NOTICE OF FILING

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Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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

Statement of claim

No. of 2026

Federal Court of Australia

District Registry: Victoria Registry

Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

FALCON CAPITAL LIMITED (IN LIQUIDATION) (ACN 119 204 554)
and others named in the schedule

Defendants

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A. INTRODUCTION

A1. Parties

1. The plaintiff (**ASIC**):

   (a) is a body corporate established by s 7 of the *Australian Securities Commission Act 1989* (Cth) and continued in existence by s 261 of the *Australian Securities and Investments Commission Act 2001* (Cth) (the **ASIC Act**);

   (b) able to sue in its corporate name by operation of s 8(1)(d) of the ASIC Act;

   (c) empowered to exercise the functions and powers conferred upon it under the ASIC Act and the *Corporations Act 2001* (Cth) (the **Corporations Act**), by operation of s 11 of the ASIC Act; and

   (d) has standing to bring this proceeding pursuant to ss 206C(1) and 1317J(1) of the Corporations Act.

2. The first defendant, Falcon Capital Ltd (in liquidation) (ACN 119 204 554) (**Falcon**) is and was at all material times:

   (a) a corporation duly incorporated under the Corporations Act, and able to be sued;

   (b) a public company;

   (c) the holder of an Australian Financial Services Licence numbered 302538 (**AFS licence**);

   (d) the responsible entity of the First Guardian Master Fund (ARSN 635 429 113) (**FGMF**) within the meaning and operation of Chapter 5C of the Corporations Act;

   (e) authorised by its AFS licence to:

      (i) carry on a financial services business to provide general financial product advice;

      (ii) deal in, for retail and wholesale clients, certain financial products; and

      (iii) operate the FGMF; and

   (f) since 9 April 2025, in liquidation.

3. The second defendant, David Anderson (**Anderson**), was:

   (a) a director of Falcon since 9 November 2012;

   (b) the managing director and/or chief executive officer of Falcon since 9 November 2012; and

   (c) a key person for the purposes of Falcon's AFS licence.

4. The third defendant, Simon Selimaj (**Selimaj**) was, at all material times:

   (a) also known as Simon Sallka or Sokol Selimaj;

   (b) the sole shareholder of Falcon;

   (c) a director of Falcon since 10 April 2006;

   (d) executive chairman and/or chief investment officer of Falcon since 10 April 2006;

   (e) a key person for the purposes of Falcon's AFS licence;

   (f) a member of Falcon's Compliance Committee until around August 2024; and

   (g) the Compliance Manager for Falcon from August 2019 to August 2024.

A2. The First Guardian Master Fund and Underlying Funds

A2.1 Structure of FGMF

5. The FGMF was:

   (a) commenced upon execution of a deed poll constitution dated 23 August 2019 (**FGMF Constitution**); and

   (b) a registered scheme within the meaning of Pt 5C.2, Div 1 of the Corporations Act, from 23 August 2019.

6. The FGMF offered units in classes including the following:

   (a) from 26 August 2019 until around 15 January 2024, the First Guardian Pan Asia Class;

   (b) from 26 August 2019 until around 29 September 2021, the First Guardian Trade Finance Class;

(c) from 20 April 2020, the First Guardian Growth Strategies Class (**Growth Class**);

(d) from 30 April 2020, the First Guardian Defensive Strategies Class (**Defensive Class**);

(e) from 30 April 2020, the First Guardian **Australian Development Class**;

(f) from 25 May 2020, the First Guardian Diversified Strategies Class (**Diversified Class**);

(g) from 1 June 2020, the First Guardian **Global Income Class**;

(h) from 1 November 2020 until 20 June 2024, the First Guardian Trulet Innovation Class;

(i) from August 2021 until 17 May 2024, the First Guardian Absolute Equities Class;

(j) from 1 July 2022 (through the allocation of assets by the Growth Class, Defensive Class and/or Diversified Class), the First Guardian Private Equity Class; and

(k) from 17 May 2024 (through the consolidation of the First Guardian Absolute Equities Class and the First Guardian Private Equity Class), the First Guardian Global Equity Class.

7. Between August 2019 and April 2025, Falcon received contributions of over $600 million into the FGMF.

8. As at or around 9 April 2025, the following units were on issue to unitholders in the FGMF:

FGMF unit class	Units on Issue as at April 2025
First Guardian Defensive Strategies Class	61,029,997
First Guardian Diversified Strategies Class	95,646,725
First Guardian Growth Strategies Class	216,183,819
First Guardian Australian Development Class	12,306,003
First Guardian Global Income Class	8,374,915
First Guardian Global Equity Class	1,309,095

A2.2 Underlying Funds

9. Between 2019 and 2025, Falcon was the trustee of investment funds including the following (**Underlying Funds**):

   (a) the First Guardian Global Income Fund (**FG Global Income Fund**);

   (b) the First Guardian Australian Development Fund (also known as the First Guardian Global Property Fund) (**FG Global Property Fund**);

   (c) the First Guardian Global Equity Fund (**FG Global Equity Fund**), which from in or around May 2024 incorporated each of:

      (i) the First Guardian Pan Asia Fund (**FG Pan Asia Fund**);

      (ii) the First Guardian Absolute Equities Fund (**FG Absolute Equities Fund**);

      (iii) the Fintech Opportunities Fund, later renamed the First Guardian Private Equity Fund (**FG Private Equity Fund**);

   (d) the Trulet Innovation Fund;

   (e) the First Guardian Trade Finance Fund (**FG Trade Finance Fund**), later renamed to the Income Solutions Fund;

   (f) the Rajomon Opportunities Fund;

   (g) the Boutique Development Fund, later renamed the Australian Opportunities Fund; and

   (h) the First Guardian Gold & Precious Metals Fund (**FG Gold & Precious Metals Fund**).

10. Each of the Underlying Funds was constituted:

   (a) as an unregistered wholesale open-ended unit trust;

   (b) (except for the FG Trade Finance Fund) on terms that a unitholder held a beneficial interest in the property of the Underlying Fund, in proportion to the units held; and

   (c) in the case of the FG Trade Finance Fund, on terms that a member's interest in an investment account would be as a tenant in common with all other members in that account in proportion to the amount of their application money invested

into that account, and that the member had a beneficial interest only in the specific and particular assets in which they had invested.

Particulars

The FG Global Income Fund was established by a constitution dated 14 June 2020.

The FG Global Property Fund was established by a constitution dated 3 July 2017.

The FG Pan Asia Fund was established by a constitution dated 9 August 2019.

The FG Private Equity Fund was established by a constitution dated 1 July 2020.

The FG Absolute Equities Fund was established by a constitution dated 4 June 2021.

The Trulet Innovation Fund was established by a constitution dated 23 March 2018.

The FG Trade Finance Fund was established by a constitution dated 23 March 2018, and in respect of which an Information Memorandum was issued by Falcon on 2 February 2018.

The Rajomon Opportunities Fund was established by a constitution dated 14 May 2020.

The FG Gold & Precious Metals Fund was established by a constitution dated 3 April 2017.

A3. Investments by the FGMF in the Underlying Funds

A3.1 Investments by the FGMF

11. At all relevant times, Falcon transferred the contributions of money in the FGMF received in respect of each class of FGMF units into accounts held by Falcon for one or more of the Underlying Funds, and obtained units issued by the respective Underlying Fund, as follows:

FGMF unit class	Underlying Funds
First Guardian Defensive Strategies Class	All Underlying Funds (other than Trulet Innovation Fund)
First Guardian Diversified Strategies Class	All Underlying Funds (other than Trulet Innovation Fund)
First Guardian Growth Strategies Class	All Underlying Funds (other than Trulet Innovation Fund)
First Guardian Australian Development Class	FG Global Property Fund
First Guardian Global Income Class	FG Global Income Fund
First Guardian Pan Asia Class	FG Pan Asia Fund

FGMF unit class	Underlying Funds
First Guardian Absolute Equities Class	FG Absolute Equities Fund
First Guardian Private Equity Class	FG Private Equity Fund
First Guardian Global Equity Class	FG Global Equity Fund
First Guardian Trulet Innovation Class	Trulet Innovation Fund
First Guardian Trade Finance Class	FG Trade Finance Fund

12. First Guardian Capital Pty Ltd (in liquidation) (ACN 073 622 741) (**FG Capital**) is a company:

(a) of which Selimaj was a director and sole shareholder at all times since 16 April 1996;

(b) of which Anderson was a director from 17 February 2018 to 13 February 2025;

(c) that since 10 May 2013, was an authorised representative of Falcon;

Particulars

FG Capital was appointed pursuant to s 916A of the Corporations Act and granted authorised representative number 438891 (F1J.0003.0001.0606).

(d) that at all relevant times since 24 August 2019, was:

(i) appointed by Falcon as the investment manager of:

(A) the FGMF; and

(B) the Underlying Funds (with the exception of the Rajomon Opportunities Fund); and

(ii) therefore, an agent of Falcon as responsible entity of the FGMF, appointed pursuant to s 601FB(2) of the Corporations Act.

Particulars

(A) FG Capital was appointed investment manager of the FGMF pursuant to a written Investment Management Agreement between Falcon as trustee for the FGMF and FG Capital dated 24 August 2019, signed by Selimaj and Anderson as directors of FG Capital and signed by Selimaj and Anderson as directors of Falcon (F1J.0042.0001.0188).

(B) The role of FG Capital as investment manager of the Underlying Funds is to be inferred from the following disclosure documents issued by Falcon which:

(i) identify FG Capital as the investment manager for the following Underlying Funds:

(1) PDS for the First Guardian Australian Development Class dated 15 April 2021 (F1J.0031.0001.1165);

(2) PDS for the First Guardian Global Income Class dated 1 June 2020 (F1J.0134.0001.0047);

(3) PDS for the First Guardian Trade Finance Class dated 1 August 2021 (F1J.0134.0001.0156); and

(4) PDS for the First Guardian Gold & Precious Metal Class dated 1 February 2020 (F1J.0223.0001.018);

(5) PDS for the Absolute Equities Class dated April 2020 (F1J.0249.0020.5438); and

(ii) state that the management fees obtained by FG Capital are directly paid from the Underlying Funds:

(1) PDS for the First Guardian Defensive Strategies Class dated 30 April 2020 (DIV.0001.0003.0225).

(2) PDS for the First Guardian Growth Strategies Class dated 15 January 2023 (F1J.0024.0001.0004); and

(3) PDS for the First Guardian Diversified Strategies Class dated 15 January 2023 (F1J.0024.0001.0050).

(C) FG Capital was also identified as the investment manager in Information Memoranda published by Falcon for the FG Trade Finance Fund (2 February 2018), the FG Pan Asia Fund (1 February 2024) and the FG Global Equity Fund (18 July 2024).

(D) FG Capital was identified as the investment manager for the Trulet Innovation Fund in a letter from Falcon's solicitors dated 4 April 2024 in response to an ASIC notice (F1J.0249.0025.4357).

(E) PDS for the FG Global Property Fund dated 15 April 2021 (F1J.0031.0001.1165).

(F) Investment Strategy Paper for the FG Private Equity Fund dated January 2024 (F1J.0013.0001.0025).

(G) The investment manager for the Rajomon Opportunities Fund was Rajomon Pty Ltd.

A3.2 Duties applying to Falcon as responsible entity of FGMF and trustee of Underlying Funds

13. By reason of the matters alleged in Parts A2.2 and A3.1 above, at all relevant times, Falcon was:

(a) the responsible entity of the FGMF;

(b) trustee of the Underlying Funds; and

(c) as responsible entity of the FGMF, a unitholder in each of the Underlying Funds.

14. Further, at all material times:

    (a) Falcon acquired, directly or indirectly, with contributions of money invested into the FGMF:

        (i) units in the Underlying Funds, and by reason thereof, a beneficial interest in a share of the property of the respective Underlying Fund in proportion to the units held by it as responsible entity of the FGMF; and

        (ii) legal title in the property of the Underlying Funds; and

    (b) therefore, the beneficial and legal interests in the property of the Underlying Funds identified in subparagraph (a) were scheme property of the FGMF within the meaning of s 9 of the Corporations Act.

15. Further, any conduct or dealings by or on behalf of Falcon as trustee of any of the Underlying Funds affected or could affect the value of and investment risk attaching to:

    (a) the units issued in the relevant Underlying Fund and held by Falcon as responsible entity of the FGMF;

    (b) therefore, the class of units issued in the FGMF in respect of which the units in the relevant Underlying Fund were held by Falcon; and

    (c) therefore, the interests of the members of the FGMF holding the respective class of units in the FGMF.

16. At all relevant times:

    (a) conduct of Falcon as responsible entity of the FGMF was:

        (i) undertaken exercising powers and/or carrying out duties within the meaning and operation of s 601FC(1) of the Corporations Act; and

        (ii) subject to the duties imposed by operation of s 601FC(1) of the Corporations Act; and

    (b) conduct for and on behalf of Falcon as responsible entity of the FGMF, by each person who was an officer of Falcon, was subject to the duties imposed by operation of s 601FD(1) of the Corporations Act.

17. Further, by reason of the matters alleged in paragraphs 13 and/or 14 and/or 15 above, at all relevant times:

    (a) conduct of Falcon as trustee of the Underlying Funds or otherwise in connection with the property of the Underlying Funds was:

        (i) undertaken exercising powers and/or carrying out duties within the meaning and operation of s 601FC(1) of the Corporations Act; and

        (ii) subject to the duties imposed by operation of s 601FC(1) of the Corporations Act; and

    (b) conduct for and on behalf of Falcon, as trustee of the Underlying Funds or otherwise in connection with the property of the Underlying Funds, by each person who was an officer of Falcon, was subject to the duties imposed by operation of s 601FD(1) of the Corporations Act.

A4. Other related entities

18. First Guardian Investments Pty Ltd (ACN 601 984 641) (**FG Investments**) is a company:

    (a) incorporated on 23 September 2014;

    (b) of which Anderson was a director from 23 September 2014 to 21 April 2016 and at all times since 1 July 2016;

    (c) of which Anderson was its sole shareholder at all times since incorporation;

    (d) appointed by Falcon as the investment manager of the FG Trade Finance Fund until on or about 1 August 2021; and

    (e) which, at all material times, held six bank accounts in its name.

Particulars

The Product Disclosure Statement for the FG Trade Finance Fund issued 26 August 2019 (NWS.0012.0001.4866) identifies FG Investments as the investment manager for the FG Trade Finance Fund. A subsequent Product Disclosure Statement for the FG Trade Finance Fund issued 1 August 2021 (F1J.0134.0001.0156) identified FG Capital as the investment manager for the FG Trade Finance Fund.

19. First Guardian Holdings Pty Ltd (ACN 619 945 087) (**FG Holdings**) is a company:

(a) incorporated on 22 June 2017;

(b) of which Anderson was a director and secretary at all material times since incorporation, and its sole director since 1 September 2020;

(c) with shareholdings as follows:

(i) between 22 June 2017 and 15 July 2021:

(A) Anderson as to 60%;

(B) Xiao (Mandy) Fu and Jeremy Koo as to 20% each;

(ii) at all material times from 15 July 2021, First Guardian Innovation Fund GP Pty Ltd as to 100%, which was a company:

(A) registered on 29 December 2016;

(B) known from 13 September 2024 as Even Keel Capital GP Pty Ltd;

(C) of which Anderson was the sole director, secretary and shareholder at all material times;

(d) which had Anderson's residential address as its principal place of business since 26 November 2021 and its registered office since 2 December 2021;

(e) which holds one bank account, of which Anderson and Xiao (Mandy) Fu are the authorised signatories; and

Particulars

ANZ account number 013128 411009114.

(f) placed into liquidation on 19 March 2025.

B. MISREPRESENTATIONS IN FGMF PRODUCT DISCLOSURE STATEMENTS

B1. Product Disclosure Statements issued by Falcon

20. From 2019 and from time to time, Falcon issued Product Disclosure Statements (**PDSs**) for the FGMF, within the meaning of Pt 7.9 of the Corporations Act, for the offer to retail clients of units in:

    (a) the Defensive Class;

    (b) the Diversified Class;

    (c) the Growth Class;

    (d) the Australian Development Class; and

    (e) the Global Income Class.

Particulars

(A) PDSs for the Defensive Class were issued on 30 April 2020 (DIV.0001.0003.0225), 1 March 2021 (NWS.0013.0001.3898), 1 April 2021 (F1J.0166.0001.1747), 1 August 2021 (F1J.0221.0001.0609), 1 July 2022 (Q2U.1004.0001.0531), 15 November 2022 (DRS.0013.0004.6759), 3 April 2023 (ITP.0016.0001.7118) and 15 January 2024 (F1J.0024.0001.0096).

(B) PDSs for the Diversified Class were issued on 25 May 2020 (NWS.0013.0001.5759), 1 March 2021 (NWS.0013.0001.4003), 1 April 2021 (F1J.0166.0001.1857), 1 May 2021 (NWS.0013.0001.6054), 1 July 2022 (Q2U.1004.0001.0477), 15 November 2022 (ITP.0016.0001.4588), and 3 April 2023 (ITP.0016.0001.7826).

(C) PDSs for the Growth Class were issued on 30 April 2020 (NWS.0013.0001.5667), 30 September 2020 (NWS.0012.0001.1909), 1 March 2021 (NWS.0013.0001.3957), 1 April 2021 (F1J.0166.0001.1903), 1 May 2021 (NWS.0013.0001.6008), 1 August 2021 (F1J.0221.0001.0655), 1 July 2022 (Q2U.1004.0001.0423), 15 November 2022 (ITP.0016.0001.4637), 3 April 2023 (F1J.0032.0001.1994) and 15 January 2024 (F1J.0024.0001.0004).

(D) PDSs for the Australian Development Class were issued on 15 April 2021 (F1J.0031.0001.1165) and 1 March 2022 (ITP.0016.0001.5037).

(E) A PDS for the Global Income Class was issued on 1 August 2021 (ITP.0016.0001.8074).

21. Each of the PDSs referred to in paragraph 20:

(a) was a disclosure document for the purposes of Pt 7.9 of the Corporations Act;

(b) was prepared by Falcon; and

(c) was:

(i) on or around the respective date each PDS was issued, made accessible to members of the FGMF by Falcon on its website (www.firstguardiancapital.com); and

(ii) from the respective date each PDS was issued, until at least the next date on which another PDS (if any) was issued for that Class:

(A) given by Falcon to:

(I) trustees of superannuation platforms that were considering whether to approve, or had approved, the availability of that Class for investment by their members; and/or

(II) financial advisers upon request; and

(B) therefore, made available by Falcon to prospective investors in the FGMF who were members of the superannuation platforms and/or clients of the financial advisers referred to in the preceding sub-paragraphs.

Particulars

(A) The PDSs referred to in paragraph 20 were distributed by email on behalf of Falcon by Anderson, Tanisha Maugi (Investment Analyst) and Jon Haggerty (Investment Analyst), and from an email address “customercare@firstguardiancapital.com”.

(B) The PDSs were sent to financial advisers including:

(i) Empire Wealth Group Australia;

(ii) Venture Egg;

(iii) AHR Private Wealth;

(iv) Walker Partners (Aust) Pty Ltd;

(v) Ascend Financial Group;

(vi) Reilly Financial; and

(vii) Sydney Financial Group.

(C) The PDSs were sent to representatives of superannuation platform trustees and promoters including:

(i) Diversa Trustees Limited;

(ii) Netwealth Investments Limited;

(iii) Equity Trustees Superannuation Limited;

(iv) HUB24 Limited;

(v) Iress Limited; and

(vi) New Quantum.

22. By reason of the matters pleaded in paragraph 21 above, Falcon:

(a) in giving each of the PDSs referred to in paragraph 20 to superannuation platform trustees and/or financial advisers, intended that, or was reckless as to whether, those persons would give or make available the PDSs to prospective investors who would or may rely on the information in them;

(b) further or alternatively, in making available each of the PDSs referred to in paragraph 20 to superannuation platform trustees, financial advisers and/or prospective investors, intended that or was reckless as to whether those persons would or may rely on the information in them.

Particulars

Falcon's state of mind is inferred from the conduct of its agents and employees (as alleged in paragraph 21 above) in distributing the PDSs for the FGMF with the intention of promoting the FGMF, making the FGMF available for investment through superannuation platforms, and soliciting investments in the FGMF from retail clients through their financial advisers.

B2. Security Representations

23. The PDS issued by Falcon for the Global Income Class (as particularised in paragraph 20 above) at all material times from 1 August 2021 stated that:

(a) the Global Income Class provided investors with an opportunity to access returns from a diversified portfolio of secured loans, receivables and income producing assets;

(b) the FG Global Income Fund would hold a portfolio of secured loans that met Falcon's credit criteria;

(c) the investment strategy for the Global Income Class, to be carried out by FG Capital or FG Investments, was based on providing investors with direct exposure to a portfolio of secured loans; and

(d) the Global Income Class would employ structures to serve as collateral for any loan including third party valuations of all security assets, execution of mortgage documents over land and directors and/or personal guarantees where required, and registration of general security over the project specific development companies.

24. By the statements alleged in paragraph 23 above, Falcon represented, in relation to the Global Income Class of the FGMF, at all material times from 1 August 2021 that (**Security Representations**):

(a) loans held by Falcon as trustee for the FG Global Income Fund were secured loans;

(b) Falcon as trustee for the FG Global Income Fund had adequate security over any assets it held in that capacity.

25. The assets or investments held, or transactions entered into, by Falcon as trustee for the FG Global Income Fund included:

(a) from around 19 November 2020, its interests arising from the Rogue Traders payments and/or the Rogue Traders loan agreement that were made from property of the FG Global Income Fund, as pleaded in Part C1.2 below;

(b) from around 13 September 2021, its interest in the Fox Friday payments that were made from property of the FG Global Income Fund, as pleaded in Part C2.3 below;

(c) from around 27 July 2021, its interests arising from the Tax E payments and the Rajomon payments that were made from property of the FG Global Income Fund, as pleaded in Part C3 below;

(d) from 22 May 2024, its interests in the Rajomon Fyansford Loan Agreement, as pleaded in Part C3.3 below;

(e) from around 16 November 2022, its interests arising from the Maleo Australia payments that were made from property of the FG Global Income Fund, as pleaded in Part C5.4 below;

(f) from around 27 May 2022, its interests arising from the Palmer Australia payments that were made from property of the FG Global Income Fund and/or the Palmer loan document, as pleaded in Part C5.5 below;

(g) from around 21 March 2024, its interest in the Briix Property Assignment Agreement, as pleaded in Part C6.1 below;

(h) from around 21 March 2024, its interest in the Palmer Assignment Agreement, as pleaded in Part C6.3 below; and

(i) from around 2 September 2020, its interests arising from the FG Holdings payments that were made from property of the FG Global Income Fund, as pleaded in Part C7.1 below.

26. Contrary to the Security Representations, the assets, investments or transactions pleaded in paragraph 25 above:

(a) were not secured loans; and

(b) were not the subject of adequate security in favour of Falcon as trustee of the Global Income Fund.

Particulars

ASIC refers to and repeats the allegations and particulars in respect of:

(A) the initial Rogue Traders loan and the Rogue Traders loan agreement, at paragraphs 41 to 49 below;

(B) the Fox Friday payments, at paragraphs 64 to 66 and 74 to 75 below;

(C) the Tax E payments and Rajomon payments, at paragraphs 78 to 108 below;

(D) the Rajomon Fyansford Loan Agreement, at paragraphs 99 to 105 below;

(E) the Maleo Australia payments, at paragraphs 164 to 167 below;

(F) the Palmer Australia payments and/or the Palmer loan document, at paragraphs 175 to 181 below;

(G) the Briix Property Assignment Agreement, at paragraphs 187 to 194 below;

(H) the Palmer Assignment Agreement, at paragraphs 210 to 217 below; and

(I) the FG Holdings payments, at paragraphs 228 to 231 below.

27. By reason of the matters alleged in paragraphs 25 and 26 above, from at least 1 August 2021 (alternatively the dates respectively alleged in paragraph 25), the Security Representations were misleading and deceptive.

28. By reason of the matters alleged in paragraph 23 to 27 above, the PDS issued by Falcon for the Global Income Class:

    (a) contained misleading or deceptive statements; and

    (b) was therefore defective within the meaning of s 1021B(1)(a) of the Corporations Act.

29. By reason of the matters alleged in paragraphs 20 to 22 and 28 above, Falcon, in relation to the PDS that was published or made available in the period from 1 August 2021, contravened:

    (a) s 1021E(1) of the Corporations Act;

    (b) further or alternatively, s 1021E(2) of the Corporations Act.

B3. Investment Representations

30. The PDSs issued by Falcon:

    (a) for the Australian Development Class, from 15 April 2021, stated that an investment committee was responsible for making all decisions relating to the investments in property developments by the FG Global Property Fund;

    (b) for each of the Growth Class, Diversified Class, Defensive Class and Australian Development Class, from 30 April 2020, each stated that:

        (i) each of the Growth Class, Diversified Class and Defensive Class would invest in units in a number of Underlying Funds as deemed appropriate by the investment manager and investment committee;

        (ii) Falcon and/or FG Capital ensured that they blended investment managers with different, but complementary, investment styles and strategies;

        (iii) each underlying fund manager had a particular role to play within the FGMF;

        (iv) the Growth Class, Diversified Class and Defensive Class:

            (A) would not be invested in companies whose business activities involve alcoholic beverages; and

(B) avoided investment that supports alcohol and tobacco.

Particulars

(A) The statements made in sub-paragraph (a) were contained in the PDSs issued by Falcon for the Australian Development Class on 15 April 2021 and 1 March 2022.

(B) The statements made in sub-paragraph (b)(i) were contained in the PDSs issued by Falcon for the Growth Class, Diversified Class and Defensive Class between 30 April 2020 and 3 April 2023, on the dates particularised in paragraph 20 above.

(C) The statements made in sub-paragraph (b)(ii) were contained in the PDSs issued by Falcon for the Growth Class, Diversified Class and Defensive Class between 30 April 2020 and 15 November 2022, on the dates particularised in paragraph 20 above.

(D) The statements made in sub-paragraph (b)(iii) were contained in the PDSs issued by Falcon for the Growth Class, Diversified Class and Defensive Class between 30 April 2020 and 3 April 2023, on the dates particularised in paragraph 20 above.

(E) The statements made in sub-paragraph (b)(iv) were contained in the PDSs issued by Falcon for the Growth Class, Diversified Class and Defensive Class between 30 April 2020 and 15 November 2022 (in respect of sub-para (b)(iv)(A)) and between 30 April 2020 and 3 April 2023 (in respect of sub-para (b)(iv)(B)), on the dates particularised in paragraph 20 above.

31. By the statements pleaded in paragraph 30 above, on and from the dates referred to in the particulars to that paragraph, Falcon represented:

(a) in relation to the Growth Class, Diversified Class, Defensive Class and Australian Development Class, that all investments made by Falcon through the Underlying Funds were reviewed and deemed appropriate by an Investment Committee (**Investment Committee Representation**); and

(b) in relation to the Growth Class, Diversified Class, and Defensive Class, that:

(i) there was a dedicated and separate investment manager for each of the Underlying Funds (**Investment Manager Representation**); and

(ii) the FGMF and its Underlying Funds did not make any investments in companies that operated businesses involving alcoholic beverages (**Alcohol Investment Representation**).

32. Contrary to the Investment Committee Representation:

    (a) the Investment Committee did not review or deem appropriate Falcon's investments until at least July 2024, as alleged in paragraph 248 below; and

    (b) Anderson made the determinations for all investments (other than listed equities) as alleged in paragraphs 245 to 247 below.

33. Contrary to the Investment Manager Representation:

    (a) FG Capital was appointed by Falcon as investment manager for all of the Underlying Funds (except for the Rajomon Opportunities Fund) as alleged in paragraph 12 above;

    (b) there was no dedicated or separate investment manager for each of the Underlying Funds; and

    (c) Anderson made the determinations for all investments (other than listed equities) as alleged in paragraphs 245 to 247 below.

34. Contrary to the Alcohol Investment Representation:

    (a) at all material times, each of the Growth Class, Diversified Class and Defensive Class held units in the FG Global Income Fund;

    (b) from around April 2021 to March 2024, Falcon paid or caused to be paid funds out of the property of the FGMF and the FG Global Income Fund to Fox Friday Brewing Pty Ltd, as alleged in Part C2.3 below; and

    (c) the business conducted by Fox Friday Brewing involved the production and sale of alcoholic beverages.

35. By reason of the matters alleged in paragraphs 32 to 34 above, each of the Investment Committee Representation, Investment Manager Representation and Alcohol Investment Representation was misleading and deceptive.

36. By reason of the matters alleged in paragraphs 30 to 34 above, each of the PDSs issued by Falcon in the time periods alleged in those paragraphs for the Growth Class, Diversified Class, Defensive Class and Australian Development Class:

    (a) contained misleading or deceptive statements; and

(b) was therefore defective within the meaning of s 1021B(1)(a) of the Corporations Act.

37. By reason of the matters alleged in paragraphs 20 to 22 and 36 above, Falcon, in relation to each such defective PDS that was published or made available during the period from 1 November 2020 (**Contravention Period**), contravened:

(a) s 1021E(1) of the Corporations Act;

(b) further or alternatively, s 1021E(2) of the Corporations Act.

C. INVESTMENTS MADE THROUGH UNDERLYING FUNDS

C1. Rogue Traders Group

C1.1 Anderson's role and interest in Rogue Traders Group

38. **Rogue Traders Group** Pty Ltd (in liquidation) is a company:

(a) incorporated on 9 June 2020;

(b) named Chancery Lane Holdings Pty Ltd until 1 February 2021;

(c) of which Anderson was a director from 31 January 2021 to 20 March 2025;

(d) of which 4,666,695 of the 6,666,707 ordinary shares were held by Anderson or FG Holdings from on or about 30 March 2021 (**Anderson Rogue Traders shares**);

Particulars

(A) Between about 30 March 2021 and 17 November 2022, Anderson was recorded as the owner of the 4,666,695 shares in ASIC's register by document no. 7EBG07131.

(B) On or about 4 November 2022, a request for correction was made by Rogue Traders Group to correct document no. 7EBG07131 to record that the shares were held by FG Holdings.

(C) The request for correction was received by ASIC on 8 November 2022, processed on 17 November 2022 and given an effective date of 30 March 2021.

(e) placed into voluntary administration on 25 September 2025; and

(f) placed into liquidation on 23 December 2025.

39. By reason of the matters alleged in paragraph 38 above, Anderson:

    (a) from 30 March 2021, had a material personal interest in Rogue Traders Group; and

    Particulars

    Anderson had a direct personal interest by reason of his shareholding and/or an indirect interest through his shareholding in FG Holdings as pleaded in paragraph 19 above.

    (b) from 31 January 2021, owed Rogue Traders Group a duty to act in its interests.

40. Anderson was in a position of actual or potential conflict between his duties to Falcon and the members of the FGMF as pleaded at paragraphs 16(b) and 17(b) above, and:

    (a) from 31 January 2021, his duties to Rogue Traders Group as pleaded at paragraph 39 above; and

    (b) from 30 March 2021, his interests in Rogue Traders Group as pleaded at paragraph 39 above

    (the **Anderson Rogue Traders conflicts**).

C1.2 Payments to Rogue Traders Group

41. Between 29 June 2020 and 31 August 2021, Falcon paid or caused to be paid at least $13,108,000 (including $10,308,000 in the Contravention Period) out of the property of one or more of the Underlying Funds to Rogue Traders Group (the **initial Rogue Traders payments**).

    Particulars

    (A) Payments totalling $3,530,000 were made from accounts in the name of Falcon as trustee for the FG Global Income Fund (accounts ending in 5177 and 5185) to an account in the name of Chancery Lane Holdings Pty Ltd (account ending in 4091).

    (B) Payments totalling $300,000 were made from an account in the name of Falcon as trustee for FG Trade Finance Fund (account ending in 4211) to an account in the name of Rogue Traders Group (account ending in 4091).

    (C) Payments totalling $9,278,000 (including $6,478,000 during the Contravention Period) were made from accounts in the name of FG Holdings (account ending in 9114) and FG Investments (account ending in 4094) to an account in the name of Rogue Traders Group (account ending in 4091) in circumstances where at least the majority of those funds had been received by FG Holdings and FG Investments from Underlying Funds.

42. Falcon made the initial Rogue Traders payments:

    (a) without documentation of any agreement that governed or purported to govern the terms of the initial Rogue Traders payments;

    (b) without obtaining any security from Rogue Traders Group in respect of the initial Rogue Traders payments;

    (c) in circumstances where, from 31 January 2021, alternatively 30 March 2021, the Anderson Rogue Traders conflicts existed with respect to the terms, making of and recovery of those payments;

    (d) at the same time as making:

        (i) the Security Representations (from 1 August 2021), in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above);

        (ii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above); and

    (e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the initial Rogue Traders payments would be in the best interests of the FGMF and its members.

43. On or around 16 September 2021, Falcon in its capacity as trustee of the FG Global Income Fund and Rogue Traders Group entered into a loan agreement (**Rogue Traders loan agreement**), which contained terms that:

    (a) from 19 November 2020, the FG Global Income Fund would provide advances of funds up to $12 million to Rogue Traders Group (clause 3.1, items 1 and 2 of the schedule);

    (b) Rogue Traders Group would pay interest at specified rates (clause 5.1; item 7 of the schedule);

    (c) on or before 30 June 2023, Rogue Traders Group was required to:

        (i) repay and finally discharge the Rogue Traders loan agreement; and

(ii) pay any interest accrued and not then paid, and all other amounts payable under the Rogue Traders loan agreement and unpaid (clause 6.1; item 6 of the schedule);

(d) the loan facility would be secured by a first ranking general security agreement over all the assets and undertaking of Rogue Traders Group and its related entities (clause 4, item 9 of the schedule); and

(e) it was a condition precedent to the FG Global Income Fund's obligation to provide funds under the Rogue Traders loan agreement that Rogue Traders Group and any other provider of security:

(i) validly execute all documents required to give effect to any security interest; and

(ii) provide all information required by the FG Global Income Fund to perfect any security interest (clause 3.3).

Particulars

The Rogue Traders loan agreement is in writing and was executed by Anderson as director of Falcon (as trustee for the FG Global Income Fund) and Anderson and Scott Pickett as directors of Rogue Traders Group.

44. Following the entry into the Rogue Traders loan agreement:

(a) Rogue Traders Group did not validly execute documents giving effect to or otherwise provide security to Falcon; and

(b) by reason thereof:

(i) the condition precedent pleaded at paragraph 43(e) above was not satisfied; and

(ii) Falcon as trustee of the FG Global Income Fund had no obligation to advance funds to Rogue Traders Group under the Rogue Traders loan agreement.

45. Between 1 November 2021 and 20 August 2024, Falcon in its capacity as trustee of the FG Global Income Fund paid to Rogue Traders Group amounts totalling at least $3,620,000 (**further Rogue Traders payments**).

Particulars

The further Rogue Traders payments were made from an account in the name of Falcon as trustee for FG Global Income Fund (account

ending in 5185) to an account in the name of Rogue Traders Group (account ending in 5841).

46. Rogue Traders Group or a related entity paid:

(a) between 2 May 2022 and 18 March 2024, at least $1,314,770.02 to FG Holdings;

Particulars

(A) Payments totalling $1,061,916.67 were made from accounts in the name of Rogue Traders Group (accounts ending in 5841 and 6642) to an account in the name of FG Holdings (account ending in 9114).

(B) Payments totalling $252,853.35 were made from an account in the name of Rogue Traders Management (account ending in 9382) to an account in the name of FG Holdings (account ending 9114).

(b) on 30 December 2022, at least $1,000,000 to Falcon as trustee of the FG Private Equity Fund; and

Particulars

Payments totalling at least $1 million were made from an account in the name of Rogue Traders Group (account ending in 6642) to an account in the name of Falcon trading as FG Private Equity Fund (account ending in 8286).

(c) from time to time between 30 September 2021 and 19 December 2024, $2,317,676 to Falcon as trustee for the FG Global Income Fund.

Particulars

The payments were made from an account in the name of Rogue Traders Group (account ending in 5841) to an account in the name of Falcon as trustee for FG Global Income Fund (account ending in 5185).

47. Rogue Traders Group did not repay all of the initial Rogue Traders payments and the further Rogue Traders payments, on or before 30 June 2023 or since.

C1.3 Falcon contraventions

(1) Undocumented, unsecured and conflicted payments

48. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the FG Global Income Fund in the circumstances pleaded in paragraphs 13 to 17 above, would have:

(a) not made the initial Rogue Traders payments without having ensured that the terms on which the initial Rogue Traders payments were to be made by Falcon were appropriately documented;

(b) not made any of the initial Rogue Traders payments or the further Rogue Traders payments without having ensured that:

(i) Rogue Traders Group provided adequate security in respect of any such payments;

(ii) adequate due diligence had been undertaken into Rogue Traders Group's business or its capacity to meet its financial obligations in respect of the initial Rogue Traders payments or the Rogue Traders loan agreement;

(iii) all conditions precedent to the Rogue Traders loan agreement were satisfied before funds were paid to Rogue Traders Group;

(iv) any payments were not made in terms or in circumstances which were inconsistent with, or rendered misleading:

(A) the Security Representations; and

(B) the Investment Committee Representation; and

(v) any decision to pay funds to Rogue Traders Group was made:

(A) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Rogue Traders conflicts;

(B) with disclosure of the Anderson Rogue Traders conflicts to members of the FGMF, and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7);

(C) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Rogue Traders conflicts and the steps which Falcon determined were required to address or manage those conflicts.

49. Before making the initial Rogue Traders payments or the further Rogue Traders payments, Falcon did not take each or any of the steps pleaded in paragraph 48 above.

50. By reason of the matters pleaded in paragraphs 48 and 49 above, Falcon, in relation to the initial Rogue Traders payments and the further Rogue Traders payments made during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

(2) Related party benefits

51. At all material times, by reason of being a director of Falcon, Anderson was a related party of Falcon within the meaning and operation of s 228(2)(a) of the Corporations Act (as applied and modified by s 601LA).

52. Further, by reason of the matters alleged in paragraph 38 above:

(a) Anderson controlled Rogue Traders Group within the meaning of s 50AA of the Corporations Act; and

(b) Rogue Traders Group was thereby a related party of Falcon within the meaning and operation of s 228(2)(a) and (4) of the Corporations Act (as applied and modified by s 601LA).

53. In the premises of paragraphs 14, 41 to 45, 51 and 52 above:

(a) on each occasion that Falcon made any of the initial Rogue Traders payments and the further Rogue Traders payments, Falcon gave a financial benefit to Rogue Traders Group within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

(b) those payments were financial benefits given by Falcon to a related party which, by reason of the matters alleged in paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, could have endangered the scheme property of the FGMF; and

(c) Falcon did not obtain the approval of the members of the FGMF for the giving of those financial benefits to Rogue Traders Group in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

54. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the initial Rogue Traders payments and the further Rogue Traders

payments during the Contravention Period, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

C2. Fox Friday Brewing

C2.1 Anderson's role and interest in Fox Friday Brewing

55. **Humulus** Holdings Pty Ltd is a company of which:

    (a) the sole shareholder was:

        (i) Anderson from 19 April 2018 until 28 February 2021; and

        (ii) Anderson's wife, Fonny **Meilia** from 28 February 2021; and

    (b) the directors and company secretaries were:

        (i) Anderson, as sole director and company secretary, from 30 April 2020 until 28 February 2021; and

        (ii) both Meilia and Anderson from 28 February 2021.

56. On 19 February 2021, Anderson on behalf of Humulus agreed a term sheet with **Hoppin** Bull Pty Ltd as Trustee for the B&S Hooper Family Trust trading as Fox Friday Craft Brewery for investment in a brewery business called Fox Friday (**Fox Friday term sheet**).

Particulars

The Fox Friday term sheet was dated 19 February 2021 and was executed by Anderson on behalf of Humulus and Benn Hooper on behalf of Hoppin.

57. There were terms of the Fox Friday term sheet that:

    (a) the Fox Friday business would be held in a new company;

    (b) Anderson would be a director and chief financial officer of the new company;

    (c) Humulus would make an initial contribution to the new company of $900,000 in equity over 6 months with additional follow-on funding available via either debt or equity (clause 15);

    (d) Hoppin would make an initial contribution of all existing assets of Fox Friday, including an existing brewery site, intellectual property and brand assets (clause 15);

(e) Humulus would hold 45% of the shares in the new company and Hoppin would hold 55% of the shares (clause 17);

(f) Anderson would procure or warranted that the FG Global Income Fund would arrange additional loan funding:

(i) of up to $1.5 million to be advanced to the new company on an unsecured basis; and

(ii) with interest of 6% per annum payable semi-annually and repayment based on terms to be agreed by the directors of the new company (clause 18); and

(g) Anderson was to be paid $30,000 annually for his role as director and chief financial officer (clause 29).

58. On 22 February 2021:

(a) **Fox Friday Brewing** Pty Ltd was incorporated;

(b) Anderson was appointed as a director of Fox Friday Brewing; and

(c) Humulus obtained 450 of the 1000 ordinary shares in Fox Friday Brewing (the **Humulus Fox Friday shareholding**).

59. By reason of the matters alleged in paragraphs 55 to 58 above, at all relevant times from 22 February 2021, Anderson:

(a) had a material personal interest in Fox Friday Brewing; and

(b) owed Fox Friday Brewing a duty to act in its interests.

Particulars

Anderson's interest in Fox Friday Brewing arose from:

(A) Anderson being the sole shareholder of Humulus, which held 450 of 1000 ordinary shares in Fox Friday Brewing, until 24 February 2021;

(B) Anderson's wife being the sole shareholder of Humulus after 24 February 2021; and

(C) Anderson being appointed and remunerated as CFO of Fox Friday Brewing.

60. At all relevant times from 22 February 2021, Anderson was in a position of actual or potential conflict (**Anderson Fox Friday conflicts**) between:

    (a) his duties to Falcon and the members of the FGMF as pleaded at paragraphs 16(b) and 17(b) above; and

    (b) his duties to and/or interest in Fox Friday Brewing as pleaded at paragraph 59 above.

C2.2 Agreements between Humulus and Fox Friday Brewing

61. On or around 17 August 2021, Humulus and Fox Friday Brewing entered into a loan agreement (**Humulus loan agreement**), of which there were terms that:

    (a) Humulus would lend Fox Friday Brewing an amount up to, but not exceeding $10,000,000 (clause 2.1; definition of Loan in clause 1.1); and

    (b) Fox Friday Brewing would repay all moneys owed under the loan agreement and any other finance document on 17 August 2026 (clause 4.1; definition of Termination Date in clause 1.1).

Particulars

(A) The Humulus loan agreement is in writing.

(B) It was executed by Anderson, purportedly as director of Humulus Holdings and as director of Fox Friday Brewing, and by Benn Hooper as director of Fox Friday Brewing.

62. On or around 17 August 2021, Humulus and Fox Friday Brewing executed a general security agreement (**Humulus GSA**), pursuant to which Fox Friday purported to grant a general security interest over all of its present and after-acquired personal property to Humulus.

Particulars

(A) The Humulus GSA is in writing.

(B) It was executed by Anderson, purportedly as director of Humulus Holdings and as director of Fox Friday Brewing, and by Benn Hooper as director of Fox Friday Brewing.

63. On or around 17 August 2021, Fox Friday Brewing and Humulus entered into a share subscription deed, pursuant to which:

    (a) Humulus agreed to subscribe for 450 ordinary shares in Fox Friday Brewing for a subscription price of $900,000; and

(b) Fox Friday Brewing agreed to issue the 450 ordinary shares upon payment of the subscription price.

Particulars

(A) The Humulus share subscription deed is in writing.

(B) It was executed by Anderson, purportedly as director of Humulus and as director of Fox Friday Brewing, and by Benn Hooper as director of Fox Friday Brewing.

C2.3 Payments to Fox Friday Brewing

64. From 27 April 2021 to 2 September 2024, Falcon paid or caused to be paid out of the property of the Underlying Funds to Fox Friday Brewing at least $29,406,000.

Particulars

(A) At least $28,955,000 in payments were made directly from accounts in the name of Falcon as trustee for FG Global Income Fund (accounts ending in 5185 and 5177) to an account in the name of Fox Friday Brewing (account ending in 3361).

(B) At least $451,000 in payments were made from an account in the name of FG Holdings (account ending 9114). The source of funds in the FG Holdings account at the time of those payments was from the Underlying Funds.

65. Further, between April 2021 to 8 November 2021:

(a) Falcon paid or caused to be paid out of the property of Underlying Funds to Humulus at least $1,364,400; and

(b) Humulus transferred those funds to Fox Friday Brewing.

Particulars

The payments were made in the period from in or around April 2021 to November 2021, from an account in the name of FG Holdings (account ending in 9114) to an account in the name of Humulus (account ending in 8915). The source of funds in the FG Holdings account at the time of those payments was from the Underlying Funds.

66. Falcon made the payments alleged in paragraphs 64 and 65 above (**Fox Friday payments**):

(a) without documentation of any agreement that governed or purported to govern the terms on which the Fox Friday payments were made, including any rights to repayment;

(b) without obtaining any security from Fox Friday Brewing or any other party in respect of the Fox Friday payments;

(c) in circumstances where, from 22 February 2021, the Anderson Fox Friday conflicts existed with respect to the terms, making and recovery of the payments; and

(d) at the same time as making:

(i) the Security Representations, in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above);

(ii) the Alcohol Investment Representation, in circumstances which were inconsistent with, or rendered misleading, the Alcohol Investment Representation (as pleaded in paragraphs 30(b)(iv), 31(b)(ii) and 34 above);

(iii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the Fox Friday payments would be in the best interests of the FGMF and its members.

67. Between around April 2021 and December 2024, Fox Friday Brewing paid amounts totalling at least $1,929,251.82 to Falcon.

Particulars

Payments of at least $1,929,251.82 were made from an account in the name of Fox Friday Brewing (account ending in 3361) to accounts in the name of Falcon as trustee for FG Global Income Fund (account ending in 5185), FG Holdings (account ending in 9114) and FG Investments (account ending in 4094).

68. From in or around September 2021 to April 2025, the payments made by Fox Friday pleaded in paragraph 67 above were significantly less than the amounts claimed by Falcon on account of interest accruing in respect of the Fox Friday payments.

Particulars

As at 31 May 2022, monthly invoices issued by Falcon from 30 September 2021 to 31 May 2022 totalling $112,243.16 remained unpaid (FOX.001.001.2933).

As at 4 July 2023, monthly invoices issued by Falcon from 31 July 2022 to 29 June 2023 totalling $496,458 remained unpaid (FOX.001.0001.2852).

As at 3 April 2025, monthly invoices issued by Falcon from 30 December 2023 to 30 March 2025 totalling $3,068,020.88 remained unpaid (FOX.001.0002.2546).

69. On 10 November 2021, Humulus registered a financing statement on the Personal Property Securities Register against Fox Friday Brewing claiming a general security interest over all present and after-acquired property of Fox Friday Brewing (**Falcon PPSR registration**).

C2.4 False documentation of the Fox Friday loan and security

70. Further, on 5 May 2023, Falcon, further or alternatively Anderson, caused or allowed documents to be created in the form of the Humulus loan agreement and the Humulus GSA which were altered so as to replace references to Humulus Holdings with Falcon as a party to both documents.

Particulars

(A) On 5 May 2023, at 9:16am, Anderson sent Fu a Teams message instructing Fu to change the details of the lender on the Humulus loan agreement and the Humulus GSA to Falcon Capital Limited as trustee for First Guardian Global Income Fund.

(B) On 5 May 2023, at 9.23am, Anderson emailed the Humulus loan agreement and the Humulus GSA to Fu.

(C) On 5 May 2023 at 9.39am, Fu emailed to Anderson:

  (i) a document entitled 'Fox_ Friday_-_Loan_Agreement_ Guarantee _ final_clean_16.8.21_unlocked.pdf' (**revised Fox Friday loan agreement**); and

  (ii) a document entitled 'General_Security_Agreement_-_Fox_Friday_Brewing_Pty_Ltd_final_clean_16.8.21_unlocked.pdf' (**revised Fox Friday GSA**).

(D) The revised Fox Friday loan agreement:

  (i) was identical to the Humulus loan agreement in executed form, save that every reference to Humulus was replaced with a reference to Falcon; and

  (ii) thereby purported to be a loan agreement:

    (1) made between Falcon as trustee for the FG Global Income Fund and Fox Friday Brewing on 17 August 2021;

    (2) executed by Anderson and Hooper on behalf of Fox Friday Brewing on 17 August 2021; and

    (3) executed by Anderson on behalf of Falcon as trustee for the FG Global Income Fund on 17 August 2021.

(E) The revised Fox Friday GSA:

(i) was identical to the Humulus GSA in executed form save that every reference to Humulus was replaced with a reference to Falcon; and

(ii) thereby purported to be a general security agreement:

(1) made between Falcon as trustee for the FG Global Income Fund and Fox Friday Brewing on 17 August 2021;

(2) executed by Anderson and Hooper on behalf of Fox Friday Brewing on 17 August 2021; and

(3) executed by Anderson on behalf of Falcon as trustee for the FG Global Income Fund on 17 August 2021.

71. In causing or allowing the revised Fox Friday loan agreement and the revised Fox Friday GSA, Falcon, further or alternatively Anderson:

(a) knew that Hooper on behalf of Fox Friday Brewing had not executed any loan agreement or general security agreement with Falcon as trustee for the FG Global Income Fund or in any other capacity;

(b) intended that the revised Fox Friday loan agreement and the revised Fox Friday GSA would form an apparently genuine part of the financial books and records of Falcon and the FG Global Income Fund;

(c) knew that the Fox Friday payments had not been properly documented but intended the revised Fox Friday loan agreement and the revised Fox Friday GSA to disguise that fact;

(d) knew that Falcon had not entered into a loan agreement or general security agreement with Fox Friday Brewing on 17 August 2021, but nevertheless intended to disguise that fact.

Particulars

Anderson's intention is to be inferred from the emails particularised in the particulars subjoined to paragraph 70 above. As a director of Falcon, Anderson's intention is attributed to Falcon.

C2.5 Recoveries from Fox Friday

72. Fox Friday Brewing was placed into:

(a) voluntary administration on 16 April 2025; and

(b) liquidation on 5 August 2025.

73. Further to the payments received as alleged in paragraph 67 above, Falcon has recovered only $492,000 in respect of the Fox Friday payments as a total final distribution from the liquidation of Fox Friday Brewing and its related entities.

C2.6 Falcon contraventions

74. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would have not made the Fox Friday payments without having ensured that:

(a) the terms on which the Fox Friday payments were to be made by Falcon were appropriately documented;

(b) Fox Friday Brewing provided adequate security in respect of the Fox Friday payments;

(c) adequate due diligence had been undertaken into Fox Friday Brewing's business or its capacity to meet its financial obligations in respect of the Fox Friday payments;

(d) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading:

(i) the Security Representations;

(ii) the Alcohol Investment Representation; and

(iii) the Investment Committee Representation;

(e) any decision to make the Fox Friday payments was made:

(i) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Fox Friday conflicts;

(ii) with disclosure of the Anderson Fox Friday conflicts to members of the FGMF; and

(iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Fox Friday conflicts and the steps which Falcon determined were required to address or manage those conflicts.

75. Falcon did not take any of the steps pleaded in paragraph 74 above.

76. By reason of the matters pleaded in paragraphs 70 and 71 above, Falcon failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act.

77. By reason of the matters pleaded in paragraphs 74 and 75 above, Falcon, in relation to the Fox Friday payments that were made during the Contravention Period:

    (a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

    (b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C3. Rajomon

C3.1 Payments to Rajomon and Rajomon Asset Management

78. Between 10 June 2020 and 1 September 2020, Falcon paid amounts totalling approximately $1,172,000 out of the property of the Rajomon Opportunities Fund and FG Gold & Precious Metals Fund to **Rajomon Asset Management** Pty Ltd (ACN 634 787 974), of which Abdullah Guerinat was the sole director and secretary until 28 October 2022.

Particulars

(A) Between 10 June 2020 and 1 September 2020, transfers totalling $604,000 were made from an account in the name of Falcon as trustee for Rajomon Opportunities Fund (account number 426066314) to an account in the name of Rajomon Asset Management (account number 426110258).

(B) On 15 and 16 July 2020, two transfers totalling $98,000 were made from an account in the name of Falcon trading as FG Gold & Precious Metals Fund (account number 318997998) to an account in the name of Rajomon Asset Management (account number 426110258).

(C) Between 20 July 2020 and 31 August 2020, transfers totalling $470,000 were made from an account in the name of Falcon as trustee for Rajomon Opportunities Fund (account number 426066314) to an account in the name of FG Holdings (account number 411009114).

(D) Following the transfers described in paragraph (C) above, between 21 July 2020 and 31 August 2020, transfers totalling $470,000 were made from an account in the name of FG Holdings (account number 411009114) to an account in the name of FG Capital (account number 109209).

(E) $470,000 was then transferred from the FG Capital account (account number 109209) to an account in the name of Rajomon Asset Management (account number 426110258) as follows:

(i) on 22 and 23 July 2020, two transfers totalling $200,000; and

(ii) on 23 July 2020, $270,000 was transferred.

79. Rajomon Asset Management:

(a) on 22 July 2020, entered into a contract of sale for the purchase of land at 1190 Doherty Road, Tarneit in Victoria (**Tarneit Property**) for a price of $7.85 million plus GST; and

(b) on 29 August 2020, nominated as the purchaser of the Tarneit Property 1190 Doherty Rd Pty Ltd (**1190 Doherty**), of which Abdullah Guerinat was the sole director and secretary.

80. Between 8 September 2020 and 12 January 2021, Falcon paid or caused to be paid amounts from the property of the Rajomon Opportunities Fund totalling approximately $6.633 million to **Rajomon** Pty Ltd (ACN 640 689 498), of which Abdullah Guerinat was director, secretary and sole shareholder.

Particulars

The payments (including $4,288,000 during the Contravention Period) were made from an account in the name of Falcon as trustee for the Rajomon Opportunities Fund (account number 426066314) to an account in the name of Rajomon (account number 14012998).

81. From 2 October 2020, Selimaj was appointed as an operating authority on the bank account of Rajomon.

82. On and from 10 December 2020, Falcon held 51 of 100 shares issued in 1190 Doherty.

83. On 11 December 2020, Selimaj was appointed as a director of Rajomon.

84. On 28 January 2021, Falcon transferred all its shares in 1190 Doherty to Abdullah Guerinat for consideration of $51.00.

Particulars

The transfer was recorded in a share transfer form dated 28 January 2021 and signed by Abdullah Guerinat and Anderson on behalf of Falcon (F1J.0134.0001.0150).

85. On 28 April 2021, Selimaj was removed as a director of Rajomon.

86. On 9 June 2021, Selimaj was removed as an operating authority on the bank account of Rajomon.

87. Between 23 June 2021 and 7 September 2021, Falcon made payments totalling $800,000 from the property of the FG Global Income Fund and the FG Trade Finance Fund to the Rajomon Opportunities Fund, which amount was in turn paid to Rajomon Asset Management.

88. On 6 July 2021, 1190 Doherty completed the purchase of the Tarneit Property.

89. From 25 November 2022 to 8 September 2023, Falcon paid or caused to be paid a total of $2.49 million from the property of the FG Global Income Fund to Rajomon Asset Management.

Particulars

(A) Between 25 November 2022 and 17 February 2023, transfers totalling $90,000 were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account held by Rajomon Asset Management in the name of Spruce Projects Pty Ltd (account number 448502447); on 20 October 2021, Rajomon Asset Management changed its registered name to Spruce Projects Pty Ltd.

(B) Between 9 August 2023 and 8 September 2023, transfers totalling $2.4 million were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account held by Rajomon Asset Management (in the name of Spruce Projects as trustee for Spruce Projects Unit Trust (account number 255435153)).

90. Falcon made the payments to Rajomon Asset Management and Rajomon as alleged in paragraphs 78, 80, 87 and 89 above:

(a) without documentation of any agreement that governed or purported to govern the terms of those payments, including any rights to repayment or interest;

(b) without obtaining any security or proprietary interest from Rajomon Asset Management or Rajomon in respect of those payments;

(c) in respect of the payments made from the property of the FG Global Income Fund, at the same time as making:

(i) the Security Representations, in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above);

(ii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(d) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the payments would be in the best interests of the FGMF and its members.

91. Other than one payment of $55,500 on 13 April 2021, Falcon did not receive any repayment from Rajomon Asset Management or Rajomon.

C3.2 Payments to Tax E

92. On or about 17 March 2021, **Rajomon Fyansford** Pty Ltd entered into an agreement by which it was granted an option for a fee of $7.2 million to purchase the land at 335-415 Hamilton Highway, Fyansford in Victoria (**Fyansford Property**) for $37 million.

93. In around August or September 2021, Falcon, Abdullah Guerinat and **Tax E** Australia Pty Ltd reached an understanding or arrangement or agreement (**Rajomon Pass-through Arrangement**) that:

(a) Falcon as trustee of an Underlying Fund would lend funds to Tax E from time to time; and

(b) Tax E would lend all (or substantially all) of those funds to Rajomon Asset Management or Rajomon Fyansford.

Particulars

(A) The Rajomon Pass-through Arrangement was partly in writing, contained in an email from Anderson to Guerinat sent 23 August 2021, in which Anderson set out a proposed capital raising plan for the Tarneit Property and the Fyansford Property by which loans would be advanced to an entity nominated by Merhi, and Merhi would manage the allocation of funds to Rajomon projects (F1J.0166.0001.2007).

(B) The understanding or arrangement or agreement is partly to be inferred from:

(i) the Tax E payments by Falcon as alleged below;

(ii) the transfer by Tax E of all or substantially all of the Tax E payments as alleged in paragraph 96 below; and

(iii) the matters alleged in paragraph 103(a) below, by which Rajomon Fyansford acknowledged a debt for loan from Falcon of amounts in excess of payments made directly by Falcon to Rajomon Asset Management or Rajomon

Fyansford and which included amounts received by it from Tax E.

94. Between 13 September 2021 and 23 February 2024, acting in furtherance of the Rajomon Pass-through Arrangement, Falcon paid or caused to be paid $10,460,000 from the property of the FG Global Income Fund to Tax E.

Particulars

(A) Between 13 September 2021 and 28 February 2022, transfers totalling $6.2 million were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of Chenh Pty Ltd & El-Helou Pty Ltd & Ferras Merhi Pty Ltd & Rhys Reilly Pty Ltd trading as Tax E Australia (account number 033062580339) (**Tax E Account**).

(B) Between 30 September 2022 to 23 February 2024, transfers totalling $4.26 million were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of Tax E as trustee for Tax E Trust (account number 155764435) (**Tax E Trust Account**).

95. On 14 December 2021, 28 March 2023 and 24 November 2023, acting in furtherance of the Rajomon Pass-through Arrangement, Falcon paid or caused to be paid $1.2 million from the property of the FG Global Income Fund to Tax E.

Particulars

(A) On 14 December 2021:

(i) $100,000 was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086); and

(ii) a payment of $100,000 was made from an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086) to the Tax E Account.

(B) On 28 March 2023:

(i) $100,000 was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086); and

(ii) a payment of $100,000 was made from an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086) to the Tax E Trust Account.

(C) On 24 November 2023:

(i) $1 million was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of

FG Investments as trustee for First Guardian Trust (account number 405374086); and

(ii) a payment of $1 million was made from an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086) to the Tax E Trust Account.

96. Further, in accordance with the Rajomon Pass-through Arrangement, Tax E transferred all or substantially all the payments alleged in paragraphs 94 to 95 above (**Tax E payments**) to Rajomon Asset Management, Rajomon Fyansford or entities related to Abdullah Guerinat.

97. Falcon made the Tax E payments:

(a) without documentation of any agreement that governed or purported to govern the terms of the Tax E payments, including any rights to repayment or interest;

(b) without obtaining from any of Tax E, Rajomon Asset Management, Rajomon or Rajomon Fyansford any security or any proprietary interest in the Fyansford Property or otherwise in respect of the Tax E payments;

(c) at the same time as making:

(i) the Security Representations, in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above);

(ii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(d) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the Tax E payments would be in the best interests of the FGMF and its members.

98. In respect of the Tax E payments, Falcon has not received any repayments from Tax E, Rajomon Asset Management, Rajomon or Rajomon Fyansford.

C3.3 Payments to or for benefit of Rajomon Fyansford

99. On 27 and 28 July 2021, Falcon paid or caused to be paid $1,292,000 from the property of the Underlying Funds to or for the benefit of Rajomon Fyansford.

Particulars

(A) On 27 July 2021:

(i) $330,000 was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086);

(ii) $580,000 was transferred from an account in the name of Falcon as trustee for FG Trade Finance Fund (account number 319214211) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086); and

(iii) subsequent to the receipt of the transfers identified at sub-paragraphs (i) and (ii) above, $900,000 was transferred from an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086) to an account in the name of Rigby Cooke Lawyers Practice (account number 720236898) held by lawyers engaged by Rajomon Fyansford, Rigby Cooke Lawyers. The payment was recorded in the trust statement of account of Rigby Cooke Lawyers as “Fyansford FGC loan money”.

(B) Also on 27 July 2021, subsequent to the transfers identified at sub-paragraph (A) above, a total of $433,000 was transferred across three transactions from an account in the name of Falcon as trustee for FG Global Property Fund to an account in the name of FG Investments (account number 405374094).

(C) On 28 July 2021, $500,000 (including at least $392,000 received from the FG Global Property Fund) was transferred from an account in the name of FG Investments (account number 405374094) to an account in the name of Rigby Cooke Lawyers Practice (account number 720236898). The payment was recorded in the trust statement of account of Rigby Cooke Lawyers as “Fyansford FGC Part payment of option fee”.

100. On 31 January 2024, Falcon paid or caused to be paid $1.1 million from the property of the FG Global Income Fund (and/or other Underlying Funds) for the benefit of Rajomon Fyansford to the vendor of the Fyansford Property.

Particulars

(A) On 31 January 2024, $300,000 was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to Nevett Ford (solicitors acting for the vendor of the Fyansford Property), to an account in the name of Nevett Ford Trust Melbourne Law (account number 188547787) (**Nevett Ford Trust Account**);

(B) Also on 31 January 2024:

(i) $800,000 was transferred from an account in the name of Falcon Capital Limited as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086); and

(ii) $800,000 was transferred from the account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086) to the Nevett Ford Trust Account.

101. Between 15 March 2024 and 15 May 2024, Falcon paid or caused to be paid $2.84 million from the property of the FG Global Income Fund and FG Global Property Fund to Rajomon Fyansford.

Particulars

(A) Between 15 March 2024 and 15 May 2024, transfers totalling $1.19 million were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of Garnata Investments (account number 448281218) (on 21 October 2022, Rajomon Fyansford changed its registered name to Garnata Investments Pty Ltd, and on 18 March 2024 it changed its registered name to Western Subdivisions Pty Ltd).

(B) On 22 March 2024 and 26 April 2024, transfers totalling $350,000 were made from an account in the name of Falcon as trustee for FG Global Property Fund (account number 305716544) to an account in the name of Garnata Investments (account number 448281218).

(C) On 5 April 2024 a payment of $1 million was made from an account in the name of Falcon as trustee for FG Global Property Fund (account number 305716544) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086), and from which on the same day a payment of $1 million was made to an account in the name of Garnata Investments (account number 448281218).

(D) On 15 May 2024 a payment of $300,000 was made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374086), and from which on the same day a payment of $300,000 was made to an account in the name of Garnata Investments (account number 448281218).

102. By 22 May 2024, by reason of the matters alleged in paragraphs 78, 80, 87, 89, 94, 95, and 99 to 101 above:

(a) Falcon had paid at least $27.987 million out of the property of the Underlying Funds to, or for the benefit of, Rajomon, Rajomon Asset Management, Rajomon Fyansford and in furtherance of the Tax-E Pass-through Agreement; and

(b) those payments had been made without documentation of any agreement that:

(i) governed or purported to govern the terms on which those payments were made; and

(ii) accurately recorded the amount of funds which Falcon had previously paid to or for the benefit of Rajomon, Rajomon Asset Management, Rajomon Fyansford.

103. On 22 May 2024, Falcon as trustee of the FG Global Income Fund entered into a loan agreement with Rajomon Fyansford (**Rajomon Fyansford Loan Agreement**), of which there were terms that:

(a) the parties acknowledged that Falcon had already advanced to Rajomon Fyansford (as at 15 May 2024) $23 million including interest (cl 1.1 definition of Loan; cl 5.1(a));

(b) Falcon would make available a loan in total of $33.5m for a term of 6 years, with interest capitalised (cl 1.1 definition of Loan; cl 3.1, 5.1(c));

(c) the loan advances could be used to pay option fees on the Fyansford Property, and working capital of Rajomon Fyansford and any related body corporate of Rajomon Fyansford or Abdullah Guerinat (cl 3.2); and

(d) Falcon could exercise a right to convert debt to equity in Rajomon Fyansford at the end of the term of the Agreement, or earlier upon a sworn valuation which showed the Fyansford Property to have a market value of at least $100m (Sch 3).

Particulars

(A) The Loan Agreement is in writing and dated 22 May 2024 (F1J.0013.0001.0954).

(B) The Loan Agreement was executed by Anderson and Adam Goldner for Falcon and Abduallah Guerinat for Rajomon Fyansford.

104. Between 22 May 2024 and 13 February 2025, pursuant to the Rajomon Fyansford Loan Agreement, Falcon paid or caused to be paid $9.56 million from the property of the FG Global Income Fund and the FG Pan Asia Fund to Rajomon Fyansford.

Particulars

(A) Between 12 June 2024 and 13 February 2025, transfers totalling $8.26 million were made from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of Rajomon Fyansford (account number 448281218).

(B) On 24 May 2024:

(i) $300,000 was transferred from an account in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) to an account in the name of FG Investments as trustee for the First Guardian Trust (account number 405374086);

(ii) $300,000 was transferred from an account in the name of FG Investments as trustee for the First Guardian Trust (account number 405374086) to an account in the name of Rajomon Fyansford (account number 448281218).

(C) On 12 August 2024:

(i) two amounts of $1 million each were transferred from accounts in the name of Falcon as trustee for FG Global Income Fund (account number 426555185) and Falcon as trustee for the FG Pan Asia Fund (account number 473062439) to an account in the name of FG Investments as trustee for First Guardian Trust (account number 405374107);

(ii) $1 million was transferred from an account in the name of FG Investments as trustee for the First Guardian Trust (account number 405374107) to a separate account in the name of FG Investments (account number 405374086); and

(iii) $1 million was transferred from an account in the name of FG Investments (account number 405374086) to an account in the name of Rajomon Fyansford (account number 448281218).

105. Falcon made the payments alleged in paragraphs 99 to 101 and 104 above without obtaining in respect of the payments any security or proprietary interest in:

(a) Rajomon, Rajomon Asset Management, Rajomon Fyansford, or any other entity receiving the benefit of the payments; or

(b) the Tarneit Property or Fyansford Property.

C3.4 Recoveries from Rajomon investments

106. On 12 June 2026, Falcon entered into a deed with Rajomon Fyansford (then known as Western Subdivisions Pty Ltd) and Abdullah Guerinat which resolved its entitlements for repayment under the Rajomon Fyansford Loan Agreement for a total settlement amount of $2.9 million.

107. No other amounts have been recovered or received by Falcon in respect of the payments referred to in paragraphs 78, 80, 87, 89, 94 to 96, 99 to 101 and 104 (**Rajomon payments**) or the Rajomon Fyansford Loan Agreement.

C3.5 Falcon contraventions

108. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would have not made the Rajomon payments without having ensured that:

    (a) the terms on which the Rajomon payments were to be made by Falcon were appropriately documented;

    (b) Rajomon, Rajomon Asset Management, Rajomon Fyansford, Tax E or another counterparty provided adequate security or proprietary interest in respect of the Rajomon payments;

    (c) adequate due diligence had been undertaken into the business of Rajomon, Rajomon Asset Management, Rajomon Fyansford or their capacity to meet any financial obligations in respect of the Rajomon payments; and

    (d) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading:

        (i) the Security Representations; and

        (ii) the Investment Committee Representation.

109. Before making the Rajomon payments that were made prior to entering into the Rajomon Fyansford Loan Agreement on 22 May 2024, Falcon did not take any of the steps pleaded in paragraph 108 above.

110. Before making the Rajomon payments that were made on or after 22 May 2024, Falcon did not take any of the steps pleaded in paragraphs 108(b)–(d) above.

111. By reason of the matters pleaded in paragraphs 108–110 above, Falcon, in relation to the Rajomon payments that were made during the Contravention Period:

    (a) failed to exercise the care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

    (b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

112. Further, an honest and reasonable person in the position of Falcon as responsible entity of the FGMF and trustee of the Underlying Funds, in the circumstances pleaded in paragraphs 13 to 17 above, would not have agreed to the term of the Rajomon Fyansford Loan Agreement providing for advances under the Agreement could be used to pay for the working capital of any related body corporate of Abdullah Guerinat as pleaded in paragraph 103(c) above, in circumstances where that term:

(a) permitted payments for the benefit of a party other than Rajomon Fyansford in its purchase of the Fyansford Property; and

(b) thereby increased the risk that Rajomon Fyansford as borrower would not be able to repay the total amount of the loan.

113. By agreeing to the term of the Rajomon Fyansford Loan Agreement pleaded in paragraph 103(c) above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C4. Trulet

C4.1 Payments to Trulet Australia

114. From 23 September 2019 to 23 January 2025, Falcon paid or caused to be paid from the property of certain Underlying Funds to **Trulet Australia** Pty Ltd at least $2,687,390 (including $1,930,000 in the Contravention Period).

Particulars

Funds were transferred directly to Trulet Australia or indirectly through the Trulet Innovation Fund, from the following accounts:

(A) $567,390 from an account in the name of Falcon Capital Limited Falcon Capital Applications Account, through an account in the name of Falcon as trustee for the First Guardian Low Density Real Estate Fund;

(B) $945,000 from an account in the name of Falcon as trustee for FG Private Equity Fund;

(C) $650,000 from an account in the name of Falcon as trustee for FG Pan Asia Fund;

(D) $265,000 from an account in the name of Falcon (named the Falcon Capital Applications Account);

(E) $140,000 from an account in the name of Falcon trading as First Guardian Boutique Development Fund;

(F) $70,000 from an account in the name of FG Investments, where those funds were derived from accounts in the name of several Underlying Funds; and

(G) $50,000 from an account in the name of Falcon as trustee for FG Global Income Fund.

115. Further, from 6 November 2020 to 21 December 2021, Falcon paid or caused to be paid from the property of certain Underlying Funds to entities associated with the directors of Trulet Australia and its related entities at least $2,052,164.17.

Particulars

(A) James Fox and Vaiarii Bouzige were the co-founders of the Trulet business, directors of Trulet Australia, Trulet Holdings Pty Ltd and Trulet Pte Ltd, and shareholders in Trulet Australia, and Trulet Holdings Pty Ltd.

(B) Funds were transferred to the Trulet Innovation Fund, from the following accounts:

(i) $1,912,164.17 from an account in the name of Falcon Capital Limited trading as First Guardian Fintech Opportunities Fund; and

(ii) $140,000 from an account in the name of Falcon Capital Limited as trustee for First Guardian Trade Finance Fund.

(C) The funds were then paid from the Trulet Innovation Fund in amounts equal to those received as alleged in subparagraph (B), to each of:

(i) Echo Falls Pty Ltd, which was a trust associated with the family of James Fox, and of which the sole director and shareholder was James Fox's wife; and

(ii) Bouzige Trading Trust, which was a trust associated with the family of Vaiarii Bouzige.

116. On or around 19 March 2021, FG Capital and **Trulet Holdings** Pty Ltd executed a convertible note subscription agreement (**Trulet convertible note subscription agreement**) which contained terms that:

(a) FG Capital subscribed to unsecured convertible notes in registrable form in the amount up to a maximum of $2 million (clause 2);

(b) FG Capital would make payment to Trulet Holdings on or before 15 May 2021 (unless any other date was agreed in writing) (clause 3.2(b) and definition of Completion Date in clause 1.1);

(c) on 15 May 2021 (unless any other date was agreed in writing), Trulet Holdings or nominee would issue a Certificate for Notes subscribed (clause 3.2(a));

(d) the convertible notes constituted direct, unconditional, unsubordinated, and unsecured obligations of Trulet Holdings or nominee (Schedule 1, clause 5);

(e) the notes would convert into shares in Trulet Holdings or nominee no later than 12 months after Completion (clause 11.3);

(f) on conversion, Trulet Holdings or nominee would convert the principal amount together with accrued interest into the equivalent number of shares (clause 12.1).

Particulars

The Trulet convertible note subscription agreement is in writing and executed by Anderson as director of FG Capital.

117. Falcon made the payments in paragraphs 114 and 115 above (**Trulet Australia payments**), alternatively the Trulet Australia payments made before 19 March 2021:

(a) without documentation of any agreement that governed or purported to govern the terms of the payments;

(b) without obtaining from Trulet Australia in respect of the Trulet Australia payments any security or proprietary interest in Trulet Australia or any other entity receiving the benefit of those payments; and

(c) at the same time as making the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above).

118. Further, at all times on or after 15 May 2021, Falcon (or FG Capital on behalf of Falcon):

(a) did not receive any Certificate for Notes issued by Trulet Holdings or a nominee pursuant to the Trulet convertible note subscription agreement; and

(b) did not receive or become the registered holder of any shares in Trulet Holdings or a nominee.

119. On 27 June 2025, Trulet Australia and Trulet Holdings were placed into liquidation.

C4.2 Payments to Trulet Singapore

120. On or about 30 March 2022, Falcon as trustee for the FG Private Equity Fund entered into a binding term sheet with Trulet Pte Ltd (**Trulet Singapore**) (**Trulet Singapore term sheet**), pursuant to which FG Private Equity Fund was to:

(a) purchase 1,136,363 shares in Trulet Singapore at USD 3.30 per share; and

(b) as consideration for the shares, pay USD 3.75 million to Trulet Singapore by instalments.

Particulars

The Trulet Singapore term sheet was in writing.

The instalments were an initial USD100,000 on 30 March 2022 and then monthly payments of USD456,250 from 30 May 2022 until 30 December 2022.

121. From 11 May 2022 to 1 July 2022, Falcon paid or caused to be paid to Trulet Singapore from the property of the Underlying Funds at least $8,539,308.68 (**Trulet Singapore payments**).

Particulars

(A) $8,216,739.74 from an account in the name of Falcon trading as FG Private Equity Fund.

(B) $150,000 from an account in the name of Falcon trading as FG Private Equity Fund, through an account in the name of FG Investments as trustee for First Guardian Trust.

(C) $100,000 from an account in the name of Falcon as trustee for FG Pan Asia Fund.

(D) $72,568.94 from an account in the name of Falcon as trustee for FG Global Income Fund.

122. Further, at all times on or after 30 March 2022, Falcon did not receive or become the registered holder of any shares in Trulet Singapore.

C4.3 Falcon contraventions

123. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would have:

(a) not made the Trulet Australia and Trulet Singapore payments without having ensured that:

(i) the terms on which the Trulet Australia payments were to be made by Falcon were appropriately documented;

(ii) Trulet Australia provided in respect of those payments adequate security or proprietary or equity interest in Trulet Australia, Trulet Singapore, or any other entity receiving the benefit of those payments; and

(iii) any payments were not made in terms or in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation;

(b) taken all reasonable steps to:

(i) ensure that Falcon as responsible entity of the FGMF and trustee of the Underlying Funds had the benefit of the Trulet convertible note subscription agreement; and

(ii) obtain delivery of convertible notes and/or shares in Trulet Holdings or another entity pursuant to the Trulet convertible note subscription agreement; and

(c) taken all reasonable steps to obtain delivery of shares in Trulet Singapore pursuant to the Trulet Singapore term sheet.

124. Falcon failed to take any of the steps pleaded:

(a) in paragraph 123(a) above before making the Trulet Australia and Trulet Singapore payments;

(b) in paragraph 123(b) at all times from 15 May 2021 and before making the Trulet Singapore payments;

(c) in paragraph 123(c) above at all times from 30 March 2022.

125. By reason of the matters pleaded in paragraphs 123 and 124 above, Falcon, in relation to the Trulet Australia and Trulet Singapore payments that were made and the failures pleaded in paragraph 124 that occurred during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C5. Indonesian investments

C5.1 Recipient entities and Anderson's interests

(1) Recipients of payments from Falcon

Maleo Indonesia

126. PT Maleo Private Equity (**Maleo Indonesia**) is and was a company:

(a) established in Indonesia on 12 June 2019, as PT Quarterback Capital Indonesia;

(b) on 3 September 2020, renamed PT Briix Properti Indonesia;

(c) on 9 November 2021, renamed PT Maleo Private Equity; and

(d) of which:

(i) from 12 June 2019 to 21 April 2025, Anderson was the sole commissioner, and by reason of which Anderson owed Maleo Indonesia a duty to act in its interests;

(ii) from 12 June 2019 to 9 November 2021, Conrad **Warren** was the sole director; and

(iii) from 22 February 2022 to 23 December 2024, Warren was either the sole director or the President Director.

127. The shares issued in Maleo Indonesia were:

(a) from 12 June 2019 to 11 June 2021 held by FSCF Cayman (referred to in paragraph 133 below) as to 99%, and by Anderson as to the remaining 1%;

(b) from 11 June 2021 to 9 November 2021, held by Briix Singapore as to 99.99% and Warren as to 0.01%;

(c) from 9 November 2021 to 27 December 2022, held by Quarterback BVI as to 99.99% and Ian Scott Atkinson as to 0.01%;

(d) from 27 December 2022 to 23 September 2025, held by Maleo Singapore as to 99.99% and Septina Christiani Rizky, as to 0.01%.

128. Further, from 12 June 2019 to at least 27 March 2024, Anderson held a financial interest in Maleo Indonesia:

(a) from 12 June 2019 to 11 June 2021, arising from:

(i) his 1% shareholding in Maleo Indonesia; and

(ii) his 50% shareholding of the Class B shares in FSCF Cayman (referred to in paragraph 133(d) below), which held 99% of the shares in Maleo Indonesia;

(b) from 11 June 2021 to 9 November 2021, arising from his 50% shareholding in Quarterback BVI (referred to in paragraph 132below), which held 98–99% of the shares in Briix Singapore (referred to in paragraph 140(d) below), which in turn held 99.99% of the shares in Maleo Indonesia;

(c) from 9 November 2021 to 27 December 2022, arising from his 50% shareholding in Quarterback BVI, which held 99.99% of the shares in Maleo Indonesia;

(d) from 27 December 2022 until 1 November 2023, arising from his 50% shareholding in Maleo Singapore (referred to in paragraph 144 below), which held 99.99% of the shares in Maleo Indonesia;

(e) from 1 November 2023 to 6 March 2024, arising from:

(i) his 5% shareholding in Maleo Singapore, which held 99.99% of the shares in Maleo Indonesia; and

(ii) his 5% shareholding in Maleo Australia, which held 90% of the shares in Maleo Singapore, which in turn held 99.99% of the shares in Maleo Indonesia; and

(f) from 6 March 2024 to 27 March 2024, arising from his 5% holding in Maleo Singapore, which held 99.99% of the shares in Maleo Indonesia.

Maleo Australia

129. Maleo Private Equity Pty Ltd (**Maleo Australia**) is and was a company:

(a) registered on 2 August 2022 as an Australian proprietary company limited by shares;

(b) of which the sole director and secretary was:

(i) Anderson, from its incorporation on 2 August 2022 until 6 March 2024, and by reason of which Anderson owed Maleo Australia a duty to act in its interests; and

(ii) Warren, from 6 March 2024 onwards; and

(c) of which the shareholders were:

(i) from its establishment on 2 August 2022 until 16 October 2023, Anderson and Warren as to 50% each;

(ii) from 16 October 2023 until 6 March 2024, Falcon as to 90%, and Anderson and Warren each as to 5%;

(iii) from 6 March 2024 until 2 April 2024, Maleo Singapore (referred to in paragraph 144 below) as to 100%; and

(iv) from 2 April 2024 until at least 17 February 2025, Warren as to 100%; and

(d) of which the principal place of business was Anderson's residential address.

130. Further, by reason of the matters alleged in paragraphs 129(b)(i) and (c)(i), from 2 August 2022 to 16 October 2023:

(a) Anderson had the capacity to determine the outcome of decisions about Maleo Australia's financial and operating policies, and therefore controlled Maleo Australia within the meaning of s 50AA of the Corporations Act; and

(b) as a result, Maleo Australia was a related party of Falcon within the meaning of s 228(4) of the Corporations Act.

131. Further, by operation of s 228(5) of the Corporations Act, and in the premises of the preceding paragraph, Maleo Australia was a related party of Falcon between 16 October 2023 and 16 April 2024.

(2) Holding entities

Quarterback BVI

132. Quarterback Capital Holdings Limited (**Quarterback BVI**) is and was a British Virgin Islands company:

(a) incorporated on 4 January 2019;

(b) of which Anderson and Warren were directors at all times;

(c) of which, from its incorporation until at least July 2022, Anderson and Warren each held 50% of the issued shares.

First Guardian Secured Convertible Bond Fund

133. The First Guardian Secured Convertible Bond Fund (**FSCF Cayman**) is and was a Cayman exempted company:

(a) established in the Cayman Islands on 17 January 2019;

(b) of which at all relevant times, Anderson and Warren are and were directors;

(c) from 17 January 2019, of which the sole shareholder was Quarterback BVI;

(d) from around October 2019, in which Anderson and Warren each held 50% of the:

(i) management shares, which entitled them to vote at general meetings of the company; and

(ii) Class B shares, which entitled them to any surplus profits upon satisfaction of certain entitlements of Class A shareholders.

(3) Indonesian entities

Briix Group Indonesia

134. PT Briix Group Indonesia (**Briix Group Indonesia**) is and was an Indonesian company:

(a) incorporated on 23 September 2022;

(b) of which Anderson was the sole commissioner from 23 September 2022 until 30 May 2024;

(c) of which Warren was the sole director from 23 September 2022 until 20 September 2023, a director from 20 September 2023 until 23 December 2024, and the sole director from 23 December 2024 until at least 10 June 2026;

(d) of which the shareholders were:

(i) from 23 September 2022 until 22 May 2023, Briicks Pte Ltd as to 99.9% and Warren as to 0.1%;

(ii) from 22 May 2023 until 31 May 2023, Briicks Pte Ltd as to 99.99% and Warren as to 0.01%;

(iii) from 31 May 2023, Briix Group Pte Ltd as to 99.99% and Warren as to 0.01%.

135. Anderson held a financial interest in Briix Group Indonesia:

(a) from 23 September 2022 to 27 October 2022, by reason of holding 50% of the shares in Maleo Singapore, which held 100% of shares in Briicks Pte Ltd, which held 99.99% of shares in Briix Group Indonesia;

(b) from 27 October 2022 to 31 May 2023, by reason of holding 50% of the shares in Maleo Singapore (referred to in paragraph 144 below), which held 100% of shares in Briix Group Pte Ltd, which held 100% of shares in Briicks Pte Ltd, which held 99.99% of shares in Briix Group Indonesia;

(c) from 31 May 2023 onwards, by reason of holding shares in Maleo Singapore which held 100% of shares in Briix Group Pte Ltd, which held 100% of shares in Briix Group Indonesia.

Briix Property Indonesia

136. PT Briix Property Group (**Briix Property Indonesia**) is and was an Indonesian company:

(a) incorporated on 1 September 2014 as PT Lombok Bau Nyale;

(b) on 15 March 2021, of which the name was changed to PT Siwa Group Property;

(c) on 8 July 2022, of which the name was changed to PT Briix Property Group;

(d) of which Anderson was President Commissioner from 29 September 2022 until 25 July 2024, and by reason of which Anderson owed Briix Property Indonesia a duty to act in its interests; and

(e) of which the shareholders were:

(i) from 29 May 2019 until 24 July 2020, LPG Australia (referred to in paragraph 147 below) as to 99.8% and Febryanti Karisma as to 0.2%;

(ii) from 24 July 2020 until 9 February 2022, Siwa Australia (referred to in paragraph 148 below) as to 99.9% and Febryanti Karisma as to 0.1%;

(iii) from 9 February 2022 until 29 September 2022, Siwa Australia as to 75.14%, Maleo Indonesia as to 24.79% and Febryanti Karisma as to 0.08%;

(iv) from 29 September 2022 until 30 December 2023, Siwa Australia as to 75.14%, Briix Group Indonesia as to 24.79% and Febryanti Karisma as to 0.08%;

(v) from 30 December 2023 until 7 February 2024, Maleo Singapore (referred to in paragraph 144 below) as to 99.92% and Febryanti Karisma as to 0.08%;

(vi) from 7 February 2024 until 5 August 2025, Maleo Singapore as to 99.99% and Febryanti Karisma as to 0.01%.

137. Anderson had a financial interest in Briix Property Indonesia:

(a) from 9 October 2019 until 24 July 2020, arising from his 50% shareholding of the Class B shares in FSCF Cayman, which held between 34.9%–39.5% of the shares in LPG Australia, which in turn held 99.8% of the shares in Briix Property Indonesia;

(b) from 24 July 2020 until 9 February 2022, arising from his 50% shareholding of the Class B shares in FSCF Cayman, which held between 24%–39% of the shares in Siwa Australia, which in turn held 99.9% of the shares in Briix Property Indonesia;

(c) from 9 February 2022 to 29 September 2022, arising from:

(i) his 50% shareholding of the Class B shares in FSCF Cayman, which held between 37%–53% of the shares in Siwa Australia, which in turn held 75.14% of the shares in Briix Property Indonesia; and

(ii) his 50% shareholding in Quarterback BVI, which held 99.9% of Maleo Indonesia, which in turn held 24.79% of Briix Property Indonesia;

(d) from 29 September 2022 until 27 October 2022, arising from:

(i) his 50% shareholding of the Class B shares in FSCF Cayman, which held between 44% to 52% of the shares in Siwa Australia, which in turn held 75.14% of the shares in Briix Property Indonesia; and

(ii) his 50% shareholding in Maleo Singapore, which held 100% of Briicks Pte Ltd, which in turn held 99.9% of Briix Group Indonesia, which in turn held 24.79% of Briix Property Indonesia;

(e) from 27 October 2022 until 31 May 2023, arising from:

(i) his 50% shareholding of the Class B shares in FSCF Cayman, which held between 52% to 53% of the shares in Siwa Australia, which in turn held 75.14% of the shares in Briix Property Indonesia; and

(ii) his 50% shareholding in Maleo Singapore, which held 100% of Briix Group Pte Ltd, which in turn held 100% of Briicks Pte Ltd, which in turn held 99.9% of Briix Group Indonesia, which in turn held 24.79% of Briix Property Indonesia;

(f) from 31 May 2023 to 1 November 2023, arising from:

(i) his 50% shareholding of the Class B shares in FSCF Cayman, which held around 53% of the shares in Siwa Australia, which in turn held 75.14% of the shares in Briix Property Indonesia; and

(ii) his 50% shareholding in Maleo Singapore, which held 100% of Briix Group Pte Ltd, which in turn held 99.99% of Briix Group Indonesia, which in turn held 24.79% of Briix Property Indonesia;

(g) from 1 November 2023 to 30 December 2023, arising from:

(i) his 50% shareholding of the Class B shares in FSCF Cayman, which held around 53% of the shares in Siwa Australia, which in turn held 75.14% of the shares in Briix Property Indonesia;

(ii) his 5% shareholding in Maleo Australia, which held 90% of Maleo Singapore, which in turn held 100% of Briix Group Pte Ltd, which in turn held 99.99% of Briix Group Indonesia, which in turn held 24.79% of Briix Property Indonesia; and

(iii) his 5% shareholding in Maleo Singapore, which held 100% of Briix Group Pte Ltd, which in turn held 99.99% of Briix Group Indonesia, which in turn held 24.79% of Briix Property Indonesia;

(h) from 30 December 2023 to 6 March 2024, arising from:

(i) his 5% shareholding in Maleo Australia, which held 90% of Maleo Singapore, which in turn held between 99.92% to 99.99% of Briix Property Indonesia; and

(ii) his 5% shareholding in Maleo Singapore, which held between 99.92% to 99.99% of Briix Property Indonesia; and

(i) from 6 March 2024 to 27 March 2024, arising from his 5% shareholding in Maleo Singapore, which held 99.99% of Briix Property Indonesia.

Briix Fintech Indonesia

138. PT Briix Financial Technology (**Briix Fintech Indonesia**) is and was an Indonesian company:

(a) incorporated on 29 October 2021 as PT Siwa Digital Solutions;

(b) of which the name was changed on 30 June 2022 to PT Briix Financial Technology;

(c) of which Anderson was:

(i) the sole commissioner from 29 October 2021 until at least 31 December 2022; and

(ii) the chairman or co-chairman from at least September 2022 until at least December 2024;

Particulars

(A) Anderson was recorded as the sole commissioner of Briix Fintech Indonesia in registration documents dated 29 October 2021 and in the 31 December 2022 financial report signed on 13 June 2022 by Warren.

(B) Anderson sent emails which in the email signatures as at:

(i) 31 August 2022 recorded him as 'President Commissioner' of PT Briix Financial Technology (ZFG.0006.0003.2708);

(ii) 8 September 2022 recorded him as 'chairman' of PT Briix Financial Technology (ZFG.0003.0004.6680);

(iii) June 2023, October 2023, March 2024 and December 2024 recorded him as 'founder and co-chairman' of PT Briix Financial Technology (F1J.0249.0021.1054, F1J.0249.0022.0416, F1J.0296.0001.8849 and F1J.0297.0001.2088).

(d) of which the shareholders were:

(i) from incorporation on 29 October 2021 until 7 March 2022, Briix Property Indonesia as to 99% and Anderson as to 1%;

(ii) from 7 March 2022 until 11 March 2022, Briix Property Indonesia as to 49.5%, Maleo Indonesia as to 49.5% and Anderson as to 1%;

(iii) from 11 March 2022 until at least 21 April 2022, Maleo Indonesia as to 99% and Anderson as to 1%;

(iv) from 21 April 2022 until at least 31 December 2022, Maleo Indonesia as to 99% and Ian Scott Atkinson as to 1%; and

(v) by 31 December 2023, Briix Group Indonesia as to 99% and Septina Christiani Rizky as to 1%.

139. Anderson held a financial interest in Briix Fintech Indonesia:

(a) from 29 October 2021 until 21 April 2022, arising from his 1% shareholding in Briix Fintech Indonesia;

(b) from 29 October 2021 until at least 31 December 2023, arising from his financial interest in Maleo Indonesia, Briix Property Indonesia, and Briix Group Indonesia, as pleaded in paragraphs 128, 135 and 137 above, respectively.

(4) Singapore entities

Briix Singapore

140. Briix Pte Ltd (**Briix Singapore**) was a company:

(a) incorporated in Singapore on 23 November 2020;

(b) subsequently named as PT Maleo Private Equity Pte Ltd, Siwa Digital Solutions Pte Ltd and AsiaPacific Property Derivatives Funds I Pte Ltd;

(c) of which Warren was a director from 9 December 2020 to 5 July 2022;

(d) of which, from 23 November 2020 to 5 July 2022, Quarterback BVI held at least 98% of issued shares; and

(e) struck off on 5 June 2025.

141. From 23 November 2020 to 5 July 2022, Anderson held a financial interest in Briix Singapore arising from holding 50% of shares in Quarterback BVI, which held 98% of shares in Briix Singapore (as pleaded at 140(d) above).

Briicks Pte Ltd

142. Briicks Pte Ltd was a Singaporean company established on 22 September 2022, of which the sole shareholder was:

(a) from 22 September 2022 to 27 October 2022, Maleo Singapore (referred to in paragraph 144 below); and

(b) from 27 October 2022 to 4 March 2024, Briix Group Pte Ltd.

Briix Group Pte Ltd

143. Briix Group Pte Ltd is and was a Singaporean company established on 27 October 2022, of which, at all relevant times:

(a) Warren was a director; and

(b) Maleo Singapore was the sole shareholder.

Maleo Singapore

144. Maleo Capital Management Pte Ltd (**Maleo Singapore**) is and was a Singaporean company:

(a) incorporated on 21 September 2022 as Maleo Investments Holdings Pte Ltd;

(b) on 8 November 2023, renamed Maleo Capital Management Pte Ltd.

145. The registered directors of Maleo Singapore included:

(a) from 21 September 2022 until 20 March 2024, Anderson, by reason of which Anderson owed Maleo Singapore a duty to act in its interests; and

(b) from 21 September 2022 until at least 25 June 2025, Warren.

146. The shares issued in Maleo Singapore were:

(a) from 21 September 2022 to 1 November 2023, held by Anderson and Warren in equal shares (50% each);

(b) from 1 November 2023 to 27 March 2024, held by Maleo Australia as to 90%, Warren as to 5% and Anderson as to 5%;

(c) after 27 March 2024, held by Maleo Australia as to 90%, and Warren as to 10%.

(5) Australian entities

LPG Australia

147. Lombok Property Group Limited (**LPG Australia**) was a company:

(a) incorporated as an unlisted Australian public company on 22 March 2019;

(b) of which Anderson and Warren were directors from 22 March 2019 until 16 October 2022;

(c) of which Meilia was a director from August 2022 until 16 October 2022;

(d) in which FSCF Cayman held between 34.9–39.5% of issued shares from at least 9 October 2019 to at least 25 November 2020; and

(e) deregistered on 16 October 2022.

Siwa Australia

148. Siwa Group Limited (ACN 619 195 283) (**Siwa Australia**) was a company:

(a) incorporated as an unlisted Australian public company on 18 May 2017 under the name Sapex Group Limited;

(b) of which the name was changed on 1 June 2020 to Siwa Group Limited; and

(c) deregistered on 26 September 2024.

149. From 6 April 2018 to 31 July 2019, Anderson was the chief financial officer of Siwa Australia.

150. From 29 May 2020 until 26 September 2024, Anderson and Warren were directors of Siwa Australia.

151. The shareholders of Siwa Australia included:

(a) as at 31 December 2019, FSCF Cayman as to 8.79% and Selimaj as to 0.36%;

(b) as at 1 July 2020, FSCF Cayman as to 34.43% and Quarterback BVI as to 2.93%;

(c) as at 19 October 2020, FSCF Cayman as to 24.4% and Selimaj as to 0.14%;

(d) from at least 3 June 2021 to at least 19 January 2022, FSCF Cayman as to approximately 35%–39% and Quarterback BVI as to approximately 3%–7%; and

(e) from at least 11 August 2022 to at least 8 December 2023, FSCF Cayman as to 44%–53%.

152. From at least December 2019 until at least 8 December 2023, Anderson held a financial interest in Siwa Australia arising from his 50% shareholding of the Class B shares in FSCF Cayman, and his 50% shareholding in Quarterback BVI, which each held shares in Siwa.

C5.2 Anderson's conflicts of interest and duties

153. At all relevant times, Anderson was in a position of actual or potential conflict between his duties to Falcon and to the members of the FGMF as pleaded at paragraphs 16(b) and 17(b) above, and:

(a) his duties to and/or interests in Maleo Indonesia (as pleaded at paragraphs 126(d)(i) and 128 above) (the **Anderson Maleo Indonesia conflicts**); and

(b) his duties to and/or interests in Maleo Australia (from 2 August 2022 to 6 March 2024 as pleaded at paragraph 129(b)(i) and (c)(i)–(ii) above) (the **Anderson Maleo Australia conflicts**).

154. Further or alternatively, at all relevant times, Anderson:

(a) had a material personal interest in, and/or owed duties as officer of, various entities in Indonesia and in Singapore, the Cayman Islands and Australia (**Anderson Indonesian Interests**), including Briix Group Indonesia, Briix Property Indonesia, Briix Fintech Indonesia, Briix Singapore, Maleo Indonesia, Maleo Australia, FSCF Cayman and Siwa Australia, as alleged in Part C5.1 above; and

(b) was in a position of actual or potential conflict between his duties to Falcon and to the members of the FGMF as pleaded at paragraphs 16(b) and 17(b) above, and his duties to and/or interests in the Anderson Indonesian Interests (**Anderson Indonesian Interests conflicts**).

C5.3 Payments to Maleo Indonesia

155. From 29 July 2020 to 25 July 2022, Falcon paid or caused to be paid out of property of certain Underlying Funds to Maleo Indonesia amounts totalling approximately $15.7m (including $15,112,712.32 in the Contravention Period) (**Maleo Indonesia payments**).

Particulars

(A) Payments of at least $7.2m were made by Falcon from an account identified as Falcon trading as Fintech Opportunities Fund.

(B) Payments of at least $8.3m (including $7,806,838.32 in the Contravention Period) were made by Falcon from Underlying Funds and directed through an account in the name of FG Investments.

(C) Payments of at least $149,998 were made by Falcon from Underlying Funds and directed through an account in the name of FG Holdings.

156. Falcon made the Maleo Indonesia payments:

(a) without documentation of any agreement that governed or purported to govern the terms of the Maleo Indonesia payments;

(b) without obtaining from Maleo Indonesia in respect of the Maleo Indonesia payments any security or proprietary interest in Maleo Indonesia or other entity receiving the benefit of the funds;

(c) in circumstances where the Anderson Maleo Indonesia conflicts existed with respect to the terms, making of and recovery of those payments;

(d) at the same time as making the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the Maleo Indonesia payments would be in the best interests of the FGMF and its members.

Falcon contraventions

Undocumented, unsecured and conflicted payments

157. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs

13 to 17 above, would not have made the Maleo Indonesia payments without having ensured that:

(a) the terms on which the Maleo Indonesia payments were to be made by Falcon were appropriately documented;

(b) Maleo Indonesia provided in respect of those payments adequate security or proprietary interest in Maleo Indonesia or another entity receiving the benefit of the funds;

(c) adequate due diligence had been undertaken into Maleo Indonesia's business or its capacity to meet any financial obligations in respect of the Maleo Indonesia payments;

(d) its Board or Investment Committee had considered and recorded its consideration of whether any payments would be in the best interests of the FGMF and its members;

(e) any decision to make the Maleo Indonesia payments was made:

    (i) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Maleo Indonesia conflicts (further or alternatively the Anderson Indonesian Interests conflicts);

    (ii) with disclosure of the Anderson Maleo Indonesia conflicts (further or alternatively the Anderson Indonesian Interests conflicts) to members of the FGMF and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7);

    (iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Maleo Indonesia conflicts (further or alternatively the Anderson Indonesian Interests conflicts) and the steps which Falcon determined were required to address or manage that conflict; and

(f) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading, the Investment Committee Representation.

158. Before making the Maleo Indonesia payments, Falcon did not take any of the steps pleaded in paragraph 157 above.

159. By reason of the matters pleaded in paragraphs 155 to 158 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

Related party benefits

160. Further, from 29 July 2020 until 25 July 2022:

(a) Maleo Indonesia and Anderson shared a common understanding that funds paid by Falcon to Maleo Indonesia would be paid to, or otherwise deployed for the benefit of, the Anderson Indonesian Interests;

Particulars

(A) The common understanding was formed in WhatsApp messages and emails between Anderson and Maleo Indonesia (through its sole director, Warren) in or about July 2020.

(B) The understanding is to be inferred from confirmation by Anderson and Maleo Indonesia (through its sole director, Warren) throughout 29 July 2020 to 25 July 2022, that FGMF Funds paid by Falcon to Maleo Indonesia were to be applied to or for the benefit of the Anderson Indonesian Interests, including for the following purposes:

(i) capital and operating expenditure in relation to Indonesian property assets to which Briix Property Indonesia held title;

(ii) capital and operating expenditure in relation to the Briix App owned and operated by Briix Singapore and later Briix Fintech Indonesia;

(iii) servicing a loan owed by Briix Property Indonesia to Ninety-Six Dragons Investments Limited;

(iv) purchase of Dura-Base mats from PT Sapex Services Indonesia for Siwa Australia;

(v) payments of redemptions to FSCF Cayman Class A shareholders;

(vi) acquire and develop properties for Maleo Indonesia.

(C) The understanding is inferred further from the matters alleged in subparagraph (b) below.

(b) further:

(i) Anderson caused Falcon to make the payments to Maleo Indonesia alleged in paragraph 155 above; and

(ii) Maleo Indonesia received those payments; and

(iii) Maleo Indonesia confirmed to Falcon that the payments it received would be paid to the benefit of one or more Anderson Indonesian Interests; and

Particulars

The confirmation from Maleo Indonesia was sent from time to time from Warren to Anderson by WhatsApp messages.

(c) by reason thereof, Anderson and Maleo Indonesia acted in concert on the common understanding pleaded in subparagraph (a).

161. In the premises of the preceding paragraph, Maleo Indonesia was a related party of Falcon within the meaning of s 228(7) of the Corporations Act from 29 July 2020 to 25 July 2022.

162. By reason of the matters alleged in paragraphs 14, 160 and 160(c) above:

(a) on each occasion that Falcon made any of the Maleo Indonesia payments, Falcon gave a financial benefit to Maleo Indonesia within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

(b) those payments were financial benefits given by Falcon to a related party which, by reason of the matters pleaded at paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, were financial benefits that could endanger the scheme property of the FGMF; and

(c) Falcon did not obtain the approval of the members of the FGMF for the giving of those financial benefits to Maleo Indonesia in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

163. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the Maleo Indonesia payments during the Contravention Period, contravened s 208(1) of the Corporations Act (as modified by s 601LC).

C5.4 Payments to Maleo Australia

164. From 30 August 2022 to 16 December 2024, Falcon made payments out of property of certain of the Underlying Funds to Maleo Australia totalling approximately $47.4m (**Maleo Australia payments**).

Particulars

(A) Payments of at least $21.5m were made by Falcon from an account in the name of Falcon trading as Fintech Opportunities Fund (account ending 8286).

(B) Payments of at least $13.3m were made by Falcon from an account in the name of Falcon Capital Limited as trustee for the FG Global Income Fund (account ending 5185).

(C) Payments of at least $7.6m were made by Falcon from an account in the name of Falcon Capital Limited as trustee for the FG Global Property Fund (account ending 6544).

(D) Payments of at least $2.7m were made by Falcon from an account in the name of Falcon Capital Limited as trustee for the FG Pan Asia Fund (account ending 2439).

(E) Payments of at least $1.5m were made by Falcon from Underlying Funds and directed through an account in the name of FG Investments or FG Investments as trustee for the First Guardian Trust (account ending 4094).

(F) Payments of at least $805,100 were made by Falcon from Underlying Funds and directed through an account in the name of FG Holdings (account ending 9114).

165. Falcon made the Maleo Australia payments:

(a) without documentation of any agreement that governed or purported to govern the terms of the Maleo Australia payments;

(b) without obtaining from Maleo Australia in respect of the Maleo Australia payments any security or proprietary interest in Maleo Australia or other entity receiving the benefit of the funds;

(c) in circumstances where the Anderson Maleo Australia conflicts existed with respect to the terms, making and recovery of the payments;

(d) at the same time as making:

(i) the Security Representations, in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above);

(ii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the Maleo Australia payments would be in the best interests of the FGMF and its members.

Falcon contraventions

Undocumented, unsecured and conflicted payments

166. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would not have made the Maleo Australia payments without having ensured that:

(a) the terms on which the Maleo Australia payments were to be made by Falcon were appropriately documented;

(b) Maleo Australia provided in respect of those payments adequate security or proprietary interest in Maleo Australia or another entity receiving the benefit of the funds;

(c) adequate due diligence had been undertaken into Maleo Australia's business or its capacity to meet any financial obligations in respect of the Maleo Australia payments;

(d) its Board or Investment Committee had considered and recorded its consideration of whether any payments would be in the best interests of the FGMF and its members;

(e) any decision to make payments to Maleo Australia was made:

(i) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Maleo Australia conflicts;

(ii) with disclosure of the Anderson Maleo Australia conflicts to members of the FGMF and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7);

(iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Maleo Australia conflicts and the steps which Falcon determined were required to address or manage that conflict; and

(f) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading:

(i) the Security Representations; and

(ii) the Investment Committee Representation.

167. Before making the payments to Maleo Australia, Falcon did not take any of the steps pleaded in paragraph 166 above.

168. By reason of the matters pleaded in paragraphs 164 to 167 above, Falcon during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

Related party benefits

169. Further or alternatively, by reason of the matters pleaded in paragraphs 14, 130 and 131 above, between 30 August 2022 and 10 April 2024:

(a) on each occasion that it made any of the Maleo Australia payments, Falcon gave a financial benefit to Maleo Australia within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

Particulars

(A) The total amount of the Maleo Australia payments made by Falcon during the period 30 August 2022 to April 2024 (while Maleo Australia was a related party of Falcon) was $43.4m.

(B) Payments of at least $21.5m were made by Falcon from an account in the name of Falcon trading as FG Private Equity Fund (account ending 8286).

(C) Payments of at least $12.7m were made by Falcon from an account in the name of Falcon as trustee for the FG Global Income Fund (account ending 5185).

(D) Payments of at least $7.6m were made by Falcon from an account in the name of Falcon Capital Limited as trustee for the FG Global Property Fund (account ending 6544).

(E) Payments of at least $1.5m were made by Falcon from Underlying Funds and directed through an account in the name of FG Investments or FG Investments as trustee for the First Guardian Trust (account ending 4094).

(F) Payments of at least $162,000 were made by Falcon from an account in the name of Falcon as trustee for the FG Pan Asia Fund (account ending 2439).

(b) those payments were financial benefits given by Falcon to a related party which, by reason of the matters alleged in paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, could have endangered the scheme property of the FGMF;

(c) Falcon did not obtain the approval of the members of the FGMF for the giving of those financial benefits to Maleo Australia in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

170. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the Maleo Australia payments between 30 August 2022 and 10 April 2024, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

C5.5 Payments to Palmer Australia

(1) Creation of Palmer Australia and arrangements

171. On and from 24 May 2022:

(a) Anderson and Warren caused or procured Palmer Avenue Capital Pty Ltd (**Palmer Australia**) to be registered as an Australian proprietary company;

(b) Anderson and Warren caused to be appointed as directors of Palmer Australia:

(i) certain employees in Indonesia of entities related to the Anderson Indonesian Interests, being Justin Field and Stephen Field; and

Particulars

(A) Stephen Field was:

(i) A director of Briix Founders Trust Pte Ltd from 7 June 2023 until 7 May 2024, and a 20% shareholder from 7 June 2023 until 29 April 2024.

(ii) Recorded on a 19 July 2022 company profile for 'Maleo Private Equity' as the 'Chief Operating Officer'.

(iii) Recorded on corporate overviews for Briix as the 'Chief Operating Officer' of 'Briix Financial Services'.

(B) Justin Field was:

(i) Recorded on a 19 July 2022 company profile for 'Maleo Private Equity' as the 'Director - Private Equity Indonesia'.

(ii) Recorded under 'sales and marketing' on a draft 'Briix' magazine dated October 2022.

(ii) their brother in Australia, Adrian Field; and

(c) the sole shareholder of Palmer Australia was Justin Field.

172. PT Palmer Avenue Capital Indonesia (**Palmer Indonesia**) was a company:

(a) incorporated in Indonesia on 24 May 2022;

(b) of which Stephen Field was sole registered director at all material times; and

(c) in which 99% of issued shares were held by Palmer Australia, and the remaining 1% of shares were held by Stephen Field.

173. In May to July 2022, Anderson:

(a) procured the preparation of documentation in respect of a purported facility for Falcon as trustee of the FG Global Income Fund to lend funds to Palmer Australia, and providing for funds to be then loaned by Palmer Australia to other parties;

Particulars

Anderson instructed Australian lawyers to prepare draft loan documents, and communicated with Warren, Stephen Field, Justin Field and Mandy Fu in relation to the finalisation and execution of the documents.

(b) procured the establishment of a bank account for Palmer Australia (**Palmer Australia bank account**);

(c) made arrangements for funds to be sent from the Palmer Australia bank account to Palmer Indonesia or as directed by Anderson and/or Warren;

(d) proposed and purported to have the ability to transfer assets to Palmer Australia's balance sheet;

Particulars

On 25 July 2022, with respect to terms of the documentation alleged in subparagraph (a) above, Anderson stated in a message to Warren that he would prepare a balance sheet for Palmer Australia and attribute assets of AFFH Pty Ltd to Palmer Australia.

(e) gave or proposed to give a personal guarantee to the appointed directors of Palmer Australia that he (and Warren) would indemnify the directors of Palmer Australia for their potential personal liability as directors of Palmer Australia.

Particulars

(A) In June 2022, Anderson and Warren offered to sign personal guarantees in favour of Justin and Adrian Field as "ransom money" for their potential personal liability as directors of Palmer Australia (ZFG.0009.0099.0001 at .0033).

(B) On 21 June 2022, Anderson and Warren proposed offering the personal guarantees to the directors of Palmer Australia (ZFG.0009.0055.0001 at .1554-.1556).

(C) On 6 to 7 July 2022, Anderson and Warren proposed the provision of a guarantee over the loan and that the proposed loan documents would be updated to remove personal guarantees to be given by the directors of Palmer Australia (ZFG.0009.0055.0001 at .1644-.1650).

174. From 24 May 2022, Falcon and/or Anderson on the one part, and Palmer Australia and/or its directors Justin and Adrian Field on the other part, formed a common understanding that payments from Falcon to Palmer Australia would be paid by Palmer Australia through Palmer Indonesia, or as directed by Anderson and/or Warren, and to and/or for the benefit of the Anderson Indonesian Interests.

Particulars

(A) The understanding was formed in WhatsApp messages, and emails between Anderson and Justin and Adrian Field sent on or around 24 May 2022.

(B) The understanding is further to be inferred from the matters alleged in paragraphs 171 to 173 above.

(2) Payments to Palmer Australia

175. From 27 May 2022 to 22 March 2024, Falcon paid or caused to be paid from property of certain Underlying Funds to Palmer Australia amounts totalling approximately $42.6m (**Palmer Australia payments**).

Particulars

(A) Payments of at least $24.9m were made by Falcon directly from an account identified as Falcon as trustee for FG Global Income Fund (account ending 5185), including at least $8.4m paid between 27 May 2022 and 25 October 2022.

(B) Payments of at least $17.3m were made by Falcon from Underlying Funds and directed through an account identified as FG Investments or FG Investments as trustee for First Guardian Trust (accounts ending 4094 and 4086), including at least $800,000 between 27 May 2022 and 25 October 2022.

(C) Payments of at least $400,000 were made by Falcon from an account identified as Falcon as trustee for the FG Trade Finance Fund (account ending 4211) through an account identified as FG Investments (account ending 4094).

176. Further, from 27 May 2022, Anderson and Warren directed transactions on Palmer Australia's bank accounts and approved its payment of funds to Palmer Indonesia and to the Anderson Indonesian Interests.

Particulars

Funds were sent from Palmer Australia directly, and through Palmer Indonesia and Briix Singapore:

(A) to Maleo Indonesia, totalling at least $25.3m;

(B) to Siwa Australia totalling at least $500,000;

(C) to Maleo Australia totalling at least $300,540.

177. On 25 October 2022, Anderson executed on behalf of Falcon as trustee of the FG Global Income Fund a document styled as a loan facility agreement between the FG Global Income Fund and Palmer Australia (**Palmer loan document**).

178. By reason of the matters in paragraphs 171 to 176 above:

(a) Palmer Australia:

(i) had no existing assets or business of its own;

(ii) obtained no adequate security or interests in entities to which it provided funds received from Falcon;

(b) the directors of Palmer Australia did not exercise independent discretion but acted on Anderson's directions in relation to whom, and in what amounts it would make transfers of payments received from Falcon;

(c) the Palmer Australia payments:

(i) were made pursuant to the understanding alleged in paragraph 174 above;

(ii) presented an appearance to members of the FGMF of a genuine arm's-length transaction; and

(iii) concealed the fact that funds paid by Falcon to Palmer Australia were directed (as alleged in paragraph 176 above):

(A) to other entities outside Australia; and

(B) to entities in which Anderson held a financial interest.

179. By reason of the matters alleged in the preceding paragraph, the Palmer loan document:

(a) did not record a genuine arm's-length investment by Falcon; and

(b) was not a genuine loan and was a sham.

(3) Falcon contraventions

Duties to FGMF members

180. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would have not made the Palmer Australia payments without having ensured that:

(a) the terms on which the Palmer Australia payments were to be made by Falcon were appropriately documented;

(b) Palmer Australia provided in respect of those payments adequate security or proprietary interest in Palmer Australia or another entity receiving the benefit of the funds;

(c) any payment was made on a genuine basis and arm's-length commercial terms;

(d) any funds paid into the Palmer Australia bank account were not expected to be transferred to an entity or enterprise in which Anderson had a material personal interest (unless approval had been obtained from the members of the FGMF in manner required by ss 217 to 227 of the Corporations Act, as applied and modified by Pt 5C.7);

(e) any decision to make the Palmer Australia payments was made:

(i) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Indonesian Interests conflicts;

(ii) with disclosure of the Anderson Indonesian Interests conflicts to members of the FGMF and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7);

(iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Indonesian Interests conflicts and the steps which Falcon determined were required to address or manage that conflict.

181. Before making the Palmer Australia payments, Falcon did not take any of the steps pleaded in paragraph 180 above.

182. By reason of the matters pleaded by paragraphs 178 to 181 above, Falcon:

(a) failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act;

(b) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(c) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

Related party benefits

183. From 27 May 2022 to 22 March 2024, by reason of the matters alleged in paragraphs 171 to 173 above, Anderson controlled Palmer Australia within the meaning of s 50AA of the Corporations Act, and therefore Palmer was a related party of Falcon within the meaning of s 228(4) (as applied and modified by s 601LA).

184. Further or alternatively, from 27 May 2022 to 22 March 2024, by reason of the matters pleaded in paragraphs 171 to 174 above, Palmer Australia was a related party of Falcon within the meaning of s 228(7) of the Corporations Act (as applied and modified by s 601LA).

185. By reason of the matters alleged in paragraphs 14, 183 and/or 184 above:

(a) on each occasion that it made any of the Palmer Australia payments, Falcon gave a financial benefit to Palmer Australia within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

(b) those payments were financial benefits given by Falcon to a related party which, by reason of the matters alleged in paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, could have endangered the scheme property of the FGMF; and

(c) Falcon did not obtain the approval of the members of the FGMF for the giving of those financial benefits to Palmer Australia in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

186. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the Palmer Australia payments during the Contravention Period, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

C6. 2024 Maleo Singapore transactions

C6.1 Briix Property Indonesia assignment to Maleo Singapore

187. On or after 21 March 2024, Falcon as trustee for the FG Global Income Fund entered into an agreement dated 21 March 2024 with Maleo Singapore for the purported assignment of Falcon's rights, interests and obligations arising under a purported Facility Agreement originally dated 24 February 2021, between Falcon as trustee for the FG Global Income Fund and Briix Property Indonesia (the **Briix Property Assignment Agreement**).

Particulars

The Briix Property Assignment Agreement is in writing dated 21 March 2024, and signed by Anderson on behalf of Falcon and by Warren on behalf of Maleo Singapore.

188. There were purported terms of the Briix Property Assignment Agreement that:

(a) Falcon would assign its rights, interests and obligations under the purported Facility Agreement to Maleo Singapore;

(b) Falcon would release all its security interests in relation to Briix Property Indonesia created by the purported Facility Agreement; and

(c) Maleo Singapore would pay to Falcon AU$41,000,000 in fifteen monthly instalments between 1 August 2024 and 1 October 2025.

189. As at 21 March 2024:

(a) there did not exist any documented Facility Agreement dated 24 February 2021 between Falcon as trustee for the FG Global Income Fund and Briix Property Indonesia;

(b) the amounts purported to be owing to Falcon by Briix Property Indonesia were not the subject of any or adequate documentation of terms or provision of security; and

(c) Anderson was in a position of an actual or potential conflict between his duties to Falcon as alleged at paragraphs 16(b) and/or 17(b) above and:

(i) his interests in Maleo Singapore arising from his shareholdings in Maleo Singapore as pleaded at paragraph 146 above (**Anderson Maleo Singapore conflict**); and

(ii) his duties to and/or interests in Briix Property Indonesia (through Maleo Singapore) as alleged at paragraph 136(d) and 137 above (**Anderson Briix Property conflicts**).

190. Before entering into the Briix Property Assignment Agreement, Falcon:

(a) did not obtain from Maleo Singapore any security in respect of its payment obligations to Falcon;

(b) did not obtain adequate information from Maleo Singapore as to its capacity to meet its financial obligations under the Briix Property Assignment Agreement;

(c) did not engage in any arm's-length commercial negotiations concerning the terms of the Briix Property Assignment Agreement; and

(d) did not obtain the authorisation of Falcon's Board, Investment Committee or Compliance Committee to enter into the Briix Property Assignment Agreement.

191. At the time of entering into the Briix Property Assignment Agreement, Falcon:

(a) knew the matters pleaded in paragraphs 187 to 190 above;

(b) therefore, knew and/or intended that its entry into the Briix Property Assignment Agreement would present an appearance of:

(i) a genuine arm's-length transaction for the realisation of an asset purportedly held by Falcon as trustee for the FG Global Income Fund;

(ii) a substantial asset to be recorded in the accounts of the FG Global Income Fund and for the benefit of the FGMF; and

(iii) providing liquidity to the FGMF and the FG Global Income Fund by the prospect of receipt of AU$41,000,000 between August 2024 and October 2025; and

(c) knew that such appearance was false or lacked any reasonable or proper basis, by reason of the matters alleged in paragraphs 187 to 190 above.

Particulars

(A) Anderson's knowledge is to be attributed to Falcon.

(B) Anderson and Falcon's knowledge of the matters in paragraphs 187, 188, 189(c) and 190 above are to be inferred from Anderson's execution of the Briix Property Assignment Agreement on behalf of Falcon and his role and interests in Maleo Singapore and Briix Property Indonesia.

(C) Anderson and Falcon's knowledge of the matters in paragraphs 189(a) and (b) are to be inferred from the matters alleged at paragraphs 220 to 221 below.

(D) Anderson and Falcon's knowledge and/or intention as pleaded in sub-paragraphs (b) and (c) is to be inferred from the matters alleged in paragraphs 187 to 190 above.

192. Falcon has received no more than $473,955 in payments from Maleo Singapore under the Briix Property Assignment Agreement.

Particulars

(A) The total amount of $473,955 was received by Falcon from Maleo Singapore in three payments on 14, 23 and 31 January 2025.

(B) Falcon's accounts do not record whether those payments were made under the Briix Property Assignment Agreement, the Briix Founders Sale and Purchase Agreement, or the Palmer Assignment Agreement.

Falcon contraventions

193. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the FG Global Income Fund in the circumstances pleaded in paragraphs 13 to 17 above, would not have entered into the Briix Property Assignment Agreement without having:

(a) ensured that the Briix Property Assignment Agreement was a genuine arm's-length transaction for realisation of assets held by Falcon as trustee for the FG Global Income Fund;

(b) ensured that the asset purportedly subject of the Briix Property Assignment Agreement existed, alternatively was adequately and properly documented;

(c) further or in the alternative:

(i) ensured that Maleo Singapore would provide security in respect of its financial obligations to Falcon under the Briix Property Assignment Agreement;

(ii) obtained adequate information as to Maleo Singapore's capacity to meet its financial obligations under the Briix Property Assignment Agreement;

(iii) disclosed to the Board and the Investment Committee:

(A) the subject matter of the negotiations with Maleo Singapore in relation to the investment in Briix Property Indonesia; and

(B) any draft or unexecuted version of the Briix Property Assignment Agreement;

(iv) sought and obtained the authorisation of the Board to enter into the Briix Property Assignment Agreement; and

(v) ensured that any decision to enter into the Briix Property Assignment Agreement was made:

(A) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Maleo Singapore conflict and the Anderson Briix Property conflicts;

(B) with disclosure of the Anderson Maleo Singapore conflict and the Anderson Briix Property conflicts to members of the FGMF; and

(C) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Maleo Singapore conflict and the Anderson Briix Property conflicts and the steps which Falcon determined were required to address or manage those conflicts.

194. Before entering into the Briix Property Assignment Agreement, Falcon did not take any of the steps pleaded in paragraph 193 above.

195. By reason of the matters pleaded at paragraphs 191, 193(a)–(b) and 194 above, Falcon failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act.

196. By reason of the matters pleaded in paragraphs 193 to 194 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C6.2 Briix Founders sale to Maleo Singapore

197. Briix Founders Trust Pte Ltd (**Briix Founders Singapore**) is a Singaporean company:

(a) incorporated on 7 June 2023; and

(b) renamed to Asia Fintech Trust Pte Ltd on 22 March 2024.

198. Anderson:

(a) is and was from 7 June 2023 one of the directors of Briix Founders Singapore, and thereby owed Briix Founders Singapore a duty to act in its interests; and

(b) held 20% of the issued shares in Briix Founders Singapore until 29 April 2024.

199. Falcon was registered as a shareholder of Briix Founders Singapore from 29 April 2024.

200. On or after 21 March 2024, Falcon as trustee for the FG Private Equity Fund entered into an agreement dated 21 March 2024 with Maleo Singapore for the purported sale of shares held by the FG Private Equity Fund in Briix Founders Singapore (the **Briix Founders Sale and Purchase Agreement**).

Particulars

The Briix Founders Sale and Purchase Agreement is in writing dated 21 March 2024 and was purportedly executed by:

(A) Anderson, on behalf of both Falcon as trustee for the FG Private Equity Fund and Briix Founders Singapore;

(B) Selimaj, on behalf of Falcon as trustee for the FG Private Equity Fund; and

(C) Warren, on behalf of Maleo Singapore.

201. There were purported terms of the Briix Founders Sale and Purchase Agreement that:

(a) Falcon would sell its 10,000 shares in Briix Founders Singapore to Maleo Singapore;

(b) the total consideration for the sale of shares would be AU$93,000,000;

(c) upon execution of the Agreement, Falcon would deliver to Maleo Singapore certified true copies of resolutions passed by:

(i) the Board of Falcon, approving the sale of the shares to Maleo Singapore; and

(ii) the Board of Briix Founders Singapore, approving the transfer of the shares to Maleo Singapore;

(d) upon Completion (being two business days after execution of the Briix Founders Sale and Purchase Agreement), Falcon would deliver to Maleo Singapore duly executed transfer forms in respect of the shares and new share certificates issued in the name of Maleo Singapore;

(e) Maleo Singapore would pay to Falcon:

(i) (as trustee for the FG Private Equity Fund) AU$62,000,000 in 13 monthly instalments between 1 October 2024 and 1 October 2025; and

(ii) (as trustee for the FG Pan Asia Fund) AU$31,000,000 in 10 monthly instalments between 1 July 2024 and 1 April 2025.

202. As at 21 March 2024:

(a) Falcon did not hold any shares in Briix Founders Singapore capable of being sold or transferred;

(b) any amounts purportedly invested by Falcon in Briix Founders Singapore were not the subject of any or adequate documentation of terms or provision of equity or security;

(c) Anderson was subject to the Anderson Maleo Singapore conflict; and

(d) Anderson was in a position of actual or potential conflict (**Anderson Briix Founders conflicts**) between:

(i) his duties to Falcon and the members of the FGMF as pleaded at paragraphs 16(b) and/or 17(b) above; and

(ii) his duties to and/or interests in Briix Founders Singapore as pleaded in paragraph 198 above.

203. Before entering into the Briix Founders Sale and Purchase Agreement, Falcon:

(a) did not obtain from Maleo Singapore any security in respect of its payment obligations to Falcon;

(b) did not obtain adequate information from Maleo Singapore as to its capacity to meet its financial obligations under the Briix Founders Sale and Purchase Agreement;

(c) did not engage in any arm's-length commercial negotiations concerning the terms of the Briix Founders Sale and Purchase Agreement; and

(d) did not obtain the authorisation of Falcon's Board, Investment Committee or Compliance Committee.

204. At the time of entering into the Briix Founders Sale and Purchase Agreement, Falcon:

(a) knew the matters pleaded in paragraphs 202 and 203 above; and

(b) therefore, knew and/or intended that its entry into the Briix Founders Sale and Purchase Agreement would present an appearance of:

(i) a genuine arm's-length transaction for the realisation of an asset purportedly held by Falcon as trustee for the FG Private Equity Fund;

(ii) a substantial asset to be recorded in the accounts of the FG Private Equity Fund and FG Pan Asia Fund, and for the benefit of the FGMF;

(iii) providing liquidity to the FGMF, the FG Global Income Fund and the FG Pan Asia Fund by the prospect of receipt of AU$93,000,000 between July 2024 and October 2025; and

(c) knew that such appearance was false or lacked any reasonable or proper basis, by reason of the matters alleged in paragraphs 197 to 203 above.

Particulars

(A) Anderson's knowledge is to be attributed to Falcon.

(B) Anderson and Falcon's knowledge of the matters in paragraphs 202 and 203 above is to be inferred from Anderson and Falcon's respective shareholdings in Briix Founders Indonesia, Anderson's execution of the Briix Founders Sale and Purchase Agreement on behalf of Falcon and Briix Founders Singapore, and Anderson's role and interests in Maleo Singapore and Briix Property Indonesia.

(C) Anderson and Falcon's knowledge and/or intention as pleaded in sub-paragraph (b) and (c) is to be inferred from the matters alleged in paragraphs 197 to 203 above.

205. Falcon has received no more than $473,955 in payments from Maleo Singapore under the Briix Founders Sale and Purchase Agreement.

Particulars

The particulars to paragraph 192 above are repeated.

Falcon contraventions

206. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the FG Private Equity Fund in the circumstances pleaded in paragraphs 13 to 17 above, would not have entered into the Briix Founders Sale and Purchase Agreement without having:

(a) ensured that the Briix Founders Sale and Purchase Agreement was a genuine arm's-length transaction for realisation of assets held by Falcon as trustee for the FG Private Equity Fund;

(b) ensured that the asset purportedly subject of the Briix Founders Sale and Purchase Agreement existed, alternatively was adequately and properly documented;

(c) further or in the alternative:

(i) ensured that Maleo Singapore would provide security in respect of its financial obligations to Falcon under the Briix Founders Sale and Purchase Agreement;

(ii) obtained adequate information as to Maleo Singapore's capacity to meet its financial obligations under the Briix Founders Sale and Purchase Agreement;

(iii) disclosed to the Board and the Investment Committee:

(A) the subject matter of the negotiations with Maleo Singapore in relation to the investment in Briix Founders Singapore; and

(B) any draft or unexecuted version of the Briix Founders Sale and Purchase Agreement;

(iv) sought and obtained express authorisation of the Board to enter into the Briix Founders Sale and Purchase Agreement; and

(v) ensured that any decision to enter into the Briix Founders Sale and Purchase Agreement was made:

(A) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Maleo Singapore conflict and the Anderson Briix Founders conflicts;

(B) with disclosure of the Anderson Maleo Singapore conflict and the Anderson Briix Founders conflicts to members of the FGMF; and

(C) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Maleo Singapore conflict and the Anderson Briix Founders conflicts and the steps which Falcon determined were required to address or manage those conflicts.

207. Before entering into the Briix Founders Sale and Purchase Agreement, Falcon did not take any of the steps pleaded in paragraph 206 above.

208. By reason of the matters pleaded in paragraphs 204, 206(a)–(b) and 207 above, Falcon failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act.

209. By reason of the matters pleaded in paragraphs 206 and 207 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C6.3 Palmer assignment to Maleo Singapore

210. On or after 21 March 2024, Falcon as trustee for the FG Global Income Fund entered into an agreement dated 21 March 2024 with Maleo Singapore for the purported assignment of the FG Global Income Fund's purported rights and interests under the Palmer loan document (the **Palmer Assignment Agreement**).

Particulars

The Palmer Assignment Agreement is in writing dated 21 March 2024, and signed by Anderson on behalf of Falcon and by Warren on behalf of Maleo Singapore.

211. There were purported terms of the Palmer Assignment Agreement that, upon the "Effective Time" (being two business days after both parties confirmed in writing that all Conditions Precedent were satisfied):

(a) Falcon would assign its rights, interests and obligations under the Palmer loan document to Maleo Singapore;

(b) Falcon would release all its security interests in relation to Palmer Australia created by the Palmer loan document; and

(c) Maleo Singapore would pay to Falcon AU$54,000,000 in fifteen monthly instalments between 1 August 2024 and 1 October 2025.

212. As at 21 March 2024:

(a) the amounts purported to be owing to Falcon by Palmer Australia were, by reason of the matters pleaded in paragraphs 177 to 179 above:

(i) not the subject of adequate security;

(ii) recorded only in the Palmer loan document, which did not record a genuine arm's-length transaction and was a sham;

(iii) in substance, funds that were ultimately to be paid to or for the benefit of the Anderson Indonesia Interests;

(b) Anderson:

(i) controlled Palmer Australia, as alleged in paragraph 183 above; and

(ii) was subject to the Anderson Maleo Singapore conflict; and

(iii) was subject to the Anderson Indonesian Interests conflicts.

213. Before entering into the Palmer Assignment Agreement, Falcon:

(a) did not obtain from Maleo Singapore any security in respect of its payment obligations to Falcon;

(b) did not obtain adequate information from Maleo Singapore as to its capacity to meet its financial obligations under the Palmer Assignment Agreement;

(c) did not engage in any arm's-length commercial negotiations concerning the terms of the Palmer Assignment Agreement; and

(d) did not obtain the authorisation of Falcon's Board, Investment Committee or Compliance Committee.

214. At the time of entering into the Palmer Assignment Agreement, Falcon:

(a) knew the matters pleaded in paragraphs 212 and 213 above;

(b) therefore, knew and/or intended that its entry into the Palmer Assignment Agreement would present an appearance of:

(i) a genuine arm's-length transaction for the realisation of an asset purportedly held by Falcon as trustee for the FG Global Income Fund;

(ii) a substantial asset to be recorded in the accounts of the FG Global Income Fund, and for the benefit of the FGMF;

(iii) providing liquidity to the FGMF and the FG Global Income Fund by the prospect of receipt of AU$54,000,000 between August 2024 and October 2025; and

(c) knew that such appearance was false or lacked any reasonable or proper basis, by reason of the matters alleged in paragraphs 210 to 213 above.

Particulars

(A) Anderson's knowledge is to be attributed to Falcon.

(B) Anderson and Falcon's knowledge of the matters in paragraphs 212 and 213 above is to be inferred from Anderson's control of Palmer Australia and execution of the Palmer loan document on behalf of Falcon as pleaded in Part C5.5 above, his interest in Maleo Singapore, and his execution of the Palmer Assignment Agreement on behalf of Falcon.

(C) Anderson and Falcon's knowledge and/or intention as pleaded in sub-paragraph (b) and (c) is to be inferred from the matters alleged in paragraphs 210 to 213 above.

215. Falcon has received no more than $473,955 in payments from Maleo Singapore in under the Palmer Assignment Agreement.

Particulars

The particulars to paragraph 192 above are repeated.

Falcon contraventions

216. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the FG Global Income Fund in the circumstances pleaded in paragraphs 13 to 17 above, would not have entered into the Palmer Assignment Agreement without having:

(a) ensured that the Palmer Assignment Agreement was a genuine arm's-length transaction for realisation of assets held by Falcon as trustee for the FG Global Income Fund;

(b) ensured that the asset purportedly subject of the Palmer Assignment Agreement was adequately and properly documented;

(c) further or in the alternative:

(i) ensured that Maleo Singapore would provide security in respect of its financial obligations to Falcon under the Palmer Assignment Agreement;

(ii) obtained adequate information as to Maleo Singapore's capacity to meet its financial obligations under the Palmer Assignment Agreement;

(iii) disclosed to the Board and the Investment Committee:

(A) the subject matter of the negotiations with Maleo Singapore in relation to the investment in Palmer Australia; and

(B) any draft or unexecuted version of the Palmer Assignment Agreement, including issues in respect of the agreement for the Board's consideration;

(iv) sought and obtained the express authorisation of the Board to enter into the Palmer Assignment Agreement; and

(v) ensured that any decision to enter into the Palmer Assignment Agreement was made:

(A) without the participation of Anderson, further or alternatively so as to adequately address the Anderson Maleo Singapore conflict or the Anderson Indonesian Interests conflicts;

(B) with disclosure of the Anderson Maleo Singapore conflict or the Anderson Indonesian Interests conflicts to members of the FGMF; and

(C) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson Maleo Singapore conflict or the Anderson Indonesian Interests conflicts and the steps which Falcon determined were required to address or manage those conflicts.

217. Before entering into the Palmer Assignment Agreement, Falcon did not take any of the steps pleaded in paragraph 216 above.

218. By reason of the matters pleaded in paragraphs 214, 216(a)–(b) and 217 above, Falcon failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act.

219. By reason of the matters pleaded in paragraphs 216 and 217 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C6.4 Briix Property Indonesia false documentation

220. In June to August 2024, Falcon, further or alternatively Anderson, caused or allowed a document to be created and executed in the form of a loan facility agreement (**Briix Property Facility Document**) which provided that:

(a) the date of the document was 30 June 2020;

(b) Falcon as trustee for the FG Global Income Fund was to provide an AUD $40m Senior Secured Note Facility to Briix Property Indonesia; and

(c) Briix Property would grant a security interest in favour of Falcon in respect of all present and after acquired property of Briix Property Indonesia.

Particulars

(A) Anderson sent and received emails in the preparation of the Briix Property Facility Document on 5 June 2024, 21 June 2024, 12 July 2024, 7 August 2024 and 28 August 2024.

(B) The Briix Property Facility Document was executed by Anderson on behalf of Falcon.

221. In acting as alleged in the preceding paragraph, Falcon, further or alternatively Anderson:

(a) intended that the Briix Property Facility Document would form an apparently genuine part of the financial books and records of Falcon and the FG Global Income Fund;

(b) knew that:

(i) Falcon had not made any payments to Briix Property Indonesia;

(ii) alternatively, any payments by Falcon to Briix Property Indonesia prior to 28 August 2024 had been made without documentation of the terms and without providing security to Falcon, and

(c) intended the Briix Property Facility Document to conceal that fact.

Particulars

Anderson's intention is to be inferred from the emails referred to in the particulars to paragraph 220 above. As a director of Falcon, Anderson's intention is attributed to Falcon.

222. By reason of the matters pleaded at paragraphs 220 and 221 above, Falcon:

(a) failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act; and

(b) failed to act in the best interests of the members of FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C6.5 Briix Group Indonesia false documentation

223. In June to August 2024, Falcon, further or alternatively Anderson, caused or allowed a document to be created and executed in the form of a convertible note agreement (**Briix Group Convertible Note**), which provided that:

(a) the date of the document and execution was 23 September 2022;

(b) Falcon as trustee for the FG Private Equity Fund subscribed for convertible notes issued by Briix Group Indonesia up to AUD $50 million;

(c) the convertible note did not charge or mortgage any Briix Group Indonesia assets in favour of Falcon as trustee for FG Private Equity Fund; and

(d) Falcon could, at any time prior to 30 June 2024, give notice requesting the conversion of all or part of the notes held by it (as trustee for the FG Private Equity Fund) into shares in Briix Group Indonesia.

Particulars

(A) Anderson sent and received emails in the preparation of the Briix Group Convertible Note on 5 June 2024, 21 June 2024, 12 July 2024, 7 August 2024 and 28 August 2024.

(B) The Briix Group Convertible Note was executed by Anderson on behalf of Falcon as trustee for FG Private Equity Fund.

224. In acting as alleged in the preceding paragraph, Falcon, further or alternatively Anderson:

(a) intended that the Briix Group Convertible Note would form an apparently genuine part of the financial books and records of Falcon and the FG Private Equity Fund;

(b) knew that:

(i) Falcon had not made any payments to Briix Group Indonesia;

(ii) alternatively, any payments by Falcon to Briix Group Indonesia prior to 28 August 2024 had been made on an undocumented basis, and

(c) intended the Briix Group Convertible Note to disguise that fact.

Particulars

Anderson's intention is to be inferred from the emails set out in the particulars to paragraph 223 above. As a director of Falcon, Anderson's intention is attributed to Falcon.

225. By reason of the matters pleaded at paragraphs 223 to 224 above, Falcon:

(a) failed to act honestly, in breach of s 601FC(1)(a) of the Corporations Act; and

(b) failed to act in the best interests of the members of FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

C7. Transfers to director related entities

C7.1 FG Holdings

(1) Anderson's role and interest in FG Holdings

226. At all material times, Anderson was in a position of actual or potential conflict (**Anderson FG Holdings conflicts**) between:

(a) his duties to Falcon and to the members of the FGMF as pleaded in paragraphs 16(b) and 17(b) above; and

(b) his interests in and/or duties to FG Holdings by reason of the matters pleaded in paragraph 19 above.

227. Further, at all material times since FG Holdings' incorporation, alternatively since 1 September 2020:

(a) Anderson had the capacity to determine the outcome of decisions about FG Holdings' financial and operating policies, and therefore controlled FG Holdings within the meaning of s 50AA of the Corporations Act; and

(b) therefore, FG Holdings was a related party of Falcon within the meaning of s 228(4) of the Corporations Act.

Particulars

(A) ASIC relies on Anderson's directorship, beneficial shareholdings in FG Holdings, and control of the FG Holdings account, pleaded in paragraph 19 above.

(B) Further:

(i) Anderson routinely provided instructions to First Guardian staff in relation to the accounting treatment of funds paid to or from FG Holdings;

(ii) Anderson executed agreements on behalf of FG Holdings, including:

(1) a heads of agreement between FG Holdings and Atlas Marketing Pty Ltd dated 30 May 2023;

(2) an undated heads of agreement between FG Holdings and Indigo Group Pty Ltd;

(3) an undated loan facility deed between FG holdings and Lion & Horn Pty Ltd;

(4) a December 2024 deed of settlement and release between FG Holdings and numerous other parties;

(5) a "repayment agreement" dated 15 August 2018 between FG Holdings and Leakhena Sun;

(6) an employment contract between FG Holdings and Tanisha Maugi dated 12 May 2021; and

(7) a loan agreement between FG Holdings and Silex Enterprises Pty Ltd dated 30 November 2020;

(iii) Anderson signed the FY23 tax return for FG Holdings and was listed as the relevant public officer of the company in the FY22 and FY24 tax returns.

(2) Payments to FG Holdings

228. Between 6 January 2020 and 30 January 2025, Falcon paid or caused to be paid to FG Holdings from the property of the FG Trade Finance Fund and the FG Global Income Fund a net amount of at least $61,083,975.81 (**FG Holdings payments**), including at least $57,464,975.81 during the Contravention Period.

Particulars

(A) As to the amounts paid from the FG Trade Finance Fund:

(i) The net amount paid to FG Holdings was $52,880,781.17 (including $51,105,781.17 during the Contravention Period).

(ii) The amounts paid to FG Holdings were from three accounts held in the name of the FG Trade Finance Fund (account numbers ending in 4211, 8927, and 5628).

(iii) The net amount comprised:

(1) a total of $59,555,013.43 transferred from the three accounts of the FG Trade Finance Fund to FG Holdings; and

(2) a total of $6,674,232.26 transferred by FG Holdings to the three accounts of the FG Trade Finance Fund.

(B) As to the amounts paid from the FG Global Income Fund:

(i) The net amount paid to FG Holdings was $8,203,194.64 (including $6,359,194.64 during the Contravention Period).

(ii) The amounts paid to and from FG Holdings were from two accounts held in the name of the FG Global Income Fund (account numbers ending in 5177 and 5185).

(iii) The net amount comprised:

(1) a total of $8,991,000.00 transferred from the two accounts of the FG Global Income Fund; and

(2) a total of $787,805.36 transferred by FG Holdings to the two accounts of the FG Global Income Fund.

229. Falcon made the FG Holdings payments:

(a) without documentation of any agreement that governed or purported to govern the terms of the FG Holdings payments;

(b) without obtaining any security from FG Holdings in respect of the FG Holdings payments;

(c) in circumstances where the Anderson FG Holdings conflicts existed with respect to the terms, making of and recovery of those payments;

(d) at the same time as making:

(i) the Security Representations, in circumstances which were inconsistent with, or rendered misleading, the Security Representations (as pleaded in paragraphs 24 to 26 above); and

(ii) the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the FG Holdings payments would be in the best interests of the FGMF and its members; and

(f) without accurately or adequately recording the FG Holdings payments in Falcon's accounts.

Particulars

(A) The FG Holdings payments were recorded in the ledgers of the FG Trade Finance Fund and FG Global Income Fund as loans.

(B) Between 12 February 2024 and 30 January 2025, a net total of $43,827,065.62 was manually written off from the recorded loan to FG Holdings in the ledger of the FG Trade Finance Fund, without supporting documentation.

(C) Between 26 April 2021 and 30 November 2022, a net total of $8,203,194.64 was manually written off from the recorded loan to FG Holdings in the ledger of the FG Global Income Fund, without supporting documentation.

(3) Falcon contraventions

Undocumented, unsecured and conflicted payments

230. An honest and reasonable person in the position of Falcon as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would not have made the FG Holdings payments without having ensured that:

(a) the amounts paid to FG Holdings were appropriately documented;

(b) FG Holdings provided adequate security or proprietary interest in respect of the FG Holdings payments;

(c) the FG Holdings payments were made pursuant to arm's-length commercial arrangements that were authorised by the Board, Investment Committee and/or Compliance Committee;

(d) adequate due diligence had been undertaken into FG Holdings' business or its capacity to meet its financial obligations in respect of the FG Holdings payments;

(e) any decision to advance funds to FG Holdings was made:

(i) without the participation of Anderson, further or alternatively so as to adequately address the Anderson FG Holdings conflicts;

(ii) with disclosure of the Anderson FG Holdings conflicts to members of the FGMF and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7);

(iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Anderson FG Holdings conflicts and the steps which Falcon determined were required to address or manage those conflicts; and

(f) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading:

(i) the Security Representations; and

(ii) the Investment Committee Representation.

231. Falcon failed to take any of the steps pleaded in paragraph 230 above.

232. By reason of the matters pleaded in paragraphs 230 and 231 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF in breach of s 601FC(1)(c) of the Corporations Act.

Related party benefits

233. By reason of the matters pleaded in paragraphs 14, 19, 226 and 227 above:

(a) on each occasion that it made any of the FG Holdings payments, Falcon gave a financial benefit to FG Holdings within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

(b) those payments were financial benefits given to a related party which, by reason of the matters alleged in paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, could have endangered the scheme property of the FGMF; and

(c) Falcon did not obtain the approval of the FGMF's members for the giving of those financial benefits to FG Holdings in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

234. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the FG Holdings payments during the Contravention Period, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

C7.2 Aurea

235. **Aurea** Management Pty Ltd was a company:

(a) incorporated on 11 October 2019;

(b) deregistered on 2 July 2025;

(c) which had, at all times since its incorporation until its deregistration:

(i) Selimaj as its sole director and shareholder; and

(ii) Selimaj's residential address as its registered office and principal place of business; and

(d) which held one bank account, of which Selimaj was the sole authorised signatory.

Particulars

Commonwealth Bank account number 063000 13471367.

(1) Selimaj's role and interest in Aurea

236. At all material times, Selimaj was in a position of actual or potential conflict (**Selimaj Aurea conflicts**) between:

(a) his duties to Falcon and to the members of the FGMF as pleaded in paragraphs 16(b) and 17(b) above; and

(b) his interests in and/or duties to Aurea by reason of the matters pleaded in paragraph 235 above.

237. Further, at all material times since Aurea's incorporation:

(a) Selimaj had the capacity to determine the outcome of decisions about Aurea's financial and operating policies, and therefore controlled Aurea within the meaning of s 50AA of the Corporations Act; and

(b) therefore, Aurea was a related party of Falcon within the meaning of s 228(4) of the Corporations Act.

Particulars

Selimaj's control of Aurea is to be inferred from:

(A) his status as its sole director and shareholder;

(B) his status as the sole authorised signatory of Aurea's bank account;

(C) his payment or approval of invoices payable by Aurea, forwarded to him by Tanisha Maugi in February 2021;

(D) his execution of documents on behalf of Aurea, including:

(i) an Introducer Agreement in February 2020 between Aurea and Empire Wealth Group Australia Pty Ltd; and

(ii) a Share Purchase Agreement dated 15 March 2024 between Aurea and Equity One Group Pty Ltd.

(2) Payments to Aurea

238. Between 8 November 2019 and 31 May 2025, Falcon paid or caused to be paid from the property of the FG Private Equity Fund a net amount of at least $6,942,957.07 (**Aurea payments**), including $3,768,117.34 during the Contravention Period.

Particulars

The net amount of the Aurea payments comprised:

(A) a total of $6,208,337.07 transferred by Falcon (from an account held in the name of Falcon trading as the FG Private Equity Fund, account number ending 8286) to Aurea in almost 600 transactions between 8 November 2019 and 19 February 2021;

(B) a total of $800,030 transferred by Aurea to Falcon in three transactions on 19 April 2021, 20 April 2021 and 21 March 2024; and

(C) a total of $1,534,650 transferred by Falcon to Aurea in four transactions between 5 September 2022 and 12 January 2024.

239. Falcon made the Aurea payments:

(a) without documentation of any agreement that governed or purported to govern the terms of the Aurea payments;

(b) without obtaining any security from Aurea in respect of the Aurea payments;

(c) in circumstances where the Selimaj Aurea conflicts existed with respect to the terms, making of and recovery of those payments;

(d) at the same time as making the Investment Committee Representation, in circumstances which were inconsistent with, or rendered misleading, the Investment Committee Representation (as pleaded in paragraphs 31(a) and 32 above);

(e) without any due diligence or consideration by Falcon's Board or Investment Committee of whether the Aurea payments would be in the best interests of the FGMF and its members; and

(f) without accurately or adequately recording the Aurea payments in Falcon's accounts.

Particulars

(A) The payments to Aurea were recorded by Falcon as trustee for the FG Private Equity Fund under a sub-ledger titled "Inv. – Aurea project", reaching a total book value of $23,933,187.67 as at 12 January 2024.

(B) On 25 February 2024, an amount of $23,933,187.67 was credited to the Aurea sub-ledger and the investment was cleared from the balance sheet of the FG Private Equity Fund.

(C) On 4 March 2024, the Aurea sub-ledger was reinstated with a total loan amount recorded of $7,792,333.22.

(D) On 15 March 2024, the recorded loan to Aurea was written off.

(3) Falcon contraventions

Undocumented, unsecured and conflicted payments

240. An honest and reasonable person in the position of Falcon, as responsible entity of the FGMF and trustee of the Underlying Funds in the circumstances pleaded in paragraphs 13 to 17 above, would not have made the Aurea payments without having ensured that:

(a) the Aurea payments were appropriately documented;

(b) Aurea provided adequate security or proprietary interest in respect of the Aurea payments;

(c) the Aurea payments were made pursuant to arm's-length commercial arrangements that were authorised by the Board, Investment Committee and/or Compliance Committee;

(d) adequate due diligence had been undertaken into Aurea's business or its capacity to meet its financial obligations in respect of the Aurea payments;

(e) any decision to advance funds to Aurea was made:

(i) without the participation of Selimaj, further or alternatively so as to adequately address the Selimaj Aurea conflicts;

(ii) with disclosure of the Selimaj Aurea conflicts to members of the FGMF and obtainment of the approval of members of the FGMF for the making of those payments in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7); and

(iii) in accordance with Falcon's conflicts policy, including by recording on Falcon's conflicts register the Selimaj Aurea conflicts and the steps which Falcon determined were required to address or manage those conflicts;

(f) any payments were not made in terms or in circumstances which were inconsistent with, or which rendered misleading, the Investment Committee Representation; and

(g) steps were taken to ensure the purported investment in Aurea was appropriately valued and accurately recorded on Falcon's books.

241. Falcon failed to take any of the steps pleaded in paragraph 240 above.

242. By reason of the matters pleaded in paragraphs 240 and 241 above, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of the members of the FGMF in breach of s 601FC(1)(c) of the Corporations Act.

Related party benefits

243. By reason of the matters pleaded in paragraphs 14 and 235 to 238 above:

(a) on each occasion that Falcon made any of the Aurea payments, Falcon gave a financial benefit to Aurea within the meaning of s 229 of the Corporations Act (as applied and modified by s 601LA);

(b) those payments were financial benefits given to a related party which, by reason of the matters alleged in paragraph 14 above:

(i) were given out of the scheme property of the FGMF;

(ii) further or alternatively, could have endangered the scheme property of the FGMF; and

(c) Falcon did not obtain the approval of the FGMF's members for the giving of those financial benefits to Aurea in the way set out in ss 217 to 227 of the Corporations Act (as applied and modified by Pt 5C.7).

244. By reason of the matters pleaded in the preceding paragraph, Falcon, on each occasion that it made any of the Aurea payments during the Contravention Period, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

D. GOVERNANCE AND COMPLIANCE FAILURES

D1. Investment management

D1.1 Investment practices

245. At all times while Falcon was responsible entity of the FGMF and trustee of the Underlying Funds, it was the general practice of Falcon for determination of the following matters to be made or procured by Anderson (together, the **Anderson determinations**):

(a) into which Underlying Funds Falcon would transfer investment funds it received from time to time from members of the FGMF;

(b) what investments and the terms on which investments would be made by Falcon as trustee for each of the Underlying Funds (for all asset classes other than investments in relation to listed equities), including as to the investments alleged in Part C above;

(c) whether and what amounts to transfer from the Underlying Funds in respect of the investments determined as alleged in subparagraph (b) above; and

(d) whether and what amounts to transfer between Underlying Funds.

Particulars

ASIC relies on:

(A) Anderson's exclusive or predominant control over the making of each of the investments pleaded in Part C above;

(B) the matters pleaded in Part F1 below;

(C) the minutes of meetings of the Board of Falcon, which do not record the discussion of any specific investments made by Falcon;

(D) the minutes of meetings of the Investment Committee of Falcon / FG Capital, which do not record discussion of any investments prior to July 2024.

246. Further, at all times while Falcon was responsible entity of the FGMF and trustee of the Underlying Funds, it was the practice of Falcon to act upon the Anderson determinations by making payments of investment funds for each of the matters identified in paragraph 245 above by or at the direction of Anderson.

247. At all material times, alternatively at all times before July 2024, in following the general practices alleged in paragraphs 245 and 246 above:

(a) Falcon did not seek, and Anderson did not provide to any other person or committee at Falcon or FG Capital, the matters subject to the Anderson determinations for review or approval; and

(b) the Board of directors of Falcon did not approve the matters subject to the Anderson determinations.

248. Further, from in or about March 2024, Falcon convened an **Investment Committee** which:

(a) comprised as members:

(i) from March 2024, Selimaj, Anderson and Tanisha Maugi;

(ii) from July 2024, Selimaj, Anderson, Tanisha Maugi, Paul Tosin and Sarah Harvey; and

(iii) from January 2025, Selimaj, Anderson, James Davidson, Sarah Harvey, Tanisha Maugi, David Galloway, Paul Tosin and John Donovan;

(b) was mandated to consider asset allocation and investment philosophy of the FGMF, alternatively of the Underlying Funds; and

(c) was not mandated or provided with information to review or deem appropriate, and did not review or deem appropriate, all of the matters subject to the Anderson determinations prior to those determinations being made.

Particulars

The mandate of the Investment Committee was recorded in the agendas for the Investment Committee meetings.

From July 2024, the Investment Committee was provided with information relating to a limited number of investments made by Falcon (F1J.0024.0001.0284).

249. At all material times, alternatively at all times before around July 2024:

(a) Falcon permitted Anderson to make the Anderson determinations;

(b) Selimaj permitted, alternatively was aware of and took no steps to prevent, Anderson making and Falcon acting on the Anderson determinations; and

(c) neither Falcon nor Selimaj monitored, reviewed or documented:

(i) the Anderson determinations;

(ii) whether the investments subject to the Anderson determinations:

(A) would be or had been made in circumstances of actual, apparent or perceived conflict of interest;

(B) were on terms suitable to the FGMF as to the risks and returns;

(C) would be or had been documented adequately;

(D) were undertaken consistently with the provisions of PDSs issued by Falcon;

(iii) whether it was appropriate to maintain or increase the funds paid towards the investments subject to the Anderson determinations.

250. Further, the matters alleged in the preceding paragraph continued:

(a) throughout the period of Selimaj's knowledge, as alleged in paragraph 354 below; and

(b) while substantial increases occurred in the amount of funds paid to investments:

(i) generally other than in listed equities; and

(ii) as alleged in Part C above.

D1.2 Falcon contraventions

251. An honest and reasonable person in the position of Falcon as responsible entity of the FGMF, with knowledge of the matters alleged in Part D1.1 above, would have been aware of risks that:

(a) Anderson had not disclosed actual, apparent or perceived conflicts of interests in the investments subject to the Anderson determinations;

(b) Anderson was acting in self-interest or other than in the best interests of FGMF members in making the Anderson determinations;

(c) Anderson had conducted no or limited due diligence into the investments and their risks and commercial merits;

(d) Anderson had not ensured that:

(i) the terms of the investments were adequately documented;

(ii) the counterparty to each investment provided adequate security, proprietary or equity interest in respect of the investment, or had the capacity to repay any amounts advanced by Falcon; and

(e) by reason of those matters, the investments may not be properly or appropriately valued from time to time for the FGMF.

252. Further, an honest and reasonable person in the position of Falcon as responsible entity of the FGMF, having regard to funds received in the FGMF being invested in the Underlying Funds, would have:

(a) implemented and enforced processes for determination of investments by the FGMF and the Underlying Funds which comprised, in respect of the matters proposed to be subject of Anderson determinations:

(i) consideration as to whether the circumstances of the investment gave rise to any actual, apparent or perceived conflict of interest of a director or employee of Falcon or FG Capital;

(ii) review and approval of the determination by an investment manager and/or investment committee, consistently with the Investment Representations pleaded in Part B3 above;

(iii) verification that there were documentary records as to the terms of the transactions including as to Falcon's rights and liabilities;

(iv) maintaining records of taking the steps alleged in the preceding subparagraphs; and

(b) until satisfied of the matters set out in subparagraph (a) above:

(i) not permitted Anderson to make, or prevented Anderson from making, the Anderson determinations; and

(ii) refrained from acting upon the Anderson determinations.

253. At all material times, in acting as alleged in paragraphs 245 to 249 above, Falcon:

(a) had the awareness pleaded in paragraph 251 above; and

(b) did not take any of the steps pleaded in paragraph 252 above.

254. By reason of the matters alleged above in paragraphs 251 to 253 above, and by its conduct as alleged in paragraph 253 above during the Contravention Period, Falcon:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Falcon's position, in breach of s 601FC(1)(b) of the Corporations Act; and

(b) failed to act in the best interests of members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act.

D2. Falcon Board of directors

255. Other than Selimaj and Anderson, Falcon appointed as its directors:

(a) Bekim **Hasani** purportedly from 23 October 2015 to 1 February 2018 and from 25 October 2019 to 24 December 2021;

(b) James **Xenidis** from 24 December 2021 to 10 May 2022;

(c) Ferris **Sallka** from 1 October 2022 to 19 March 2024;

(d) Adam Goldner from 15 March 2024 to 6 December 2024; and

(e) Paul **Tosin** from 15 March 2024.

256. Hasani:

(a) did not know of and did not consent to his appointment as a director of Falcon;

(b) did not, at any time before or after being appointed, give a signed consent to Falcon; and

(c) after purportedly being appointed:

(i) did not take any steps to act as a director of Falcon;

(ii) was not informed about the convening of any Board meetings by Falcon, Anderson or Selimaj;

(iii) did not attend any Board meeting of Falcon; and

(iv) did not participate in Falcon's business activities.

257. Sallka:

(a) was Selimaj's son;

(b) at the time of his appointment:

(i) was 19 years old;

(ii) had no experience in acting as a director of a corporation;

(iii) had no experience in the financial services industry; and

(iv) had no qualifications relevant to appointment as a director of Falcon; and

(c) after being appointed:

(i) did not take any steps to act as a director of Falcon;

(ii) was not informed about the convening of any Board meetings by Falcon, Anderson or Selimaj;

(iii) did not attend any board meeting of Falcon; and

(iv) did not participate in any decision by Falcon as to operation of the FGMF or investment by Falcon as trustee of the Underlying Funds.

258. By reason of the matters pleaded in paragraph 256(b) above, Falcon did not obtain a signed consent to act as a director of Falcon from Hasani, as required by s 201D(1) of the Corporations Act.

259. Selimaj prepared minutes of the Board meetings of Falcon that purportedly occurred between 2019 and 2024 which, contrary to the matters alleged in paragraphs 256 and 257 above, purported to record that:

(a) Hasani attended at Board meetings of Falcon on 10 July 2019, 9 October 2019, 20 January 2020, 8 April 2020, 8 July 2020, 14 October 2020, 27 January 2021, 29 April 2021 and 20 October 2021;

(b) Sallka attended at Board meetings of Falcon on 3 March 2023, 3 May 2023, 25 July 2023 and 9 February 2024; and

(c) the Board agreed as to the contents of the minutes of the previous meeting.

Particulars

In August 2020, Selimaj prepared draft meeting minutes and sent them to Anderson and Tanisha Maugi (Investment Analyst) for approval. The minutes purportedly related to Falcon Board meetings for July 2019, October 2019, January 2020, April 2020, July 2020 and August 2020 (ZFG.0004.0003.8579, ZFG.0004.0003.8704, and ZFG.0004.0003.8715).

Selimaj continued to prepare draft meeting minutes on an approximately quarterly basis between October 2020 and March 2024 and, on each occasion, sent those minutes by email to Anderson and Maugi.

260. Anderson was aware of the creation of the minutes referred to in paragraph 259.

Particulars

The particulars to paragraph 259 are repeated.

261. Falcon, further or alternatively Anderson and Selimaj:

(a) intended that the minutes referred to in paragraph 259 would form an apparently genuine part of the corporate records of Falcon;

(b) knew that Hasani and Sallka did not attend at the Board meetings referred to in paragraph 259 nor take any of the steps referred to in paragraphs 256(c) and 257(c) respectively;

(c) intended the minutes to disguise those facts.

262. In the circumstances alleged in paragraphs 255 to 261 above, Falcon, during the Contravention Period:

(a) failed to act in the best interests of the members of the FGMF in breach of s 601FC(1)(c) of the Corporations Act, by permitting Sallka to be appointed as a director in the circumstances alleged in paragraph 257 above;

(b) failed to act honestly in breach of s 601FC(1)(a) of the Corporations Act by:

(i) purporting to appoint and continue to record Hasani as a director of Falcon without obtaining his consent or providing him with information about the activities of the Board of Falcon, as alleged in paragraph 256 above;

(ii) creating false minutes of Board meetings, as alleged in paragraph 259 above; or

(iii) failing to accurately record the events of Board meetings of Falcon, as alleged in paragraph 259 above.

D3. Compliance function

D3.1 Compliance Plan

263. From 2019, Falcon as responsible entity for the FGMF had in place a Compliance Plan for the purpose of s 601HA of the Corporations Act, providing for measures that Falcon was to apply in operating the FGMF to ensure compliance with the Corporations Act and the FGMF's constitution.

Particulars

Compliance Plan dated 23 August 2019 (F1J.0003.0005.1143);
Compliance Plan dated 9 December 2021 (F1J.0003.0005.1242);
Compliance Plan dated 1 July 2023 (F1J.0032.0001.0416).

264. At all material times, the Compliance Plan provided for certain controls and monitoring to be applied by Falcon in order to ensure compliance with its obligations, as follows:

(a) in order to satisfy the obligation that any conflict of interest of Falcon, its directors or its representatives was to be managed appropriately, Falcon would have in place a conflicts of interest management system and a record of conflicts of interests that aimed to identify, assess and manage any conflicts; and

(b) in order to satisfy the obligation that the interests of Falcon, its related parties or service providers were not to be placed above the interests of investors, Falcon would:

(i) have in place a code of conduct and conflicts of interest policy; and

(ii) manage identified and perceived conflicts on a case-by-case basis and record and report those conflicts to the Compliance Committee.

Particulars

The provisions were contained in sections 6.1.1, 6.12.1–2, 6.13.1, 6.19.1 and 6.20.1 of the Compliance Plan.

D3.2 Compliance Manager and Compliance Committee

265. At all material times from August 2019, or in the alternative from around September 2020, Falcon established and maintained a Compliance Committee for the purpose of monitoring to what extent Falcon in operating the FGMF complied with the Compliance Plan, and reporting on its findings to Falcon, as provided by Pt 5C.5 of the Corporations Act (**Compliance Committee**).

Particulars

(A) The Compliance Committee was established in around August 2019 and was renamed an Audit, Risk and Compliance Committee from around November 2022.

(B) No meetings of the Compliance Committee were held until September 2020.

266. Selimaj:

(a) was a member of Falcon's Compliance Committee until around August 2024;

(b) prepared and/or approved the Compliance Committee's quarterly reports as Compliance Manager between October 2019 and May 2024;

(c) in a stated capacity as Director & Compliance Manager between September 2019 and July 2021, and in a stated capacity as Director from October 2021 to August 2022, confirmed each quarter that Falcon had complied with its Compliance Plan by signing a Compliance Plan Checklist;

(d) was the chairperson of Compliance Committee meetings between September 2020 and May 2024; and

(e) was designated as Compliance Manager in the Compliance Plan from July 2023.

D3.3 Conflicts of interest policy and register

267. At all relevant times, Falcon had a policy for controlling and managing conflicts of interest and duty, and related party transactions, which provided that:

(a) the policy applied to Falcon, FG Capital and related entities (termed **FG Group**);

(b) directors of Falcon were required to declare any actual, apparent or potential conflicts of interest;

(c) any conflicts, along with the controls taken to mitigate the conflict, would be recorded in the FG Group's conflicts register;

(d) prior to November 2022:

(i) conflicts of interests were to be reviewed whenever Falcon or FG Capital entered into a new project or investment;

(ii) all transactions were to be reviewed by the relevant executive, the project's due diligence committee (if applicable) and recommended to the Managing Director, Executive Committee or Board for approval;

(iii) the Board would consider each transaction, and any potential conflict of interest issues would be addressed and considered as part of that decision making process;

(iv) all arrangements entered into between related FG Group entities should be evidenced in writing between the parties and the commerciality of any fees supported by certain objective or independent measures; and

(v) all payments to related parties were to be approved by the FG Group Board with any conflicted directors abstaining from voting prior to payment.

(e) from November 2022, the Compliance Manager would assess each conflict and determine how FG Group would manage the conflict through controlling, disclosing or avoiding.

Particulars

(A) Conflicts policy dated 2015 (ZFG.0004.0003.4784), sections 1.7(a), 3.1, 4.3(d), 5.1 and 7.1.

(B) Conflicts policy dated 4 November 2022 (ZFG.0010.0002.2402), section 5.2.

268. At all material times from at least September 2019, Falcon maintained a conflicts of interests register (**conflicts register**) pursuant to the policies alleged in the preceding paragraph.

269. In December 2019, Falcon reported to the Compliance Committee that:

(a) there existed a conflict of interest in that Selimaj and Anderson managed projects that were the recipients of funding through the FG Private Equity Fund;

(b) measures implemented to address the conflict were that all transactions were made in accordance with the standard investment terms of the FG Private Equity Fund (alternatively, the FGMF), and advanced via secured notes;

(c) the conflict was being monitored by both projects reporting monthly to the Board of Falcon, confirming the status, financial viability and capacity to meet all obligations to the FG Private Equity Fund (alternatively, the FGMF).

270. The conflicts register maintained by Falcon stated:

(a) from December 2019 to March 2021, the matters alleged in paragraph 269 above;

(b) from June 2021 to March 2024, that the funding received by the projects managed by Selimaj and Anderson was provided through the FG Private Equity Fund, the FG Trade Finance Fund and the FG Global Income Fund, with the same measures for addressing and monitoring.

271. In respect of the projects managed by Selimaj and Anderson referred to in paragraph 270 above, between December 2019 and March 2024:

(a) no reports (as referred to in paragraph 269(c) above) were provided to the Board of Falcon or disclosed to the Compliance Committee;

(b) no updates to the status of the projects, or the status of Falcon's monitoring and management of those conflicts of interest, were made or notified to the Compliance Committee.

272. On 3 September 2020, at a meeting attended by Selimaj, Anderson, Tosin and Xenidis, the Compliance Committee:

(a) observed that the conflicts register could be expanded to identify funds (if any) where directors held interests in the underlying assets; and

(b) determined that the Compliance Committee would review that aspect in the next quarter.

273. By reason of the observations of the Compliance Committee alleged in the preceding paragraph, Falcon was aware that, if a director held an interest in the underlying assets of an Underlying Fund:

(a) there was an actual, apparent or perceived conflict of interest; and

(b) it was necessary or appropriate for Falcon to record that circumstance in its conflicts register.

274. On 16 October 2020, Selimaj made a quarterly compliance report as Compliance Manager to the Compliance Committee which:

(a) reported that, in relation to the potential conflicts of interest discussed previously by the Compliance Committee, the Board of Falcon had deemed that there were no pending or existing conflicts of interests;

(b) did not address whether steps had been taken by Falcon or its Board in relation to identifying any Underlying Fund in the assets of which Selimaj or Anderson may have had an interest; and

(c) did not adopt a change in the conflicts register to record such a circumstance.

Particulars

The quarterly compliance report dated 16 October 2020 was in writing (F1J.0212.0001.0593).

275. On 5 November 2020, at a meeting attended by Selimaj, Anderson, Tosin and Xenidis, the Compliance Committee:

(a) received and accepted the compliance report by Selimaj alleged in the preceding paragraph;

(b) again observed that the conflicts register could be expanded to identify funds (if any) where directors held interests in the underlying assets; and

(c) did not (collectively or by any of its members):

(i) make inquiry of Selimaj or Anderson as to the deeming by the Board of Falcon of absence of conflicts of interest; or

(ii) otherwise review or consider the sufficiency of disclosure of interests or conflicts held by individual directors of Falcon.

D3.4 Falcon contraventions

276. Falcon:

(a) was aware, or ought to have been aware, of the existence of:

(i) the Anderson Rogue Traders conflicts, as pleaded at paragraph 40 above;

(ii) the Anderson Fox Friday conflicts, as pleaded at paragraph 60 above;

(iii) the Anderson Maleo Indonesia conflicts, as pleaded at paragraph 153(a) above;

(iv) the Anderson Maleo Australia conflicts, as pleaded at paragraph 153(b) above;

(v) the Anderson Indonesia Interests conflicts, as pleaded at paragraph 154(b) above;

(vi) the Anderson Maleo Singapore conflict, as pleaded at paragraph 189(c)(i) above;

(vii) the Anderson Briix Property conflicts, as pleaded at paragraph 189(c)(ii) above;

(viii) the Anderson Briix Founders conflicts, as pleaded at paragraph 202(d) above;

(ix) the Anderson FG Holdings conflicts, as pleaded at paragraph 226 above; and

(x) the Selimaj Aurea conflicts, as pleaded at paragraph 236 above;

(b) failed to record those conflicts of interest in the conflicts register;

(c) failed to otherwise ensure those conflicts of interest were recorded and reported to the Compliance Committee; and

(d) failed to adequately manage those conflicts of interest.

Particulars

(A) Anderson's knowledge of the matters giving rise to the conflicts alleged in subparagraph (a) is to be attributed to Falcon.

(B) Selimaj's knowledge of the matters giving rise to the conflict alleged in subparagraph (a)(x) is to be attributed to Falcon.

(C) In respect of subparagraph (d), ASIC relies on the matters alleged in paragraph 253 and Part D3.3 above.

277. Further or in the alternative to paragraph 276, Falcon:

(a) by reason of the matters pleaded in paragraphs 272 to 275 above, was aware or ought to have been aware of the risks that one or more directors of Falcon:

(i) held and had not disclosed interests in the underlying assets of the FGMF;

(ii) therefore, was subject to a conflict between their duties to Falcon and FGMF members and their interests in the underlying assets of the FGMF; and

(iii) did not consider it appropriate to disclose any interest held by them in the underlying assets of the FGMF or any conflict of interest to which they were subject; and

(b) failed to take any steps:

(i) to identify any Underlying Fund in the assets of which Anderson may have had an interest; or

(ii) to identify, assess or manage any actual, apparent or perceived conflict of interest arising from any interests held by Anderson in the assets of any of the Underlying Funds.

278. Further, by reason of the matters pleaded in paragraphs 269 to 271 above, Falcon failed to adequately manage the conflicts of interest identified in the conflict register referred to in those paragraphs, by:

(a) failing to ensure that monthly reports in respect of those the projects managed by Selimaj and Anderson were provided to the Board; and

(b) failing to give any updates as to the monitoring and management of those conflicts of interest to the Compliance Committee.

279. By reason of the matters pleaded in paragraphs 276, 277 and/or 278 above, Falcon, during the Contravention Period, failed to comply with the terms of the FGMF's Compliance Plan pleaded in paragraphs 264(a) and 264(b) above, in breach of s 601FC(1)(h) of the Corporations Act.

E. FALCON CONTRAVENTIONS

E1. Defective product disclosure statements

280. By reason of Falcon's breaches of s 1021E(1) and/or s 1021E(2), as pleaded in paragraphs 29 and 37 above, Falcon, in relation to each such breach, contravened s 1021E(8) of the Corporations Act.

E2. Duties of responsible entity of the FGMF

E2.1 Investments made through Underlying Funds

281. By reason of Falcon's breaches of:

(a) s 601FC(1)(a), as pleaded in paragraphs 76, 182(a), 195, 208, 218, 222(a), 225(a) and 262(b) above;

(b) s 601FC(1)(b), as pleaded in paragraphs 50(a), 77(a), 111(a), 113(a), 125(a), 159(a), 168(a), 182(b), 196(a), 209(a), 219(a), 232(a), 242(a), and 254(a) above;

(c) s 601FC(1)(c), as pleaded in paragraphs 50(b), 77(b), 111(b), 113(b), 125(b), 159(b), 168(b), 182(c), 196(b), 209(b), 219(b), 222(b), 225(b), 232(b), 242(b), 254(b), and 262(a) above;

(d) s 601FC(1)(h), as pleaded in paragraph 279 above,

Falcon, in relation to each such breach, contravened s 601FC(5) of the Corporations Act.

E2.2 Transfers from FGMF into Underlying Funds

282. Further or alternatively to the breaches alleged in paragraph 281 above, an honest and reasonable person in the position of Falcon as responsible entity of the FGMF would not have paid the funds of the FGMF into any of the Underlying Funds (as alleged in paragraph 11 above) in circumstances where there had occurred or there subsisted any of:

(a) the conduct and circumstances contrary to representations made by Falcon in the PDSs, as alleged in Part B above;

(b) the conduct in making investments through the Underlying Funds, as alleged in Part C above;

(c) the governance and compliance failures alleged in Part D above.

283. In acting as alleged in paragraph 11 above, Falcon as responsible entity of the FGMF, on each occasion that it paid funds of the FGMF into an Underlying Fund during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in its position, in breach of s 601FC(1)(b) of the Corporations Act;

(b) failed to act in the best interests of the members of the FGMF, in breach of s 601FC(1)(c) of the Corporations Act; and

(c) thereby, in relation to each such breach, contravened s 601FC(5) of the Corporations Act.

E3. Related party benefits without approval

284. By reason of the matters pleaded in paragraphs 54, 163, 170, 186, 234 and 244 above, Falcon, on each such occasion, contravened s 208(1) of the Corporations Act (as applied and modified by s 601LC).

E4. Civil penalty provisions

285. The contraventions by Falcon alleged at paragraphs 281 and 283 above:

(a) were contraventions of a civil penalty provision;

(b) materially prejudiced the interests of the FGMF and its members (within the meaning of s 1317G(1)(b)(i) of the Corporations Act); and

(c) were serious (within the meaning of s 1317G(1)(b)(iii) of the Corporations Act).

F. ANDERSON CONTRAVENTIONS

F1. Investments through Underlying Funds

F1.1 Rogue Traders

286. In the premises pleaded at paragraphs 38 to 47 above, Anderson:

(a) had a material personal interest in Rogue Traders Group;

(b) was at all relevant times from 31 January 2021, alternatively 30 March 2021, subject to the Anderson Rogue Traders conflicts;

(c) caused Falcon to make the initial Rogue Traders payments and further Rogue Traders payments, and to enter into the Rogue Traders loan agreement;

(d) knew or ought to have known of the circumstances in which the initial Rogue Traders payments were made as pleaded in paragraph 42 above; and

(e) knew or ought to have known of the circumstances in which the further Rogue Traders payments were made as pleaded in paragraphs 44 above.

Particulars

Anderson's knowledge of the matters in sub-paragraphs (d)–(e) is to be inferred from:

(A) his position as a director and officer of Falcon and FG Capital;

(B) his role and interest in Rogue Traders Group as pleaded in paragraphs 38 to 40 above;

(C) his execution of the Rogue Traders loan agreement on behalf of both Falcon and Rogue Traders Group;

(D) his status as a signatory to the accounts particularised under paragraphs 41, 45 and 46 above.

287. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) ensured that Falcon took the steps pleaded in paragraph 48 above in relation to any dealings by Falcon with Rogue Traders Group;

(b) disclosed to FGMF members and Falcon's Board or Compliance Committee the matters pleaded in paragraph 286(a)–(b) above;

(c) not permitted Falcon to make any loans to or investments in the Rogue Traders Group while that person was subject to a conflict in the nature of the Anderson Rogue Traders conflicts;

(d) further or in the alternative, ensured that the Anderson Rogue Traders conflicts were dealt with in accordance with Falcon's conflicts policy or otherwise disclosed to the members of the FGMF or the Board of Falcon; and

(e) ensured that Falcon obtained approval of the members of the FGMF before causing Falcon to give the financial benefits to Rogue Traders Group pleaded in paragraph 53 above.

288. Anderson failed to take any of the steps in paragraph 287 above.

289. By reason of the matters pleaded in paragraphs 286 to 288 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

290. By reason of the matters pleaded in paragraphs 286 to 288 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

291. By reason of the matters pleaded in paragraph 286 above and Anderson's direct or indirect interest in the Anderson Rogue Traders shares, Anderson made improper use of his position as an officer of Falcon to gain an advantage for himself, and thereby contravened:

(a) s 182(1) of the Corporations Act; and

(b) s 601FD(1)(e) and (3) of the Corporations Act.

292. By reason of the matters pleaded in paragraphs 286 to 288 above, Anderson:

(a) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC) alleged in paragraph 54 above; and

(b) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

F1.2 Fox Friday Brewing

293. In the premises pleaded at paragraphs 55 to 71 above, Anderson:

(a) had, at all relevant times from 22 February 2021, a material personal interest in Fox Friday Brewing;

(b) was, at all relevant times from 22 February 2021, subject to the Anderson Fox Friday conflicts;

(c) caused Falcon to make the Fox Friday payments;

(d) knew or ought to have known of the circumstances in which the Fox Friday payments were made as pleaded in paragraph 66 above; and

(e) caused the revised Fox Friday loan agreement and the revised Fox Friday GSA to be created in the circumstances pleaded at paragraphs 70 and 71 above.

Particulars

Anderson's knowledge of the matters in sub-paragraphs (d)–(e) is to be inferred from:

(A) his position as a director and officer of Falcon and FG Capital;

(B) his role and interest in Fox Friday Brewing as pleaded in paragraphs 55 to 60 above;

(C) his execution of the Humulus loan agreement and Humulus GSA on behalf of both Humulus and Fox Friday Brewing;

(D) his instructions to Fu to create the revised Fox Friday loan agreement and revised Fox Friday GSA;

(E) his status as a signatory to the accounts that made the Fox Friday payments, particularised under paragraphs 64 and 65 above.

294. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) not permitted the revised Fox Friday loan agreement or revised Fox Friday GSA to be created in the circumstances pleaded at paragraphs 70 and 71 above;

(b) ensured that Falcon took the steps pleaded in paragraph 74 in relation to any dealings by Falcon with Fox Friday Brewing;

(c) disclosed to FGMF members and Falcon's Board or Compliance Committee the matters pleaded in paragraph 293(a)–(b) above;

(d) not permitted Falcon to make any loans to or investments in Fox Friday Brewing while that person was subject to a conflict in the nature of the Anderson Fox Friday conflicts; and

(e) further or in the alternative, ensured that the Anderson Fox Friday conflicts were dealt with in accordance with Falcon's conflicts policy or otherwise disclosed to the members of the FGMF or the Board of Falcon.

295. Anderson failed to take any of the steps pleaded in paragraph 294 above.

296. By reason of the matters pleaded in paragraphs 293(e) and 294(a) above, Anderson failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act.

297. By reason of the matters pleaded in paragraphs 293 to 295 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

298. By reason of the matters pleaded in paragraph 293 to 295 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

299. By reason of the matters pleaded in paragraph 293 above and Anderson's direct and indirect interest in the Fox Friday shareholding and in Humulus Holdings, Anderson made improper use of his position as an officer of Falcon to gain an advantage for himself, and thereby contravened:

(a) s 182(1) of the Corporations Act; and

(b) s 601FD(1)(e) and (3) of the Corporations Act.

Particulars

ASIC refers to and repeats the matters pleaded at paragraphs 55, 58, 61 and 63 above.

F1.3 Rajomon

300. In the premises pleaded at paragraphs 78 to 105 above, Anderson:

(a) caused Falcon to make the Rajomon payments;

(b) knew or ought to have known of the circumstances in which the Rajomon payments were made, as pleaded in paragraphs 90, 97, 102 and 105 above;

(c) caused Falcon to enter into the Rajomon Fyansford Loan Agreement and therefore was aware of the terms of that agreement.

Particulars

Anderson's knowledge of the matters in sub-paragraphs (b) and (c) is to be inferred from:

(A) his position as a director and officer of Falcon and FG Capital;

(B) his involvement in the formation of the Rajomon Pass-through Arrangement with Guerinat and Tax E;

(C) his execution of the Rajomon Fyansford Loan Agreement on behalf of Falcon;

(D) his status as a signatory to the accounts that made the Rajomon payments, particularised under paragraphs 78, 80, 87, 89, 94, 95, 99 to 101 and 104 above.

301. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) ensured that Falcon took the steps pleaded in paragraph 108 above in relation to the Rajomon payments;

(b) not caused Falcon to agree to the term of the Rajomon Fyansford Loan Agreement pleaded in paragraph 103(c), for the reasons pleaded in paragraph 112 above.

302. Anderson failed to take any of the steps pleaded in paragraph 301 above.

303. By reason of the matters pleaded in paragraphs 300 to 302 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

304. By reason of the matters pleaded in paragraphs 300 to 302 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

F1.4 Trulet

305. In the premises pleaded at paragraphs 114 to 125 above, Anderson:

(a) caused Falcon to make the Trulet Australia payments;

(b) knew or ought to have known of the circumstances in which the Trulet Australia payments were made as pleaded in paragraph 117 above;

(c) caused Falcon to make the Trulet Singapore payments;

(d) was aware that Falcon did not receive any shares or equity in Trulet Holdings or Trulet Singapore as pleaded in paragraphs 118 and 122 above.

Particulars

Anderson's knowledge of the matters in sub-paragraphs (b) and (c) is to be inferred from:

(A) his position as a director and officer of Falcon and FG Capital;

(B) his execution of the Trulet convertible note subscription agreement on behalf of FG Capital;

(C) his execution of the Trulet Singapore term sheet on behalf of Falcon;

(D) his status as a signatory to the accounts particularised under paragraphs 114, 115 and 121 above.

306. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have ensured that Falcon took the steps pleaded in paragraph 123 above in relation to the Trulet Australia payments, the Trulet Singapore payments, the Trulet convertible note subscription agreement and the Trulet Singapore term sheet.

307. Anderson failed to take any of the steps pleaded in paragraph 306 above.

308. By reason of the matters pleaded in paragraphs 305 to 307 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

309. By reason of the matters pleaded in paragraph 305 to 307 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

F1.5 Indonesian investments

310. In the premises pleaded at paragraphs 126 to 186 above, Anderson:

(a) had a material personal interest in Maleo Indonesia, Maleo Australia, and the Anderson Indonesia Interests;

(b) controlled Maleo Australia (as pleaded in paragraph 130 above);

(c) controlled Maleo Indonesia, further or alternatively shared and acted on a common understanding with Maleo Indonesia that funds paid by Falcon to Maleo Indonesia would be paid to, or otherwise deployed for the benefit of, the Anderson Indonesian Interests (as pleaded at paragraph 160 above);

(d) controlled Palmer Australia, further or alternatively shared and acted on a common understanding with Palmer Australia as to the payment of funds received

from Falcon to entities in which Anderson held an interest (as pleaded at paragraphs 170 to 174 and 184 above);

(e) was subject to the Anderson Maleo Indonesia conflicts, Anderson Maleo Australia conflicts, and Anderson Indonesian Interests conflicts;

(f) caused Falcon to make the Maleo Indonesia payments, Maleo Australia payments and Palmer Australia payments;

(g) knew or ought to have known of the circumstances in which the Maleo Indonesia payments, Maleo Australia payments and Palmer Australia payments were made (as pleaded in paragraphs 165, 178 and 180 above);

(h) caused or procured the registration of Palmer Australia, establishment of its bank account and appointment of its directors (as pleaded in paragraphs 171 and 173 above), and entry into the Palmer loan document (as pleaded in paragraph 177 above); and

(i) directed transactions on Palmer Australia's bank accounts and approved payments to Palmer Indonesia and to the Anderson Indonesia Interests (as pleaded in paragraph 176 above).

311. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF:

(a) would have ensured that Falcon took the steps pleaded in paragraphs 157, 166 and 180 above;

(b) would have disclosed to FGMF members and Falcon's Board and Compliance Committee the matters pleaded in paragraph 310(a)–(e) above;

(c) would have ensured that Falcon obtained approval of the members of the FGMF before causing Falcon to give the financial benefits:

(i) pleaded at paragraph 155 above to Maleo Indonesia;

(ii) pleaded at paragraph 164 above to Maleo Australia; and

(iii) pleaded at paragraph 175 above to Palmer Australia; and

(d) would not have permitted Falcon to enter into the Palmer loan document.

312. Anderson failed to take any of the steps pleaded in paragraph 311 above.

313. By reason of the matters pleaded in paragraphs 310 to 312 above, Anderson failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act.

314. By reason of the matters pleaded in paragraphs 310 to 312 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

    (a) s 180(1) of the Corporations Act; and

    (b) s 601FD(1)(b) and (3) of the Corporations Act.

315. By reason of the matters pleaded in paragraphs 310 to 312 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

    (a) s 181(1) of the Corporations Act; and

    (b) s 601FD(1)(c) and (3) of the Corporations Act.

316. By reason of the matters pleaded in paragraph 310 above, in causing Falcon to:

    (a) make the Maleo Indonesia payments and the Maleo Australia payments; and

    (b) make the Palmer Australia payments and enter into the Palmer loan document,

    Anderson improperly used his position as a director of Falcon to gain an advantage for himself and/or Warren, and thereby contravened:

    (c) s 182(1) of the Corporations Act; and

    (d) s 601FD(1)(e) and (3) of the Corporations Act.

317. By reason of:

    (a) his causing and procuring Falcon to make the Maleo Indonesia payments (as alleged in paragraph 155 above); and

    (b) the common understanding he shared with Maleo Indonesia in relation to those payments (as alleged in paragraph 160 above),

    Anderson:

    (c) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC)

pleaded in paragraph 163 above; and

(d) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

318. By reason of:

(a) causing Falcon to make the Maleo Australia payments (as alleged in paragraph 164 above);

(b) his control of Maleo Australia (as alleged in paragraph 130(a) above),

Anderson:

(c) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC) pleaded in paragraph 170 above; and

(d) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

319. By reason of:

(a) his causing and procuring Falcon to make the Palmer Australia payments (as alleged in paragraph 175 above); and

(b) his control of Palmer Australia as alleged in paragraph 183 above,

Anderson:

(c) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC) pleaded in paragraph 186 above; and

(d) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

F1.6 2024 Maleo Singapore transactions

320. In the premises pleaded at paragraphs 187 to 225 above, Anderson:

(a) as at 21 March 2024:

(i) controlled Palmer Australia;

(ii) had a material personal interest in each of Maleo Singapore, Briix Property Indonesia, and Briix Founders Singapore; and

(iii) was subject to the Anderson Maleo Singapore conflict, Anderson Briix Property conflicts, Anderson Briix Founders conflicts, and Anderson Indonesian Interests conflicts;

(b) caused Falcon to enter into:

(i) the Briix Property Assignment Agreement, with the knowledge and/or intention pleaded in paragraph 191 above;

(ii) the Briix Founders Sale and Purchase Agreement, with the knowledge and/or intention pleaded in paragraph 204 above; and

(iii) the Palmer Assignment Agreement, with the knowledge and/or intention pleaded in paragraph 214 above;

(c) by those agreements, caused Falcon to obtain unsecured rights to payment of approximately AU$188 million of cash receivables which presented an appearance of genuine arm's-length transactions providing liquidity to the FGMF, without any reasonable or proper basis for the prospect of receipt of those amounts;

(d) caused the creation of the Briix Property Facility Document, with the knowledge and intention pleaded in paragraph 221 above; and

(e) caused the creation of the Briix Group Convertible Note, with the knowledge and intention pleaded in paragraph 224 above.

321. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) ensured that Falcon took the steps pleaded in paragraph 193 above in relation to the Briix Property Assignment Agreement;

(b) ensured that Falcon took the steps pleaded in paragraph 206 above in relation to the Briix Founders Sale and Purchase Agreement;

(c) ensured that Falcon took the steps pleaded in paragraph 216 above in relation to the Palmer Assignment Agreement;

(d) disclosed to FGMF members and Falcon's Board or Compliance Committee the matters pleaded in paragraph 320(a) above;

(e) not permitted Falcon to enter into any of the Briix Property Assignment Agreement, Briix Founders Sale and Purchase Agreement, or Palmer Assignment Agreement while that person was subject to a conflict in the nature of the Anderson Maleo Singapore conflict, Anderson Briix Property conflicts, Anderson Briix Founders conflicts, or Anderson Indonesian Interests conflicts;

(f) further or in the alternative, ensured that those conflicts were dealt with in accordance with Falcon's conflicts policy or otherwise disclosed to the members of the FGMF or the Board or Compliance Committee of Falcon;

(g) not permitted the creation of the Briix Property Facility Document or the Briix Group Convertible Note with the knowledge and intention pleaded in paragraphs 221 and 224 above.

322. Anderson failed to do any of the things pleaded in paragraph 321 above.

323. By reason of the matters pleaded in paragraphs 320 to 322 above, Anderson failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act.

324. By reason of the matters pleaded in paragraphs 320 to 322 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

325. By reason of the matters pleaded in paragraph 320 to 322 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

326. By reason of the matters pleaded in paragraph 320 above and his direct or indirect interests in Maleo Singapore, Briix Property and Palmer Australia, Anderson made improper use of his position as an officer of Falcon to gain an advantage for himself, and thereby contravened:

(a) s 182(1) of the Corporations Act; and

(b) s 601FD(1)(e) and (3) of the Corporations Act.

F1.7 FG Holdings

327. In the premises pleaded at paragraphs 226 to 234 above, Anderson:

(a) at all material times:

(i) was subject to the Anderson FG Holdings conflicts; and

(ii) controlled FG Holdings;

(b) caused Falcon to make the FG Holdings payments;

(c) knew or ought to have known that the FG Holdings payments were made in the circumstances pleaded in paragraph 229 above.

328. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) ensured that Falcon took the steps pleaded in paragraph 230 above in relation to the FG Holdings payments;

(b) disclosed to FGMF members and Falcon's Board and Compliance Committee the matters pleaded in paragraph 327(a) above; and

(c) ensured that Falcon obtained approval of the members of the FGMF before causing Falcon to give the financial benefits to FG Holdings pleaded in paragraph 233 above.

329. Anderson failed to take any of the steps pleaded in paragraph 328 above.

330. By reason of the matters pleaded in paragraphs 327 to 329 above, Anderson failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) and (3) of the Corporations Act.

331. By reason of the matters pleaded in paragraphs 327 to 329 above, Anderson failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

332. By reason of the matters pleaded in paragraph 327 above, Anderson:

(a) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC) pleaded in paragraph 234 above; and

(b) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

F2. Governance and compliance

F2.1 Non-disclosure of conflicts

333. Anderson did not disclose:

(a) any of the material personal interests held by him in Rogue Traders Group, Fox Friday Brewing, Maleo Indonesia, Maleo Australia, Maleo Singapore, Briix Founders Singapore, Briix Property, Briix Group, or the Anderson Indonesia Interests; or

(b) any of the Anderson Rogue Traders conflicts, the Anderson Fox Friday conflicts, the Anderson Maleo Indonesia conflicts, Anderson Maleo Australia conflicts, the Anderson Indonesian Interests conflicts, the Anderson Briix Property conflicts, the Anderson Briix Founders conflicts, the Anderson Maleo Singapore conflict or the Anderson FG Holdings conflicts,

to:

(c) the Board of directors of Falcon; or

(d) the Compliance Committee; or

(e) the Investment Committee; or

(f) otherwise to Falcon, or the members of the FGMF, at all.

334. By reason of the matters alleged in paragraph 333 above, Anderson, during the Contravention Period:

(a) failed to comply with Falcon's conflicts policy as alleged at paragraph 267 above;

(b) failed to give notice to the other directors of Falcon of his material personal interests as alleged in paragraph 333(a) above, in breach of s 191(1) of the Corporations Act;

Particulars

The minutes of meeting of the Board of Falcon do not record Anderson giving notice, and ASIC relies on s 191(3) of the Corporations Act.

(c) failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act;

(d) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Anderson's position, and thereby contravened:

(i) s 180(1) of the Corporations Act; and

(ii) s 601FD(1)(b) and (3) of the Corporations Act;

(e) failed to exercise his powers and discharge his duties in good faith and in the best interests of Falcon, and for a proper purpose, and thereby contravened s 181(1) of the Corporations Act;

(f) failed to act in the best interests of the members of the FGMF, and thereby contravened s 601FD(1)(c) and (3) of the Corporations Act;

(g) failed to take all reasonable steps to ensure that Falcon complied with the Corporations Act and its Compliance Plan, and thereby contravened s 601FD(1)(f) and (3) of the Corporations Act.

Particulars

Falcon failed to comply with its Compliance Plan as alleged in paragraphs 276 to 279 above.

F2.2 Investment practices

335. An honest and reasonable person in Anderson's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, in the premises alleged in Part D1.1 above:

(a) would have been aware of the risks alleged in paragraph 251 above; and

(b) would have taken steps to ensure that Falcon acted as alleged in paragraph 252 above.

336. In the premises of paragraphs 245 to 254 above, Anderson:

(a) made, at all material times, the Anderson determinations without consulting with or involving Selimaj or other members of the Board of Falcon, Board of FG Capital, or the Investment Committee; and

(b) knew or ought to have known of the matters pleaded in paragraphs 249 and 250 above and that Falcon did not, at any time, take any of the steps pleaded in paragraph 252 above.

337. By reason of the matters pleaded in paragraph 335(a) and (b) above, Anderson, during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Anderson's position, and thereby contravened:

(i) s 180(1) of the Corporations Act; and

(ii) s 601FD(1)(b) and (3) of the Corporations Act;

(b) failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(i) s 181(1) of the Corporations Act; and

(ii) s 601FD(1)(c) and (3) of the Corporations Act.

F2.3 Falcon Board of directors

338. Anderson knew and permitted or failed to address the matters concerning:

(a) the composition and functioning of the Board of Falcon pleaded in paragraphs 255 to 258 above, including as to:

(i) the appointment of Hasani as a director of Falcon;

(ii) the appointment of Sallka as a director of Falcon; and

(b) the creation of Board minutes pleaded in paragraphs 259 to 261 above.

339. By reason of the matters pleaded in paragraph 338(a)(i) and (b) above, Anderson, during the Contravention Period, failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act.

340. By reason of the matters pleaded in paragraph 338(a)(ii) above, Anderson, during the Contravention Period, failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

F3. Transfers from FGMF into Underlying Funds

341. Further or alternatively to the breaches alleged in Part F1 above, an honest and reasonable person in the position of Anderson, as an officer of Falcon as responsible entity of the FGMF, would not have caused Falcon to pay the funds of the FGMF into any of the Underlying Funds (as alleged in paragraph 11 above) in circumstances where there had occurred or there subsisted any of:

(a) the conduct and circumstances contrary to representations made by Falcon in the PDSs, as alleged in Part B above;

(b) the conduct in making investments through the Underlying Funds, as alleged in Part C above;

(c) the governance and compliance failures alleged in Part D above.

342. In the circumstances alleged in Parts F1 and F2 above, Anderson caused Falcon to pay funds of the FGMF into an Underlying Fund as alleged in paragraph 11 above, and on each occasion in the Contravention Period thereby:

(a) failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act;

(b) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Anderson's position, and thereby contravened s 601FD(1)(b) and (3) of the Corporations Act; and

(c) failed to act in the best interests of members of the FGMF, and thereby contravened s 601FD(1)(c) and (3) of the Corporations Act.

F4. Civil penalty provisions

343. Each of the contraventions by Anderson alleged at paragraphs 289–292, 296–299, 303, 304, 308, 309, 313–319, 323–326, 330–332, 334, 337, 339, 340 and 342 above:

(a) was a contravention of a civil penalty provision;

(b) materially prejudiced the interests of the FGMF and its members (within the meaning of s 1317G(1)(b)(i) of the Corporations Act); and

(c) was serious (within the meaning of s 1317G(1)(b)(iii) of the Corporations Act).

G. SELIMAJ CONTRAVENTIONS

G1. Investments through Underlying Funds

G1.1 Rajomon

344. Selimaj:

(a) from May 2020, considered financial information provided by Rajomon Asset Management in relation to its proposed acquisition and development of the Tarneit Property;

(b) authorised, or was aware that Falcon made, the payments to Rajomon and Rajomon Asset Management alleged in paragraphs 78 and 80 above;

(c) was appointed director of Rajomon as alleged in paragraph 83 above;

(d) was appointed as an authorised signatory on the bank account of Rajomon as alleged in paragraph 81 above;

(e) knew from time to time of the level of funds paid by Falcon to or for Rajomon, Rajomon Asset Management or a related entity.

Particulars

(A) As to (a):

(i) On around 28 May 2020, Selimaj considered the business model for development of the Tarneit Property.

(ii) On around 24 November 2020, Selimaj considered the cash flow statements for the development of the Tarneit Property.

(B) As to (b), on 28 May 2020, Selimaj sent a text message to Anderson instructing him to start making payments to Rajomon Asset Management, alternatively Rajomon.

(C) As to (e), the awareness is to be inferred from:

(i) Selimaj having received and considered the financial statements for Falcon in respect of the each of the Underlying Funds, including the Rajomon Opportunities Fund, FG Global Income Fund, FG Trade Finance Fund and FG Global Property Fund;

(ii) a message sent by Selimaj to Anderson on 19 May 2021 stating that almost $8 million of investors' funds had been paid to Rajomon.

345. Further, Selimaj knew:

(a) from around February 2021, that Rajomon or its related entities proposed to purchase the Fyansford Property, and to seek funding or investment by Falcon;

(b) from around February 2021, that Rajomon and its related entities were not providing information to Selimaj's satisfaction in relation to its development of the Tarneit Property, and he held concerns for Falcon having adequate security and obtaining repayment;

(c) that by June 2021 he was removed as a director and authorised signatory of the bank account of Rajomon.

Particulars

(A) As to (a), Selimaj's awareness is inferred from:

(i) on 11 February 2021, receiving a message from Anderson to the effect that Guerinat had spoken to Merhi about getting funding for the Fyansford Property.

(ii) on 19 May 2021, Selimaj sent a message to Anderson referring to cutting off funding by Falcon for the Fyansford Property in Geelong.

(B) As to (b), the awareness is to be inferred from Selimaj's text messages to Anderson from time to time, including:

(i) on 5 March 2021, that Guerinat had stated only a caveat rather than first ranking mortgage had been obtained over the Tarneit Property; and

(ii) further between April 2021 to July 2021, to the effect alleged.

(C) As to (c), the awareness is to be inferred from a message sent by Selimaj to Anderson on 8 June 2021 stating that he had been removed as signatory from the bank account.

346. An honest and reasonable person in the position of Selimaj, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, and with the knowledge alleged in paragraphs 344 to 345 above, would have:

(a) from at least around February 2021, made inquiries into whether Falcon had made or was making any further payments from property of the Underlying Funds to or for Rajomon or its related entities;

(b) ensured that Falcon took the steps pleaded in paragraph 108 above in relation to the Rajomon payments.

347. Selimaj:

(a) at all times, failed to take the steps alleged in the preceding paragraph; and

(b) from early 2021, requested Anderson to take steps to obtain repayment by Rajomon and Rajomon Asset Management, but:

(i) did not take steps to ensure that Anderson would cause Falcon to do so, or check that he or Falcon had done so; and

(ii) did not inform himself of whether or to what extent Anderson caused Falcon to extend its investments with Rajomon Asset Management and Rajomon Fyansford in respect of the Fyansford Property.

348. By reason of the matters pleaded in paragraphs 344 to 347 above, Selimaj, during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Selimaj's position, and thereby contravened:

(i) s 180(1) of the Corporations Act; and

(ii) s 601FD(1)(b) and (3) of the Corporations Act; and

(b) failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(i) s 181(1) of the Corporations Act; and

(ii) s 601FD(1)(c) of the Corporations Act.

G1.2 Aurea

349. In the premises pleaded at paragraphs 235 to 244 above, Selimaj:

(a) at all material times:

(i) was subject to the Selimaj Aurea conflicts; and

(ii) controlled Aurea;

(b) caused or permitted Falcon to make the Aurea payments, alternatively took no steps to prevent or return the Aurea payments; and

(c) knew that the Aurea payments were made in the circumstances pleaded in paragraph 239(a)-(c) and (e) above.

350. An honest and reasonable person in Selimaj's position, as director of Falcon as trustee of the Underlying Funds and officer of Falcon as responsible entity of the FGMF, would have:

(a) made enquiries so as to inform himself as to each of the matters pleaded in paragraph 239; and

(b) ensured that Falcon took the steps pleaded in paragraph 240(a)-(e) and (g) above in relation to the Aurea payments.

351. Selimaj failed to take any of the steps pleaded in paragraph 350 above.

352. By reason of the matters pleaded in paragraphs 349 to 351 above, Selimaj, during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would have exercised in his position, and thereby contravened:

(i) s 180(1) of the Corporations Act; and

(ii) s 601FD(1)(b) and (3) of the Corporations Act;

(b) failed to act in the best interests of Falcon or of the members of the FGMF, and thereby contravened:

(i) s 181(1) of the Corporations Act; and

(ii) s 601FD(1)(c) and (3) of the Corporations Act.

353. By reason of the matters pleaded in paragraph 349 above, Selimaj:

(a) was knowingly concerned, and therefore involved, in the contraventions by Falcon of s 208(1) of the Corporations Act (as applied and modified by s 601LC) pleaded in paragraph 244 above; and

(b) thereby contravened s 209(2) of the Corporations Act (as applied and modified by s 601LA).

G2. Governance and compliance

G2.1 Investment practices

354. In the period from establishment of the FGMF in August 2019, Selimaj knew:

(a) of the investment practices of Falcon as alleged in Part D1.1 above, including the making of the Anderson determinations by Anderson;

(b) that neither he, nor any other director or officer of Falcon, monitored or reviewed the Anderson determinations as alleged in paragraph 249 above;

(c) that the majority of funds invested by the FGMF in the Underlying Funds were held in unlisted assets;

(d) of amounts (and increasing amounts) recorded in the financial statements and balance sheets of the FGMF of funds under management by Falcon as responsible entity of the FGMF;

(e) of amounts (and increasing amounts) recorded in the financial statements and balance sheets of the FGMF and each of the Underlying Funds as invested or purportedly invested by Falcon, including as to the particular transactions and payments alleged in Part C above;

(f) that Anderson:

(i) was not fully frank and informative about the nature and status of the investments he had caused Falcon to make by the Anderson determinations;

(ii) had, or that there was a risk that Anderson had, an interest in, or duty to act in the interests of others with an interest in, investments made by the Underlying Funds;

(iii) had not acted in accordance with Falcon's conflicts policy; and

(iv) failed to obtain properly documented terms and security for the payments to Rajomon Asset Management and Rajomon, as alleged in Part C3 above;

Particulars

In text messages sent from time to time to Anderson, Selimaj referred to Anderson:

(A) not providing him with sufficient transparency with respect to investments and dealings;

(B) being conflicted and biased with respect to certain of Falcon's investments; and

(C) permitting staff of Falcon to receive illegitimately a holiday paid by Warren.

(g) of the risk that Falcon's compliance procedures were inadequate or inadequately implemented and enforced, as pleaded at paragraph 364 below.

355. An honest and reasonable person in the position of Selimaj, as a director of Falcon as the responsible entity of the FGMF and a member of its Compliance Committee (as alleged in paragraph 266 above), with the knowledge of Selimaj alleged in the preceding paragraph, having regard to the position of Falcon as trustee of the Underlying Funds, and the investment by the FGMF in the Underlying Funds (as alleged in Part A2 above), would have:

(a) been aware of the risks alleged in paragraph 251 above;

(b) acted to ensure that Falcon took the steps alleged in paragraph 252 above;

(c) made inquiries of Anderson and Falcon so as to be informed about:

(i) the nature, purpose and status of the investments which Anderson had caused Falcon to make;

(ii) the terms and documentation of the transactions entered into by or on behalf of Falcon;

(iii) whether those transactions were in the best interests of the members of the FGMF; and

(iv) whether Anderson had any material personal interest or role in relation to an investment which may give rise to an actual, apparent or potential conflict of interest.

356. Throughout the period from establishment of the FGMF in August 2019, in the circumstances alleged in paragraphs 354 and 355 above, and in respect of each of the investments made through the Underlying Funds as alleged in Part C above, Selimaj:

(a) acted as alleged in paragraph 249 above;

(b) from time to time:

(i) sought and obtained from Anderson limited information as to the investments and the terms on which Falcon had made them; and

(ii) did not seek and obtain further or adequate information from the records or accounts of Falcon; and

(c) failed to take the steps pleaded in paragraph 355 above at all and in respect of:

(i) the Rogue Traders payments;

(ii) the Fox Friday payments;

(iii) the Rajomon payments;

(iv) the Trulet Australia payments and Trulet Singapore payments;

(v) the Maleo Indonesia payments;

(vi) the Maleo Australia payments;

(vii) the Palmer Australia payments;

(viii) the Briix Property Assignment Agreement;

(ix) the Briix Founders Sale and Purchase Agreement;

(x) the Palmer Assignment Agreement; and

(xi) the FG Holdings payments.

357. By reason of the matters pleaded in paragraphs 354 to 356 above, Selimaj, during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Selimaj's position, and thereby contravened:

(i) s 180(1) of the Corporations Act; and

(ii) s 601FD(1)(b) and (3) of the Corporations Act; and

(b) failed to act in the best interests Falcon or of the members of the FGMF, and thereby contravened:

(i) s 181(1) of the Corporations Act; and

(ii) s 601FD(1)(c) and (3) of the Corporations Act.

G2.2 Falcon Board of directors

358. Selimaj knew of the matters concerning:

(a) the composition and functioning of the Board of Falcon pleaded in paragraphs 255 to 258 above, including as to:

(i) the appointment of Hasani as a director of Falcon;

(ii) the appointment of Sallka as a director of Falcon; and

(b) the creation of Board minutes pleaded in paragraphs 259 to 261 above.

359. An honest and reasonable person in the position of Selimaj as a director and sole shareholder of Falcon as the responsible entity of the FGMF, with the knowledge alleged in the preceding paragraph, would have:

(a) convened a general meeting of Falcon (or otherwise acted as the sole shareholder of Falcon), alternatively convened a meeting of directors of Falcon, for the purpose of appointing sufficiently qualified directors to ensure Falcon's compliance with its obligations under the Corporations Act;

(b) ensured that any directors appointed:

(i) in fact knew of and consented to their appointment;

(ii) provided a signed consent to act as a director in compliance with s 201D(1) of the Corporations Act; and

(iii) were kept informed of the convening of Board meetings and of Falcon's business activities;

(c) ensured that minutes of any Board meetings:

(i) were only created to record the events of Board meetings that actually occurred; and

(ii) were a true and accurate record of the attendees at, and events of, those meetings.

360. Selimaj, at all times before March 2024:

(a) failed to take any of the steps pleaded in paragraph 359 above; and

(b) acted as alleged in paragraph 259 above, with the knowledge or state of mind alleged in paragraph 261 above.

361. By reason of the matters pleaded in paragraphs 358(a)(i), (b) and 360(b) above, Selimaj, during the Contravention Period, failed to act honestly, and thereby contravened s 601FD(1)(a) and (3) of the Corporations Act.

362. By reason of the matters pleaded in paragraphs 359 and 360 above, Selimaj, during the Contravention Period, failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Selimaj's position, and thereby contravened:

(a) s 180(1) of the Corporations Act; and

(b) s 601FD(1)(b) of the Corporations Act.

363. By reason of the matters pleaded in paragraphs 358(a)(ii), 359 and 360 above, Selimaj, during the Contravention Period, failed to act in the best interests of Falcon or of the members of the FGMF and thereby contravened:

(a) s 181(1) of the Corporations Act; and

(b) s 601FD(1)(c) and (3) of the Corporations Act.

G2.3 Compliance function

364. Selimaj, by reason of his position as a director and Compliance Manager and member of the Compliance Committee of Falcon (as alleged in paragraph 266 above) and director of FG Capital:

(a) knew or ought to have known of the risk of inadequate oversight, governance and compliance arising from the investment practices of Falcon as alleged in Part D1.1 above; and

(b) knew of the matters alleged in paragraphs 267 to 275 above regarding:

(i) Falcon's conflicts of interest policy; and

(ii) the monitoring and management of conflicts of interest by Falcon, including:

(A) the conflicts recorded in Falcon's conflicts register concerning the projects managed by Selimaj and Anderson which received funding through Underlying Funds; and

(B) the risk that Falcon was not adequately applying the system provided by the Compliance Plan in respect of conflicts of interest.

365. An honest and reasonable person in Selimaj's position as an officer of Falcon and a member of Falcon's Compliance Committee (as alleged in paragraph 266 above), with knowledge of the matters alleged in paragraph 364 above, would have taken steps to ensure that:

(a) proper inquiries were made by Falcon and the Compliance Committee as to the existence of any interest by Anderson in any assets in which the Underlying Funds invested;

(b) monthly reports as to the status of the conflicts recorded in Falcon's conflicts register were provided to the Board or the Compliance Committee; and

(c) they had reasonable grounds to be satisfied that, with respect to each of the matters in the Compliance Plan, Falcon had:

(i) fulfilled the monitoring of conflicts of interest and other compliance controls in accordance with the Compliance Plan; and

(ii) complied with each of the obligations provided in the Compliance Plan.

366. Selimaj:

(a) failed to take the steps referred to in paragraph 365 at any time;

(b) prepared the compliance reports alleged in paragraphs 269 and 274 above;

(c) in his capacity as Compliance Manager and/or Director, signed a Compliance Plan Checklist for every quarter between September 2019 and June 2022 in attestation that:

(i) every monitoring step set out in the Compliance Plan had been satisfactorily completed;

(ii) all breaches of procedures had been reported to the Compliance Officer;

(iii) he was not aware of any potential breaches of procedures that had not already been reported to the Compliance Officer;

(iv) he was not aware of any matter that may need to be disclosed to investors or which may cause investors to be disadvantaged; and

(v) records existed to demonstrate compliance with those matters; and

(d) by reason of failing to take steps as alleged in subparagraph (a), did not have reasonable grounds to be satisfied of each of the matters in sub-paragraph (c) and therefore failed to take the steps referred to in paragraph 365(c) above at any time between September 2019 and June 2022.

367. By reason of the matters alleged in paragraphs 366 above, Selimaj, during the Contravention Period:

(a) failed to exercise the degree of care and diligence that a reasonable person would exercise if they were in Selimaj's position, and thereby contravened:

(i) s 180(1) of the Corporations Act;

(ii) s 601FD(1)(b) and (3) of the Corporations Act; and

(iii) s 601JD(1)(b) and (3) of the Corporations Act; and

(b) failed to take all reasonable steps to ensure that Falcon complied with its Compliance Plan, and therefore contravened s 601FD(1)(f)(iv) and (3) of the Corporations Act.

G3. Transfers from FGMF into Underlying Funds

368. Further or alternatively to the breaches alleged in Part G1 above, an honest and reasonable person in the position of Selimaj, as an officer of Falcon as responsible entity of the FGMF, in the circumstances of and with the awareness and conduct alleged in Parts G1 and G2 above, would have not permitted Falcon to pay, alternatively would have taken steps to prevent Falcon from paying, the funds of the FGMF into any of the Underlying Funds (as alleged in paragraph 11 above).

369. In the circumstances alleged in Parts G1 and G2 above, Selimaj failed to act as alleged in paragraph 368 above, and throughout the Contravention Period thereby:

(a) failed to exercise the degree of care and diligence that a reasonable person in Selimaj's position would have exercised, and thereby contravened s 601FD(1)(b) and (3) of the Corporations Act; and

(b) failed to act in the best interests of members of the FGMF, and thereby contravened s 601FD(1)(c) and (3) of the Corporations Act.

G4. Civil penalty provisions

370. Each of the contraventions by Selimaj alleged at paragraphs 348, 352, 353, 357, 362, 363, 367 and 369 above:

(a) was a contravention of a civil penalty provision;

(b) materially prejudiced the interests of the FGMF and its members (within the meaning of s 1317G(1)(b)(i) of the Corporations Act); and

(c) was serious (within the meaning of s 1317G(1)(b)(iii) of the Corporations Act).

Date: 29 October 2026

This statement of claim was prepared by CM Archibald, V Bell, S Crock and A Lee of counsel.

SCHEDULE

No. VID of 2026

Federal Court of Australia

District Registry: Victoria Registry

Division: General

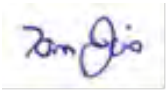
Defendants

Second Defendant	DAVID CHARLES KNOWLES ANDERSON
Third Defendant	SIMON SELIMAJ

Certificate of Lawyer

I Thomas Litchfield Jarvis certify to the Court that, in relation to the statement of claim filed on behalf of the Plaintiff, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 29 October 2026



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Signed by Tom Jarvis

Lawyer for the Plaintiff