

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 17/05/2021 3:39:04 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	NSD444/2021
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v DOD BOOKKEEPING PTY LTD ACN 120 384 474 (IN LIQUIDATION)
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 19/05/2021 12:53:47 PM AEST

Registrar

### Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



## ORIGINATING PROCESS

No of 2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**IN THE MATTER OF DOD BOOKKEEPING PTY LTD (in liquidation)**  
ACN 120 384 474

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
Plaintiff

**DOD BOOKKEEPING PTY LTD (ACN 120 384 474) (in liquidation)**  
Defendant

### A. DETAILS OF APPLICATION

This application is made under section 21 of the *Federal Court of Australia Act 1976* (Cth) and sections 963E(2), 963J, 961K(2), 1317E(1) and 1317G(1E) of the *Corporations Act 2001* (Cth) (the **Corporations Act**) regarding conduct alleged to have taken place by the Defendant between 18 May 2015 to 27 August 2018 (**Relevant Period**).

The nature of the proceeding is an application for declarations of contravention of the Corporations Act, pecuniary penalty orders and ancillary orders including orders as to costs.

On the facts stated in the Concise Statement the Plaintiff claims:

1. Declarations pursuant to section 1317E(1) of the Corporations Act that:
  - a. The Defendant, in making the payments referred to in column H of **Confidential Schedule C** and column H of **Confidential Schedule D**

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, Plaintiff		
Prepared by (name of person/lawyer)	Nicolette Bearup, Litigation Counsel		
Law firm (if applicable)	N/A		
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<b>Address for service</b> (include state and postcode)	Level 5, 100 Market Street Sydney NSW 2000		



of the Concise Statement to those employee representative specified in column C of *Table 1* of **Confidential Schedule A** of the Concise Statement (each an **Adviser**), contravened section 963J of the Corporations Act in the manner alleged in paragraphs 15 to 26 of the Concise Statement, on the basis that the giving of such monetary or alternatively non-monetary benefits to the Advisers amounted in those circumstances to the giving of “*conflicted remuneration*” within the meaning of section 963A of the Corporations Act (**Conflicted Remuneration**).

- b. The Defendant further contravened section 963E(2) of the *Corporations Act* on each occasion the Advisers accepted such Conflicted Remuneration.
  - c. The Defendant contravened sections 961K(2) of the Corporations Act on each occasion that its Advisers contravened:
    - i. section 961B(1) of the *Corporations Act*, in the manner alleged in paragraphs 11 to 14 of the Concise Statement, in the provision of the Statements of Advice in the manner specified in the last column of *Table 2* and *Table 3* of **Confidential Schedule A** of the Concise Statement); and
    - ii. section 961G of the *Corporations Act*, in the manner alleged in paragraphs 11 and 13 to 14 of the Concise Statement, in the provision of the Statements of Advice in the manner specified in the last column of *Table 2* of **Confidential Schedule A** of the Concise Statement).
2. Orders pursuant to 1317G(1E) of the *Corporations Act* that the Defendant pay to the Commonwealth a pecuniary penalty in respect of each occasion it contravened sections 963E(2), 963J and 961K(2) of the *Corporations Act* during the Relevant Period, that period being wholly prior to 13 March 2019, in such amount that the Court determines is appropriate.
  3. Costs.



4. Any further or other orders that the Court considers appropriate.

Date: 17 May 2021

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*Signature of Plaintiff's legal practitioner*  
Nicolette Bearup

This application will be heard by \_\_\_\_\_ at the Federal Court of  
Australia, 184 Phillip Street, Sydney NSW 2000 at \_\_\_\_\_ on  
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**B. NOTICE TO DEFENDANT**

TO: DOD Bookkeeping Pty Ltd ACN 120 384 474 (in liquidation)

c/- Steven Nicols (appointed liquidator)  
Level 2, 350 Kent St, Sydney NSW 2000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court allows, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding; and
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the Plaintiff.

*Note* Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**C. FILING**

Date of filing:

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*Registrar*



This originating process is filed by Nicolette Bearup for the Plaintiff.

**D. SERVICE**

The Plaintiff's address for service is Level 5, 100 Market Street, Sydney, New South Wales, 2000.

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