Fees**

Our Fees are based upon the degree of responsibility and skill involved and the time necessarily occupied on the work, charged at our normal rates for work of this nature, plus the reimbursements of our Expenses.

Our normal hourly rates currently in force for work of this nature are as follows:

<b>Staff level</b>	<b>Discounted Rate \$</b>
Partner	695
Director	630
Associate Director	595
Manager	530
Executive	450
Analyst	375

On the basis of the information currently available to us, and our understanding of your requirements, we estimate that our fees to complete the engagement will be \$60,000, plus expenses (including a technology & administration charge of 3.5%), plus GST.

#### **5. COVID-19**

COVID-19 has the potential to materially and adversely affect our ability to provide the Services under the Agreement.

Each party will co-operate with the other in implementing reasonable mitigation measures to enable us to perform the Services in a way that seeks to limit the risk or potential impact related to COVID-19.

If the performance of the Services is delayed or otherwise adversely affected by COVID-19 or any circumstances related to COVID-19 (including, without limitation, unavailability of personnel), we will not be liable for any failure to perform the Services and the time for performance of the Services will be extended by any such reasonable period as is advised by us.

If COVID-19, or any circumstances related to COVID-19, result in the parties being unable to put in place service performance mitigation measures that we consider appropriate or we conclude that we are not able to perform the Services, either party may terminate the Agreement by providing 5 business days' notice in writing.

#### **6. Terms and Conditions of Business**

As noted, the Terms are attached in Appendix 1 and form part of, and should be read in conjunction with, the Engagement Letter.

#### **7. Agreement**

Please confirm your agreement to and acceptance of the terms of this letter and the appendices by signing and returning to us the enclosed copy. If there are any aspects of this letter or its appendices that you wish to discuss, please let us know.





Yours faithfully

John Lindholm  
Partner

*Enclosures:*

Appendix 1: KPMG Terms and Conditions of Business

Appendix 2: Scope

Affidavit of Andrea Jane Perry made on 26 May 2021



**1. Acknowledgment**

The terms of the Engagement, as provided in the above Engagement Letter and the attached Terms, are understood and accepted for and on behalf of Alliance Insurance Broking Services Pty Ltd (ABN 77 095 376 882), for whom I am duly authorised.

Signed: .....

Name: .....

Position: .....

Date: .....



**Appendix 1**  
**KPMG Terms and Conditions of Business**



## Appendix 2

### Detailed scope of work

#### Background

1. On 14 May 2021, ASIC commenced proceeding VID 261 of 2021 in the Federal Court of Australia against Alliance Insurance Broking Services Pty Ltd and its sole director, Mr Renato De Maria.
2. On 14 May 2021, the Federal Court of Australia made a freezing order over the following accounts held by AIBS:

Cash Maximiser Account	BSB 083 419 Account No 827 213 144
Porsche Trust Account	BSB 083 419 Account No. 119 068 854
Trust Account	BSB: 083 419 Account No. 485 428 422
Alliance Insurance Broking Services Management Account	BSB 083 419 Account No. 495 529 414
Business Everyday Account	BSB 083 419 Account No. 878 057 451

3. ASIC has filed evidence in the proceeding which suggests that:
  - (a) AIBS has invested \$7.9 million of client money with Brenex Investments Pty Ltd. The investment was made into an account held by and in the name of Clients Link Investments Pty Ltd (**Clients Link**) BSB 032 072 Account No. 587 150 (**Clients Link Account**).
  - (b) Mr De Maria has borrowed at least \$7.9 million from Fair Link Investments Pty Ltd (**Fair Link**).
  - (c) Fair Link and Clients Link share the same director.
4. In evidence filed in the proceeding, ASIC has alleged that the \$7.9 million of client money referred to in the preceding paragraph has been misused by Mr De Maria for his personal benefit. Specifically, ASIC has identified the following payments:

Date	Payment	Reference to Perry affidavit
22/2/18	Payment of \$2.5 million from the AIBS to the Clients Link account	Page 308
26/2/18	Payment of \$2.5 million from Fair Link to Mr De Maria	Page 308
19/3/19	Payment of \$2.4 million from the Cash Maximiser Account to Client Link Account	Page 304



Date	Payment	Reference to Perry affidavit
25/3/19	Payment of \$2.4 million from Fair Link to Mr De Maria	Page 304, 316
14/5/19	Payment of \$3 million from Cash Maximiser Account to the Clients Link Account	Page 297
22/5/19	Payment of \$3 million from Fair Link to Mr De Maria	Page 318

#### *Scope of appointment*

5. On [insert date of orders], AIBS gave an undertaking to the Court that it would appoint us as investigative accountant to:
- (a) inquire into and report to the Court and to ASIC as to the affairs of AIBS, including on the following matters:
    - (i) a review of the business of AIBS, including the identification of the assets and liabilities of AIBS;
    - (ii) a reconciliation of:
      - (A) client moneys to identify affected clients and insurers and the quantum of any shortfall; and
      - (B) other business accounts to identify any improper transfers of business funds; and
    - (iii) the suspected contraventions of the *Corporations Act 2001* (Cth) and any suspected breaches of fiduciary or other equitable duties by the Company, its director, its employees and/or agents as outlined in the affidavit of Andrea Jane Perry made on 26 May 2021 (**enclosed**); and
  - (b) monitor transactions made by AIBS on all of its bank accounts.
6. The suspected contraventions in the Perry affidavit into which the Investigative Accountant are to inquire are as follows:
- (a) Whether Mr De Maria may have breached his duties as a director of AIBS by causing the payments set out in paragraph 4 to be made.
  - (b) Whether AIBS may have breached its equitable and/or fiduciary duties by permitting client monies to be used for Mr De Maria's own personal purposes.
  - (c) Whether AIBS and Mr De Maria may have engaged in dishonest or misleading conduct in contravention of sections 1041G or 1041H of the Corporations Act by suggesting to AIBS's auditor – Corporate Audit & Advisory Services Pty Ltd – that the investment of client moneys with Brenex / Clients Link was an arm's length investment arrangement, where ASIC has alleged that it appears to have been arranged by Mr



De Maria in order to enable him to borrow funds from those entities for the personal use of Mr De Maria and his wife.

- (d) Whether there is a deficiency in any account maintained by AIBS for the purpose of section 981B and section 981C of the Corporations Act
- (e) Whether AIBS has invested funds from an account maintained under section 981B of the Corporations Act without its clients' written agreement to the matters set out in regulation 7.8.02(3)(a) of the Corporations Act, contrary to regulation 7.8.02(3).

*Report to the Court*

- 7. We have been instructed to report to the Court and to ASIC on the matters set out in paragraph 5 by 23 July 2021.
- 8. If, in the course of our inquiries referred to in paragraph 5(a) above, any matters come to our attention that might suggest other possible misconduct by AIBS or its officers, employees or agents, then we will outline the nature of those matters in our report.



## Annexure B – Form of Notice to affected persons

### **ASIC v Alliance Insurance Broking Services Pty Ltd ACN 095 376 882 and Renato De Maria Federal Court of Australia Proceeding No VID261/2021**

On 14 May 2021, the Australian Securities and Investments Commission commenced proceedings against Alliance Insurance Broking Services Pty Ltd (**AIBS**) and Renato De Maria in the Federal Court of Australia. In the proceeding, ASIC has indicated that it will apply for an order winding up AIBS as well as an order for the appointment of a provisional liquidator to AIBS. AIBS opposed the orders sought by ASIC and has appointed [insert name] to sell the business conducted by AIBS.

On 11 June 2021, the Federal Court of Australia adjourned ASIC's application to a date to be fixed.

For the period between now and any sale of the AIBS business, and in accordance with undertakings that it has given to the Federal Court of Australia, AIBS has put the following arrangements in place:

The sum of \$5 million [has been/will be] deposited by a third party into the trust account operated by AIBS.

John Lindholm of KPMG has been appointed as investigative accountant to inquire into and report to the Court as to a number of matters relating to the affairs of AIBS by 23 July 2021 and to monitor transactions made by AIBS in the period leading up to the sale of the AIBS business.

Otherwise, orders have been made by the Federal Court of Australia preventing AIBS from removing, or causing or permitting funds to be removed from its bank accounts, including all trust accounts, other than in the ordinary course of business.

You may wish to seek independent legal advice in respect to your position concerning these arrangements.

The Federal Court of Australia has directed AIBS to notify you of these matters in writing.