



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1306/2021

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

ONEPATH CUSTODIANS PTY LTD ACN 008 508 496

Defendant

ORDER

JUDGE: JUSTICE STEWART

DATE OF ORDER: 21 March 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Pursuant to r 20.13 of the *Federal Court Rules 2011*, the defendant give discovery by electronic means of the documents falling within the categories of documents set out in Annexure A to these orders.
2. Pursuant to rr 20.16 and 20.17 of the *Federal Court Rules 2011*, the defendant produce a verified list of the documents discovered in response to order 1 that identifies the matters in r 20.17(2) and also, for all documents produced, identifies the date of the document and the category to which it is responsive, and for documents produced in response to category 1 also identifies the Member account number to which the document relates.
3. Discovery of the category 1 documents be done by 26 June 2023, and categories 4 to 8 by 26 May 2023.
4. The defendant pay the plaintiff's costs of its interlocutory application filed on 13 February 2023.
5. The matter be listed for case management at 9:30am on 22 June 2023.



Date that entry is stamped: 21 March 2023

Sia Lagos
Registrar



Annexure A – Categories of discovery

Defined terms in this annexure are adopted from the Amended Concise Statement dated 9 February 2022.

No-Advisor Members documents

1. For each of the 2,508 No-Advisor Members for whom Adviser Service Fees were deducted after December 2015 and whose Member account numbers are listed at Annexure A to the letter from Johnson Winter Slattery to Gilbert + Tobin dated 3 November 2022:
 - (a) the Employer Application Form establishing the Employer Plan by which the No-Advisor Member originally became a member of the Trust;
 - (b) the Annual Statement issued to the No-Advisor Member in the financial years ending in June 2013 to June 2019;
 - (c) the letter to the No-Advisor Member welcoming him or her to the customer call centre (also referred to as the customer service centre) or any other communication advising the No-Advisor Member that he or she had been transferred to the customer call centre.
- 1B. [Not used]

Previously Linked Members documents

2. [Not used]
3. [Not used]

Other categories

4. Any:
 - (a) correspondence from ANZ to OPC; or
 - (b) memorandum or report;created or dated between 1 February 2014 and 1 February 2015 concerning:
 - (c) the establishment of the customer call centre; or
 - (d) the transfer of any No-Advisor Member to the customer call centre.



5. Any correspondence amongst any of OPL, OPC and ANZ created or dated between 1 February 2014 and 1 August 2015 concerning the transfer of any No-Adviser Member to customer call centre.
6. Any correspondence from ANZ to OPC, memorandum or report concerning the investigation and remediation referred to in paragraph 28(a) of the Amended Response to the Concise Statement.
7. Any agreement which gives OPC a right to make a request to ANZ, or to companies in the ANZ corporate group, for documents, information or access to computer systems where such an agreement has been in force from 31 January 2020 to the date on which orders for discovery are made or in force for any portion of that time period.
8. Any document created or dated from 31 January 2020 to the date on which orders for discovery are made constituting, containing or recording a request from OPC to ANZ, or from OPC to a company in the ANZ corporate group, for documents, information or access to computer systems in relation to the No-Adviser Members.