

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Interlocutory process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 3
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Date of Lodgment: 31/07/2023 9:23:41 AM AEST
Date Accepted for Filing: 31/07/2023 10:47:35 AM AEST
File Number: NSD754/2020
File Title: PETER PAUL KREJCI AND ANDREW JOHN CUMMINS AS VOLUNTARY ADMINISTRATORS OF UNION STANDARD INTERNATIONAL GROUP
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

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

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



Form 3 Amended Interlocutory process

(Rules 2.2 and 11.3)

Federal Court of Australia

No. NSD754 of 2020

District Registry: New South Wales

Division: General

IN THE MATTER OF UNION STANDARD INTERNATIONAL GROUP PTY LTD (IN LIQUIDATION)

ACN: 117 658 349

Peter Paul Krejci and Andrew John Cummins in their capacity as joint and several liquidators of Union Standard International Group Pty Ltd (in liquidation) (ACN 117 658 349)

Plaintiffs

A Details of application

This application is made under section 90-15(1) of the *Insolvency Practice Schedule (Corporations) 2016* (Cth) (**IPSC**), section 63 of the *Trustee Act 1925* (NSW) (**Trustee Act**) and section 588FF(3)(b) of the *Corporations Act 2001* (Cth) (**Corporations Act**).

This application relates to orders and directions that the Plaintiffs, in their capacity as joint and several liquidators (**Liquidators**) of Union Standard International Group Pty Ltd (in liquidation) (ACN 117 658 349) (**Company**), are justified in using trust money to ~~commence~~ continue certain proceedings and for an order extending time generally in relation to voidable transactions potentially available to the Liquidators.

On the facts stated in the supporting affidavit(s), the Liquidators apply for the following relief:

- 1 — ~~Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators are justified in commencing and continuing proceedings on behalf of the Company against Ron Gauld, Robert Tulloch and Nino Bove trading in partnership as Gauld Tulloch Bove in respect of the claims identified in the confidential affidavit of Peter Paul Krejci sworn and filed on 23 June 2023 (**Auditor Proceedings**).~~
- 2 — ~~Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators are justified in commencing and continuing proceedings on behalf of the Company against Shay Zakhaim in respect of the claims identified in the confidential affidavit of Peter Paul Krejci sworn and filed on 23 June 2023 (**Officer Proceedings**).~~

Filed on behalf of	The Plaintiffs
Prepared by	Mark Petrucco
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- 1 Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators are justified in continuing proceedings NSD658/2023 commenced against Shay Zakhaim and Gauld Tulloch Bove (**Auditor and Officer Proceedings**).
- 2 Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators are justified in continuing proceedings NSD683/2023 commenced against LS Capital Holdings Pty Ltd (ACN 164 494 811) (**LS Capital Proceedings**).
- 3 Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators' remuneration (subject to approval by creditors, the Committee of Inspection or the Court), costs and expenses (including legal costs and disbursements) in connection with this application, the Auditor Proceedings and the Officer Proceedings and the LS Capital Proceedings be paid out of funds held by the Company on statutory trust pursuant to section 981H of the Corporations Act.
- 4 Pursuant to section 90-15(1) of the IPSC or section 63 of the Trustee Act, the Liquidators are justified in paying the remuneration referred to in order 3 upon the making of a resolution by the Committee of Inspection or creditors of the Company approving that remuneration or alternatively upon approval by the Court of that remuneration.
- 5 Pursuant to section 588FF(3)(b) of the Corporations Act, the time for the making of an application by the Liquidators under section 588FF(1) of the Corporations Act be extended generally to 8 July 2026.

Date: ~~26 June 2023~~ 28 July 2023

A handwritten signature in black ink, appearing to be 'A. O'Brien', written over a horizontal line.

Lawyer for the Plaintiffs

This application will be heard by _____ at the Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000 at _____ am/pm on _____.

B Notice to respondent(s)

Not applicable.

C Filing

This interlocutory process is filed by Hall & Wilcox for the Plaintiffs.

D Service

The Plaintiffs' address for service is C/- Hall & Wilcox, Level 18, 347 Kent Street, Sydney NSW 2000.

It is intended to serve a copy of this interlocutory process on the Australian Securities and Investments Commission and on LS Capital Holdings Pty Ltd (ACN 164 494 811).

NOTICE OF FILING

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
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VOLUNTARY ADMINISTRATORS OF UNION STANDARD
INTERNATIONAL GROUP
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. NSD754 of 2020

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

IN THE MATTER OF UNION STANDARD INTERNATIONAL GROUP PTY LTD (IN
LIQUIDATION)
ACN: 117 658 349

**Peter Paul Krejci and Andrew John Cummins in their capacity as joint and several
liquidators of Union Standard International Group Pty Ltd (in liquidation) (ACN 117 658
349)**

Applicants

Affidavit of: **Peter Paul Krejci**
Address: Level 30, Australia Square, 264 George Street, Sydney NSW 2000
Occupation: Chartered Accountant and Registered Liquidator
Date: 30 June 2023

Contents

Document number	Details	Paragraph	Page
	Affidavit of Peter Paul Krejci in support of interlocutory process for directions under section 90-15(1) of the IPSC and section 63 of the Trustee Act and an extension under section 588FF(3)(b) of the Corporations Act sworn on 30 June 2023	1-52	1-17
	Exhibit "PPK-13" to the affidavit of Peter Paul Krejci sworn on 30 June 2023		1-70
1	<i>Krejci, in the matter of Union Standard International Group Pty Limited (in liq) (No 7) [2022] FCA 890</i>	6	1-7


• Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Mark Petrucco
Law firm (if applicable) **Hall & Wilcox**
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Address for service Level 18 347 Kent Street Sydney 2000 Australia
(include state and postcode)
Open affidavit of Peter Krejci

2	Transcript of Federal Court of Australia Proceedings No. NSD 754 of 2020 on 1 December 2022 signed by Shay Zakhaim	23	8-97
3	USG Samoa consolidated financial statement for year ended 30 June 2019	24	98-101
4	Undated maintenance agreement between the Company and World Media Investment Limited	27	102-106
5	Form AP01 Appointment of Director to World Media Investment Limited dated 11 January 2012	27	107-109
6	Audited financial report for the Company for financial year ended 30 June 2018	28	110-124
7	Audited financial report for the Company for financial year ended 30 June 2019	28	125-139
8	ASIC search of LS Capital Holdings Pty Ltd dated 20 June 2023	46	140-156
9	Letter from Hall & Wilcox to LS Capital Holdings Pty Ltd dated 19 May 2023	47	157-162
10	Letter from Hall & Wilcox to O'Loughlin Westhoff dated 19 May 2023	47	163-168
11	Letter from O'Loughlin Westhoff to Hall & Wilcox dated 7 June 2023	48	169-170

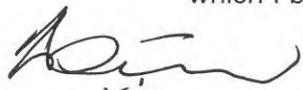
I, **Peter Paul Krejci** of Level 30, Australia Square, 264 George Street, Sydney New South Wales 2000, Chartered Accountant and Registered Liquidator, say on oath:

A Preliminary

1 I refer to my affidavit sworn and filed on 22 July 2022 in these proceedings (**July 2022 Open Affidavit**). I make this affidavit in the same capacity as that affidavit, that is, in my capacity as a joint and several liquidator of Union Standard International Group Pty Ltd (in liquidation) (**Company**). Unless otherwise defined in this affidavit, I adopt the defined terms contained in my July 2022 Open Affidavit for the purpose of this affidavit.

2 I make this affidavit from:

- (a) my own knowledge obtained in the course of my appointment as administrator, and subsequently as liquidator, of the Company;
- (b) my examination of the books and records of the Company that have been made available to me and my staff;
- (c) information provided to me by my staff working on the external administration, which I believe to be true and correct;

- (d) my discussions with, and from the information provided to me by, certain officers and employees of the Company; and
- (e) information obtained during the course of public examinations conducted in late 2022 and early 2023, as described further below.

3 Exhibited before me and marked “**Exhibit PPK-13**” is a bundle of documents to which I will refer in this affidavit. References to page numbers in this affidavit are references to page numbers in Exhibit PPK-13.

B Application

4 I make this affidavit supplementary to a confidential affidavit I swore on 23 June 2023 and which was filed in these proceedings on 28 June 2023 (**June 2023 Confidential Affidavit**). I swore the June 2023 Confidential Affidavit in support of an Interlocutory Process filed on 28 June 2023 under which the Liquidators seek:

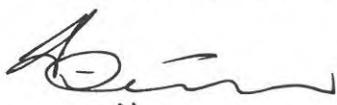
- (a) directions under section 90-15(1) of the *Insolvency Practice Schedule (Corporations) 2016* (Cth) and section 63 of the *Trustee Act 1925* (NSW) that the Liquidators are justified in commencing and continuing proceedings on behalf of the Company against:
 - (i) its former auditors, Ron Gauld, Robert Tulloch and Nino Bove trading in partnership as Gauld Tulloch Bove (**GTB**); and
 - (ii) its former Chief Executive Officer, Shay Zakhaim;
- (b) an order under section 588FF(3)(b) of the Corporations Act extending time generally until 8 July 2026 for the Liquidators to bring any application for voidable transactions under section 588FF(1) of the Corporations Act.

C Relevant background

5 On 17 June 2022, I swore a confidential affidavit (**June 2022 Confidential Affidavit**), which was filed in these proceedings on 22 July 2022, in support of, among other things, an application by the Liquidators to conduct public examinations under sections 596A and 596B of the Corporations Act in relation to the examinable affairs of the Company.

6 On 25 July 2022, Justice Jagot delivered judgment in *Krejci, in the matter of Union Standard International Group Pty Limited (in liq)* (No 7) [2022] FCA 890 (**July 2022 Judgment**) and made orders that the Liquidators were justified in using funds held by the Company on statutory trust under section 981H of the Corporations Act to conduct the public examinations. A copy of the judgment is at pages **1 to 7**.

7 Prior to that judgment, her Honour handed down judgment on 26 November 2021 in *Krejci, in the matter of Union Standard International Group Pty Limited (in liq)* [2021]



FCA 1483 (**November 2021 Judgment**). A copy of the judgment is at pages 219 to 270 of Exhibit PPK-12 to the July 2022 Affidavit Open Affidavit.

8 In the November 2021 Judgment, her Honour found that funds identified by the Liquidators and held by the Company are held on statutory trust under section 981H of the Corporations Act (**Trust Funds**) and that trust creditors of the Company are beneficially entitled to the Trust Funds to the exclusion of ordinary unsecured creditors.

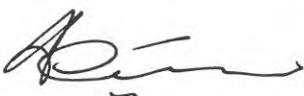
9 In the July 2022 Open Affidavit, I relevantly deposed to:

- (a) my qualifications and experience (at [6]-[9]);
- (b) the circumstances of the Liquidators' appointment as voluntary administrators and subsequently as Liquidators (at [10]-[12]);
- (c) the background to the Company's financial services business and significant overseas operations, particularly in Taiwan (at [13]-[22]);
- (d) the Liquidators' repeated attempts to gain access to the Company's books and records, including various applications to the Court (at [23]-[39]);
- (e) the ASIC Proceedings (at [40]-[41]);
- (f) the Trust Funds and the November 2021 Judgment (at [42]-[44]);
- (g) the financial position of the Company (at [45]-[47]);
- (h) an analysis of the return to creditors of the Company in the absence of any recoveries from claims (at [48]-[49]);
- (i) a high level overview of the proposed public examinations (at [50]-[55]);
- (j) the attitude of the COI to the proposed public examinations (at [56]-[57]);
- (k) the estimated fees for the proposed public examinations (at [58]-[59]); and
- (l) additional matters for investigation regarding parties domiciled overseas (at [60]-[62]).

10 On 4 August 2022, Justice Jagot granted leave to the Liquidators to file and serve summonses for examination under sections 596A and 596B of the Corporations Act and orders for production under rule 30.34 of the *Federal Court Rules 2011* (Cth).

11 Between about August 2022 and December 2022, the Liquidators and our solicitors, Hall & Wilcox, undertook a significant amount of work preparing for the public examinations.

12 The public examinations were held on 1, 2, 5 and 7 December 2022 and 6, 14 and 15 February 2023 before Registrar Schmidt of this Honourable Court. The following people were examined by the Liquidators' counsel, David Sulan SC and Michael Rose:



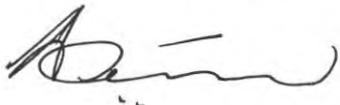
- (a) Mr Zakhaim;
- (b) Darren Burns, a Director of the Company;
- (c) Joyce Shen, the Operations Manager of the Company;
- (d) Ilyas Ahmed, a former Director of Shuriken Consulting Sydney Pty Ltd, the Company's former accountants;
- (e) Andrew Jeffers, another former Director of Shuriken Consulting Sydney Pty Ltd;
- (f) Pedro Sasso, a Director of the Company's former corporate authorised representative, Maxi EFX Global AU Pty Ltd (**Maxi**);
- (g) Su-King Hii, a Director of Innoinvest Pty Ltd (**Innoinvest**), the Company's former solicitor;
- (h) Daniel Pienaar, a former Audit Senior employed by GTB; and
- (i) Mr Tulloch.

D Claims identified

- 13 Following the public examinations, the Liquidators have identified certain claims available to the Company against GTB and Mr Zakhaim (**Confidential Claims**). The Liquidators have received certain privileged and confidential advice in relation to the Confidential Claims and have determined to pursue them on behalf of the Company. Neither the Liquidators nor the Company waive privilege or confidentiality in that advice.

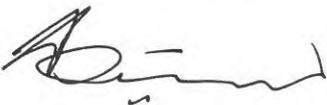
E Fees for public examinations

- 14 In paragraphs 58 to 59 of the July 2022 Open Affidavit, I estimated, based on my experience and information provided to me by Hall & Wilcox, that the costs of the public examinations would be approximately \$1,080,735 excluding GST, comprising \$620,535 excluding GST in legal costs and disbursements and \$460,200 excluding GST in the Liquidators' remuneration and expenses.
- 15 The actual costs of the public examinations exceeded that amount by approximately \$163,997.79 excluding GST. In particular, based on invoices issued to the Liquidators and information provided to me by Hall & Wilcox, Hall & Wilcox's professional fees and disbursements incurred in relation to the public examinations between the period 1 April 2022 to 23 March 2023 totalled approximately \$913,153.79 excluding GST comprising \$660,553.50 excluding GST in professional fees and \$252,600.29 excluding GST in disbursements (principally comprising fees for senior and junior counsel, court hearing fees, transcript costs and fees for the engagement of an audit and accounting expert to assist in the examinations).

16 I am informed by Hall & Wilcox that the principal reasons for the increase in their fees as compared with the estimate that was contained in the July 2022 Open Affidavit are as follows (which is not an exhaustive list):

- (a) the review of approximately 87,456 of the Company's documents in respect of which no allowance was made in the estimate;
- (b) the review of approximately 36,406 documents produced in response to orders for production in circumstances where the estimate of \$50,000 excluding GST to review that number of documents proved to be insufficient;
- (c) dealing with, advising on, and appearing to instruct junior counsel on an application by Mr Sasso for his examination to be held in private having regard to the fact that he was at that time giving evidence in the liability phase of the ASIC Proceedings;
- (d) considering, preparing and applying for and issuing summonses for examination to Mr Pienaar and Mr Hii and an order for production to Innoinvest in circumstances where the estimate did not contemplate those matters;
- (e) substantial correspondence with multiple witnesses and recipients of orders for production regarding compliance with summonses for examination and orders for production;
- (f) preparing instructions for skip trace reports in respect of multiple witnesses and preparing and filing an application for substituted service on Anthony Best (an examinee whose examination did not proceed) and Mr Ahmed;
- (g) preparing for and appearing at multiple return of orders for production before Registrar Schmidt in circumstances where some producing parties produced in tranches;
- (h) dealing with Maxi's professional indemnity insurer regarding a complaint made by it as to the alleged confidentiality of insurance related documents sought under an order for production issued to Maxi at the request of the Liquidators;
- (i) as noted above, briefing an audit and accounting expert, GowerJones, conferences with GowerJones and review of GowerJones' reports; and
- (j) substantial correspondence with an 'eligible applicant' (as defined in section 9 of the Corporations Act) (who is an Investor) in relation to the public examinations and advising on and appearing at the hearing of the eligible applicant's application to inspect documents produced by the Commonwealth Bank of Australia.

- 17 The Liquidators' fees and expenses relating to the public examination work between the period 1 July 2022 to 23 March 2023 was \$331,579.00 excluding GST. The actual costs were below the estimate of \$460,200 excluding GST disclosed in the July 2022 Open Affidavit. Included in this actual amount is the document management expense totalling \$46,536.00 excluding GST, which was previously included in the legal costs estimate for the public examinations but not in the actual costs referred to above.
- 18 In accordance with order 2 of Justice Jagot's orders made on 25 July 2022 in these proceedings, the costs of the public examinations referred to above have been disclosed to the COI and they have resolved to approve them. Accordingly, those amounts have been (or will be) paid from Trust Funds.

F Attitude of the COI to this application

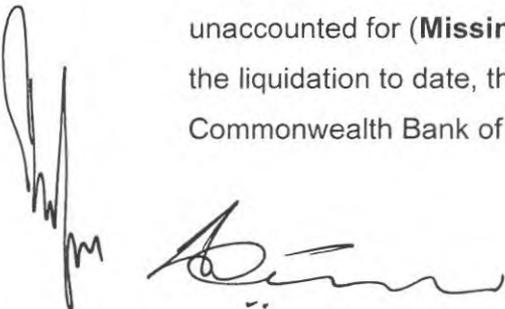
- 19 On 13 June 2023, the Liquidators issued a confidential report to the COI convening a meeting of the COI for 20 June 2023. At that meeting, the COI relevantly voted in favour of:
- (a) resolutions to commence proceedings for the Confidential Claims having been informed of, among other things, the costs and recovery prospects of the Confidential Claims; and
 - (b) a resolution to obtain a shelf order pursuant to section 588FF(3)(b) of the Corporations Act to enable further investigations to be undertaken as described further in paragraphs 21 to 49 below.
- 20 Neither the Company nor the Liquidators waive privilege or confidentiality in the report to the COI or the confidential discussions with COI members during the COI meeting on 20 June 2023 or otherwise.

G Shelf order

- 21 In the circumstances described below, the Liquidators consider that there may be significant voidable transaction claims available to us under section 588FF(1) of the Corporations Act in respect of parties domiciled or residing within and outside Australia.

Circumstances which might give rise to voidable transaction claims

- 22 As recorded by her Honour at [5(6)] of the July 2022 Judgment, the Liquidators consider it is possible that up to \$584 million in Investors' and Trading Clients' funds are unaccounted for (**Missing Funds**). In this regard, and despite proofs of debt lodged in the liquidation to date, there was only approximately \$6 million held in the Company's Commonwealth Bank of Australia client trust accounts as at the date of our appointment.



- 23 The Liquidators understand that Queena Lee, who is domiciled in Taiwan, had significant involvement in the operations of the Company. Mr Zakhaim gave evidence in the public examinations that Ms Lee was effectively the Chief Financial Officer (**CFO**) or Chief Operating Officer (**COO**) of the Company but later clarified he understood she was the CFO of the Company's parent company, Union Standard International Group Holdings Limited, a company incorporated in Samoa (**USG Samoa**). A signed copy of the transcript of Mr Zakhaim's examination is at pages **8 to 97**.
- 24 My staff located in the Company's books and records a financial document that appears to disclose that USG Samoa had USD 1 billion in current assets as at 30 June 2019. However, neither USG Samoa nor any party on behalf of USG Samoa has meaningfully engaged with the Liquidators or responded to our queries during the liquidation. A copy of the USG Samoa document is at pages **98 to 101**.
- 25 There are a number of what appear to be related party transactions between the Company and alleged overseas service providers either connected with Ms Lee or the 'Taiwan Back Office' (which, as explained in paragraph 22 of the July 2022 Open Affidavit, was the Company's back office operation based in Taiwan). Those transactions appear to be between the Company and the following related parties between financial years 2017 to 2020: Mikado Group S.A. (**Mikado**), Olympus Technology Limited (**Olympus**), Phoenix Tree Technology Limited (**Phoenix Tree**) and Fuyu International Technology Limited (**Fuyu**) (together, **Related Party Transactions**).
- 26 As identified in paragraph 17(j) of the July 2022 Open Affidavit, the Company used offshore money processing entities (**Money Processors**) to receive and transmit money from Trading Clients and Investors to the Company's local Commonwealth Bank of Australia trust accounts. As further identified in paragraph 42(c) of the July 2022 Open Affidavit, approximately \$15.6 million was held by Money Processors as at the date of our appointment and only \$948,000 has been recovered from them. Of the money held by Money Processors, the books and records of the Company record that approximately \$14.6 million is owed by a particular Money Processor, U-Pay. The Liquidators have not been able to recover those funds from U-Pay.
- 27 The Liquidators also identified a company called World Media Investment Limited (**WMI**), which is incorporated in the United Kingdom. At pages **102 to 106** is a maintenance agreement between the Company and WMI and at pages **107 to 109** is a form lodged with Companies House which records the appointment of 'Philomena Evans' as a director of WMI on 12 January 2012 and her address as an address in Taiwan. The Liquidators understand Philomena Evans to be the same person as Ms Lee. One of the Money Processors identified during a 2019 audit of the Company was in the name of WMI and not the Company.



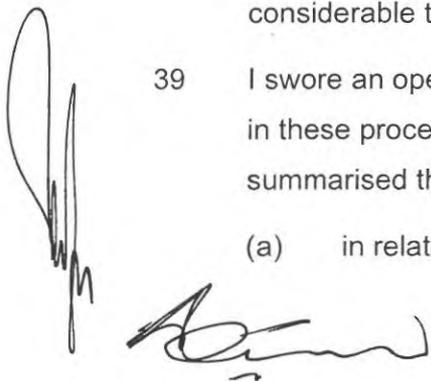
- 28 At pages **110 to 124** and **125 to 139** are the Company's audited financial statements for the financial years 2018 and 2019 respectively. The 2018 financial statements record revenue in the 2017 financial year of approximately \$93 million and 'agent commission expenses' of approximately \$79 million. The 2018 financial statements also record revenue in the 2018 financial year of approximately \$117 million and 'agent commission expenses' of approximately \$105 million. The 2019 financial statements record revenue in the 2019 financial year of approximately \$142 million and 'agent commission expenses' of approximately \$118 million.
- 29 The Liquidators understand those substantial 'commission expenses' to relate to payments made to agents (also known as 'introducing brokers' or 'IBs') in China and Taiwan to promote the Company's fixed-rate investment product to people resident in those jurisdictions (which the Company was apparently not authorised to do under the terms of its Australian financial services licence). Mr Zakhaim gave evidence during the public examination (T54.34) (page **61**) that the Taiwan 'sales team' was responsible for negotiating Taiwanese IBs' agreements and commissions and that Ms Lee was responsible for making payments to Taiwanese IBs (T56.10) (page **63**).
- 30 The Liquidators understand that the majority of the agent commission was paid by the Company to IBs located in Taiwan and China. The Liquidators consider that the payment of that commission requires further investigation to determine whether there was a justifiable basis for the payments in circumstances where it appears Ms Lee was responsible for the making of those payments on behalf of the Company.

Reasons for delay

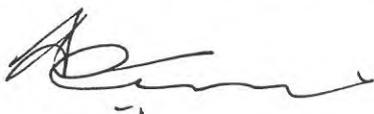
- 31 As identified in paragraphs 10 to 12 of the July 2022 Open Affidavit, the Liquidators were appointed as voluntary administrators on 8 July 2020 and were appointed as Liquidators on 3 September 2020 in accordance with orders made by Justice Yates (**September 2020 Judgment**). A copy of his Honour's reasons for judgment are at pages 7 to 21 of Exhibit PPK-12 to the July 2022 Open Affidavit.
- 32 Among other things, his Honour refers at [9] of the September 2021 Judgment, to the extensive attempts made by the Liquidators (then in our capacity as voluntary administrators) to obtain access to the Trading Platforms and Servers, including through several applications to the Court and that we had been 'thwarted' in that task despite orders made by the Court.
- 33 His Honour goes on to explain at [32] that the Liquidators' (then in our capacity as voluntary administrators) investigations into the affairs of the Company had been restricted as a result of active efforts of USG Samoa and other related parties to prevent us from gaining access to the Company's Trading Platforms, while noting that those

Trading Platforms store most of the Company's books and records that were required to conduct its business.

- 34 It remains the case, as at the date of this affidavit and as identified in paragraph 38 of the July 2022 Open Affidavit, that the Liquidators:
- (a) have not received any further login details or passwords from USG Samoa or Mr Soe or any related party or their legal representatives;
 - (b) do not have access to the Trading Platform;
 - (c) no longer have access to the Servers through which the Trading Platform formerly operated and are unable to interrogate the data (if any remained) on the Servers without the "administrator access" to the Trading Platform and/or the Trading Platform software, which also appears to have moved from the original IP addresses to the Servers; and
 - (d) understand that the Trading Platform software is now located on new servers with new IP addresses.
- 35 On 8 December 2020, the Liquidators filed an Interlocutory Process in these proceedings seeking an order, among others, that the Liquidators were justified in taking no further steps to close out any derivative or foreign exchange contracts which remained open between the Company and its clients.
- 36 The relief sought in that Interlocutory Process was by reason that the Liquidators did not (and still do not) have "administrator access" to the Trading Platforms to enable us to close out of open client positions. That is because the Liquidators' suspected that USG Samoa had "administrator access" but would not comply with any direction from the Liquidators to close out those open positions, given USG Samoa's conduct.
- 37 On 16 December 2020, Lee J made an order, among others, that the Liquidators were justified in taking no further steps in relation to the closing out of open client positions.
- 38 On 23 April 2021, the Liquidators made an application to the Court for directions as to the priority in the distribution of the proceeds between the Trading Clients and the Investors which culminated in the November 2021 Judgment. The Liquidators spent considerable time preparing for that application, including instructing our lawyers.
- 39 I swore an open affidavit on 23 April 2021 in support of that application, which was filed in these proceedings on 13 May 2021, and which, at paragraphs 224 to 229, summarised the work the Liquidators had undertaken to that date, as follows:
- (a) in relation to the Company's assets:



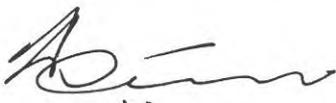
- (i) liaising with interested parties in relation to the sale of the Company's assets;
 - (ii) liaising with MetaQuotes in relation to the sale of the Trading Platform licences;
 - (iii) engaging in activities to facilitate the sale of the Company's business (including advertising and establishing a data room);
 - (iv) recovering funds from various offshore entities;
 - (v) liaising with local financial institutions regarding the recovery of Company funds;
 - (vi) liaising with overseas financial institutions regarding the recovery of Company funds;
 - (vii) liaising with valuers regarding the sale of the Company's plant and equipment;
 - (viii) liaising with debtors and sending demands to debtors;
 - (ix) liaising with interested parties in relation to the Sheffield United FC sponsorship; and
 - (x) generally investigating the availability of assets of the Company that could be brought in;
- (b) in relation to creditors:
- (i) setting up a dedicated email inbox for creditor inquiries;
 - (ii) daily review of the creditor inbox, considering and responding to creditor inquiries;
 - (iii) setting up and using 'Mailchimp' software for distribution of very large volume of emails to creditors and clients;
 - (iv) website maintenance to upload and distribute correspondence to creditors;
 - (v) attending to significant volume of creditor inquiries by email and telephone;
 - (vi) creating and maintaining a creditor inquiry register;
 - (vii) creating and maintaining a client complaints register;
 - (viii) investigating claims and enquires made by creditors;



- (ix) preparing lengthy and detailed reports to creditors and additional circulars to creditors updating on the ongoing progress of the administration and liquidation;
 - (x) convening, preparing for and attending meetings of creditors;
 - (xi) meeting and liaising with the COI;
 - (xii) receiving, considering and uploading proofs of debt into database;
 - (xiii) preparing reports to the COI; and
 - (xiv) liaising with clients who had deposited funds after the Liquidators' appointment;
- (c) in relation to employees:
- (i) receiving, following up and actioning employee enquiries both in person and by telephone;
 - (ii) creating and maintaining an employee inquiry register;
 - (iii) reviewing payroll records;
 - (iv) considering and verifying outstanding employee entitlements;
 - (v) considering issues relating to termination of non-essential employees;
 - (vi) liaising with the Attorney-General's Department (Fair Entitlements Guarantee Scheme) in relation to the status of the liquidation;
 - (vii) corresponding with employees by email and post; and
 - (viii) federal and state tax reporting obligations;
- (d) in relation to trade on activities:
- (i) conducting a detailed assessment of the Company's financial position;
 - (ii) liaising with ASIC in respect of the Company's AFSL;
 - (iii) meeting with Australian based directors and management staff of the Company to assess appointment and trading position;
 - (iv) reviewing daily client equity reports and considering financial position of the Company;
 - (v) liaising with Company staff to reconcile inconsistencies in daily client equity reports;
 - (vi) ongoing cashflow management (including payment to suppliers and employees for continued service);



- (vii) ongoing cashflow management (including payments to suppliers and employees for continued service);
 - (viii) reviewing service agreements and contracts with trade suppliers;
 - (ix) liaising with suppliers in relation to administrator access to the Trading Platforms and Servers;
 - (x) conducting cashflow analysis for trade on and associated employment costs;
 - (xi) instructing solicitors to make an application for an extension of the convening period (orders for which were made by Stewart J on 28 July 2020);
- (e) in relation to investigations:
- (i) collecting, listing and reviewing the physical records of the Company;
 - (ii) liaising with Company staff in relation to obtaining Company records;
 - (iii) obtaining secure copies of the Company's electronic records, including back-ups of computers and servers located at the Company's offices;
 - (iv) reviewing and analysing the electronic records of the Company that were available;
 - (v) obtaining translations of client documentation;
 - (vi) liaising with Australian based directors and management staff in relation to the financial position of the Company;
 - (vii) reviewing and considering Report on Company Activities and Property provided by Australian based directors;
 - (viii) analysing financial data obtained from Xero management accounts;
 - (ix) conducting detailed analysis of transactions reported in the shareholder loan accounts;
 - (x) conducting traces for withdrawals and payments from certain bank accounts;
 - (xi) engaging in substantial correspondence with USG Samoa relating to obtaining "administrator access" to the Trading Platforms and Servers;
 - (xii) detailed investigations of the apparent transfer of clients from the Company to USG Vanuatu;



- (xiii) comparison of the Company's records to bank accounts in respect of unexplained transactions;
- (xiv) liaising with IT experts in relation to obtaining access to the Trading Platforms and Servers;
- (xv) liaising with IT experts in relation to obtaining access to the Company's website and domain name;
- (xvi) investigating the Money Processors, including U-Pay;
- (xvii) obtaining and conducting a detailed review of pre-appointment bank statements;
- (xviii) ongoing and detailed reporting to ASIC as to the progress of the liquidation and the outcome of investigations;
- (xix) liaising with solicitors in relation to:
 - (A) "closing out" of trading client positions;
 - (B) the various Court applications in an attempt to obtain access to the Trading Platforms and Servers; and
 - (C) various other applications seeking justification orders;
- (f) as to administration work:
 - (i) attending to lodgement of statutory forms;
 - (ii) redacting Report on Company Activity and Property and other forms due to commercial sensitivity prior to lodgement;
 - (iii) conducting bank account reconciliations and cashbook management;
 - (iv) notifying relevant parties of Liquidators' appointment;
 - (v) preparing and issuing "day one" correspondence to banks, utilities and statutory agencies; and
 - (vi) reviewing of insurance policies and identifying issues requiring attention of insurance specialists.

40 The Liquidators have been involved (albeit in a limited capacity) in the ASIC Proceedings since December 2019 in which ASIC seeks, among other things, pecuniary penalty orders and non-party redress orders against the Company and certain of its former corporate authorised representatives, including Maxi.

41 Following the November 2021 Judgment, the Liquidators engaged Hall & Wilcox to advise in relation to potential public examinations. Following Hall & Wilcox's

engagement, the Liquidators made the application on 17 June 2022 for judicial direction to use the Trust Funds for the public examinations which culminated in the July 2022 Judgment following which, as noted above, the public examinations occurred between December 2022 and February 2023,

42 The Liquidators then obtained certain confidential and privileged advice in respect of the Confidential Claims. That advice only became available after the conclusion of the public examinations and consideration of the evidence given by the nine examinees and the review of a significant amount of material produced in response to orders for production and the Company's books and records.

43 In summary, the Liquidators have conducted significant investigations into the business and affairs of the Company which are complex and have significant overseas connections, as described above and in paragraphs 13 to 22 of the July 2022 Open Affidavit. The Liquidators have also spent significant time identifying and getting in the assets of the Company, which are identified in paragraph 42 of the July 2022 Open Affidavit.

Further investigations

44 The Liquidators intend to make a further application to the Court for a direction that we would be justified in using Trust Funds to conduct limited examinations in Taiwan (including of Ms Lee) and issuing orders for production in Taiwan for the purpose of, among other things, seeking further information as to the merits and recoverability of potential voidable transactions in relation to:

- (a) the Missing Funds;
- (b) the Company's related entities, including Mikado, Olympus, Phoenix Tree, Fuyu, WMI and any other related entities the Liquidators are able to identify;
- (c) the Company's use of Money Processors, including the approximately \$14.6 million held by U-Pay which the Liquidators suspect is associated with USG Samoa, of which Ms Lee appears to be a key representative;
- (d) the significant 'agent commission' in the hundreds of millions of dollars paid to Taiwanese agents/IBs; and
- (e) USG Samoa for holding company liability in respect of an insolvent trading claim and/or accessorial liability in respect of the Company's dealings and creditors' claims.

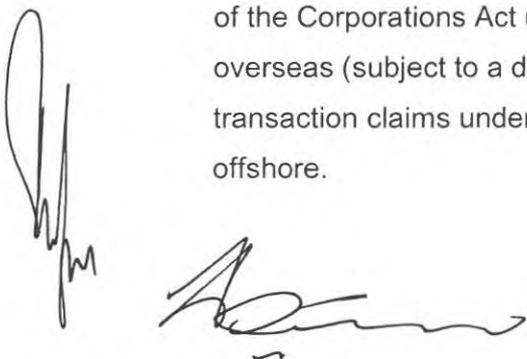
45 The Liquidators do not have sufficient information at present to enable us to commence proceedings in relation to the potential overseas voidable transaction claims. That is principally because the Liquidators suspect that many of the books and records of the

Company remain in Taiwan in the Taiwan Back Office and with related entities of Ms Lee.

- 46 The Liquidators have also identified a claim against Mr Zakhaim's related entity, LS Capital Holdings Pty Ltd (ACN 164 494 811) (**LS Capital**), arising out of payments made by the Company to LS Capital (**LS Capital Claim**). A current and historical search dated 20 June 2023 for LS Capital is at pages **140 to 156**.
- 47 On 19 May 2023, Hall & Wilcox sent a letter of demand to LS Capital and to Mr Zakhaim (via his solicitors, O'Loughlin Westhoff) in respect of the LS Capital Claim. A copy of those letters (excluding the enclosures) are at pages **157 to 162** and **163 to 168** respectively.
- 48 On 7 June 2023, O'Loughlin Westhoff sent a letter to Hall & Wilcox in response to the letter of demand issued to Mr Zakhaim. A copy of the letter is at pages **169 to 170**. I am informed by Hall & Wilcox that, as at the date of this affidavit, no response has been received from LS Capital to the letter of demand issued to it, although O'Loughlin Westhoff has since confirmed it has instructions to act for LS Capital in relation to an Order for Production issued at the request of the Liquidators (which I describe in the following paragraph).
- 49 The Liquidators wish to conduct further investigations into the LS Capital Claim. In this respect, on 28 June 2023, LS Capital produced some documents in response to an Order for Production issued at the request of the Liquidators to it on 9 June 2023 in these proceedings. The Liquidators have obtained uplift and inspection orders in relation to those documents in accordance with orders made by Registrar Rubinstein on 28 June 2023, although for completeness, while LS Capital did not object to those orders, it apparently did so on a without prejudice basis, noting that an application to set aside the Order for Production may be made at a later date and a notation to that effect is recorded in the orders made by the Registrar. The Order for Production has otherwise been adjourned to 9.00am on 4 July 2023.

Shelf orders

- 50 The Liquidators understand that any voidable transaction claims must be commenced by 8 July 2023. Accordingly, the Liquidators seek an extension under section 588FF(3)(b) of the Corporations Act until 8 July 2026 to undertake further investigations principally overseas (subject to a direction from the Court) and to commence any voidable transaction claims under section 588FF(1) of the Corporations Act both domestically and offshore.



H Privilege and confidentiality

51 By this affidavit, the Liquidators do not intend to waive privilege or confidentiality in respect of any matter, including in relation to the June 2022 Confidential Affidavit or the June 2023 Confidential Affidavit or the confidential exhibits to those affidavits or any advice received in connection with the Confidential Claims or the LS Capital Claim.

I Conclusion

52 Based on the matters set out in this affidavit, the Liquidators respectfully seek that the Court make orders in accordance with the Interlocutory Process filed on 28 June 2023.

Sworn by the deponent)
at Sydney)
in New South Wales)
on 30 June 2023)

Signature of deponent

Before me:



Signature of witness

Mark Petrucco, solicitor

Form 59
Rule 29.02(1)

Certificate for Exhibit PPK-13

No. NSD754 of 2020

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

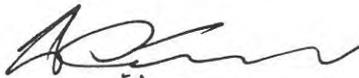
IN THE MATTER OF UNION STANDARD INTERNATIONAL GROUP PTY LTD (IN
LIQUIDATION)
ACN: 117 658 349

**Peter Paul Krejci and Andrew John Cummins in their capacity as joint and several
liquidators of Union Standard International Group Pty Ltd (in liquidation) (ACN 117 658
349)**

Applicants

Affidavit of: **Peter Paul Krejci**
Address: Level 30, Australia Square, 264 George Street, Sydney NSW 2000
Occupation: Chartered Accountant and Registered Liquidator
Date: 30 June 2023

This is the Exhibit marked 'PPK-13'.



Signature of witness

Mark Petrucco
Solicitor

FEDERAL COURT OF AUSTRALIA

Krejci, in the matter of Union Standard International Group Pty Limited (in liq) (No 7) [2022] FCA 890

File numbers: NSD 754 of 2020

Judgment of: **JAGOT J**

Date of judgment: 25 July 2022

Date of publication of reasons: 29 July 2022

Catchwords: **BANKRUPTCY AND INSOLVENCY** — application by liquidators to conduct public examinations — examinations required due to complex company affairs, significant sum of money unaccounted for and current marginal returns to creditors — application granted

Legislation: *Corporations Act 2001* (Cth) s 981H, sch 2 (*Insolvency Practice Rules (Corporations) 2016*) ss 90-15(1), 90-15(4)
Trustee Act 1925 (NSW) s 63

Cases cited: *Carter Holt Harvey Woodproducts Australia Pty Ltd v the Commonwealth* [2019] HCA 20; (2019) 268 CLR 524
Krejci, in the matter of Union Standard International Group Pty Limited (in liq) [2021] FCA 1483
Re Addstone Pty Ltd (In Liq) [1997] FCA 1043; (1997) 25 ACSR 357
Re Ansett Australia Limited (No 3) [2002] FCA 90; (2002) 115 FCR 409
Re KSK Holdings (Australia) Pty Ltd (In Liq) [2019] NSWSC 1463
Re One.Tel [2014] NSWSC 457; (2014) 99 ACSR 247

Division: General Division

Registry: New South Wales

National Practice Area: Commercial and Corporations

Sub-area: Corporations and Corporate Insolvency

Number of paragraphs: 8

Date of hearing: 25 July 2022
Counsel for the Applicant: Mr M Rose
Solicitor for the Applicant: Hall & Wilcox

ORDERS

NSD 754 of 2020

IN THE MATTER OF UNION STANDARD INTERNATIONAL GROUP PTY LIMITED (IN LIQUIDATION) (ACN 117 658 349)

PETER PAUL KREJCI AND ANDREW JOHN CUMMINS AS VOLUNTARY ADMINISTRATORS OF UNION STANDARD INTERNATIONAL GROUP PTY LIMITED (IN LIQUIDATION) ACN 117 658 349
Applicant

ORDER MADE BY: JAGOT J

DATE OF ORDER: 25 JULY 2022

THE COURT ORDERS THAT:

1. Pursuant to section 90-15(1) of Schedule 2 – Insolvency Practice Rules (Corporations) 2016 (**IPS**) to the *Corporations Act 2001* (Cth) (**Act**), that the Applicants (**Liquidators**) are justified in paying their remuneration (subject to approval by creditors, the Committee of Inspection or the Court), costs and expenses (including legal costs and disbursements) in connection with this application and the proposed public examinations described in the affidavit of Peter Paul Krejci sworn on 22 July 2022 out of the funds held by Union Standard International Group Pty Ltd (in liquidation) (ACN 117 658 349) (**Company**) on statutory trust pursuant to section 981H of the Act.
2. Pursuant to section 90-15(1) of the IPS and section 63 of the *Trustee Act 1925* (NSW), that the Liquidators are justified in paying the remuneration referred to in order 1 above upon the making of a resolution by the Committee of Inspection of the Company approving that remuneration or alternatively upon approval by the Court of that remuneration.
3. The applicants have leave to make any applications for the issue of examination summonses and the production of documents in the first instance to Justice Jagot.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

JAGOT J:

- 1 These reasons concern an application principally pursuant to s 90-15(1) of Sch 2 – *Insolvency Practice Schedule (Corporations) 2016* (the **IPS**) to the *Corporations Act 2001* (Cth) (the **Act**) seeking an order that the liquidators are justified in paying their remuneration, (subject to approval by creditors, the **Committee** of Inspection or the Court), costs and expenses in connection with this application and proposed public examinations as described in the evidence of Mr Peter Paul Krejci, liquidator, out of funds held by the company on statutory trust pursuant to s 981H of the Act.
- 2 The background circumstances to the making of this application are partly recorded in my previous decision of *Krejci, in the matter of Union Standard International Group Pty Limited (in liq)* [2021] FCA 1483, and otherwise, are set out in two affidavits (one of which is confidential) of Mr Krejci.
- 3 I have also been provided with written submissions on behalf of the liquidators which identify the relevant circumstances and statutory powers, as well as the relevant considerations which, in the liquidators’ submission, support the appropriateness of the making of the order as sought, having regard to the matters set out in s 90-15(4) of the IPS.
- 4 In *Carter Holt Harvey Woodproducts Australia Pty Ltd v the Commonwealth* [2019] HCA 20; (2019) 268 CLR 524 at [166], Gordon J referred to the currently applicable statutory language in s 90-15(1), “...the court may make such orders as it thinks fit in relation to the external administration of the company”, which is broad in its terms. The relevant principles include that:
- (1) it is appropriate that liquidators be able to seek the making of an order in the terms as currently sought in order to ensure that they are protected against claims that they have acted unreasonably or inappropriately or in breach of any duty in undertaking the proposed conduct (in this case, the proposed examinations) provided they make full and fair disclosure of all the relevant facts and circumstances to the Court: *Re Ansett Australia Limited (No 3)* [2002] FCA 90; (2002) 115 FCR 409 at [44] per Goldberg J;
 - (2) this principle is subject to the requirement that the order sought does not merely relate to the making of some business or commercial decision which is specifically a matter for the liquidators within the exercise of their discretion and without there being any

particular legal issue raised for consideration or other circumstance relevant to the propriety or reasonableness of the decision: see in particular, *Re Ansett* at [65] per Goldberg J;

- (3) as observed by Mansfield J in *Re Addstone Pty Ltd (In Liq)* [1997] FCA 1043; (1997) 25 ACSR 357 at 363, consistently with the observations above:

While the court is reluctant to give directions when purely commercial considerations are relevant to the liquidator's decision ... there will be circumstances where it is or may be appropriate to do so. One of those circumstances may be where the liquidator's proposed decision is the subject of criticism by a particular creditor or creditors.

- (4) to the same effect, Brereton J in *Re One.Tel* [2014] NSWSC 457; (2014) 99 ACSR 247 at [35] said that:

the court should not make a direction the effect of which is to exonerate the liquidator from personal liability in respect of a commercial judgment ... unless it is satisfied that the liquidator's decision is, in all the circumstances, a proper one.

- (5) in *Re KSK Holdings (Australia) Pty Ltd (In Liq)* [2019] NSWSC 1463 at [18], Rees J made observations to the same effect, noting that it was not necessary that there in fact be a current attack on the propriety or reasonableness of the liquidator's decision for the Court to make such a direction, but the Court may choose to do so where there is the prospect of such an attack.

5 In this case, the evidence and the written submissions for the liquidators identify the relevant circumstances which, in my view, make it appropriate that the Court make the orders sought. Without unnecessarily traversing the background in this matter, the current position is as follows:

- (1) the liquidators have received a substantial number of formal proofs of debt;
- (2) despite multiple applications to the Court, the liquidators' inquiries have and continue to be hampered (apparently) by the actions of related companies and persons;
- (3) subsequent to the orders I made on 14 December 2021 (giving effect to my reasons for judgment of 26 November 2021), the further inquiries of the liquidators disclose that, in all likelihood, there will be a very marginal return to the creditors;
- (4) the information that the liquidators have obtained thus far indicates substantial and serious questions about the workings of the company and the actions of multiple individuals and other corporate entities with which the company has had dealings;

- (5) without further information to understand the nature of those dealings, as noted, the return to creditors will be very marginal, in circumstances where there are serious questions about the dealings of the company and further investigations by way of the proposed public examinations are considered by the liquidators to be in the best interests of creditors; and
- (6) while the estimate of costs likely to be incurred in the carrying out of the proposed public examinations is substantial (in excess of \$1 million excluding GST), the seriousness of the issues raised in respect of the company's dealings and the other circumstances justify the liquidators in reaching the conclusion that the proposed public examinations represent the best opportunity for further information to be gathered and potentially for claims and recoveries to be made in the best interests of creditors. In this regard, I accept that the affairs and dealings of the company are complex and it appears that steps have been taken to frustrate and delay the liquidators' investigations, but nevertheless, those investigations have exposed that an extremely large sum of up to approximately \$585 million cannot be accounted for in the dealings of the company.

6 In these circumstances, I accept that while the costs of the public examinations as proposed are significant, they reflect the large number of persons proposed to be examined, the need to obtain documents and information from a large number of third parties, and the complexity of the company's affairs. Having regard to the *de minimis* estimated return to creditors otherwise, the costs of the proposed public examinations will not materially affect the returns to those creditors, given the overwhelming quantum of their claims.

7 It is also relevant that notice of this application has been given to the creditors of the company and none have objected. Further, the company's Committee (which includes representatives from the various classes of creditors), on the evidence, has been provided with regular reports from the liquidators detailing their progress in the liquidation as well as the proposed public examinations. The Committee has indicated its support for the proposed public examinations to be completed as expeditiously as possible and has not raised any objections to the use of the trust funds currently held for that purpose.

8 In these circumstances, I am satisfied that I should make orders as sought by the liquidators pursuant to s 90-15(1) of the IPS.

I certify that the preceding eight (8) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Jagot.

Associate:

Dated: 29 July 2022



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TRANSCRIPT OF PROCEEDINGS

O/N H-1792129

FEDERAL COURT OF AUSTRALIA

NEW SOUTH WALES REGISTRY

MR P. SCHMIDT, National Judicial Registrar & District Registrar

No. NSD 754 of 2020

**PETER PAUL KREJCI AND ANDREW JOHN CUMMINS AS VOLUNTARY
ADMINISTRATORS OF UNION STANDARD INTERNATIONAL GROUP**

SYDNEY

9.36 AM, THURSDAY, 1 DECEMBER 2022

**MR D.R. SULAN SC appears with MR ROSE for the applicant
MR G. O'MAHONEY appears for the respondent**

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THE REGISTRAR: Yes. All right. You can make the appearance, thank you.

MR D.R. SULAN SC: Thank you, your Honour – Registrar, sorry. I appear with
Mr Rose for the applicants.

5 THE REGISTRAR: So it's Mr - - -

MR SULAN: Sulan.

10 THE REGISTRAR: Sulan, sorry.

MR G. O'MAHONEY: Registrar, O'Mahoney. I appear for the examinee.

THE REGISTRAR: Yes, thank you, Mr O'Mahoney. Mr Sulan, anything that we
15 need to talk about before we start.

MR SULAN: I don't think so, Registrar. I think I'm in a position to call on the
summons directed to Mr Shay Zakhaim. If the court has that, it's dated - - -

20 THE REGISTRAR: Just give me a second, Mr Sulan. I'm not sure what had been
set up with respect to online access to the court, but we did get – obviously this is a
public examination and a public forum so - - -

MR SULAN: Yes.

25 THE REGISTRAR: We just had a request from some press to open a public link.
We can't say no on the basis - - -

MR SULAN: Yes.

30 THE REGISTRAR: We normally would allow it.

MR SULAN: I don't have anything to say about that.

35 THE REGISTRAR: Yes. Yes, that's why I just want to gauge the sort of - - -

MR SULAN: Yes.

THE REGISTRAR: Because I think normally we've just set it up for the people
40 involved but we have had a request - - -

MR SULAN: Yes.

THE REGISTRAR: - - - to set up a public link so I can't really stop it really, I
45 suppose.



MR SULAN: No, I have got no application to make, so - - -

THE REGISTRAR: Yes, thank you.

5 MR SULAN: Not as the examinee if that assists.

THE REGISTRAR: Yes, thank you.

MR SULAN: Sorry, the summons is dated 5 September 2022.

10

THE REGISTRAR: Sorry, I've just got a little technical problem here. Just give me one second to – give me thirty seconds, I've set up the wrong way here. Yes, sorry, it's Mr

15 MR SULAN: Zakhaim. Z-a-k-h-a-i-m.

THE REGISTRAR: Zakhaim, yes.

MR SULAN: And the first name is Shay. S-h-ay.

20

THE REGISTRAR: Yes. Mr O'Mahoney, any questions – any issues from your point of view?

25 MR O'MAHONEY: No, there is none. I can indicate the examinee will be taking an affirmation.

THE REGISTRAR: Yes, okay.

30 MR O'MAHONEY: Thank you, Registrar. I can also indicate as a courtesy, that he does intend to claim privilege in respect of every question that's put to him today.

THE REGISTRAR: Yes, which he'd be aware that unfortunately they have to do it every time.

35 MR O'MAHONEY: He's aware of that, as am I. I just want to - - -

THE REGISTRAR: My practice on this is, if you want to put a piece of paper in front of him with the word "privilege", I have no issues. Because it's important that the privilege be claimed.

40

MR O'MAHONEY: Certainly.

THE REGISTRAR: So if he wants to put a piece of paper. I have no issues with that.

45

MR O'MAHONEY: Grateful for that, Registrar. And if, at any stage today, he does overlook making the claim, I might - - -

THE REGISTRAR: That's fine.

MR O'MAHONEY: - - - ever so politely rise to let him know.

5 THE REGISTRAR: Yes, I will give him the normal talk which says that it's not my job or Mr Sulan's job to remind him. But feel free to interrupt whenever you feel like it, because it is important.

MR O'MAHONEY: Thank you.

10

THE REGISTRAR: Give me 30 seconds. Sorry, I just had to get things set up. Yes, call Mr Zakhaim.

15 <SHAY ZAKHAIM, AFFIRMED

[9.40 am]

THE REGISTRAR: Take a seat. Sorry, just quickly doing multiple things here at the minute. Yes, so how do I pronounce it, Zakhaim?

20

THE WITNESS: Sorry?

THE REGISTRAR: How do I pronounce your name, sorry?

25 THE WITNESS: Zakhaim.

THE REGISTRAR: Zakhaim, thank you. Now, you're represented today so you know what this is about. It's a public examination. I presume you've had that explained to you, how the whole process works.

30

THE WITNESS: Cool.

THE REGISTRAR: So generally, you have to answer the questions that are put to you. Two exceptions to that. Subject to the question being related to the affairs of the company, which the teams of lawyers and I will argue about. The first thing to be aware, is if the answer you give may disclose something that you can claim legal professional privilege over. Your counsel will jump up and down if that issue comes up. And if you are concerned about an answer, please raise the issue before you answer it. Don't answer the question. The second thing is, in this issue with respect to privilege against self-incrimination.

40

Now, as you would have had explained to you, but it's just my duty to make sure you understand, because it's a public examination of the Corporations Act. The Corporations Act has a number of criminal and civil penalty provisions which are – they are, sort of offences that can occur. And that's what the liquidators are investigating – a whole pile of things. So what the Corporations Law has is an ability for you to claim privilege against self-incrimination in respect of those

45

particular issues. So that means if you claim the privilege, you have to answer the question. All right. But that answer can't be used against you in those proceedings. Unfortunately, you have to claim the privilege yourself. It's not my job or counsel for the liquidator's job to remind you. I'm happy for your counsel to jump up and
5 down and remind you. If you've got a piece of paper in front you, that's fine. But you've got to say it. So you unfortunately have got to say "privilege" and then answer the question. I appreciate that's cumbersome. But the law seems to be that you can't make a blanket claim, so you've got to do it every time.

10 Now, I'm not sure Mr Sulan, how long you're going to be – is this - - -

MR SULAN: I suspect it will go till at least lunch and possibly a bit over.

15 THE REGISTRAR: Okay.

MR SULAN: Past lunch.

THE REGISTRAR: So my view on these things is, I'm happy to just keep going as long as we can. So that we - - -

20 MR SULAN: Yes.

THE REGISTRAR: - - - get value for money out of the - - -

25 MR SULAN: Yes.

THE REGISTRAR: - - - hearing. But we will have a break. If you need a short break, we will do so. Otherwise we will go – we will have, like a five-minute break if you need one. Otherwise we will just keep going and have a short lunch. An hour.

30 MR SULAN: No morning tea break then, I take it.

THE REGISTRAR: Unless you want one?

35 MR SULAN: No. We will see how we're going.

THE REGISTRAR: I'm happy to have a five-minute break.

40 MR SULAN: Sure.

THE REGISTRAR: And then just come back. But if everyone wants a break and we've got plenty of time, I'm happy to give so. But otherwise, I'm just happy to keep going.

45 MR SULAN: Understood.

THE REGISTRAR: In your hands.

MR SULAN: Thank you.

THE REGISTRAR: If you need a break and we've got time, we will do it. Otherwise, if you need the time, we will use the time.

5

MR SULAN: Thank you, Registrar.

THE REGISTRAR: I will leave it up to you. You got no further questions?

10 THE WITNESS: No.

THE REGISTRAR: Yes.

15 <EXAMINATION BY MR SULAN

[9.43 am]

MR SULAN: Thank you. Mr Zakhaim, my name is Sulan and I appear for the liquidators of Union Standard International Group Proprietary Limited. Do you understand that?---Privilege. I do.

20

And I will refer to the company by the acronym, USG, and you will understand what I mean by USG?---Privilege. I do.

25 And that was an acronym that was used by you and others during the course of your employment with USG, correct?---Privilege. Correct.

Thank you. Now, you were the CEO of USG from sometime in 2014 to about July 2020?---Privilege, correct.

30

How did you come to be employed by USG? Were you recruited or what was the process by which you came to be the CEO?---Privilege. I was introduced to the company by – the accountants, Shuriken Consulting. The accountant firm.

35 And who from Shuriken was your contact?---Privilege. Andrew Jeffers.

Right. And how - - -?---Introduce me.

40 How did you know Mr Jeffers?---Privilege. Shuriken were the accountants for a former company that I worked for called Youtrade Capital Markets. Here in Australia. Like two – two to three years before that - - -

Right?--- - - - when I started working for USG.

45 Okay. And did you have an interview with someone at USG?---Privilege. Yes, I did.

And who was that person?---Privilege. I – I – it was a man and a woman that were represented themselves as Ryan and Lisa and – which is – they were two Asian people, which this was their – their English name. I wasn't sure what – there was – their Asian name. And – they both – we both met. And – together with Andrew Jeffers.

5

And what did you understand Ryan's surname to be?---Privilege. I'm not sure.

And what about Lisa's surname?---Privilege. I'm not sure.

10 Okay. So you met two people by the names of Ryan and Lisa. And they interviewed you for the role of CEO?---Privilege. That is correct.

And what did you understand their role to be at USG?---Privilege. To open an Australian office and manage the Australian team.

15

Right. So you knew that they had some role in starting the business in Australia, was it? Or the business was already operating in Australia, wasn't it?---Privilege. From my understanding, their business was already operating but without a local team.

20 Right. I see. And so Ryan and Lisa were the people that interviewed you along with Mr Jeffers. And what sort of questions were they asking you? Were they interested in your background and experience, I presume?---Privilege. This happened around nine years ago. So I – I don't really remember the - - -

25 Okay?--- - - - content.

And who offered you the job? Which person?---So – privilege – couple of months after that interview – Lisa only came again to Australia and basically offered me the job and negotiated the terms of my job with me.

30

Right. And was there a written contract in the end?---Privilege. Not in that meeting but afterwards, couple of months after, yes.

Yes, and do you still have a copy of that written contract?---Privilege. Yes, I do.

35

Okay. And have you produced that pursuant to the orders for production?---Privilege. I'm not sure. I produced few documentation. And – and – but in – in, anyhow it was – on the – senior management file on the servers of the company which we have provided to the liquidators when we put the company into administration.

40

Okay, thank you. Now, you had overall responsibility for the company strategy, didn't you?---Privilege. Can you repeat the question, sorry?

45 You had overall responsibility for the company strategy, correct?---Privilege. No, I was not in the strategy writing role. I'm writing the operation side of it.

Right. Well, you would accept that you had overall responsibility for all aspects of the trading, correct?---Privilege. I – I was managing the operation which was – part of it was – maintaining the platform to be working and, you know – and for clients to be able to trade.

5

You would accept you had overall responsibility for sales, correct?---Privilege. My role was – I was basically managing the – only the Australia team in the sales part.

10

Right. But - - -?---And later on, also the UK team, which I – assist of opening that – office.

15

Okay, so insofar as sales were being conducted in Australia or the United Kingdom, you accept that you had overall responsibility for that aspect?---I was managing – yes, I was managing that – those teams, yes. Privilege.

15

And you would accept that you had overall responsibility for legal and compliance?---Privilege. I've – I was supervising the compliance. But we also had a separate compliant officer that used to manage that aspect of the business.

20

But you would accept that you had overall responsibility for that part of the company, that is, legal and compliance?---Privilege. Again, I'm not sure exactly what is the legal term here, but I was supervising that compliance was in place.

25

And you would accept that you had overall responsibility for the finance aspects of the business, as well?---Privilege. As part of my role, I would have reviewed the daily reports and the monthly management reports to make sure that the company is in a good position.

30

Yes, and you would also accept that you had a role managing internal relationships concerning legal compliance, sales, finance and IT, correct?---Privilege. I – I – again, I was running the operation but I had no relation into the sales part that was conducted in Asia, at all.

35

Okay, so you're trying to put to one side the things that were occurring in Asia. But otherwise you accept that you had overall responsibility for these aspects of the business, including sales, legal, compliance and finance?---Privilege. Of the matters that were in Australia, locally, in the Australian team. Yes, I do.

40

Okay. Thank you. And you understood that part of your role was to adhere to the company's compliance requirements?---Privilege. Yes. As I said, I was supervising the compliance part.

45

And those compliance requirements included the requirements of an AFSL licence holder?---Privilege. We did hold an AFSL.

Yes. And you understood that part of your role was to ensure that the AFSL licence requirements were being met by the company?---Privilege. Yes. I do understand that we needed to be compliant with the AFSL guide.

5 Yes. And what was your – what was your qualifications? What degrees do you hold?---Privilege. I hold Masters in Business Administration with a focus in international portfolio management. I also carry LG146 with foreign exchange model – general model, foreign exchange model and derivatives model.

10 Yes. Thank you. Now, next to you you've got a series of documents in various folders and you should see the volume numbers on the spine of the folders; can you see that?---Privilege. Yes.

Can I ask you to take out volume 7. You should have one for - - -

15 THE REGISTRAR: Just stopping you there, do you want – how do you want to do it from an exhibit point of view?

MR SULAN: I don't think we will mark it at this stage, if that's okay, Registrar. I think we might come to the marking process a bit later on.

THE REGISTRAR: You would prefer identifying individual documents, or - - -

MR SULAN: I think so, at this stage - - -

25 THE REGISTRAR: Yes. That's fine.

MR SULAN: - - - if that's convenient to the court.

30 Now, can I just ask you to take up volume 7. Firstly, if you can go to – in the bottom right-hand corner, you should see some page numbers if you open the volume. Bottom right-hand corner in each page if you go - - -?---Yes.

- - - through to page 5819. Can I ask you to do that?---Five-eight, sorry?

35 5819. Do you see there that there appears to be a CV?---Privilege. Yes.

And if you go over the page to 5820, I take it that's your signature?---Privilege. Yes.

40 And do you see the date, 28 May 2019?---Privilege. Yes.

So can we take it from this document and the fact of your signature that this is a CV that you prepared at around that time identifying your background and experience and the role that you had performed at USG?---Privilege. Can I read it first?

45 Yes?---Privilege. Yes. This is correct.

So I take it this is a document you prepared?---Privilege. I'm not – I don't recall if I prepared it originally but of course I signed it, so, it would represent my CV.

5 Yes. And it accurately reflects your role that you were performing, for example, at
USG on the first page at 5819?---Privilege. Yes.

Okay. Thank you. And do you see the second to last bullet point on 5819 in the
section about your role at USG. Can you see it says, "Understanding, adhering to
and complementing the company's compliance regime requirements"?---Privilege.
10 That is correct.

Yes. And, so, you would accept that that was part of your role?---Yes, as I said.

15 And in the bullet point above, do you see that part of your role also included
negotiating and liaising with legal, compliance, group management and dealing units
where appropriate?---Privilege. This is correct. This is what I said.

Thank you. Now, in terms of your reporting lines, who did you report
to?---Privilege. Are you referring to in the management of the USG group?

20 Yes?---The main operator – privilege. The main operator was a lady called Queena
Lee.

25 Right. So did you understand that your role involved reporting to Ms
Lee?---Privilege. This is correct.

And what did you understand Ms Lee's role to be?---Privilege. Her role was, I
would say, handling all the financial part of the business like a CFO, and also
handling all the operation aspects of the business, like COO.

30 So did you understand her to be an employee of USG?---Privilege. I did not
understand exactly what was her position with USG.

35 But you were the CEO; correct?---Privilege. Correct.

And you, from what I've gathered, say that you were reporting to Ms Lee who you
understood to be the CFO, is this what I'm to understand?---Privilege. This is what I
said, correct.

40 But you didn't know whether Ms Lee was an employee of USG?---Privilege. As far
as I know, I – I think she was an employee of USG but I'm not certain in that. But
how as the CEO of USG did you satisfy yourself that she was someone appropriate
to be reporting to if you didn't know whether she was an employee?---Privilege.
45 When I was hired, I had been directed to work with – that she would be the – the one
that provides us the instructions or if we had any questions or any requirements or
needs.

Right. Who directed you as to those matters?---Privilege. I don't remember exactly how it was but once I joined the company, basically that's – that's one person we were introduced to.

5 But your previous answer indicated that you received a direction to report to Ms Lee. Who gave you that direction?---Privilege. I don't remember exactly who gave me the direction. It was kind of once I joined, I was introduced to Ms Queena Lee and been told that – maybe by her, even, that from now on I report to her.

10 Right. So you're the CEO of the company, you receive a direction from someone that you now can't remember who gave you that direction and then you're introduced to a Ms Lee who you understand to be the CFO but you don't understand her to necessarily have been an employee and you accepted that that was your chain of command, so to speak, that you would report up to her. Is that an accurate summary of your position?---Privilege. Just to fine-tune it, she was not the CFO of the
15 Australian entity, rather, she was presented as the CFO of the group, meaning the parent company.

Okay. So who did you understand the parent company to be?---U-Trade – sorry.
20 Privilege. USG Samoa.

USG Samoa. Okay. So you thought she was the CFO of USG Samoa and that your reporting line was to her as the CFO of USG Samoa?---Sorry, can you repeat that?

25 You understood that Ms Lee was the CFO of USG Samoa?---Privilege. That is correct.

Right. And, so, you understood your reporting line was to her in her capacity as CFO of USG Samoa?---Privilege. This is correct.

30 Right. Who did you understand the directors of USG to be? This is in 2014?---Privilege. At that time, the director for USG was a person called Alga Shu. I don't remember his full name. We used to call him Shu.

35 How did you spell that?---S-h-u, I think.

Right. That was the director of USG?---Privilege. Correct.

40 Did you understand there to be any other directors?---Privilege. Not at that time.

So just one director. Where did you understand the director to be located?---Privilege. Here in Australia.

45 Right. And did you attend board meetings?---Privilege. You mean from when I started there?

Yes. In 2014?---Privilege. Yes.

Right. And, so, who would be present at these board meetings?---Privilege. The – pretty short time after my joining, the director was changed including the RM of the company and we – and those are – and the new director and RM were the one that we were sitting on the board meetings together.

5 Okay. So who were those people?---Privilege. The director that was appointed was Jamie Clinnick.

Yes?---And the RM at that point was John Martin.

10 And by RM you're referring to the position, Responsible Manager?---Privilege. That is correct.

And what did you understand the role of the Responsible Manager was?---Privilege. Are you referring in USG or in general?

15 Well, let's just start with general. What do you understand the role of a Responsible Manager is?---Privilege. Is to making sure to maintaining the AFSL RGs and all of that. To maintain the AFSL.

20 Right. So that was someone you had to liaise closely with in your role as CEO, I take it?---Privilege. Correct.

And that's the role that was being performed by Mr Martin?---Privilege. That is correct.

25 I see. And where did you understand Mr Martin to be – or who do you understand employed Mr Martin?---Privilege. USG Australia employed Mr Martin.

30 Right. Okay. And, so, was he paid a salary from USG Australia?---Privilege. I think at that time he was – yes. Yes. He was paid. I believe, like, an invoice. I don't know if it's the same for you but he was paid by an invoice.

I see. So perhaps as in some sort of a consulting role as opposed to an employee or - - -?---Privilege. At that stage, as far as I remember, I think – look, he – he was conducting the role but the way he was paid in invoice, not in a payslip.

35 Invoice received from a company or invoice received from him personally or how was he – how was he invoicing USG?---Privilege. I do not recall.

40 Right. So you would attend board meetings with Mr Clinnick and Mr Martin; is that how it was working?---Privilege. That is correct.

45 Okay. And you were also attending meetings called risk and compliance meetings; is that correct?---Privilege. That was conducted quarterly.

5 Yes. Well, wasn't it – okay. So that was conducted quarterly and how did those meetings occur? Were they face-to-face meetings?---Privilege. Look, I cannot – again, that was – we're talking a period of seven, eight years ago, so I don't remember every each of them, but most of them would have – usually appeared face-to-face.

10 And what was the role of the risk and compliance meetings? Was that something that the board had required?---Privilege. This was something required by the regulator to analysis the risk and the compliance infrastructure of the company.

Okay. And, so, you attended these meetings regularly, I take it?---Privilege. Yes. I had.

15 Yes?---I was.

Can I just take up, in volume 1 – you can close that volume for the time being?---Do you want me to put it back or leave it here?

20 You should put it back. We're going to have to jump in and out of these volumes so it's probably best for you to keep them in order, if you can. But if you take up volume 1. Do you see, if you go through to page 646, do you see a document entitled Risk and Compliance Committee Meeting and the meeting date of 14 November 2014?---Privilege. Yes. I can see that.

25 And this seems to be a minute of the meeting that occurred on that day, do you accept that? You can see a signature on 651?---651.

So the minute - - -?---Sorry, it's that way. Okay.

30 Yes. Sorry. The minutes begin on 646 and they seem to - - -?---Six - - - - - end – yes?---Yes. I can see the signatures.

35 So do you accept that this seems to be a minute of the meeting of the risk and compliance committee on 14 November 2014?---Privilege. Yes. I – it seems so.

40 And what was – was it your practice to receive these minutes and to read them after the meetings?---Privilege. I'm not only reading them after the meetings, I was present in the meeting.

45 Sure. So you – like, let's just work through it. So presumably you would attend the meeting. It looks from the document that a Ms Bonnie Chan would make a note of what happened at the meeting, would prepare these minutes and the director would sign them; is that an accurate description of what was happening?---Privilege. This is correct.

- And presumably, you would be sent these minutes?---Privilege. I wasn't sending those minutes. If I recall correctly, I think Ms Bonnie Chan used to send those minutes?---Yes. Ms Chan would send those minutes to those that were present at the meeting including yourself?---Privilege. That is correct.
- 5 And you would read the minutes?---Privilege. I cannot say I read every single minute in past of six years, but I would say I would probably read most of them, yes.
- 10 Yes. Your general practice as CEO would be to at least scan the minutes to make sure there were no material mistakes or errors within the minutes; correct?---Privilege. Yes.
- 15 And whilst you might not have done that every time, you had a general practice of trying to keep abreast of what was recorded in the minutes, I take it?---Privilege. I tried as much as possible, correct.
- 20 Thank you. Now, if you go to page 647, I just want to work through the members of this committee. Do you see at the top there's a box under the heading Members; do you see that?---Privilege. Yes. I can see.
- 25 And I take it the cross next to present means that the person was present at the meeting?---Privilege. That is correct.
- So the first person there mentioned is yourself; do you see that?---Privilege. Yes, I do.
- With the tick or the cross present, I take it, indicating you were there?---Privilege. That is correct.
- 30 Now, the next person mentioned is a Mr Pedro Sasso and the company name is Adnet; do you see that?---Privilege. That is correct.
- 35 And he is crossed as being present. Now, can you just explain to me who Mr Sasso was to your knowledge?---Privilege. Mr Sasso was an – one of the accountants from – I'm not sure what was their name back then but from Shuriken Consulting that I mentioned.
- 40 Sure. So did he have some form of association, to your knowledge, with Mr Jeffers?---Privilege. Yes.
- 45 Were they – did you understand them to be partners in the Shuriken business?---Privilege. I don't know back then if they were partners, but I do know that today they are.
- Right. And, so, did you understand Mr Sasso was performing some form of accounting function for USG?---Privilege. That is correct.

And assisting USG to ensure that its financial requirements were kept in order; is that what you understood his role to be?---Privilege. That is correct, including all the required reporting by the regulator.

5 Yes. So you had to work closely, I take it, with Mr Sasso in your role as CEO?---Privilege. Occasionally, yes.

Yes. Because your overall responsibility was to ensure that the reporting was correct but you relied on Mr Sasso to assist you in that task; is that correct?---Privilege.

10 Yes. Not only Mr Sasso, of course, the whole Shuriken team.

Sure. Yes. But Mr Sasso being a key or important part of that?---Privilege. That is correct.

15 Now, Ms Chan, I take it, was performing some form of secretarial function; is that correct?---Privilege. That is correct.

And then we have Su-King Hii, H-i-i, and the company Innoinvest; do you see that?---Okay. Privilege. Yes. I can.

20

Okay. Now, can you tell me – Mr – can you tell me who Mr Su-King Hii was?---Privilege. Mr Su-King Hii was USG compliance advisor.

25 Right. And what does that mean? Was he a lawyer or was he - - ?---Privilege. He was a lawyer. So, I would say, at that time, he was also compliance and legal.

Right. And, so, did you understand Innoinvest was consulting to the company in that capacity?---Privilege. That is correct.

30 And Mr Su-King Hii was the representative of the company that was assisting?---Privilege. Yes. And I think also the principal.

Yes. Okay. And you understood him to be a lawyer?---Privilege. That's – that's what I understood, correct.

35

Okay. Now, the next person they mention is Ms Anya Victoria; do you see that?---Privilege. Yes.

40 And who did you understand she to be?---Privilege. At that time, I understood that she's the shareholder of the company.

Right?---Of the Samoan company.

45 Did you know if she was a director?---Privilege. That was again eight years ago, but I think, if I recall correctly, that she was also a director.

Okay. Thank you. And where did you understand that she was based?---Privilege. To my best knowledge, that's what I've been told, that she was based in Taiwan.

5 Taiwan. And did you meet her?---Privilege. I think, if I recall correctly, I met her once.

In Australia or Taiwan?---Privilege. I do not recall that.

10 Okay. And then, next we have Ms Queena Lee. Do you see that?---Privilege. Yes, I do.

And do you see the company that she's said to be representing is USG?---Privilege. That is correct.

15 So that's the same company you're down as representing; do you see that?---Privilege. In that – in this case, she was representing USG Samoa, and not USG Australia.

20 But you accept the document doesn't say that, does it?---Privilege. I accept that.

Right?---It says USG.

25 So it just says she's representing USG being the same company that you're representing?---Privilege. The way it's represented in the document, this is how it looked.

30 Okay. Thank you. Now, I just want to understand a few things recorded in this document. Do you see over the page there's a reference at paragraph 6 to marketing or promotional materials? Do you see that?---Privilege. I – I see, paragraph 6.

And there's a reference to a discussion and the statement is made:

All the current marketing materials from AU –

35 I take it that's Australia –

are reviewed, approved and signed off by the marketing manager and –

40 Sorry, do I – I don't mean any disrespect but where it refers to your first name, if I can do that as well, is it Shay or Shy?---Privilege. Shay.

Shay. All right. And it says – you can see it says signed off by marketing manager and Shay. Do you see that?---Privilege. I do.

45 And, so, part of your role, I take it, from this was to look at all the marketing material and to review it and to sign off on it?---Privilege. It was my job together with, I

think at the time, Thomas Lee, that was responsible manager, and I don't remember if we had or who was the marketing manager at the time but, yes.

5 But part of your role was at least to look at that material and sign off on it; correct?---Privilege. At that time, correct.

10 Okay. Thank you. Now, you said, at that time, did you want to qualify your role as having changed at some time?---Privilege. At some time, Mr John Martin under the compliance department was conducting and reviewing the marketing material.

And when did that begin to occur?---Privilege. I'm – I'm not sure exactly of the date.

15 Just give me a ballpark. You seem to have a firm memory that Mr Martin became responsible for that so you must have some sort of memory as to when that occurred?---Privilege. At – I can't really tell you. I assume probably a couple of years down the track.

20 Okay. So somewhere around 2016, 2017?---Privilege. Again, I'm really speculating here but, maybe, yes.

25 Okay. And do you see over the page, at 649, that it records that account managers in USG Australia have been trained for the last two months by you; do you see that? At the top of the page?---Privilege. Part 8, you're referring?

Yes?---Privilege. That is correct. It does say that.

30 Okay. Yes. And that's a correct statement? Part of your job involved training account managers?---Privilege. The Australian account manager, I think, at that stage – I don't think. At that stage, I was training. Later on, we had a sales manager that used to do the training and I would sometimes come and give kind of a – I would say the finale of the training just going over more market information stuff and stuff like that, but the actual training was conducted by the sales manager.

35 Okay. And who was that?---We had the few – privilege. We had a few down the track. Latest one was Lachlan. We had – at that – I don't remember at that stage who was that or – I mean the stage of this minute that I'm looking at. I don't remember if we already had a manager then or not.

40 Okay. Now, do you see in point 9, that it says:

Excess money belonging to USG is to be transferred from trust accounts to company capital accounts.

45 Do you see that?---Privilege. I do.

Now, can you just help me out, what do you understand the reference to trust accounts to be?---Privilege. It's my understanding trust accounts are accounts that are holding funds on behalf of the clients for them to be able to conduct trading in the market - - -

5

Right. Okay?--- - - - and cover their margins.

And where it says company capital accounts, I take it that means an account in the name of the company?---Privilege. That is correct. Operating – this is – will be referring to the operating account of the company in Australia.

10

Okay. The operating account of the company. And which bank was the operating account of the company held with?---Privilege. With the CBA – Commonwealth Bank.

15

Commonwealth Bank. Thank you. And what would make something excess money, to your knowledge?---Privilege. That would be usually a quote by profits of the company.

20

So profits. Just talk me through how you understood the company made its profits?---Privilege. As a market maker in Australia, if a client made losses, then it would become a profit of the local – the – the company.

Okay. And did it make its profits in any other way, to your knowledge?---Privilege. Not to my knowledge.

25

Okay. And then, do you see a discussion:

After reviewing NTA and financial reports, the committee asked the company financial manager to transfer excess money to the operational account from the trust account.

30

Do you see that? It's in about the middle of the page under Discussion?---Privilege. Yes, I'm just reading the whole - - -

35

Thank you; do you see it says that?---Privilege. Yes, I do.

And that accords with your understanding as to how the company was operating; correct?---Sorry, can you repeat that?

40

What's said there – that is:

After reviewing the NTA and financial report, the committee asked the company finance manager to transfer excess money to the operational account from the trust account –

45

that's a correct statement as to how the company was operating, to your knowledge?---Privilege. To my knowledge, that is correct.

5 Yes. And who was the financial manager being referred to in that paragraph?---Privilege. I don't recall who at that stage was conducting that; I can't recall.

10 Well, can you give me a list of people it could have been?---Privilege. I would be speculating, which I prefer not to.

But could it have been Ms Lee?---Privilege. Yes.

Yes?---It potentially can be.

15 You wouldn't be in a position to deny that it could be Ms Lee, would you?---Privilege. That is correct, I won't be able to deny.

Yes, you're not able to deny that. Now, NTA is – just tell me what you understand that to mean?---The tangible assets.

20 Net tangible assets; correct?---Net tangible assets.

Yes. And that was a requirement under the regulatory guide?---Privilege. That is correct.

25 To perform an NTA calculation on a regular basis?---Privilege. That is correct.

And was it a monthly basis?---Privilege. Back then it was based on a monthly basis; correct.

30 Yes. And so that being a licence requirement, if there was an NTA deficiency you would have to report that matter to ASIC; correct?---Privilege. That is the correct.

35 Yes, yes. And so it was an important function within the business to accurately performing – to accurately perform the NTA calculation; do you agree with that?---Privilege. I do.

40 And that was one of your key roles, wasn't it, to maintain and keep track of the NTA requirements?---Privilege. That is part of the management: I would review the reports and making sure that - - -

Yes?--- - - - we are in a good position.

45 And so that required you to have a good understanding of the financial goings on of the company, USG?---Privilege. I – I would have, as I mentioned before, would

have received monthly management reports which would be reviewed monthly on a board meeting, and - - -

And so you needed - - -?--- - - - so I have reviewed it.

5

You needed to satisfy yourself that the underlying financial material that you were receiving was fulsome and accurate; correct?---Can you repeat that, sorry?

10 In order to sign off on the monthly NTA, as the CEO, you would have needed to understand the underlying financial arrangements of the company and to confirm for yourself that the material you were being given was accurate and correct?---Privilege. Yes, I would – I would, of course, review the reports to be convinced that the financial position are in place, and I – as I was working with Shuriken Consulting for a few years, I would – I – yes, I’ve trusted the reports we
15 have received.

20 Yes. So you place some reliance upon Shuriken to give you accurate material; is that what you’re saying?---I’m saying that – privilege. I’m saying that they are the ones that prepared the reports and provided to us, and have – and I’ve trusted the information.

Yes. Okay. And I take it the company would have been preparing some form of management accounts; is that right?---Privilege. Yes, that’s the monthly account.

25 Yes. And were you using MYOB software?---Privilege. We did; I’m not sure what exactly one was it back then; I think it was Xero, if I’m correct.

Xero or MYOB; one or the other?---One of – yes, privilege, one or the other, yes.

30 Right. And you yourself had access to those systems?---Privilege. No, I had no access to the accounting system.

35 As the CEO you didn’t have access to the company’s underlying accounting system; is that what you’re telling the court?---Privilege. That is correct. I – we never – I wasn’t the one that, you know, working on the financial side of the business, or accounting side of the business.

40 But didn’t we establish earlier on that you had overall responsibility for the financial aspects of the business?---Privilege. I did say I was monitoring that based on the reports that was provided, yes.

45 Right. So it just – I want to understand your evidence clearly: you’re saying you didn’t have yourself access to the accounting systems of the company, but you just received reports; is that the position?---Privilege. As far as I remember that was the position.

Yes?---Of course if I had any questions or inquiries I would have made them, but

5 Right?---And sometimes in the board meetings certain expenses would review
specifically - - -

Okay?--- - - - which, of course, the accounting system would have been presented on
the screen, and – to be reviewed, but I didn’t conduct – personally I didn’t conducted
any accounting work on the system.

10 Okay. So who did you understand was controlling the accounting
system?---Privilege. To my best knowledge, it was Shuriken.

Shuriken. Right. So they had access to the underlying accounts;
15 correct?---Privilege. Underlying accounts you mean in the system?

Management accounts?---In the management accounts in - - -

20 Yes?--- - - - the Xero - - -

Yes. Okay?---Yes, that is correct.

Thank you. And who would give them information to put into the accounts, to your
knowledge?---Privilege. I – look, I think most of the things are automatic today, you
25 know; it’s connected to the bank accounts. They can extract all the information
directly from the bank accounts, and if I remember correctly, probably the admin –
the admin role in this case, it will be Ms Chan, will provide invoices to Shuriken.

Okay. So who would – just looking back at that note on 649, who would be the
30 person to determine when there was excess money?---Privilege. It usually will be
reviewed in the meeting, as mentioned here, and after the meetings the – you know,
if we find there’s excess money then in the board meeting we would say to move it
into the operation.

35 But who did you understand had the authority to give the instruction to move money
from client funds to the company account; whose authority was that?---Privilege. It
was the board basically.

40 The board. So who are you referring to at this time when you’re saying “the
board”?---Privilege. It was not a single person; it was all of us sitting together
reviewing the accounts, and deciding based on the accounts we are reviewing to do
so.

45 Right. But the board is usually what people would associate with the directors; is
that some – are you using a different phrase for the board?---Privilege. In that case,
as I said, I was attending the board meetings as well, and – but the authority, of
course, is – I assume legally is coming from the directors.

Right. And so at this time who is that person?---Privilege. At this time the directors were Shu Algan - - -

Right?--- - - - and as far as I remember, Anya Victoria.

5

Okay. So you understood the authority had been given to transfer excess money from those two people?---Privilege. If you're referring to the authority – again, as I said, it was usually reviewed by all the team that were sitting in that meeting, but the actual authority would have been the directors.

10

So it was a collective decision of all of those that are attending this meeting that it was appropriate to transfer excess money to the company account, but your understanding is the authority to do so was coming from the two directors?---Privilege. That is correct.

15

Right. And that includes Ms Victoria, who doesn't appear to have been at this meeting?---Privilege. At that specific one it appears that she was not present.

Okay. So it was, on your understanding, just a sole decision of – how do you say his name, Mr Agerwal?---Privilege. I used to call him Shu, so I don't really - - -

20

Yes?--- - - - can't pronounce the name, but yes.

Yes. Okay. All right. Now, I just want to explore a little bit further Ms Lee's role, and I thought it might be useful to do so by reference to a particular document; if you could take up volume , and if you could go to page 5715?---Seven, was it, sorry?

25

Yes, volume 7; thank you?---Sorry, what page.

So if you start at page 5715, you should there have an email from someone called Joyce on 29 September 2016; do you have that?---Privilege. Yes, I do.

30

Okay. And as with – as with emails these days, you have to read up the page, so we're going backwards in the bundle. And my reading of this chain – whilst it begins at 5715, it ends at 5707. Okay, and we're going to work through the email chain, but if at any time you think that this doesn't represent the one email chain you should tell me; okay?---Privilege. Okay.

35

Do you understand what I'm saying?---I do.

40

Thank you. Now, the first email, if we look back at page 5715, is from someone called Joyce. Can you just explain to me who you understood Joyce to be?---Privilege. I – she was, to my understanding, doing the admin role of the operation.

45

Okay. So who was she employed by, to your knowledge?---Privilege. She was employed by the parent group company.

Right. Did she report to you?---Sorry, she was – she was an employee of USG Australia, but as mentioned, hired by the group parent.

Okay. So did you – did she report to you?---Privilege. I would say as well.

5

As well; right. But you could direct her presumably in your capacity as CEO to perform functions for the company?---Privilege. She – she was performing duties for the Australian company and also for the parent company.

10 Okay. Thank you. Now, do you see there are a number of people to whom she sends this email? The first one is Ami Lee; do you see that?---Privilege. No, I don't see Ami Lee. I see – the first one is – sorry, I looked at the email address. Privilege. Yes, I – I see Ami Lee email - - -

15 Yes, and the email address is queena@usgfx.com?---Privilege. That is correct.

And so I take it that's Queena Lee?---Privilege. To my best knowledge, yes.

20 Okay. And did you understand – so we've got Queena Lee and we've also got Ami Lee. Did you understand her to have any other names to whom people use from time to time?---Privilege. I only – the only name I recall that she had was Queena Lee.

Okay. Right. Did you ever meet Ms Lee in person?---Privilege. Yes, I did.

25 Right. And where was that, sorry?---Privilege. In Australia and overseas.

Okay. And how often would you meet with her?---Privilege. I can't really say how often, but it was only few times; not a lot.

30 Right. Okay. So a few times - - -?---Privilege. I mean in person, of course.

Yes, sure. And both in Australia – and, sorry, did you say Taiwan?---Privilege. I think – Taiwan, yes, and I think Hong Kong even as well once.

35 Okay. Okay, so this is the CFO that you're reporting to, and you met her on a handful of occasions; is that a fair statement?---Privilege. Yes, as I said, I met her a few times.

40 Yes. Okay. But otherwise you would talk to her by phone?---Privilege. Ms Queena Lee don't speak English, so it was usually – it was – the conversations were conducted translated, so I can't really say - - -

Right?--- - - - that I spoke to her directly.

45 Okay. So who was the translator you would use when you needed to speak to her?---At that – privilege. At that time most cases were – it was Joyce.

Okay. So Joyce was performing an administrative function but also a translator role?---Privilege. That is correct.

5 Okay. So the next person on the list is Anthony Anderson; who did you understand him to be?---Privilege. I think at that stage he was responsible manager for USG.

Okay. And then we've got some name that we've already talked about: Anya being, I take it, Anya Victoria?---Privilege. Yes, I assume so as well.

10 Yes. And Jamie Clinnick, being director at the time?---Privilege. That is correct.

Yes, and he has got an email address jadecapital; do you see that?---Privilege. That is correct.

15 What did you understand Jade Capital to be?---Privilege. Jade Capital, to my understanding, was a managed disclosed account operator.

Right. Was that an Australian-based company, or - - -?---Privilege. Yes; correct.

20 Thank you. And then we've got Mr Martin, who we've discussed; you're there; I think Mr Su-King Hii. And then we've got a name Ilyas Ahmed; could you just tell me who that person was?---Privilege. Yes; he was working for Shuriken.

25 Right. And was he junior to Mr Sasso and to Mr Jeffers?---Privilege. That is correct.

And he was the person that would do more day-to-day type activities, I take it?---Privilege. That is correct.

30 Yes. And he would, as far as you knew, report in to Mr Sasso and to Mr Jeffers?---Privilege. That is correct.

35 Thank you. And then we've got Mr Sasso. And now we can get to the email; so this is from Ms Shen to a number of different people that we've just been through, and it's dated 29 September 2016. So just to get our chronology right, I take it you've been now employed as a CEO for around two years?---Privilege. That is correct.

40 Okay. And you get an email from Ms Shen which says, "Dear gentlemen, please be" – I think that should be "please be advised" – "that company would like to replace Anya director position by Mr Soe Hein Minn"; do you see that?---Privilege. I do see it.

45 Yes:

Su-King, please help to update the ASIC company registration; his ID and proof of address has been attached. Please let me know if you need any further document.

5 Do you see that?---Privilege. I can see that.

So from your perspective, out of the blue, it would appear, you're told that Ms Victoria, as the director, is to be replaced by Mr Soe Hein Minn; do you see that?---Privilege. I can see that, yes.

10

Yes. And so it's correct to say that this just happened out of the blue; you had no warning this was coming?---Privilege. Again, it was many years ago, so I'm not sure if there was any discussion before the email.

15 Sure?---There may have been.

Okay?---But, yes, it has suddenly basically happened.

20 Yes. It's not unfair to say it's sort of out of the blue; it's not something that was in the planning?---Privilege. I can't – I can't really say it's out of the blue, but, again, maybe there was a discussion before anything like that, but yes.

Yes. All right. And that company that's being referred to in the email is USG, right; it's not the parent?---Privilege. That is correct.

25

So this is the company of which you're the CEO?---Privilege. That is correct.

So one director is being replaced by another director of the company of which you are CEO; correct?---Privilege. That is correct.

30

Right. And did you know Mr Soe Hein Minn?---Privilege. No, I haven't.

You've never met him?---Privilege. As far as I remember, I don't think I ever met him; in person, I mean.

35

Right. Did you ever talk to him?---Privilege. Yes, he was joining the board meetings on a - - -

Right?--- - - - Zoom.

40

But as the CEO of an AFSL holder, did it concern you that a director was being replaced with another director who you had never met?---Privilege. No. You know, in many companies there are directors not always that you meet in person.

45 But you're the CEO; correct?---This is – privilege, this is – that was correct, I was the CEO.

And an AFSL is an important licence?---Privilege. That is correct.

You're dealing with company money – sorry, client money; correct?---Privilege.
That is correct.

5

And you've got lots of obligations under the regulatory guides; correct?---Privilege.
That is correct.

10

And the decision-makers of a company are directors; correct?---Privilege. That is correct.

And you're the CEO that's responsible for lots of aspects of the company that we've been through; correct?---Privilege. That is correct.

15

And someone is appointed a director who you've never met and don't know anything about, and that doesn't cause you any concern; is that your evidence?---Privilege. Directors is not the CEO to – as far as I know, directors is not for the CEO to decide who; it's more the shareholder to decide who will be the directors of the business.

20

But surely you would wish to know the qualifications of the directors of the board of which you are a CEO?---Privilege. I – again, I – the directors – the foreign director – we always had a local director, that which I knew very carefully of his experience and knowledge, but when I joined the company, Ms Victoria was already a director, and when that happened, you know, this is – I was instructed by the group company

25

– by the parent.

Okay. So who did you understand was giving this instruction to change out the directors?---Privilege. I would say based on the way it's written, I'm assuming that it was coming from Ms Queena Lee, but I assume that would be something that

30

Joyce can answer better than me.

Okay. And where did you understand Mr Soe Hein Minn was based?---Privilege. For my understanding, I think he was based in Taiwan.

35

In Taiwan. Okay. Now, if you look over the page you see a number of questions being asked by Mr Su-King Hii; do you see that?---Are you referring to page 5714?

Yes. We've got to read up the chain, if you recall?---Sorry?

40

We're reading up the chain of emails. Do you remember I introduced - - -?---Mmm.

- - - that? So this is the next email, it would appear - - -?---Yes.

- - - do you agree with that?---Privilege. It appears so.

45

Yes. So what seems to happen is Mr Su-King Hii asks a series of questions related to this change of directorships; do you agree with that?---Privilege. Yes.

Yes. And he's asking - - -?---It seems so.

- - - he says:

5 *Mr Soe appears to be a Burmese citizen. What is his relationship with USG other than that he will be appointed as director? Does he still reside in Burma? What will be his involvement in the business and what are his credentials?*

10 Do you see that?---Privilege. I can see that.

And what capacity did you understand Mr Su-King Hii was performing when he was asking those questions?---Privilege. As I said before, he was the compliance and legal consultant for the company.

15 And so he's – why would these questions be relevant, to your knowledge? Why would he want to know the answers to these questions?---Privilege. Because he was consulting in regards of compliance and legal, so we wanted to make sure, I assume, that – you know, the rules are in place, or - - -

20 Okay. So which rules are you referring to?---AFSL.

Which part of the AFSL?---Or maybe even the Corporate Act; I'm not sure.

25 Okay. The corporate – did you say art, being “articles”; is that what you said?---Privilege. Sorry?

30 Just take me through the rules, to your knowledge, you would be concerned about as an AFSL licence holder as to a change of directorships; what are the things you need to think about?---Privilege. I would assume – I would assume – I'm not a lawyer so I can't really tell you the - - -

35 Right. But you had overall responsibility for the legal and compliance function; we've established that; you agree with that?---Privilege. Yes, I do.

40 So in your capacity with overall responsibility, what are the things that you would have been concerned about to ensure are in place where there be a change of directorship?---Privilege. My role was, as I said, overseeing the compliance and stuff, but it was more the day-to-day company and not strategy, or something like that, as I mentioned in the beginning.

45 Well, I thought we established that you had overall responsibility for legal and compliance. Surely someone that becomes a director of the company which is the AFSL holder is a matter that would concern your function as being responsible for legal and compliance?---Privilege. That is correct, but for that role – because, again, I'm not a lawyer – we had an external consultant - - -

Right?--- - - - which is Innoinvest, to support us.

5 Okay. Well, let's read up the chain. And do you see at 5713 there's a response by Joyce. Now, it looks like you're not copied into this part of the email, but you seem to come back into the chain later on, but I just want to see if this seems right to you. The response by Joyce is:

10 *According to Queena, Mr Soe will simply be replacing Anya to be an external director, and he will involve in the business just like Anya, and yes, Mr Soe now lives in Burma.*

Do you see those answers?---Privilege. Yes, I can see.

15 Yes. And then Mr Su-King Hii responds, and you seem to come back into the email chain at this point, do you accept that, at 5712?---Privilege. I can see an email that it appears that my email address is there, yes.

Yes. So you seem to receive the response whereby Mr Su-King Hii says:

20 *We need full and accurate information on this arrangement. It is not simply a case of just adding Mr Soe and then changing the ultimate beneficial ownership. From what I can see, Mr Soe only has a high school certificate and doesn't appear to have any financial services related experience qualifications.*

25 Do you see that?---Privilege. I can see.

And do you recall this concern being raised by Mr Su-King Hii at this time?---Privilege. I cannot recall.

30 Right?---It was - - -

But you accept - - -?--- - - - many years ago.

35 - - - looking at this email chain now, that this was a concern that was raised at the time?---Privilege. It appears so - - -

Yes?--- - - - based on the email.

40 Okay. And then he goes on to say, if you look over the page - or, sorry, at the bottom of that page:

We cannot simply change the beneficial ownership without a full due diligence, backed up by documentation that demonstrates an arm's length transaction.

45 And then:

More importantly, changing ownership will trigger a notifiable event with ASIC, and then they will be all over the company and asking about all kinds of things about this new owner, relationship, etcetera.

5 Do you recall that concern being raised?---Privilege. I'm not sure that I am on that email that – you're – you're – you're instructing me to go that way, and you went that way.

10 It begins – yes, sorry, it begins at 5712. Do you see the response from Mr Su-King Hii on 29 September 2016 at 4.32 pm, and you appear to be copied to the email; do you see that?---Yes, but - - -

15 And then you read down the email and you end up back at page 5713?---Privilege. I think it's – the next part of the email is actually 5711.

No, I think that's - - -?---It appears so.

- - - reading up the chain, isn't it?---Privilege. It doesn't look like it to me.

20 Okay. So you've got – let's just try and break this down. You've got Joyce – if you look at 5713, you see Joyce's email of 29 September 2016 at 4.19 pm; do you see that?---Privilege. I can see that, yes.

25 And then the response to that email begins at page 5712 from Mr Su-King Hii; do you see that?---Privilege. At 4.32 - - -

5712, at the bottom of the page?---Yes, at 4.32 pm; that one?

Yes?---Yes, yes.

30 And so reading down that email, it starts with, "Hi, Joyce"; the first paragraph begins, "We need"; the second paragraph begins, "From what I can see"; the third paragraph begins, "We cannot simply change," and the fourth paragraph is over the page at 5713, which begins, "More importantly"; do you see that?---Privilege. I disagree. I think the next paragraph is at 5711 - - -

Okay?--- - - - on the top.

All right?---If – because if we read from here to here - - -

40 Okay. Well, let's just – if you can just accept, for the purposes of these questions, that that's – your assumption is incorrect, and if we can assume, for the present purposes – and you don't need to accept it – that 5713 is a continuation of the email from Mr Su-King Hii, do you see the reference to "changing ownership will trigger a notifiable event with ASIC"? Is that something you recall being raised as a concern
45 by anyone at this time?---Privilege. I don't think I'm cc'd on that email, and so I'm – I'm - - -

Okay?---I probably wouldn't see that email.

Right. So you don't think you saw that email. And then do you see Mr Sasso seems to also add into the mix, at page 5712:

5

There may also be taxation consequences. The ATO may look at this as a way of not paying taxes on the sale of a business.

Do you see that?---Privilege. I see, but again I - - -

10

You don't - - -?--- - - - cannot see my email address - - -

Yes?--- - - - so I'm not sure if I've seen this email.

15 You don't recall that being raised as an issue?---Privilege. I do not recall - - -

Okay?--- - - - the conversation, because it was many years ago, and based on the documentation it doesn't seem that I was cc'd on that email.

20 Okay. And then reading up the page to 5711 - now, this does appear to be an email to which you're copied. Do you see Thursday, 29 September, at 5.12 pm - sorry. 5.22 pm; do you see that?---Privilege. Yes, I can see that email.

And it appears your name is there?---Privilege. I can see my name there - - -

25

Yes?--- - - - at this thing - yes, at this spot.

And you would have no reason to deny that that is an indication that you were copied to this email?---Privilege. Sorry; to this one specifically - - -

30

You - yes - - -?--- - - - at 5.22? I can see that I'm cc'd on the email.

So you accept you probably received this?---Privilege. If - the 5.22 pm email?

35 Yes?---Privilege. That is correct.

Yes. You would have no reason to suggest that you didn't receive it?---Privilege. As my name appears here - - -

40 Yes, yes?--- - - - I have no reason to - - -

And your general practice would be to read these sorts of emails when they came through?---Privilege. Again I used to read most of the emails.

45 Yes?---This is a time I used to receive over hundreds of emails a day, so - - -

I understand?--- - - - some of them I would read; some of them I would glance at; some of them I maybe won't read at all; it depends on if it's addressing me in person or not.

5 But something as important as a change of directorship of the company of which you were CEO would be the type of email you would expect you would have read?---Privilege. I – I assume so.

Okay. And you see that Ms Shen is responding, and she says:

10

According to Queena, the education background should not be a problem as Anya also has a higher school certificate only.

Do you see that?---Privilege. Yes, I do.

15

Do you recall being told that at the time?---Privilege. No, I didn't, as when I joined the company Anya was already there and approved by ASIC to be a director.

Right. But you don't recall being concerned by knowing that the director that was replacing Anya would only – only had a high school certificate; no other qualifications; you don't recall being concerned by that?---Privilege. I do not recall the event.

20

Okay. Thank you. And then we can read up the chain, but ultimately if you see at 5709 – I'm not suggesting you were copied to this email, but you seem to come back into the chain later on, so to give you the benefit I will show you what Ms Shen says at the bottom of 5709. She says, "Here's Queena reply":

25

Company do understand that changing control will bring ASIC attention, so we're wondering is it possible we can hire another local director so that we will have two local directors and one external new director, so there will be less concern on role importance of external director.

30

Do you see that?---Privilege. Yes, I can see.

35

Okay. And then there's another series of questions asked by Mr Su-King, which you see just above that; some answers given by Joyce on page 5708, and then if you go over the page to 5707, I just want to ask you a few questions about down the bottom of the page do you see there appears to be an email from you on 30 September 2016 at 7.17 pm; do you see that?---Sorry, can you repeat that, sorry?

40

Sorry; 5707?---Privilege. Yes.

Down the bottom do you see it has got your email address and it has got "wrote Joyce"; do you see that?---Privilege. Yes, I can see that.

45

Do you accept that that was an email that you likely sent at that time?---Privilege. It appears so.

And you say:

5

Joyce, in any case this transaction should happen after we finalise the audit by end of October. We don't want to have any issues with the audit.

10

Do you see that?---Privilege. Yes, I can see that.

Do you recall writing that email?---Privilege. No, I do not recall.

15

When you're referring to "an audit", do you mean an audit by the company's external auditors?---Privilege. Yes, this is correct.

And that was Tulloch; is that correct?---Privilege. Yes, that is correct.

20

Mr Robert Tulloch?---Privilege. He was the auditor; I'm not sure if – yes, I think for – yes, yes, at that time he was.

You accept Mr Robert Tulloch was the auditor?---Privilege. Yes, I do.

25

And you liaised in your role as CEO with the auditor?---Privilege. On the parts that Mr Tulloch would have required my assistance.

Yes. And so what you seem to be expressing here is an issue that might arise with the audit; do you accept that?---Privilege. Yes, I do.

30

And I accept you don't remember now, but what do you think you could have been referring to; what are the issues with the audit that you think you might have been referring to?---Privilege. I would – I would be speculating, and I can't really – as I said, I can't really remember.

35

But do you think it's fair to suggest that you might have been worried that the auditor would raise an issue about the change of directorship and raise that matter with ASIC; is that what you think you were concerned about?---Privilege. Again, I do not recall.

40

Right. Well, if I was to suggest to you that that's what it looks like, that you're worried about the auditor raising an issue with ASIC, would you wish to deny that?---Privilege. It can also be like would that – would – maybe the audit was around the corner; it was better just to, you know, do it with the existing board, and – than do it afterwards. So I can – again, I – I - - -

45

But just directing yourself to my question: would you be in a position to deny that an interpretation of this email is that you seem to be worried that the auditor would raise an issue with ASIC?

MR O'MAHONEY: To the extent – I object. To the extent that that question - - -

MR SULAN: I will withdraw the question. Thank you.

5 Okay. And then do you see above that email in response it's suggested by Ms Shen that Queena replies: "Okay, we we'll wait until the audit finishes and proceeds"?---Can I read?

Yes, sure?---Where is that exactly, sorry; the part you're referring to?

10

On page 5707. There's your email about, "This transaction should happen after we finalise the audit"; do you see that, down the bottom?---Privilege. Yes, as I said.

15 And reading up the page, Ms Shen replies and she says – do you see her email of 30 September at 8.12 pm; do you see that?---Yes – privilege, yes, I can see that.

Yes. So it looks like what happened was she replied saying Queena replied. So she seems to be taking instruction from Queena; do you accept that?---Privilege. As I said before, her role was kind of a double role; she was also acting for the group.

20

Yes. So she's some form of conduit between Ms Lee and you?---Privilege. As I said before, because Ms Lee do not speak English, and I do not speak Mandarin, she was

- - -

25 Interpreting?--- - - - interpreting.

Yes. So she's responding and she's telling you that Queena's reply is, "Okay, so we'll wait until the audit finishes and proceed"; do you see that?---Privilege. Yes, I can see that written.

30

Yes. So you seem to receive, in effect, a positive response to your email; namely you're saying "let's wait until the audit is over," and there seems to be agreement from Ms Lee; do you agree that that's a proper interpretation of these emails?---Privilege. It appears so.

35

Yes. And indeed that is what happened, isn't it; that is that the new director wasn't appointed until 27 October of that year; do you recall that?---Privilege. No, I do not recall.

40 Right. Okay?---But if - - -

And that seems to be after the audit was concluded?---Privilege. I – as the date is 30 September, that would be the final days of completing - - -

45 Yes?--- - - - the audit.

So if it be the case – and I just ask you to accept from me that the directorship changed on 27 October – it would appear that what happened was this proposal was raised by Ms Lee – ie, to replace the director; some concerns are raised by the external consultants, including Mr Su-King Hii; you step in and say, at some point, “Let’s wait until the audit is finished, because we don’t want to raise any issues with the auditor”; that’s acceded to by Ms Lee, and ultimately the director is appointed after the audit; is that a fair summary?---Privilege. I would say not entirely. I would – I said not with the auditor, I said with “the audit”, because, as you can see by the date, it was two or three weeks before we submitted the audit. So it looks to – it looks more like I said “let’s – the audit is going to be finalised within two weeks; let’s do the change afterwards,” like from - - -

I see. Okay?--- - - - from – again, I do not recall, but this is how it appears to me.

Okay. Thank you. All right. Now, I just want to ask you some questions about the company’s – Registrar, an issue has arisen to which I need to obtain some instructions. I don’t anticipate it would take me longer than 10 minutes, and I appreciate what you said about wanting to continue, but if I - - -

THE REGISTRAR: I’m happy to – well, do you want me to stand it down for 10 minutes and everyone else can have a break or so?

MR SULAN: Yes, if that’s – if that’s convenient. I don’t want to inconvenience you, Registrar.

THE REGISTRAR: Before we break, I notice that – because this is obviously a matter where her Honour had made the orders for these examinations. There’s none of the normal orders with respect to sort of witnesses not telling other witnesses about what their questions were asked and stuff.

MR SULAN: Yes.

THE REGISTRAR: I don’t know whether your – because a minor concern is, you know, normally there is that sort of order. I mean, it’s a public hearing, obviously. Do you want to get some instructions on that?

MR SULAN: I’m going to get some instructions.

THE REGISTRAR: Yes.

MR SULAN: Yes.

THE REGISTRAR: Because just normally – while, as I said, it is public, of course, and it’s probably getting reported, there’s a difference between, you know, witnesses commenting to each other about what they talked about, so - - -

MR SULAN: Yes, and we might seek an appropriate direction.

THE REGISTRAR: Yes, I will leave that to you – I will leave that to if you just want to - - -

MR SULAN: Thank you, Registrar.

5 THE REGISTRAR: So are you happy – do you want to come back at 10 past?

MR SULAN: Could we have till quarter past?

10 THE REGISTRAR: No, fine. I'm happy to – I'm in your hands - - -

MR SULAN: Yes. Thank you, Registrar.

THE REGISTRAR: - - - Mr Sulan; whatever you – as long as you – as long or as short as you want to appear for.

15 MR SULAN: Thank you, Registrar.

THE REGISTRAR: So we will adjourn the court to 11.15.

20

ADJOURNED [11.03 am]

25 **RESUMED** [11.17 am]

THE REGISTRAR: Yes.

30 MR SULAN: Thank you, Registrar. I don't have any application to make, but I've been instructed to ask you, Registrar, to remind those present in the court of an order made – I think by you, Registrar – on 1 September 2022; I don't know if you have that. But it was order 4; namely that pursuant to section 596F(1)(f) of the Act:

35 *The examinee shall not discuss their examination with the other examinees until the plaintiffs have completed the examinations of the other examinees.*

THE REGISTRAR: My apologies; I had forgotten I had made that order.

40 MR SULAN: Yes, but perhaps just to remind the - - -

THE REGISTRAR: I was looking at it with her Honour's original order.

MR SULAN: Yes. Thank you, your Honour. But just - - -

45 THE REGISTRAR: So I've already made that order. I will make sure that when we finish that that's reminded.

MR SULAN: Yes. And maybe just to remind those that are watching at the moment that that order is in place. I'm not saying anything else needs to be done, but just - - -

5 THE REGISTRAR: It really sort of applies – it's always a difficult thing, Mr Sulan, because it's a public examination, so people - - -

MR SULAN: I accept that.

10 THE REGISTRAR: - - - are allowed to sit in the back.

MR SULAN: I accept that.

15 THE REGISTRAR: But it's more – the orders are more directed at examinees getting asked a whole pile of tricky questions and then going – going out of their – going home and ringing someone else up and saying, "Hey, they're going to ask you this."

MR SULAN: I totally accept that, and I don't wish to detain the court any further.

20

THE REGISTRAR: Yes.

MR O'MAHONEY: Can I just indicate, as a courtesy, Registrar, that my client understands that and there's absolutely no issue at all.

25

THE REGISTRAR: Yes, yes. Thank you, Mr O'Mahoney. Yes, Mr Sulan.

MR SULAN: Thank you.

30 So I just wanted to ask about some financial matters. If you could take up volume 5, and go to 4194?---Sorry, four one?

4194; do you see that? And do you see it's a document with the company's name on it, and the date 31 July 2019?---Privilege. That is correct.

35

Yes. And this form of document – which I think goes for a few pages into the bundle – is a form of document you recognise, isn't it?---Privilege. It appears to be the monthly management report.

40 Yes. And you recognise this form of document?---Privilege. Yes, I do.

It was the type of document that you would receive on a monthly basis?---Privilege. That is correct.

45 And part of your role was to review it and to understand it; correct?---Privilege. That is correct.

And the people that produced this report, to your knowledge, was whom; Shuriken, was it?---Privilege. That is correct.

5 And so who would send it to you? How did it operate; were you just sent it via email, or what was the process?---Privilege. Usually we would have print copies and probably reviewed it together in the board meeting.

10 Right. And would it be sent to you prior to the board meeting, or you would just see it for the first time at the board meeting?---Privilege. If I recall correctly, we used to – we will review it in the board meeting, and then if in the board meeting, you know – and if there’s any mistake, or anything, then it would be corrected.

15 I see. So someone from Shuriken would attend the board meetings, hand this document out, and you would all review it together in the board meeting?---Privilege. In most occasions that is correct.

Yes. Okay. And so just looking through it, if you go to 4199, do you see that there are a whole series of trust bank accounts referred to?---Privilege. This is correct.

20 And they’re in different currencies, and the total of all of them appears to be a bit over \$74 million; do you see that?---Privilege. I can see that, yes.

25 Yes. Okay. Now, are these trust accounts, to your knowledge, held at the Commonwealth Bank?---Privilege. To my knowledge, yes.

And they were accounts in the name of the company?---Privilege. To my knowledge, yes.

30 And they were holding, in effect, client moneys?---Privilege. Yes, to my knowledge.

Yes. Okay. And who did you understand from USG could control those bank accounts?---Can you – privilege. Can you explain what you mean by “control”?

35 Well, who could transact in respect of those accounts from USG?---Privilege. I think the account deposit and – the deposit and withdrawal team will have access to upload a transaction, and it will be approved by – if I recall correctly – by the director, and I think also by Queena Lee.

40 By Ms Lee. Were you yourself able to access these accounts and transact on them?---Privilege. No, I never had any access to bank accounts.

As a CEO you didn’t have access to the company trust accounts?---Privilege. No, I never had.

45 Right. And did you satisfy yourself, as the CEO, who did have access to those trust accounts?---Sorry; again?

Did you, as the CEO, satisfy yourself as to who did have access to those trust accounts?---Privilege. I – I do not recall any discussion around a specific – specifically around that.

5 So is your answer no?---No, I – privilege. I assume so, yes.

No, just focus on my question. Did you yourself as the CEO satisfy yourself as to who had access within the company to the client trust accounts?

10 MR O'MAHONEY: I think, Registrar, the confusion might be being caused by the words "satisfy yourself" in the context of an examinee; English isn't his first language. I just raise that, Registrar - - -

MR SULAN: I press the question.

15

THE REGISTRAR: Maybe you could just ask it again.

MR SULAN: Yes.

20 Did you, as the CEO, satisfy yourself as to who, within the company, had access to the client trust accounts?---Privilege. I – I was aware of the mechanism. I don't know if – to say if I satisfied myself or not, but I was aware that the transaction could be uploaded by the team and authorised by two separate people, which – at the time.

25 And who were the two separate people?---To my knowledge at that time I think it was – privilege – as I said, Queena Lee from the group, and the director, John Martin.

30 Okay. So when you first became CEO of the group, did you ask someone to explain to you what the bank account arrangements were and who was authorised to operate on those accounts?---Privilege. I do not recall.

Is the answer to my question no?---Privilege. I do not recall if - - -

35 Well, do you think it's - - -?--- - - - any discussion around that - - -

Do you think it's likely you did that, or do you think it's unlikely?---Privilege. I assume – again I – I don't know if I'm supposed to assume, but I assume that I was aware of the arrangement – the way it was arranged.

40

Right. Did you ask to see any bank documents or authorities as to who had authority to operate these accounts?---Privilege. I do not recall.

You don't recall asking that?---Privilege. As I said, I do not recall.

45



45

Was there someone at USG who had the responsibility for holding the relevant authorities to operate the bank accounts?---Privilege. What do you mean by holding the - - -

5 Like the files, or the authorisations that the company had; the physical documents. Was there anyone that was holding those sorts of documents?---Privilege. When you say “the physical documents” you mean like the bank - - -

10 Yes, the authorities, yes?--- - - - authorisation documents? Privilege. I assume so, that it will be collected by the admin person - - -

Right?--- - - - that was in charge of that part.

15 Do you recall ever asking to see what those authorities look like, or who had given them?---Privilege. I do not recall.

Right. Do you recall, at some time probably in around 2019, being asked a series of questions by ASIC and having to prepare responses to them?---Privilege. Are you referring to the section 19?

20 The section 912C notice?---Privilege. We received doing these many times notices from here to here, from – you know, from here to there, so I cannot recall specifically.

25 All right. Well, we might come to that one a bit later on. Can you just go over the page to 4201, and do you see that there are a series of what’s described as money processors?---Privilege. Are you - - -

30 Do you see that?--- - - - referring to page 8, or – 4201 which is page 8 of the report?

Correct?---Yes, I can see that.

35 Yes, and there seems to be about 21.9 million held by money processes; does that accord with your reading of this document?---Privilege. It appears so, yes.

Yes. And there’s companies such as Gateway and OkPay and Skrill; do you see that?---Privilege. I can see Skrill – what was the other one, sorry?

40 Gateway, up the top?---Privilege. Yes, I can see Gateway.

And just under that, OkPay?---Privilege. Yes, I can see OkPay.

45 Yes. Can you explain to the court what you understood the money processor function to be performing?---Privilege. Money processors, as – it’s an online business, money processors are a means to collect funds, deposits from investors into their accounts.

Okay. So if someone that doesn't live, for example, in Australia, but lives in China or Taiwan, wishes to deposit money, they would do it presumably through one of these money processes; is that how it was working?---Privilege. From all around; it can be also from Australia; it can be from overseas; from all around.

5

Yes. Okay. And, what, the money processor would hold the client money for the benefit of the company; is that how it was working?---Privilege. That's – that's the general idea, yes.

10 Yes. And so this, to the reader, indicates to you that there's about \$21.9 million held in money processor accounts for the benefit of the company and the ultimate clients as at 31 July 2019; is that correct?---Privilege. Yes, it appears so; that's the amount that's written here.

15 Okay. And how would USG come to know that this money was being held for it? Does it have its own accounts with these money processes; is that how it works?---Privilege. Yes.

20 Yes. And who would set up those sorts of accounts?---Privilege. Usually it would be setting – money processes were usually done by, if I recall correctly, by Joyce.

Yes. And do you know – looking at those accounts, there's one U-Pay; can you see that, towards the bottom?---Yes – privilege. Yes, I can see that.

25 Is that one of the accounts that you were familiar with?---Privilege. What do you mean "familiar"?

You recognise that name U-Pay?---Privilege. Yes, I can see it says U-Pay.

30 Yes. Do you know who controlled that account?---Privilege. No, I do not know.

Okay. All right. And what about TBpay; do you know who controlled TBpay?---Privilege. I cannot see where – where – can you just show me where?

35 Yes, I'm just – I'm just checking that myself. I will withdraw that question?---Okay.

40 I will come back to it. Okay. So how would, to your knowledge, the money move from the money processor account to the trust accounts? What was the process?---Privilege. It would probably making a transaction on the money processor platform or usually there's a dashboard for money processors, and you just do, like, a withdrawal request, like - - -

Right?--- - - - you know, like you do from the bank or - - -

45 And who from USG was authorised to make such a withdrawal request from the money processors?---Privilege. I'm not sure who's the one that did it, like, you know, specifically.

- Well, don't worry about specifics. Just tell me who?---Privilege. Again, I – I – I assume some of them will be – some of the transaction will be by Joyce, but I cannot tell for sure if it was done only by Joyce.
- 5 Right. So you're the CEO with overall financial supervisory responsibility. You agree with that. We've been through this?---Privilege. Yes.
- Yes?---It's as we said.
- 10 But you can't tell me, sitting here today, who was the person that could operate these money processor accounts?---Privilege. I – I – at this time, USG was a very big firm. To tell you who exactly was the person that clicked the button, I won't be able to tell you. As part of supervising the financial I would have, you know, reviewed, on a monthly basis, those reports.
- 15 Well, just tell me, what systems or controls did you have in place to ensure that anyone that was able to operate this money processor account would do so in an appropriate way, to ensure that the money came to the client trust accounts? What systems did you have?---Privilege. We – I can't really tell you what system we had.
- 20 It was kind of an ongoing thing that used to happen all the time. I assume even on a daily matter, that money would have come in. If something would have been missing that would be reported and as – also every audit we used to do balances for every money processor as part of the audit process, so all this was part of the process to make sure that all the money came in.
- 25 Did you see it as part of your role to put in place appropriate systems and controls with respect to client moneys?---Privilege. I would say so, yes.
- 30 And can you just explain to me what you understood the systems to be, to control client moneys and ensure that it went from money processors to the client trust accounts?---Privilege. Basically you had balances with money processors to make sure you can also cover clients' withdrawals. We are talking that we had a big amount of withdrawals and deposits on a daily basis – again, this was a very large company at the time – so we basically maintained balances to make sure that we can pay clients. And because to make – to make a transfer from the bank into the money processors it would take three days and clients usually will be unsatisfied if something like that will take a long time, so we maintain balances. And when – and based on that – those balances, we would withdraw the funds into a trust account.
- 35
- 40 Okay. Now, I take it you were heavily reliant upon Shuriken to help you understand these sorts of transactions. Is that correct?---Privilege. What kind of transaction are you referring to?
- 45 The money processor transactions?---Privilege. Yes, we would have – yes, count on those reports to – to see the balances. Correct.



Yes. Did you yourself see any retainer or engagement letters between the company and Shuriken?---Privilege. What do you mean, like, the invoices or - - -

5 No, engagement or retainer letters to describe what Shuriken's role was?---Privilege. I assume that we have – we had a service agreement in place. Yes.

Did you, when you became CEO, ask to see it?---Privilege. I assume that I have seen it. Yes.

10 Okay. And what do you recall their services provided for?---Privilege. Based on my memory, they used to basically maintain all the accounting – day-to-day accounting roles and preparing monthly reports, yearly accounts, basically all of – all of their, you know, accounting roles.

15 Can you recall roughly – you don't need to give me precise numbers – how much Shuriken were paid on an annual basis to perform these services?---Privilege. I think it's – I can recall the last couple of years, which I think it was around 120,000 a year.

20 Okay. All right. And – okay. Now, I just want you to take me through how the audit process worked on an annual basis. I take it you were – your accounts were audited on an annual basis?---Privilege. That is correct.

And Mr Robert Tulloch was the main auditor?---Privilege. Correct.

25 And who did he have working for him that was assisting him?---Privilege. He had - - -

30 The main person – not everyone, but - - -?---Many times he used to do it – in some parts he was involved by himself and he had a team there usually, but this team was kind of changing. It's not - - -

Sure?---I don't remember someone specific.

35 Okay. And did you have many meetings with him, in the context of audits?---Privilege. Are you referring to Mr Tulloch?

Yes?---Privilege. As – as – as necessary.

40 Right?---The process was run by him and we would have – you know, meet him when he was requiring or - - -

And so when did the audit generally start?---Privilege. I would say – again, I do not recall every year - - -

45 Sure?--- - - - but I would say, roughly, around mid-September.

And usually finished by the end of October or thereabouts?---Privilege. Yes.



- And it would involve the accounts being signed - - -?---Privilege. That is correct.
- - - both by the directors and the auditors?---Privilege. That is correct.
- 5 And they were accounts that you were familiar with, that you yourself would look at?---Privilege. I would – when the audit would be concluded I would look at that, yes.
- 10 Yes. And you saw it as part of your role to satisfy yourself that the accounts were also accurate. Correct?---Privilege. I – I didn't have the – the knowledge to say if it was accurate or not – or not, more, like, just – depends on what you refer to accurate, like, in the way that it was done properly, maybe, yes. But, again, the information was information I was provided with.
- 15 Sure, by Shuriken?---Privilege. That is correct.
- Yes. But you yourself would read the accounts and make sure that the accounts didn't have any obvious errors in them?---Privilege. Yes, that is correct.
- 20 Yes. And so – and you would want to understand how the business had performed on an annual basis?---Privilege. That is correct.
- So you would be particularly interested in very – you know, in some of the line items of the accounts?---Privilege. I would assume so.
- 25 Yes, such as the revenue line item, that would be of interest to you?---Privilege. I would assume so, yes.
- 30 Yes, and – well, you don't need to assume. You know that, don't you?---Privilege. The bottom lines is the easiest part to read in the report, of course.
- But you're familiar with reading financial accounts. You understand accounts?---Privilege. Yes, I do.
- 35 Yes. And so you would have looked through them on an annual basis, satisfied yourself that there was no obvious errors and also taken an interest in how the business had performed on an annual basis. Correct?---Privilege. That would be correct.
- 40 Okay. Now, when Mr Tulloch had meetings with you, what sort of questions would he be interested in?---Privilege. It can be any matter, and every audit was different.
- Well, let's just choose the later years. Do you recall the sorts of inquiries he would make of you in the sort of 2018/2019 period?---Sorry? What year?
- 45 What sort of questions or inquiries would he make?---In – in what year, I'm asking?

2018/2019. Just give me some examples of things?---Privilege. I do not recall the specific questions.

5 Right. Okay. Do you remember any topic that was of particular interest to him?---Are you referring to in the company - - -

Yes?--- - - - operation?

10 Like, he's auditing the accounts. He's presumably wanting to understand how those accounts have been prepared. That's what you understand the auditor to be doing. Correct?---Privilege. That is correct.

15 And was he interested in, to your knowledge, testing any particular items within the accounts?---Privilege. Yes. He – he would – he would review monthly and quarterly minutes. He would randomly check deposit and withdrawals from – you know, from the account – from the trust account, and – privilege – and will compare it with the platform.

20 Right. Okay. All right. And you yourself would meet with him. Were there other people at USG that would meet with the auditor, to your knowledge?---Privilege. First of all, his team would be sitting in the office for probably a couple of days and liaising with, you know, the team.

25 Yes?---Not myself. But if a meeting would be called with Rob Tulloch himself, I will – to my best knowledge, the directors would be there as well.

Right?---The local directors would be there as well.

30 So in the later years, who did you see as being the local directors in 2018/2019?---I think we had Jamie, then for a short period – sorry – privilege – it was Jamie, then for a short period, I think, Anthony was the director and then John Martin, and later on at the last year, Darren Burns.

35 Okay. And so they would sit with the auditor as well. Is that what you understood?---As far as – privilege. As far as I can recall, yes.

Okay. I just want to go through a few of the accounts. If you can take up volume 2 at page 1493 - - -?---Sorry, one-four - - -

40 Nine-three. You should there have the Union – the USG accounts for the financial year 30 June 2016?---Privilege. Yes.

45 And so as you've told me, this is a document you would have read?---Privilege. I would – I won't specifically say about this one, but I would - - -

Well, it's the annual accounts, so you - - -?---Yes, I would probably review it.

Yes?---Yes.

Fair enough. And you see on page 1499 that it has been signed by Mr Clinnick – that’s who you were referring to as Jamie?---Privilege. That is correct.

5

And then over the page it has been signed by Mr Tulloch. Do you see that?---Privilege. Yes, at page 1501.

10 Yes, yes. Now, just looking at page 1503 do you see the P&L statement for the year ending 30 June 2016?---Privilege. Yes, that is correct.

And the way one can read accounts, to your knowledge, is that it has got the 2015 result and then it has got the 2016 result. Do you see that?---Privilege. Yes, I can see that.

15

So it’s comparing year on year?---Privilege. Yes.

Yes?---Those two years, yes.

20 Yes. And do you see that in the 2015 to 2016 year the revenue item has gone from 21.8 million to 52.2 million? Do you see that?---Privilege. Yes, that is correct.

You would accept that’s a large increase in revenue?---Privilege. Yes.

25 And what, to your knowledge, did you understand made up that revenue line item? How was the company earning the revenue?---Privilege. By the trading facilities.

Right. And so did you regard, obviously, that as a good year? You would increase the trading amounts by 30 million?---Privilege. Yes, that is correct.

30

Right. And you didn’t understand that revenue line item was made up of any other income that the company was receiving?---Privilege. As far as I can recall, yes, that is correct.

35 So to your knowledge, this was just a \$30 million improvement on the trading performance of the company in making a market?---Privilege. To my – to my understanding, yes.

40 And just explain to me how you understood the company could improve its performance that much in one particular year?---Privilege. The – the company was growing and making better results.

45 But how does one increase the revenue? Is it more customers or more clients or how does it work?---Privilege. It would – the bottom line will be more volumes, meaning more trades and volumes traded, but it would be probably involving also more clients and more customers - - -



Yes?--- - - - which is a direct link to - - -

5 Yes. So if you increase the number of clients, you increase the revenue typically?---Privilege. I would say so, but sometimes, you know, also existing clients can trade more - - -

Sure. Yes?--- - - - based on events, market events, you know, etcetera.

10 Yes. But to get those sorts of increases, you're looking – it's likely to be a large increase in the customer base?---Privilege. In some occasions, I would say yes. In others, it - - -

Yes?--- - - - can be involving growing the trading revenue in the trades.

15 Okay. Yes. And just looking at the line item "other expenses", do you see that that has increased from 23.8 million to 51.057 million?---Privilege. Yes, this is correct.

20 What did you understand that to represent? What were those large expenses?---Privilege. That was seven years ago. I can't – I don't really recall.

Okay. Well, can I try and assist you? If you go to 1527 - - -?---One – sorry?

25 1527 you should have the revenue, and then – sorry, just bear with me. Just go back to 1503 and you will see the expense that I'm asking you questions about, the 51-odd million. Do you see that?---1503, the - - -

Yes?---The other expenses.

30 Yes?---Privilege. Yes, I can see.

And just keep your finger in that page and go to 1487?---Sorry. Again – One-four - - -

35 Eight-seven, but keep your finger in that page?---Okay.

And do you see here we have what's called a trial balance as at 30 June 2016?---Privilege. Yes, I can see a document called Trial Balance.

40 Yes. And you know what a trial balance is, don't you?---Privilege. Yes, I do.

Yes. And do you see the third line item, it is called Agents – sorry, under expenses – is called Agents Commission?---Privilege. Yes, I can see that.

45 And it has got a large number of about 41.5 million. Do you see that?---Privilege. Yes, I can see that.

Going back to 1503, that's consistent with your knowledge, namely, that a significant expense item in the company's accounts was made up of agents commission?---Privilege. It appears so, yes.

5 Well, that's consistent with your knowledge, isn't it?---Privilege. Yes.

Okay. Now, where – can you just talk me through the agent relationships, as you understood them? Where were the agents based and how were they remunerated?---Privilege. In the Asian markets the marketing approach or marketing strategy, if you call it, was through introducing brokers that would have introduced clients – retail clients to the company. And for that, they will receive a commission which would generally be a part of the trading volume spread.

10 Right. So just explain that to me. The more volume, the higher the commission. Is that the idea?---Privilege. Yes, that is correct.

So the more a client is trading on their account, the greater the commission that would be paid to the agent?---Privilege. That is correct.

20 And so where were these agents based?---Privilege. In Asia.

And who had the direct dealings with the agents?---Privilege. That will be the Asian – the team that handle Asia.

25 And who was that team?---That was a team located in Taiwan.

And who was the head of that team?---Privilege. To my best knowledge, it was Ms Queena Lee.

30 Okay. So Ms Lee would deal directly with the agents. Is that what you understood?---Privilege.

MR O'MAHONEY: I hesitate to rise and interrupt my friend's flow, but could I just clarify that when my friend asked questions about agents he's referring to the introducing brokers.

MR SULAN: Is that an objection, or what is that?

THE REGISTRAR: I'm not quite sure. Yes.

40

MR O'MAHONEY: Well, it's an objection because I'm not sure that the witness is alive to precisely what is being meant when he's questioned about agents, and if my friend could clarify it, it might result in a clearer picture in that regard.

45 MR SULAN: Well, my learned friend can ask him questions at the end, if he wants to clarify anything.

MR O'MAHONEY: Well, I - - -

THE REGISTRAR: Well, I think it's relevant. I mean, it's probably just easier to clarify, isn't it?

5

MR O'MAHONEY: If I need to make a formal objection, Registrar, to be clear, I do. There's a lack of clarity in the questioning and it should be made clear. It can be readily done and my friend should do so.

10 THE REGISTRAR: It's fairly easy to do, isn't it?

MR SULAN: Well, why don't we proceed this way. If I ask a question – my learned friend hasn't, at this stage, objected to any question. When I ask the next question, if he wants to object on some basis, he can identify that objection and I will deal with it. But I've heard what he said and if I use a different expression, then - - -

15

THE REGISTRAR: We will see what we get. That's all right.

MR SULAN: - - - I will probably limit the prospect he will object. Okay.

20

So just dealing with – I will call them IBs or – you know what the expression IB means?---Privilege. Introducing brokers.

Yes, and so we're talking about the same thing, IBs based in places like Taiwan?---Privilege. I'm not sure where they're based. It can be based all over Asia, like - - -

25

Yes?---But – privilege – that is correct.

30 Yes?---They are introducing brokers.

Yes?---Introducing clients.

Yes. Okay. And so they were people that would have a role in going out and finding clients for USG and Ms Lee was in charge of those relationships, that is the IB relationships?---Privilege. All the Asian markets are basically built that way. It's not only for USG.

35

Yes?---Any company that will operate in Asia will basically operate through an IB - - -

40

Yes?--- - - - in those jurisdictions, and as – as – to my best of knowledge it was all managed by Ms Queena Lee.

45 Yes. So Ms Lee would deal with the brokers, the brokers would get the clients, the clients would put money into the processor account, and ultimately those moneys would find their way to the trust account in Australia. Is that a fair

summary?---Privilege. Mainly, yes. It's – she had a team under her. She didn't – I don't think she did it in person, but she was managing that team which would recruit, if you want to say, the IBs, and, accordingly, the IBs would bring clients to USG - - -

5 Yes?--- - - - which will deposit, and the deposits are - - -

Yes. And so presumably in your role as a CEO and in your supervisory function, it was important for you to know how those IBs were speaking to potential clients?---Privilege. Can you explain what you mean, how they – they speak?

10

Or how they were generating the revenue for the company you needed to know how they were selling, didn't you?---Privilege. No. I had no involvement in – beside very small involvement in the Asian market.

15

But this is money being received into trust accounts in Australia. Correct?---Privilege. That is correct.

So as the CEO of the Australian entity controlling those trust accounts you needed to know, didn't you, how those clients had come to put their money with USG. You needed to know what the sales pitch was, didn't you?---Privilege. No, I have not – I was not aware what was the sales pitch. We were acting, like, more as a platform provider for that – that market, and the sales were conducted by another entity and not by USG Australia.

20

25 Okay. So who did you understand the sales to be conducted by?---By – as I said, by the team – sorry – privilege – by the team in Taiwan.

Through a different entity?---Privilege. To my best knowledge, yes.

30

And what was that entity?---Privilege. I think there were a few entities during the years. I don't – I don't recall the exact name of the one that was in charge of that part, but there were few entities that we worked with from Taiwan.

35

Okay. And so we saw earlier on, if you recall – and we can go back to it, if it would assist you – that part of your role was to look at the promotional material to make sure it was accurate?---Privilege. That is correct.

40

Right. So you at least accept that it was part of your role to look at the promotional material and make sure there were no errors in that material?---Privilege. That is correct.

45

But you didn't see it as part of your role to know how the IBs were dealing with clients in offshore jurisdictions?---Privilege. As – as far as it was reported to us, the – first of all, all the content was in Chinese, which I do not read Chinese, so I can only say what was translated to me or know what was translated to me and I basically, as far as I was reported, there weren't any marketing material going here and there. There was, like, brochures in Mandarin, which again, that I don't read, but



I was mainly reviewing the marketing material in English, which was conducted by the marketing team in Australia.

5 Do you recall what my question was?---Privilege. If I've reviewed the marketing material?

10 No, no. It was – do you – did you regard it as any part of your role to understand how the IBs were dealing with clients in offshore jurisdictions?---Privilege. It's – this is pretty standard in the industry. It's not something that is - - -

15 Just focus on my question. Did you regard it, as any part of your role, to understand how IBs were dealing with clients in offshore jurisdictions?---Privilege. Basically, yes.

20 It was part of your role?---It was basically – privilege. Again, I was reviewing marketing material in English and here and then when there was – there was an Expo or something like and there was a brochure, because, as far as I reported, there weren't any marketing material going out – out from the company. There were brochures that were presented to us in Mandarin which has been translated to us – again, because none of us were – knew Mandarin.

25 So you accept it was part of your role to understand how IBs were dealing with customers in offshore jurisdictions. Beyond looking at marketing materials, what other steps did you take to seek to understand how IBs were dealing with clients?---Privilege. We – the company was not involved in the process between the IB and the end client. That was – usually was conducted by the IB.

30 But I think you just accepted it was part of your role to know what was happening on that part of the business?---Privilege. As I said, this was what – was very standout procedures that IBs would come and list themselves in the website.

35 Well, don't worry about standard procedures. You're accepting, as I understand your evidence, that it was part of your role to understand how IBs were dealing with clients. I'm saying to you, can you tell the court, other than looking at the marketing material, what other steps you took so as to understand how IBs were dealing with clients?---Privilege. Beside that, I – I had no other – as I can recall at this moment, I don't remember any other - - -

40 Right, okay. So what systems did you put in place to make sure that there wasn't any form of mis-selling or misrepresentations made to clients? Did you put in place any systems?---Privilege. Yes. Basically, we have requested to approve any marketing material.

45 Okay, so the systems that you're referring to just extend to looking at the marketing material?---Privilege. Yes. That would be the way that you're marketing to the client.

Okay, thank you. All right, now, do you see in these accounts at 1505 a reference to a line item which says:

Trade and other payables.

5

?---Sorry, what page?

One thousand, five hundred, and five?---What's that? Sorry, what?

10 See under liabilities?---Mmm.

Under current liabilities, there's a reference to trade and other payables?---Privilege. Yes. I can see.

15 And there's a figure of about 3.7 million?---Privilege. Yes. Under 2016, I can see that.

And there's a notation to note 9?---Privilege. Yes.

20 And I think you will find that notation at page 1531. If you keep a finger in page 1505 and compare it to 1531, you can see, in 2016, the \$3.7 million figure referred to on page 1531. Do you see that?---Privilege. Yes, I can see that.

25 And so a significant proportion of the \$3.7 million is made up of client trust liabilities. Do you see that?---Privilege. Yes, I can see that.

Can you just explain to me what that line item means to your knowledge?---Privilege, no, I cannot. I'm not an - - -

30 But these are accounts that you would have read at the time?---That is correct. But to best say what is – privilege. But, again, behind it. That's why we've hired experts to conduct accounting services or legal services, which we will be counting on their ability to provide the service.

35 Okay?---So I'm not really sure what's behind this.

Right. So you don't know what is meant by the line item:

Client trust liabilities.

40

?---Privilege. I would assume it means the bank accounts of the trust liability.

Okay?---Sorry, I think it would be – privilege. I think the liability would be the platform part.

45

Right. So what the - - -?---The liability on the platform.

So the platform indicating that, from all the trading that's going on, from all the various trades amongst the client group, there's a figure of about 3.5 million as at 30 June that is owed to clients from the company trust accounts?---Privilege. Yes. It means that the liability at 2016, at the end of the year, 30 June, will be 3.5.

5

Yes. And when you're referring to platform, are you referring to like the MT4 platform?---Privilege, that is correct.

10 Yes. And so someone has access to that platform, correct? Someone within USG?---Privilege. What do you mean someone?

Well, let me start again. That platform is giving the company USG information about the client's trading activities?---Privilege, that platform gives access – getaway to the clients to trade on the market.

15

Yes, yes. And did you yourself have access to the MT4 platform?---Privilege. Every client of USG had access to the platform.

20 But did you yourself?---Privilege. I had – I had probably some simple account, yes, on my computer.

Some what account?---Like an account on the system.

25 Yes, okay. And so whose job would it have been to report to the company that, as at 30 June 2016, there was 3.5 million in client trust liabilities? Would that have been Shuriken?---Privilege. Yes.

Yes. And that - - -?---This is a - - -

30 - - - they would have had access to the underlying data so as to produce that figure. Is that what would have happened?---Privilege. I don't know what kind of an access it was, but I think this information was provided to them.

35 Right. And who would have done that? Ms Chen or someone like that?---Privilege. I think it was provided by the chief dealer, a guy called Mr Hank.

Right. So Mr Hank would give Shuriken the underlying MT4 data for the purposes of preparing the accounts?---Privilege. I – I don't know if he would have been the one that directly would provide information, but he would be - - -

40

Sure?--- - - - probably in charge of that.

45 Yes, understood. Okay, thank you. Now, I just want to look at what happened in later years. So if you could take up volume 4 at page 3545. It appears we've got the 2018 account. Sorry, if you go to 3220. Can you go to 3220. Now, that these appear, you would accept, to be the financial report for the year ended 30 June 2018?---Privilege. Yes, it appears so.

Yes. And, again, you would have looked at this document at around the time it was prepared?---Privilege. I would assume after - - -

5 Yes?--- - - - it was finalized.

Sure, part of your job would have been to look at it?---Privilege. I would have - - -

Yes?--- - - - probably reviewed it, yes.

10 Okay. And then over the page at 3223. Again, you see Mr Clinnick has signed it?---Privilege. Yes, I can see.

And then, similarly, it's signed by Mr Tulloch over the page at 3224?---Privilege. I can see that.

15 And you will recall the revenue figures we were looking at for 2016 – sorry – for 2016 was about 52 million. Do you remember that?---Privilege. Yes, I do.

And - - -?---2016, you said.

20 Yes. It was about 52 million. You recall that?---Privilege. Yes, I do.

And so we can track through, if we go to page 3225, what happened to revenue in the two years following that. Do you see the figure for 2017 of 93.7 million?---Privilege. It's a bit small, but, yes, I can see it.

25 Yes, you can see it?---Yes.

You accept it says 93.7 million?---Privilege. Yes, 2017.

30 Yes?---It says – yes.

And then 2018 says 117 million?---Privilege. Yes, correct.

35 So you would accept that, at least on the basis of the financials that we've been to, that the revenue from 2016 went from 52 million to 93 million to 117 million?---Privilege. It appears so, yes.

40 Yes. And so you must have been happy about that, the increase in revenue?---Privilege, of course. You want the company - - -

Yes. And what did you understand that increase to be down to? Was it, again, more clients?---Privilege, again, it can be also – it will – the direct link will be trades and volumes - - -

45 Yes?--- - - - or called more on the platform.

Yes?---Which will usually involve a growth in clients.

Yes. And you understood during this period that there was a growth in clients, didn't you?---Privilege, as far as I remember, yes.

5

Yes, and a significant one?---Privilege. I can't say that - - -

Yes?--- - - - because I don't really recall the numbers.

10 And from lots of places around the world?---Privilege. Yes.

Yes. And so just looking at these accounts a bit further, and this one's a bit clearer, do you see the line item:

15 *Agent commission expenses.*

?---Privilege. Yes.

20 And so in the 2017 year, the commission expenses are about 79-odd million, do you see that?---Privilege. I can see that.

And, in 2018, the commission expenses are about 105 million?---Privilege. I can see that.

25 Yes. And so again, that's different commission arrangements for different IBs?---Privilege, can you explain what different is?

30 So there's not one standard commission arrangement. There are different arrangements with different IBs?---Privilege. I would assume that every IB had his own - - -

Yes?--- - - - commercial agreement.

35 Yes. And who would negotiate those on behalf of USG?---Privilege. If the IB would be belonging to the Australian sales team, then it would be the sales agent there. But if the IB would be related to the Taiwan team, it would be probably a sales agent from that team.

40 Right. And they would negotiate how that person was going to be remunerated based on things like volume of trading by the client?---Privilege. Yes, that's correct.

45 Yes. And what the USG systems were set up to be able to work out what that agent should be paid based on a particular client that was introduced into the platform?---Can you repeat that, sorry?

So how was the system able to calculate what commissions would be paid to which particular IB? Like what was behind the system?---Privilege. That there - all the

trades are in the trading platform. You can review, by the IB group, how much trading volumes were called. And based on that - - -

Yes?--- - - - to calculate this commission.

5

Through the system, yes. And again that was something that Shuriken was involved in looking at for the purposes of preparing the accounts?---Privilege. I think the IB payouts was conducted by USG, not Shuriken.

10 Right. And who would be responsible for that?---Privilege, it would be under a team under Kooleena Lee.

Okay. So a team under Kooleena Lee was responsible for the payouts to the IBs?---Privilege. Unless the IB will belong to the Australian team, then it would be conducted by someone of the Australian team. But the Australian team was mainly more retail - - -

15

Yes?--- - - - clients.

20 So - - -?---So the most - - -

Yes?---Let's say the big part of the IBs was belong to the Taiwan team.

25 Yes, okay. And did you yourself seek to understand who the big IBs were in the different parts of the world?---Privilege, no. I would only look at the general report.

Yes. So you left that sort of thing up to Kooleena Lee?---Privilege. That if you're referring to the payouts to the IBs - - -

30 Yes?--- - - - this would have been by the finance team of the group.

Well just give me a bit more information about that. Who was the - - -?---Privilege. As I said before, it was supervised and managed by Kooleena Lee, yes.

35 Okay, thank you. And in terms of the contractual arrangements between USG and the IBs, who had authority on behalf of USG to enter into such contracts insofar as the IB was based in an offshore jurisdiction?---Privilege. Again, if it was some - if it was related to the Australian team, then it would be the sales team - the sales agent sitting here in Australia. And if it would be from the Taiwan team, it would be those sales agents.

40

Did you ever ask to see any of the underlying agreements between the IBs and USG?---Privilege. We are the ones that provided the template of the agreement done by an Australian lawyer.

45

Right. And who was that?---Privilege. As far as I can recall, that was done by Su-King Hii.

Okay. And did you ever ask to see the final contracts that were entered into with the IBs in the different jurisdictions?---Privilege. USG had thousands of IBs. Of course I would not review every - - -

5 Right?--- - - - each of those agreements.

Did you review any of them?---Privilege. I -- not that I can recall. Maybe not. Not that I can recall, no. No.

10 Okay. So were you reliant upon Kooleena Lee to ensure that the payments being made to IBs in foreign jurisdictions were being done in accordance with contracts that USG had properly entered into with those IBs?---Privilege. This is how it was set up - - -

15 Yes?--- - - - yes, when I joined the company.

Yes, yes. And did you ever seek to put in place any systems or controls to ensure that that was all operating properly?---Privilege, we -- the system. We didn't have any issues. We never had any problems. Of course, there was -- of course, you can, you know -- there's always some -- can be some issues with a certain IB and a payout and -- but, in general, it was working pretty good.

Okay, right. Can I just ask you to go to -- hang on. I will give you a better page number. At three -- sorry. I will ask you to take up 3226?---Three thousand, two hundred, and twenty-six, yes.

And do you see the line item:

Trade and other payrolls.

30 ?---Privilege. Yes, I can see.

And, again, notation 9. And do you see that the figure in 2017 is about 20.9 million and, in 2018 is about 12.061 million?---Sorry, where's that?

35 On page 3226, there's current liabilities and there's the line item:

Trade and other payrolls.

40 ?---Trade and other payrolls, yes.

And the figure for 2017 looks to be about 20.9 million?---Privilege, correct.

45 And the figure for 2018 looks to be about 12.061 million?---Privilege. Yes, it appears so.

And there's a notation 9 that you can see next to it?---Privilege. Yes, I can see that.

And one finds notation 9 on page 3232. Do you see that?---Privilege. Yes, I can.

And the major amount of this part of the accounts is made up, again, of client trust liabilities. Do you see that? So it's 14 million for 2017 and 10 million for
5 2018?---Privilege. This is a very small yes.

Yes. Just if you can accept that from me?---Okay.

But that would accord with your understanding of how these accounts worked,
10 namely to the extent that the company was accepting that it owed money to clients under the client trust accounts. It would be recorded in the accounts as a line item being a liability?---Privilege. Yes, that is correct. That would be the client platform liability.

15 Yes. And so that's, again, something that would have been provided by the company to Shuriken to enable them to prepare these accounts?---Privilege. Yes. I think so, yes.

Yes. And then it's probably something that you might not remember now. But you
20 would accept that the auditor would have probably been interested in this sort of line item?---Privilege. Yes, I also know that he would do random checks to - - -

Yes?--- - - - compare transaction out or in the platform.

25 Yes?---And - - -

Because whilst the auditor was auditing the financial accounts, he was also an auditor for the purposes of the AFSL licence, wasn't he?---Privilege. Yes, that is correct.

30 Yes. And he had to produce a particular document each year to certify that that audit, in accordance with the AFSL licence, had been properly done and that USG was compliant?---Privilege. Yes, he would have needed to provide this document
- - -

35 Yes, yes?--- - - - that the conditions are met.

And, again, that's something that you would have helped him with from time to time in answering questions when he had queries about aspects of the operation of the
40 business and whether it was compliant with the AFSL?---Privilege, me and, of course, all the team.

Yes. And can you remember the type of questions he would ask on that sort of
45 topic?---Privilege. I can't really say. Again, I remember that there would be random checks of the transaction and compare it with the platform and the banks and making sure it's aligned, but I cannot remember the specific questions.

Yes, and presumably one of the issues he would be interested in as the auditor of the AFSL was in decision-making authorities within the company. Is that part of the audit process?---Privilege. Can you explain what you refer by decision making?

- 5 Yes, well, remember we looked before the emails about the change in directorship?---Privilege. I remember. That was a few - - -

Yes?---An hour, two hours ago, yes.

- 10 Yes. So one of the things that the auditor would be interested in, presumably, in the context of an AFSL licence audit, would be who are the directors and what are their roles?---Privilege. Again, I don't recall the specific questions and I myself am not an auditor. So I don't know what to say exactly are his obligations.

- 15 Right. But - - -?---But - - -

Yes?---Yes.

- 20 But do you have any recollection of those sorts of issues being discussed between you and Mr Tulloch, like who are the directors, who's in charge of decisions, who has got authorities?---Privilege. I don't remember – I don't recall specific discussions.

- 25 Right. So what sort of discussions can you recall that were referable to the licence audit as opposed to the accounts audit? What was the process that you understood the auditor went through?---Privilege. Again, as I said before, you know to check that – again, because there was a large amount of transactions made on the platform and the banks, so not all of them were checked. But, again, randomly check accounts, randomly check compliance KYC documents of the clients. Also, again, randomly, it would provide us a list of accounts that we would need to provide. And all the KYC documents. Privilege. Also, I would say – and, as I said, also random transaction from the banks and he will request to see them on the platform, and to match them, and making sure it's all in line.

- 35 And was this done at the same time as the financial account audit?---Privilege. Yes.

Okay. And it would be over what, usually just roughly a couple of days?---Privilege, no. I would say even more. Like a couple of weeks - - -

- 40 Right, okay?--- - - - an audit process would have occurred.

- 45 Okay. And they would be in the offices, looking at the materials, is that - - -?---Privilege, there was a team from the auditor in the office for a few days in a process like that. And I assume some of the work would also be done in the offices.

Okay. And do you ever recall any discussions about the increase in revenue year on year with the auditor. Was that something they were interested in?---Privilege. I cannot recall a conversation about that.

5 Right. It's likely that that wasn't discussed, is that - - -?---Privilege. Again, I cannot recall, so I don't want to assume.

Right. So that the auditor – sitting here now, you can't recall whether questions were asked about how the company had moved from revenue of 52 million in 2016 to 93 million in 2017 to 117 million in 2018. You don't recall any discussion about that topic?---Privilege, no, I cannot recall.

10

Okay. And you don't recall any discussion with the auditor about the significant agent commission expense line item being 105 million in 2018?---Privilege, no, I cannot recall the conversation.

15

Right. Do you recall the auditor showing any interest at all in what the underlying arrangements were between the company and the IBs?---Privilege, no, I cannot remember any – any discussion.

20

Right?---I'm not saying there wasn't, but I just - - -

You just don't - - -?--- - - - can't remember.

25 Don't recall?---Yes.

So there was no big meeting, you recall, where the auditor was saying, well, how's the company performing in this way; what's behind those line items?---Privilege. Specifically on the word meanings - - -

30

On those ones?--- - - - as I said.

Yes?---But specifically on that topic, I do not recall.

35 Okay. Now, can I just ask you to take up volume 3 at 2822?---Sorry, what page?

Three thousand, eight hundred, and twenty two. Sorry, maybe I've got the wrong – 2822. 2822, sorry?---Two thousand, eight hundred, and twenty two.

40 Twenty-two. Yes, 2822. You got that? You might need to turn it around. It's in landscape, yes. Do you see that?---Privilege. Yes, I can.

Now this, to my reading, looks to be some sort of presentation that you were giving. Do you accept that?---Privilege. Yes.

45

And can you just give me – it doesn't seem to be dated, but was this sort of slide pack the type of presentation you would give from time to time in various places



around the world? Is that a fair summary?---Privilege. I – most of the time it will be conducted in the USG offices in Australia - - -

5 In Australia?--- - - - in Sydney.

What, with people attending from around the world via video or something like that?---No, we – privilege. I would say roughly – I would say like twice a year, a group of IBs, I've been told, leading performing IBs, will have – come to a visit to Sydney that they had a couple of days in Sydney, which, on part of that visit, they will come for an hour or two to the USG offices in Australia. And in that visit, I will – I've been asked by the group to conduct this presentation.

10 And so who would ask you to do that?---A – privilege. Again, that – I mean, it would be Joyce. But, again, I assume she was – been directed by someone else. But, yes, probably Queena.

15 Yes?---But I will get the instruction from Joyce.

Yes. So you would receive an instruction from Joyce that there were certain IBs in Sydney and that you were asked to give a presentation to those IBs?---Privilege, that is correct.

20 Yes. And whilst this thing is not dated, would this have been occurring throughout the period that you operated as CEO. That is, between 2014 and 2019?---Privilege. I don't know if this specific one was the whole period, but it appears to be a presentation that I've made.

25 Yes. And are you able to help me with a date? Does this - - -?---Privilege, no, I cannot.

30 No, okay. All right, well just looking at the agenda. If you see in the right hand column, there's a reference to CBA?---Privilege, are we referring to page 2823.

35 Yes?---Privilege. Yes.

Now, CBA is obviously the Commonwealth Bank, correct?---Privilege, that is correct.

40 And what sort of thing were you telling IBs about the Commonwealth Bank. If you could just stick on the page that we were on, if you could?---But I need to see exactly – I don't – privilege. I don't remember everything. But there's a page here that's supposed to be talking about that.

45 Okay. You take me to the page you want to go to?---Yes, privilege. It's 2834.

Yes. So what sort of thing would you be saying about the Commonwealth Bank?---Privilege, it says international bank. One of the Australian longest-serving bank, Moody's AA2, standard triple A rating, and trust accounting.

5 But what was the message you were trying to convey?---Privilege. That all our trust accounts are held in the CBA bank account.

Right. And that that was a safe place for the money to be. Is that the sort of thing you were trying to impart?---Privilege. I said where the trust money is deposited.
10 That's – that's what I said.

Right. So you didn't try to convey any sort of message associated with the CBA?---Privilege. I told them that their – their funds are sitting with the CBA, which is a very large bank, one of the top five banks in Australia.

15 And that was designed to assure IBs that this was a safe place for clients to put their money, I take it?---Privilege, basically, you know, as a bank, it's more big and – and, you know, and strong. I – I would assume that it would say that it's safer than a smaller bank.

20 Yes, okay. Could I ask you to go to 2829?---Do you see that there's a slide saying ongoing compliance?---Privilege. Yes, I do.

25 Can you tell me what you would say when you're addressing this sort of slide?---Privilege. First point is proofs, then ASIC surveillance.

No, I can read what's on there. But what was the message you were seeking to convey?---Privilege. I don't know if there's a message. I would have a report, what is the ongoing compliance of the company.

30 Right. And what would you say about breach reporting?---Privilege. I can't recall the exact word, but I would assume here that I would say that, if there's any breach report, we are obligated to report it to the regulator.

35 And what sort of thing did you understand would lead to a breach report? What was the type of thing you were obliged to report?---Privilege. It can be any unusual major incident, which we will usually take consultation with our legal advisor. And if they will think that this requires to lodge a breach report, the company will do so.

40 And can you give me an example of an unusual major incident?---Privilege. Are you referring specifically or in general?

Yes. Let's deal with specifics, can you remember?---Privilege, no, I cannot recall.

45 Right, okay, so as a matter of general approach, what would you regard as an unusual major incident? A few examples?---Privilege. I would say – in general, I would say if system goes down for a long period of time or an unusual period of time, because

system outbreaks can occur, I would say falling under the NTA level, the required NTA level.

Yes?---And et cetera.

5

Okay, all right. Okay. So did you ever give this sort of presentation directly to clients or was it always just to the IBs?---Privilege. As far as I know, I'm being told, it was always IBs.

10

Right, okay. And did you ever travel overseas to give this sort of presentation?---Privilege. I was once in Taiwan and presented this presentation.

Okay. And when was that?---Privilege. I think -- I don't remember exactly, but it was around 2018.

15

Okay?---I think so.

Yes?---If I'm okay with the order of events in my head.

20

Yes. Do you recall any trips to London?---Privilege. Yes, I did. I had a trip to London.

What was the purpose for that trip?---Privilege, we have basically opened an office there after getting the licence from the FCA. And I flew there to meet the local team, the director, the compliance officer. I met the sales guys, the admin, the whole team.

25

Okay. And were you responsible for what was happening in that part of the world?---Privilege. There was a director that will manage that. But I was supervising and trying to assist with training and et cetera.

30

Okay, thank you. Can I just take you back to the NTA reports?---Sure. Is it okay to have a toilet break?

Sure. I mean, we - - -

35

THE REGISTRAR: Yes. It's really up to you. I'm happy to just have a short break and then keep going for a while or -- I mean, I was intending to break from 1 to 2, but it depends on your requirements. I'm really in your hands and Mr O'Mahoney's hand.

40

MR SULAN: Well, if it's not inconvenient to the court staff and others, we could break now for lunch and come back slightly before 2. But I'm obviously in your hands.

45

THE REGISTRAR: I'm happy with that. Court officer, is that okay with you?

COURT OFFICER: Yes. Yes, sure.

THE REGISTRAR: Are you okay to come back at quarter to 2?

COURT OFFICER: Yes.

5 THE REGISTRAR: Well, why don't we do that then?

MR SULAN: Yes.

10 THE REGISTRAR: Are you happy to come back at quarter to 2?

MR SULAN: That would be convenient from my perspective.

THE REGISTRAR: And then we just keep going. Yes, is that all right with you,
15 Mr O'Mahoney?

MR O'MAHONEY: Certainly, thank you, Registrar.

THE REGISTRAR: Witness, that's okay with you?---Yes, sure.

20 So we will adjourn the court now and till 1.45.

MR SULAN: Thank you. Thank you, Registrar.

25 **ADJOURNED** [12.39 pm]

RESUMED [1.48 pm]

30 THE REGISTRAR: Yes. Mr Sulan.

MR SULAN: Thank you, Registrar. I'm ready to resume.

35 MR O'MAHONEY: Apparently he is indisposed, but will be back with us momentarily.

THE REGISTRAR: Sure.

40 MR O'MAHONEY: My apologies, Registrar. He was here a minute ago.

THE REGISTRAR: Yes, that's all right.

45 MR SULAN: Thank you, Mr Zakhaim. Could I just ask you to take up, again, volume 5 of page 4201. So 4201. And just to remind you, if you look at page 4194, 4194 - - -?---Forty-nine.

Four thousand, one hundred, and ninety-four?---Four thousand, one hundred, and ninety-four.

A few pages beforehand?---Four thousand, one hundred, and ninety-four.

5

No, you're going the wrong way?---Sorry.

Yes?---Four thousand, one hundred, and ninety-four.

10 You recall this is the document I took you before?---Privilege. Yes, sure.

And if you go over to 4201, this is a list of money processes that we were looking at before. Yes, you recognize that page?---Yes. Privilege. Yes. Yes.

15 Yes?---That's the money processes list, yes.

And do you see about three-quarters of the way down the page, there's one called money processor, U-Pay, and there's the figure of \$19.3 million?---Privilege. I see that.

20

Yes. Can you tell me anything about U-Pay?---Privilege. It's -- to my best knowledge, it's union pay. What's it called? Chinese UnionPay provider money processor.

25 And where is it based?---Privilege. I'm not really sure.

Right. Did you yourself have any dealings with U-Pay?---Privilege, no. Not that I can remember.

30 Right, okay. Is there any reason why it would contain most of this money? Is it because it's in a jurisdiction where there are a lot of clients or - - -?---Privilege. Yes. That is correct.

35 Is that likely to be China or is that - - -?---Privilege. Yes. I assume it will be mainly China and there were a lot of clients from China.

Yes. And so who from USG do you think would have been the person dealing with U-Pay?---Privilege. I'm not sure. I will assume it was probably the finance team under Kooleena Lee.

40

Yes. When was the last time you spoke to Kooleena Lee?---Privilege. I don't remember the exact date, but it would have been a few days to a couple of weeks before we have decided to put the company -- the local management -- have decided to put the company into administration.

45

Right. So some time in 2020?---June -- privilege. I would assume it would be June 2020.

Yes. And you haven't heard from her since?---Privilege, no. Maybe a few days after but not since.

5 Do you have any way of contacting her?---Privilege, no, I don't.

You don't have any telephone number for her?---Privilege, no I don't.

Okay. Did you used to have a telephone number for her?---Privilege, no.

10 Right. Can I ask you to take up volume 1 at page 697?---Six hundred and seventeen?

Six hundred and ninety-seven?---Six hundred and ninety-seven.

15 You should have there a document entitled monthly NTA and financial reports review. Do you see that?---Privilege. Yes, I can.

And the date of the meeting seems to be 17 December 2015. Do you see that?---Privilege. Yes, I can.

20 And it appears to be a report where Ms Shen has taken the relevant minutes. Do you see that?---Privilege. Yes, I can see.

Yes. And, over the page at 698, it looks like you had attended this meeting. Do you see that?---Privilege. Yes, I can see that.

25 Yes. And this was a common discussion point, wasn't it? Namely, the discussion of the NTA position of the company?---Sorry, can you - - -

30 It was a monthly discussion that you would have about the NTA position of the company?---Privilege. It was part of the monthly - - -

Yes?--- - - - board meeting and - - -

35 Yes?--- - - - reviewing the financial reports. It was also a specific part about the NTA.

Yes. And that was because it was part of the regulatory guide framework that you had to be within certain parameters?---Privilege. Yes, that is correct.

40 Yes. And the material that you would look at in order to determine the NTA amount was material that you were receiving from Shuriken?---Privilege. Yes. All the accounting as I said - - -

45 Yes?--- - - - came from - - -

Okay. And so if we look over the page at 698, at point 6 where there is a discussion, you will see in point 1 that there is a reference to a daily client equity report. Do you see that?---Privilege. Yes, I can see that.

5 And who would be responsible for producing that client equity report?---Privilege. To my best recollection, it was Shuriken as well.

Okay. And was that a report that was prepared by accessing the MT4 platform?---Privilege. You will – to be able to prepare the daily equity report, you will need the daily equity number - - -

Yes?--- - - - or liability.

Yes, sure. And do you see there that it says:

15 *Queena to transfer excess money in trust account to business account and leave \$700,000 surplus cash in trust account as buffer.*

?---Privilege. I can see that.

20 Can you explain what that all means to me?---Privilege. I do not recall exactly the discussion. I can assume that the buffer is – was for being able to have enough money in the trust account to cover all the client liability. Because when you were dealing with international money processors, comparing to an Australian money processor which was depositing the funds within the day, the next business day, international ones usually settle the funds once a week. So to be able to cover those liabilities, we used to maintain a buffer.

Okay. And I take it from the fact that it says:

30 *Queena to transfer the excess money in trust account –*

That Miss Lee had some form of access or authority in respect of that account. Do you accept that that is what is said on the page?---Privilege. Yes. And I also said before, when you asked me that - - -

Yes?--- - - - I believe that she had access.

Yes. So she would be the one that would transfer excess money from the trust account to the business account?---Privilege. I do not know if she would do it in person.

Herself. But - - -?---But she would be in charge of.

45 Right. And the business account is, again, an account held with the Commonwealth Bank, is it? Privilege. To my best knowledge, yes.

Okay. And then it says:

Queena to transfer 150K cash from trust account to business operating account immediately.

5

Do you see that?---Privilege. Yes, I can see.

Yes. So can we take it from that that the structure of what is going on here is that, from the daily client equity report, someone has worked out that \$150,000 could be transferred from the trust account to the business operating account whilst leaving a buffer of 700,000. Is that a fair summary of those two points?---So can you repeat the first point.

10

That someone has worked out, by looking at the daily client equity report, that 150,000 can be transferred from the trust account to the business account and thereby leaving a buffer in place of \$700,000?---Privilege. Yes, I would assume that the team that were sitting together in that meeting agreed that those are the amounts. Correct.

15

Yes. And that team included you?---Privilege. Yes, I was present.

20

Yes, okay. Thank you. Now, who are BFOPay and Velocity? Do you see that referred to as the third point?---Privilege. I do not recall who was BFOPay. But Velocity was a hedge kind of party - - -

25

Right?--- - - - that we used to hedge risk.

Okay. And so can you just interpret – just limiting yourself to Velocity, can you just interpret the third discussion point for me so I can understand what it means?---Privilege. No, I don't really recall - - -

30

Okay?--- - - - that specific discussion as it was like 8 years ago.

Yes. Does it make any sense to you though that you were trying to lower third-party bankruptcy risk by transferring money from a counterparty?---Sorry, again?

35

Does that make sense to you as a concept to try to transfer money from a hedge counterparty to lower some sort of bankruptcy risk?---Privilege. No, no, not at all.

Okay. You can't help me with that at all?---I just – privilege. I don't recall the discussion.

40

Okay. Could I ask you to go to page 953. And do you see something called licensing financial requirements?---Nine hundred and fifty-three.

45

Sorry, 952. If you start on 952?---That – privilege. Yes, I can see that.

Yes. And this is a form of document that's familiar to you, correct?---Privilege.
Yes.

Yes?---I mean, that was - - -

5

It was part of the monthly discussion you had that you would look at these sorts of documents?---Privilege. This was part of the monthly management reports.

10 Yes, yes. And what you were doing here, I take it by looking at 954 and 955, is to test the net tangible asset requirement of the regulatory guide, correct?---Privilege.
Yes, correct.

15 And, again, this was material upon which you were reliant in receiving from Shuriken?---Privilege. Yes, this is correct. It was provided on a monthly basis.

Yes, okay. And you would rate it and satisfy yourself that it was accurate, and then lodge it. Is that what happened?---Privilege. I don't think, in that date back then, we needed to lodge it.

20 Right?---Only part of the annual audit was basically lodged. I think, later on, the monthly reconciliation obligation came a couple of years later.

Okay?---If I - I don't remember exactly the year but - - -

25 Sure. And just looking at 955. Well, one of the aspects of the guide that you had to satisfy yourself as to was the cash or cash equivalent position of the company. Correct?---Privilege. Yes. That is correct. We - you needed to have 50 per cent of your cash or cash equivalent.

30 Yes. So money in a bank account would be cash?---Privilege. Yes.

Yes. And so we're talking here about the company's operating account. That would count towards the NTA cash requirement?---Privilege. Yes. I would assume so, yes.

35 Yes, okay. And you recall from time to time that you would form a view that there was insufficient money in the operating account. Do you recall that sort of thing?---Privilege. I would - I do not recall a specific incident or event. But I would say that it would be safe to say that, within the few years, there were probably a few occasions that the NTA can be a bit lower, and we need to take action.

40

Yes. And was that something you were monitoring on a daily basis or - - -?---Privilege. I think at that time, it was more - the obligation was on a monthly basis.

45

Yes?---And later on, there were the daily reconciliation.

- Yes. And how would you yourself come to know that there was a deficiency in the account?---I would be – privilege. I would probably be aware either from the monthly reports or the daily equity report.
- 5 Right. And that would be of concern to you because that would be a breach of the RG guide, correct?---Sorry, you're asking if it's - - -
- If there was a deficiency?--- - - - it would be a concern?
- 10 Yes?---?---Privilege. Yes, of course.
- Yes. So it would be something you would want to sort out very quickly?---Privilege. Yes, I would assume so.
- 15 And was there a reporting obligation if you breached the NTA requirements?---Privilege. Yes. I – I don't remember the exact RG now but there is kind of a – levels of - - -
- Yes?--- - - - if the NTA is – if the NTA is below, that it requires a certain – sorry.
- 20 You know, certain action from the company.
- Yes, okay. So can you take up volume 7 and go to 5699?---Sorry?
- 5699?---5699?
- 25 Yes. Do you have that?---Yes, I do.
- And do you see that you – what seems to have happened here on 13 July, you seem to have been sent a client equity report and do you agree with me that you seem, in reaction to that, to have sent an email to Joyce on the 13th of July which says:
- 30 *Joyce, two million is needed to be transferred to operation account.*
- ?---Privilege. This – this is what it appears so, yes, in the email.
- 35 Yes?---That's what is written here, yes.
- And that's, you would accept, something to do with the NTA covenant?---Privilege. I – I do not recall that specific email but I – I would be – based on the subject, I would be – assume so, yes.
- 40 Yes. And so, this is really you asking for money to be put in the clients operation account, correct?---Privilege. Yes, it appears so.
- 45 Yes. And it's really you asking Ms Kooleena Lee via Joyce, isn't it, to put that money in?---Privilege. I'm – I basically told Joyce what needs to be done and then she will usually go and tell Kooleena that this needs to be done.

And where did you understand that Kooleena was going to get that sort of money from to top up the company account?---Privilege. I – I do not know.

5 What? So Kooleena could just access two million dollars, you didn't know where from, to top up the company account? Is that how you were proceeding?---Privilege. I was not aware what is the financials or how that was – or how much money they were holding.

10 So all – all you knew from your perspective was that money was needed in the operation account of USG, so as to ensure that the NTA threshold wasn't tripped, is that correct?---Privilege. What I can say for sure, that I was saying that we need two million dollar into the operation and I assume that it was for – to maintain NTA levels, yes.

15 Yes. Well in your position as CEO, would it have been of concern to you that you didn't know the source of the money which you were going to receive in order to ensure that the NTA threshold wasn't tripped?---Privilege. During my career, I was employed by many companies and I – most of the time, I wasn't aware of the shareholders or parent company's financial situations.

20 Right. So you – you were just content to receive the money, you didn't mind where it came from so long as it hit the operations account? Is that the position?---Privilege. What I said is what was required for the Australian entity to maintain its operation, I assume for NTA levels. Maybe for expenses, I'm not sure.
25 But I – I was, you know, making sure that the Australian entity has what it needs.

30 Okay. Can you just look at 5702? Do you see that there's a report that seems to be sent to you on the 9th of September 2016 down the bottom of 5702 and you – you seem to respond to that by saying, 2.5 –

Joyce, 2.5 needed to be moved to operations.

Do you see that?---The – privilege. Is that the 2.57 pm email you're referring to?

35 Yes?---Privilege. Yes, I – it appears so, yes.

40 Yes. So is that another occasion where you worked out you needed money, presumably for NTA, and you just asked Joyce to put the money in? Is that what's going on here?---Privilege. I – I assume – I'm – I'm not sure what was the – again, I assume it was for NTA level because that would usually be the case but I said Joyce, that it needs to be done. Not that Joyce, you put the money in, but that it needs to be done and the parent company needs to inject - - -

45 Right?--- - - - funds to maintain our financial position.

Right. But you yourself had no oversight or – sorry, I withdraw that. You – I withdraw that. If you go to 5701, do you see you're told by Ms Shen that:

Kooleena has moved 400K USD to operation today.

Down the bottom?---Kooleena – privilege. Yes, I can see that.

5 Yes?---Kooleena has moved 400K operation today.

And you respond:

400? There is excess of over 3 million.

10

And you said it's her last day today. Do you see that?---Privilege. I – I – for some reason, there is no time here, so I'm not sure if it's - - -

Well isn't it at - - -?---Was – that's at like - - -

15

- - - 3.03?---From what I'm reading, I can't – you don't – you see the – when Joyce wrote to me, there's no time there.

Yes?---So I'm not sure which was before what and how it's related but - - -

20

Well it seems to be that you're responding to that email by saying:

400? There is excess of over 3 million!

25 Do you see that?---Privilege. Yes, I can see that written. Yes.

Yes. Can you help me to understand what you mean by there is excess of over 3 million!?---Privilege. I assume it was – if it says excess, it's probably related to the trust account.

30

What, does that mean you need to get 3 million in or – or - - -?---No, no. There was excess and maybe I was afraid that – again, I do not recall the situation. It was many years ago. But I assume from what I'm reading – sorry, privilege – that I assume that she probably went to a holiday or a leave and I was worried that, you know, she won't be responsive.

35

Okay. And just finally, at 5683?---5683?

Yes?---Yes.

40

Do you see on this occasion, you – if you look at the email chain, again you sent the client equity report and you respond:

Kooleena, NTA is too low!!! You need to transfer 800K ASAP!! Until NTA is fixed you can't send out funds, not even client withdrawals.

45

Do you see that?---Privilege. I can see it.



Yes. So that's an example, isn't it, where you were asking for money so as to ensure that the NTA covenant wasn't tripped, you would agree with that?---Privilege. Yes, I would agree. As part of my - - -

5 Yes?--- - - - making sure the NTA is kept, I would make sure.

And you seem to have copied in a number of people from Ozy Tax Time, including Pedro Sasso? Do you see that?---Privilege. I assume it's a chain of emails that I was replying to.

10

Yes. But did you see it as part of Pedro Sasso's role to assist you to manage the NTA covenant?---Privilege. Yes, part of it – the role – was to report to us the NTA levels and assisting us to maintain those levels.

15 Yes. And so, to your knowledge, Pedro Sasso and others knew that the way in which this sort of thing was being managed was by having funds deposited from some entity unknown by Kooleena?---Privilege. Can you repeat that question, sorry?

I think I will withdraw it?---Okay.

20

Now if you go to 5681?---5681.

Yes. Do you see here that there's a discussion about a – a FOS recommendation? You know what FOS is, don't you?---Privilege. Yes, I do.

25

Yes. It's the Financial Ombudsman Service, correct?---Privilege. Yes, that is correct.

And it has now been replaced by AFCA?---Privilege. That is correct.

30

Yes. And you see here that there's a discussion about a FOS complaint with a Mr Jan Backer, do you see that on page 5680?---80. You're referring to the upper part or the lower?

35 The lower part, at the end of 5680. You're being told - - -?---Privilege. Yes, I can see that dispute with unfortunately forces not ruled in the favour of USG. Correct.

40 Yes. So – so FOS has made a determination in favour of Mr Backer and then the question is:

Do you want to dispute the recommendation?

And do you see up the page, you provide a comment:

45

I advise to dispute their decision. What would you like me to do?

And the response from Joyce is:

Kooleena agrees to dispute the decision as you advised.

5 Do you see what I mean?---Privilege. Yes, I – I – I see there, it's written. Yes.

So this is an example, isn't it, where, in effect, it was a decision of Ms Lee on behalf of USG as to whether or not to dispute the decision. Do you agree with that?---Privilege. This appears so, that I recommended to - - -

10

Yes?--- - - - dispute and she agreed, yes.

Yes. But you were seeking, in effect, direction from her as to what to do?---Privilege. As – as my, I would say employer or representing them – my employer or - - -

15

Yes. But she - - -?---Yes.

- - - wasn't a director of USG?---Privilege. No, not – no.

20

She wasn't an employee of USG?---Privilege. Not USG Australia, no.

Yes. So you – and you were just working on some assumption that she was employed by the parent company, wasn't – weren't you?---Privilege. Yes, as - - -

25

Yes?--- - - - as far as I knew, she was employed by the parent company.

Yes. And so you were, in effect, deferring to her the decision as to whether or not to dispute this FOS complaint?---Privilege. I've – I provided a recommendation which she would need to approve, as – as the one that were basically in charge of the money and – and operation, yes.

30

Yes. Do you know what the entities Mercado and World Media – do those names ring a bell?---Privilege. Yes. I think they were Taiwanese entities that provide services to USG Australia.

35

What sort of services?---Privilege. I'm not – I don't remember exactly which one provided what but it – one of them would have been the sales that – in Asia, that I've mentioned before. Privilege. And also they would have provided IT services; back office system services, platform services and etcetera.

40

And they were paid money by USG for those services?---Privilege. Yes.

And did you understand Ms Lee to be associated with those companies?---Privilege. I don't remember what was involvement directly. I think she was – I think she was directly involved with one of them. I'm not sure exactly about the rest, if she was like a director or anything like that.

45

Yes. Did you take any steps to satisfy yourself as CEO that the amounts being paid to those entities were arm's length transactions?---Privilege. Yes. Basically, again, as I said, we always had our legal and professional expert advising us and we never find any issues with those payments.

5

But did you specifically look at them?---Privilege. Specifically, again, I do not recall the exact situation but I would probably review those service agreements.

Well you say you would probably; do you have a recollection of that?---Privilege.
10 Look, I cannot tell you exactly where or when but I did review the service agreements.

Okay. And what did they provide for?---Privilege. As I said, IT services, the sales services in Asia – Asia, sorry – and all of the above I mentioned before.

15

And what sort of payments were being made?---Privilege. I don't remember the exact amounts.

Don't worry about exact. Give me a ballpark?---Privilege. I assume – no, I would need to assume and I don't think that would be proper.

20

But you can remember looking at the agreements; you just can't remember the amounts?---Privilege. Yes, I do not recall the amounts.

And do you – do you remember how you satisfied yourself that they were arm's length amounts?---Privilege. We were – again, there was a big team with the local management and the experts around. I don't remember any major discussion or issues with – with those.

25

Which experts did you speak to about this issue?---Privilege. I don't remember specifically a discussion around it but I assume the accountants and, you know, and the local management. They were all aware of those payments.

30

Which – which accountants? Who?---Privilege. As I mentioned before, Shuriken Accounting.

35

Which person at Shuriken?---Privilege. I'm not sure who at that time was, you know with the board meetings, but I would assume that would be including Pedro, maybe Elias. I'm not sure.

40

Okay. So you think this was discussed at a board meeting, do you?---Privilege. I do not recall, as I said.

Well you just mentioned a board meeting?---No, no. I said – privilege. I said that I do not recall a specific discussion. Rather, I assume that it has been reviewed by - - -

45

Right?--- - - - you know, those experts that we were hiring to provide us services.

Okay. Now can you take up 5724?---57 - - -

24. Sorry, before – before you go on, just take up 5723. Do you see an email from a Mr Timothy Lao attaching one of three in relation to ASIC response? Do you see that?---Privilege. I can see it, yes.

And this is 16 December 2016. Can you remember what the issue was with ASIC at this time?---Privilege. No.

No memory?---No memory of the exact – I assume it's a notice or something like that?

A what, sorry?---Probably a notice 912 or – or section 33 or – which we have received a few during the years.

Okay. And was Innoinvest the lawyers helping you at this point?---Privilege. It – it appears so, yes.

Yes. And was it Mr Su-King Hii was the main lawyer, correct?---Privilege. He was the principal of Innoinvest.

Yes. Okay. Now if you look at 5724, do you see this is an email exchange between yourself and it would appear – although you've sent it to Joyce, it's an email exchange between yourself, Kooleena, Lisa and Ryan. Do you see that?---Privilege. I see – I see an email from me to Joyce.

Yes?---Yes.

Yes. But you entitled the email or you addressed the email:

Dear Kooleena, Lisa and Ryan.

Do you see that?---Privilege. Yes, I see.

So it looks like you're writing to Kooleena via Joyce. Do you accept that?---Privilege. I would assume so, yes.

Yes. And you're talking about the last two and a-half years and how you've been working and you weren't – yet you weren't aware that Kooleena had been unhappy about any aspect of things. Do you see that in the – in the first paragraph?---May I read it?

Yes, take your time?---Okay.

Okay. So by this stage – so this is an email on 20 February 2017. By this stage, you've been at the company for about two and a-half years?---Privilege. It appears so. That's what it says, yes.

Yes. And so, by this stage, you know that Ms Lee has access to the client accounts?---Privilege. What do you mean client accounts?

5 Well she – she can operate the client accounts. I think we've established that?---Privilege. Are you referring to the bank accounts?

Yes?---Bank account? Yes.

10 Yes. And you know that Ms Lee is someone that can transfer money into the company to ensure that the NTA thresholds are met? We've looked at some of those emails, you would agree with that?---Privilege. Yes, she would be the one that we will ask to inject money.

15 Yes?---Yes.

Yes. And so, just looking at this email, I was hoping you could help me with it. In the second paragraph, you identify your job as to protect the licence and the company in Australia and with ASIC. Do you see that?---Privilege. Yes.

20 And you would agree that's an accurate description of part of your job; namely to protect the licence and the company in Australia?---Privilege. I do.

Yes. And - - -?---It was my job.

25 Yes. And then in the next paragraph, you refer to the fact that you haven't had any issue with ASIC or AUSTRAC in the last two and a-half years and then you say:

And we didn't report it, all issues and matters that we handle on daily basis.

30 Can – can you tell me what you mean by we didn't report it, all issues?---Privilege. Where exactly is - - -

In the third paragraph. It begins:

35 *You may be thinking that it's not a big deal.*

Do you see that?---Privilege. I can see that.

40 Yes. And then you've got the words:

As we didn't report it, all issues and matters that we handle on daily basis.

?---Privilege. I can see that.

45 Yes. And what do you mean by that, do you think?---Privilege. I – I do not recall exactly what this is – sentence is about.

Well what – what do you think the issues are that you hadn't reported?---Privilege. I – I have no recollection of this.

Okay. So you can't help me now as to what that might mean?---Privilege. No, I - - -

5

Okay?---No, I can't.

And then in the next paragraph, you refer to saying no about something. Can you help me as to what you were saying no to, having read this email?---Sorry, again?

10

In the next paragraph it says:

I have no problem at all to provide solutions and not only saying no and I believe I have done that in the past, also on this case.

15

What is the issue that you were saying no to in this email, that you were concerned about?---So privilege. I – I've said that basically I'm telling her, based on what I'm reading – what I read, sorry – that she needs to tell us, the local management, like what things the company required and we can provide her options and solution within the – within the law and the – the regulation, which – if I go down – it says the matter of she wanted to – she had – apparently, it looks like she had issues to collect funds in Thailand and she was suggesting to open a bank account on her name and collect deposits, which I strongly refused.

20

Okay. So you are the CEO that reports to a CFO that, on the basis of this email, seemed to want to open an account in her own name in Thailand to receive client monies. Is that a fair summary?---Privilege. It – it appears so from what is written, yes.

25

Yes, and did that set off alarm bells for you?---Privilege. As – as you can see, I wrote a very - - -

30

Well - - -?--- - - - hard - - -

- - - I can see you said no - - -?---I said no.

35

- - - but did you do anything more than say no? Did you - - -?---Yes, I – we disagree and – and, as far as I aware, it – privilege – as far as I aware, it never happened.

But did you think to yourself, "Hang on, I'm the CEO of a company dealing with client money. I better make sure this Ms Lee isn't still operating client moneys in light of her attitude to this sort of issue, ie, "I can open a bank account in my own name." That didn't cross your mind?---Privilege. Again, Ms Lee was my employer. I wasn't her – her employer. I didn't - - -

40

But you're the CEO of the Australian company?---Privilege. That was correct.

45



And you're exchanging an email with someone you're taking direction from, who wants to open a bank account in Thailand in her own name to receive client money. That's what's going on here, isn't it?---Privilege. She suggested that, and I strongly refused, which – which - - -

5

But doesn't that set off a whole lot of red flags?

MR O'MAHONEY: I object. That's the second time in the last four questions that the witness was midway through answering and has been cut off.

10

MR SULAN: You finish what you want to say?---Privilege. This is something that was suggested, and I strongly, as you can see on the email, refused. And, as far as I know, it didn't happen, and they follow my direction.

15

But didn't it set off a whole range of red flags for you?---Privilege. Someone out of – outside of Australia with – which I'm not really aware of, you know, how they operate in Asia, suggested something. I strongly refused. My refusal was accepted. It – it looked like I've done my role about making sure the company is not doing any wrongdoing.

20

But this is not someone that is just loosely associated with USG. This is someone you know can control accounts, including accounts with client money in it; correct?---Privilege. She – her role in the company was discussed here before, as – as – but - - -

25

And the fact that she is seeking to open an account in her name in Thailand didn't set off a whole lot of red flags for you about, "I better not be involved with this company insofar as this person can control client money." That didn't cross your mind?---Privilege. No. As I said, I strongly refused, and she accepted – and it didn't happen, as far as I know, which for me it was the way it should have been, in a way that they followed the advice of someone that is basically in charge of making sure the compliance in Australia is done.

30

Did you think, "I should report this to ASIC"?---Privilege. Privilege. Who?

35

Did you think you should report this event to ASIC?---Privilege. Again, because it was many years ago, I'm not sure if I thought it back then or not, if I should report or not, but we should also – you know, in – in the business world a lot of ideas sometimes pops up, and sometimes people that are not experts in, you know, how to follow rules and regulations, and ideas are fine, but in the end of the day it's what the action actually are are what's important, in – in my eyes.

40

Did you think you should report this to the auditors or the external accountants?---Privilege. I'm – I'm not sure who were aware of this or not. And, again - - -

45

Just direct yourself to my question. Did you think, "I should report this. I know what this person thinks she can do. She's the CFO of the parent company", in your mind. "Jeez, I better tell the auditors or the accountant that she thinks she can deal with client money like this." You didn't – that didn't cross your mind?---Privilege. I
5 don't know – again, I don't recall or remember what crossed my mind back then, and I'm not sure who was aware of that or not – of this discussion. What crossed my mind is that I can see that at the end of the – what – from what I can recollect is that it was not happening, and it did not happen, so – meaning my strongly held no was taken, which – which I considered to be okay, because they haven't done what they
10 suggested.

Well, you certainly can't say here on your oath or your affirmation that you did report this to ASIC or you did report it to the auditors or you did report it to the external accountants?---Privilege. I – again, I can say that I didn't report it to ASIC,
15 but I don't remember who else was aware of this discussion or not.

But focusing in on my question, you can't say here on your affirmation that you yourself reported it to the accountants?---Privilege. I – again, I – I don't remember the – the event and the line of events that occurred here, so I – I can't say that.
20

And you can't say on your affirmation that you yourself reported it to the auditors?---Privilege. I do not remember – again, I do not remember.

Okay. Now, do you remember ASIC commencing an investigation at some stage in
25 2019 into the company?---Privilege. If you refer to the end of – December 2019?

Yes?---Yes.

Well, you remember preparing a response to a section 912C notice?---Privilege. You
30 mean after 12 December 2019?

Yes?---Following that events?

Yes?---I remember – privilege – I remember there were, I think, even two section
35 912 in this investigation that we have – we needed to, of course, reply.

And you were personally involved in preparing a response?---Privilege. It depends what part. I assume that I was involved, of course, together with all the local management and team.
40

Yes. And did you have lawyers assisting you?---Privilege. As I mentioned before, we always used to take legal advice or use experts to making sure we are doing the right thing.

45 And who were the lawyers assisting you in this period?---Privilege. If I recall correctly, it was Innoinvest and I think also Westhoff O'Loughlin.

Who, sorry?---Westhoff O'Loughlin.

Okay. And who from there?---Jonathan O'Loughlin and – and his team – privilege.

5 And they were acting for the company?---They were acting for – for – for USG, yes – privilege.

Yes. And so you were giving instructions to them as to how to respond to the ASIC letters?---Privilege. We – in what way you mean instructions?

10 Well, you were giving them information to use for the company to respond to the ASIC inquiries?---Privilege. Yes, the whole team provided the required information, based on the notice.

15 Yes, okay. Thank you. And can you just take up the document at page – in volume 6 at page 4824.

Do you see that this is - - -?---Sorry. What page, sorry?

20 4824?---4824.

Do you see it's entitled Section 912C notice, 7 February 2020?---It is, yes. That's the title.

25 Yes. And does this document look familiar to you?---Privilege. I – I do not recall specifically, but, as I said, there were at least two rounds of section 912 with this investigation.

30 And so this was a period in which ASIC had commenced proceedings; correct? Do you remember that?---Privilege. As far as we knew, we knew that ASIC has started proceeding against us since 12 December 2019.

Yes. And so this is some time after that, and you're responding to the 912C notice; correct?---Privilege. Yes, that is correct.

35 Okay. So is the company, as I understand it, continuing to trade during this period? Is it continuing to take deposits from client?---Privilege. At that – at that stage, yes.

40 So when was the last occasion you took deposits from clients? Was it just before the voluntary administration?---Privilege. As far as I know, until the second the company went into administration.

Did you seek any advice after the ASIC proceedings as to whether the company should continue to trade?

45 MR O'MAHONEY: I hesitate to rise but do. There are answers to that question that could disclose privileged information, and I just want - - -

MR SULAN: That's my privilege.

THE REGISTRAR: Well, whose privilege?

5 MR O'MAHONEY: Well, okay, I withdraw the objection.

THE REGISTRAR: Why don't we just tread slowly, and we will where we get to, but - - -

10 MR O'MAHONEY: Well, no, I think - - -

THE REGISTRAR: - - - but it depends – the question is whose privilege is it.

MR O'MAHONEY: It does, but there is at least the potential for another holder of
15 privilege to be engaged, but I will just - - -

THE REGISTRAR: What sort of privilege?

MR O'MAHONEY: I will sit tightly, Registrar, without speculating.

20 THE REGISTRAR: Sure.

MR SULAN: So did USG seek any advice in this period as to whether it should
25 continue to trade?---Privilege. We weren't instructed by ASIC in – anyhow to – not
to continue to trade in – in - - -

Don't worry about what ASIC instructed you. Did you seek any advice in light of
the materials that had been marshalled by ASIC as to whether you should continue to
trade?---Privilege. I don't think we – we took a legal advice on those matters. I'm
30 not sure exactly. There were – at that period of time we were doing a lot of legal
advice around the investigation and the court case, but I – so I cannot tell you
specifically, but I do not remember any discussion in regards of who should continue
to operate. I don't think it was something that was on the table by any of our legal
advisors or the local management.

35 And who are the legal advisors that you're referring to in this period?---Again, as I
said five minutes ago, it was still Innoinvest and – and Westhoff O'Loughlin.

Right. So you're getting – you've been served with ASIC proceedings that make a
40 whole range of allegations. You're having to respond to the 912C notice, and you're
the CEO, and it doesn't cross your mind as to whether or not you should understand
the allegations and make a decision about whether to continue to trade in this period;
is that your position?---Privilege. Yes, this will be my position, because we didn't –
at that stage, it was an investigation only, and we didn't – we provided and
45 cooperated with whatever – what we were required to provide and – and continued to
– with the investigation.

And what did you understand the primary allegations that ASIC were making to be?---Privilege. You're – you're referring to the 12 December?

5 Yes?---There was – privilege – it was a few things in the company that were – that at least one of them were accused to be conducting aggressive sales, and – and I think also, if I recall correctly, personal advice and – which we were not licensed to. And there was a small part saying that ASIC is considering maybe we shouldn't be operating in China.

10 Okay. And so knowing that those were allegations that have been against the country, of which you were CEO, presumably you were keen to identify whether there was a particular problem and make a decision as to whether it was appropriate at that stage to continue to trade. Presumably that was something that crossed your mind?---It has crossed my – privilege – it has crossed my mind even way before that,
15 when ASIC in around April that year released we have immediately went to seek legal advice both locally, from Westhoff O'Loughlin, and in China from Ashurst, which on that legal advice to basically test our operation and deliver advice was supporting that we are okay and it's based on those legal advice that we have received, we have continued that operation.

20 Registrar, could I seek a short adjournment, because I need some instructions as to whether to pursue a particular line of inquiry.

25 THE REGISTRAR: Sure. How long would you like?

MR SULAN: Five minutes.

THE REGISTRAR: Sure.

30 MR SULAN: Thank you.

ADJOURNED [2.48 pm]

35 **RESUMED** [2.54 pm]

40 THE REGISTRAR: Yes, Mr Sulan.

MR SULAN: Thank you. I only have a few remaining questions.

THE REGISTRAR: Sorry?

45 MR SULAN: I've only got a few remaining questions.

THE REGISTRAR: Right, okay.

MR SULAN: I think what we're going to ask is for the examination summons to be stood over to be returnable in February, if that's appropriate. I think we've got some dates reserved in February, yes.

5 THE REGISTRAR: Yes, all right. We were talking some dates in February.

MR SULAN: Thank you, Mr Zakhaim. So I think you've identified the lawyers that were assisting you in the responses to ASIC in 2019 and 2020. Can you tell me which other professionals were assisting you? Did you have accountants? Was it still Shuriken?---Privilege. Yes. It was still Shuriken.

Okay. Did you seek professional advice from anyone else?---Privilege. You mean like legal advice or - or - - -

15 Well, any other professional advice. I think you've identified the lawyers; you've identified the accountants; was there any other - was there any compliance people you were speaking to or - - -?---Privilege. I should remind you that also that and Innoinvest were also acting as compliance consultants. And we will - and we also, of course - we were - the entire team here and the local management, and - and - yes, that - that's - that's what I can remember.

From the time that ASIC was investigating the company, which I think is, what, April 2019?---Privilege. As I mentioned before, we were - I don't know when they started investigating the company, but we were - came to know that - that we are investigated was 12 December 2019.

Right. Okay. I thought you mentioned at some point an April date, but I might have that wrong?---No, no. Privilege. I have mentioned April. In April 2019 ASIC has released a media release to the whole industry saying that we should seek an advice in regards of operating in the Chinese market, and that's why we - following that we went and achieved an advice.

I see, okay. And so did you make any changes to your business practice and the way that you were obtaining client moneys between April 2019 and when the company went into voluntary administration in 2020?---Privilege. As - as far as I can recall, I - I don't think so.

So you didn't change any aspect of the way that you were operating?---Privilege. Again, as far as I remember, I haven't read those, because our - our advice - or last time it was read it was at April - around April 2019, so it has been a couple of years, a few years, and so I don't really remember if there was maybe - as far as I remember, I don't think we changed anything. You know, sometimes maybe just small changes, but not something major, as far as I can recall.

45 Okay. And did you continue to deal with Ms Queena Lee during this period, April 2019 through to 2020?---Privilege. Yes.

And you continued to let her operate the bank accounts?---Privilege. Explain what you mean operate?

5 Well, you continued to know that she had access to and could operate the bank accounts?---Privilege. She could have operate. She also needed the second signature from a local director.

10 Right. But you knew that, that she was able to at least, with the second signature, operate the bank accounts?---Privilege. I – yes, I knew.

Yes, and you were perfectly comfortable with that position, I take it?---Privilege. Again, I can't tell you what exactly I thought, but I assume if we didn't take any steps to – to change it, I assume at that stage we were okay with that.

15 Yes, and what changed that led you to not be okay with that?---So in around – sorry, privilege – in around, I would say, May 2020 we receive a complaint. Again, I'm not sure, you know, the exact day, but it was around May 2020 we received a complaint from a client that for the first time in – in – that I've been working for the company that he's not able to get his funds back. Until that point, every time we ask
20 for an injection, it was immediately received, like a cash injection. Every time that we did enter any complaints around clients' withdrawals, the complaints we had were around usually maybe technical failure of the system, etcetera, etcetera, and that suddenly kind of made – was a red flag to us. We have contacted Queena and said, "What is this complaint about" and basically she said, "It's nothing; don't worry about it." And so following couple of days after, we've issued the letter from the
25 local management, myself and the directors, that we – I think there was another complaint or two coming in that period of a week or two, and then we have issued a letter, which I think was early June, following a week or two after that, that we think something is – will look – that's a red flag for us, something is irregular, like, we
30 don't – we – we – we have concerns, and we basically demanded to hire an expert in anti-fraud to conduct an audit on the platform. Sorry, I should add also when we went to check the book of clients, we couldn't find an account on the books, and that was our main concern. And we ask why we cannot find this account, and I don't remember what exactly was the answer, and we immediately issued a letter, which I
35 assume you have a copy of, because we have provided it to the liquidators – administrators back there, sorry, and – which in that letter we have requested admin access to the platform to be able to conduct an audit by a third party, which we believe that he's an expert in anti-fraud. I think we also asked for – to inject – to
40 reduce the money processor U-Pay by \$5 million, if I recall correctly the amounts, to send in to the trust account. A week after – again, please don't take me by the days, because I don't recall the exact dates, but roughly a week after we issued another letter demanding those two points, and basically – I don't remember in that letter we already provided an ultimatum saying that we're going to put the company into
45 administration, but following that event, once our demands was not met, we immediately contacted BRI and put the company into administration. I've resigned the – the – the day before.

And who were the directors of the USG company by this stage?---Privilege. That – that would be John Martin – Mr John Martin and Mr Darren Burns.

5 But what about the overseas director?---Sorry, and – privilege – and – and Mr Soe Hein Minn, which of course the demand come from the local management.

10 Right. And so did you yourself try to speak to Mr Minn?---Privilege. I think there was one call. I don't know if Mr Minn was present or not, but with Queena for sure, which, as I can recall, didn't really progress anything. That's what – as far as I can remember.

15 And why did you in this period raise a particular concern about U-Pay?---Privilege. Because we thought that based on the equity – I think in that stage their – their equity was dropping kind of low, and we – no, sorry, it wasn't really I do that. Privilege. I think it was because the – I don't remember the exact amount at that stage, but we considered it to be a bit high, and we wanted funds to be moved into the trust account.

20 And how did you make that request? Was it via Queena?---Sorry, again?

How did you contact U-Pay to try to move money into the client account?---Privilege. Again, we will – we would tell Joyce, and she will go and tell Queena.

25 But you yourself had no ability to contact U-Pay directly and ask for client money to be put in the client CBA account?---Privilege. I don't know what to say if – I was not the one that's contacting them directly. I don't know if I did – I don't know if it's correct to say that I didn't have that ability, because you can take an email address and send an email, but, as I said before, it was maintained by the finance team under Queena.

30 But presumably U-Pay doesn't act on anyone's emails. They would need to know what the person's authority is, wouldn't they?---Sorry, again?

35 Well, you just said to me you could send an email to U-Pay and ask for the money. Is that what you were saying?---Privilege. I am saying that when you said in regards of I didn't have the ability, I don't know if it's the right way to say it, because you can always write an email, but the way it was conducted, as I said, is that we have instructed Joyce to request that from Quinn.

40 And what did Joyce say to you?---Privilege. She went and passed the – the – our request.

45 And was the money transferred from U-Pay?---Privilege. As – as I said, because our demands weren't met, which is no, this is why we chose to put the company into administration.

5 So there's client money in a U-Pay account that you can't do anything about, other than ask Joyce to ask Queena to have it transferred to the CBA account; is that the correct position?---Privilege. I don't know, again, if that would be the right definition, because you can, you know, escalate things, and there's certain ways to go and make demands by a lawyer letter or stuff like that. But what I'm saying that back then this is the way that things are called.

10 But you didn't have any systems or process in place via your capacity as CEO which permitted you to be able to go and take that money from the processor account and put it into the CBA trust account, did you?---Privilege. I did not have access to – to the money processors.

15 Yes, so you were totally reliant upon people that were not employed by USG to carry out that sort of task?---Privilege. I was relying on people not working for USG Australia, correct, but assumed to be working under USG Group.

I see?---Which is something that in my past under groups operation was very usual and standard.

20 I think we will conclude there. If we could stand the summons over to a date to be fixed in February, that would be of great assistance.

25 THE REGISTRAR: That's all right. I mean, we can come back – but, look, I will just adjourn the summons generally to an agreed date some time in February.

MR SULAN: Yes. We will seek to agree the date with our learned friends.

30 THE REGISTRAR: Yes. So we've made the order in respect of – sorry, thank you, my apologies, I hadn't realised I had actually made that order.

MR SULAN: No, thank you.

35 THE REGISTRAR: I make so many of these at the same time, I forget. So we've made an order in respect of transcripts, and it's likely to – you will want that, yes. Yes.

40 Mr Zakhaim, there's a couple of things. So what's going to happen is that the summons by which you were produced today will be adjourned to a date to be fixed. The liquidators are resuming their examination back again some time in February. There will be communications between the respective lawyers – your lawyers about a date to make sure it's suitable. So the matter is not discharged. It's sort of just adjourned to some time in February. A couple of things: the court has made an order that if the liquidators decide to get a transcript, because this is recorded here, and then they make a transcript, so you're obliged to go through the transcript. Your lawyers will explain how that all works. And there's a – you're asked to go through it, sign it and do it, so that will – if they decided to do that, you're required to do that, but your lawyers can explain that to you. And just reminding you of what I said

before: the court has made an order excluding you from talking to other examinees. Now, that means going to all the people we're speaking about today and asking them – and telling them about the questions that you were asked and the evidence you gave. Your lawyer will explain the extent of the order and what it means, but it's
5 important that I remind you of that. Anything further from you? I meant to ask, Mr O'Mahoney, do you have any questions at this stage?

MR O'MAHONEY: No, I don't. Thank you, Registrar.

10 THE REGISTRAR: Yes, sorry, I should have asked that before I went to my little spiel. Do we have anything else we need to discuss?

MR SULAN: No. I think Mr Rose is taking over tomorrow for the next examinee.

15 THE REGISTRAR: Yes.

MR SULAN: And then I'm returning on Monday. So if you could excuse me from tomorrow, that would be - - -

20 THE REGISTRAR: I'm happy to have whoever wants to appear. 9.30 tomorrow we on? We're in this courtroom. I'm not sure what – court officer, what's the practice here? Do they close the court after this? I don't know whether you want to leave things here or not. It's up to – I will – it's a matter for you.

25 MR SULAN: For my part, I won't, but - - -

MR O'MAHONEY: No, that's fine. Thank you.

30 THE REGISTRAR: You will take every – boxes – yes, because otherwise we are locked in a court.

MR SULAN: If we could leave the witness bundles here, that would be - - -

35 THE REGISTRAR: Court officer, is that fairly – perhaps - - -

MR SULAN: Thank you very much.

THE REGISTRAR: So we will lock up, yes.

40 MR SULAN: That's very helpful. Thank you.

THE REGISTRAR: So we will adjourn to 9.30 tomorrow.

45 <THE WITNESS WITHDREW



MATTER ADJOURNED at 3.10 pm UNTIL FRIDAY, 2 DECEMBER 2022

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**UNION STANDARD GROUP INTERNATIONAL
HOLDINGS LIMITED**

CONSOLIDATED FINANCIAL STATEMENTS –
FOR THE YEAR
ENDED 30 JUNE 2019

UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED
DIRECTORS' REPORT
FOR THE YEAR ENDED 30 JUNE 2019

1. The directors are pleased to present their report together with the consolidated financial statements of Union Standard Group International Holdings Limited (the 'Company') for the year ended 30 June 2019.

2. The Company

The Company was incorporated under the International Companies Act 1987 as an international company on 19 August 2014. Its registered office is located at Le Sanalele Complex, Ground Floor, Vaea Street, Saleufi, Apia, Samoa

3. Principal activity

The principal activity of the Company is as mentioned in section 7 of the memorandum of association

4. Results and dividends

The results of the Company are set out in the statement of profit or loss and other comprehensive income.

The directors do not recommend the payment of dividend for the year under review

5. Statement of directors' responsibilities in respect of the consolidated financial statements

Company law requires the directors to prepare financial statements for each financial year which give a true and fair view of the state of affairs and of the results of the Company. In preparing those consolidated financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether International Financial Reporting Standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The directors confirm that they have complied with the above requirements in preparing the consolidated financial statements.

The directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Company and to enable them to ensure that the consolidated financial statements comply with the Companies Act 1987. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

BY ORDER OF THE BOARD

Date:

For and on behalf of
UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED



.....
Authorized Signature(s)

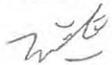
UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED
 CONSOLIDATED STATEMENT OF FINANCIAL POSITION - AS AT 30 JUNE 2019

	<u>COMPANY</u>	<u>GROUP</u>
	<u>2019</u>	<u>2019</u>
	USD Million	USD Million
ASSETS		
Non current assets		
Property, plant and equipment		0.55
Investments in subsidiaries	7.37	
	<u>7.37</u>	<u>0.55</u>
Current assets		
Cash and cash equivalents		46.46
Trade and other receivables	1,003.84	1,013.21
	<u>1,003.84</u>	<u>1,059.67</u>
Total assets	<u><u>1,011.21</u></u>	<u><u>1,060.22</u></u>
EQUITY AND LIABILITIES		
Equity		
Stated capital	1,000.00	1,007.37
Reserves and surplus	(0.06)	7.49
	<u>999.94</u>	<u>1,014.86</u>
Current liabilities		
Trade and other payable	11.27	45.36
	<u>11.27</u>	<u>45.36</u>
Total equity and liabilities	<u><u>1,011.21</u></u>	<u><u>1,060.22</u></u>

The financial statements have been approved for issue by the Board of Directors on:
 and signed on its behalf by:

Soe Hein Minn
 Director

For and on behalf of
UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED



 Signature *Authorized Signature(s)*

UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED
 STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME -
 FOR THE YEAR ENDED 30 JUNE 2019

	<u>COMPANY</u>	<u>GROUP</u>
	<u>2019</u>	<u>2019</u>
	USD Million	USD Million
INCOME		
Revenue	-	99.64
	<u>-</u>	<u>99.64</u>
EXPENSES		
Administrative & selling expenses	0.04	1.61
Other expenses & losses	<u> </u>	<u>90.84</u>
	<u>0.04</u>	<u>92.45</u>
Profit/(Loss) before foreign exchange gains/(loss)	(0.04)	7.19
Foreign exchange gains/(loss)	<u> </u>	<u>-</u>
Profit/(Loss) before taxation	(0.04)	7.19
Taxation	<u>-</u>	<u>2.00</u>
Profit/(Loss) for the year	(0.04)	5.19
Other comprehensive income	<u>-</u>	<u>-</u>
Total comprehensive income for the year	<u>(0.04)</u>	<u>5.19</u>

For and on behalf of
 UNION STANDARD GROUP INTERNATIONAL HOLDINGS LIMITED

WILSON

.....
 Authorized Signature(s)

Maintenance Agreement

This agreement is between World Media Investment Limited [the developer] and Union Standard International Group P/L, [the Client].

Client is contracting World Media Investment Limited as a provider of web site maintenance services. Services not considered 'standard website maintenance' are subject to be charged at a regular hourly rate of \$150 and will not be considered part of this contract. The minimum charge for maintenance is \$150, any additional work that is included in this agreement will be charged at \$150 per hour.

What IS included in this agreement:

1. design, develop and deliver the website (Site) to be located at www.usgfx.com.
2. Edit, revise, update or create new textual/minor graphical content.
3. Consultation, and guidance on the use of the web site.
4. Onpage SEO such as Meta tags (title, description, keywords), alt tag, h1, h2, h3.
5. Regular monitoring and updating to ensure impeccable performance across all major browsers due to the fact that not all browsers render sites in the same way.
6. Protection against hackers from gaining access to your site. We can also protect your emails from spam attacks, which can be troublesome and frequent if not dealt with efficiently.
7. Regular and thorough backups of your site so that it may be fully restored in case of loss.
8. We're here should you need us for consultation and advice.
9. Monitoring your website functionality to ensure that everything is working as it should and upgrade where necessary. Some plugins may become outdated and no longer work with the newest version of your website software. Plugins may need upgrading to accommodate the newer version, or become obsolete with the improvements in the website software.
10. Downtime is highly inconvenient for any website owner and when it happens it is important to have someone on hand to help. We can assist you by liaising with the hosting company to sort out the situation as quickly as possible.

*When your site is offline you need immediate technical support, We ensure that option is available and deal with any issues ourselves so you don't have to.

Total Agreement:

World Media Investment Limited shall provide Client with minor updates to the web site for an indefinite period of within this contract. The contract will be paid on a Monthly Basis with the 1st payment due as soon as initial work is complete and each payment due around the date of initial payment of each month.

During the duration of this contract, the Client agrees that World Media Investment Limited will be the sole provider of maintenance services for the web site, and no other party will have access to or rights to change the web site. If a party other than World Media Investment Limited makes changes to the web site, any errors that are created must be repaired and will be charged for at

the hourly rate specified above. **Minor updates should not exceed more than 50% of the content on any single site page, THE PERCENTAGE TO BE DETERMINED BY World Media Investment Limited .**

Deadlines & Deliverables:

World Media Investment Limited will respond to all maintenance requests from Client within [24] hours on weekdays and 48 hours on weekends, via email or phone, with a confirmation that the request was received, and an estimated completion date for each action item in the request. Maintenance requests received after 18:00 GMT may not be completed until the next business day unless prior arrangements have been made. Most work will be done within this time frame, this is mostly precautionary.

World Media Investment Limited will adhere to all quoted deadlines for the deliverables in the maintenance requests at all possible costs. In the event that World Media Investment Limited has any issues in delivering on a quoted deadline, Client will be notified via email or telephone the reasoning for any change.

Additional Services:

Any revisions, additions or redesign Client requests World Media Investment Limited to perform that is not specified in this document shall be considered "additional" and will require separate agreement and payment. World Media Investment Limited shall advise Client on any requested work that falls within these bounds.

Authorisation:

Client hereby authorises World Media Investment Limited to access their web hosting account, providing active user name / password combinations for access to the server via FTP, assuring that 'write permissions' are in place on said hosting provider.

Legal:

This Agreement shall be governed by and construed in accordance with the laws of New

Signing this document means you agree to the terms of this document “Web Maintenance Agreement”.

Warranties

Each of the parties warrants to the other that it has full power and authority to enter into and perform this agreement.

The Developer shall perform the Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards.

The Developer warrants that operation of the Site will be uninterrupted and free of errors, viruses and material defects and that the Site will perform in accordance with the Site Specification for a

period of 12 months from Acceptance. If the Site does not so perform, the Developer shall, for no additional charge, promptly ensure that the Site complies with the Site Specification.

Governing law and jurisdiction

This agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of New South Wales of Australia.

The parties irrevocably agree that the courts of New South Wales of Australia have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement.

Intellectual property rights

Intellectual Property Rights shall mean all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semiconductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off.

All Intellectual Property Rights in the Site Specification and the Site (including in the content of the Site and the Site Software) arising in connection with this agreement shall be the property of the Customer, and the Developer hereby assigns all such Intellectual Property Rights to the Customer. The parties shall execute all documents necessary to give effect to this clause.

The Developer shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim of infringement of Intellectual Property Rights of a third party.

The indemnity in clause 9.3 is subject to the following conditions:

the Customer promptly notifying the Developer in writing of the claim;

the Customer making no admissions or settlements without the Developer's prior written consent;

the Customer giving the Developer all information and assistance that the Developer may reasonably require; and

the Customer allowing the Developer complete control over the litigation and settlement of any action or claim.

The Developer shall not use or re-create the look and feel of the Site or anything substantially similar to it.

Term and termination

This agreement shall commence on the Effective Date and shall (subject to earlier termination pursuant to this clause) terminate on the written agreements between the two parties.

Either party may terminate this agreement immediately at any time by written notice to the other party if:

that other party commits any material breach of its obligations under this agreement which (if remediable) is not remedied within 14 days after the service of written notice specifying the breach and requiring it to be remedied; or

that other party becomes insolvent or there is a change of control at the other party, or the other party ceases to trade; or

that other party has been subject to a Force Majeure Event for a continuous period of more than 90 days.

On expiry or termination of this agreement:

all licences granted to the Developer under this agreement shall terminate immediately;

the Developer shall promptly return all Customer materials and all copies of the Site Specification to the Customer, and shall provide to the Customer an electronic copy of the Site (including all content on the Site); and

all provisions of this agreement shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

Data protection

The Developer warrants that, to the extent it processes any Personal Data on behalf of the Customer:

it shall act only on instructions from the Customer; and

it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

In this clause, Personal Data has the meaning given in the law of New South Wales of Australia.

FORCE MAJEURE

Force Majeure Event shall mean any event arising which is beyond the reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war).

A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this agreement shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay will continue. The affected party shall take all reasonable steps to mitigate the effect of the Force Majeure Event.

Confidentiality

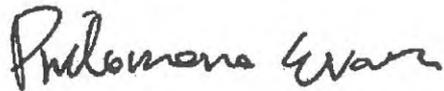
Confidential Information shall mean all information whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the parties), where the information is:

identified as confidential at the time of disclosure; or

ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

Each party shall protect the Confidential Information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

World Media Investment Limited :



Name: Philomena Evans

Position: Director

Union Standard International Group P/L :



Name: Anya Victoria

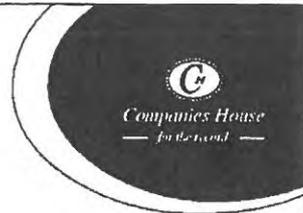
Position: Director

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In accordance with Section 167 of the Companies Act 2006

APO1

Appointment of director



You can use the WebFiling service to file this form online. Please go to www.companieshouse.gov.uk

What this form is for
You may use this form to appoint an individual as a director

What this form is NOT for
You cannot use the form to appoint a corporate director. To do this please use form APO2 'Appointment of corporate director'

WEDNESDAY



A10AIQRS
A37 11/01/2012 #66
COMPANIES HOUSE

1 Company details

Company number	7 0 3 3 9 4 0
Company name in full	WORLD MEDIA INVESTMENT LIMITED

→ **Filing in this form**
Please complete in typescript or in bold black capitals.
All fields are mandatory unless specified or indicated by *

2 Date of director's appointment

Date of appointment	d 3 d 0 m 1 m 2 y 2 y 0 y 1 y 1
---------------------	---------------------------------

3 New director's details

Title*	MS
Full forename(s)	PHILOMENA
Surname	EVANS
Former name(s) ①	
Country/State of residence ②	TAIWAN
Nationality	TAIWAN
Date of birth	d 1 d 5 m 0 m 4 y 1 y 9 y 8 y 0
Business occupation (if any) ③	MERCHANT

① **Former name(s)**
Please provide any previous names which have been used for business purposes in the past 20 years.
Married women do not need to give former names unless previously used for business purposes.
Continue in section 6 if required

② **Country/State of residence**
This is in respect of your usual residential address as stated in Section 4a

③ **Business occupation**
If you have a business occupation, please enter here. If you do not, please leave blank

4 New director's service address ④

Please complete your service address below. You must also complete your usual residential address in Section 4a

Building name/number	6F -1, NO 21, LN 229,
Street	MINQUAN RD , WEST DIST ,
Post town	TAICHUNG CITY 403,
County/Region	TAIWAN
Postcode	
Country	TAIWAN

④ **Service address**
This is the address that will appear on the public record. This does not have to be your usual residential address.
Please state 'The Company's Registered Office' if your service address is recorded in the company's register of directors as the company's registered office.
If you provide your residential address here it will appear on the public record

9/15

AP01
Appointment of director

5

Signatures

I consent to act as director of the above named company

New director's signature

Signature

X

Philomena Evans

X

Authorising signature

Signature

X

Philomena Evans

X

This form may be signed and authorised by
Director ¹, Secretary, Person authorised ², Administrator, Administrative Receiver, Receiver, Receiver manager, Charity commission receiver and manager, CIC manager, Judicial factor

- ¹ **Societas Europaea**
If the form is being filed on behalf of a Societas Europaea (SE) please delete 'director' and insert details of which organ of the SE the person signing has membership
- ² **Person authorised**
Under either section 270 or 274 of the Companies Act 2006

6

Additional former names (continued from Section 3)

Former names ³

- ³ **Additional former names**
Use this space to enter any additional names

10/15

AP01

Appointment of director

Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **MR WONG**

Company name **HKRTP LIMITED**

Address **RM B, 1/F, LA BLDG,**

66 CORPORATION ROAD,

GRANGETOWN,

Post town **CARDIFF,**

Country/Region **WALES,**

Postcode **C F 1 1 7 A W**

Country **UK**

DX

Telephone **02920221628**

Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- The company name and number match the information held on the public Register
- You have provided a business occupation if you have one
- You have provided a correct date of birth
- You have completed the date of appointment.
- You have completed the nationality box in Section 3
- You have provided both the service address and the usual residential address
- Addresses must be a physical location. They cannot be a PO Box number (unless part of a full service address), DX or LP (Legal Post in Scotland) number
- You have included all former names used for business purposes over the last 20 years
- You have enclosed a relevant section 243 application if applying for this at the same time as completing this form
- The new director has signed the form
- You have provided an authorising signature

Important information

Please note that all information on this form will appear on the public record, apart from information relating to usual residential addresses.

Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
First Floor, Waterfront Plaza, 8 Laganbank Road,
Belfast, Northern Ireland, BT1 3BS
DX 481 N R Belfast 1

Section 243 exemption
If you are applying for, or have been granted a section 243 exemption, please post this whole form to the different postal address below:
The Registrar of Companies, PO Box 4082,
Cardiff, CF14 3WE

Further information

For further information please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



Financial Report

Union Standard International Group Pty Ltd
ABN 79117658349
For the year ended 30 June 2018

Prepared by Shuriken Consulting Sydney Pty Ltd



Contents

3	Directors' Report
5	Auditors' Independence Declaration
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7	Statement of Financial Position
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10	Notes to the Financial Statements
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Directors' Report

Union Standard International Group Pty Ltd For the year ended 30 June 2018

The directors present their report on the company for the financials year ended 30 June 2018

Information on Directors

The names of each person who has been a director during the year and to the date of this report are:

Mr James Edward Clinnick

Mr Soe Hein Minn

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

Review of Operations

The profit of the company after providing for income tax amounted to \$3,307,767.

Significant Changes in the State of Affairs

There have been no significant changes in the state of affairs of the Company during the year.

Principal Activities

The principal activities of the company during the financial year were providing a platform that enables clients to invest in contracts for difference in the foreign exchange market and commodities.

No significant change in the nature of the company's activity occurred during the financial year.

Events Subsequent to the End of the Reporting Period

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

Likely Developments and Expected Results of Operations

Likely developments in the operations of the company and the expected results of those operations in future financial years have not been included in this report as the inclusion of such information is likely to result in unreasonable prejudice to the company.

Environmental Issues

The company's operations are not regulated by any significant environmental regulations under a law of the Commonwealth or of a state or territory of Australia.

Dividends paid or recommended

No dividends were paid or declared during the financial year. No recommendation for payment of dividends has been made.

Options

No options over issued shares or interests in the company were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

Directors' Report

**Proceedings on Behalf of the Company**

No person has applied for leave of court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of those proceedings.

The company was not party to any such proceedings during the year.

Auditors' Independence Declaration

The lead auditors' independence declaration in accordance with section 307C of the Corporations Act 2001, for the year ended 30 June 2018 has been received and can be found on page 5.

Signed in accordance with a resolution of the Board of Directors:

Director:

A handwritten signature in black ink, appearing to read 'James Clinnick', is written over a horizontal line.

Mr James Edward Clinnick

Dated this 26 day of October 2018



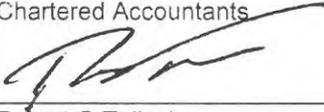
UNION STANDARD INTERNATIONAL GROUP PTY LTD
ABN : 79 117 658 349

**Auditor's Independence Declaration under
Section 307C of the Corporations Act 2001**

I declare that, to the best of my knowledge and belief, during the year ended 30 June 2018 there have been no contraventions of:

- i. the auditor's independence requirements as set out in the Corporations Act 2001 in relation to the audit; and
- ii. any applicable code of professional conduct in relation to the audit.

Name of Firm: Gauld Tulloch Bove
Chartered Accountants

Name of Partner: 
Robert G Tulloch

Address: Suite301 Level 3, 71-73 Archer St CHATSWOOD NSW 2067

Dated: 26 day of October 2018





Statement of Profit or Loss and Other Comprehensive Income

Union Standard International Group Pty Ltd
 For the year ended 30 June 2018

	NOTES	2018	2017
Income			
Revenue	2	117,126,614	93,782,359
Expenses			
Accountancy expenses		118,660	82,827
Advertising expenses		246,887	271,692
Auditors' remuneration	3	19,875	15,285
Agent commission expenses		105,083,973	79,598,832
Client support expense		831,137	249,600
Compliance fees		84,782	33,590
Depreciation and amortisation expenses		112,557	56,170
Directors' fees		47,916	44,649
Employee benefit expenses		1,185,307	885,831
Insurance expense		110,597	65,285
IT related expenses		1,823,716	1,016,001
Legal expenses		112,619	31,787
Marketing expenses		615,874	144,995
Other expenses		2,163,379	7,732,606
Rent expense		416,568	114,180
Total Expenses		112,973,847	90,343,331
Profit/(Loss) before income tax		4,152,768	3,439,028
Income tax expense			
Income tax expense	4	845,000	830,000
Total Income tax expense		845,000	830,000
Profit/(Loss) after income tax		3,307,767	2,609,028
Other comprehensive income			
Other comprehensive income		-	-
Total Other comprehensive income		-	-
Total comprehensive income at the end of the financial year		3,307,767	2,609,028

The accompanying notes form part of these financial statements.



Statement of Financial Position

Union Standard International Group Pty Ltd

As at 30 June 2018

	NOTES	30 JUN 2018	30 JUN 2017
Assets			
Current Assets			
Cash and cash equivalents	5	20,651,862	19,192,888
Trade and other receivables	6	5,101,856	8,311,738
Other current assets	7	182,263	372,082
Total Current Assets		25,936,000	27,876,709
Non-Current Assets			
Property, Plant and Equipment	8	858,862	149,078
Security bond		117,289	-
Total Non-Current Assets		976,151	149,078
Total Assets		26,912,152	28,025,786
Liabilities			
Current Liabilities			
Trade and other payables	9	12,061,141	20,983,011
Other current liabilities	11	185,276	-
Total Current Liabilities		12,246,417	20,983,011
Non-Current Liabilities			
Other non-current liabilities	10	781,797	466,606
Total Non-Current Liabilities		781,797	466,606
Total Liabilities		13,028,215	21,449,616
Net Assets		13,883,937	6,576,170
Equity			
Retained Earnings		3,373,186	65,419
Share Capital		10,510,751	6,510,751
Total Equity		13,883,937	6,576,170

The accompanying notes form part of these financial statements.



Statement of Changes in Equity

Union Standard International Group Pty Ltd
For the year ended 30 June 2018

	NOTES	2018	2017
Retained Earnings After Appropriation			
Retained Earnings/ (Accumulated Losses) at Start of Year		65,419	(2,543,609)
Profit/(Loss) Before Taxation		4,152,767	3,439,028
Income Tax Expense	4	(845,000)	(830,000)
Retained Earnings After Appropriation		3,373,186	65,419

The accompanying notes form part of these financial statements.



Statement of Cash Flows

Union Standard International Group Pty Ltd
For the year ended 30 June 2018

	2018	2017
Cash Flows From Operating Activities		
Receipts From Customers	117,058,945	93,738,001
Interest Received	67,669	44,358
Payments to Suppliers and Employees	(118,596,563)	(79,371,796)
Income Tax Refunded/(Paid)	(356,139)	(922,809)
Foreign Exchange Gains/(Loss)	(207,767)	(17,907)
Net Cash Flows from Operating Activities	(2,033,855)	13,469,847
Cash Flows From Investing Activities		
Payment for Property, Plant and Equipment	(822,342)	(128,433)
Loan from Related Parties	315,191	415,925
Net Cash Flows from Investing Activities	(507,151)	287,492
Financing Activities		
Proceeds From Share Issue	4,000,000	-
Net Cash Flows from Financing Activities	4,000,000	-
Net Cash Flows	1,458,994	13,757,339
Cash and Cash Equivalents		
Cash and cash equivalents at beginning of period	19,192,888	5,435,549
Cash and cash equivalents at end of period	20,651,882	19,192,888
Net change in cash for period	1,458,994	13,757,339



Notes to the Financial Statements

Union Standard International Group Pty Ltd For the year ended 30 June 2018

1. Statement of Significant Accounting Policies

The financial statements cover Union Standard International Group Pty Ltd as an individual entity. Union Standard International Group Pty Ltd is a company limited by shares, incorporated and domiciled in Australia

The financial statements are special purpose financial statements that have been prepared in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) of the Australian Accounting Standard Board (AASB) and the Corporations Act 2001. The company is a for-profit entity for financial reporting purposes under Australian Accounting Standards.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in financial statements containing relevant and reliable information about transactions, events and conditions. Compliance with Australian Accounting Standards ensures that the financial statements and notes also comply with International Financial Reporting Standards as issued by the IASB. Material accounting policies adopted in the preparation of these financial statements are presented below and have been consistently applied unless stated otherwise.

The financial statements, except for the cash flow information, have been prepared on an accruals basis and are based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and financial liabilities. The amounts presented in the financial statements have been rounded to the nearest dollar.

The financial statements were authorised for issue on by the directors of the company.

The accounting policies that have been adopted in the preparation of the statements are as follows:

Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at 30 June 2018. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

Current tax is recognised as income or an expense and included in profit or loss for the period except where the tax arises from a transactions which is recognised in other comprehensive income or equity, in which case the tax is recognised in other comprehensive income or equity respectively.

Property, Plant and Equipment

Property, plant and equipment is initially recorded at the cost of acquisition or fair value less, if applicable, any accumulated depreciation and impairment losses. Plant and equipment that has been contributed at no cost, or for nominal cost, is valued and recognised at the fair value of the asset at the date it is acquired. The plant and equipment is reviewed annually by directors to ensure that the carrying amount is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the utilisation of the assets and the subsequent disposal. The expected net cash flows have been discounted to their present values in estimating recoverable amounts.

Freehold land and buildings are measured at their fair value, based on periodic, but at least triennial, valuations by independent external valuers, less subsequent depreciation for buildings.

Increases in the carrying amount of land and buildings arising on revaluation are credited in equity to a revaluation surplus. Decreases against previous increases of the same asset are charged against fair value reserves in equity. All other decreases are charged to profit or loss.

Any accumulated depreciation at the date of revaluation is offset against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset.



Trade and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful debt has been created.

Financial Assets

Investments held are originally recognised at cost, which includes transaction costs. They are subsequently measured at fair value which is equivalent to their market bid price at the end of the reporting period. Movements in fair value are recognised through an equity reserve.

Trade and Other Payables

Trade and other payables represent the liabilities for goods and services received by the company that remain unpaid at 30 June 2018. Trade payables are recognised at their transaction price. They are subject to normal credit terms and do not bear interest.

Employee Benefits

Provision is made for the liability for employee entitlements arising from services rendered by employees to 30 June 2018. Employee benefits have been measured at the amounts expected to be paid when the liability is settled, plus related costs.

Provisions

Provisions are recognised when the entity has a legal or constructive obligation resulting from past events, for which it is probable that there will be an outflow of economic benefits and that outflow can be reliably measured. Provisions are measured using the best estimate available of the amounts required to settle the obligation at the end of the reporting period.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held on call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

Revenue and Other Income

Trading revenue is calculated as the outcome of contracts for difference opened with the company by its client including any bonuses issued by the company in respect thereof. Trading revenue is recognised on closing value of those contracts.

Revenue is measured at the fair value of the consideration received or receivable and is presented net of returns, discounts and rebates.

Interest Revenue

Interest revenue is recognised using the effective interest rate method.

Rendering of Services

Revenue in relation to rendering of services is recognised depends on whether the outcome of the services can be measured reliably. If this is the case then the stage of completion of the services is used to determine the appropriate level of revenue to be recognised in the period. If the outcome cannot be reliably measured then revenue is recognised to the extent of expenses recognised that are recoverable.

Other Income

Other income is recognised on an accruals basis when the company is entitled to it.

Notes to the Financial Statements



Leases

Finance leases are leases of fixed assets where substantially all of the risks and benefits incidental to the ownership of the asset are transferred to the entity, but the legal ownership is not transferred to the entity.

Finance leases are capitalised by recording an asset and a corresponding liability at the lower of the amounts equal to the fair value of the leased asset, or the minimum lease payments measured at present value including any residual values.

Leased assets are depreciated on a straight-line basis over the shorter of their estimated useful lives or the lease term.

Operating lease payments are charged to the income statement on a straight-line basis over the term of the lease.

Lease incentives are deferred and amortised over the period of the lease.

Profits and losses on sale and leaseback transactions are recognised in the reporting period in which they occur.

	2018	2017
2. Revenue		
White Label Income	52,172	-
Trading Income	117,006,773	93,738,001
Interest Income	67,669	44,358
Total Revenue	117,126,614	93,782,359

	2018	2017
3. Auditors' Remuneration		
Audit Fee	19,875	15,285
Total Auditors' Remuneration	19,875	15,285

	2018	2017
4. Income Tax Expense		
Current Tax	845,000	830,000
Total Income Tax Expense	845,000	830,000

	2018	2017
5. Cash and Cash Equivalents		
Cash at Bank - Client Funds (restricted cash)	11,033,662	8,931,521
Cash at Bank - Company Funds	4,983,391	7,386,185
Term Deposit (less than 3 month maturity)	4,634,829	2,875,182
Total Cash and Cash Equivalents	20,651,882	19,192,888

	2018	2017
6. Trade and Other Receivables		
Funds Clearing Account	-	524,882
Hedging Funds	2,252,429	4,691,977
Money Processors	2,849,427	3,094,879
Total Trade and Other Receivables	5,101,856	8,311,738

Notes to the Financial Statements



	2018	2017
7. Other Current Assets		
Prepaid Expenses	182,263	372,082
Total Other Current Assets	182,263	372,082
	2018	2017
8. Property Plant and Equipment		
Computer Equipment		
Computer Equipment	188,298	165,144
Accumulated Depreciation of Computer Equipment	(122,419)	(55,391)
Total Computer Equipment	65,878	109,753
Leasehold Improvements		
Leasehold Improvements at Cost	176,646	-
Accumulated Amortisation of Leasehold Improvements	(31,173)	-
Total Leasehold Improvements	145,474	-
Office Fittings and Furniture		
Office Fittings and Furniture	690,321	56,085
Accumulated Depreciation of Office Fittings and Furniture	(42,811)	(16,760)
Total Office Fittings and Furniture	647,510	39,324
Total Property Plant and Equipment	858,862	149,078
	2018	2017
9. Trade and Other Payables		
Accounts Payable	1,415,904	6,376,790
Accrued Expenses	87,190	169,834
Annual Leave Entitlement	38,461	28,662
Client Trust Liabilities	10,079,265	14,473,890
PAYG Withholdings Payable	24,289	12,212
Provision for Income Tax	396,052	(92,809)
Superannuation Payable	19,981	14,433
Total Trade and Other Payables	12,061,142	20,983,010
	2018	2017
10. Other Non-Current Liabilities		
Intercompany Loan Account	32,358	29,616
Loan from Shareholder	749,440	436,990
Total Other Non-Current Liabilities	781,797	466,606

Notes to the Financial Statements



	2018	2017
11. Other Current Liabilities		
Collateral Deposits	185,276	-
Total Other Current Liabilities	185,276	-



Directors' Declaration

Union Standard International Group Pty Ltd For the year ended 30 June 2018

In accordance with a resolution of the directors of Union Standard International Group Pty Ltd, the directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies described in Note 1 to the financial statements.

The directors of the company declare that:

1. The financial statements and notes, as set out on page 6 to 14 are in accordance with the Corporation Act 2001 and:

(a) comply with Australian Accounting Standards; and

(b) give a true and fair view of the company's financial position as at 30 June 2018 and of its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements.

2. In the directors' opinion, there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable

Director: _____

Mr James Edward Clinnick

Dated this 26 day of October 2018



Financial Report

Union Standard International Group Pty Ltd

ABN 79 117 658 349

As at 30 June 2019

Prepared by Shuriken Consulting Sydney Pty Ltd



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10	Notes to the Financial Statements
15	Directors' Declaration
16	Auditor's Report



Directors' Report

Union Standard International Group Pty Ltd For the year ended 30 June 2019

The directors present their report on the company for the financials year ended 30 June 2019

Information on Directors

The names of each person who has been a director during the year and to the date of this report are:

Mr Soe Hein Minn

Mr Darren Anthony Burns (appointed 01 June 2019)

Mr John Carlton Martin (appointed 01 February 2019)

Mr James Edward Clinnick (resigned 01 February 2019)

Anthony Alexander Anderson (resigned 01 June 2019)

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

Review of Operations

The profit of the company after providing for income tax amounted to \$7,399,644.

Significant Changes in the State of Affairs

There have been no significant changes in the state of affairs of the Company during the year.

Principal Activities

The principal activities of the company during the financial year were providing a platform that enables clients to invest in contracts for difference in the foreign exchange market and commodities.

No significant change in the nature of the company's activity occurred during the financial year.

Events Subsequent to the End of the Reporting Period

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the company, the results of those operations, or the state of affairs of the company in future financial years.

Likely Developments and Expected Results of Operations

Likely developments in the operations of the company and the expected results of those operations in future financial years have not been included in this report as the inclusion of such information is likely to result in unreasonable prejudice to the company.

Environmental Issues

The company's operations are not regulated by any significant environmental regulations under a law of the Commonwealth or of a state or territory of Australia.

Dividends paid or recommended

No dividends were paid or declared during the financial year. No recommendation for payment of dividends has been made.

Directors' Report



Options

No options over issued shares or interests in the company were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

Proceedings on Behalf of the Company

No person has applied for leave of court to bring proceedings on behalf of the company or intervene in any proceedings to which the company is a party for the purpose of taking responsibility on behalf of the company for all or any part of those proceedings.

The company was not party to any such proceedings during the year.

Auditors' Independence Declaration

The lead auditors' independence declaration in accordance with section 307C of the Corporations Act 2001, for the year ended 30 June 2019 has been received and can be found on page 5.

Signed in accordance with a resolution of the Board of Directors:

Director:

A handwritten signature in black ink, appearing to read 'John Martin', is written over a horizontal line.

Mr John Martin

Dated this 30 day of October 2019



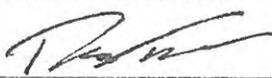
UNION STANDARD INTERNATIONAL GROUP PTY LTD
ABN : 79 117 658 349

**Auditor's Independence Declaration under
Section 307C of the Corporations Act 2001**

I declare that, to the best of my knowledge and belief, during the year ended 30 June 2019 there have been no contraventions of:

- i. the auditor's independence requirements as set out in the Corporations Act 2001 in relation to the audit; and
- ii. any applicable code of professional conduct in relation to the audit.

Name of Firm: Gauld Tulloch Bove
Chartered Accountants

Name of Partner: 
Robert G Tulloch

Address: Suite301 Level 3, 71-73 Archer St CHATSWOOD NSW 2067

Dated: 30 day of October 2019



Statement of Profit or Loss and Other Comprehensive Income

Union Standard International Group Pty Ltd
For the year ended 30 June 2019

	NOTES	2019	2018
Income			
Revenue	2	142,062,787	117,126,614
Expenses			
Accountancy expenses		128,279	118,660
Advertising expenses		230,722	246,887
Auditors' remuneration	3	20,200	19,875
Agent commission expenses		118,747,589	105,083,973
Client support expense		2,847,500	831,137
Compliance fees		75,798	84,782
Depreciation and amortisation expenses		185,968	112,557
Directors' fees		51,271	47,916
Employee benefit expenses		1,603,582	1,114,555
Insurance expense		166,655	110,597
IT related expenses		3,381,208	1,823,716
Legal expenses		396,340	112,619
Marketing expenses		688,234	615,874
Other expenses		2,528,788	2,163,379
Rent expense		762,352	487,320
Total Expenses		131,814,487	112,973,847
Profit/(Loss) before income tax		10,248,300	4,152,767
Income tax expense			
Income tax expense	4	2,848,655	845,000
Total Income tax expense		2,848,655	845,000
Profit/(Loss) after income tax		7,399,644	3,307,767
Total comprehensive income at the end of the financial year		7,399,644	3,307,767

The accompanying notes form part of these financial statements.



Statement of Financial Position

Union Standard International Group Pty Ltd

As at 30 June 2019

	NOTES	30 JUN 2019	30 JUN 2018
Assets			
Current Assets			
Cash and cash equivalents	5	66,240,396	20,651,882
Trade and other receivables	6	10,932,445	5,101,856
Other current assets	7	7,909,136	182,263
Total current assets		85,081,977	25,936,000
Non-Current Assets			
Property, Plant and Equipment	8	672,894	858,862
Security bond		117,424	117,289
Total Non-Current Assets		790,318	976,151
Total Assets		85,872,295	26,912,152
Liabilities			
Current Liabilities			
Trade and other payables	9	57,744,068	12,061,141
Other current liabilities	11	1,239,305	185,276
Total Current Liabilities		58,983,373	12,246,417
Non-Current Liabilities			
Other non-current liabilities	10	5,605,341	781,797
Total Non-Current Liabilities		5,605,341	781,797
Total Liabilities		64,588,714	13,028,215
Net Assets		21,283,581	13,883,937
Equity			
Retained Earnings		10,772,830	3,373,186
Share Capital		10,510,751	10,510,751
Total Equity		21,283,581	13,883,937

The accompanying notes form part of these financial statements.



Statement of Changes in Equity

Union Standard International Group Pty Ltd
For the year ended 30 June 2019

	NOTES	2019	2018
Retained Earnings After Appropriation			
Retained Earnings/ (Accumulated Losses) at Start of Year		3,373,186	65,419
Profit/(Loss) Before Taxation		14,822,011	4,152,767
Income Tax Expense	4	(3,028,655)	(845,000)
Retained Earnings After Appropriation		15,166,542	3,373,186

The accompanying notes form part of these financial statements.



Statement of Cash Flows

Union Standard International Group Pty Ltd

For the year ended 30 June 2019

	2019	2018
Cash Flows From Operating Activities		
Receipts From Customers	141,939,784	117,058,945
Interest Received	123,003	67,669
Payments to Suppliers and Employees	(98,164,779)	(118,596,563)
Income Tax Paid	(1,703,506)	(356,139)
Foreign Exchange Gains/(Loss)	(149,421)	(207,767)
Net Cash Flows from Operating Activities	42,045,081	(2,033,855)
Cash Flows From Investing Activities		
Payment for Property, Plant and Equipment	-	(822,342)
Loan from Related Parties	3,543,433	315,191
Net Cash Flows from Investing Activities	3,543,433	(507,150)
Financing Activities		
Proceeds From Share Issue	-	4,000,000
Net Cash Flows from Financing Activities	-	4,000,000
Net Cash Flows	45,588,514	1,458,994
Cash and Cash Equivalents		
Cash and cash equivalents at beginning of period	20,651,882	19,192,888
Cash and cash equivalents at end of period	66,240,396	20,651,882
Net change in cash for period	45,588,514	1,458,994



Notes to the Financial Statements

Union Standard International Group Pty Ltd For the year ended 30 June 2019

1. Statement of Significant Accounting Policies

The financial statements cover Union Standard International Group Pty Ltd as an individual entity. Union Standard International Group Pty Ltd is a company limited by shares, incorporated and domiciled in Australia

The financial statements are special purpose financial statements that have been prepared in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) of the Australian Accounting Standard Board (AASB) and the Corporations Act 2001. The company is a for-profit entity for financial reporting purposes under Australian Accounting Standards.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in financial statements containing relevant and reliable information about transactions, events and conditions. Compliance with Australian Accounting Standards ensures that the financial statements and notes also comply with International Financial Reporting Standards as issued by the IASB. Material accounting policies adopted in the preparation of these financial statements are presented below and have been consistently applied unless stated otherwise.

The financial statements, except for the cash flow information, have been prepared on an accruals basis and are based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and financial liabilities. The amounts presented in the financial statements have been rounded to the nearest dollar.

The financial statements were authorised for issue on by the directors of the company.

The accounting policies that have been adopted in the preparation of the statements are as follows:

Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at 30 June 2019. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

Current tax is recognised as income or an expense and included in profit or loss for the period except where the tax arises from a transactions which is recognised in other comprehensive income or equity, in which case the tax is recognised in other comprehensive income or equity respectively.

Property, Plant and Equipment

Property, plant and equipment is initially recorded at the cost of acquisition or fair value less, if applicable, any accumulated depreciation and impairment losses. Plant and equipment that has been contributed at no cost, or for nominal cost, is valued and recognised at the fair value of the asset at the date it is acquired. The plant and equipment is reviewed annually by directors to ensure that the carrying amount is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the utilisation of the assets and the subsequent disposal. The expected net cash flows have been discounted to their present values in estimating recoverable amounts.

Freehold land and buildings are measured at their fair value, based on periodic, but at least triennial, valuations by independent external valuers, less subsequent depreciation for buildings.

Increases in the carrying amount of land and buildings arising on revaluation are credited in equity to a revaluation surplus. Decreases against previous increases of the same asset are charged against fair value reserves in equity. All other decreases are charged to profit or loss.

Any accumulated depreciation at the date of revaluation is offset against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset.



Trade and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful debt has been created.

Financial Assets

Investments held are originally recognised at cost, which includes transaction costs. They are subsequently measured at fair value which is equivalent to their market bid price at the end of the reporting period. Movements in fair value are recognised through an equity reserve.

Trade and Other Payables

Trade and other payables represent the liabilities for goods and services received by the company that remain unpaid at 30 June 2019. Trade payables are recognised at their transaction price. They are subject to normal credit terms and do not bear interest.

Employee Benefits

Provision is made for the liability for employee entitlements arising from services rendered by employees to 30 June 2019. Employee benefits have been measured at the amounts expected to be paid when the liability is settled, plus related costs.

Provisions

Provisions are recognised when the entity has a legal or constructive obligation resulting from past events, for which it is probable that there will be an outflow of economic benefits and that outflow can be reliably measured. Provisions are measured using the best estimate available of the amounts required to settle the obligation at the end of the reporting period.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held on call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

Revenue and Other Income

Trading revenue is calculated as the outcome of contracts for difference opened with the company by its client including any bonuses issued by the company in respect thereof. Trading revenue is recognised on closing value of those contracts.

Revenue is measured at the fair value of the consideration received or receivable and is presented net of returns, discounts and rebates.

Interest Revenue

Interest revenue is recognised using the effective interest rate method.

Rendering of Services

Revenue in relation to rendering of services is recognised depends on whether the outcome of the services can be measured reliably. If this is the case then the stage of completion of the services is used to determine the appropriate level of revenue to be recognised in the period. If the outcome cannot be reliably measured then revenue is recognised to the extent of expenses recognised that are recoverable.

Other Income

Other income is recognised on an accruals basis when the company is entitled to it.



Leases

Finance leases are leases of fixed assets where substantially all of the risks and benefits incidental to the ownership of the asset are transferred to the entity, but the legal ownership is not transferred to the entity.

Finance leases are capitalised by recording an asset and a corresponding liability at the lower of the amounts equal to the fair value of the leased asset, or the minimum lease payments measured at present value including any residual values.

Leased assets are depreciated on a straight-line basis over the shorter of their estimated useful lives or the lease term.

Operating lease payments are charged to the income statement on a straight-line basis over the term of the lease.

Lease incentives are deferred and amortised over the period of the lease.

Profits and losses on sale and leaseback transactions are recognised in the reporting period in which they occur.

	2019	2018
2. Revenue		
White Label Income	3,215,663	52,172
Trading Income	138,724,121	117,006,773
Interest Income	123,003	67,669
Total Revenue	142,062,787	117,126,614
	2019	2018
3. Auditors' Remuneration		
Audit Fee	20,200	19,875
Total Auditors' Remuneration	20,200	19,875
	2019	2018
4. Income Tax Expense		
Current Tax	2,848,655	845,000
Total Income Tax Expense	2,848,655	845,000
	2019	2018
5. Cash and Cash Equivalents		
Cash at Bank - Client Funds (restricted cash)	55,471,434	11,033,662
Cash at Bank - Company Funds	5,528,250	4,983,391
Term Deposit (less than 3 month maturity)	5,240,711	4,634,829
Total Cash and Cash Equivalents	66,240,396	20,651,882
	2019	2018
6. Trade and Other Receivables		
Accounts Receivables	608,262	-
Hedging Funds	6,740,548	2,252,429
Money Processors	3,583,635	2,849,427
Total Trade and Other Receivables	10,932,445	5,101,856

Notes to the Financial Statements



	2019	2018
7. Other Current Assets		
Intercompany Loan	1,280,110	-
Prepaid Expenses	6,629,026	182,263
Total Other Current Assets	7,909,136	182,263

	2019	2018
--	------	------

8. Property Plant and Equipment

	2019	2018
Computer Equipment		
Computer Equipment	188,298	188,298
Accumulated Depreciation of Computer Equipment	(176,297)	(122,419)
Total Computer Equipment	12,000	65,878
Leasehold Improvements		
Leasehold Improvements at Cost	176,646	176,646
Accumulated Amortisation of Leasehold Improvements	(93,519)	(31,173)
Total Leasehold Improvements	83,128	145,474
Office Fittings and Furniture		
Office Fittings and Furniture	690,321	690,321
Accumulated Depreciation of Office Fittings and Furniture	(112,556)	(42,811)
Total Office Fittings and Furniture	577,765	647,510
Total Property Plant and Equipment	672,894	858,862

9. Trade and Other Payables

	2019	2018
Accounts Payable	193,268	1,415,904
Accrued Expenses	915,387	87,190
Annual Leave Entitlement	61,270	38,461
Client Trust Liabilities	54,989,349	10,079,265
PAYG Withholdings Payable	19,206	24,289
Provision for Income Tax	1,541,202	396,052
Superannuation Payable	24,386	19,981
Total Trade and Other Payables	57,744,068	12,061,142

10. Other Non-Current Liabilities

	2019	2018
Intercompany Loan Account	73,295	32,358
Loan from Shareholder	5,532,045	749,440
Total Other Non-Current Liabilities	5,605,341	781,797

Notes to the Financial Statements



	2019	2018
11. Other Current Liabilities		
Collateral Deposits	1,235,276	185,276
Payroll Tax Payable	4,029	-
Total Other Current Liabilities	1,239,305	185,276



Directors' Declaration

Union Standard International Group Pty Ltd
For the year ended 30 June 2019

In accordance with a resolution of the directors of Union Standard International Group Pty Ltd, the directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies described in Note 1 to the financial statements.

The directors of the company declare that:

1. The financial statements and notes, as set out on page 6 to 14 are in accordance with the Corporation Act 2001 and:
 - (a) comply with Australian Accounting Standards; and
 - (b) give a true and fair view of the company's financial position as at 30 June 2019 and of its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements.

2. In the directors' opinion, there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable

Director: _____

Mr John Martin

Dated this 30 day of October 2019

ASIC EXTRACT SNAPSHOT

CURRENT ORGANISATION DETAILS

Date Extracted	20/06/2023
ACN	164 494 811
ABN	51 164 494 811
Current Name	LS CAPITAL HOLDINGS PTY LTD
Registered In	New South Wales
Registration Date	26/06/2013
Review Date	26/06/2023
Company Type	ACN (Australian Company Number)
Current Directors	1
Current Secretaries	1

Start Date	26/06/2013
Name	LS CAPITAL HOLDINGS PTY LTD
Name Start Date	26/06/2013
Status	Registered
Type	Australian Proprietary Company
Class	Limited By Shares
Sub Class	Proprietary Company
Disclosing Entity	No

Share Structure *(Displaying top 1 Only)*

[Go to Full ASIC Results](#)

Class	Class Type	Shares Issued	Amount Paid
ORD	ORDINARY	100	\$100.00

(creditor)watch - Credit Score (564)

[Go to Full Credit Report](#)

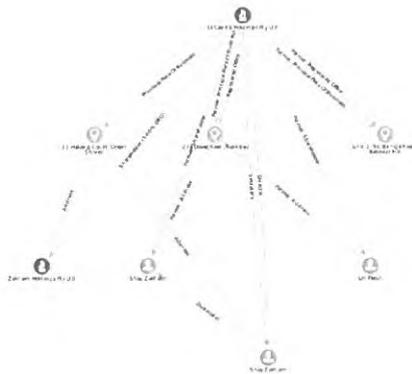


Risk Data Summary

Court Judgments	0	Payment Defaults	0	Insolvency Notices	0	Mercantile Enquiries	0	Credit Enquiries	5
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REVEAL - Company Visualisation

[Go to full workspace](#)



ASIC Data Extracted 20/06/2023 at 16:14

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

- 164 494 811 LS CAPITAL HOLDINGS PTY LTD -

ACN (Australian Company Number):	164 494 811	Document No.
ABN:	51 164 494 811	
Current Name:	LS CAPITAL HOLDINGS PTY LTD	
Registered in:	New South Wales	
Registration Date:	26/06/2013	
Review Date:	26/06/2023	
Company Bounded By:		

- Current Organisation Details -

Name:	LS CAPITAL HOLDINGS PTY LTD	1E9516400
Name Start Date:	26/06/2013	
Status:	Registered	
Type:	Australian Proprietary Company	
Class:	Limited By Shares	
Sub Class:	Proprietary Company	

- Company Addresses -**- Registered Office**

Address:	27A DOVER ROAD ROSE BAY NSW 2029	7E8359507
Start Date:	26/09/2016	

- Previous Registered Office

Address:	UNIT 1 96 BIRRIGA ROAD BELLEVUE HILL NSW 2023	1E9516400
Start Date:	26/06/2013	
Cease Date:	25/09/2016	

- Principal Place of Business

Address:	11 HALYARD COURT OCEAN SHORES NSW 2483	7EBK24325
Start Date:	09/08/2021	

- Previous Principal Place of Business

Address:	27A DOVER ROAD ROSE BAY NSW 2029	7E8359507
Start Date:	19/09/2016	
Cease Date:	08/08/2021	

- Previous Principal Place of Business

1E9516400

Address: UNIT 1 96 BIRRIGA ROAD BELLEVUE HILL NSW 2023
Start Date: 26/06/2013
Cease Date: 18/09/2016

- Company Officers -

Note:

A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.

* Check documents listed under ASIC Documents Received for recent changes.

Director

Name: SHAY ZAKHAIM 7EBK24325
Address: 11 HALYARD COURT OCEAN SHORES NSW 2483
Birth Details: 18/03/1975 RAMAT-GAN ISRAEL
Appointment Date: 26/06/2013
Cease Date: //

Secretary

Name: SHAY ZAKHAIM 7EBK24325
Address: 11 HALYARD COURT OCEAN SHORES NSW 2483
Birth Details: 18/03/1975 RAMAT-GAN ISRAEL
Appointment Date: 26/06/2013
Cease Date: //

- Share Structure -

Current

Class: ORDINARY 1E9516400
Number of Shares Issued: 100
Total Amount Paid / Taken to be Paid: \$100.00
Total Amount Due and Payable: \$0.00

Note:

For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

- Share/Interest Holding -

Current

- Holding -

Class:	ORD	Number Held:	100	7EBK24325
Beneficially Owned:	No	Fully Paid:	Yes	

- Members -

Name:	ZAKHAIM HOLDINGS PTY LTD
ACN:	642 612 333
Address:	11 HALYARD COURT OCEAN SHORES NSW 2483
Joint Holding:	No

Ceased/Former

- Holding -

Class:	ORD	Number Held:	50	7E8359507
Beneficially Owned:	Yes	Fully Paid:	Yes	

- Members -

Name:	SHAY ZAKHAIM
Address:	27A DOVER ROAD ROSE BAY NSW 2029
Joint Holding:	No

- Holding -

Class:	ORD	Number Held:	50	7E8359507
Beneficially Owned:	Yes	Fully Paid:	Yes	

- Members -

Name:	LIN FLEISH
Address:	27A DOVER ROAD ROSE BAY NSW 2029
Joint Holding:	No

- External Administration Documents -

There are no external administration documents held for this organisation.

- Charges -

There are no charges held for this organisation.

Notes:

On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced. At that time ASIC transferred all details of current charges to the PPS Registrar. ASIC can only provide details of satisfied charges prior to that date. Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, www.ppsr.gov.au. InfoTrack may cap documents for on-file searches to 250.

- Document List -

Notes:

- * Documents already listed under Registered Charges are not repeated here.
- * Data from Documents with no Date Processed are not included in this Extract.
- * Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
- * The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.
- * In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
484	09/08/2021	09/08/2021	2	09/08/2021	7EBK24325
484	Change to Company Details				
484C	Change of Principal Place of Business (Address)				
484A1	Change Officeholder Name or Address				
484A2	Change Member Name or Address				
484	09/09/2020	09/09/2020	3	09/09/2020	1ERB22442
484N	Change to Company Details Changes to (Members) Share Holdings				
484	19/09/2016	19/09/2016	3	19/09/2016	7E8359507
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
484A1	Change Officeholder Name or Address				
484A2	Change Member Name or Address				
201	26/06/2013	26/06/2013	3	26/06/2013	1E9516400
201C	Application For Registration as a Proprietary Company				

- Company Contact Addresses -

- Contact Address for ASIC use only

Address: PO BOX 1517 HORNSBY WESTFIELD NSW 1635
Start Date: 01/03/2018

- Previous Contact Address for ASIC use only

Address: GPO BOX 1904 SYDNEY NSW 2001
Start Date: 19/09/2016
Cease Date: 03/07/2017

*** End of Document ***

(creditor)watch

Credit Report

Name	LS CAPITAL HOLDINGS PTY LTD
ABN	51164494811
ACN	164494811
Document Type	Credit Report
Report Generated	20-06-2023 at 16:15
ASIC Extract	Not Included
ASIC Extract Status	Not Included

Credit Report	✓ Included
RiskScore	✓ Included
Payment Rating	Not Included
CW Bankruptcy Check (PIRS)	Not Included
ASIC Data (On File)	Not Included
ASIC Current Extract	Not Included
ASIC Current & Historical	Not Included
PPSR ACN	Not Included
PPSR ABN	Not Included
PPSR Business Name	Not Included
Append Docs Lodged	✓ Included
Append Business Names	✓ Included
Append Credit Enquiries	✓ Included

Summary



C2 / 564
Acceptable Risk

5

Credit Enquiries



Registered



No Registered Defaults



No Court Actions



No Mercantile Enquiries



No ASIC Published Notices



No Critical ASIC Documents

Important Cross Directorships Not Available

Adverse

Risk Category

Risk Level

Risk Overview



No Adverse Information Found

ABR Data

Main Name	LS CAPITAL HOLDINGS PTY LTD
ABN	51 164 494 811
Registered Date	27-06-2013
Entity Status	Active
Entity Type	Australian Private Company
GST Status	Registered for GST (from 01-02-2016)
Main Physical Address	NSW 2483 (from 11-08-2021)
ABN Last Updated	11-08-2021

ASIC Data

Name	LS CAPITAL HOLDINGS PTY LTD
Registered Office Address	27A DOVER ROAD ROSE BAY NSW 2029
ACN	164 494 811
Registered Date	26-06-2013
Next Review Date	26-06-2023
Status	Registered
Company Type	Australian Proprietary Company
Class	Limited By Shares
Subclass	Proprietary Company
Locality	ROSE BAY NSW 2029
Regulator	Australian Securities & Investments Commission

RiskScore



RiskScore Information

- C2 credit rating
- 564 out of 850 points
- Risk level **Acceptable**

564



C2
Rating

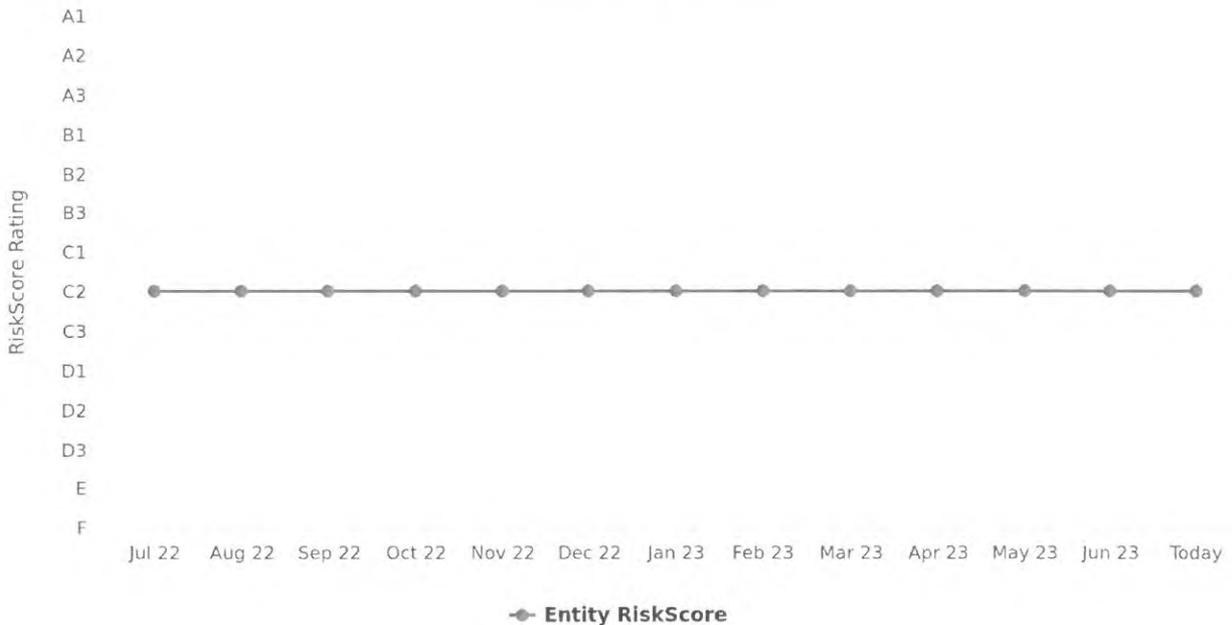
RiskScore advice for the C2 Range

Entity has an adequate aptitude to meet credit commitments. Unfavourable business, financial, or economic conditions will likely impair the capacity or willingness to meet financial commitments. Extend terms, closely monitor ongoing payment behaviour.

Entity has a **6.0% to 7.0% chance of default** within the next 12 months.

RiskScore Historical Information

Within the last 12 Months



i The CreditorWatch RiskScore is the most advanced algorithm in the market and is designed to ensure you make the right decision. The RiskScore has been developed using the latest machine learning techniques in combination with CreditorWatch's extensive data. The CreditorWatch RiskScore should be used in partnership with your internal credit procedures and policies.

What is "probability of default"?

This is the likelihood that an entity will NOT be able to meet their financial commitments in the next 12 months eg: pay an invoice.

Score Recommendations

RiskScore Rating	Risk Level	Recommendation
A1, A2, A3	Very Low	Very strong credit quality based on behavioural and business demographics. Likelihood of default or insolvency is considered very low. Extend terms within consideration.
B1, B2	Low	Strong credit quality based on behavioural and business demographics. Likelihood of default or insolvency is considered very low. Extend terms within consideration.
B3, C1	Neutral	Lower than average default risk for an Australian business. Business demographics and behaviours indicative of low likelihood of default or insolvency in the short to medium term. Extend terms and monitor ongoing payment behaviour.
C2	Acceptable	Average default risk for an Australian business. Standard underwriting criteria and due diligence recommended prior to extending credit. Extend terms, closely monitor ongoing payment behaviour.
C3	Potential Risk	Behaviours and business demographics may indicate increased risk for some businesses in this group. Assessment of the entity's financial position and cashflow is recommended prior to extending material unsecured credit.
D1, D2, D3	High	Risk of default or insolvency is significantly higher than the average for Australian businesses. COD trading highly recommended.
E	Impaired	Entity is highly vulnerable to default or insolvency in the short term.
F	Defaulted	One or more creditors has initiated legal proceedings or other significant actions in response to unpaid debt obligations, or the entity is entering or has entered insolvency.

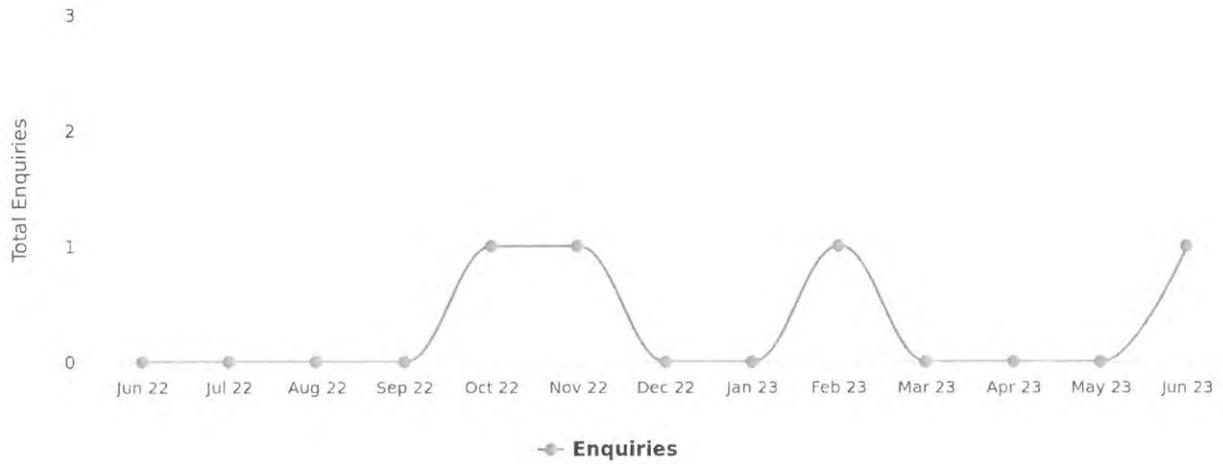
i Please note that the rating and recommendation should be used in partnership with your company's internal credit procedures and policies. The rating should not be used as the sole reason in making decision about the entity.

Credit Enquiries

5
Last 5 Years

4
Last 12 Months

Credit Enquiries
Within the last 12 Months



Enquiries Ordered by Industry

Industry (ANZSIC Division)	No of Enquiries
Financial and Insurance Services (K)	1
Information Media and Telecommunications (J)	1
Professional, Scientific and Technical Services (M)	1
Retail Trade (G)	1
Total Enquiries (within the last 12 months)	4

Enquiries Ordered by Date

Industry (ANZSIC Division)	Date
Information Media and Telecommunications (J)	20-06-2023
Professional, Scientific and Technical Services (M)	24-02-2023
Financial and Insurance Services (K)	23-11-2022
Retail Trade (G)	13-10-2022

i Credit enquiries provide an indication of the number of times an entity's credit file has been accessed. For credit enquiries performed in the last 12 months, the date of the enquiry and the industry of the business, sole trader or individual performing the credit enquiry is detailed in the graph and table.

Risk Data

Court Actions

Court Details	Plaintiff	Action	Nature of the Claim	Amount
 No Court Actions				

i CreditorWatch aggregate data from courts around Australia to provide a summary of court actions against an entity. When available, details of the action include location, case number, state, plaintiff, nature of the claim, action type and dollar amount.

Payment Defaults

Added	Invoice Due	Submitted By	Amount	Status
 No Payment Defaults Lodged				

i A default indicates that the debtor has failed to make a payment for goods or services. Payment Defaults are unique to CreditorWatch and can have one of three statuses: outstanding, partial payment or settled.

Tax Defaults

Date Added	Date Updated	Submitted By	Status	Amount
 No Tax Defaults Lodged				

i A tax default indicates that a business has overdue tax payments and has failed to respond to a notice of disclosure by The Australian Taxation Office (ATO). Tax defaults are only lodged on debts that are over 90 days overdue and are over a value of \$100,000.

Mercantile Enquiries

Enquiry Date

Mercantile Agent



No Mercantile Enquiries Lodged

- i** A Mercantile enquiry is an indication that a mercantile agency (or debt collection agency) has conducted an enquiry on this entity for the purpose of debt collection.

Business Names

Registered Business Index

Business Name	Status	Registered Number	Address
There are no business name extracts registered to this company			

Registered Business Names

Name	Business Name Type	Source
LS CAPITAL HOLDINGS PTY LTD	Main Name	ABR

i Business names are derived from two data sources, one of which is basic information provided by ABR. The other comes from the business names extract index which, when available, includes the owner of the business name and registered business address.

Appendix

Disclaimer

CreditorWatch is committed to ensuring that the information provided is accurate and comprehensive however due to data being received from sources not controlled by CreditorWatch we cannot guarantee that it is complete, verified or free of errors. To the extent permitted by law, CreditorWatch will not be held responsible for any errors or omissions therein concerning the information sourced and published in its publications, websites, API or emails.

REVEAL



InfoTrack shall not be liable to the User in negligence or otherwise in respect of anything done, omitted, modified or done by the User in reliance in whole or in part on the Service including any assistance or demonstration provided to the User by InfoTrack and InfoTrack's liability to the User shall in any event be limited to the amount of the fees charged for the particular service to which such liability relates.

19 May 2023

Our ref: MRP JZR 176075

The Proper Officer
LS Capital Holdings Pty Ltd
27A Dover Road
ROSE BAY NSW 2029

Mark Petrucco
Partner
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Dear Proper Officer

**In the matter of Union Standard International Group Pty Ltd (in liquidation)
Federal Court of Australia File No. NSD754/2020**

We act for Peter Paul Krejci and Andrew John Cummins in their capacity as joint and several liquidators of Union Standard International Group Pty Ltd (in liquidation) (**Company**) in the above proceedings.

We note that the director of LS Capital Holdings Pty Ltd (**LS Capital**), Shay Zakhaim, was examined by our clients on 1 December 2022. As described below, our clients consider that the evidence given by Mr Zakhaim establishes that he was a director of the Company within the meaning of section 9 of the *Corporations Act 2001* (Cth) (**Act**).

Our clients have reviewed the books and records of the Company and have determined that certain payments made by the Company to LS Capital are voidable transactions within the meaning of section 588FE of the Act.

1 Director

- 1.1 Our clients consider that Mr Zakhaim was a director of the Company within the meaning of section 9 of the Act. Specifically, our clients consider that, although Mr Zakhaim was not identified as holding the office of a director, he was at least acting in the position of a director. Alternatively, the directors of the Company (specifically, Darren Burns and John Martin) were accustomed to acting in accordance with Mr Zakhaim's instructions.
- 1.2 Our clients have reached that conclusion because Mr Zakhaim gave evidence which suggested he was performing functions one would reasonably expect to have been performed by a director of the Company given its circumstances and business enterprise. Relevantly, Mr Zakhaim gave evidence that:
- (a) he had overall responsibility for sales, legal, compliance and finance in respect of the Australian operations of the Company¹;

¹ T8:35-37.

- (b) part of his role was to ensure that the Australian financial services licence requirements were being met by the Company²;
- (c) his curriculum vitae (contained at page 5819 of the court book) accurately reflected the role he was performing within the Company, which relevantly disclosed that he had overall responsibility for:
 - (i) the Company strategy and activity within the region which included, but was not limited to, managing all aspects of trading, brokerage, sales, client acquisition, client relationship management, legal, compliance and finance requirements; and
 - (ii) all existing and new business and ensuring that activity rates were increased and every opportunity was optimised in a cost effective manner;
- (d) he attended board meetings from about the time of his commencement as Chief Executive Officer in 2014³;
- (e) he attended risk and compliance meetings regularly, which were required to analyse the risk and compliance infrastructure of the Company⁴;
- (f) one of his roles was to look at all marketing material and to review and sign off on it together with another responsible manager at the time, Thomas Lee⁵; and
- (g) he was part of the 'board' that had authority to move money from client trust accounts to the Company's bank account⁶.

2 Unfair preference

- 2.1 Section 588FA(1) of the Act relevantly provides that a transaction is an unfair preference given by a company to a creditor if, and only if:
- (a) the company and the creditor are parties to the transaction (even if someone else is also a party); and
 - (b) the transaction results in the creditor receiving from the company, in respect of an unsecured debt that the company owes to the creditor, more than the creditor would receive from the company in respect of the debt if the transaction were set aside and the creditor were to prove for the debt in a winding up of the company.
- 2.2 Section 588FC of the Act relevantly provides that a transaction is an insolvent transaction if, and only if, it is an unfair preference given by the company, or an uncommercial transaction of the company, and the transaction is entered into at a time when the company is insolvent.
- 2.3 Section 588FE(4) of the Act relevantly provides that where a company is being wound up, a transaction is voidable if:
- (a) it is an insolvent transaction of the company;

² T9:01-05.

³ T11:44-47.

⁴ T13:01-12.

⁵ T16:45-47; T17:01-06.

⁶ T21:35-43.

- (b) a related entity (including a director) of the company is a party to it; and
- (c) it was entered into during the 4 years ending on the relation-back day.

2.4 In accordance with section 91 of the Act, the relation-back day in relation to the Company is the date on which our clients were appointed as voluntary administrators on 8 July 2020.

3 Uncommercial transaction

3.1 Section 588FB of the Act provides that a transaction of a company is an uncommercial transaction of the company if, and only if, it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:

- (a) the benefits (if any) to the company of entering into the transaction;
- (b) the detriment to the company of entering into the transaction;
- (c) the respective benefits to other parties to the transaction of entering into it; and
- (d) any other relevant matter.

4 Unreasonable director-related transaction

4.1 Section 588FDA(1) of the Act relevantly provides that a transaction is an unreasonable director-related transaction of the company if, and only if, the transaction is:

- (a) a payment made by the company;
- (b) the payment is made to:
 - (i) a director of the company; or
 - (ii) a person on behalf of, or for the benefit of, a director of the company;
- (c) it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:
 - (i) the benefits (if any) to the company of entering into the transaction;
 - (ii) the detriment to the company of entering into the transaction;
 - (iii) the respective benefits to other parties to the transaction of entering into it; and
 - (iv) any other relevant matter.

4.2 The expression 'for the benefit of' in section 588FDA(1) of the Act as referred to in paragraph 4.1(b)(ii) above includes a payment made to a company in which the director might financially benefit.⁷

4.3 Section 588FDA(2) of the Act relevantly provides that, to avoid doubt, if:

⁷ *Vasudevan v Becon Constructions (Aust) Pty Ltd* [2014] VSCA 14 at [24].

- (a) the transaction is a payment; and
- (b) the transaction is entered into for the purpose of meeting an obligation the company has incurred,

the test described in paragraph 4.1(c) above applies to the transaction taking into account the circumstances as they exist at the time when the transaction is entered into (rather than as they existed when the obligation was incurred).

4.4 Section 588FE(6A) of the Act relevantly provides that a transaction is voidable if:

- (a) it is an unreasonable director-related transaction of the company; and
- (b) it was entered into during the 4 years ending on the relation-back day.

5 Payments

5.1 The books and records of the Company disclose that the Company paid LS Capital the sum of \$1,834,987.30 between 15 July 2016 and 15 May 2020 (**LS Capital Payments**). LS Capital was a related entity of the Company (as defined in section 9 of the Act) because Mr Zakhaim was a director of both LS Capital (having been its sole director since 26 June 2013) and the Company during the relevant period.

5.2 Our clients are not aware of any legitimate entitlement that LS Capital had to the LS Capital Payments. In this regard, there are no documents supporting LS Capital's entitlement to the LS Capital Payments (such as agreements, reports, communications or other contemporaneous documents) save for invoices which describe the services allegedly provided by LS Capital as 'consulting services' with no further detail.

6 Company's insolvency

6.1 We are instructed that the books and records of the Company evidence that it was insolvent from at least 31 March 2016 and possibly earlier. In particular, the adjusted current ratio (to account for significant amounts owing to investor clients which were not recorded in the books and records) remained below 0.27 between 31 March 2016 and 30 June 2020, by which stage it was just 0.06.

6.2 Our clients have also concluded that the Company failed to comply with section 286 of the Act in that it did not keep written financial records that:

- (a) correctly record and explain its transactions and financial position and performance; and
- (b) would enable true and fair financial statements to be prepared and audited.

6.3 Our clients have reached that conclusion in the circumstances described above, namely the significant amounts owing to investor clients which were not recorded in the books and records of the Company. On our clients' last calculation, those liabilities amounted to approximately \$320 million to \$585 million.

6.4 By reason of the Company's failure to comply with section 286 of the Act, our clients would be entitled to rely on the statutory presumption of insolvency in respect of the Company which arises by operation of section 588E(4) of the Act in respect of any proceedings commenced by our clients for, among other claims, recovery of an unfair preference or uncommercial transaction.

7 Voidable transactions

- 7.1 To the extent LS Capital contends that the LS Capital Payments are in respect of unsecured debts, then they are unfair preferences and voidable transactions because:
- (a) LS Capital was a party to the transactions and it resulted in LS Capital receiving more from the Company in respect of unsecured debts than LS Capital would have received if the transactions were set aside and LS Capital were to prove for the debts in the winding up of the Company;
 - (b) for the reasons set out in paragraphs 6.1 to 6.4 above, either the Company was insolvent in fact at the time of the LS Capital Payments or it was presumed to be insolvent;
 - (c) Mr Zakhaim was a director of the Company for the reasons set out in paragraphs 1.1 to 1.2 above and LS Capital was a related entity of the Company for the reasons set out in paragraph 5.1 above; and
 - (d) the LS Capital Payments were made during the 4 years ending on the relation-back day, being the period between 8 July 2016 and the date of the relation-back day on 8 July 2020.
- 7.2 Alternatively, the LS Capital Payments are uncommercial transactions or unreasonable director-related transactions because:
- (a) to the extent they are uncommercial transactions, for the reasons set out in paragraphs 6.1 to 6.4 above, either the Company was insolvent in fact at the time of the LS Capital Payments or it was presumed to be insolvent;
 - (b) to the extent they are uncommercial transactions or unreasonable director-related transactions, a reasonable person in the Company's circumstances would not have entered into the transactions having regard to the fact that:
 - (i) the Company derived no benefit in making the LS Capital Payments;
 - (ii) the Company (and by extension its creditors) suffered detriment in making the LS Capital Payments;
 - (iii) Mr Zakhaim and LS Capital received a benefit to the exclusion of creditors of the Company; and
 - (iv) the Company was insolvent at the time of the LS Capital Payments.

8 Demand

- 8.1 Our clients consider that they are entitled to recover from LS Capital the sum of **\$1,834,987.30** (being the total of the LS Capital Payments) under section 588FF(1)(a) of the Act. Payment in that amount must be made by electronic funds transfer to the following account by **5.00pm on 2 June 2023**:

Bank: National Australia Bank
BSB: 082-057
Account Number: 76496-3587
Account Name: Union Standard International Group Pty Ltd (In Liquidation)

8.2 If LS Capital fails to comply with this demand, we anticipate receipt of instructions to commence legal proceedings against LS Capital without further notice. If legal proceedings are commenced, our clients will seek interest and costs in addition to the value of their principal claim.

Yours faithfully

Hall & Wilcox

Hall & Wilcox

19 May 2023

Our ref: MRP JZR 176075

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Dear Practitioners

**In the matter of Union Standard International Group Pty Ltd (in liquidation)
Federal Court of Australia File No. NSD754/2020**

As you know, we act for Peter Paul Krejci and Andrew John Cummins in their capacity as joint and several liquidators of Union Standard International Group Pty Ltd (in liquidation) (**Company**). We note that you act for Shay Zakhaim.

Mr Zakhaim was publicly examined by our clients on 1 December 2022 in the above proceedings and signed a transcript of that examination, which, as you know, may be used in evidence in any legal proceedings commenced against him in accordance with section 596(14) of the *Corporations Act 2001* (Cth) (**Act**).

Mr Zakhaim gave evidence that he was the Chief Executive Officer of the Company between about 2014 to July 2020.¹ As described below, our clients consider that Mr Zakhaim was also a director of the Company within the meaning of section 9 of the Act.

Our clients have reviewed the books and records of the Company and have determined that certain payments made to Mr Zakhaim and his related entity, LS Capital Holdings Pty Ltd (**LS Capital**), are voidable transactions within the meaning of section 588FE of the Act.

1 Director

- 1.1 Our clients consider that Mr Zakhaim was a director of the Company within the meaning of section 9 of the Act. Specifically, our clients consider that, although Mr Zakhaim was not identified as holding the office of a director, he was at least acting in the position of a director. Alternatively, the directors of the Company (specifically, Darren Burns and John Martin) were accustomed to acting in accordance with Mr Zakhaim's instructions.
- 1.2 Our clients have reached that conclusion because Mr Zakhaim gave evidence which suggested he was performing functions one would reasonably expect to have been performed by a director of the Company given its circumstances and business enterprise. Relevantly, Mr Zakhaim gave evidence that:

¹ T6:28-29.

- (a) he had overall responsibility for sales, legal, compliance and finance in respect of the Australian operations of the Company²;
- (b) part of his role was to ensure that the Australian financial services licence requirements were being met by the Company³;
- (c) his curriculum vitae (contained at page 5819 of the court book) accurately reflected the role he was performing within the Company, which relevantly disclosed that he had overall responsibility for:
 - (i) the Company strategy and activity within the region which included, but was not limited to, managing all aspects of trading, brokerage, sales, client acquisition, client relationship management, legal, compliance and finance requirements; and
 - (ii) all existing and new business and ensuring that activity rates were increased and every opportunity was optimised in a cost effective manner;
- (d) he attended board meetings from about the time of his commencement as Chief Executive Officer in 2014⁴;
- (e) he attended risk and compliance meetings regularly, which were required to analyse the risk and compliance infrastructure of the Company⁵;
- (f) one of his roles was to look at all marketing material and to review and sign off on it together with another responsible manager at the time, Thomas Lee⁶; and
- (g) he was part of the 'board' that had authority to move money from client trust accounts to the Company's bank account⁷.

2 Unfair preference

2.1 Section 588FA(1) of the Act relevantly provides that a transaction is an unfair preference given by a company to a creditor if, and only if:

- (a) the company and the creditor are parties to the transaction (even if someone else is also a party); and
- (b) the transaction results in the creditor receiving from the company, in respect of an unsecured debt that the company owes to the creditor, more than the creditor would receive from the company in respect of the debt if the transaction were set aside and the creditor were to prove for the debt in a winding up of the company.

2.2 Section 588FC of the Act relevantly provides that a transaction is an insolvent transaction if, and only if, it is an unfair preference given by the company, or an uncommercial transaction of the company, and the transaction is entered into at a time when the company is insolvent.

² T8:35-37.

³ T9:01-05.

⁴ T11:44-47.

⁵ T13:01-12.

⁶ T16:45-47; T17:01-06.

⁷ T21:35-43.

- 2.3 Section 588FE(4) of the Act relevantly provides that where a company is being wound up, a transaction is voidable if:
- (a) it is an insolvent transaction of the company;
 - (b) a related entity (including a director) of the company is a party to it; and
 - (c) it was entered into during the 4 years ending on the relation-back day.
- 2.4 In accordance with section 91 of the Act, the relation-back day in relation to the Company is the date on which our clients were appointed as voluntary administrators on 8 July 2020.

3 Uncommercial transaction

- 3.1 Section 588FB of the Act provides that a transaction of a company is an uncommercial transaction of the company if, and only if, it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:
- (a) the benefits (if any) to the company of entering into the transaction;
 - (b) the detriment to the company of entering into the transaction;
 - (c) the respective benefits to other parties to the transaction of entering into it; and
 - (d) any other relevant matter.

4 Unreasonable director-related transaction

- 4.1 Section 588FDA(1) of the Act relevantly provides that a transaction is an unreasonable director-related transaction of the company if, and only if, the transaction is:
- (a) a payment made by the company;
 - (b) the payment is made to:
 - (i) a director of the company; or
 - (ii) a person on behalf of, or for the benefit of, a director of the company;
 - (c) it may be expected that a reasonable person in the company's circumstances would not have entered into the transaction, having regard to:
 - (i) the benefits (if any) to the company of entering into the transaction;
 - (ii) the detriment to the company of entering into the transaction;
 - (iii) the respective benefits to other parties to the transaction of entering into it; and
 - (iv) any other relevant matter.

4.2 The expression 'for the benefit of' in section 588FDA(1) of the Act as referred to in paragraph 4.1(b)(ii) above includes a payment made to a company in which the director might financially benefit.⁸

4.3 Section 588FDA(2) of the Act relevantly provides that, to avoid doubt, if:

- (a) the transaction is a payment; and
- (b) the transaction is entered into for the purpose of meeting an obligation the company has incurred,

the test described in paragraph 4.1(c) above applies to the transaction taking into account the circumstances as they exist at the time when the transaction is entered into (rather than as they existed when the obligation was incurred).

4.4 Section 588FE(6A) of the Act relevantly provides that a transaction is voidable if:

- (a) it is an unreasonable director-related transaction of the company; and
- (b) it was entered into during the 4 years ending on the relation-back day.

5 Payments

5.1 The books and records of the Company disclose that the Company paid Mr Zakhaim the sum of \$110,387.05 on 8 July 2020, being the date of our clients' appointment as joint and several administrators (**Purported Termination Payment**). Our clients did not authorise the Purported Termination Payment. The **enclosed** payment summary discloses that the Purported Termination Payment allegedly comprised employee entitlements, including salary, annual leave and employee termination payments.

5.2 The books and records of the Company also disclose that the Company paid LS Capital the sum of \$1,834,987.30 between 15 July 2016 and 15 May 2020 (**LS Capital Payments**). LS Capital was a related entity (as defined in section 9 of the Act) of the Company because Mr Zakhaim was a director of both LS Capital (having been its sole director since 26 June 2013) and the Company during the relevant period.

5.3 Our clients are not aware of any legitimate entitlement that LS Capital had to the LS Capital Payments. In this regard, there are no documents supporting LS Capital's entitlement to the LS Capital Payments (such as agreements, reports, communications or other contemporaneous documents) save for invoices which describe the services allegedly provided by LS Capital as 'consulting services' with no further detail.

6 Company's insolvency

6.1 We are instructed that the books and records of the Company evidence that it was insolvent from at least 31 March 2016 and possibly earlier. In particular, the adjusted current ratio (to account for significant amounts owing to investor clients which were not recorded in the books and records) remained below 0.27 between 31 March 2016 and 30 June 2020, by which stage it was just 0.06.

6.2 Our clients have also concluded that the Company failed to comply with section 286 of the Act in that it did not keep written financial records that:

⁸ *Vasudevan v Becon Constructions (Aust) Pty Ltd* [2014] VSCA 14 at [24].

- (a) correctly record and explain its transactions and financial position and performance; and
 - (b) would enable true and fair financial statements to be prepared and audited.
- 6.3 Our clients have reached that conclusion in the circumstances described above, namely the significant amounts owing to investor clients which were not recorded in the books and records of the Company. On our clients' last calculation, those liabilities amounted to approximately \$320 million to \$585 million.
- 6.4 By reason of the Company's failure to comply with section 286 of the Act, our clients would be entitled to rely on the statutory presumption of insolvency in respect of the Company which arises by operation of section 588E(4) of the Act in respect of any proceedings commenced by our clients for, among other claims, recovery of an unfair preference or uncommercial transaction.

7 Voidable transactions

- 7.1 To the extent that Mr Zakhaim contends that the Purported Termination Payment and LS Capital Payments are in respect of unsecured debts, then they are unfair preferences and voidable transactions because:
- (a) Mr Zakhaim and LS Capital were parties to the transactions and it resulted in Mr Zakhaim and LS Capital receiving more from the Company in respect of unsecured debts than Mr Zakhaim and LS Capital would have received if the transactions were set aside and Mr Zakhaim and LS Capital were to prove for the debts in the winding up of the Company;
 - (b) for the reasons set out in paragraphs 6.1 to 6.4 above, either the Company was insolvent in fact at the time of the Purported Termination Payment and LS Capital Payments or it was presumed to be insolvent;
 - (c) Mr Zakhaim was a director of the Company for the reasons set out in paragraphs 1.1 to 1.2 above and LS Capital was a related entity of the Company for the reasons set out in paragraph 5.2 above; and
 - (d) the Purported Termination Payment and LS Capital Payments were made during the 4 years ending on the relation-back day, being the period between 8 July 2016 and the date of the relation-back day on 8 July 2020.
- 7.2 Alternatively, the Purported Termination Payment and the LS Capital Payments are uncommercial transactions or unreasonable director-related transactions because:
- (a) to the extent that they are uncommercial transactions, for the reasons set out in paragraphs 6.1 to 6.4 above, either the Company was insolvent in fact at the time of the Purported Termination Payment and LS Capital Payments or it was presumed to be insolvent;
 - (b) to the extent that they are uncommercial transactions or unreasonable director-related transactions, a reasonable person in the Company's circumstances would not have entered into the transactions having regard to the fact that:
 - (i) the Company derived no benefit in making the Purported Termination Payment and the LS Capital Payments;

- (ii) the Company (and by extension its creditors) suffered detriment in making the Purported Termination Payment and LS Capital Payments;
- (iii) Mr Zakhaim and LS Capital received a benefit to the exclusion of creditors of the Company; and
- (iv) the Company was insolvent at the time of the Purported Termination Payment and LS Capital Payments and Mr Zakhaim supported the appointment of our clients as joint and several administrators on that day.

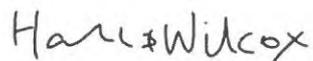
8 Demand

8.1 Our clients consider that they are entitled to recover from Mr Zakhaim the sum of **\$1,945,374.35** (being the total of the Purported Termination Payment and LS Capital Payments) under section 588FF(1)(a) of the Act. Payment in that amount must be made by electronic funds transfer to the following account by **5.00pm on 2 June 2023**:

Bank: National Australia Bank
BSB: 082-057
Account Number: 76496-3587
Account Name: Union Standard International Group Pty Ltd (In Liquidation)

8.2 If Mr Zakhaim fails to comply with this demand, we anticipate receipt of instructions to commence legal proceedings against him and LS Capital without further notice. If legal proceedings are commenced, our clients will seek interest and costs in addition to the value of their principal claim.

Yours faithfully



Hall & Wilcox

Encl.

Our Ref: 220537

Level 6, 31 Market Street
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7 June 2023

Attn: Mark Petrucco and Jeremy Roby
Hall & Wilcox
Level 18, 347 Kent Street
SYDNEY NSW 2000

**By email to mark.petrucco@hallandwilcox.com.au;
jeremy.robby@hallandwilcox.com.au**

Dear Sirs

**In the matter of Union Standard International Group Pty Ltd (in Liquidation)
Federal Court of Australia Proceeding No. NSD754/2020**

We refer to your letter of 19 May 2023 and respond as follows. Capitalised terms in this letter, unless expressly defined, have the same definition as ascribed to them in your letter of 19 May 2023.

Director

1. In respect of paragraph 1 of your letter, we deny that Mr Zakhaim was a director of the Company, or that the directors of the Company were accustomed to acting in accordance with Mr Zakhaim's instructions.

Voidable Transactions

2. In respect of paragraph 7 of your letter, we deny that the Purported Termination Payment and LS Capital Payments are voidable transactions.
3. First, the Purported Termination Payment and LS Capital Payments were not insolvent transactions because the transactions were not entered into at a time when the Company is insolvent.
4. Contrary to paragraph 6 of your letter:
 - a. The Company was not insolvent from at least 31 March 2016;
 - b. The Company did maintain adequate written financial records in accordance with s 286 of the Act; and
 - c. The liabilities of the Company were not in the vicinity of \$320 million to \$585 million. This is because the purported "investor clients" you refer to in your letter

were not clients of the Company. An analysis of the books and records in your possession (such as bank account statements) would reveal that these purported investors never advanced any money to the Company.

5. We note that Mr Zakhaim resigned from the Company prior to the payment of his Termination Payment and the appointment of the Administrators on 8 July 2020. There were no signs of insolvency until immediately before the voluntary administration of the Company. The Company was placed into voluntary administration as the Board and senior management of the Company could not reach an agreement with owners and senior management in Taiwan (such as Queena Lee) to reinstate access to the MT4/5 back-office systems and administration. The Company continued to operate under the administration of your client, for several months prior to it being placed into liquidation.
6. Second, even if the Purported Termination Payment and LS Capital Payments were insolvent transactions, which is denied, Mr Zakhaim received the transactions in good faith without grounds for suspecting insolvency: s 588FG(2) of the Act.
7. Further, we note that:
 - a. The LS Capital Payments were made to Mr Zakhaim with the approval of the Company's shareholders and represented remuneration in accordance with an agreed performance bonus in respect of revenue generated for the Company; and
 - b. The Purported Termination Payment was made to Mr Zakhaim with the apparent consent of Mr Krecji and Mr Keenan from BRI Ferrier prior to the appointment. In this regard, a meeting took place between Mr Krecji and Mr Keenan on the one hand, and the Company board on the other, who were referred to Mr Krecji by Mr Andrew Jeffers. During this meeting various matters were discussed, including the Termination Payment which was subsequently paid to Mr Zakhaim and representations from Mr Keenan that the directors and CEO should stay on and continue to be paid by the Company after the appointment of the Voluntary Administrator.
8. These facts are known to the liquidators and likely explains the 3-year delay in any attempts to recover the Purported Termination Payment and LS Capital Payments from Mr Zakhaim.

If you have any queries, please do not hesitate to contact the writer directly.

Kind regards,

O'Loughlin Westhoff



Jonathan O'Loughlin
Principal