Form 33
Rule 16.32

Defence of John Sydney Dawkins to Amended Third Cross-Claim

No. VID 434 of 2015

Federal Court of Australia

District Registry: Victoria

Division: General

CHERYL WHITTENBURY

Applicant

VOCATION LIMITED (ACN 166 631 330)

First Respondent / Cross-Claimant by First Cross-Claim and Cross-respondent by Third Cross-Claim

PRICEWATERHOUSECOOPERS (A FIRM) (ABN 52 780 433 757)

Second Respondent / Cross-Claimant by Second and Third Cross-Claims

MARK EDWARD HUTCHINSON

Third Respondent

MANVINDER GREWAL

Fourth Respondent

JOHN SYDNEY DAWKINS

Fifth Respondent

THE PARTNERS OF JOHNSON WINTER & SLATTERY

Cross-respondents by First and Second Cross-Claims

MARK EDWARD HUTCHINSON and others named in the schedule

Cross-respondents by Third Cross-Claim

Capitalised terms used but not defined in this defence have the same meaning as in the Amended Statement of Cross-Claim (Third Cross-Claim) dated 12 February 2020 ~~20 July 2018~~ (**Third Cross-Claim**), the Applicant's Second Further Amended Consolidated Statement of Claim dated 11 November 2019 (**2FACSOC**) and the Applicant's Further Amended Consolidated Statement of Claim dated 2 May 2018 (**FACSOC**).

Filed on behalf of (name & role of party)	John Sydney Dawkins, the Third Cross-respondent		
Prepared by (name of person/lawyer)	Andrew Salgo, lawyer		
Law firm (if applicable)	Baker & McKenzie	Ref:	2833413
Tel	+61 2 9225 0200	Fax	+61 2 9225 1595
Email	andrew.salgo@bakermckenzie.com		
Address for service	Baker & McKenzie, Level 46, 100 Barangaroo Avenue, Sydney NSW 2000		

[Form approved 01/08/2011]

Nothing in this Defence should be taken to amount to an express or implied waiver of any privilege against self incrimination or privilege against exposure to penalty belonging to the Third Cross-Defendant, Mr John Sydney Dawkins (**Mr Dawkins**).

A. BACKGROUND MATTERS

A.1 Parties

1. Mr Dawkins admits paragraph 1 of the Third Cross-Claim.
2. Mr Dawkins does not plead to paragraph 2 of the Third Cross-Claim as it does not form part of any claim against him.
3. Mr Dawkins does not plead to paragraph 3 of the Third Cross-Claim as it does not form part of any claim against him.
4. Mr Dawkins admits paragraph 4 of the Third Cross-Claim.
5. Mr Dawkins does not plead to paragraph 5 of the Third Cross-Claim as it does not form part of any claim against him.
6. Mr Dawkins does not plead to paragraph 6 of the Third Cross-Claim as it does not form part of any claim against him.
7. Mr Dawkins does not plead to paragraph 7 of the Third Cross-Claim as it does not form part of any claim against him.
8. Mr Dawkins admits paragraph 8 of the Third Cross-Claim.
9. In answer to paragraph 9 of the Third Cross-Claim, Mr Dawkins admits that he was an officer of Vocation within the meaning of s9 of the *Corporations Act* until 26 November 2014.

A.2 The Applicant's claims against Vocation

10. Mr Dawkins admits paragraph 10 of the Third Cross-Claim.

A.2A The Applicant's claims against Hutchinson, Grewal and Dawkins

10A. Mr Dawkins admits paragraph 10A of the Third Cross-Claim.

A.3 The Applicant's claims against PwC

11. Mr Dawkins admits paragraph 11 of the Third Cross-Claim.

A.4 Basis of PwC's cross-claims against Hutchinson, Grewal, Dawkins, Tucker, Tredenick, Halley and Vocation

12. Mr Dawkins admits paragraph 12 of the Third Cross-Claim.
13. In answer to paragraph 13 of the Third Cross-Claim, Mr Dawkins denies that PwC is entitled to contribution or any other relief against him.

B. VOCATION'S CONTRAVENTIONS

14. As to paragraphs 14a and 14b of the Third Cross-Claim, which repeats the allegations in paragraphs 1~~20~~ to 135C ~~210~~ of the 2FACSOC and paragraphs 59 to 72, 75 to 90, 92, 93, 95 to 98, 101 to 105 109, 112, 114, 115 and 136 to 210 of the FACSOC (including the paragraphs of the FACSOC cross-referred to therein), Mr Dawkins:

II CLAIM AGAINST VOCATION

A. THE FIRST RESPONDENT

4. admits paragraph 4 of the 2FACSOC;

5. admits paragraph 5 of the 2FACSOC and FACSOC;

B. VOCATION - COMPANY BACKGROUND

B.1 The Offer

6. admits paragraph 6 of the 2FACSOC;

7. admits paragraph 7 of the 2FACSOC;

8. admits paragraph 8 of the 2FACSOC;

9. admits paragraph 9 of the 2FACSOC;

10. admits paragraph 10 of the 2FACSOC;

11. admits paragraph 11 of the 2FACSOC;

B.2 The Merger and the Founding Companies

12. In answer to paragraph 12 of the SFACSOC,

    (i) admits that the Replacement Prospectus disclosed that at listing, Vocation would be formed through the merger of the Founding Companies, being AVANA, BAWM and CSIA (as defined in the Replacement Prospectus) and certain Ancillary Businesses (as defined in the Replacement Prospectus);

    (ii) relies on the terms of the Replacement Prospectus; and

    (iii) otherwise does not admit paragraph the paragraph;

13. in answer to paragraph 13 of the SFACSOC:

    (i) admits paragraph 13(a), (b), (d) and e(i);

    (ii) admits that Tucker was a minority shareholder of AVANA;

    (iii) relies on the terms of Annual Report - 30 June 2013 for AVANA; and

(iv) otherwise does not admit the paragraph;

14. In answer to paragraph 14 of the 2FACSOC:

(i) admits paragraphs 14(a), (c) and (d);

(ii) relies on the terms of the Replacement Prospectus, Annual Report - 30 June 2013 for BAWM and Annual Report - 30 June 2013 for Aspin; and

(iii) otherwise does not admit the paragraph;

15. In answer to paragraph 15 of the 2FACSOC:

(i) admits paragraph 15(a), (b), (c) and (d)(i);

(ii) relies on the terms of the CSIA Special Purpose Annual Report - 30 June 2013 for BAWM; and

(iii) otherwise does not admit the paragraph;

B.3 Vocation Directors and Senior Managers

16. In answer to paragraph 16 of the 2FACSOC:

(i) admits paragraph 16(a); and

(ii) admits that each of the persons in paragraph (b) had the roles pleaded but otherwise does not admit that paragraph;

17. In answer to paragraph 17 of the 2FACSOC:

(i) admits that the knowledge of the Vocation directors may be attributed to Vocation on and from incorporation of Vocation; and

(ii) otherwise denies the paragraph;

18. admits paragraph 18 of the 2FACSOC;

C. VOCATION'S BUSINESS

C.1 Vocation's business

19. In answer to paragraph 19 of the FACSOC:

(i) relies on the content of the Replacement Prospectus for its full terms and effect; and

(ii) otherwise does not admit that paragraph.

C.2 BAWM's and Aspin's Registrations

21. In answer to paragraph 21 of the 2FACSOC:

(i) admits paragraphs 21(a) and 21(b) of the 2FACSOC; and

(ii) otherwise does not admit the paragraph;

22. admits paragraph 22 of the 2FACSOC;

23. does not admit paragraph 23 of the 2FACSOC;

24. does not admit paragraph 24 of the 2FACSOC;

C.3 BAWM and Aspin Government Contracts

25. In answer to paragraph 25 of the FACSOC and the 2FACSOC, says:

(i) BAWM derived revenue from the BAWM Government Contracts; and

(ii) otherwise does not admit that paragraph;

26. In answer to paragraph 26 of the 2FACSOC:

(i) says that Aspin derived revenue from the Aspin Government Contracts; and

(ii) otherwise does not admit the paragraph;

C.4 BAWM and Aspin Obligations

27. In answer to paragraph 27 of the 2FACSOC:

(i) relies on the content of the National RTO Standards for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

28. in answer to paragraph 28 of the 2FACSOC:

(i) relies on the content of the National RTO Standards for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

29. in answer to paragraph 29 of the 2FACSOC:

(i) relies on the content of the Victorian RTO Guidelines for its full terms and effect;

(ii) otherwise does not admit the paragraph;

30. in answer to paragraph 30 of the 2FACSOC:

(i) relies on the content of the 2013 Government Contract for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

31. in answer to paragraph 31 of the 2FACSOC:

(i) relies on the content of the 2014 Government Contract for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

32. in answer to paragraph 32 of the 2FACSOC:

(i) relies on the content of the 2013 Government Contract and 2014 Government Contract for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

33. in answer to paragraph 33 of the 2FACSOC:

(i) relies on the content of the Government Contracts referred to in that paragraph for their full terms and effect; and

(ii) otherwise does not admit the paragraph;

34. in answer to paragraph 34 of the 2FACSOC:

(i) relies on the content of the Government Contracts referred to in that paragraph for their full terms and effect; and

(ii) otherwise does not admit the paragraph;

C.5 DEECD Regulatory focus

35. in answer to paragraph 34 of the 2FACSOC:

(i) admits that the document titled "*Information for Providers - Key features of VET Funding Contracts*" is dated 15 November 2013 and includes the statements at paragraph 35(a)(i)-(iii); and

(ii) otherwise does not admit the paragraph;

36. denies paragraph 36 of the 2FACSOC;

C.6 Significance of certain businesses to Vocation

37. in answer to paragraph 37 of the FACSOC and the 2FACSOC:

(i) says that the Replacement Prospectus accurately described the position and relies on the content of the Replacement Prospectus for its full terms and effect; and

(ii) otherwise does not admit that paragraph;

38. in answer to paragraph 38 of the FACSOC and the 2FACSOC:

(i) says that the Replacement Prospectus accurately described the position and relies on the content of the Replacement Prospectus for its full terms and effect; and

(ii) otherwise does not admit the paragraph;

39. in answer to paragraph 39 of the FACSOC and the 2FACSOC:

(i) relies on the content of the Replacement Prospectus for its full terms and effect: and

(ii) otherwise does not admit that paragraph;

40. does not admit paragraph 40 of the FACSOC and the 2FACSOC;

41. admits paragraph 41 of the 2FACSOC;

42. in answer to paragraph 42 of the FACSOC and the 2FACSOC:

(i) says that whether or not particular information required disclosure depends on the nature of that information; and

(ii) otherwise does not admit that paragraph;

43. in answer to paragraph 43 of the FACSOC and the 2FACSOC:

(i) repeats sub-paragraph 42(i) above; and

(ii) otherwise does not admit that paragraph;

D. PRE-LISTING CONDUCT

D.1 The BAWM Conduct

Audits of BAWM

43A. does not admit paragraph 43A of the 2FACSOC;

43B. does not admit paragraph 43B of the 2FACSOC;

43C. does not admit paragraph 43C of the 2FACSOC;

44. admits paragraph 44 of the FACSOC and 2FACSOC;

44A. in answer to paragraph 44A of the 2FACSOC:

(i) admits that 2013 VRQA BAWM Audit Report contains the non-compliance findings stated in that report;

(ii) relies on the 2013 VRQA BAWM Audit Report for its full terms and effect;

(iii) says that following the 2013 VRQA BAWM Audit, VRQA granted renewal of BAWM's registration for the maximum period of 5 years; and

(iv) otherwise does not admit the paragraph;

45. in answer to paragraph 45 of the FACSOC and 2FACSOC:

(i) relies on the content of the 2013 VRQA BAWM Audit Report for its full terms and effect; and

(ii) otherwise does not admit that paragraph;

45A. does not admit paragraph 45A of the 2FACSOC;

45B. does not admit paragraph 45B of the 2FACSOC;

45C. does not admit paragraph 45C of the 2FACSOC;

45D. in answer to paragraph 45D of the 2FACSOC:

(i) repeats paragraphs 43A to 44A and 45 to 45B above; and

(ii) otherwise denies the paragraph;

45E. in answer to paragraph 45E of the 2FACSOC:

(i) repeats paragraphs 43A to 44A and 45 to 45B above; and

(ii) otherwise denies the paragraph;

45F. does not admit paragraph 45F of the 2FACSOC;

45G. denies paragraph 45G of the 2FACSOC;

45H. denies paragraph 45H of the 2FACSOC;

45I. denies paragraph 45I of the 2FACSOC;

45J. denies paragraph 45J of the 2FACSOC;

45K. denies paragraph 45K of the 2FACSOC;

45L. denies paragraph 45L of the 2FACSOC;

45M. denies paragraph 45M of the 2FACSOC;

45N. denies paragraph 45N of the 2FACSOC;

45O. denies paragraph 45O of the 2FACSOC;

45P. denies paragraph 45P of the 2FACSOC;

45Q. denies paragraph 45Q of the 2FACSOC;

46. does not plead to paragraph 46 of the 2FACSOC; ~~denies paragraph 46 of the FACSOC;~~

D.2 Features of BAWM's Conduct

47. denies paragraph 47 of the FACSOC and the 2FACSOC;

48. denies paragraph 48 of the FACSOC and the 2FACSOC;

49. in answer to paragraph 49 of the 2FACSOC:

    (i) repeats paragraphs 43A to 48 above; and

    (ii) otherwise denies the paragraph;

D.3 ~~Other relevant~~ Conduct of other Founding Companies

Conduct of TTS-100

50. in answer to paragraph 50 of the FACSOC and 2FACSOC:

    (i) admits that in November 2013, ASQA conducted an audit of TTS-100 Pty Ltd; and

    (ii) otherwise does not admit paragraph 50 of the FACSOC;

51. in answer to paragraph 51 of the FACSOC and 2FACSOC:

    (i) admits that ASQA issued the Continuing Registration Audit Report;

    (ii) relies on the content of the Continuing Registration Audit Report; and

    (iii) otherwise does not admit paragraph 51 of the FACSOC and 2FACSOC;

51A. does not admit paragraph 51A of the 2FACSOC;

51B. does not admit paragraph 51B of the 2FACSOC;

51C. does not admit paragraph 51C of the 2FACSOC;

51D. does not admit paragraph 51D of the 2FACSOC;

51E. does not admit paragraph 51E of the 2FACSOC;

Conduct of AVANA

51F. does not admit paragraph 51F of the 2FACSOC;

51G. does not admit paragraph 51G of the 2FACSOC;

51H. does not admit paragraph 51H of the 2FACSOC;

51I. does not admit paragraph 51I of the 2FACSOC;

51J. does not admit paragraph 51J of the 2FACSOC;

51K. does not admit paragraph 51K of the 2FACSOC;

51L. does not admit paragraph 51L of the 2FACSOC;

D.4 Systemic Features

52. denies paragraph 52 of the FACSOC and the 2FACSOC;

53. denies paragraph 53 of the FACSOC and the 2FACSOC;

54. denies paragraph 54 of the FACSOC and the 2FACSOC;

E. RELEVANT PUBLICATIONS, ANNOUNCEMENTS AND DISCLOSURES OF VOCATION

E.1 The 2013 Prospectus Conduct

55. in answer to paragraph 55 of the 2FACSOC and the FACSOC:

    (i) relies on the content of the Replacement Prospectus; and

    (ii) otherwise does not admit the paragraph;

56. in answer to paragraph 56 of the 2FACSOC and the FACSOC:

    (i) admits the Replacement Prospectus contained the table at paragraph 56(b) of the 2FACSOC;

    (ii) relies on the content of the Replacement Prospectus; and

    (iii) otherwise does not admit the paragraph;

57. in answer to paragraph 57 of the 2FACSOC and the FACSOC:

    (i) repeats paragraph 56 above; and

    (ii) otherwise denies the paragraph;

58. admits paragraph 58 of the 2FACSOC;

E.2 Vocation's announcements to the market in 2014 ~~The DEECD Review of BAWM and Aspin in 2014~~

59. ~~does not admit~~ admits paragraph 59 of the FACSOC;

60. ~~in answer to~~ admits paragraph 60 of the FACSOC;

    ~~(i) admits that on 3 July 2014 the DEECD wrote a letter to BAWM;~~

    ~~(ii) relies on the contents of that letter for its full force and effect; and~~

    ~~(iii) otherwise does not admit that paragraph;~~

61. in answer to paragraph 61 of the FACSOC:

    (i) admits that on 24 July 2014 the DEECD wrote a letter to BAWM;

    (ii) relies on the contents of that letter ~~for its full force and effect~~;

(iii) says his view at the time, based on information provided by Mr Hutchinson and others, was that the BAWM Enrolment Suspension related only to CSP and Warehousing courses and that he honestly and reasonably held that view until late-August 2014; and

(iv) otherwise denies that paragraph;

62. ~~does not admit~~ admits paragraph 62 of the FACSOC;

63. admits paragraph 63 of the FACSOC on the basis that the words "2014 BAWM Government Contract and" in sub-paragraph (a) were mistakenly included;

64. does not admit paragraph 64 of the FACSOC;

E.3 The August 2014 Conduct

E.3.1 Vocation's New Revenue Recognition Policy

65. in answer to paragraph 65 of the FACSOC:

(i) relies on the content of the Replacement Prospectus for its full terms and effect; and

(ii) otherwise does not admit that paragraph;

66. does not admit paragraph 66 of the FACSOC;

67. does not admit paragraph 67 of the FACSOC;

E.3.2 Vocation's publication of the FY14 Results Documents

68. in answer to paragraph 68 of the FACSOC:

(i) admits paragraphs 68(a),(b) and (c)(i) of the FACSOC; and

(ii) otherwise does not admit the paragraph;

69. admits the FY14 Results Announcement contained statements to the effect pleaded at paragraph 69 of the FACSOC;

70. admits paragraph 70 of the FACSOC;

71. in answer to paragraph 71 of the FACSOC:

(i) admits that Vocation made an express statement in the FY14 Results Presentation in relation to Vocation's "FY15 Outlook" that "Management are comfortable with current market consensus range"; and

(ii) otherwise does not admit that paragraph;

72. in answer to paragraph 72 of the FACSOC:

(i) relies on the content of the FY14 Results Documents for its full terms and effect; and

(ii) otherwise does not admit that paragraph;

E2.1 The 25 August Announcement

73. admits paragraph 73 of the 2FACSOC;

74. admits paragraph 74 of the 2FACSOC;

74A. admits paragraph 74A of the 2FACSOC, save that the last trading day before 25 August 2014 was 22 August 2014;

75. denies paragraph 75 of the FACSOC;

76. in answer to paragraph 76 of the FACSOC:

(i) denies paragraph 76(a) and (b); and

(ii) admits paragraph 76(c) and (d).

77. denies paragraph 77 of the FACSOC;

78. denies paragraph 78 of the FACSOC;

E.4 Cash flow issues, and preparation for institutional placement

79. does not admit paragraph 79 of the FACSOC;

80. does not admit paragraph 80 of the FACSOC;

81. does not admit paragraph 81 of the FACSOC;

82. does not admit paragraph 82 of the FACSOC;

83. admits paragraph 83 of the FACSOC;

84. denies paragraph 84 of the FACSOC;

85. admits paragraph 85 of the FACSOC;

86. in answer to paragraph 86 of the FACSOC, admits negotiations with UBS commenced on or about that date;

87. does not admit paragraph 87 FACSOC;

88. does not admit paragraph 88 FACSOC;

89. admits paragraph 89 of the FACSOC;

90. in answer to paragraph 90 of the FACSOC:

(i) admits paragraph 90(b) of the FACSOC; and

(ii) otherwise denies the paragraph;

E2.2 The 10 September Announcement

91. admits paragraph 91 of the 2FACSOC;

~~**E.5 The September 2014 Conduct**~~

92. ~~in answer to~~ admits paragraph 92 of the FACSOC;

~~(i) admits paragraph 92(c); and~~

~~(ii) otherwise does not plead to paragraph 92 of the FACSOC as it does not form part of any claim against him;~~

93. in answer to paragraph 93 of the FACSOC:

(i) relies on the content of the 10 September Announcement;

(ii) says that the 10 September Announcement stated that funds raised in the September 2014 institutional placement allowed Vocation to increase working capital flexibility; and

(iii) subject to 93(i) and (ii) above, admits the paragraph;

94. admits paragraph 94 of the 2FACSOC;

95. does not admit paragraph 95 of the FACSOC;

96. does not admit paragraph 96 of the FACSOC;

97. admits paragraph 97 FACSOC;

98. admits paragraph 98 of the FACSOC;

E2.3 The 18 September Announcement

99. in answer to paragraph 99 of the 2FACSOC:

(i) relies on the terms of the 18 September 2014 Australian Financial Review article titled "Victoria's withheld funding 'material' to Vocation";

(ii) subject to 99(i) above, admits paragraph 99(a) and (c) of the 2FACSOC;

(iii) says that the Australian Financial Review article refers to "channelling" as a practice whereby providers enrol students in courses other than what they intended for the purpose of receiving a greater subsidy level; and

(iv) otherwise denies the paragraph;

100. admits paragraph 100 of the 2FACSOC;

100A. admits paragraph 100A of the 2FACSOC;

101. denies paragraph 101 of the FACSOC;

E.6 The Restructure Decision

102. in answer to paragraph 102 of the FACSOC:

(i) admits that senior management of Vocation wished to reduce or cease reliance on third party providers;

(ii) says further that senior management wished for third party providers to be replaced by employees of Vocation; and

(iii) otherwise does not admit that paragraph;

103. denies paragraph 103 of the FACSOC;

E.7 The 16 October Announcement

104. in answer to paragraph 104 of the FACSOC:

(i) relies on the content of the Vocation AGM Chairman's Address and Managing Director's Presentation lodged with the ASX on 16 October 2014; and

(ii) otherwise does not admit the paragraph;

105. denies paragraph 105 FACSOC;

E2.4 The 27 and 30 October Announcements

106. admits paragraph 106 of the 2FACSOC;

107. admits paragraph 107 of the 2FACSOC;

108. in answer to paragraph 108 of the 2FACSOC:

(i) relies on the content of the 27 October Announcement; and

(ii) otherwise does not admit the paragraph;

109. denies paragraph 109 of the FACSOC;

110. admits paragraph 110 2FACSOC;

~~**E.8 The 27 and 30 October Announcements**~~

111. in answer to paragraph 111 of the 2FACSOC and FACSOC:

(i) relies on the contents of the 30 October Announcements; and

(ii) otherwise does not admit paragraph 111~~(a)~~ of the 2FACSOC and FACSOC; ~~and otherwise does not plead to paragraph 111 of the FACSOC as it does not form part of any claim against him;~~

112. denies paragraph 112 FACSOC;

113. admits paragraph 113 of the 2FACSOC, save to say that the last day of trading before the 27 October Announcement was 22 October 2014;

114. admits paragraph 114 of the FACSOC;

115. denies paragraph 115 of the FACSOC;

E2.5 The 4 December Announcement

116. admits paragraph 116 of the 2FACSOC;

117. admits paragraph 117 of the 2FACSOC;

118. in answer to paragraph 118 of the 2FACSOC:

(i) relies on the content of the 4 December;

(ii) subject to paragraph 118(i) above, admits paragraphs 118(a),118(b)(i),(ii) and (iii), 118(c) and 118(e); and

(iii) otherwise denies the paragraph;

119. admits paragraph 119 of the 2FACSOC;

F. PROSPECTUS CONTRAVENTIONS

F.1 Introduction

120. admits paragraph 120 of the 2FACSOC;

121. admits paragraph 121 of the 2FACSOC;

F.2 Misleading statements in the Replacement Prospectus

122. denies paragraph 122 of the 2FACSOC;

123. denies paragraph 123 of the 2FACSOC;

123A. denies paragraph 123A of the 2FACSOC;

124. denies paragraph 124 of the 2FACSOC;

125. denies paragraph 125 of the 2FACSOC;

126. denies paragraph 126 of the 2FACSOC;

127. denies paragraph 127 of the 2FACSOC;

128. in answer to paragraph 128 of the 2FACSOC:

(i) denies the paragraph; and

(ii) says further that if the Replacement Prospectus contained a misleading or deceptive statement within the meaning of s728(1)(a)(i) of the

Corporations Act, Vocation has a defence under s731 and/or s733 of the *Corporations Act*;

F.3 Omissions from the Replacement Prospectus

129. denies paragraph 129 of the 2FACSOC;

129A denies paragraph 129A of the 2FACSOC;

129B denies paragraph 129B of the 2FACSOC;

129C denies paragraph 129C of the 2FACSOC;

129D denies paragraph 129D of the 2FACSOC;

129E denies paragraph 129E of the 2FACSOC;

129F denies paragraph 129F of the 2FACSOC;

129G denies paragraph 129G of the 2FACSOC;

129H denies paragraph 129H of the 2FACSOC;

129I denies paragraph 129I of the 2FACSOC;

129J denies paragraph 129J of the 2FACSOC;

129K denies paragraph 129K of the 2FACSOC;

130. denies paragraph 130 of the 2FACSOC;

130A denies paragraph 130A of the 2FACSOC;

131. denies paragraph 131 of the 2FACSOC;

132. in answer to paragraph 132 of the 2FACSOC:

(i) admits that the Replacement Prospectus did not contain any statement as defined in that paragraph; and

(ii) says that no such statement was required;

133. in answer to paragraph 133 of the 2FACSOC:

(i) denies the paragraph; and

(ii) says further that if the Replacement Prospectus contained an omission of material required by s710 of the *Corporations Act* within the meaning of s728(1)(a)(i) of the *Corporations Act*, Vocation has a defence under s731 and/or s733 of the *Corporations Act*;

F.4 The Prospectus Contraventions

134. in answer to paragraph 134 of the 2FACSOC:

(i) denies the paragraph;

(ii) says further that if the Initial Public Offering under the Replacement Prospectus contravened s728(1) of the *Corporations Act*, Vocation has a defence under s731 and/or s733 of the *Corporations Act*;

135. in answer to paragraph 135 of the 2FACSOC, Mr Dawkins denies Vocation is liable in connection with any Prospectus Contravention;

135A denies paragraph 135A of the 2FACSOC;

135B. denies paragraph 135B of the 2FACSOC;

135B. denies paragraph 135B of the 2FACSOC;

135C. denies paragraph 135C of the 2FACSOC;

G. CONTINUOUS DISCLOSURE CONTRAVENTIONS

G.1 Failure to disclose the non-compliant conduct, and its implications

136. denies paragraph 136 of the FACSOC;

137. denies paragraph 137 of the FACSOC;

138. denies paragraph 138 of the FACSOC;

139. denies paragraph 139 of the FACSOC;

140. in answer to paragraph 140 of the FACSOC:

(i) relies on the contents of Vocation's announcements to the ASX in the Relevant Period ~~for their full force and effect~~; and

(ii) otherwise does not admit that paragraph;

Particulars

Mr Dawkins refers to Vocation's announcements to the ASX dated 25 August 2014, 10 September 2014, 18 September 2014, 16 October 2014, 27 October 2014, 30 October 2014, 17 November 2014 and 4 December 2014.

Further particulars may be provided.

141. denies paragraph 141 of the FACSOC;

G.2 Failure to disclose the DEECD investigation and its implications

142. denies paragraph 142 of the FACSOC;

143. denies paragraph 143 of the FACSOC;

144. denies paragraph 144 of the FACSOC;

145. denies paragraph 145 of the FACSOC;

146. denies paragraph 146 of the FACSOC;

147. denies paragraph 147 of the FACSOC;

148. in answer to paragraph 148 of the FACSOC:

(i) relies on the contents of Vocation's announcements to the ASX in the Relevant Period ~~for their full force and effect~~; and

(ii) otherwise does not admit that paragraph;

Particulars

Mr Dawkins refers to Vocation's announcements to the ASX dated 25 August 2014, 10 September 2014, 18 September 2014, 16 October 2014, 27 October 2014, 30 October 2014, 17 November 2014 and 4 December 2014.

Further particulars may be provided.

149. denies paragraph 149 of the FACSOC;

G.3 Failure to disclose the Cash Requirement Information

150. denies paragraph 150 of the FACSOC;

151. does not admit paragraph 151 of the FACSOC;

152. denies paragraph 152 of the FACSOC;

153. in answer to paragraph 153 of the FACSOC:

(i) says that Vocation did not disclose the Cash Requirement Information; and

(ii) otherwise denies that paragraph;

154. denies paragraph 154 of the FACSOC;

155. denies paragraph 155 of the FACSOC;

G.4 Failure to disclose the Restructure Information

156. in answer to paragraph 156 of the FACSOC:

(i) repeats sub-paragraph 102 above; and

(ii) otherwise does not admit that paragraph;

157. denies paragraph 157 of the FACSOC;

158. does not admit paragraph 158 of the FACSOC;

159. denies paragraph 159 of the FACSOC;

160. in answer to paragraph 160 of the FACSOC:

(i) relies on the contents of Vocation's announcements to the ASX in the Relevant Period ~~for their full force and effect~~; and

(ii) otherwise does not admit that paragraph;

Particulars

Mr Dawkins refers to Vocation's announcements to the ASX dated 25 August 2014, 10 September 2014, 18 September 2014, 16 October 2014, 27 October 2014, 30 October 2014 and 17 November 2014.

Further particulars may be provided.

161. denies paragraph 161 of the FACSOC;

G.5 Failure to disclose the Post-DEECD Settlement Earnings Unreliability Information

162. denies paragraph 162 of the FACSOC;

163. denies paragraph 163 of the FACSOC;

164. denies paragraph 164 of the FACSOC;

165. denies paragraph 165 of the FACSOC;

166. admits paragraph 166 of the FACSOC;

167. denies paragraph 167 of the FACSOC;

H. MISLEADING OR DECEPTIVE CONDUCT

H.1 Compliance and Risk Representations

H.1.1 Misleading or deceptive conduct

168. denies paragraph 168 of the FACSOC;

169. denies paragraph 169 of the FACSOC;

170. denies paragraph 170 of the FACSOC;

171. denies paragraph 171 of the FACSOC;

172. denies paragraph 172 of the FACSOC;

173. denies paragraph 173 of the FACSOC;

174. denies paragraph 174 of the FACSOC;

175. denies paragraph 175 of the FACSOC;

H.1.2 - Section 1041E

176. denies paragraph 176 of the FACSOC;

177. denies paragraph 177 of the FACSOC;

178. denies paragraph 178 of the FACSOC;

179. denies paragraph 179 of the FACSOC;

H.2. August FY14 Rets Representations

H.2.1 - Misleading or deceptive conduct

180. denies paragraph 180 of the FACSOC;

181. denies paragraph 181 of the FACSOC;

182. denies paragraph 182 of the FACSOC;

H.2.1 - Section 1041E

183. denies paragraph 183 of the FACSOC;

184. denies paragraph 184 of the FACSOC;

185. denies paragraph 185 of the FACSOC;

186. denies paragraph 186 of the FACSOC;

H.3 August FY15 Earnings Representations

187. denies paragraph 187 of the FACSOC;

188. denies paragraph 188 of the FACSOC;

189. denies paragraph 189 of the FACSOC;

190. denies paragraph 190 of the FACSOC;

191. denies paragraph 191 of the FACSOC;

H.4 September Placement Representations

H.4.1 - Misleading or deceptive conduct

192. denies paragraph 192 of the FACSOC;

193. denies paragraph 193 of the FACSOC;

194. denies paragraph 194 of the FACSOC;

195. denies paragraph 195 of the FACSOC;

H.4.2 - Section 1041E

196. denies paragraph 196 of the FACSOC;

197. denies paragraph 197 of the FACSOC;

198. denies paragraph 198 of the FACSOC;

199. denies paragraph 199 of the FACSOC;

H.5 October FY15 Earnings Representations

200. denies paragraph 200 of the FACSOC;

201. denies paragraph 201 of the FACSOC;

202. in answer to paragraph 202 of the FACSOC:

(i) repeats paragraph 14 sub-paragraph 111 above; and

(ii) otherwise denies that paragraph;

203. denies paragraph 203 of the FACSOC;

204. denies paragraph 204 of the FACSOC;

205. denies paragraph 205 of the FACSOC;

206. denies paragraph 206 of the FACSOC;

H.6 Continuous Disclosure Representation

207. denies paragraph 207 of the FACSOC;

208. denies paragraph 208 of the FACSOC;

209. denies paragraph 209 of the FACSOC; and

210. denies paragraph 210 of the FACSOC.

14AA. In answer to paragraph 14AA of the Third Cross-Claim, Mr Dawkins:

(a) repeats paragraph 14 above as relates to paragraphs 129 to 135C of the 2FACSOC; and

(b) otherwise denies the paragraph.

14AB. Mr Dawkins denies paragraph 14AB of the Third Cross-Claim.

14AC. Mr Dawkins denies paragraph 14AC of the Third Cross-Claim.

14AD. Mr Dawkins denies paragraph 14AD of the Third Cross-Claim.

14AE. In answer to paragraph 14AE of the Third Cross-Claim, Mr Dawkins:

(a) relies on the contents of Vocation's announcements to the ASX in the Relevant Period; and

(b) otherwise does not admit that paragraph;

Particulars

Mr Dawkins refers to Vocation's announcements to the ASX dated 25 August 2014, 10 September 2014, 18 September 2014, 16 October 2014, 27 October 2014, 30 October 2014, 17 November 2014 and 4 December 2014.

Further particulars may be provided.

14AF. Mr Dawkins denies paragraph 14AF of the Third Cross-Claim.

14A. Mr Dawkins admits paragraph 14A of the Third Cross-Claim.

14B. In answer to paragraph 14B of the Third Cross-Claim, Mr Dawkins:

(a) says that Nicholas J made a declaration in Australian Securities and Investments Commission v Vocation Limited (in liquidation) that Vocation contravened sub-section 1041H(l) of the Corporations Act 2001 in making the No Suspension Representation, Reasonable Grounds Representation and Continuing Representation in the 25 August Announcement; and

(b) otherwise does not admit the paragraph.

14C. In answer to paragraph 14C of the Third Cross-Claim, Mr Dawkins:

(a) repeats paragraph 14B(a) above; and

(b) otherwise does not admit the paragraph.

14D. In answer to paragraph 14D of the Third Cross-Claim, Mr Dawkins:

(a) repeats paragraph 14B(a) above; and

(b) otherwise does not admit the paragraph.

14E. In answer to paragraph 14D of the Third Cross-Claim, Mr Dawkins:

(a) repeats paragraph 14B(a) above; and

(b) otherwise does not admit the paragraph.

14EA. Mr Dawkins admits paragraph 14EA of the Third Cross-Claim.

14F. In answer to paragraph 14F, Mr Dawkins:

(a) repeats paragraphs 14E to 14EA above; and

(b) otherwise does not admit the paragraph.

14G. In answer to paragraph 14G of the Third Cross-Claim, Mr Dawkins:

(a) relies on the content of the 10 September Announcement;

(b) admits that Vocation represented by the 10 September Announcement it had reasonable grounds for making the statements contained in the 10 September Announcement; and

(c) otherwise denies the paragraph;

14H. Mr Dawkins denies paragraph 14H of the Third Cross-Claim.

14I. Mr Dawkins denies paragraph 14I of the Third Cross-Claim.

14J. Mr Dawkins denies paragraph 14J of the Third Cross-Claim.

14K. Mr Dawkins denies paragraph 14K of the Third Cross-Claim.

14L. In answer to paragraph 14L of the Third Cross-Claim, Mr Dawkins:

(a) relies on the content of the 18 September;

(b) admits that Vocation represented by the 18 September Announcement it had reasonable grounds for making the statements contained in the 18 September Announcement; and

(c) otherwise does not admit the paragraph.

14M. Mr Dawkins denies paragraph 14M of the Third Cross-Claim.

14N. Mr Dawkins denies paragraph 14N of the Third Cross-Claim.

14O. Mr Dawkins denies paragraph 14O of the Third Cross-Claim.

14P. Mr Dawkins denies paragraph 14P of the Third Cross-Claim.

C LIABILITY OF HUTCHINSON, DAWKINS, TUCKER, TREDENICK and HALLEY FOR VOCATION'S PROSPECTUS CONTRAVENTIONS

C.1 Hutchinson

15. Mr Dawkins does not plead to paragraph 15 of the Third Cross-Claim as it does not form part of any claim against him.

16. Mr Dawkins does not plead to paragraph 16 of the Third Cross-Claim as it does not form part of any claim against him.

17. Mr Dawkins does not plead to paragraph 17 of the Third Cross-Claim as it does not form part of any claim against him.

C.2 Dawkins

18. As to paragraph 18 of the Third Cross-Claim, which repeats the allegations in paragraphs ~~6 to 8 and 120~~ 4 to 135C of the 2FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins

~~a. admits paragraphs 6, 7 and 8 of the FACSOC; and~~

~~b.~~ repeats paragraph 14 above.

19. Mr Dawkins admits paragraph 19 of the Third Cross-Claim.

20. In answer to paragraph 20 of the Third Cross-Claim, Mr Dawkins denies that he is liable in connection with any Prospectus Contravention.

C.3 Tucker

21. Mr Dawkins does not plead to paragraph 21 of the Third Cross-Claim as it does not form part of any claim against him.

22. Mr Dawkins does not plead to paragraph 22 of the Third Cross-Claim as it does not form part of any claim against him.

23. Mr Dawkins does not plead to paragraph 23 of the Third Cross-Claim as it does not form part of any claim against him.

C.4 Tredenick

24. Mr Dawkins does not plead to paragraph 24 of the Third Cross-Claim as it does not form part of any claim against him.

25. Mr Dawkins does not plead to paragraph 25 of the Third Cross-Claim as it does not form part of any claim against him.

26. Mr Dawkins does not plead to paragraph 26 of the Third Cross-Claim as it does not form part of any claim against him.

C.5 Halley

27. Mr Dawkins does not plead to paragraph 27 of the Third Cross-Claim as it does not form part of any claim against him.

28. Mr Dawkins does not plead to paragraph 28 of the Third Cross-Claim as it does not form part of any claim against him.

29. Mr Dawkins does not plead to paragraph 29 of the Third Cross-Claim as it does not form part of any claim against him.

D INVOLVEMENT BY HUTCHINSON GREWAL AND DAWKINS IN VOCATION'S CONTINUOUS DISCLOSURE CONTRAVENTIONS

D.1 Involvement in Vocation's First Continuous Disclosure Contravention

30. As to paragraph 30 of the Third Cross-Claim, which repeats the allegations in paragraphs 135 to 141 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

<u>D.1.1 Hutchinson's involvement in Vocation's First Continuous Disclosure Contravention</u>

31. Mr Dawkins does not plead to paragraph 31 of the Third Cross-Claim as it does not form part of any claim against him.

32. Mr Dawkins does not plead to paragraph 32 of the Third Cross-Claim as it does not form part of any claim against him.

33. Mr Dawkins does not plead to paragraph 33 of the Third Cross-Claim as it does not form part of any claim against him.

34. Mr Dawkins does not plead to paragraph 34 of the Third Cross-Claim as it does not form part of any claim against him.

35. Mr Dawkins does not plead to paragraph 35 of the Third Cross-Claim as it does not form part of any claim against him.

<u>D.1.2 Grewal's involvement in Vocation's First Continuous Disclosure Contravention</u>

36. Mr Dawkins does not plead to paragraph 36 of the Third Cross-Claim as it does not form part of any claim against him.

37. Mr Dawkins does not plead to paragraph 37 of the Third Cross-Claim as it does not form part of any claim against him.

38. Mr Dawkins does not plead to paragraph 38 of the Third Cross-Claim as it does not form part of any claim against him.

39. Mr Dawkins does not plead to paragraph 39 of the Third Cross-Claim as it does not form part of any claim against him.

40. Mr Dawkins does not plead to paragraph 40 of the Third Cross-Claim as it does not form part of any claim against him.

<u>D.1.3 Dawkins' involvement in Vocation's First Continuous Disclosure Contravention</u>

41. Mr Dawkins denies paragraph 41 of the Third Cross-Claim.

42. In answer to paragraph 42 of the Third Cross-Claim, Mr Dawkins:

    (a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

    (b) otherwise denies that paragraph.

43. Mr Dawkins denies paragraph 43 of the Third Cross-Claim.

44. In answer to paragraph 44 of the Third Cross-Claim, Mr Dawkins:

    (a) denies the paragraph; and

    (b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

45. Mr Dawkins denies paragraph 45 of the Third Cross-Claim and repeats paragraph 44(b) above.

D.2 Involvement in Vocation's Second Continuous Disclosure Contravention

46. As to paragraph 46 of the Third Cross-Claim, which repeats the allegations in paragraphs 142 to 149 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

<u>D.2.1 Hutchinson's involvement in Vocation's Second Continuous Disclosure Contravention</u>

47. Mr Dawkins does not plead to paragraph 47 of the Third Cross-Claim as it does not form part of any claim against him.

48. Mr Dawkins does not plead to paragraph 48 of the Third Cross-Claim as it does not form part of any claim against him.

49. Mr Dawkins does not plead to paragraph 49 of the Third Cross-Claim as it does not form part of any claim against him.

50. Mr Dawkins does not plead to paragraph 50 of the Third Cross-Claim as it does not form part of any claim against him.

51. Mr Dawkins does not plead to paragraph 51 of the Third Cross-Claim as it does not form part of any claim against him.

<u>D.2.2 Grewal's involvement in Vocation's Second Continuous Disclosure Contravention</u>

52. Mr Dawkins does not plead to paragraph 52 of the Third Cross-Claim as it does not form part of any claim against him.

53. Mr Dawkins does not plead to paragraph 53 of the Third Cross-Claim as it does not form part of any claim against him.

54. Mr Dawkins does not plead to paragraph 54 of the Third Cross-Claim as it does not form part of any claim against him.

55. Mr Dawkins does not plead to paragraph 55 of the Third Cross-Claim as it does not form part of any claim against him.

56. Mr Dawkins does not plead to paragraph 56 of the Third Cross-Claim as it does not form part of any claim against him.

<u>D.2.3 Dawkins' involvement in Vocation's Third Continuous Disclosure Contravention</u>

57. Mr Dawkins denies paragraph 57 of the Third Cross-Claim.

58. In answer to paragraph 58 of the Third Cross-Claim, Mr Dawkins:

(a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

(b) otherwise denies that paragraph.

59. Mr Dawkins denies paragraph 59 of the Third Cross-Claim.

60. In answer to paragraph 60 of the Third Cross-Claim, Mr Dawkins:

(a) denies the paragraph; and

(b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

61. Mr Dawkins denies paragraph 61 of the Third Cross-Claim and repeats paragraph 60 above.

D.2A Involvement in Vocation's Withholding and Suspension Information Continuous Disclosure Contravention

61A. In answer to paragraph 61A of the Third Cross-Claim, Mr Dawkins repeats paragraph 14A above.

D.2A.1 Hutchinson's Involvement in Vocation's Withholding and Suspension Information Continuous Disclosure Contravention

61B. Mr Dawkins does not plead to paragraph 61B of the Third Cross-Claim as it does not form part of any claim against him.

61C. Mr Dawkins does not plead to paragraph 61C of the Third Cross-Claim as it does not form part of any claim against him.

61D. Mr Dawkins does not plead to paragraph 61D of the Third Cross-Claim as it does not form part of any claim against him.

61E. Mr Dawkins does not plead to paragraph 61E of the Third Cross-Claim as it does not form part of any claim against him.

61F. Mr Dawkins does not plead to paragraph 61F of the Third Cross-Claim as it does not form part of any claim against him.

61G. Mr Dawkins does not plead to paragraph 61G of the Third Cross-Claim as it does not form part of any claim against him.

61H. Mr Dawkins does not plead to paragraph 61H of the Third Cross-Claim as it does not form part of any claim against him.

D.2A.2 Grewal's Involvement in Vocation's Withholding and Suspension Information Continuous Disclosure Contravention

61I. Mr Dawkins does not plead to paragraph 61I of the Third Cross-Claim as it does not form part of any claim against him.

61J. Mr Dawkins does not plead to paragraph 61J of the Third Cross-Claim as it does not form part of any claim against him.

61K. Mr Dawkins does not plead to paragraph 61K of the Third Cross-Claim as it does not form part of any claim against him.

61L. Mr Dawkins does not plead to paragraph 61L of the Third Cross-Claim as it does not form part of any claim against him.

61M. Mr Dawkins does not plead to paragraph 61M of the Third Cross-Claim as it does not form part of any claim against him.

D.2A.3 Dawkins' Involvement in Vocation's Withholding and Suspension Information Continuous Disclosure Contravention

61N. Mr Dawkins denies paragraph 61N of the Third Cross-Claim.

61O. In answer to paragraph 61O of the Third Cross-Claim, Mr Dawkins:

(a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

(b) otherwise denies that paragraph.

61P. In answer to paragraph 61P of the Third Cross-Claim, Mr Dawkins:

(a) admits that Nicholas J made a declaration pursuant to section 1317E of the Corporations Act that Mr Dawkins contravened sub-section 180(1) of the Corporations Act in that he failed to discharge his duties to Vocation with the degree of care and diligence that a reasonable person would exercise, if he or she were a non-executive director and Chair of the Board of a corporation in Vocation’s circumstances and occupied the office held by the third defendant, and had the same responsibilities within the corporation, in causing or otherwise permitting Vocation to contravene sub-section 674(2) of the Corporations Act by not notifying the ASX of the existence of the Withholding and Suspension Information in the period between 28 August and 18 September 2014; and

(b) otherwise denies the paragraph.

61Q. In answer to paragraph 61P of the Third Cross-Claim, Mr Dawkins:

(a) admits that the declaration at paragraph 61(a) above is conclusive evidence of the matters referred to in that declaration; and

(b) otherwise denies the paragraph.

61R. Mr Dawkins denies paragraph 61R of the Third Cross-Claim.

61S. In answer to paragraph 61S of the Third Cross-Claim, Mr Dawkins:

(a) denies the paragraph; and

(b) says further that if he did contravene s674(2A) of the Corporations Act he has a defence under s674(2B) of the Corporations Act.

61T. Mr Dawkins denies paragraph 61T of the Third Cross-Claim.

D.3 Involvement in Vocation's Third Continuous Disclosure Contravention

62. As to paragraph 62 of the Third Cross-Claim, which repeats the allegations in paragraphs 150 to 155 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

D.3.1 Hutchinson's involvement in Vocation's Third Continuous Disclosure Contravention

63. Mr Dawkins does not plead to paragraph 63 of the Third Cross-Claim as it does not form part of any claim against him.

64. Mr Dawkins does not plead to paragraph 64 of the Third Cross-Claim as it does not form part of any claim against him.

65. Mr Dawkins does not plead to paragraph 65 of the Third Cross-Claim as it does not form part of any claim against him.

66. Mr Dawkins does not plead to paragraph 66 of the Third Cross-Claim as it does not form part of any claim against him.

67. Mr Dawkins does not plead to paragraph 67 of the Third Cross-Claim as it does not form part of any claim against him.

D.3.2 Grewal's involvement in Vocation's Third Continuous Disclosure Contravention

68. Mr Dawkins does not plead to paragraph 68 of the Third Cross-Claim as it does not form part of any claim against him.

69. Mr Dawkins does not plead to paragraph 69 of the Third Cross-Claim as it does not form part of any claim against him.

70. Mr Dawkins does not plead to paragraph 70 of the Third Cross-Claim as it does not form part of any claim against him.

71. Mr Dawkins does not plead to paragraph 71 of the Third Cross-Claim as it does not form part of any claim against him.

72. Mr Dawkins does not plead to paragraph 72 of the Third Cross-Claim as it does not form part of any claim against him.

D.3.3 Dawkins' involvement in Vocation's Third Continuous Disclosure Contravention

73. In answer to paragraph 73 of the Third Cross-Claim, Mr Dawkins:

    (a) says he was aware that at all relevant times Vocation needed working capital;

    (b) says his awareness was not dependent upon the resolution of the Victorian investigations; and

    (c) otherwise does not admit that paragraph.

74. In answer to paragraph 74 of the Third Cross-Claim, Mr Dawkins:

    (a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

    (b) otherwise denies that paragraph.

75. Mr Dawkins denies paragraph 75 of the Third Cross-Claim.

76. In answer to paragraph 76 of the Third Cross-Claim, Mr Dawkins:

    (a) denies the paragraph; and

    (b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

77. Mr Dawkins denies paragraph 77 of the Third Cross-Claim and repeats paragraph 76 above.

D.4 Involvement in Vocation's Fourth Continuous Disclosure Contravention

78. As to paragraph 78 of the Third Cross-Claim, which repeats the allegations in paragraphs 156 to 161 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

D.4.1 Hutchinson's involvement in Vocation's Fourth Continuous Disclosure Contravention

79. Mr Dawkins does not plead to paragraph 79 of the Third Cross-Claim as it does not form part of any claim against him.

80. Mr Dawkins does not plead to paragraph 80 of the Third Cross-Claim as it does not form part of any claim against him.

81. Mr Dawkins does not plead to paragraph 81 of the Third Cross-Claim as it does not form part of any claim against him.

82. Mr Dawkins does not plead to paragraph 82 of the Third Cross-Claim as it does not form part of any claim against him.

D.4.2 Grewal's involvement in Vocation's Fourth Continuous Disclosure Contravention

83. Mr Dawkins does not plead to paragraph 83 of the Third Cross-Claim as it does not form part of any claim against him.

84. Mr Dawkins does not plead to paragraph 84 of the Third Cross-Claim as it does not form part of any claim against him.

85. Mr Dawkins does not plead to paragraph 85 of the Third Cross-Claim as it does not form part of any claim against him.

86. Mr Dawkins does not plead to paragraph 86 of the Third Cross-Claim as it does not form part of any claim against him.

D.4.3 Dawkins' involvement in Vocation's Fourth Continuous Disclosure Contravention

87. In answer to paragraph 87 of the Third Cross-Claim, Mr Dawkins:

    (a) was aware in general terms that senior management of Vocation wished to reduce or cease reliance on third party providers; and

    (b) otherwise denies that paragraph.

88. In answer to paragraph 88 of the Third Cross-Claim, Mr Dawkins:

    (a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

    (b) otherwise denies that paragraph.

89. Mr Dawkins denies paragraph 89 of the Third Cross-Claim.

90. In answer to paragraph 90 of the Third Cross-Claim, Mr Dawkins:

    (a) denies the paragraph; and

    (b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

D.5 Involvement in Vocation's Fifth Continuous Disclosure Contravention

91. As to paragraph 91 of the Third Cross-Claim, which repeats the allegations in paragraphs 162 to 167 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

D.5.1 Hutchinson's involvement in Vocation's Fifth Continuous Disclosure Contravention

92. Mr Dawkins does not plead to paragraph 92 of the Third Cross-Claim as it does not form part of any claim against him.

93. Mr Dawkins does not plead to paragraph 93 of the Third Cross-Claim as it does not form part of any claim against him.

94. Mr Dawkins does not plead to paragraph 94 of the Third Cross-Claim as it does not form part of any claim against him.

95. Mr Dawkins does not plead to paragraph 95 of the Third Cross-Claim as it does not form part of any claim against him.

D.5.2 Dawkins' involvement in Vocation's Fifth Continuous Disclosure Contravention

96. Mr Dawkins denies paragraph 96 of the Third Cross-Claim.

97. In answer to paragraph 97 of the Third Cross-Claim, Mr Dawkins:

(a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

(b) otherwise denies that paragraph.

98. Mr Dawkins denies paragraph 98 of the Third Cross-Claim.

99. In answer to paragraph 99 of the Third Cross-Claim, Mr Dawkins:

(a) denies the paragraph; and

(b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

D.6 Involvement in Vocation's Further Continuous Disclosure Contravention

99A. In answer to paragraph 99A of the Third Cross-Claim, Mr Dawkins repeats paragraphs 14AA to 14AF above.

D.6.1 Hutchinson's involvement in Vocation's Further Continuous Disclosure Contravention

99B. Mr Dawkins does not plead to paragraph 99B of the Third Cross-Claim as it does not form part of any claim against him.

99C. Mr Dawkins does not plead to paragraph 99C of the Third Cross-Claim as it does not form part of any claim against him.

99D. Mr Dawkins does not plead to paragraph 99D of the Third Cross-Claim as it does not form part of any claim against him.

99E. Mr Dawkins does not plead to paragraph 99E of the Third Cross-Claim as it does not form part of any claim against him.

99F. Mr Dawkins does not plead to paragraph 99F of the Third Cross-Claim as it does not form part of any claim against him.

D.6.2 Grewal's involvement in Vocation's Further Continuous Disclosure Contravention

99G. Mr Dawkins does not plead to paragraph 99G of the Third Cross-Claim as it does not form part of any claim against him.

99H. Mr Dawkins does not plead to paragraph 99H of the Third Cross-Claim as it does not form part of any claim against him.

99I. Mr Dawkins does not plead to paragraph 99I of the Third Cross-Claim as it does not form part of any claim against him.

99J. Mr Dawkins does not plead to paragraph 99J of the Third Cross-Claim as it does not form part of any claim against him.

99K. Mr Dawkins does not plead to paragraph 99K of the Third Cross-Claim as it does not form part of any claim against him.

D.6.3 Dawkins' involvement in Vocation's Further Continuous Disclosure Contravention

99L. Mr Dawkins denies paragraph 99L of the Third Cross-Claim.

99M. In answer to paragraph 61O of the Third Cross-Claim, Mr Dawkins:

(a) says that he took all steps that were reasonable in the circumstances to ensure that Vocation complied with its disclosure obligations to the ASX; and

(b) otherwise denies that paragraph.

99N. Mr Dawkins denies paragraph 99N of the Third Cross-Claim.

99O. In answer to paragraph 99O of the Third Cross-Claim, Mr Dawkins:

(a) denies the paragraph; and

(b) says further that if he did contravene s674(2A) of the *Corporations Act* he has a defence under s674(2B) of the *Corporations Act*.

99P. Mr Dawkins denies paragraph 99P of the Third Cross-Claim.

E. HUTCHINSON, GREWAL AND DAWKINS' LIABILITY FOR INVOLVEMENT IN VOCATION'S MISLEADING OR DECEPTIVE CONDUCT CONTRAVENTIONS

E.1 Compliance and Risk Representations

100. As to paragraph 100 of the Third Cross-Claim, which repeats the allegations in paragraphs 168 to 182 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

E.1.1 Hutchinson

101. Mr Dawkins does not plead to paragraph 101 of the Third Cross-Claim as it does not form part of any claim against him.

102. Mr Dawkins does not plead to paragraph 102 of the Third Cross-Claim as it does not form part of any claim against him.

103. Mr Dawkins does not plead to paragraph 103 of the Third Cross-Claim as it does not form part of any claim against him.

E.1.2 Grewal

104. Mr Dawkins does not plead to paragraph 104 of the Third Cross-Claim as it does not form part of any claim against him.

105. Mr Dawkins does not plead to paragraph 105 of the Third Cross-Claim as it does not form part of any claim against him.

106. Mr Dawkins does not plead to paragraph 106 of the Third Cross-Claim as it does not form part of any claim against him.

E.1.3 Dawkins

107. Mr Dawkins denies paragraph 107 of the Third Cross-Claim.

108. In answer to paragraph 108 of the Third Cross-Claim, Mr Dawkins:

 (a) admits that he participated in authorising the lodgement by Vocation with the ASX of each of the documents referred to in that paragraph;

 (b) relies on the contents of those documents ~~for their full force and effect~~; and

 (c) otherwise denies that paragraph.

109. Mr Dawkins denies paragraph 109 of the Third Cross-Claim.

E.2 August FY14 Results Representations

110. As to paragraph 110 of the Third Cross-Claim, which repeats the allegations in paragraphs 180 to 186 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

<u>E.2.1 Hutchinson</u>

111. Mr Dawkins does not plead to paragraph 111 of the Third Cross-Claim as it does not form part of any claim against him.

112. Mr Dawkins does not plead to paragraph 112 of the Third Cross-Claim as it does not form part of any claim against him.

113. Mr Dawkins does not plead to paragraph 113 of the Third Cross-Claim as it does not form part of any claim against him.

114. Mr Dawkins does not plead to paragraph 114 of the Third Cross-Claim as it does not form part of any claim against him.

<u>E.2.2 Grewal</u>

115. Mr Dawkins does not plead to paragraph 115 of the Third Cross-Claim as it does not form part of any claim against him.

116. Mr Dawkins does not plead to paragraph 116 of the Third Cross-Claim as it does not form part of any claim against him.

117. Mr Dawkins does not plead to paragraph 117 of the Third Cross-Claim as it does not form part of any claim against him.

118. Mr Dawkins does not plead to paragraph 118 of the Third Cross-Claim as it does not form part of any claim against him.

<u>E.2.3 Dawkins</u>

119. Mr Dawkins denies paragraph 119 of the Third Cross-Claim.

120. In answer to paragraph 120 of the Third Cross-Claim, Mr Dawkins:

(a) admits that he participated in the authorising of the lodgement with the ASX of the FY14 Results Documents; and

(b) otherwise denies that paragraph.

121. In answer to paragraph 121 of the Third Cross-Claim, Mr Dawkins:

(a) says that he took adequate steps to ensure the accuracy of the FY14 Results Documents; and

(b) otherwise denies that paragraph.

122. Mr Dawkins denies paragraph 122 of the Third Cross-Claim.

E.3 August FY15 Earnings Representations

123. As to paragraph 123 of the Third Cross-Claim, which repeats the allegations in paragraphs 187 to 191 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

E.3.1 Hutchinson

124. Mr Dawkins does not plead to paragraph 124 of the Third Cross-Claim as it does not form part of any claim against him.

125. Mr Dawkins does not plead to paragraph 125 of the Third Cross-Claim as it does not form part of any claim against him.

126. Mr Dawkins does not plead to paragraph 126 of the Third Cross-Claim as it does not form part of any claim against him.

127. Mr Dawkins does not plead to paragraph 127 of the Third Cross-Claim as it does not form part of any claim against him.

128. Mr Dawkins does not plead to paragraph 128 of the Third Cross-Claim as it does not form part of any claim against him.

E.3.2 Grewal

129. Mr Dawkins does not plead to paragraph 129 of the Third Cross-Claim as it does not form part of any claim against him.

130. Mr Dawkins does not plead to paragraph 130 of the Third Cross-Claim as it does not form part of any claim against him.

131. Mr Dawkins does not plead to paragraph 131 of the Third Cross-Claim as it does not form part of any claim against him.

132. Mr Dawkins does not plead to paragraph 132 of the Third Cross-Claim as it does not form part of any claim against him.

133. Mr Dawkins does not plead to paragraph 133 of the Third Cross-Claim as it does not form part of any claim against him.

E.3.3 Dawkins

134. Mr Dawkins denies paragraph 134 of the Third Cross-Claim.

135. In answer to paragraph 135 of the Third Cross-Claim, Mr Dawkins:

(a) says that he took adequate steps to ensure the accuracy of the FY14 Results Documents; and

(b) otherwise denies that paragraph.

136. Mr Dawkins denies paragraph 136 of the Third Cross-Claim.

137. In answer to paragraph 137 of the Third Cross-Claim, Mr Dawkins:

(a) says that he took adequate steps to ensure the accuracy of the FY14 Results Documents; and

(b) otherwise denies that paragraph.

138. Mr Dawkins denies paragraph 138 of the Third Cross-Claim.

E.4 September Placement Representations

139. As to paragraph 139 of the Third Cross-Claim, which repeats the allegations in paragraphs 79 to 89, 91, 100, 101(e) and 192 to 199 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

E.4.1 Hutchinson

140. Mr Dawkins does not plead to paragraph 140 of the Third Cross-Claim as it does not form part of any claim against him.

141. Mr Dawkins does not plead to paragraph 141 of the Third Cross-Claim as it does not form part of any claim against him.

142. Mr Dawkins does not plead to paragraph 142 of the Third Cross-Claim as it does not form part of any claim against him.

143. Mr Dawkins does not plead to paragraph 143 of the Third Cross-Claim as it does not form part of any claim against him.

144. Mr Dawkins does not plead to paragraph 144 of the Third Cross-Claim as it does not form part of any claim against him.

E.4.2 Grewal

145. Mr Dawkins does not plead to paragraph 145 of the Third Cross-Claim as it does not form part of any claim against him.

146. Mr Dawkins does not plead to paragraph 146 of the Third Cross-Claim as it does not form part of any claim against him.

147. Mr Dawkins does not plead to paragraph 147 of the Third Cross-Claim as it does not form part of any claim against him.

148. Mr Dawkins does not plead to paragraph 148 of the Third Cross-Claim as it does not form part of any claim against him.

149. Mr Dawkins does not plead to paragraph 149 of the Third Cross-Claim as it does not form part of any claim against him.

E.4.3 Dawkins

150. Mr Dawkins denies paragraph 150 of the Third Cross-Claim.

151. In answer to paragraph 151 of the Third Cross-Claim, Mr Dawkins:

(a) admits that he participated in authorising the making of the 10 September Announcement; and

(b) otherwise denies that paragraph.

152. Mr Dawkins denies paragraph 152 of the Third Cross-Claim.

153. To the extent paragraph 153 of the Third Cross-Claim makes allegations against Mr Dawkins, Mr Dawkins denies that paragraph.

154. Mr Dawkins denies paragraph 154 of the Third Cross-Claim.

E.5 October FY15 Earnings Representations

155. As to paragraph 155 of the Third Cross-Claim, which repeats the allegations in paragraphs 200 to 206 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

E.5.1 Hutchinson

156. Mr Dawkins does not plead to paragraph 156 of the Third Cross-Claim as it does not form part of any claim against him.

157. Mr Dawkins does not plead to paragraph 157 of the Third Cross-Claim as it does not form part of any claim against him.

158. Mr Dawkins does not plead to paragraph 158 of the Third Cross-Claim as it does not form part of any claim against him.

159. Mr Dawkins does not plead to paragraph 159 of the Third Cross-Claim as it does not form part of any claim against him.

E.5.2 Grewal

160. Mr Dawkins does not plead to paragraph 160 of the Third Cross-Claim as it does not form part of any claim against him.

161. Mr Dawkins does not plead to paragraph 161 of the Third Cross-Claim as it does not form part of any claim against him.

162. Mr Dawkins does not plead to paragraph 162 of the Third Cross-Claim as it does not form part of any claim against him.

163. Mr Dawkins does not plead to paragraph 163 of the Third Cross-Claim as it does not form part of any claim against him.

E.5.3 Dawkins

164. Mr Dawkins denies paragraph 164 of the Third Cross-Claim.

165. In answer to paragraph 165 of the Third Cross-Claim, Mr Dawkins:

(a) admits that he participated in authorising the 27 October Announcement, the 30 October Announcement and the 17 November Announcement; and

(b) otherwise denies that paragraph.

166. In answer to paragraph 166 of the Third Cross-Claim, Mr Dawkins:

(a) says that the 27 October Announcement, the 30 October Announcement and the 17 November Announcement were not the subject of any further announcement by Vocation during the Relevant Period and that Mr Dawkins took no steps too cause further announcement by Vocation; and

(b) otherwise denies that paragraph.

167. Mr Dawkins denies paragraph 167 of the Third Cross-Claim.

168. As to paragraph 168 of the Third Cross-Claim, which repeats the allegations in paragraphs 207 to 210 of the FACSOC (including the paragraphs cross-referred to therein), Mr Dawkins repeats paragraph 14 above.

E.6.1 Hutchinson

169. Mr Dawkins does not plead to paragraph 169 of the Third Cross-Claim as it does not form part of any claim against him.

170. Mr Dawkins does not plead to paragraph 170 of the Third Cross-Claim as it does not form part of any claim against him.

171. Mr Dawkins does not plead to paragraph 171 of the Third Cross-Claim as it does not form part of any claim against him.

172. Mr Dawkins does not plead to paragraph 172 of the Third Cross-Claim as it does not form part of any claim against him.

E.6.2 Grewal

173. Mr Dawkins does not plead to paragraph 173 of the Third Cross-Claim as it does not form part of any claim against him.

174. Mr Dawkins does not plead to paragraph 174 of the Third Cross-Claim as it does not form part of any claim against him.

175. Mr Dawkins does not plead to paragraph 175 of the Third Cross-Claim as it does not form part of any claim against him.

176. Mr Dawkins does not plead to paragraph 176 of the Third Cross-Claim as it does not form part of any claim against him.

E.6.3 Dawkins

177. Mr Dawkins denies paragraph 177 of the Third Cross-Claim.

178. In answer to paragraph 178 of the Third Cross-Claim, Mr Dawkins:

(a) admits that he participated in authorising the lodgement by Vocation with the ASX of those documents lodged prior to his resignation as a Director of Vocation on 26 November 2014; and

(b) otherwise denies that paragraph.

179. In answer to paragraph 179 of the Third Cross-Claim, Mr Dawkins:

(a) does not admit that the Continue Disclosure Representations were made; and

(b) otherwise relies on the terms of Vocation's announcements to the ASX for their full terms and effect.

180. Mr Dawkins denies paragraph 180 of the Third Cross-Claim.

E.7 No Suspension Representation, Reasonable Grounds Representation and Continuing Representation

E.7.1 Hutchinson

180A. Mr Dawkins does not plead to paragraph 180A of the Third Cross-Claim as it does not form part of any claim against him.

180B. Mr Dawkins does not plead to paragraph 180A of the Third Cross-Claim as it does not form part of any claim against him.

180C. Mr Dawkins does not plead to paragraph 180A of the Third Cross-Claim as it does not form part of any claim against him.

180D. Mr Dawkins does not plead to paragraph 180A of the Third Cross-Claim as it does not form part of any claim against him.

E.7.2 Grewal

180E. Mr Dawkins does not plead to paragraph 180E of the Third Cross-Claim as it does not form part of any claim against him.

180F. Mr Dawkins does not plead to paragraph 180F of the Third Cross-Claim as it does not form part of any claim against him.

180G. Mr Dawkins does not plead to paragraph 180G of the Third Cross-Claim as it does not form part of any claim against him.

180H. Mr Dawkins does not plead to paragraph 180H of the Third Cross-Claim as it does not form part of any claim against him.

E.7.3 Dawkins

180I. In answer to paragraph 180I of the Third Cross-Claim, Mr Dawkins repeats paragraphs 14B to 14F above.

180J. In answer to paragraph 180J of the Third Cross-Claim, Mr Dawkins repeats paragraph 108 above.

180K. In answer to paragraph 180K of the Third Cross-Claim, Mr Dawkins repeats paragraphs 41 and 107 above.

180L. Mr Dawkins denies paragraph 108L of the Third Cross-Claim.

E.8 First Review Scope Representation, Second Review Scope Representation, Second No Suspension Representation and Second Continuing Representation

E.8.1 Hutchinson

180M. Mr Dawkins does not plead to paragraph 180M of the Third Cross-Claim as it does not form part of any claim against him.

180N. Mr Dawkins does not plead to paragraph 180N of the Third Cross-Claim as it does not form part of any claim against him.

180O. Mr Dawkins does not plead to paragraph 180O of the Third Cross-Claim as it does not form part of any claim against him.

180P. Mr Dawkins does not plead to paragraph 180P of the Third Cross-Claim as it does not form part of any claim against him.

E.8.2 Grewal

180Q. Mr Dawkins does not plead to paragraph 180Q of the Third Cross-Claim as it does not form part of any claim against him.

180R. Mr Dawkins does not plead to paragraph 180R of the Third Cross-Claim as it does not form part of any claim against him.

180S. Mr Dawkins does not plead to paragraph 180S of the Third Cross-Claim as it does not form part of any claim against him.

180T. Mr Dawkins does not plead to paragraph 180T of the Third Cross-Claim as it does not form part of any claim against him.

E.8.3 Dawkins

180U. In answer to paragraph 180U of the Third Cross-Claim, Mr Dawkins repeats paragraphs 14G to 14K above.

180V. In answer to paragraph 180V of the Third Cross-Claim, Mr Dawkins repeats paragraph 108 above.

180W. In answer to paragraph 180I of the Third Cross-Claim, Mr Dawkins repeats paragraphs 41 and 107 above.

180X. Mr Dawkins denies paragraph 180X of the Third Cross-Claim.

E.9 Third Review Scope Representation, Third No Suspension Representation, Third Reasonable Grounds Representation and Third Continuing Representation

E.9.1 Hutchinson

180Y. Mr Dawkins does not plead to paragraph 180M of the Third Cross-Claim as it does not form part of any claim against him.

180Z. Mr Dawkins does not plead to paragraph 180Z of the Third Cross-Claim as it does not form part of any claim against him.

180ZA. Mr Dawkins does not plead to paragraph 180ZA of the Third Cross-Claim as it does not form part of any claim against him.

180ZB. Mr Dawkins does not plead to paragraph 180ZB of the Third Cross-Claim as it does not form part of any claim against him.

E.9.2 Grewal

180ZC. Mr Dawkins does not plead to paragraph 180ZC of the Third Cross-Claim as it does not form part of any claim against him.

180ZD. Mr Dawkins does not plead to paragraph 180ZD of the Third Cross-Claim as it does not form part of any claim against him.

180ZE. Mr Dawkins does not plead to paragraph 180ZE of the Third Cross-Claim as it does not form part of any claim against him.

180ZF. Mr Dawkins does not plead to paragraph 180ZF of the Third Cross-Claim as it does not form part of any claim against him.

E.9.3 Dawkins

180ZG. In answer to paragraph 180ZG of the Third Cross-Claim, Mr Dawkins repeats paragraphs 14L to 14P above.

180ZH. In answer to paragraph 180ZH of the Third Cross-Claim, Mr Dawkins repeats paragraph 108 above.

180ZI. In answer to paragraph 180ZI of the Third Cross-Claim, Mr Dawkins repeats paragraphs 41 and 107 above.

180ZJ. Mr Dawkins denies paragraph 180ZJ of the Third Cross-Claim.

F. FY14 ANNUAL REPORT CONTRAVENTIONS OF HUTCHINSON, DAWKINS, TUCKER, TREDENICK, HALLEY AND VOCATION

F.1 Compliance requirements and legal duties

181. Mr Dawkins admits paragraph 181 of the Third Cross-Claim.

182. Mr Dawkins admits paragraph 182 of the Third Cross-Claim.

F.2 PwC's retainer with Vocation

183. Mr Dawkins admits paragraph 183 of the Third Cross-Claim.

184. In answer to paragraph 184 of the Third Cross-Claim, Mr Dawkins:

(a) relies on the terms of the PwC Retainer for its full terms and effect; and

(b) otherwise does not admit that paragraph.

F.3 Directors' FY14 Accounts Representations

185. ~~Mr Dawkins admits~~ In answer to paragraph 185 of the Third Cross-Claim, Mr Dawkins:

(a) relies on the contents of the FY14 Annual Report;

(b) says that the declarations contained in paragraph 185 of the Third Cross-Claim were stated to be "in the directors' opinion"; and

(c) subject to paragraph 185(a) and (b) above, admits the paragraph.

186. Mr Dawkins ~~admits~~ denies paragraph 186 of the Third Cross-Claim.

187. Mr Dawkins admits paragraph 187 of the Third Cross-Claim.

F.4 Vocation's FY14 Accounts Representations

188. ~~Mr Dawkins admits paragraph 188 of the Third Cross-Claim~~. Mr Dawkins does not plead to paragraph 188 of the Third Cross-Claim as it does not form part of any claim against him.

189. ~~Mr Dawkins admits paragraph 189 of the Third Cross-Claim.~~ Mr Dawkins does not plead to paragraph 189 of the Third Cross-Claim as it does not form part of any claim against him.

F.5 Allegations made by the Applicant in the FACSOC regarding the FY14 Financial Statements

190. Mr Dawkins admits paragraph 190 of the Third Cross-Claim.

F.6 Directors' contraventions in respect of FY14 Accounts

191. Mr Dawkins ~~admits~~ denies paragraph 191 of the Third Cross-Claim.

192. Mr Dawkins denies paragraph 192 of the Third Cross-Claim.

193. Mr Dawkins denies paragraph 193 of the Third Cross-Claim.

F.7 Vocation's contraventions in respect of FY14 Accounts

194. Mr Dawkins does not plead to paragraph 194 of the Third Cross-Claim as it does not form part of any claim against him.

195. Mr Dawkins does not plead to paragraph 195 of the Third Cross-Claim as it does not form part of any claim against him.

196. Mr Dawkins does not plead to paragraph 196 of the Third Cross-Claim as it does not form part of any claim against him.

G. HUTCHINSON'S COMPLIANCE, IMMATERIAL RISK AND MATERIALITY CONTRAVENTIONS

197. Mr Dawkins does not plead to paragraph 197 of the Third Cross-Claim as it does not form part of any claim against him.

198. Mr Dawkins does not plead to paragraph 198 of the Third Cross-Claim as it does not form part of any claim against him.

199. Mr Dawkins does not plead to paragraph 199 of the Third Cross-Claim as it does not form part of any claim against him.

200. Mr Dawkins does not plead to paragraph 200 of the Third Cross-Claim as it does not form part of any claim against him.

201. Mr Dawkins does not plead to paragraph 201 of the Third Cross-Claim as it does not form part of any claim against him.

202. Mr Dawkins does not plead to paragraph 202 of the Third Cross-Claim as it does not form part of any claim against him.

203. Mr Dawkins does not plead to paragraph 203 of the Third Cross-Claim as it does not form part of any claim against him.

204. Mr Dawkins does not plead to paragraph 204 of the Third Cross-Claim as it does not form part of any claim against him.

G1. HUTCHINSON'S FURTHER AUGUST CONTRAVENTIONS, FURTHER 10 SEPTEMBER CONTRAVENTIONS AND FURTHER 18 SEPTEMBER CONTRAVENTIONS

204A. Mr Dawkins does not plead to paragraph 204A of the Third Cross-Claim as it does not form part of any claim against him.

204B. Mr Dawkins does not plead to paragraph 204B of the Third Cross-Claim as it does not form part of any claim against him.

204C. Mr Dawkins does not plead to paragraph 204C of the Third Cross-Claim as it does not

204CA. Mr Dawkins does not plead to paragraph 204CA of the Third Cross-Claim as it does not form part of any claim against him.

204CB. Mr Dawkins does not plead to paragraph 204CB of the Third Cross-Claim as it does not form part of any claim against him.

204D. Mr Dawkins does not plead to paragraph 204D of the Third Cross-Claim as it does not form part of any claim against him.

204E. Mr Dawkins does not plead to paragraph 204E of the Third Cross-Claim as it does not form part of any claim against him.

H. HUTCHINSON'S FY14 RESULTS CONTRAVENTIONS

205. Mr Dawkins does not plead to paragraph 205 of the Third Cross-Claim as it does not form part of any claim against him.

206. Mr Dawkins does not plead to paragraph 206 of the Third Cross-Claim as it does not form part of any claim against him.

207. Mr Dawkins does not plead to paragraph 207 of the Third Cross-Claim as it does not form part of any claim against him.

208. Mr Dawkins does not plead to paragraph 208 of the Third Cross-Claim as it does not form part of any claim against him.

209. Mr Dawkins does not plead to paragraph 209 of the Third Cross-Claim as it does not form part of any claim against him.

I. HUTCHINSON'S FY15 EARNINGS GUIDANCE AND BASIS CONTRAVENTIONS

210. Mr Dawkins does not plead to paragraph 210 of the Third Cross-Claim as it does not form part of any claim against him.

211. Mr Dawkins does not plead to paragraph 211 of the Third Cross-Claim as it does not form part of any claim against him.

212. Mr Dawkins does not plead to paragraph 212 of the Third Cross-Claim as it does not form part of any claim against him.

213. Mr Dawkins does not plead to paragraph 213 of the Third Cross-Claim as it does not form part of any claim against him.

214. Mr Dawkins does not plead to paragraph 214 of the Third Cross-Claim as it does not form part of any claim against him.

I1. VOCATION'S DUE DILIGENCE QUESTIONNAIRE CONTRAVENTIONS

214A. Mr Dawkins does not plead to paragraph 214A of the Third Cross-Claim as it does not form part of any claim against him.

214B. Mr Dawkins does not plead to paragraph 214B of the Third Cross-Claim as it does not form part of any claim against him.

214C. Mr Dawkins does not plead to paragraph 214C of the Third Cross-Claim as it does not form part of any claim against him.

214D. Mr Dawkins does not plead to paragraph 214D of the Third Cross-Claim as it does not form part of any claim against him.

214E. Mr Dawkins does not plead to paragraph 214E of the Third Cross-Claim as it does not form part of any claim against him.

214F. Mr Dawkins does not plead to paragraph 214F of the Third Cross-Claim as it does not form part of any claim against him.

214G. Mr Dawkins does not plead to paragraph 214G of the Third Cross-Claim as it does not form part of any claim against him.

214H. Mr Dawkins does not plead to paragraph 214H of the Third Cross-Claim as it does not form part of any claim against him.

214I. Mr Dawkins does not plead to paragraph 214I of the Third Cross-Claim as it does not form part of any claim against him.

214J. Mr Dawkins does not plead to paragraph 214J of the Third Cross-Claim as it does not form part of any claim against him.

214K. Mr Dawkins does not plead to paragraph 214K of the Third Cross-Claim as it does not form part of any claim against him.

214L. Mr Dawkins does not plead to paragraph 214L of the Third Cross-Claim as it does not form part of any claim against him.

214M. Mr Dawkins does not plead to paragraph 214M of the Third Cross-Claim as it does not form part of any claim against him.

214N. Mr Dawkins does not plead to paragraph 214N of the Third Cross-Claim as it does not form part of any claim against him.

214O. Mr Dawkins does not plead to paragraph 214O of the Third Cross-Claim as it does not form part of any claim against him.

214P. Mr Dawkins does not plead to paragraph 214P of the Third Cross-Claim as it does not form part of any claim against him.

I2. HUTCHINSON'S DUE DILIGENCE QUESTIONNAIRE CONTRAVENTIONS

214Q. Mr Dawkins does not plead to paragraph 214Q of the Third Cross-Claim as it does not form part of any claim against him.

214R. Mr Dawkins does not plead to paragraph 214R of the Third Cross-Claim as it does not form part of any claim against him.

214S. Mr Dawkins does not plead to paragraph 214S of the Third Cross-Claim as it does not form part of any claim against him.

214SA. Mr Dawkins does not plead to paragraph 214SA of the Third Cross-Claim as it does not form part of any claim against him.

214SB. Mr Dawkins does not plead to paragraph 214SB of the Third Cross-Claim as it does not form part of any claim against him.

214T. Mr Dawkins does not plead to paragraph 214T of the Third Cross-Claim as it does not form part of any claim against him.

214U. Mr Dawkins does not plead to paragraph 214U of the Third Cross-Claim as it does not form part of any claim against him.

214V. Mr Dawkins does not plead to paragraph 214V of the Third Cross-Claim as it does not form part of any claim against him.

214W. Mr Dawkins does not plead to paragraph 214W of the Third Cross-Claim as it does not form part of any claim against him.

I3. HUTCHINSON'S INVOLVEMENT IN VOCATION'S DDQ CONTRAVENTIONS

214X. Mr Dawkins does not plead to paragraph 214X of the Third Cross-Claim as it does not form part of any claim against him.

214Y. Mr Dawkins does not plead to paragraph 214Y of the Third Cross-Claim as it does not form part of any claim against him.

214Z. Mr Dawkins does not plead to paragraph 214Z of the Third Cross-Claim as it does not form part of any claim against him.

214ZA. Mr Dawkins does not plead to paragraph 214ZA of the Third Cross-Claim as it does not form part of any claim against him.

214ZB. Mr Dawkins does not plead to paragraph 214ZB of the Third Cross-Claim as it does not form part of any claim against him.

214ZC. Mr Dawkins does not plead to paragraph 214ZC of the Third Cross-Claim as it does not form part of any claim against him.

214ZD. Mr Dawkins does not plead to paragraph 214ZD of the Third Cross-Claim as it does not form part of any claim against him.

J. HUTCHINSON'S SEPTEMBER PLACEMENT CONTRAVENTION

215. Mr Dawkins does not plead to paragraph 215 of the Third Cross-Claim as it does not form part of any claim against him.

216. Mr Dawkins does not plead to paragraph 216 of the Third Cross-Claim as it does not form part of any claim against him.

217. Mr Dawkins does not plead to paragraph 217 of the Third Cross-Claim as it does not form part of any claim against him.

218. Mr Dawkins does not plead to paragraph 218 of the Third Cross-Claim as it does not form part of any claim against him.

219. Mr Dawkins does not plead to paragraph 219 of the Third Cross-Claim as it does not form part of any claim against him.

K. HUTCHINSON'S CONTINUING FY15 EARNINGS GUIDANCE AND BASIS CONTRAVENTIONS

220. Mr Dawkins does not plead to paragraph 220 of the Third Cross-Claim as it does not form part of any claim against him.

221. Mr Dawkins does not plead to paragraph 221 of the Third Cross-Claim as it does not form part of any claim against him.

222. Mr Dawkins does not plead to paragraph 222 of the Third Cross-Claim as it does not form part of any claim against him.

223. Mr Dawkins does not plead to paragraph 223 of the Third Cross-Claim as it does not form part of any claim against him.

224. Mr Dawkins does not plead to paragraph 224 of the Third Cross-Claim as it does not form part of any claim against him.

225. Mr Dawkins does not plead to paragraph 225 of the Third Cross-Claim as it does not form part of any claim against him.

L. HUTCHINSON'S CONTINUOUS DISCLOSURE REPRESENTATIONS CONTRAVENTIONS

226. Mr Dawkins does not plead to paragraph 226 of the Third Cross-Claim as it does not form part of any claim against him.

227. Mr Dawkins does not plead to paragraph 227 of the Third Cross-Claim as it does not form part of any claim against him.

228. Mr Dawkins does not plead to paragraph 228 of the Third Cross-Claim as it does not form part of any claim against him.

229. Mr Dawkins does not plead to paragraph 229 of the Third Cross-Claim as it does not form part of any claim against him.

230. Mr Dawkins does not plead to paragraph 230 of the Third Cross-Claim as it does not form part of any claim against him.

M. GREWAL'S COMPLIANCE, IMMATERIAL RISK AND MATERIALITY CONTRAVENTIONS

231. Mr Dawkins does not plead to paragraph 231 of the Third Cross-Claim as it does not form part of any claim against him.

232. Mr Dawkins does not plead to paragraph 232 of the Third Cross-Claim as it does not form part of any claim against him.

233. Mr Dawkins does not plead to paragraph 233 of the Third Cross-Claim as it does not form part of any claim against him.

234. Mr Dawkins does not plead to paragraph 234 of the Third Cross-Claim as it does not form part of any claim against him.

235. Mr Dawkins does not plead to paragraph 235 of the Third Cross-Claim as it does not form part of any claim against him.

236. Mr Dawkins does not plead to paragraph 236 of the Third Cross-Claim as it does not form part of any claim against him.

237. Mr Dawkins does not plead to paragraph 237 of the Third Cross-Claim as it does not form part of any claim against him.

N. GREWAL'S FY14 RESULTS CONTRAVENTIONS

238. Mr Dawkins does not plead to paragraph 238 of the Third Cross-Claim as it does not form part of any claim against him.

239. Mr Dawkins does not plead to paragraph 239 of the Third Cross-Claim as it does not form part of any claim against him.

240. Mr Dawkins does not plead to paragraph 240 of the Third Cross-Claim as it does not form part of any claim against him.

241. Mr Dawkins does not plead to paragraph 241 of the Third Cross-Claim as it does not form part of any claim against him.

242. Mr Dawkins does not plead to paragraph 242 of the Third Cross-Claim as it does not form part of any claim against him.

O. GREWAL'S FY15 EARNINGS GUIDANCE AND BASIS CONTRAVENTIONS

243. Mr Dawkins does not plead to paragraph 243 of the Third Cross-Claim as it does not form part of any claim against him.

244. Mr Dawkins does not plead to paragraph 244 of the Third Cross-Claim as it does not form part of any claim against him.

245. Mr Dawkins does not plead to paragraph 245 of the Third Cross-Claim as it does not form part of any claim against him.

246. Mr Dawkins does not plead to paragraph 246 of the Third Cross-Claim as it does not form part of any claim against him.

247. Mr Dawkins does not plead to paragraph 247 of the Third Cross-Claim as it does not form part of any claim against him.

O1. GREWAL'S DUE DILIGENCE QUESTIONNAIRE CONTRAVENTIONS

247A. Mr Dawkins does not plead to paragraph 247A of the Third Cross-Claim as it does not form part of any claim against him.

247B. Mr Dawkins does not plead to paragraph 247B of the Third Cross-Claim as it does not form part of any claim against him.

247C. Mr Dawkins does not plead to paragraph 247C of the Third Cross-Claim as it does not form part of any claim against him.

247CA. Mr Dawkins does not plead to paragraph 247CA of the Third Cross-Claim as it does not form part of any claim against him.

247CB. Mr Dawkins does not plead to paragraph 247CB of the Third Cross-Claim as it does not form part of any claim against him.

247D. Mr Dawkins does not plead to paragraph 247D of the Third Cross-Claim as it does not form part of any claim against him.

247E. Mr Dawkins does not plead to paragraph 247E of the Third Cross-Claim as it does not form part of any claim against him.

247F. Mr Dawkins does not plead to paragraph 247F of the Third Cross-Claim as it does not form part of any claim against him.

247G. Mr Dawkins does not plead to paragraph 247G of the Third Cross-Claim as it does not form part of any claim against him.

O2. GREWAL'S INVOLVEMENT IN VOCATION'S DDQ CONTRAVENTIONS

247H. Mr Dawkins does not plead to paragraph 247H of the Third Cross-Claim as it does not form part of any claim against him.

247I. Mr Dawkins does not plead to paragraph 247I of the Third Cross-Claim as it does not form part of any claim against him.

247J. Mr Dawkins does not plead to paragraph 247J of the Third Cross-Claim as it does not form part of any claim against him.

247K. Mr Dawkins does not plead to paragraph 247K of the Third Cross-Claim as it does not form part of any claim against him.

247KA. Mr Dawkins does not plead to paragraph 247KA of the Third Cross-Claim as it does not form part of any claim against him.

247KB. Mr Dawkins does not plead to paragraph 247KB of the Third Cross-Claim as it does not form part of any claim against him.

247L. Mr Dawkins does not plead to paragraph 247L of the Third Cross-Claim as it does not form part of any claim against him.

P. GREWAL'S SEPTEMBER PLACEMENT CONTRAVENTION

248. Mr Dawkins does not plead to paragraph 248 of the Third Cross-Claim as it does not form part of any claim against him.

249. Mr Dawkins does not plead to paragraph 249 of the Third Cross-Claim as it does not form part of any claim against him.

250. Mr Dawkins does not plead to paragraph 250 of the Third Cross-Claim as it does not form part of any claim against him.

251. Mr Dawkins does not plead to paragraph 251 of the Third Cross-Claim as it does not form part of any claim against him.

252. Mr Dawkins does not plead to paragraph 252 of the Third Cross-Claim as it does not form part of any claim against him.

Q. GREWAL'S CONTINUOUS DISCLOSURE REPRESENTATIONS CONTRAVENTIONS

253. Mr Dawkins does not plead to paragraph 253 of the Third Cross-Claim as it does not form part of any claim against him.

254. Mr Dawkins does not plead to paragraph 254 of the Third Cross-Claim as it does not form part of any claim against him.

255. Mr Dawkins does not plead to paragraph 255 of the Third Cross-Claim as it does not form part of any claim against him.

256. Mr Dawkins does not plead to paragraph 256 of the Third Cross-Claim as it does not form part of any claim against him.

257. Mr Dawkins does not plead to paragraph 257 of the Third Cross-Claim as it does not form part of any claim against him.

258. Mr Dawkins does not plead to paragraph 258 of the Third Cross-Claim as it does not form part of any claim against him.

Q1. FURTHER OR ALTERNATIVE LIABILITY OF HUTCHINSON, GREWAL AND DAWKINS AS ALLEGED IN 2FACSOC

258A. In answer to paragraph 258A of the Third Cross-Claim, Mr Dawkins repeats paragraphs 404 to 540 of his defence to the 2FACSOC dated 31 January 2020.

R. RELIEF

R.1 Claims for contribution and/or indemnity

259. Mr Dawkins does not plead to paragraph 259 of the Third Cross-Claim as it does not form part of any claim against him.

260. Mr Dawkins:

(a) denies sub paragraphs a, d, e ~~and~~ f and t of paragraph 260 of the Third Cross-Claim; and

(b) does not plead to sub paragraphs b, c and g as they do not form part of any cause of action alleged against him; and

(c) otherwise denies the paragraph.

261. Mr Dawkins denies paragraph 261 of the Third Cross-Claim.

262. Mr Dawkins denies paragraph 262 of the Third Cross-Claim.

S. RESERVATION OF RIGHTS

263. In answer to paragraph 263 of the Third Cross-Claim, Mr Dawkins:

(a) says that any privilege which PwC may have (which is not accepted) does not provide a proper basis for PwC not to bring a Cross-Claim against Mr Dawkins if PwC otherwise intends to do so;

(b) says that PwC has chosen not to bring such a claim against Mr Dawkins;

(c) says that Mr Dawkins will likely be prejudiced should PwC change its position at a later stage in these proceedings; and

(d) reserves his right to object to any amendment relying on paragraph 263 of the Third Cross-Claim.

MR DAWKINS' CORPORATIONS ACT DEFENCES

PROSPECTUS CLAIMS

Mr Dawkins background

264. Mr Dawkins:

(a) was a Labor party Member of Parliament from May 1974 to December 1975 representing the Western Australian seat of Tangney;

(b) was a Labor party Member of Parliament from December 1977 to February 1994 representing the Western Australian seat of Fremantle;

(c) held ministries in the Commonwealth Government, being:

(i) Finance, from March 1983 to December 1984;

(ii) Trade, from December 1984 to July 1987;

(iii) Employment, Education and Training from July 1987 to December 1991; and

(iv) Treasury, from December 1991 to December 1993;

(d) advised the World Bank, the OECD and UNESCO on education and training policies from 1998 to 2006; and

(e) was Chair of the Australian Quality Council from 2010 to 2011, Chair of the National Skills Standards Council from 2011 to 2013 and Chair of the Australian Qualifications Framework from 2008 to 2014.

265. Prior to Mr Dawkins' representation of Vocation on the Due Diligence Committee (**DDC**) from September 2013, Mr Dawkins had no involvement in investigating, reviewing, working for or otherwise carrying out any business involving the delivery of vocational education and training services, in Australia or elsewhere.

Enquiries as to Vocation RTOs

266. Mr Dawkins was asked to express an interest in chairing a public company, which would become Vocation, by Brett Whitford in around August 2013.

267. Mr Dawkins was first introduced to the management of BAWM in around August 2013.

Particulars

*The meeting at which Mr Dawkins was introduced to the management of BAWM took place at the Windsor Hotel in Melbourne and was attended, on behalf of BAWM, by Wendy Bonnici (**Ms Bonnici**), Michael Langtree (**Mr Langtree**), Amanda King(**Ms King**) and Ben Gillingham (**Mr Gillingham**) (**the Windsor Hotel Meeting**).*

268. Prior to the Windsor Hotel Meeting, Mr Dawkins had no knowledge of BAWM or its business.

269. The business of BAWM was created in 2010 by combining vocational education and training businesses previously conducted as the Institute of Counselling and Community Studies and Taylored Gardens Pty Ltd.

270. The name "BAWM" represented a combination of the first names of the four persons behind the corporate and trustee stakeholders in BAWM who were at the Windsor Hotel Meeting, being:

(a) Mr Gillingham;

(b) Ms King;

(c) Ms Bonnici; and

(d) Mr Langtree.

271. In September 2013, Mr Dawkins met with Kym Peake (**Ms Peake**) and Lee Watts (**Ms Watts**) of the DEECD, together with Ms Bonnici at Treasury Place, Melbourne.

272. In the course of that meeting, each of Ms Peake and Ms Watts said to Mr Dawkins words to the effect that:

(a) BAWM is well run; and

(b) we have confidence in those in senior management positions.

273. In September 2013, Mr Dawkins met with Lynn Glover (**Ms Glover**) and John Mildren (**Mr Mildren**) of the VRQA at Lonsdale Street, Melbourne.

274. Ms Glover and Mr Mildren said to Mr Dawkins words to the effect that:

(a) BAWM is held in high regard by the VRQA; and

(b) the VRQA was very keen for BAWM's registration to remain with the VRQA rather than with ASQA (the federal equivalent).

275. In around September 2013, Mr Dawkins met with Chris Robinson, the Chief Commissioner of ASQA (**Mr Robinson**) on three occasions in Adelaide, Melbourne and Brisbane.

276. In the course of the Adelaide and Melbourne meetings:

(a) Mr Dawkins gave Mr Robinson the names of the RTOs to be owned by Vocation, including BAWM, and asked Mr Robinson if he could enquire about any compliance or other issues that had come to his attention.

(b) Mr Robinson said he was not aware of those RTOs and that was probably a good sign.

277. At a later meeting in Brisbane, Mr Robinson said to Mr Dawkins words to the effect that he had made enquiries and the RTOs which were to be owned by Vocation were not on the ASQA compliance radar.

278. In one of the meetings with Mr Robinson around September 2013, Mr Robinson told Mr Dawkins that:

(a) there was a high degree of non-compliance with registration requirements of RTOs;

(b) nearly 80% of RTOs had non-compliance identified at initial audit;

(c) the whole industry was riddled with less than full compliance; and

(d) some non-compliance may be trivial.

The circumstances in which the Replacement Prospectus was issued

279. Vocation was formed by a combination of three Australian private vocational educational training providers, being:

(a) AVANA, a private education provider with core capabilities in tourism, hospitality, retail and community services;

(b) BAWM Group Pty Ltd (**BAWM Group**), a private education provider which owned BAWM, Aspin, and Ozsoft Solutions Pty Limited (**Ozsoft**) and operated under a number of trading names which were able to deliver vocational educational training pursuant to a contract with the Victorian Government, including:

(i) Buildit Learning, established in 2011 which focussed on blue collar industries such as process and competitive manufacturing, civil construction, warehousing and transport;

(ii) RTO Edge which provided data management and consulting support to existing RTOs;

(iii) Diverse Learning which focussed on educating people with disabilities;

(iv) Student Hub Pty Limited which was the owner of a majority shareholding in OzSoft; and

(c) Customer Services Institute of Australia Pty Ltd (**CSIA**), a customer service organisation providing training and professional qualifications in management, business and customer service.

280. As at the time of issue of the Replacement Prospectus, BAWM Group:

(a) offered more than 50 accredited qualifications;

(b) had engaged with over 10,000 students;

(c) traded under three key brands, being BAWM, Aspin and Ozsoft;

(d) employed approximately 57 full time equivalent employees;

(e) included amongst its senior management team:

(i) Ms Bonnici, Managing Director;

(ii) Ms King, Executive Director Quality & Curriculum;

(iii) Mr Langtree, Executive Director and Chief Financial Officer;

(iv) Mr Gillingham, Executive Director;

(v) Donna de Zwart, General Manager, Diverse;

(vi) Brendan Morrissey, Executive Director,

(vii) Kristy Howard, General Manager, Career Director;

(viii) Fiona McLean, General Manager, Sales;

(ix) David Youssef, General Manager, RTO Edge.

281. As at the time of the issue of the Replacement Prospectus:

(a) Ms Bonnici had over 20 years' experience in human resources management and had held senior roles in human resources across the retail and telecommunications industries;

(b) Mr Langtree had been an executive director and Chief Financial Officer of BAWM, and had held several senior management roles and provided consultancy to RTOs for around 10 years.

282. As was stated in the Replacement Prospectus and as became the case at the time of issue of the Replacement Prospectus, Ms Bonnici was to be employed by Vocation as Chief Operating Officer with annual fixed remuneration of $178,875.

283. Vocation sought to raise approximately A$253 million through the issue of ordinary shares in an initial public offering in Australia and certain other agreed jurisdictions under a prospectus.

284. For the purpose of this raising of funds through the issue of ordinary shares and the initial public offering, a prospectus was required to be prepared and lodged with ASIC.

285. For the purpose of preparing a prospectus which complied with disclosure requirements under the *Corporations Act*, a Due Diligence Committee (**DDC**) was formed. The members of that DDC were Vocation, Johnson Winter & Slattery (**JWS**), Macquarie Capital (Australia) Limited (**Macquarie**), UBS and PricewaterhouseCoopers represented as follows:

Member	**Representative**
Vocation	Brett Whitford, Mark Hutchinson (**Mr Hutchinson)**, Michael Langtree, John Dawkins, Steve Tucker (**Mr Tucker**)
Johnson Winter & Slattery	James Rozsa (**Mr Rozsa**)
Macquarie	Arron Black
UBS	Dane Fitzgibbon (**Mr Fitzgibbon**)
PricewaterhouseCoopers	Troy Porter

286. Mr Rozsa chaired all meetings of the DDC.

287. The DDC first met on 5 September 2013 and then met, at the offices of JWS, on the following dates:

(a) 18 September 2013;

(b) 27 September 2013;

(c) 1 October 2013;

(d) 4 October 2013;

(e) 10 October 2013;

(f) 15 October 2013;

(g) 22 October 2013;

(h) 24 October 2013;

(i) 28 October 2013;

(j) 1 November 2013;

(k) 15 November 2013;

288. The DDC adopted a process set out in a Due Diligence Planning Memorandum, initially in the form of a working draft prepared by JWS on 5 September 2013 and formally adopted by the DDC on 15 November 2013.

Particulars

Mr Dawkins will rely on the whole of the contents of the Due Diligence Planning Memorandum on hearing.

289. The Due Diligence Planning Memorandum included as the purposes of the due diligence process:

(a) to ensure that the Prospectus complied with the disclosure requirements under the *Corporations Act*;

(b) to minimise the risk of liability under the *Corporations Act* and the common law for Vocation, the Directors and other persons involved in the preparation for the prospectus including the members of the DDC by ensuring that the prospectus did not contain a misleading or deceptive statement or omitted any material required by the *Corporations Act*;

(c) to maximise the potential availability of the due diligence and reasonable reliance defences under the *Corporations Act* to Vocation and the Directors and other persons involved in the preparation of the prospectus, including the members of the DDC; and

(d) following lodgement of the prospectus, to ensure that the due diligence process continued so that the prospectus continued to comply with the *Corporations Act* or if a new circumstance arose following lodgement that, had it arisen prior to lodgement, would have been required to be disclosed, appropriate action including but not limited to the lodgement of a supplementary or replacement prospectus may be undertaken.

290. The responsibilities of the DDC included:

(a) to identify issues for investigation and disclosure in a prospectus; and

(b) to ensure that all potential material issues identified in the course of the Due Diligence Processes (as set out in the Due Diligence Planning Memorandum) for the prospectus were adequately addressed by the DDC or otherwise resolved as not being material, and that there were no outstanding issues at the end of the due diligence process.

291. It was the responsibility of JWS as a member of the DDC and as legal adviser in respect of the Offer to:

(a) participate as a member of the DDC;

(b) conduct legal due diligence investigations relating to Australian legal matters relevant to the Offer;

(c) assist with the design and implementation of the due diligence process;

(d) review all written due diligence questionnaires and responses;

(e) provide legal advice in relation to the due diligence process, the verification process, a prospectus and the Offer;

(f) assist Vocation in drafting a prospectus; and

(g) provide an opinion to members of the DDC and the Directors on:

(i) the adequacy of the due diligence system;

(ii) whether the due diligence and reasonable reliance defences were available to Vocation, the Directors and the DDC members; and

(iii) whether a prospectus complied with the requirements of the *Corporations Act*.

292. The due diligence process included founders and senior management of BAWM completing a due diligence questionnaire in relation to the business of BAWM (**the Due Diligence Questionnaire**).

293. Each of the following persons employed by BAWM (**BAWM Questionnaire Respondents**) completed a Due Diligence Questionnaire:

Name of person	Position with BAWM
Wendy Bonnici	Managing Director
Donna de Zwart	General Manager
Ben Gillingham	Executive Director, Sales
Kristy Howard	General Manager – Career Direct

Name of person	Position with BAWM
Amanda King	Director, Quality & Curriculum
Michael Langtree	Director, Chief Financial Officer
Fiona McLean	General Manager, Sales
Brendan Morrissey	Executive Director, Sunshine/Government Solutions
Michael Rego	Director – Customer Support
Frederik Ritman	Managing Director, Ozsoft Solutions
Gordon Scrim	Director - Software Development Overseas, being the development team within OzSoft Solutions
David Youssef	General Manager – RTO Edge

294. Each of the BAWM Questionnaire Respondents was asked questions about "Compliance", and each of them answered in the same way, as follows:

(a) Q. Are all registrations, approvals and permits required to be held by the Current Business to operate as a training provider held and in force and full effect, valid and subsisting? If not, provide details.

A. Yes

(b) Q. Are all accreditations and certifications required in relation to training courses or programmes offered by the Current Business held and in force and full effect, valid and subsisting? If not, provide details.

A. Yes

(c) Q. Is the Current Business in compliance with all conditions and compliance obligations applicable to maintaining the registrations, approvals, permits, accreditations and certifications referred to in (a) and (b)? If not, provide details.

A. Yes

(d) Q. Are there any facts or circumstances which may give rise to the termination, revocation, suspension, modification or non-renewal of any of the registrations, approvals, permits, accreditations and certifications referred to in Questions 9.1 and 9.2? If so, provide details.

A. No

(e) Q. Is the Current Business in compliance with all conditions and compliance obligations applicable to the provision of any Government funding? If not, provide details.

A. Yes

(f) Q. Are you aware of any facts or circumstances which may give rise to a breach or non-compliance of any material applicable law, regulation, ordinance, by law, rule, decree or order applicable to the Current Business? If so, please provide details.

A. No

(g) Q. Has the Current Business adopted formal systems and controls for ensuring compliance with applicable laws, regulations, ordinances, by-laws, rules, decrees and orders and/or with the conditions of its licences, approvals, permits, consents, accreditations and authorities?

A. Yes

(h) Q. Has the Current Business been the subject of any finding of material non-compliance in the last 3 years in the course of any audit undertaken by any regulator or governmental body? If so, provide details.

A. No

(i) Q. Is the Current Business the subject of any inquiry, investigation, request for information (including notice to produce documents or attend an examination) or prosecution or other enforcement action by any regulator or governmental body? If so, provide details.

A. No

(j) Q. Are you aware of any complaint against the Current Business made by any student within the last 3 years alleging or involving discrimination, harassment, bullying or other serious misconduct by the Current Business which was not dismissed or unconditionally withdrawn? If so, provide details.

A. No

295. As part of the process of the DDC, JWS oversaw a verification process to check and confirm the accuracy and completeness of statements made in a prospectus.

Particulars

Due Diligence Planning Memorandum, section 5.4 at pages 17-19 and Annexure 3 at pages 31-35.

296. The content of a proposed prospectus was verified in relation to statements allocated to each of:

(a) Mr Grewal in respect of financial information;

(b) Ms Bonnici in respect of information relating to BAWM Group;

(c) Mr Rozsa for JWS in respect of statements identified in a verification schedule to which he had been allocated verification responsibility, including with respect to risk factors concerning:

(i) loss of state or territory funding contract, or access to Commonwealth Government funding programs;

(ii) change in government funding and support arrangements for the vocational and educational training sector; and

(iii) regulatory risk.

Particulars

Verification report.

Verification certificates signed by Mr Rozsa on 24 October 2013, 28 October 2013 and 15 November 2013.

297. On or around 15 November 2013, JWS advised and represented to:

(a) the Directors;

(b) each member of the DDC; and

(c) Vocation,

in relation to a draft of the prospectus which was materially reproduced in the Replacement Prospectus (the **Draft Prospectus**) that:

(a) nothing had come to the attention of JWS that caused it to believe, and it did not believe, that the Draft Prospectus contained any statement that was misleading or deceptive;

(b) nothing had come to the attention of JWS that caused it to believe, and it did not believe, that having regard to the requirement of the *Corporations Act* there was any omission of required material from the Draft Prospectus:

(c) nothing had come to the attention of JWS that caused it to believe and it did not believe, that as at 15 November 2013 the inquiries conducted as part of the due diligence process:

(i) would not be likely to be held to constitute all enquiries that were reasonable in the circumstances for the purposes of s731 of the *Corporations Act*, such that each member of the DDC would have reasonable grounds for believing that the Draft Prospectus did not contain a misleading or deceptive statement; and that there was no omission from the Draft Prospectus of information required to be included in a prospectus by the *Corporations Act*;

(ii) had not been implemented substantially in accordance with the Due Diligence Planning Memorandum, or that there were any material deviations from it not approved by the Due Diligence Committee;

(d) if a Prospectus materially in the form of the Draft Prospectus was found to contain a misleading or deceptive statement, or to omit information required under the *Corporations Act* to be included, nothing had come to the attention of JWS that would cause it to believe and it did not believe, that a Director or another member of the DDC would not have available to them a defence under section 731 or 733(1) of the *Corporations Act* to the extent that such defences were capable of operating as a defence to that person's liability;

(e) JWS had exercised reasonable care and skill in giving the Prospectus Advice,

(together the **JWS Prospectus Representations**).

Particulars

The JWS Prospectus Representations were partly express and partly implied.

To the extent they were express, letter JWS to the Directors and others, dated 15 November 2013.

To the extent they were to be implied, the implication arose from the terms of the Prospectus Retainer and the letter form JWS to the Directors and others dated 15 November 2013.

298. JWS did not advise Vocation, the Directors or the DDC that the Replacement Prospectus would contravene ss 728(1)(a) or (b) of the *Corporations Act*.

ss. 731 and 733 defences

299. By reason of the matters in paragraphs 264 to 298 above, Mr Dawkins:

(a) made all enquiries that were reasonable in the circumstances;

(b) having done so believed on reasonable grounds that the Replacement Prospectus complied with the *Corporations Act*; and

(c) placed reasonable reliance on information given to him by persons other than his employees and agents,

and is entitled to rely on the defences in s731 and 733 of the *Corporations Act*.

CONTINUOUS DISCLOSURE CLAIMS

Mr Dawkins' knowledge of withholding of funds; JWS Disclosure Obligation Retainer

300. Around June 2014, Mr Hutchinson informed Mr Dawkins that the DEECD wanted to look at BAWM's rate of growth as one of the largest recipients of funds from the Victorian Training Guarantee Program.

301. In or around late July or early August 2014, Vocation retained JWS to advise Vocation in relation to its disclosure obligations under ASX Listing Rule 3.1 and s 674 of the *Corporations Act* (**Disclosure Obligation Retainer**) including, within the Disclosure Obligation Retainer:

(a) advice to Vocation and to the Directors as to whether or not Vocation had obligations of continuous disclosure under s.674 of the *Corporations Act* having regard to JWS' instructions and the circumstances known to JWS from time to time; and

(b) the content of disclosures by Vocation to the ASX, whether that disclosure was required by s.674 of the *Corporations Act* or not, as requested by Vocation from time to time.

302. During the period 22 July 2014 to early August 2014, Mr Dawkins was advised by Mr Hutchinson that:

(a) the DEECD was questioning eligibility for enrolment of students for two courses based on overlapping course content;

(b) the DEECD was blocking payment to Vocation pending further information which, either, had been or was about to be, provided by Vocation management;

(c) the suspension of payment to BAWM was a "payment delay";

(d) funds withheld by the DEECD from the beginning of July 2014 should be received in August 2014;

(e) other non-Vocation RTOs had been having funding withheld also; and

(f) this was not an unusual experience.

303. On or around 24 July 2014, the DEECD wrote to BAWM and stated amongst other things, that:

(a) DEECD had ongoing concerns in respect of BAWM's compliance with the terms of its 2014-2016 VET Funding Contract;

(b) the DEECD would continue to withhold payment of funds to BAWM; and

(c) the DEECD directed BAWM to suspend the acceptance of all further enrolments of Eligible Individuals and to suspend the commencement of training delivery to Eligible Individuals that had enrolled but not yet commenced at the date of notification, at least in respect of the causes Competitive Systems and Practices (**CSP**) and Certificate III in Warehousing Operations (**Warehousing**); and

(d) it sought BAWM's response in relation to several other matters.

Particulars

Letter from DEECD to Ms Bonnici, Managing Director, BAWM 24 July 2014.

304. In July 2014, Ms Bonnici advised Mr Dawkins that the DEECD could only suspend all payments to an RTO, not partial payments.

305. On or about 25 July 2014 Mr Hutchinson reported to Mr Dawkins, Michelle Tredenick (**Ms Tredenick**) Steve Tucker and Douglas Halley (**Mr Halley**) (together with Mr Hutchinson referred to as the **Directors**) by email in relation to a meeting with Ms King with a summary which included:

(a) that the second Aspin audit was fairly routine and "not as painful as we thought"; and

(b) that a 17 page detailed response went to DEECD regarding "the student cohorts in question (the reason for our payment delay)".

306. The Vocation Board of Directors (**Vocation Board**) met on 29 July 2014 (the **29 July Board Meeting**).

307. The attendees at the 29 July Board Meeting were:

(a) the Directors;

(b) Mr Grewal; and

(c) for part of the meeting, Ms King.

308. At the 29 July Board Meeting, Ms King stated that:

(a) there had been discussion with the DEECD regarding the MMU Report;

(b) it was thought that the MMU Report exaggerated the issues of concern;

(c) the withholding of payment was a mechanism to have BAWM respond to the issues raised and where necessary to correct them; and

(d) once BAWM responded to the issues raised, and where necessary, corrected them, she thought that DEECD payment would be restored.

309. On 1 August 2014, Vocation:

(a) provided JWS with a copy of the DEECD letter of 24 July 2014

(b) informed JWS that the DEECD had suspended payments due under contract to Vocation or a Vocation RTO;

(c) informed JWS that the DEECD had applied a sanction, in that Vocation or a Vocation RTO could not enrol students into dual qualifications with which the DEECD had concerns;

(d) informed JWS that the DEECD continued to have queries and required Vocation to respond to further questions by the close of 1 August 2014;

(e) informed JWS that Vocation had identified a systemic weakness in pre-training review which was the main cause of concern for the government and which resulted in participants enrolling into a program not suited to them;

(f) provided JWS with a draft response to the DEECD by which Vocation intended to inform the DEECD that as an ASX listed business Vocation would have to disclose, if the investigation of it resulted in material repayment or cancellation/suspension of contract.

Particulars

Email Ms Bonnici to Mr Rozsa of 1 August 2014.

310. On 1 August 2014, JWS advised Vocation that:

(a) Vocation may wish to include information about disclosure in a response to the ASX, which would place the DEECD on notice that as an ASX listed entity Vocation could be obliged to make disclosure to the ASX if the DEECD's investigation resulted in either a material repayment or cancellation or further suspension of a contract;

(b) whether it had an ASX disclosure obligation may be dependent upon whether rectification of the matters referred to by the DEECD involved a repayment of fees to the DEECD, and if it did a comparison of the amount to be repaid with Vocation's expected total revenue for FY14; and also a comparison of the amount of lost revenue if the DEECD Contract was cancelled, in comparison to expected total revenue for FY14,

Particulars

Email Mr Rozsa to Ms Bonnici 1 August 2014.

311. Between 1 August and 11 August 2014, Mr Hutchinson had a number of telephone conversations with Mr Rozsa in which:

(a) Mr Hutchinson asked for Mr Rozsa's advice about whether Vocation needed to make disclosure to the ASX arising from the correspondence with the DEECD; and

(b) Mr Rozsa advised Mr Hutchinson that if Vocation expected that all or most of the funds withheld by the DEECD would be paid in due course, then the withholding of funds was not required to be disclosed as it was a debtor timing issue (the **JWS August Telephone Advice**).

312. Around early August 2014, Ms Bonnici told Mr Dawkins that she continued to enjoy a good relationship with Ms Watts and was in discussion with Ms Watts about issues the DEECD had raised.

11 August Board Meeting

313. The Vocation Board met on 11 August 2014 (the **11 August Board Meeting**).

314. The attendees of the 11 August Board Meeting included:

(a) the Directors; and

(b) Mr Grewal.

315. At the 11 August 2014 Board Meeting, Mr Hutchinson reported:

(a) that he had received advice from JWS; and

(b) in substance, the JWS August Telephone Advice.

19 August Board Pack, 19 August Board Meeting and further advice

316. On or about 13 August 2014, a report by Mr Hutchinson was sent to the Directors which included the following statements:

(a) although payments for BAWM were still on hold (as of 11th August) there was no reason to suspect payment will not be granted, as the student cohort concentration under review was less than 300 school leavers;

(b) owing to the payment system the government can only suspend the entire payment to an RTO and not partial;

(c) the delay was therefore purely a debtor issue and a matter of timing;

(d) Vocation had actioned all the requests from the government and remained in good favour.

Particulars

Email from Ms Emma Lawler (Ms Lawler) to each of the Directors dated 13 August 2014

317. On 16 August 2014, Mr Dawkins received papers for an Audit and Risk Committee meeting of Vocation to be held on 19 August 2014 which included the following:

> *The audit for Aspin identified concerns about the delivery of the Cert II General Education for Adult Qualification. Management was asked by the Department to come back to them with the proposed rectification. Management identified some anomalies and as part of the rectification of these anomalies will repay the Department $4 m and claw back $2.8 m from clients and $0.2 m in commissions. The net impact on FY 14 is approximately $1 m at EBITA level.*
>
> *The audit for BAWM RTO identified some concerns around the Competitive Systems and Warehousing Qualifications and Management has identified some anomalies and changed practices including ceasing relationships with five brokers. Based on the dealings with the Department over the last seven weeks on BAWM and the last two weeks with Aspin, Management is of the view that no rectification payments are due back to the Department in relation to BAWM given the marked difference in the way the Department has handled the two RTOs.*

318. In about mid-August 2014, Mr Langtree advised Mr Dawkins that he estimated the amount of withheld funds that may relate to incorrect enrolments for 2014 was around $4 million.

319. On or about 19 August 2014, Vocation decided to offer the reversal of $4.5 million in Aspin claims to DEECD.

320. The Vocation Board met on 19 August 2014 (the **19 August Board Meeting**).

321. Prior to the 19 August Board Meeting, Mr Hutchinson and Ms Bonnici provided a detailed briefing on the "Victorian Government Audits" including as to:

(a) the status of audits;

(b) the withholding of funding by DEECD;

(c) the implications of the audits and withholding of funding for the Vocation business model in Victoria; and

(d) possible impacts on the Vocation FY15 budget and cash flow.

322. The attendees at the 19 August Board Meeting included:

(a) the Directors; and

(b) Mr Grewal.

323. At the 19 August Board Meeting, the Board:

(a) noted the briefing by Ms Bonnici and Mr Hutchinson;

(b) discussed "the potential impact of the audits"; and

(c) agreed that:

(i) given the expected outcome of the investigation was that only a relatively small amount of funding was expected to be affected which was not material in Vocation's context, the matter was not material for disclosure under Listing Rule 3.1; and

(ii) the Board needed to be kept informed of developments.

21 August Fairfax publication, the DEECD ASX Complaint and JWS advice

324. On 21 August 2014, the DEECD emailed Ms Bonnici and others and stated that if questions posed in that email were answered affirmatively, DEECD would prepare a brief for consideration as to whether to vary the measures currently imposed on BAWM to limit the then current withholding of Funds and suspensions to:

(a) all Funds and enrolments and commencement of Training Services in relation to CSP and Warehousing; and

(b) all Funds and enrolments and commencement of Training Services in respect of identified students who were referred by, or otherwise were the subject of Training Services provided by, any of the five named brokers.

(**21 August DEECD Email**).

325. On 21 August 2014, Fairfax Media published an article in which the following appeared:

But, with Vocation delivering its first full-year result as a listed company today, investors would do well to ask how the rule-changes around auspicing are affecting BAWM, and whether BAWM's auspicing has been compliant. Shareholders are likely to ask for certainty as to whether there has been any investigation into the practice and whether any of BAWM's funding contracts have been suspended. The informed speculation in the sector is that there may be issues with BAWM's auspicing.

Particulars

Publication in the Age and Sydney Morning Herald 21 August 2014.

326. On 21 August 2014, the DEECD wrote to Vocation and:

(a) referred to the question of Vocation's continuous disclosure obligations to the ASX with regard to measures taken by the DEECD;

(b) stated that its view of the ASX Listing Rules was that the DEECD considered that disclosure of actions taken by the DEECD in relation to Aspin Pty Ltd (**Aspin**) and BAWM should be made to the ASX before being disclosed to any other person, including the media;

(c) communicated its view that the ASX should as soon as practicable be notified of current measures that had been taken by the DEECD in relation to BAWM and Aspin; and

(d) communicated that in default of notification to the ASX by Vocation, the DEECD intended to communicate to the ASX matters which included:

(i) measures had been imposed on BAWM on 3 and 24 July 2014, and against Aspin on 5 August 2014 to withhold payments of funds of $18,819,387.56 (for BAWM) and $1,858,789.03 (for Aspin);

(ii) a direction to suspend the new enrolments of Eligible Individuals and commencement of delivery of Training Services (as stated in the letter particularised below) to Eligible Individuals, in respect of both BAWM and Aspin.

Particulars

Letter DEECD to Vocation 21 August 2014, emailed at 2.32 pm.

327. On 21 August 2014, Vocation forwarded the 21 August 2014 letter from the DEECD to Vocation, to JWS.

Particulars

Email Mr Hutchinson to Mr Rozsa, 21 August 2014, 2.47 pm.

328. On 21 August 2014, JWS advised Vocation that it could make an announcement to the ASX in the following terms:

> *Vocation.. refers to the article in today's [insert newspaper] speculating about the possible suspension of one of the company's contracts with the Victorian Government.*
>
> *None of the company's contracts with the Victorian Government have been suspended. However, the Victorian Government is undertaking a limited review of 2 of those [insert number] of courses Vocation has with the Victorian Government.*
>
> *Vocation will update the market once the review has been finalised.*

Particulars

Email Mr Rozsa to Mr Hutchinson 21 August 2014, 3.06 pm.

329. On 21 August 2014:

(a) JWS advised Vocation to send an email to the DEECD in the following terms:

I refer to your letter today concerning disclosure to the ASX of the investigation that your Department is undertaking in to Victorian Government funded courses provided by BAWM Pty Limited and Aspin Pty Ltd.

Vocation has consistently held the view that no disclosure is required to ASX of the investigation in to those courses nor the suspension of payments and direction to cease enrolments that have accompanied that investigation.

In the view of Vocation, the investigation and its anticipated outcomes are not material in the context of the whole of Vocation, and therefore do not require disclosure to ASX under Listing Rule 3.1.

Particulars

*Email Mr Byron Koster (**Mr Koster**) of JWS to Mr Hutchinson and Mr Rozsa 21 August 2014, 3.54 pm; and*

(b) Vocation accepted, relied on and implemented that advice.

330. On 21 August 2014, JWS revised the terms of the announcement that Vocation could make to the ASX to the following terms:

Vocation Limited.. refers to the article in today's [insert newspaper] speculating about the possible suspension of one of the Vocation contracts (sic) with the Victorian Government.

None of Vocation's contracts with the Victorian Government have been suspended. However, the Victorian Government is undertaking a limited review of 2 of the coursed conducted by Vocation for which Vocation receives funding from the Victorian Government.

In the view of Vocation, the investigation and its anticipated outcomes are not material to Vocation.

However, given the press speculation referred to above, Vocation considers it prudent to make this announcement.

Vocation will update the market once the review has been finalised.

Particulars

Email Mr Koster to Mr Hutchinson and Mr Rozsa, 21 August 2014, 4.04 pm.

331. On 21 August 2014 the DEECD responded to Vocation, including that:

(a) the measures that were imposed in relation to BAWM from 3 and 24 July 2014, and Aspin from 5 August 2014, were not matters of speculation but concrete facts;

(b) the DEECD considered the information was material, given the significant role that Vocation's Victorian revenues (in particular BAWM) evidently played in the overall revenues of Vocation; and

(c) the DEECD's intention was to complain to the ASX if no appropriate disclosure was made by Vocation by 6.30 pm on 21 August 2014.

Particulars

Email Mr Watts to Mr Hutchinson and others, 21 August 2014 at 5.19 pm.

332. On 21 August 2014, Vocation forwarded that email to JWS for advice as to a response.

Particulars

Email Mr Hutchinson to Mr Koster and Mr Rozsa 21 August 2014 5.23 pm.

333. On 21 August 2014, JWS advised Vocation that it could respond to the DEECD by restating that the view of Vocation was that Vocation did not have ASX disclosure obligations in relation to the investigation currently being undertaken.

Particulars

Email Mr Koster to Mr Hutchinson 21 August 2014, 5.42 pm.

334. On 21 August 2014, the DEECD lodged a complaint with the ASX as to Vocation's failure to disclose measures in place in relation to BAWM and Aspin (the **DEECD ASX Complaint**).

335. The DEECD ASX Complaint:

(a) referred to the VET Funding Contract 2014-2016;

(b) stated that the DEECD had taken interim action pending further investigation and consideration in relation to BAWM and Aspin;

(c) stated that measures in place at 21 August 2014, and which had been in place in relation to BAWM since 3 July 2014 were withholding of payments of Funds (calculated as at 8 August 2014 at $18,819,387.56 inclusive of GST);

(d) stated that the DEECD had, since 24 July 2014, directed BAWM to suspend new enrolments of Eligible Individuals and commencement of delivery of Training Services to Eligible Individuals;

(e) stated that the measures at 21 August 2014 in place in relation to Aspin were, and had been since 5 August 2014, withholding of a payment of funds calculated as at 8 August 2014 at $1,858,789.03 inclusive of GST);

(f) stated that the DEECD had directed Aspin to suspend new enrolments of Eligible Individuals and the commencement of delivery of Training Services to Eligible Individuals;

(g) stated that the State of Victoria provided between 40% and 80% of Vocation's revenues through government subsidised training to Vocation;

(h) stated that much of the 40% to 80% referred to at subparagraph (g) was earned by BAWM and Aspin;

(i) stated that the suspension of funds to BAWM and Aspin had become known to persons outside the DEECD and outside Vocation;

(j) stated that the DEECD had, on 21 August 2014, formed the view that the ASX should as soon as practicable be notified of the current measures that had been taken by the DEECD in relation to BAWM and Aspin;

(k) enclosed a copy of the DEECD letter of 21 August 2014 to Vocation; and

(l) enclosed a copy of the August Fairfax Publication.

Particulars

ASX complaint form submitted by Ms Peake as complainant in relation to Vocation, 21 August 2014.

336. On 21 August 2014, Vocation forwarded the DEECD ASX Complaint to JWS, and sought advice as to how to respond.

Particulars

Email Mr Hutchinson to Mr Rozsa and Mr Koster, 21 August 2014, 6.49 pm.

337. On 21 August 2014, JWS advised Vocation that its response to the DEECD ASX Complaint should be:

(a) to wait to see how the ASX responds;

(b) following ASX response, it should be explained to the DEECD why the subject matters of the DEECD ASX Complaint were not material and it did not require disclosure; and

(c) the key argument for Vocation to put was that the investigations referred to in the DEECD ASX Complaint and their likely outcomes were not material in the context of the whole of Vocation.

Particulars

Email Mr Koster to Mr Hutchinson 21 August 2014, 7.10 pm.

338. On 22 August 2014, JWS proposed a letter from Vocation to the ASX which included:

(a) that neither in the case of the investigation concerning BAWM nor Aspin was the investigation being conducted by DEECD, or its expected outcomes, material.

(b) in addition, given the complexity and the continuing status from the matters being investigated, any disclosure of the investigation or measures implemented in connection with the investigation would be likely to mislead Vocation shareholders as to the significance of the investigation.

Particulars

Email Mr Koster to Mr Grewal, Mr Rozsa, Mr Hutchinson and Ms Bonnici 22 August 2014, 11.01am.

339. Between 21 and 26 August 2014, Vocation management advised Mr Dawkins that:

(a) Vocation owned RTOs other than BAWM and Aspin into which students could be enrolled; and

(b) if enrolments were suspended and students were not placed into other course, the enrolments would bank up, and could be taken in BAWM and Aspin when suspensions were lifted.

340. On or before 22 August 2014 Mr Hutchinson informed Mr Dawkins that:

(a) Vocation was only one of the 50 largest recipients of Victorian government funding that was the subject of an MMU audit;

(b) ASQA and VRQA regularly undertook compliance audits in respect of registration requirements;

(c) the whole of the VET sector was being impacted by Victorian government audits and other RTOs were having funds withheld;

(d) Victorian Training Guarantee funding contracts allowed the DEECD to undertake reviews and audits at any time;

(e) steps had been taken to fix problems; and

(f) Ms King thought funding would be restored.

Board meeting of 22 August 2014

341. The Vocation Board met by teleconference at 11.00 am on 22 August 2014 (the **22 August Board Meeting**).

342. The attendees at the 22 August Board Meeting were:

(a) the Directors;

(b) Mr Grewal;

(c) Mr Koster; and

(d) Ms Lawler.

343. At the 22 August Board Meeting:

(a) Mr Hutchinson informed and advised the Vocation Board as to the issues the DEECD had raised and the effect on Aspin and BAWM that:

(i) no contracts had been suspended, although funds continued to be withheld;

(ii) less than 20% of BAWM's continuing enrolments, and most of Aspin's continuing enrolments, were affected, albeit Aspin was quite small relative to BAWM;

(iii) the current impact of suspended enrolments was limited and small;

(iv) the majority of the withheld payments would be released; and

(v) that there had been no discussion of further enrolments being suspended.

(b) Mr Koster advised the Vocation Board that Vocation management had advised him that:

(i) investigations were not uncommon;

(ii) at that stage it continued to look like the underlying matters were being resolved; and

(iii) management had reviewed the estimates of revenue impact of students likely to affected and "reconfirmed the $2 million estimate".

(c) Mr Koster advised the Vocation Board that:

(i) following discussions he had with Vocation's listing adviser at the ASX, the ASX was aware of media on the Victorian audits;

(ii) Mr Koster's understanding of the view of Vocation was that there was no material information for disclosure to the market, as an investigation was in progress, and although payments were being withheld, the amount of funds expected to be affected was not material;

(iii) the ASX had requested an email be sent explaining the background and Vocation's position regarding disclosure;

(iv) following his discussions with Mr Hutchinson, Mr Grewal and Ms Bonnici and review of relevant correspondence, Mr Koster considered that the expected outcome of the investigation was that only a relatively small amount of funding was expected to be affected which was not material in Vocation's context; and

(v) in Mr Koster's view it was appropriate to treat disclosure as not being required, because:

(1) the expected outcome of the investigation was that only relatively small amounts of funding, around $2 million, were expected to be affected;

(2) $2 million was not material in Vocation's context; and

(3) the outcome would not be expected to have a material affect on the price or value of Vocation securities.

344. On 22 August 2014, JWS advised that a letter, including the features set out at paragraphs 343(iv) and (v) should be provided to the ASX as soon as possible.

Particulars

Email Mr Koster to Mr Grewal and others 22 August 2014, 1.24 pm.

345. On 22 August 2014, JWS prepared draft letters for Vocation to send to the ASX.

346. On 22 August 2014, in reliance on the advice of JWS, Vocation sent the ASX a letter consistent with the advice received from JWS and substantially in accordance with the draft letters prepared by JWS.

Particulars

Letter dated 22 August 2014 Vocation to the ASX

347. On or about 23 August 2014, Mr Hutchinson provided the Directors with correspondence from the DEECD (including the 21 August DEECD Email) and stated that:

(a) the correspondence reflected that Vocation was moving through the DEECDs' issues to a conclusion and that funds would be released in full or in part;

(b) only a limited number of Vocation's qualifications were being questioned;

(c) this confirmed that the overall funds in question were only a portion of the payment withheld.

Particulars

Email Mr Hutchinson to Ms Tredenick (copied to the other Directors) 23 August 2014, 7:39 pm.

JWS Advice on Announcements and 25 August Board Meeting

348. On 24 August 2014, JWS advised Vocation that:

(a) if there was no further press speculation about Vocation's funding contracts, then ASX would not require Vocation to make any disclosure about the issue;

(b) in the light of the risk of further rumours, and the possibility that the ASX might require some disclosure, and short selling that may be occurring, Vocation should consider a pre-emptive announcement; and

(c) the pre-emptive announcement that could be made could recite that the DEECD was undertaking a limited review of two courses conducted by Vocation for which Vocation receives funding, and in Vocation's view that limited review and its anticipated outcomes were not material to Vocation.

Particulars

Email Mr Koster to Mr Hutchinson, Mr Rozsa and others 24 August 2014 at 1.43pm.

349. On 24 August 2014, JWS considered a possible announcement by Vocation to the ASX in the following terms:

> *Vocation has become aware of misinformation in the market regarding the funding contracts that Vocation has with the Department of Education and Early Childhood Development in Victoria. Vocation takes its disclosure obligations seriously. It is the view Vocations' Board having consulted with the companies external legal counsel [and ASX] that all material information has been disclosed and that the company has discharged its disclosure obligations.*

Particulars

Email Lisa Keenan (Ms Keenan) of Nightingale Communications to Mr Koster and others, 24 August 2014, 4.21 pm.

350. On 24 August 2014, Mr Koster advised that from a legal perspective the kind of disclosure referred to at paragraph 349 was fine, provided Vocation was confident of getting most of the withheld money and also confident that there would not be other material adverse consequences to revenue from the DEECD that had not otherwise been anticipated.

Particulars

Email Mr Koster to Ms Keenan, Mr Hutchinson, Mr Grewal, Mr Tucker, Mr Dawkins and others, 24 August 2014 at 4.55pm.

351. On the morning of 25 August 2014, the Australian Financial Review published an article about Vocation "*Training Wheels Wobbly?*"

352. The Vocation Board met by teleconference at 8.00 am on 25 August 2014 (the **25 August Board Meeting**).

353. The attendees at the 25 August Board meeting were:

(a) the Directors;

(b) Mr Grewal;

(c) Mr Koster;

(d) Mr Rozsa;

(e) Ms Lawler; and

(f) Ms Alison Turtle of Vocation (**Ms Turtle**).

354. At the 25 August Board Meeting:

(a) Mr Hutchinson advised that:

(i) the next payment from the DEECD was due on 12 September 2014; and

(ii) there was no reason to believe that payment would be withheld;

(b) Mr Koster or Mr Rozsa stated that JWS continued to maintain contact with the ASX;

(c) Mr Koster reconfirmed that the ASX had not required disclosure on 22 August 2014 and was satisfied with Vocation's response to date;

(d) Mr Koster or Mr Rozsa stated that they saw no additional issues in what had been raised in the *Training Wheels Wobbly* article;

(e) Mr Koster advised that while the ASX agreed that disclosure was not required under ASX Listing Rule 3.1, based on information provided by Vocation, in the light of media speculation the ASX thought it was in Vocation's interest to put out a response;

(f) the Vocation Board confirmed the previous view that the matter was not material for disclosure under ASX Listing Rule 3.1 as the expected outcome of the investigation was that only a relatively small amount of funding was expected to be affected which was not material in Vocation's context and the outcome would not be expected to have a material effect on the price or value of Vocation's securities.

355. On 25 August 2014 between 8:10 am and 9:46 am, JWS and Ms Bonnici amended, and JWS settled the possible announcement to the ASX which had been considered by JWS on 24 August 2014:

Vocation is aware of press speculation regarding the Company's Victorian funding contracts. Vocation would like to reiterate that it takes its disclosure obligations extremely seriously and is comfortable it has complied with these obligations at all times. However in light of the speculation referred to above, Vocation considers it prudent to make the following points:

- *Vocation's funding contracts with the Victorian Department of Education and Early Childhood Development (DEECD) have not been suspended and are continuing.*
- *The DEECD is undertaking a review of three of the courses conducted by Vocation for which Vocation receives funding under those contracts. As part of the review process, the DEECD has withheld recent payments under the funding contracts.*
- *Vocation considers that neither the review nor its anticipated outcomes are material to Vocation.*

Vocation has had a longstanding and constructive relationship with the DEECD. Vocation is working with DEECD to bring the review to an early conclusion.

The operation of funding contracts and the audit and review processes that accompany those are part of Vocation's normal business activities.

Particulars

Email Mr Rozsa to Mr Dawkins and others, copy to Mr Koster, 25 August 2014 8:10 am.

Email Mr Rozsa to Mr Hutchinson and others, copy to Mr Koster and others 25 August 2014 9:35 am.

Email Mr Rozsa to Mr Hutchinson and others, copy to Mr Koster and others 25 August 2014 9:46 am.

356. On the morning of 25 August 2014, Vocation made an announcement to the ASX in the form settled by JWS.

DEECD 26 August 2014 Letter, 26 August Board Meeting and JWS subsequent advice on disclosure

357. On 26 August 2014, the DEECD wrote to Vocation in relation to suspected breaches of the 2014-16 VET Funding Contracts, including that:

(a) the amount of funds claimed by BAWM and withheld excluding GST was $17,047,054;

(b) of that amount $9,377,929 (exclusive of GST) related to Warehousing and CSP;

(c) since 24 July 2014, BAWM had been under direction to suspend all commencements and new enrolments of Eligible Individuals and to suspend the commencement of delivery of Training Services to Eligible Individuals who had enrolled but not yet commenced training;

(d) since 5 August 2014, the DEECD had withheld payments of $1,693,547 to Aspin (exclusive of GST);

(e) of that amount, $1,684,098 related to claims for CGEA;

(f) since 5 August 2014, Aspin had been under direction to suspend all commencements and new enrolments of Eligible Individuals and to suspend the commencement of delivery of Training Services to Eligible Individuals who had enrolled but not yet commenced training;

(g) the Secretary of the DEECD had directed the DEECD to conduct a review addressing the processes Vocation and its group entities had in place to ensure that all Vocation's subsidiaries holding 2014-2016 VET Funding Contracts were and had been compliant from 1 January 2014 (**DEECD Review**);

(h) the Secretary was concerned that the deficiencies in Vocation Group's controls and processes extended to fundamental failures to comply with RTO standards;

(i) in the light of Vocation Group's acknowledgments of systemic flaws in its controls, the DEECD had a reasonable suspicion that funds claimed and/or paid for courses other than Warehousing and CSP were likely to be affected;

(j) the DEECD had a reasonable suspicion that Vocation Group's brokering arrangements had systemic flaws;

(k) the DEECD would now be scrutinising BAWM's brokering arrangements and training delivery across courses other than Warehousing and CSP, and if it ultimately concludes that money should not have been claimed and paid in relation to other courses, the DEECD reserved the right to recover monies from withheld funds;

(l) a portion of the funds paid by the DEECD to BAWM between 1 January 2014 and 3 July 2014 could be recoverable by the DEECD from BAWM; and

(m) including that during a 6 week trial period BAWM was to implement the safeguards and reporting regime outlined in Annexure A to the letter.

358. The Vocation Board met by teleconference at 7:00pm on 26 August 2014 (the **26 August 2014 Board Meeting**).

359. The attendees at the 26 August 2014 Board Meeting were:

(a) the Directors;

(b) Mr Grewal;

(c) Mr Koster;

(d) Mr Rozsa;

(e) Ms Bonnici;

(f) Mr Langtree;

(g) Ms King;

(h) Ms Turtle; and

(i) Ms Lawler.

360. At the 26 August Board Meeting:

(a) Ms Bonnici said words to the effect:

(i) as to the issues raised in the DEECD 26 August 2014 letter and the effect on BAWM and Aspin, the documents set out in Annexure A to the DEECD 26 August 2014 letter had been provided and the DEECD's requirements could be complied with, although some were very onerous;

(ii) that BAWM and Aspin were already complying with the less onerous stipulations in Annexure A to the DEECD 26 August 2014 letter; and

(iii) TDA was able to enrol students, and there were no obvious grounds for refusing enrolments in TDA going forward.

(b) one or more of the members of Vocation management present at the meeting said words to the effect:

(i) they remained of the view that $2 million was an appropriate amount to consider may be permanently at risk;

(ii) management's expectation was that around $2 million in FY2015 would be permanently withheld, with another $2 million as a safety margin over that figure;

(iii) these amounts took into account all revenues from 1 January 2014, not just from the date of suspension of enrolments;

(iv) this view was reasonable given:

(1) the issues raised by DEECD related to only a proportion of the students in Warehousing, Competitive Systems and Continuing General Education for Adults;

(2) the issues raised by DEECD were particular to courses in Warehousing, Competitive Systems and CGEA; and

(3) management understood how the issue raised by DEECD had occurred and it was not broadly based;

(v) they did not expect any other significant issues to come to light as a result of the broadened audits;

(vi) they did not see the upper end of a $4 - $10 million range of impact from the audits as likely in any way.

361. JWS had the 26 August letter from DEECD at, or before the time of, the 26 August Board Meeting.

362. At the 26 August 2014 Board Meeting, JWS advised Vocation that the matters raised by the letter from DEECD did not raise matters material for disclosure under ASX Listing Rule 3.1, as:

(a) there had been no loss of contracts;

(b) the expected outcome of the investigation continued to be that only a relatively small amount of funding was expected to be affected which was not material in Vocation's context; and

(c) the outcome would not be expected to have a material effect on the price or value of Vocation's securities.

Particulars

Minutes of meeting of Vocation Board, 26 August 2014.

27 August advice from Mr Langtree

363. On 27 August 2014 Mr Langtree emailed Mr Hutchinson and Mr Dawkins advising that:

(a) the worst case scenario would yield a prospective repayment of $7.6m (being the total value of CSP to date); and

(b) this was the basis for his "confident assertion" that the total position could not exceed $10M.

28 August Board Meeting and 28 August Meeting with DEECD

364. The Vocation Board met by teleconference at 3.00 pm on 28 August 2014 (the **28 August 2014 Board Meeting**).

365. The attendees at the 28 August 2014 Board Meeting were:

(a) Mr Dawkins;

(b) Mr Halley;

(c) Ms Tredenick;

(d) Mr Tucker;

(e) Mr Koster;

(f) Ms Bonnici;

(g) Ms King; and

(h) Ms Turtle.

366. The only matter discussed at the 28 August 2014 Board Meeting was the best approach to a meeting to be held with the DEECD later on 28 August 2014, which was to deal with the relationship between Vocation and the DEECD and (on Vocation's part) to secure the release of at least some funds withheld by the DEECD in the near term, in return for entering into a proposed pilot programme and the recommencement of enrolments.

Particulars

Vocation Board Minutes, 28 August 2014 Board Meeting.

367. JWS did not give advice to Vocation in the course of the 28 August 2014 Board Meeting as to any obligation of disclosure to the ASX.

368. On 28 August 2015 Mr Dawkins and Ms Bonnici met with Ms Peake and Ms Watts at DEECD's offices (**28 August DEECD Meeting**).

369. At the 28 August DEECD Meeting:

(a) the DEECD indicated a desire to work with Vocation to resolve problems rather than exclude Vocation or diminish its position in the Victorian market; and

(b) Vocation proposed that the DEECD release funds equal to the likely claims arising from the new enrolments involved in the trial and the DEECD was willing to consider that proposal.

Enquiries into entry requirements and receipt of Terms of Reference

370. On or around 31 August 2014 to 3 September 2014, Mr Dawkins made enquiries, including of Mr Langtree, and obtained confirmation that the courses being investigated by DEECD did not have formal requirements for entry.

371. On 3 September 2014, Ms Watts emailed Ms Bonnici (copied to others including Mr Dawkins) attaching documents including the Terms of Reference for a DEECD Review.

372. After reviewing the Terms of Reference and by no later than 5 September 2014, Mr Dawkins arranged to meet with Mr Richard Bolt of DEECD on 8 September 2014.

JWS Advice on Announcements and Cleansing Statement, 5-12 September 2014, and 8 September 2014 Meeting with DEECD

373. On 5 September 2014, Vocation:

(a) informed JWS that Vocation was proposing a capital raising of $75 million on Monday 8 September 2014; and

(b) asked JWS to prepare a draft Cleansing Statement, to go before the Vocation Board on 5 September 2014.

Particulars

Email Mr Hutchinson to Mr Rozsa 5 September 2014, 9.12 am.

374. On 5 September 2014, Nightingale Communications sent an email to Mr Hutchinson and Mr Rozsa with a draft announcement in relation to a proposed capital raising which:

(a) recited that Nightingale Communications had tried to position the capital raising as providing Vocation with balance sheet flexibility given Vocation's current facility was fully drawn; and

(b) suggested providing a general update on the Victorian review rather than reference back to the market disclosure of 25 August 2014, as the market disclosure of 25 August 2014 specified three courses being under review rather than all Victorian operations.

Particulars

*Email Siobhan Weaver (**Ms Weaver**) to Mr Hutchinson and Mr Rozsa 5 September 2014, 10.48 am.*

375. The Vocation Board met by teleconference at 3.00 pm on 5 September 2014 (**the 5 September 2014 Board Meeting**).

376. The attendees at the 5 September 2014 Board Meeting included:

(a) the Directors;

(b) Mr Grewal;

(c) Mr Rozsa;

(d) Mr Koster;

(e) Ms Lawler; and

(f) for part of the meeting, representatives of Macquarie Bank.

377. At the 5 September 2014 Board Meeting:

(a) Mr Rozsa outlined the basis for a cleansing notice and for the Vocation Board to assess based on managements response to the due diligence questionnaire whether there were any matters required to be disclosed that had not previously been disclosed, due to reliance on an exemption under ASX Listing Rule 3.1A; and

(b) it was agreed that a further meeting would be held on 7 September 2014 to provide a further update on the Victorian review and discuss if necessary any changes to the previous views on disclosure.

378. On 5 September 2014, Mr Grewal forwarded to Mr Rozsa a draft Due Diligence Questionnaire, being a precedent from Macquarie for offers which included share offers made in Australia (**the Draft Due Diligence Questionnaire**).

Particulars

Email Mr Grewal to Mr Rozsa, 5 September 2014, 4.04 pm.

379. The Draft Due Diligence Questionnaire included these questions and answers:

Q. *Discuss any known breaches of Issuers continuous disclosure policy. Is there any reason to suspect that the Issuers reporting system and compliant process is not being following correctly? Confirm that neither ASX nor ASIC has issued any notice or made any declaration regarding the Issuers continuous disclosure compliance.*

A. *None.*

…

Q. *Are you aware of any information (including Excluded Information, "inside information" or anything under consideration or discussion (no matter how preliminary) which would require, or could or will lead to the Issuer making any announcements of significance to the ASX?*

A. No.

380. On 5 September 2014, JWS advised Vocation that it had no comments on the Draft Due Diligence Questionnaire.

Particulars

*Email Mr Rozsa to Mr Grewal, Mr Hutchinson, copy to Mr Koster and Sophia Bobeff of JWS (**Ms Bobeff**), 5 September 2014, 4.39 pm.*

381. On 5 September 2014, JWS provided to Vocation documents which included a draft Cleansing Notice which included the following content:

As at the date of this notice, Vocation:

1. has complied with the provisions of Chapter 2M of the Corporations Act and section 674 of the Corporations Act; and

2. confirms that there is no information that is excluded information for the purpose of section 708A(7) and (8) of the Corporations Act.

(**Cleansing Notice Compliance Declaration**).

Particulars

Email Mr Rozsa to Mr Hutchinson and Mr Grewal 5 September 2014, 5.03 pm.

382. On 5 September 2014, Mr Grewal provided the documents drafted by JWS, including the Cleansing Notice, to the Directors, with a copy to Mr Rozsa.

Particulars

Email Mr Grewal to the Directors 5 September 2014, 7.23pm.

383. On 5 September 2014, Mr Hutchinson sent Mr Rozsa a draft ASX Announcement in relation to the placement to institutional and sophisticated investors to raise funds for Vocation for final comments (the **Draft Placement ASX Announcement**).

Particulars

Email Mr Hutchinson to Mr Rozsa 5 September 2014, 6.49 pm.

384. The Draft Placement ASX Announcement included the following content:

"Update on Victorian review

There has been a broadening of the review process by the Victorian Department of Education and Early Childhood Development (Department). Vocation has been informed by the Department that the review will be completed by the 31st of October.

While the review has had an impact on Vocation's Victorian operations and enrolment activity, this has been mitigated by organic growth across the group, including other parts of the Victorian business. Vocation continues to anticipate that the outcome of this review will not be material."

385. On 5 September 2014, Mr Rozsa sent an email to Mr Hutchinson, with copy to persons including Mr Koster and Ms Bobeff in response to the email referred to at paragraph 383 with the following content:

> *Thanks Mark.*
> *No further comments from JWS.*

Particulars

Email Mr Rozsa to Mr Hutchinson, 5 September 2014, 6.54 pm.

386. On 7 September 2014, Vocation and Nightingale Communications circulated further drafts of the Draft Placement ASX Announcement (the **Further Drafts of the ASX Placement Announcement**).

387. The Further Drafts of the ASX Placement Announcement:

(a) were sent to persons including Mr Rozsa; and

(b) included an update on Victorian Review which stated that the review process by the DEECD had been extended and Vocation continued to anticipate that the outcome of the review would not be material and had been informed by the DEECD that the review would be completed by 31 October.

Particulars

Email Mr Hutchinson to Mr Dawkins and Mr Rozsa 7 September 2014, 8.05 am.

Email Ms Weaver to Mr Hutchinson, Mr Dawkins and Mr Rozsa 7 September 2014, 11.46 am.

388. On 7 September 2014 Mr Hutchinson emailed Mr Dawkins advising that enrolments in Victoria were not impacted in July, were impacted in August by a non-material amount, and were impacted in early September, however subject to mitigation strategies.

Particulars

Email Mr Hutchinson to Mr Dawkins 7 September 2014.

389. On 7 September 2014, the Vocation Board met by teleconference at 2.10 pm (the **7 September 2014 Board Meeting**).

390. The attendees at the 7 September 2014 Board Meeting were:

(a) Mr Dawkins;

(b) Mr Hutchinson;

(c) Ms Tredenick;

(d) Mr Tucker;

(e) Mr Grewal;

(f) Mr Rozsa;

(g) Ms Bobeff; and

(h) Ms Lawler.

391. At the 7 September 2014 Board Meeting:

(a) Mr Hutchinson and Mr Dawkins advised that the situation in Victoria was still as expected and discussions/review with the management team would continue post the 7 September 2014 Board Meeting to help preparation with a meeting to be held the next day with the DEECD;

(b) Mr Hutchinson advised that to answer the due diligence management questionnaire for the proposed placement, a further thorough review over the weekend of all correspondence relating to the Victorian audit was conducted as well as a recent enrolment statistics;

(c) Mr Hutchinson confirmed that the overall enrolments for the Vocation Group over the last month had not been adversely impacted by the review;

(d) Mr Hutchinson reconfirmed his view that the impact on Vocation's business due to the Victorian review was not material;

(e) the Vocation Board discussed whether any additional disclosures to ASX were required in relation to the Victorian audit issue;

(f) the Vocation Board concluded none was required; and

(g) it was agreed to review the conclusion in relation to disclosure, following the outcome of the meeting with the DEECD on 8 September 2014.

Particulars

Minutes of Vocation Board Meeting 2.10 pm Sunday 7 September 2014.

392. On 7 September 2014, Mr Hutchinson sent an email to Ms Weaver, Mr Dawkins and Mr Rozsa with a further draft of the Draft Placement ASX Announcement.

Particulars

Email Mr Hutchinson to Ms Weaver, Mr Dawkins, Mr Rozsa, 7 September 2014, 3.48pm.

393. The further draft of the Draft Placement ASX Announcement included the following:

Update on Victorian review

As part of our regime of continuous disclosure, we are providing an update on the Victorian review.

The review process by the Victorian Department of Education and Early Childhood Development (Department) has been extended. Vocation continues to anticipate that the outcome of this review will not be material and has been informed by the Department that the review will be completed by the 31st of October.

Organic growth across the Group including in Victoria, has mitigated impacts of the review on Victorian operations.

394. On 7 September 2014, JWS emailed a revised draft ASX Placement Announcement to Vocation,

(the **JWS 7 September draft ASX Announcement**).

Particulars

Email Ms Bobeff to Ms Weaver, copied to Mr Hutchinson, Mr Grewal, Mr Rozsa, Mr Koster and Emanuel Petros 7 September 2014, 4.54 pm.

395. In relation to the JWS 7 September draft ASX Announcement:

(a) JWS had deleted the sentence; "We are providing an update on the Victorian review as part of our regime of continuous disclosure";

(b) JWS stated the deletion was because Vocation was taking the position that the review was not material, and therefore disclosure was not required under the continuous disclosure regime; and

(c) JWS included the following words:

The review process by the Victorian Department of Education and Early Childhood Development (Department) has been extended. Vocation continues to anticipate that the outcomes of this review will not be material and has been informed by the Department that the review will be completed by the 31st of October.

396. On 8 September 2014, Mr Dawkins and Mr Hutchinson (along with Mr Mark Smith) from Vocation met with Mr Richard Bolt, Ms Peake (along with Ms Anitra Cowan) of the DEECD (**8 September 2014 DEECD Meeting**).

397. At the 8 September 2014 DEECD Meeting:

(a) Mr Bolt was positive and complimentary about Vocation and wanted it to continue as participant in the Victorian training program;

(b) the DEECD advised that:

(i) there would be an initial "phase 1 review" limited to two RTOs and three courses;

(ii) results of the phase 1 review would be subject to further discussion with Vocation before decisions would be taken by the Department as to whether:

(1) the review would be continued or expanded; and

(2) current withholding of funds would continue; and

(iii) phase 1 of the review would be completed in 7-14 days following commencement of the review;

(iv) the outer limit date for the review remained 31 October 2014 but earlier completion was expected;

(v) enrolment in other courses offered by BAWM and Aspin could recommence.

398. The Vocation Board met by teleconference at 1.00 pm on 8 September 2014 (the **8 September 2014 Board Meeting**).

399. The attendees of the 8 September 2014 Board Meeting were:

(a) the Directors;

(b) Mr Grewal;

(c) Mr Rozsa;

(d) Ms Bobeff; and

(e) Ms Lawler.

400. At the 8 September 2014 Board Meeting:

(a) Mr Dawkins reported on the 8 September meeting with the DEECD;

(b) the JWS 7 September draft ASX Announcement was tabled;

(c) a Cleansing Statement to be lodged following the issue of shares under the Placement was tabled;

(d) each director confirmed that in their opinion, to the best of their knowledge and belief, there was no omission from the ASX announcement or the Cleansing Statement of information required by the *Corporations Act* or the *ASX Listing Rules*; and

(e) neither Mr Rozsa nor Ms Bobeff offered any qualification as to the accuracy of either of the tabled documents or the directors confirmation.

401. On 8 September 2014, Mr Hutchinson sent a further revision of the 7 September draft ASX Announcement to Ms Weaver and Mr Dawkins with copies to others including Mr Rozsa (**the 8 September draft ASX Announcement**).

Particulars

Email Mr Hutchinson to Ms Weaver and Mr Dawkins 8 September 2014, 2.35 pm.

402. The 9 September draft ASX Announcement included the following:

> *Update on Victorian review*
>
> *The review by the Department is expected to conclude by the end of October. Vocation considers that neither the review nor its anticipated outcomes are material to Vocation.*

403. On 8 September 2014, JWS provided comments on the 8 September draft ASX Announcement, whereby it revised that draft announcement to include the following:

> ***Update on Victorian review***
>
> *The review by the Victorian Department of Education and Early Childhood Development is expected to conclude by the end of October. Vocation considers that neither the review nor its anticipated outcomes are material to Vocation.*

404. On 8 September 2014, Mr Grewal circulated a number of documents by email to persons including Mr Hutchinson and Mr Rozsa including:

(a) a Cleansing Statement which utilised the Cleansing Notice Compliance Declaration; and

(b) an ASX announcement which utilised the wording set out at paragraph 403 above.

405. On 9 September 2014, Ms Tredenick asked Mr Rozsa to confirm that all was in order to make the placement offer as outlined in the 8 September draft ASX Announcement from any legal, disclosure or due diligence perspectives.

Particulars

Email Ms Tredenick to Mr Hutchinson and Mr Rozsa 9 September 2014, 9.29pm.

406. On 10 September 2014, UBS emailed Mr Hutchinson and others, including Ms Bobeff and Mr Rozsa, a further revised Draft Placement ASX Announcement (**the UBS Draft ASX Announcement**).

Particulars

*Email Alex Dignam (**Mr Dignam**) to Mr Hutchinson and others 10 September 2014, 1.48 pm.*

407. The UBS Draft ASX Announcement included the following content:

> *Further to the ASX announcement dated 25 August 2014, Vocation advises that the review being conducted by the Victorian Department of Education and Early Childhood Development is expected to conclude no later than the end of October (confirmed in its meeting with the Department earlier this week). Vocation considers that neither the review nor its anticipated outcomes are material to Vocation.*

408. Further versions of the UBS Draft ASX Announcement were sent by UBS to Mr Hutchinson and others, including JWS, on 10 September 2014, in each case incorporating the same wording set out at paragraph 407.

Particulars

> *Emails from Mr Dignam to Mr Hutchinson and others, including Mr Rozsa and Ms Bobeff, 10 September 2014, 8.31 am and 9.05 am.*

409. JWS did not object to, comment on or seek to alter any UBS Draft ASX Announcement containing the wording set out at paragraph 407.

410. On 10 September 2014, Vocation made an announcement to the ASX which contained the words set out at paragraph 407 (**the 10 September 2014 ASX Announcement**).

411. On 12 September 2014, JWS provided a draft of a Cleansing Notice to UBS and Vocation.

Particulars

> *Email Ms Bobeff to Mr Dignam, Mr Fitzgibbon, Mr Grewal and Mr Rozsa 12 September 2014, at 11.14 am.*

412. The Cleansing Notice provided under cover of the email referred to at paragraph 411 repeated the Cleansing Notice Compliance Declaration.

Updated terms of reference and commencement of the review

413. On 12 September 2014 Ms Peake emailed Ms Bonnici and Mr Hutchinson attaching a letter from the DEECD and revised Terms of Reference, which included that:

    (a) the review would be split into two phases;

    (b) the first phase of the review would focus on Certificate III in Warehousing and Certificate III in CSP at BAWM and Certificate II in CGEA at Aspin;

    (c) an initial report of findings would be provided to Vocation by the Department within two weeks of commencement of the review; and

    (d) the DEECD would use the Initial Report from the Review Panel as a basis to further, consider the continuation or otherwise of its actions pertaining to suspension of enrolments, commencements and Funds under its VET Funding Contracts with BAWM and Aspin.

414. On or about 15 September 2014, Ms Peake provided confirmation to Mr Hutchinson that the Review Panel would commence its work on 16 September 2014.

415. On or about 16 September 2014, Mr Hutchinson emailed Mr Dawkins, attaching an email from Ms Peake dated 15 September 2014, reporting that Ms Peake had confirmed that post the review DEECD would give recommendations to Vocation within 5 days, including how much funding would be released.

18 September – Rear Window Publication and Further ASX Announcement

416. On 18 September 2014, the Rear Window: Australian Financial Review published the following about Vocation:

> *The business, floated in December last year, derived 80 per cent of its revenues from subsidiary BAWM in FY14. Ninety per cent of BAWM's revenue is in the form of contracts with the Victorian government to run training courses (i.e. Certificate III in landscape gardening, and so forth).*
>
> *Back on August 25, in response to a searching story in this column about the suspension of this government funding,* ***Vocation*** *advised the market rather obtusely that Victoria's Department of Education "is undertaking a review of three of the courses conducted by* ***Vocation*** *for which* ***Vocation*** *receives funding under those contracts. As part of the review process, the DEECD has withheld recent payments under the funding contracts".*
>
> *They added that "neither the review nor its anticipated outcomes are material to Vocation".*
>
> *We've tried to clarify whether that funding being withheld by the Department is just the funding for those three courses, or absolutely all of BAWM's funding - as in $5 million a month.*
>
> *Because if it's the latter (as is the chatter around the market), we'd call that fairly material! And, given that two weeks later* ***Vocation*** *tapped the market for $74 million in new capital, it would certainly raise questions about the capital raising's stated purpose of paying down debt and funding acquisitions. Should they have added "to keep the lights on"?*
>
> *Vocation has refused to comment, citing commercial confidentiality.*
>
> *The Department is equally tight-lipped.*
>
> *BAWM isn't the only Registered Training organisation facing scrutiny. Both sides of Victorian politics are turning the screws on the industry.*
>
> *Last year, then education minister Peter Hall promised to crack down on "channelling", a practice where "providers, more for their own purpose than for the outcome of students, are enrolling students in courses other than what they would have originally intended, for the purposes of receiving a greater subsidy level … There has been a displacement where students enrolled in [one course] are now being enrolled in [another], then exiting at an earlier time to take the benefit of the higher subsidy. That is inappropriate and something the government is addressing." The minister also referred to "rampant rorting among some of the more unscrupulous providers in the industry".*
>
> *The policy platform Labor is taking to the November 29 election promises to "ensure that unscrupulous operators offering 'tick and flick' training are weeded out from the system".*

A previous audit of BAWM, conducted by the Department in July 2013, found instances of channelling.

The Department has indicated its current audit of BAWM will be completed in October. It is understood that bureaucrat Ms Watts has a fair whack of audit personnel allocated to the case.

(**the 18 September Rear Window Article**).

417. On 18 September 2014, and following the publication of the 18 September Rear Window Article, the ASX emailed Vocation, copied to JWS, requesting confirmation as to:

(a) whether by the 25 August 2014 ASX Announcement Vocation intended to communicate there had been a withholding of all payments to BAWM and the withholding of all payments to Aspin (as opposed to funding just for those contracts);

(b) whether Vocation considered the market was sufficiently informed; and

(c) whether an adverse outcome that would see the DEECD cancelling the three courses referred to in the 25 August 2014 ASX Announcement would be material to Vocation.

Particulars

Email Simon Daniels to Mr Grewal, copy to Mr Koster and Mr Hutchinson, 18 September 2014, 11.01 am.

418. On 18 September 2014, Mr Dawkins had two telephone conversations with Mr Bolt.

419. On 18 September 2014, Vocation sent to JWS a final statement which was then being checked by the DEECD with a request to check for inaccuracies.

Particulars

Email Mr Hutchinson to Mr Koster and Ms Weaver, 18 September 2014, 1.14 pm.

420. The final statement sent to JWS by Vocation included the following text:

Vocation is aware of ongoing press and market speculation regarding the Company's Victorian funding contracts.

Vocation would like to reiterate, as stated in ASX announcements on 25 August 2014 and 10 September 2014, that neither the review nor its anticipated outcomes are expected to be material to Vocation. The Company restates, and the Victorian Department of Education and Early Childhood Development (DEECD) has today confirmed:

- *Vocation's funding contracts with the DEECD have not been suspended and are continuing.*
- *The review continues to only relate to only three of the courses conducted by Vocation for which Vocation receives funding.*

- *As stated in the ASX announcement on 25 August 2014, DEECD has withheld recent payments under the funding contracts. To clarify, the withheld payments relate to all funding across only two of Vocation's four Victorian RTOs - the other contracted RTO's continue to receive all payments. Under the terms of the funding contract DEECD has the ability to withhold all payments to an RTO while undertaking a review of a course provided by that RTO, and the DEECD regularly applies this approach when undertaking its normal course review processes.*

- *The review from the DEECD remains focused on three courses (as previously stated) which comprise only a proportion of the payments withheld.*

Vocation has also advised that the review is expected to conclude no later than 31 October 2014.

[DEECD have advised that a portion of the withheld payment (not in relation to the three courses under review) will be released in XX day]

Vocation takes its disclosure obligations extremely seriously and remains comfortable that it has complied with these obligations at all times. The operation of funding contracts and the audit and review processes that accompany those are part of Vocation's normal business activities.

Vocation looks forward to maintaining a strong presence in Victoria in partnership with DEECD.

Particulars

Email from Mr Hutchinson to Ms Weaver and Mr Koster, 18 September 2014, 1.14 pm.

421. JWS advised Vocation that JWS was comfortable with an ASX Announcement having the text set out at paragraph 420 other than that the word "extremely" in the second last paragraph should be deleted as it sounded like over pleading.

Particulars

Email Mr Koster to Ms Weaver, copy to Mr Hutchinson and Mr Grewal 18 September 2014, 1.43 pm.

422. The DEECD advised Vocation that it could not endorse the proposed ASX Announcement because of concerns that it was misleading, including because:

(a) significant entitlements under contracts with BAWM and Aspin had been suspended;

(b) the announcement referred to suspension of funding but not the entitlement to commence new students who would attract government subsidy; and

(c) the announcement did not accurately reflect that approximately 90% of Vocation's payments from DEECD in 2014 related to BAWM and Aspin and that the majority of funding had been withheld, relating to the qualifications which was subject of the first phase of a DEECD review.

Particulars

Email Ms Peake to Mr Hutchinson, 18 September 2014, 1.40 pm.

423. On 18 September 2014, Vocation sent the DEECD email referred to at paragraph 422 to JWS, together with a revised proposed ASX Announcement.

Particulars

Email Mr Hutchinson to Mr Dawkins and others, copied to Mr Koster and others, 18 September 2014, 2.01 pm.

424. The text of the proposed ASX Announcement sent by Vocation to JWS was the following:

Vocation is aware of ongoing press and market speculation regarding the Company's Victorian funding contracts.

Vocation would like to reiterate, as stated in ASX announcements on 25 August 2014 and 10 September 2014, that neither the review nor its anticipated outcomes are expected to be material to Vocation. The Company restates:

- *Vocation's funding contracts with the DEECD have not been suspended and are continuing.*
- *The review continues to only relate to three of the courses conducted by Vocation for which Vocation receives funding.*
- *As stated in the ASX announcement on 25 August 2014, DEECD has withheld recent payments under the funding contracts. To clarify, the withheld payments relate to funding across two of Vocation's four Victorian RTOs. Vocation's remaining contracted RTO's continue to receive all payments. Under the terms of the funding contract DEECD has the ability to withhold payments to an RTO while undertaking a review of a course provided by that RTO, and the DEECD regularly applies this approach when undertaking its normal course review processes.*
- *The review from the DEECD remains focused on three courses (as previously stated).*

Vocation has also advised that the review is expected to conclude no later than 31 October 2014.

Vocation takes its disclosure obligations seriously and remains comfortable that it has complied with these obligations at all times. The operation of funding contracts and the audit and review processes that accompany those are part of Vocation's normal business activities.

Vocation looks forward to maintaining a strong presence in Victoria in partnership with DEECD.

425. JWS advised Vocation that the text of the proposed ASX Announcement referred to at paragraph 424 looked fine to Mr Koster.

Particulars

Email Mr Koster to Mr Hutchinson and other, 18 September 2014, 2.29 pm.

426. Vocation made an announcement to the ASX in the terms set out at paragraph 424 on 18 September 2014.

JWS advice concerning disclosure - 19 - 22 September 2014

427. On 19 September 2014, JWS advised Vocation that:

(a) Vocation did not need to go in to a trading halt;

(b) Vocation did not need to make a further announcement;

(c) if an announcement was made and the total amount held back by the DEECD was disclosed, investors might be confused as to the significance of the amount held back; and

(d) class action investors would not have a case because the decision made on 18 September not to make an announcement was in consultation with the ASX and the share placement of 18 September was made when Vocation's directors honestly held the view that the outcome of the review would not be material.

428. On 22 September 2014, the Australian Financial Review published an article in its "Rear Window" column headed "Glaring omission may be an understatement" (the **22 September Rear Window article**).

429. The 22 September Rear Window Article included the information that Mr Hutchinson and Mr Grewal had briefed Ord Minnett Stockbrokers on 19 September 2014 with confirmation that all of the Victorian Government's funding to Vocation's main subsidiary BAWM had been suspended since July 2014, despite the omission of that information from Vocation's multiple statements to the ASX on the matter;

430. On 22 September 2014, Nightingale Communications, on behalf of Vocation, asked JWS if the publication of the 22 September 2014 Rear Window Article changed Vocation's disclosure position.

Particulars

Email Ms Weaver to Mr Koster, copied to Mr Hutchinson, Mr Grewal and Ms Kennan, 22 September 2014, 7.30 am.

431. JWS advised that it did not think that another announcement should be made on 22 September 2014.

Particulars

Email Mr Koster to Ms Weaver, copied to Mr Hutchinson, Mr Grewal and Ms Kennan and Scott Cummins, 22 September 2014, 10.00 am.

432. JWS did not give any other advice as to the making of an announcement in response to the 22 September Rear Window article at any other time.

JWS advice and the announcement of 27 October 2014

433. By 24 October 2014, negotiations between the DEECD and Vocation concerning the outcome of the DEECD's review of 3 qualifications, being Warehousing, CSP and CGEA had progressed to a point at which it was likely that the DEECD and Vocation would enter an agreement to resolve the issues raised by the DEECD with Vocation concerning those qualifications (the **Anticipated DEECD Settlement**).

434. Between 24 October 2014 and 27 October 2014, JWS advised Vocation on the terms of an announcement to be made to the ASX disclosing the terms of the Anticipated DEECD Settlement once it had been entered.

Particulars

Email Mr Hutchinson to Mr Rozsa and Mr Koster, 24 October 2014, 10.31 am.

Email Ms Turtle to Mr Koster 24 October 2014, 3.08 pm.

Email Mr Koster to Mr Hutchinson and Ms Turtle, 24 October 2014, 3.55 pm.

*Email Mr Koster to John Hurst (**Mr Hurst**), Mr Hutchinson and Ms Turtle, 24 October 2014, 5.38 am.*

Email Mr Hutchinson to Mr Koster, Mr Hurst and Ms Turtle, 24 October 2014, 6.34 pm.

Email Mr Hurst to Mr Koster, 24 October 2014, 6.55 pm.

Email Mr Koster to Mr Hurst and Mr Hutchinson, 25 October 2014, 2.59 pm.

Email Mr Hutchinson to Mr Hurst and Mr Grewal, copied to Mr Koster, Mr Rozsa, Dougal Ross and Naomi Philp, 25 October 2014, 7.27 pm.

Email Mr Koster to Mr Dawkins and Mr Grewal, 25 October 2014, 8.04 pm.

*Email Mr Koster to Mr Hurst, copied to Mr Hutchinson, Mr Rozsa, Dougal Ross (**Mr Ross**) and Naomi Philp (**Ms Philp**), 25 October 2014, 8.08 pm.*

Email Mr Hutchinson to Mr Koster, 26 October 2014, 9.23 pm.

Teleconference 26 October, 10.30 am, attended by Mr Koster, Mr Hutchinson, Mr Grewal, Mr Dawkins, Mr Rozsa, Ms Philp, Mr Hurst and Mr Ross.

Email Mr Grewal to Mr Koster and Mr Dawkins, 26 October 2014, 1.28 am.

Email Mr Koster to Mr Hutchinson, 26 October 2014, 3.26 pm.

Email Mr Koster to Mr Hutchinson, 26 October 2014, 4.40 pm.

Email Mr Koster to Mr Grewal, 26 October 2014, 4.47 pm.

Email Mr Koster to Mr Hutchinson, 26 October 2014, 5.54 pm.

Email Mr Grewal to Mr Hutchinson, Mr Koster and Mr Hurst, 26 October 2014, 7.25 pm.

Email Mr Koster to Mr Grewal, 26 October 2014, 4.47 pm.

Email Mr Hutchinson to Mr Koster, 26 October 2014, 6.51 pm.

Email Mr Koster to Mr Hutchinson, 26 October 2014, 9.06 pm.

Email Mr Koster to Mr Hutchinson, 26 October 2014, 10.58 pm.

Email Mr Hurst to Mr Hutchinson, Mr Rozsa, Mr Koster and Mr Grewal, 27 October 2014, 7.16 am.

Email Mr Hurst to Mr Koster, Mr Grewal and Mr Hutchinson, 27 October 2014, 8.37 am.

Email Mr Grewal to Mr Hutchinson, Mr Koster, Mr Hurst and Mr Fitzgibbon, 27 October 2014, 9.10 am.

Email Mr Koster to Mr Hurst, Mr Grewal and Mr Hutchinson, 27 October 2014, 5.00 pm.

435. There was no advice given by JWS in relation to the necessary content of an announcement to be made to the ASX on 27 October 2014 as at 27 October 2014 which was not incorporated in that announcement.

436. Between late July and 27 October 2014, JWS did not advise Vocation that Vocation was obliged to make any disclosure to the ASX in addition to such disclosures as Vocation did make in relation to the subject matter of any of the continuous disclosure breaches alleged against Vocation in the FACSOC.

674(2B) defence

437. If Vocation is found to have contravened s674(2) of the Corporations Act (which is denied):

   (a) Mr Dawkins was not a person involved in that contravention for the purpose of s674(2A); and alternatively

   (b) by reason of the matters pleaded in 300 to 436 above, Mr Dawkins:

      (i) took all steps that were reasonable in the circumstances to ensure that Vocation complied with its obligations under s674(2); and

      (ii) after doing so believed on reasonable grounds that Vocation was complying with those obligations, and is entitled to rely on the defence in s674(2B) of the *Corporations Act*.

SECTION 1318 DEFENCE

438. Further and in the alternative, by reason of the matters pleaded above, if Mr Dawkins is otherwise liable in respect of the matters alleged by PwC, Mr Dawkins acted honestly and having regard to all the circumstances of these proceedings, he ought fairly be excused and wholly relieved from liability pursuant to section 1318 of the *Corporations Act*.

Date: ~~4 December 2018~~ 4 May 2020

……………………………………………….
Signed by Andrew Salgo
Lawyer for the Third Cross-Respondent

This pleading was prepared by Andrew Salgo, Amy Middlebrook and Jayme-Lyn Hendriks and settled by Marcus Pesman SC.

Certificate of lawyer

I Andrew Salgo certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and

(b) each denial in the pleading; and

(c) each non admission in the pleading.

Date: ~~4 December 2018~~ 4 May 2020

Signed by Andrew Salgo
Lawyer for the Third Cross-Respondent