

## NOTICE OF FILING

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Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



*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.



## **Further Amended Statement of Claim**

No. VID 489 of 2020

Federal Court of Australia  
District Registry: Victoria  
Division: General

**Nigel Peter Stack** and others named in the Schedule  
Applicants

**AMP Financial Planning Limited (ACN 051 208 327)** and others named in the Schedule  
Respondents

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Filed on behalf of: The Applicants

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## A. NATURE OF THE PROCEEDINGS

1. The First, Second, Third and Fourth Applicants bring this proceeding, pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth), on their own behalf and on behalf of other persons who:

1.1 [not used];

1.2 received personal advice from an AMP Authorised Representative (as that term is defined in paragraph 6 below) to acquire, renew or continue to hold (by themselves or through their superannuation funds as members) Commissioned Products (as that term is defined in paragraph 37 below);

1.2A pursuant to that advice, acquired, renewed or continued to hold (by themselves or through their superannuation funds as members) Commissioned Products in respect of which Commissions (as that term is defined in paragraph 41 below) were paid from 23 July 2014;

1.2B by reason thereof (by themselves or through their superannuation funds as members):

(a) suffered loss or damage; or

(b) claim an account of profits;

1.3 are not a Justice, Registrar, District Registrar or Deputy District Registrar of the High Court of Australia or the Federal Court of Australia; and

1.4 are not an AMP Authorised Representative,

**(Group Members).**

2. As at the date of commencement, there are seven or more Group Members.

3. In this Further Amended Statement of Claim:

3.1 '**Stack Sub-Group Members**' are those Group Members who on or after 23 July 2014:

(a) [not used];

- (b) received personal advice from an AMP Authorised Representative (as defined in paragraph 6 below) to acquire, renew or continue to hold (by themselves or through their superannuation funds as members) an AMP Life Product (as that term is defined in paragraph 39 below);
- (c) pursuant to that advice, acquired, renewed or continued to hold (by themselves or through their superannuation funds as members) an AMP Life Product; and
- (d) by reason thereof and in paying what are claimed to be any Excess Premiums (as that term is defined in paragraph 67 below) on such AMP Life Products (by themselves or through their superannuation funds as members):
  - (i) suffered loss or damage; or
  - (ii) claim an account of profits.

3.2 '**OSF Sub-Group Members**' are those Group Members who on or after 23 July 2014:

- (a) paid OSFs (as defined in paragraph 73 below) to one or more AMP Authorised Representatives; and
- (b) did not receive (in whole or in part) the AMP Ongoing Service Package (as defined in paragraph 71 below) from the AMP Authorised Representative.

4. In this Further Amended Statement of Claim, the period from 23 July 2014 until 15 February 2021 inclusive is referred to as the '**Relevant Period**'.

## **B. THE RESPONDENTS**

5. Each of the First Respondent (**AMPFP**), Second Respondent (**Charter**) and Third Respondent (**Hillross** and, together with AMPFP and Charter, the **AMP Licensees**):

5.1 is a company incorporated pursuant to the *Corporations Act 2001* (Cth) (**Corporations Act**) and is capable of being sued;

5.2 at all material times held, and continues to hold, an Australian Financial Services License (**AFSL**) granted pursuant to s 913B of the Corporations Act;

**Particulars**

- i. *AMPFP: AFSL No. 232706.*
- ii. *Charter: AFSL No. 234 655.*
- iii. *Hillross: AFSL No. 232705.*

5.3 is and at all material times was part of the AMP Group of Companies (the **AMP Group**);

5.4 at all material times, carried on the business of providing financial services to clients, including:

- (a) providing financial product advice within the meaning of s 766B(1) of the Corporations Act;
- (b) providing personal advice within the meaning of s 766B(3) of the Corporations Act; and
- (c) dealing in financial products within the meaning of s 766C(2) of the Corporations Act.

6. At all material times:

6.1 AMPFP had a network of authorised representatives who provided financial services on behalf of AMPFP (**AMPFP Authorised Representatives**);

6.2 Charter had a network of authorised representatives who provided financial services on behalf of Charter (**Charter Authorised Representatives**); and

6.3 Hillross had a network of authorised representatives who provided financial services on behalf of Hillross (**Hillross Authorised Representatives** and, together with the AMPFP Authorised Representatives and the Charter Authorised Representatives, the **AMP Authorised Representatives**).

**Particulars**

- i. *AMP Authorised Representatives were and are either self-employed and operating as sole-traders, corporate entities or trusts, or employed by other authorised representatives operating as corporate entities.*

- ii. *As at 30 June 2018, AMPFP had a network of 1,334 AMPFP Authorised Representatives.*
- iii. *As at 30 June 2018, Charter had a network of 687 Charter Authorised Representatives.*
- iv. *As at 30 June 2019, Hillross had a network of 313 Hillross Authorised Representatives.*

6A. At all material times, the AMP Authorised Representatives were and are:

6A.1 self-employed and operating as a sole-trader;

6A.2 a corporate entity, partnership or trust (**Practice**); or

6A.3 employed or engaged by, or otherwise operating through, a Practice.

7. At all material times, each of the AMP Authorised Representatives was:

7.1 authorised by written notice to provide financial product advice on behalf of AMPFP, Charter or Hillross in accordance with ss 916A(1) and/or 916B(3) of the Corporations Act;

#### **Particulars**

- i. *AMPFP typically entered into contractual arrangements with the AMPFP Authorised Representatives comprising an 'Authorised Representative Deed of Agreement – Sole Trader Practice', 'Authorised Representative Deed of Agreement – Corporate Practice' and a 'Master Terms' document, which set out, inter alia, the authorisation given by AMPFP to the AMPFP Authorised Representative to provide specified financial services on behalf of AMPFP and the obligations on the AMPFP Authorised Representative.*
- ii. *Charter typically entered into a contractual arrangement with the Charter Authorised Representatives comprising a 'Representative Services Agreement – Individual', 'Appointment Agreement – Corporate and Representative Services Agreement – Corporate Authorised Representative', which set out the authorisation given by Charter to the Charter Authorised Representative to provide specified financial*

*services on behalf of Charter and the obligations on the Charter Authorised Representative.*

- iii. *Hillross typically entered into a contractual arrangement with the Hillross Authorised Representatives comprising an Authorised Representative Deed of Agreement – Sole Trader Advisory Firm’, ‘Authorised Representative Deed of Agreement – Corporate Advisory Firm’ and a ‘Master Terms’ document, which set out the authorisation given by Hillross to the Hillross Authorised Representative to provide specified financial services on behalf of Hillross and the obligations on the Hillross Authorised Representative.*

- 7.2 an authorised representative of AMPFP, Charter or Hillross within the meaning of s 761A of the Corporations Act; and
- 7.3 an agent for and on behalf of AMPFP, Charter or Hillross in providing financial and/or personal advice to members of the public about policies of insurance and other financial products.

### **Particulars**

*The particulars to paragraph 7.1 above are repeated.*

8. The Fourth Respondent (**AMP**):

- 8.1 is a company incorporated pursuant to the Corporations Act and is capable of being sued;
- 8.2 is and at all material times was the parent of the AMP Group;
- 8.3 is and at all material times was the ultimate holding company of AMPFP, Charter and Hillross; and
- 8.4 is and at all material times was a trading corporation within the meaning of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).

9. The Fifth Respondent (formerly AMP Life Limited, now Resolution Life Australasia Limited, **AMP Life**):

- 9.1 is a company incorporated pursuant to the Corporations Act and is capable of being sued;



9.2 is and at all material times was the holder of an AFSL granted pursuant to s 913B of the Corporations Act;

**Particulars**

*AFSL No. 233671.*

9.3 at all material times until 30 June 2020, was an associate of each of the AMP Licensees within the meaning of s 11(b) of the Corporations Act;

9.4 is and at all material times was registered under s 21 of the *Life Insurance Act 1995* (Cth) (**Life Insurance Act**) to issue life policies within the meaning of the Corporations Act; and

9.5 at all material times carried on a life insurance business within the meaning of the Life Insurance Act.

9A. Each of the AMP Licensees, AMP and AMP Life:

9A.1 were governed by their individual Board of Directors;

9A.2 in some cases, had common directors across each of their boards;

9A.3 frequently held concurrent board meetings adopting a common board pack distributed to each entity;

9A.4 were subject to oversight, direction and advice by AMP, AMP Internal Audit, the Audit Committee, the AMP Advice Risk & Compliance Committee, the Advice Financial Risk & Capital Committee, the AMP Buyback Oversight Committee, the AMP Limited Board Risk Committee, AMP Investment and Advice Commission and AMP Practice Proposition Steering Committee; and

9A.5 in some cases, had common executives, directors and senior employees across each entity.

**Particulars**

- i. During the Relevant Period the AMP Board of Directors implemented policies and strategies to be followed by entities within the AMP Group (including the AMP Licensees) through the AMP Group Leadership Team, which reported directly to the CEO and Managing Director of AMP.*

- ii. During the Relevant Period, the AMP Investment and Advice Committee consisted of (amongst others): Leanne Milton, David Akers, Michael Paff, Dean Thomas, Brad Green, Chris Digby and Therese Matthews.
- iii. In addition to being on the AMP Investment and Advice Committee: David Akers was a director of AMPFP, Hillross and Charter. Michael Paff was a director of AMPFP. Dean Thomas was a director of Hillross, and Chris Digby was a director of Charter and Hillross.
- iv. During the Relevant Period, the AMP Product Review Committee consisted of (amongst others): Leanne Milton, Michael Paff, Michael Guggenheimer, Chris Digby, David Akers, Dean Thomas, Neil Swindells and Justin Morgan.
- v. In addition to being on the AMP Product Review Committee: David Akers was a director of AMPFP, Hillross and Charter. Michael Paff was a director of AMPF. Dean Thomas was a director of Hillross. Neil Swindells was the Managing Director of Charter. Michael Guggenheimer was the Managing Director of AMFP and Hillross, and Chris Digby was a director of Charter and Hillross.

## C. THE APPLICANTS

### C.1 The First Applicant

10. On or around ~~25~~ 25 July 2012, the First Applicant received personal advice from Noel Lang, an AMPFP Authorised Representative, to acquire an insurance product called 'AMP Flexible Super – Flexible Protection'.

#### Particulars

*The advice was contained in a Statement of Advice prepared by N Lang of U-First Financial Solutions Pty Ltd, an AMPFP Authorised Representative, for the First Applicant dated 13 July 2012 which was provided to the First Applicant on or around 25 July 2012.*

11. Pursuant to that advice, on or around ~~27-25~~ 27 July 2012, the First Applicant acquired the 'AMP Flexible Super – Flexible Protection' product.

### Particulars

- i. *The First Applicant obtained Death and TPD cover (at an initial level of cover of \$500,000 indexed to CPI) and TSC cover (at a level of cover of \$2,000) within his AMP Flexible Super – Super account number 951174335.*
- ii. *Letter from G Baker, Director of Customer Service Delivery at AMP, to the First Applicant dated ~~7 July~~ August 2012: STA.0001.0001.0068.*
- iii. *Letter from G Baker, Director of Customer Service Delivery at AMP, to the First Applicant dated ~~8 July~~ August 2012: STA.0001.0001.0078.*

12. The 'AMP Flexible Super – Flexible Protection' product acquired by the First Applicant is and at all material times was:

- 12.1 a financial product within the meaning of s 763A(1) of the Corporations Act;
- 12.2 a Commissioned Product (as defined in paragraph 37 below); and
- 12.3 an AMP Life Product (as defined in paragraph 39 below).

13. On or around 13 June 2013 and 14 July 2014~~18 December 2015~~, the First Applicant received personal advice from Mr Lang which included a recommendation that the First Applicant renew and continue to hold the 'AMP Flexible Super – Flexible Protection' product.

### Particulars

*The advice was given orally at meetings with Mr Lang which are recorded in file notes prepared by Mr Lang at AMF.1005.0007.0086; AMF.1005.0007.0089. contained in a Statement of Advice dated 18 December 2015 for the First Applicant prepared by N Lang of U-First Financial Solutions Pty Ltd, an AMPFP Authorised Representative.*

13A. On or around 18 December 2015, the First Applicant received personal advice from Mr Lang which included a recommendation that the First Applicant renew and continue to hold the 'AMP Flexible Super – Flexible Protection' product at a reduced level of cover.

### Particulars

- i. *The advice was contained in a Statement of Advice dated 18 December 2015 for the First*

Applicant prepared by N Lang of U-First Financial Solutions Pty Ltd, an AMPFP Authorised Representative: AMF.1005.0005.1293.

- ii. The First Applicant's Death and TPD Cover were reduced to \$400,000 whilst his TSC cover remained the same.

13B. On or around 14 September 2016, the First Applicant received personal advice from Mr Lang which included a recommendation that the First Applicant renew and continue to hold the 'AMP Flexible Super – Flexible Protection' product.

#### **Particulars**

The advice was given orally at a meeting with Mr Lang which is recorded in a file note prepared by Mr Lang: AMF.1005.0007.0119.

14. Pursuant to the advice in paragraphs 13 to 13B (or any of them) that advice, the First Applicant renewed and continued to hold the 'AMP Flexible Super – Flexible Protection' product until 3 January 2019.

#### **Particulars**

- i. *Mr Stack retained Death and TPD cover (at a level of cover reduced from \$578,812 to \$400,000 from around 24 December 2014) and TSC cover within his AMP Flexible Super – Super account number 951174335.*
- ii. *Letter from M Weir, Director of Insurance Operations, AMP Life to Mr Stack dated 24 December 2015.*
- iii. *Statements for AMP Flexible Super - Super account number 951174335 dated 5 August 2016, 4 August 2017, 17 August 2018 and 3 January 2019.*
- iv. The particulars to paragraphs 13 to 13B above are repeated.
- v. On or around 6 December 2018, Mr Lang recommended that the First Applicant cancel the 'AMP Flexible Super – Flexible Protection' product which was subsequently cancelled on or around 3 January 2019: AMF.1005.0005.0873.

15. During the Relevant Period, Commissions (as defined in paragraph 41 below) were paid in respect of the 'AMP Flexible Super – Flexible Protection' product.

**Particulars**

- i. *On acquisition of the 'AMP Flexible Super – Flexible Protection' product 130% of the premium or \$4,525.18 was paid as Commissions.*
- ii. *Each year thereafter, 11.00% of the premium was paid as Commissions or: FY13: \$323.69; FY14: \$460.33; FY15: \$555.28; FY16: \$591.88; FY17: \$625.96; FY18: \$768.18; FY19: \$544.35.*

16. During the Relevant Period, the First Applicant paid premiums on the 'AMP Flexible Super – Flexible Protection' product.

**Particulars**

- i. *Premiums charged by AMP Life to the First Applicant on and from December 2015 were as follows:*
  - a. *From 1 December 2015 to 30 June 2016: \$153.73 per month (Death); \$233.10 per month (TPD); and \$193.02 per month (TSC).*
  - b. *From 1 July 2016 to 30 June 2017: \$183.13 per month (Death); \$190.08 per month (TPD); and \$203.93 per month (TSC).*
  - c. *From 1 July 2017 to 30 June 2018: \$221.46 per month (Death); \$360.50 per month (TPD) and \$215.22 per month (TSC).*
  - d. *From 1 July 2018 to 31 December 2019: \$262.83 per month (Death); \$444.12 per month (TPD); and \$259.18 per month (TSC).*
  - e. *For Death, the premiums totalled approximately \$11,738.02. For TPD, the premiums totalled approximately \$18,572.92. For TSC, the premiums totalled approximately \$12,211.55.*
- ii. *The premiums were paid from the First Applicant's superannuation account.*
- iii. *Particular (iii) to paragraph 14 is repeated.*

16A. During the Relevant Period, the premiums paid by the First Applicant in respect of the 'AMP Flexible Super – Flexible Protection' product were substantially higher than they would have been had the Commissions not been paid by the First Applicant.

**Particulars**

The First Applicant refers to PDS documents throughout the Relevant Period, including AMF.1005.0002.0001 0082 and the words 'you and your financial planner can agree to an alternative to the standard commission. If an alternative rate of commission is agreed between you and your financial planner, the cost of your insurance may reduce'.

16B. Further or alternatively to paragraph 16A, the premiums paid by the First Applicant in respect of the 'AMP Flexible Super – Flexible Protection' product would have been substantially cheaper if Mr Lang elected to turn off the Commissions.

**Particulars**

The particulars to paragraph 16A are repeated.

16C. The advice referred to in paragraphs 10 and 13 to 13B contained an express and/or implicit recommendation to pay, or continue to pay, Commissions.

**C.2 The Second Applicant**

17. On or around 15 September 2012, the Second Applicant acquired a product called 'Flexible Lifetime – Protection Plan'.

**Particulars**

*Plan No. VT5200902V.*

18. The 'Flexible Lifetime – Protection Plan' product acquired by the Second Applicant was and is:

18.1 a financial product within the meaning of s 763A(1) of the Corporations Act;

18.2 a Commissioned Product (as defined in paragraph 37 below).

19. ~~On or around~~ Between 27 June 2014 and 29 July 2014, the Second Applicant received personal advice from Jason Spears, an AMPFP Authorised Representative, to acquire an 'AMP Flexible Super – ~~Super Flexible Protection~~' product.

**Particulars**

- i. *The advice was contained in a Statement of Advice dated 29 July 2014 prepared for the Second Applicant by J Spears of Bayside Financial Planners, an AMPFP Authorised Representative: WIN.0001.0001.0234.*
- ii. *The 'Flexible Lifetime – Protection Plan' could be transferred into the 'AMP Flexible Super – Super' product.*
- iii. *Email from Jason Spears to the Second Applicant: WIN.0001.0001.0132.*

20. Pursuant to that advice:

20A.1 on or around 27 August 2014, the Second Applicant, acquired the 'AMP Flexible Super – ~~Super Flexible Protection~~' product;

20A.2 on or around 3 September 2014, the Second Applicant's insurance cover was transferred from the 'Flexible Lifetime – Protection Plan' product to the 'AMP Flexible Super – Super' product; and

20A.3 the Second Applicant and continued to hold that product until around 7 November 2019.

**Particulars**

- i. *The Second Applicant transferred her insurance cover from the 'Flexible Lifetime – Protection Plan' product to the 'AMP Flexible Super – ~~Super Flexible Protection~~' product.*
- ii. *The Second Applicant obtained Death cover (at an initial level of cover of \$380,367 indexed to CPI) within her AMP Flexible Super – Super account number 958100255.*
- iii. *Letter from G Baker, Director of Customer Service Delivery at AMP, to the Second Applicant dated 3 September 2014: WIN.0001.0001.0189.*
- iv. *Statements for AMP Flexible Super - Super account number 958100255; AMF.3100.0002.0037; AMF.3100.0002.0043; AMF.3100.0002.0049.*

- v. Exit Statement for 'AMP Flexible Super – Super' account number 958100255: WIN.0001.0001.0009.

21. The 'AMP Flexible Super – ~~Super Flexible Protection~~' product acquired by the Second Applicant was and is:

21.1 a financial product within the meaning of s 763A(1) of the Corporations Act;

21.2 a Commissioned Product (as defined in paragraph 37 below); and

21.3 an AMP Life Product (as defined in paragraph 39 below).

22. During the Relevant Period, Commissions in addition to other fees and charges were paid in respect of:

22.1 the 'Flexible Lifetime Protection Plan' product;

**Particulars**

- i. *An upfront Commission of \$543.70 was paid in respect of the 'Flexible Lifetime Protection Plan' product on or around 27 August 2014.*
- ii. *Further particulars of the Commissions paid in respect of the ~~AMP~~ 'Flexible Lifetime Protection Plan' ~~Super – Flexible Protection~~ product will be provided following receipt of Respondents' discovery.*
- iii. *In addition to paying Commissions the Second Applicant also paid OSFs (as that term is defined in paragraph 73 below) for advice in respect of the 'Flexible Lifetime Protection Plan' product.*

22.2 the 'AMP Flexible Super – ~~Super Flexible Protection~~' product.

**Particulars**

- i. *An upfront Commission of \$219.30 was paid in respect of the 'AMP Flexible Super – ~~Super Flexible Protection~~' product on or around 27 August 2014.*
- ii. *A trailing Commission of 12.5% of the premium was paid thereafter in respect of the 'AMP Flexible Super – ~~Super Flexible Protection~~' product.*



- iii. *Further particulars of the Commissions paid will be provided following receipt of Respondents' discovery.*
- iv. *In addition to paying Commissions, the Second Applicant also paid OSFs (as that term is defined in paragraph 73 below) for advice in respect of the 'AMP Flexible Super - Super' product.*

22A. During the Relevant Period, premiums were paid on the 'Flexible Lifetime – Protection Plan' product and the 'AMP Flexible Super – Super' product.

**Particulars**

*The Second Applicant paid approximately \$4,500 in premiums during the Relevant Period.*

22B. During the Relevant Period, the premiums paid by the Second Applicant in respect of the 'Flexible Lifetime – Protection Plan' and the 'AMP Flexible Super – Super' product were substantially higher than they would have been had the Commissions not been paid by the Second Applicant.

**Particulars**

- i. *Flexible Lifetime – Protection PDS issued 19 May 2014: AMF.1005.0002.0153 and the words "you and your financial planner can agree to an alternative to the standard commissions. If an alternative rate of commissions is agreed between you and your financial planner, the cost of your insurance may be reduced" under heading "payments to your financial planner".*
- ii. *AMP Life Insurance Commissions tables dated May 2012 (AMP.6000.0245.0118), February 2013 (AMP.6000.0245.0115), May 2013 (AMF.3015.0001.0025), January 2014 (AMP.6000.0245.0114), February 2014 (AMF.3015.0001.0029) and June 2015 (AMP.6000.0245.0051). These record the premium reductions applicable to various Commissions and 'dial-down rates' on AMP Life Products, including the Second Applicant's products.*

22C. Further or alternatively to paragraph 22B, the premiums paid by the Second Applicant in respect of the 'Flexible Lifetime – Protection Plan' and the 'AMP Flexible Super – Super' product would have been substantially cheaper if Mr Spears had elected to turn off the Commissions.

**Particulars**

The particulars to paragraph 22B are repeated.

22D. The advice referred to in paragraph 19 contained an express and/or implicit recommendation to pay, or continue to pay, Commissions.

**C.3 The Third Applicant**

23. On or around ~~5 March 2009~~ 14 July 2005, the Third Applicant acquired the 'AMP Flexible Lifetime – Super' product, ~~'North Personal Pension' product~~.

**Particulars**

i. Portfolio report prepared for the Third Applicant dated 3 September 2018: AMF.3200.0008.0983.

ii. The Third Applicant held Extra Death Benefit and Terminal Illness Benefit insurance within her AMP Flexible Lifetime – Super.

24. The 'AMP Flexible Lifetime – Super' product ~~North Personal Pension product~~ acquired by the Third Applicant was and is:

24.1 a financial product within the meaning of s 763A(1) of the Corporations Act; ~~and~~

24.2 a Commissioned Product (as defined in paragraph 37 below); and

24.3 an AMP Life Product (as defined in paragraph 39 below).

25. ~~On or around 28 August 2014,~~ During the Relevant Period, the Third Applicant received personal advice from Russel Snibson and Wassim Ghattas, Charter Authorised Representatives, to renew or continue to hold the 'AMP Flexible Lifetime – Super' product. ~~Kevin Blackshaw, a Charter Authorised Representative, to continue to hold the product called 'North Personal Pension.'~~

**Particulars**

The advice was contained in conversations, emails, file notes and advice documents:

AMF.3200.0008.0575; AMF.3200.0008.0973;

AMF.3200.0008.1091; AMF.3200.0008.0976;

AMF.3200.0008.0978; AMF.3200.0008.0980;

AMF.3200.0008.0982; AMF.3200.0008.1084;

AMF.3200.0008.1087; AMF.3200.0008.1088;

AMF.3200.0008.1090; AMF.3200.0008.1092.

~~The advice was contained in a conversations had between K Blackshaw, a Charter Authorised Representative, and the Third Applicant as recorded in AMF.3100.0005.0008.~~

26. Pursuant to that advice, the Third Applicant continued to hold the 'Flexible Lifetime – Super' product until the end of the Relevant Period. ~~'North Personal Pension' product until around 23 August 2018.~~
27. ~~On or around 11 September 2018~~ In or around 2015, the Third Applicant received personal advice from Mr Snibson to acquire income protection insurance. ~~Blackshaw to acquire a product called 'My North Pension – Protected Growth Guarantee'.~~

#### **Particulars**

The advice was contained in a Statement of Advice dated 10 July 2015 and file notes, conversations and emails:  
AMF.3200.0008.0503;  
AMF.3200.0008.0504; AMF.3200.0008.0505;  
AMF.3200.0008.0575; AMF.3200.0008.0808;  
AMF.3200.0008.0831; AMF.3200.0008.0835.

~~The advice was contained in Statement of Advice prepared by K Blackshaw, a Charter Authorised Representative, for the Third Applicant dated 11 September 2018.~~

28. Pursuant to that advice, on or around 7 April 2016 ~~13 September 2018~~, the Third Applicant acquired the 'AMP Elevate' insurance policy (ref P130117245) and continued to hold that product until around 9 June 2018. ~~'My North Pension – Protected Growth Guarantee' product.~~

#### **Particulars**

- i. Letter from AMP dated 7 April 2016:  
AMF.3200.0008.2257;
- ii. Letter from AMP dated 9 June 2018:  
AMF.3200.0008.2255.

29. The 'AMP Elevate' insurance product ~~'My North Pension – Protected Growth Guarantee' product~~ acquired by the Third Applicant was and is:

- 29.1 a financial product within the meaning of s 763A(1) of the Corporations Act; and
- 29.2 a Commissioned Product (as defined in paragraph 37 below).

30. ~~The Third Applicant renewed and continued to hold the 'My North Pension – Protected Growth Guarantee' product until the end of the Relevant Period.~~
31. During the Relevant Period, Commissions (as defined in paragraph 41 below) were paid in respect of the 'AMP Flexible Lifetime – Super' ~~'North Personal Pension'~~ and the 'AMP Elevate' ~~'My North Pension – Protected Growth Guarantee'~~ products.

**Particulars**

*Particulars of the Commissions paid in respect of the Third Applicant's Commissioned Products will be provided following receipt of the Respondents' discovery.*

- 31A. During the Relevant Period, premiums were paid on the 'AMP Flexible Super – Super' and the 'AMP Elevate' products.

**Particulars**

*The Third Applicant paid approximately \$6,500 in premiums during the Relevant Period in respect of the 'AMP Flexible Super – Super' product and approximately \$7,900 in respect of the 'AMP Elevate' product.*

- 31B. During the Relevant Period, the premiums paid by the Third Applicant in respect of the 'AMP Flexible Super – Super' and 'AMP Elevate' products were substantially higher than they would have been had the Commissions not been paid by the Third Applicant.

**Particulars**

*The particulars to paragraph 22B are repeated.*

- 31C. Further or alternatively to paragraph 31B, the premiums paid by the Third Applicant in respect of the 'AMP Flexible Super – Super' and 'AMP Elevate' products would have been substantially cheaper if the AMP Authorised Representative had elected to turn off the Commissions.

**Particulars**

*The particulars to paragraph 22B are repeated.*

- 31D. The advice referred to in paragraphs 25 and 27 contained an express and/or implicit recommendation to pay or continue to pay, Commissions.

#### C.4 The Fourth Applicant

32. On or around 14 March 2001, the Fourth Applicant received personal advice from Michael Foster, a Hillross Authorised Representative, to acquire a product called 'Portfolio Care Investment Service'.

##### Particulars

*The advice was contained in a Financial Plan dated 14 March 2001 prepared for the Fourth Applicant by M Foster, a Hillross Authorised Representative.*

33. Pursuant to that advice, on or around 6 April 2001, the Fourth Applicant acquired the 'Portfolio Care Investment Service' product.
34. The 'Portfolio Care Investment Service' acquired by the Fourth Applicant was and is:
- 34.1 a financial product within the meaning of s 763A(1) of the Corporations Act; and
- 34.2 a Commissioned Product (as defined in paragraph 37 below).
35. The Fourth Applicant renewed or continued to hold the 'Portfolio Care Investment Service' product until around 16 October 2018.
36. During the Relevant Period, Commissions (as defined in paragraph 41 below) were paid in addition to other fees and charges in respect of the 'Portfolio Care Investment Service' product.

##### Particulars

- i. *An upfront Commission of 2.2% or \$2,200 was paid on the acquisition of the 'Portfolio Care Investment Service' product.*
- ii. *A trailing Commission of 0.55% or around \$550 was paid on an ongoing basis during the Relevant Period.*
- iii. *In addition to paying Commissions, the Fourth Applicant also paid OSFs (as that term is defined in paragraph 73 below) for "ongoing advice".*

- 36A. Prior to 30 March 2005, the Fourth Applicant received personal advice from Maurice Horlick, an AMPFP personal representative to acquire a product called 'Flexible Lifetime – Super'.

##### Particulars

The advice was provided orally by Mr Horlick.

36B. Pursuant to that advice, on or around 30 March 2005, the Fourth Applicant acquired the 'Flexible Lifetime – Super' product.

**Particulars**

Letter from P Sainsbury, Director Customer Service,  
to the Fourth Applicant dated 30 March 2005:  
BRI.0002.0001.0061.

36C. The 'Flexible Lifetime – Super' product acquired by the Fourth Applicant was and is:

36C.1 a financial product within the meaning of s 763A(1) of the Corporations Act; and

36C.2 a Commissioned Product (as defined in paragraph 37 below).

36D. The Fourth Applicant renewed and continued to hold the 'Flexible Lifetime – Super' product until the end of the Relevant Period.

36E. During the Relevant Period, Commissions (as defined in paragraph 41 below) were paid in addition to other fees and charges in respect of the 'Flexible Lifetime – Super' product.

36F. In about March 1985, the Fourth Applicant received personal advice from Mr Horlick to acquire a product called 'Endowment Personal Super Plan'.

**Particulars**

The advice was provided orally by Mr Horlick.

36G. Pursuant to that advice, on or about 13 March 1985, the Fourth Applicant acquired the 'Endowment Personal Super Plan' product.

**Particulars**

Letter from P. Sainsbury, Director Customer Service,  
to the Fourth Applicant dated 19 March 1999:  
AMF.3100.0003.4188.

36H. The 'Endowment Personal Super Plan' was and is:

36H.1 a financial product within the meaning of s 763A(1) of the Corporations Act; and

36H.2 a Commissioned Product (as defined in paragraph 37 below).

36I. The Fourth Applicant renewed and continued to hold the 'Endowment Personal Super Plan' product until the end of the Relevant Period.

36J. During the Relevant Period, Commissions (as defined in paragraph 41 below) were paid in addition to other fees and charges in respect of the 'Endowment Personal Super Plan'.

## **D. THE RELEVANT PRODUCTS**

### **D.1 Commissioned Products**

37. At all material times, financial product issuers issued financial products within the meaning of s 763A(1) of the Corporations Act in respect of which commissions were payable (**Commissioned Products**), including platforms, insurance and financial products other than insurance products.

38. At all material times, the financial product issuers that issued Commissioned Products included:

38.1 AMP Life;

38.2 other entities within the AMP Group; and

38.3 third-party financial product issuers.

### **D.2 AMP Life Products**

39. At all material times, ~~AMP Life issued~~ the following Commissioned Products, being life and risk insurance products were issued by AMP Life (or superannuation products issued by the AMP Trustees at the relevant time in respect of which AMP Life issued one or more life insurance policies to the superannuation trustee and the member was a beneficiary under those policies):

39.1 Flexible Lifetime – Protection;

39.2 Flexible Lifetime – Super;

39.3 AMP Flexible Super – Flexible Protection; and

39.4 AMP Flexible Super – Super Protection,

(the **AMP Life Products**).

**Particulars**

- i. *'AMP Flexible Lifetime – Protection Product Disclosure Statement' issued on 19 August 2012, 'AMP Flexible Super – Product Disclosure Statement' issued 1 July 2013, 'AMP Flexible Lifetime – Protection Product Disclosure Statement', issued 19 May 2014, 'AMP Flexible Super – Product Disclosure Statement' issued 30 September 2018 and 'AMP Flexible Lifetime – Super – Insurance Fact Sheet' issued 30 September 2018.*
- ii. *Further particulars may be provided following receipt of the Respondents' discovery.*

39A. Each of the AMP Life Products could be held by the insured personally or through their superannuation fund on behalf of the insured as a member of that fund.

**Particulars**

*The particulars to paragraph 39 are repeated.*

40. The AMP Life Products provided benefits in respect of one or more of the following:
- 40.1 death;
  - 40.2 total and permanent disablement (**TPD**);
  - 40.3 trauma;
  - 40.4 loss of income, also referred to as temporary salary continuance (**TSC**); and
  - 40.5 business overheads.

40A. At all material times, AMP Life offered and issued AMP Life Products on terms which included that it would charge premiums on those products (**AMP Life Premiums**).

**Particulars**

*The particulars to paragraph 39 are repeated.*



## E. COMMISSIONS AND OTHER INCENTIVES

### E.1 Commissions

41. At all material times, financial product issuers had agreements or arrangements (**Distribution Agreements**) with each of the AMP Licensees for the sale and distribution of Commissioned Products pursuant to which the financial product issuers agreed to pay the AMP Licensees commissions (**Commissions**) in relation to those products.

#### Particulars

- i. *Particulars of the Distribution Agreements will be provided following receipt of the Respondents' discovery.*
- ii. *The Commissions could comprise 'upfront' (or initial) and/or 'trail' (or ongoing) Commissions.*
- iii. *As to Charter, the Applicants refer to AMF.3001.0002.0001 and the identification of the AMP products and remuneration commissions schedule referred to therein.*
- iv. *As to Hillross, the Applicants refer to AMF.1002.0006.0001; AMF.1002.0001.0248; AMF.3009.0001.0001 and AMP.4000.0045.4883, the description of Commissions identified therein and the circumstances in which they were payable and the products that they were payable in relation to.*
- v. *As to AMPFP, the Applicants refer to AMF.1002.0001.0001; AMF.3009.0001.0001; AMF.3008.0001.0013, the description of Commissions identified therein and the circumstances in which they were payable and the products that they were payable in relation to.*

42. At all material times, AMP Life had Distribution Agreements in place with each of the AMP Licensees (**AMP Life Distribution Agreements**) for the sale and distribution of its AMP Life Products pursuant to which AMP Life agreed to pay Commissions to the AMP Licensees in relation to the AMP Life Products (**AMP Life Commissions**).

#### Particulars

- i. *Witness statement of Mr Gregory Johnson to the Royal Commission into Misconduct in the Banking, Superannuation and Financial*

*Services Industry (Banking Royal Commission) dated 10 September 2018 (Johnson Statement), at [27].*

*ii. The Applicants refer to the particulars to paragraph 41.*

42A. None of the Distribution Agreements required the AMP Authorised Representatives to provide ongoing services to the Applicants and Group Members in return for the receipt of trail Commissions.

43. At all material times, the Commissions on insurance products (including the AMP Life Commissions):

43.1 were payable on a per product basis and calculated by reference to the premium payable on the Commissioned Product; and

43.2 included upfront and trailing commissions.

#### **Particulars**

i. *Commissions varied between products, and included level, hybrid and upfront options, comprising different upfront and trailing commissions.*

ii. *As to the AMP Life Commissions, 'AMP Flexible Super enhancements', effective March 2014; and 'AMP Lifetime – Protection: Insurance commission information', versions dated 1 July 2015, 23 November 2015, 4 October 2016 and 12 June 2017.*

iii. *AMP Life standardised commission tables referred to in the Johnson Statement at [32].*

iv. *Further particulars may be provided following receipt of the Respondents' discovery.*

44. At all material times, the Commissions on products other than insurance products:

44.1 were payable on a per product basis and calculated by reference to the declared unit price of the investment in the Commissioned Product; and

44.2 included upfront and trailing commissions.

### Particulars

- i. *The Statement of Advice prepared for the Third Applicant dated 11 September 2018 and the Commissions described therein.*
- ii. *The Limited Advice Financial Plan prepared for the Fourth Applicant dated 14 March 2001 and the Commissions described therein.*
- iii. *Particulars in respect of the Commissions paid and payable by Group Members will be provided following the initial trial.*
- iv. *Further particulars may be provided following receipt of the Respondents' discovery.*

44A. At all material times, the Commissions on insurance and other products (including the AMP Life Commissions):

44A.1 could be switched off or dialled down at the product provider level by the AMP Authorised Representative;

44A.2 further or alternatively, could be switched off or dialled down at the product provider level by the AMP Authorised Representative on some insurance products (including AMP Life Products);

44A.3 further or alternatively, could be switched off or dialled down at the licensee level by the AMP Licensee and/or the AMP Authorised Representative;

44A.4 further or alternatively, could be rebated to the client by the AMP Authorised Representative.

### Particulars

- i. *Distribution Agreement between Charter and AMP Life: AMF.3001.0002.0001 and the words "Dial up dial down commission is available".*
- ii. *Distribution Agreement between Hillross and AMP Life: AMF.1002.0006.0001 and the words "# denotes that AMP Life may pay such lesser amount specified by you on the application for the product or such other notice".*
- iii. *Distribution Agreement between AMPFP and AMP Life: AMF.1002.0001.0001 and the words*

“# denotes that AMP Life may pay such lesser amount specified by you on the application for the product or such other notice”.

- iv. Product Disclosure Statements issued by AMP Life in relation to the AMP Life Products from time to time, the annexed application form attached to those Product Disclosure Statements and the ‘Commission Details’ described therein, which provide for the AMP Authorised Representative to nominate the level of Commissions to apply, including 0% commission: AMF.1005.0002.0153\_0259.
- v. Further particulars may be provided following expert evidence.

44B. At all material times, the Commissions paid in relation to the AMP Life Products increased the AMP Life Premiums payable on those products.

#### **Particulars**

Flexible Lifetime – Protection PDS issued 19 May 2014: AMF.1005.0002.0153 and the words “you and your financial planner can agree to an alternative to the standard commission. If an alternative rate of commission is agreed between you and your financial planner, the cost of your insurance may be reduced” under heading “payments to your financial planner”.

44C. Further or alternatively to paragraph 44B above, if an AMP Authorised Representative elected to dial down or switch off Commissions on an AMP Life Product, then the product would be cheaper.

#### **Particulars**

The particulars to paragraph 44A are repeated.

45. At all material times, pursuant to agreements between the AMP Licensees and their respective AMP Authorised Representatives (or their Practices), the AMP Authorised Representatives (or their Practices) were entitled to be paid the Commissions (or part of them) received by the AMP Licensees in relation to Commissioned Products acquired, renewed or held by a client of the AMP Authorised Representative, including the AMP Life Commissions received by the AMP Licensees in relation to AMP Life Products.

**Particulars**

- i. *Johnson Statement at [28] and [29].*
- ii. *Further particulars may be provided following receipt of the Respondents' discovery.*

46. Further to paragraph 45 above, an AMP Authorised Representative's (or their Practice's) entitlement to be paid Commissions in relation to a Commissioned Product could be acquired by the AMP Licensee in accordance with the Buy-Back Option (as that term is defined at paragraph 52 below) and/or transferred to another AMP Authorised Representative (or Practice) (**Second AMP Authorised Representative**), such that the Second AMP Authorised Representative would be entitled to be paid any future Commissions in relation to that Commissioned Product.

**Particulars**

- i. *Witness statement of Mr A G Regan to the Banking Royal Commission dated 11 April 2018 (**Regan Statement**), at [146]-[148].*
- ii. *The Applicant refers to the particulars at paragraphs 52 and 53 below.*

47. The matters set out at paragraphs ~~41 to 45~~ and 46 above:

- 47.1 could reasonably be expected to influence the personal advice given to clients by the AMP Authorised Representatives with respect to Commissioned Products, including any recommendation to acquire, renew, or continue to hold one or more AMP Life Products:-
- 47.2 gave rise to a conflict between the interests of AMP Authorised Representatives and AMP Licensees, on the one hand, and the clients on the other hand;
- 47.3 financially incentivised AMP Authorised Representatives to recommend acquiring, renewing, or continuing to hold AMP Life Products, rather than substantially equivalent or better insurance products available for a cheaper premium from third parties, even if the AMP Life Products were not the product in the best interests of the clients;
- 47.4 financially incentivised AMP Authorised Representatives to recommend acquiring, renewing or continuing to hold Commissioned Products, even if those products were not the product in the best interests of the client.

**Particulars**

- i. *It was in the interests of the AMP Authorised Representatives for them and/or their Practices to receive the Commissions and to maximise the amount of Commissions received.*
- ii. *The particulars in paragraphs 43 and 44 above and 60 below are repeated.*
- iii. *With respect to Commissions payable on insurance products, the Commissions could reasonably be expected to influence the advice given to clients by AMP Authorised Representatives when:*
  - a. *recommending insurance products as a class of financial products;*
  - b. *recommending the level of insurance cover taken through an insurance product;*
  - c. *recommending the renewal or retention of an insurance product including after the client no longer had a need for the cover or the level of cover;*
  - d. *recommending change or turnover of insurance products; and*
  - e. *reviewing or not reviewing the appropriateness of the client's level of insurance cover.*
- iv. *With respect to Commissions payable on financial products, the Commissions could reasonably be expected to influence the advice given to clients by AMP Authorised Representatives when:*
  - a. *recommending the relevant class of financial product;*
  - b. *recommending the size of the investment;*
  - c. *recommending the retention of a financial product even after the product was no longer appropriate for the client's investment objectives; and*
  - d. *recommending change or turnover of financial products.*
- v. *Further to (iii) above, the AMP Life Commissions payable on AMP Life Products could reasonably*

*be expected to influence the advice given by an AMP Authorised Representatives that a client obtain, renew or continue to hold an AMP Life Product rather than another life or risk insurance product by reason that the AMP Life Commissions were and are calculated by reference to the premium payable on the AMP Life Product (as alleged in paragraph 43 above) and that the premiums payable on AMP Life Products included the Excess Premiums (as defined in paragraph 67 below).*

*vi. Further particulars may be provided following receipt of the Respondents' discovery.*

- 47A. During the Relevant Period, as pleaded in paragraphs 41 to 47 above, the AMP Licensees had in place systems or processes for remunerating their respective AMP Authorised Representatives, with the following features:
- 47A.1 receiving Commissions from various providers of policies of insurance and other financial products (including from AMP Life) in relation to Commissioned Products acquired, renewed or held by the clients of an AMP Authorised Representative;
  - 47A.2 paying Commissions to the AMP Authorised Representatives (or their Practices), after deducting licensee fees and other amounts pursuant to the terms of the agreements between AMP Authorised Representatives (or their Practices) and AMP Licensees;
  - 47A.3 where an AMP Authorised Representative was employed or engaged by, or otherwise operated through, a Practice, not monitoring or supervising the manner in which the Practice paid Commissions to AMP Authorised Representatives; and
  - 47A.4 not requiring the AMP Authorised Representatives (or their Practices) to provide any additional benefitsu or servicesu to clients in consideration for the payment of the Commissions.

#### **Particulars**

i *The particulars to paragraph 42 and 45 are repeated.*

- ii. The Applicants refer to Authorised Representative Agreements in force during the Relevant Period which specified that the AMP Licensee would not supervise any AMP Authorised Representative that was employed or engaged by or otherwise operated through a Practice.
- iii. The Applicants refers to paragraph 42A above.

47B. Further to paragraph 47A, during the Relevant Period the AMP Licensees applied different remuneration policies to member firms who joined the AMP Licensee pre-1 July 2013 (Grandfathered Practices) than to those who joined post 1 July 2013 (New Practices).

## **E.2 Other incentive payments**

48. At all material times:

48.1 pursuant to the Distribution Agreements, some or all of the financial product issuers agreed to provide to the AMP Licensees, or to the AMP Authorised Representatives (or their Practices) directly, monetary benefits ~~(Incentives)~~ separate from and in addition to the Commissions (Incentives) in relation to the volume of and growth in sales of Commissioned Products; and

48.2 the AMP Licensees agreed to provide additional Incentives to the AMP Authorised Representatives (or their Practices).

### **Particulars**

*Johnson Statement, at [33], [37]; and Tab 6 of Exh GRJ-1 to the Johnson Statement.*

49. At all material times, pursuant to the AMP Life Distribution Agreements, AMP Life agreed to provide to the AMP Licensees, or directly to the AMP Authorised Representatives (or their Practices), Incentives (**AMP Life Incentives**) separate from and in addition to the AMP Life Commissions in relation to the volume of and growth in sales of AMP Life Products.

### **Particulars**

- i. Johnson Statement at [35] and [37] and Tab 3 of Exh GRJ-1 to the Johnson Statement.
- ii. *The monetary benefits provided by AMP Life to the AMP Licensees, in addition to the Commissions, consisted of margin share*



arrangements, bonus commissions and sponsorships, which were either paid to the AMP Licensees and passed on to the AMP Authorised Representatives (or their Practices), or provided directly to the AMP Authorised Representatives (or their Practices).

- ~~iii. Under the Development and Marketing Allowance (DMA) program, AMP Life made available the following amounts for high performing AMP Authorised Representatives (or their Practices) calculated as a percentage of the AMP Authorised Representative's (or their Practice's) revenue:
 
  - ~~a. AMPFP \$16.205m (2014), \$18.879m (2015), \$20.107m (2016), \$20.717m (2017); and \$0.667m (2018 - incomplete year);~~
  - ~~b. Hillross \$0.307m (2016), \$1.124m (2017), \$3.498m (2018).~~~~
- ~~iv. Under the STR program, AMP Life paid to Hillross the following amounts based on administration fees, fund manager fees and growth in product margins for specific products on the Hillross APL - \$2.175m (2013), \$4.006m (2014), \$3.594m (2015), \$3.236m (2016) and \$1.197m (2017).~~
- ~~v. Under the Education Grant, AMP Life provided reimbursement for education expenses up to a capped amount for high performing AMPFP Authorised Representatives and Hillross Authorised Representatives, calculated by reference to the Advice Growth Index weighted cashflow metric.~~
- vi. Further particulars may be provided following receipt of the Respondents' discovery.

50. At all material times, pursuant to agreements between the AMP Licensees and their respective AMP Authorised Representatives (or their Practices), the AMP Authorised Representatives (or their Practices) were entitled to be paid:

50.1 the Incentives (or part of them) received by the AMP Licensees from financial product issuers in relation to the volume of and growth in sales of Commissioned Products, including the AMP Life Incentives received by the AMP Licensees in relation to AMP Life Products;

50.2 other Incentives by the AMP Licensees.**Particulars**

- i. *Johnson Statement at [37].*
- ii. *U-First Financial Solutions Pty Ltd FSCG dated 1 January 2018, at pp 7-9.*
- iii. *Limited Advice Financial Plan dated 14 March 2001, at pp 9-10.*
- iv. *Further particulars may be provided following receipt of the Respondents' discovery.*

50A. During the Relevant Period, the Incentives eligible to be paid to Hillross Authorised Representatives (or their Practices) included:50A.1 the Short Term Rewards (STR) Program, which was:

- (a) available to Hillross Grandfathered Practices; and
- (b) entitled them to receive payments based on the Authorised Representatives contribution of revenue to Hillross, as calculated through administration fees, fund manager fees, product manager fees and Commissions;

50A.2 the Development Management and Advice (DMA Advice) Program, which was:

- (a) available to Hillross New Practices; and
- (b) entitled them to receive a payment based on (amongst other things) the Authorised Representative's revenue as calculated through fees which included Commissions;

50A.3 the Buy-Back Benefit (as defined in paragraph 52 below).**Particulars**

- i. *The STR Program continued in force during the Relevant Period until on or around 2017.*
- ii. *The STR Program was both volume based and directly linked to sales: FOFA Conflicted Remuneration Discussion Paper, 4 April 2013, AMP.0003.0101.5550 0003.*
- iii. *DMA Advice was in force since the start of the Relevant Period up until 31 January 2020.*

50B. During the Relevant Period, the Incentives eligible to be paid to Charter Authorised Representatives (or their Practices) included:

50B.1 the Value Participation Scheme (VPS), which was:

- (a) available to Charter Grandfathered Practices; and
- (b) entitled them to receive payments based on the Authorised Representatives annual-in-force premium and total funds under management with select AMP products;

50B.2 the DMA Advice Program, as referred to in paragraph 50A.2 above; and

50B.3 the Buy-Back Benefit (as defined in paragraph 52 below).

#### **Particulars**

- i. VPS continued in force during the Relevant Period until on or around 8 August 2019.
- ii. VPS was both volume based and directly linked to sales of AMP Group products.

50C. During the Relevant Period, the Incentives eligible to be paid to AMPFP Authorised Representatives (or their Practices) included:

50C.1 the Business Growth Allowance (BGA), which was available to AMPFP Authorised Representatives in both Grandfathered Practices and New Practices and entitled them to receive payments based on 1% of the Practice's revenue (including Commissions);

50C.2 the DMA Advice Program, as referred to in paragraph 50A.2 above;

50C.3 Bonus DMA, which was available to AMPFP Grandfathered Practices and entitled them to receive payments ranging from 1% to 5% of revenue based on certain revenue hurdles; and

50C.4 the Buy-Back Benefit (as defined in paragraph 52 below).

#### **Particulars**

- i. BGA continued in force during the Relevant Period until 1 January 2020. BGA was an uncapped

payment which could increase as fast as a Practice grew its revenue: AMF.1003.0002.0668.

- ii. DMA Advice was in force since the start of the Relevant Period up until 31 January 2020.

51. The matters set out at paragraphs 48 to 50C above:

51.1 could reasonably be expected to influence the personal advice given to clients by the AMP Authorised Representatives with respect to Commissioned Products, including any recommendation to acquire, renew or continue to hold one or more AMP Life Products;

51.2 gave rise to a conflict between the interests of AMP Authorised Representatives and AMP Licensees on the one hand and the clients on the other hand;

51.3 financially incentivised AMP Authorised Representatives to recommend acquiring, renewing or continuing to hold AMP products, including AMP Life Products, even if those products were not the product in the best interests of the clients.

51.4 financially incentivised AMP Authorised Representatives to recommend acquiring, renewing or continuing to hold Commissioned Products, even if those products were not the product in the best interests of the clients.

#### Particulars

- i. *It was in the interests of the AMP Authorised Representatives for them and/or their Practices to receive the Incentives and to maximise the amount of Incentives they received.*
- ii. *Further to (i) above, the AMP Life Incentives could reasonably be expected to influence the advice given by an AMP Authorised Representatives that a client obtain, renew or continue to hold an AMP Life Product rather than another life or risk insurance product which did not attract the AMP Life Incentives.*
- iii. During the Relevant Period Charter identified that VPS was a source of conflicted remuneration: AMP.0005.0008.2926\_0077.
- iv. The Third Applicant's advisory Practice (Stuart Broadley & Associates Financial Advisers) received a VPS payment of \$165,749 in January

2019 for the half-year:  
AMP.4000.0550.0248\_0061.

- v. It was in the interests of the Applicants and each of the Group Members for the payment of Commissions to cease.
  - vi. It was in the interests of the AMP Licensees and the AMP Authorised Representatives to continue to receive as many Commissions as possible.
- ~~vii.iii.~~ Further particulars may be provided following receipt of the Respondents' discovery.

51A. During the Relevant Period, as pleaded in paragraphs 48 to 50C ~~54~~ above, the AMP Licensees maintained and/or facilitated policies, systems or processes to provide incentives to AMP Authorised Representatives (or their Practices) to grow sales in Commissioned Products, which had the following features:

51A.1 Incentives were received, either by the AMP Licensees or directly by the AMP Authorised Representatives (or their Practices), from various product issuers (including AMP Life) in relation to the growth and volume of Commissioned Products acquired, renewed or held by the clients of an AMP Authorised Representative;

51A.2 where Incentives were received by the AMP Licensees, paying those Incentives to the AMP Authorised Representatives (or their Practices), after deducting (in some instances) licensee fees and other amounts;

51A.3 where an AMP Authorised Representative was employed or engaged by, or otherwise operated through, a Practice, not monitoring or supervising the manner in which the Practices paid Incentives to AMP Authorised Representatives; and

51A.4 not requiring the AMP Authorised Representatives (or their Practices) to provide any additional benefit or service to clients in consideration for the payment of the Incentives.

### **Particulars**

*Particulars to paragraphs 48 to 50C are repeated.*

### **E.3 Buy-Back Options**

52. At all material times, each of the AMP Licensees had agreements in place with their AMP Authorised Representatives pursuant to which the AMP Authorised Representative (or

Practice) had the option to require the AMP Licensee to purchase the AMP Authorised Representative's (or the Practice's) client register (**Buy-Back Option**).

#### Particulars

- i. *AMPFP Register and Buyer of Last Resort (BOLR) Policy effective date 1 July 2012 and effective date 1 June 2017.*
- ii. *Hillross and Charter had and have their own buy-back option policies that operate in a similar way to the AMPFP BOLR Policy: Regan Statement, at [156]. ~~The Applicants do not hold copies of these policies.~~ AMF.3005.0001.0001:  
AMF.1003.0002.0980.*
- iii. *Further particulars may be provided following receipt of the Respondents' discovery.*

53. ~~At all material times, if~~ If an AMP Authorised Representative (or Practice) exercised a Buy-Back Option, the price it was entitled to be paid by the AMP Licensee for the client register (**Buy-Back Benefit**) was calculated, in part, by reference to:

53.1 for AMPFP Authorised Representatives (or Practices), at all material times prior to 1 June 2017:

- (a) a multiple of the ongoing AMP Life Commissions payable in respect of AMP Life Products on the AMP Authorised Representative's (or Practice's) customer register and not the ongoing Commissions payable in respect of third-party insurance products on the customer register; and

#### Particulars

- i. *The customer register valuation included an amount 4x the base ongoing commission of products on the AMPFP APL and an AMPFP approved platform: AMPFP BOLR Policy effective date 1 July 2012, at pp 9, 28-29 and 33.*
- ii. *Typically, third-party insurance products were not on an approved platform and therefore not counted in valuing the customer register.*
- iii. *Particular (ii) to paragraph 52 above is repeated.*
- iv. *Further particulars may be provided following receipt of the Respondents' discovery.*

- (b) ~~53.2 prior to 1 June 2017~~, one or more of the AMP Life Incentives paid to the AMP Authorised Representative (or their Practice);

**Particulars**

- i. *The customer register valuation included an amount 1 x the DMA and 4 x the BGA paid to the AMPFP Authorised Representative in the preceding 12 months; AMPFP BOLR Policy effective date 1 July 2012, at pp 9, 28-29 and 33.*
- ii. *Particular (ii) to paragraph 43 above is repeated.*
- iii. *Further particulars may be provided following receipt of the Respondents' discovery.*

53.2 for Charter Authorised Representatives (or Practices), at all material times, one or more of the Incentives paid to the AMP Authorised Representative (or their Practice):

**Particulars**

*The customer register valuation included an amount 2 x the Charter Authorised Representative's annual VPS entitlement; Charter Buy Out Option Policy AMF.3005.0001.0001 at 0001 and 0003.*

53.3 for Hillross Authorised Representatives (or Practices), at all material times, gross earnings in relation to financial products other than those Hillross excluded from the calculation on the basis that the products were not on Hillross' research list, were not the subject of prior approval to be on the Hillross research list or where one-off approval had not been obtained.

**Particulars**

*Hillross Terms and Conditions Manual for Register and Buy-Back effective dated June 2013; AMF.1003.0002.0980 at 0984.*

53A. During the Relevant Period:

53A.1 the aggregate value of the Buy-Back Benefits exceeded \$1 billion; and

53A.2 the AMP Risk Committee characterised the exposure to Buy-Back Benefits as a likely and severe risk which had persisted for more than 34 months.

**Particulars**

- i. *The aggregate value represents the amount that the AMP Licensees' would be required*

to pay if all their Practices exercised the Buy-Back Option.

- ii. Memorandum prepared by Chief Risk Officer of AMP Australia – Advice and Wealth, 20 January 2020: AMP.6600.0005.0700\_0068.

53B. During the Relevant Period, where an AMP Authorised Representative (or Practice) exercised a Buy-Back Option:

53B.1 a second AMP Authorised Representative (or Practice) could purchase the first AMP Authorised Representative’s (or Practice’s) client register rights at a price agreed between the AMP Authorised Representative and the AMP Licensee; or

53B.2 AMP would purchase the register rights at a price determined by the BOLR Policy.

53C. During the Relevant Period, many of the AMP Authorised Representatives who purchased client register rights financed the transaction by:

53C.1 a loan taken from AMP Bank Limited;

53C.2 a personal guarantee given to AMP Bank Limited as security for the loan referred to in paragraph 53C.1;

53C.3 the provision of further security in the form of client register rights or Buy-Back Benefits.

53D. During the Relevant Period, the effect of the matters pleaded in paragraphs 53A to 53C was that the switching off, dialling down or rebating of Commissions to the Applicants and Group Members would have adversely affected the value of the client register rights or Buy-Back Options and, as a consequence, AMP, the AMP Licensees, the Practices and AMP Bank Limited.

54. The matters set out at paragraphs 52 ~~and~~ to 53D above:

54.1 could reasonably be expected to have influenced AMP Authorised Representatives in relation to the provision of advice to clients in respect of life or risk insurance products, including when recommending whether the client acquire, renew or continue to hold one or more AMP Life Products-;



- 54.2 gave rise to a conflict between the interests of AMP Authorised Representatives (and their Practices), the AMP Licensees, AMP, and AMP Bank Limited, on the one hand, and the clients on the other hand;
- 54.3 incentivised AMP Authorised Representatives to recommend that clients buy or continue to hold Commissioned Products to maintain or increase the value of their client register rights;
- 54.4 incentivised AMP Authorised Representatives to recommend clients buy or continue to hold Commissioned Products to service and secure the debt owing to AMP Bank Limited.

#### Particulars

- i. *It was in the interests of the AMP Authorised Representatives for them and/or their Practices to receive the Buy-Back Benefit on selling their client book to the AMP Licensees and maximising the Buy-Back Benefit to which they would be entitled.*
- ii. *By reason of the matters in paragraph 53, the Buy-Back Benefit could therefore reasonably be expected to influence the advice given by an AMP Authorised Representative that a client obtain, renew or continue to hold an AMP Life Product rather than a life or risk insurance product which did not attract the AMP Life Incentives.*
- iii. *Further particulars may be provided following receipt of the Respondents' discovery.*

54A. During the Relevant Period, as pleaded in paragraphs 52 to 53D, the AMP Licensees had in place policies, systems and processes pursuant to which an AMP Authorised Representative (or their Practice) could require the AMP Licensee to buy back the AMP Authorised Representative's (or the Practice's) client register based on a pre-agreed valuation calculation and/or sell the AMP Authorised Representative's (or Practice's) client register rights to another AMP Authorised Representative (or Practice).

#### Particulars

- i. *The particulars to paragraphs 52, 53.1 and ~~53.2~~ 53.1(b) are repeated.*
- ii. *The policies, systems and processes are those in paragraphs 52 and 53 and recorded*

in the AMPFP BOLR Policy, the Hillross BOLR Policy: AMF.1003.0002.0980 and the Charter BOLR Policy: AMF.3005.0001.0001.

## F. CONDUCT IN RELATION TO GROUP MEMBERS

55. The AMP Authorised Representatives gave personal advice to the Applicants and Group Members to acquire, renew or continue to hold (by themselves or through their superannuation funds as members) one or more Commissioned Products.

### Particulars

- i. *The AMP Authorised Representatives gave personal advice in relation to Commissioned Products to the Applicants as alleged at paragraphs 10, 13, 19, 23, 27 and 32 above.*
  - ii. *Further particulars may be provided following Respondents' discovery.*
56. Pursuant to that advice, the Applicants and Group Members acquired, renewed or continued to hold (by themselves or through their superannuation funds as members) one or more Commissioned Products.
57. During the Relevant Period, Commissions were paid on the Commissioned Products to the financial product issuers or, in the alternative, to the AMP Licensees on behalf of the financial product issuers, and some or all of those Commissions were deducted as administration, investment, or management fees or as part of the insurance premiums paid by the Applicants and Group Members, or were paid as part of the declared unit price for the applicable Commissioned Products.

### Particulars

- i. *The particulars to paragraphs 15, 22, 31 and 36 above are repeated.*
  - ii. *Particulars of the Commissions paid in respect of the Group Members' Commissioned Products will be provided following the initial trial of the common issues.*
  - iii. *Further particulars may be provided following receipt of the Respondents' discovery.*
58. Throughout the Relevant Period, the AMP Licensees received Commissions from financial product issuers in relation to the Commissioned Products acquired, renewed or continued to be held by the Applicants and Group Members.

- 58A. No additional benefits or services were received by the Applicants and Group Members in return for the payment of the Commissions.
59. Throughout the Relevant Period, AMP Authorised Representatives (or their Practices) were remunerated by the AMP Licensees passing on to them Commissions paid by the financial product issuers to AMP Licensees when a client of the AMP Authorised Representatives acquired, renewed, varied or continued to hold a Commissioned Product, after deduction of the relevant licensee fee by the AMP Licensee.

**Particulars**

- i. *Regan Statement, at [86]-[92].*
  - ii. *Transcript of Banking Royal Commission dated 17 April 2018 at 1150.*
60. The Commissions paid to AMP Authorised Representatives (or their Practices) were a material component of the annual remuneration of each AMP Authorised Representative (or their Practice).

**Particulars**

*Transcript of Banking Royal Commission dated 16 April 2018 at 1068.*

61. Throughout the Relevant Period, the AMP Authorised Representatives:
- 61.1 offered to provide ongoing personal advice as set out in Section H below; and
  - 61.2 held themselves out as being the 'adviser' to the Applicants and Group Members in statements and correspondence sent to the Applicants and Group Members.

**Particulars**

*In relation to the Applicants, the statements and correspondence are those particularised at paragraphs 10, 13, 13A, 13B, 14, 19, 25, 27, 32, 36A and 36B.*

**G. CONDUCT IN RELATION TO STACK SUB-GROUP MEMBERS**

62. The matters in this Section are pleaded further or in the alternative to Section F above.
63. In respect of the First and Third Applicants and Stack Sub-Group Members, one or more of the AMP Authorised Representatives undertook to provide them with advice regarding their insurance needs, including the premiums payable on insurance.

**Particulars**

- i. *The particulars to paragraphs 13 to 13B and 25 are repeated.*
- ii. *Particulars in relation to claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions of the Applicants' claims.*

64. During the Relevant Period, the First and Third Applicants and Stack Sub-Group Members were each provided with personal advice by one or more of the AMP Authorised Representatives in relation to insurance products, including a recommendation that the First Applicant or Stack Sub-Group Members acquire, renew or continue to hold (by themselves or through their superannuation funds as members) one or more AMP Life Products.

**Particulars**

- i. *The particulars to paragraphs 13 to 13B and 25 are repeated.*
- ii. *Particulars relating to claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions of the Applicants' claims.*

65. Pursuant to that advice, the First and Third Applicants and Stack Sub-Group Members each acquired, renewed or continued to hold (by themselves or through their superannuation funds as members) one or more AMP Life Products.

**Particulars**

- i. *The particulars to paragraphs 14 and 26 are repeated.*
- ii. *Particulars relating to the claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions of the Applicants' claims.*

66. During the Relevant Period, AMP Life charged the First and Third Applicants and Stack Sub-Group Members AMP Life Premiums. ~~premiums on their AMP Life Products (AMP Life Premiums)~~

**Particulars**

- i. *The particulars to paragraphs 16, 31A and 40A are repeated.*

- ii. *Particulars relating to claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions.*

67. The AMP Life Premiums charged by AMP Life were higher than the premiums payable on substantially equivalent or better insurance products that could have been obtained by the First and Third Applicants and Stack Sub-Group Members from third-party insurers (the difference in premiums is referred to as the **Excess Premiums**).

#### **Particulars**

- i. *The substantially equivalent or better insurance product that could have been obtained by the First Applicant from a third-party insurer was the Priority Protection product issued by AIA Australia Limited.*
- ii. *The substantially equivalent or better insurance products that could have been obtained by the Third Applicant from a third-party insurer was the Priority Protection product issued by AIA Australia Limited, Accelerated Protection Life Insurance Plan issued by TAL, and/or Total Care Plan issued by Commlnsure.*
- ~~iii.~~ *#=Further particulars may be provided following receipt of the Respondents' discovery and exchange of expert evidence.*
- ~~iv.~~ *###=Particulars relating to claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions of the Applicants' claims.*
- v. *The words "substantially equivalent or better" means substantially equivalent or better by reference to the interests of the First Applicant and the Third Applicant and Stack Sub-Group Members, and otherwise have their natural and ordinary meaning.*

68. At all material times, the First and Third Applicants and Stack Sub-Group Members did not know, and the AMP Authorised Representatives and AMP Licensees did not disclose to the First or Third Applicants or Stack Sub-Group Members:

68.1 that the AMP Life Premiums charged by AMP Life included the Excess Premiums;

68.2 the nature or amount of the Excess Premiums; or

68.3 that substantially equivalent or better policies of insurance were available for a lower premium.

69. The First and Third Applicants and Stack Sub-Group Members each paid to AMP Life the AMP Life Premiums, including the Excess Premiums, charged on their AMP Life Products.

**Particulars**

- i. *The particulars to paragraphs 16, 31A and 40A are repeated.*
- ii. *Particulars relating to claims of the Stack Sub-Group Members will be provided following the initial trial of the common questions.*

**H. CONDUCT IN RELATION TO OSF SUB-GROUP MEMBERS**

70. The matters in this Section are pleaded further or in the alternative to Sections F and G above.

71. Throughout the Relevant Period, AMP Authorised Representatives offered to provide services on an ongoing fee basis that included:

71.1 providing access to the AMP Authorised Representative through meetings or telephone calls;

71.2 offering a full or partial review of the customer's portfolio at a determined frequency;

71.3 conducting a full or partial review of the customer's portfolio at a determined frequency;

71.4 providing educational materials such as regular newsletters, invitations to seminars, industry events, information regarding the impacts of the Federal Budget, information regarding legislative changes, and information regarding updates to policy;

71.5 receiving and reviewing investment correspondence;

71.6 offering special investment opportunities; and or

71.7 assisting with liaising with organisations such as Centrelink,

**(AMP Ongoing Service Package)**

### Particulars

- i. *Regan Statement, at [75].*
- ii. *In relation to the First Applicant, the Applicants refer to the offer to provide the AMP Ongoing Service Package contained in the statement of advice dated 13 July 2012 (referred to at paragraph 10 above) and the Authority to Proceed dated 25 July 2012 (AMF.1005.0007.0077) and the Ongoing Service Agreement dated 25 July 2018 (AMF.1005.0007.0163).*
- iii. *In relation to the Second Applicant, the Applicants refer to the offer to provide the AMP Ongoing Service Package contained in the statement of advice dated 29 July 2014 (referred to at paragraph 19 above) and the Client Acknowledgement Form dated 21 August 2014 (AMF.3100.0002.0297).*
- iv. *In relation to the Third Applicant, the Applicants refer to the offer to provide the AMP Ongoing Service Package contained in the statement of advice dated 10 July 2015 (referred to at paragraph 27 above) and the letter from Charter to the Third Applicant dated 26 March 2021 which states "We've reviewed the personal advice services provided by Stuart Broadley & Associates Fin Adv, an authorised representative of an AMP licensee. We were unable to source sufficient information to confirm if you were offered or provided a regular personal advice service for some of the review period, so we've paid you back the relevant ongoing advice service fees": AMF.3200.0008.0226.*
- v. *In relation to the Fourth Applicant, the Applicants refer to the payment of OSFs as particularised at paragraph 36 above.*
- vi. *Particulars of the claims of the OSF Sub-Group Members will be provided following the initial trial of the common questions.*

72. The ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members accepted the AMP Authorised Representatives' offer to provide the AMP Ongoing Service Package.

73. It was a term of the AMP Ongoing Service Package that:

73.1 the AMP Authorised Representatives would provide annual ongoing personal advice;

73.2 any ongoing personal advice would comply with ss 961B and 961J of the Corporations Act;

**Particulars**

*The term was implied by law.*

73.3 the AMP Authorised Representatives would provide a Statement of Advice when required to do so by law; and

**Particulars**

*The term was implied by law.*

73.4 in consideration for the AMP Ongoing Service Package, the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members would pay an ongoing fee in an amount agreed with the AMP Authorised Representative periodically ~~on a fortnightly or monthly basis~~ (OSF).

74. Pursuant to the terms of the AMP Ongoing Service Package, the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members were charged OSFs.

75. The OSF charged pursuant to the AMP Ongoing Service Package was generally calculated as:

75.1 in respect of grandfathered accounts, an amount additional to the trail Commissions paid by the product issuer to the AMP Authorised Representative, calculated as a percentage of the value of the client's investment product; or

75.2 as a separate ongoing service fee calculated as a percentage of the value of the investment products the subject of the personal advice; or

75.3 as a fixed fee via a product or invoiced directly to the client, typically charged as a set amount or by reference to an hourly rate.

**Particulars**

*Regan Statement, at [77], [78].*



76. The ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members paid OSFs to AMP Authorised Representatives during the Relevant Period.

**Particulars**

- i. *The Second Applicant was charged an OSF in the order of \$23.20 per month during part of the Relevant Period.*
- ii. *The Fourth Applicant was charged an OSF in the order of \$50.00 per month during part of the Relevant Period.*
- iii. *The First Applicant was charged an OSF calculated as 0.55% of the investment balances in his AMP Flexible Lifetime – Investments (Series 2) investment and his AMP Flexible Super – Super account from time to time.*
- iv. *The Third Applicant was charged an OSF of \$435.48 annually on her AMP Flexible Lifetime – Super.*

76A. The Applicants and some of the OSF Sub-Group Members paid Commissions to the AMP Authorised Representatives in relation to their Commissioned Products in addition to paying OSFs during the Relevant Period.

77. During the Relevant Period (or part of it), the AMP Authorised Representatives did not provide annual ongoing personal advice to the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members.

~~78. The conduct referred to in paragraph 77 above partly arose by reason of clients not being assigned to an AMP Authorised Representative in circumstances where:~~

~~78.1 the product design of client accounts did not allow clients to transact on their accounts without the assistance of an AMP Authorised Representative;~~

~~78.2 from on or around 1 July 2013, AMP took an inconsistent approach to reducing OSFs upon the departure of an AMP Authorised Representative where the client was not allocated a new AMP Authorised Representative but was placed in a BOLR Pool;~~

~~78.3 there was no end-to-end accountability for the process of switching off OSFs;~~

~~78.4 there was an inadequate control environment within AMP; and~~

~~78.5 there was a poor understanding of the policies and processes for switching off OSFs;~~

**Particulars**

- ~~i. Regan Statement, at [144]-[170].~~
- ~~ii. AMP Group Submission to the Banking Royal Commission dated 29 January 2018, at paragraph [5.4.19].~~
- ~~iii. The May 2015 Broach report at tab 24 of Exh AGR 1 to the Regan Statement.~~

~~79. Throughout the Relevant Period, AMP Authorised Representatives had the right to require AMP to purchase the AMP Authorised Representatives' register or book of clients under the terms of a BOLR Policy.~~

~~80. Under the terms of the BOLR Policy, OSFs would be adjusted at settlement of the BOLR transaction, resulting in a removal of any uplift of the fees agreed with the AMP Authorised Representatives so that clients who were not being provided with financial services would not be paying OSFs.~~

~~81. In the premise of paragraphs 79 to 80 above, AMP was required to cease charging some OSF Sub Group Members OSFs.~~

~~82. During the Relevant Period, OSF Sub Group Members who were transferred into the BOLR Pool continued to pay OSFs for services which they did not receive, with the fees being received by AMP.~~

~~83. The conduct referred to in paragraph 82 above arose by reason of:~~

~~83.1 insufficiently clear policy/guidance in relation to the requirement for switching off OSFs;~~

~~83.2 complex and manual systems and processes for switching off OSFs;~~

~~83.3 no end-to-end accountability for the process of switching off OSFs;~~

~~83.4 poor understanding of the policies and processes for switching off OSFs;~~

~~83.5 loss of corporate knowledge in relation to the processes and requirements in relation to the BOLR system, which was exacerbated by corporate restructurings;~~

~~83.6 failure to escalate matters of concern; and~~

~~83.7 an inadequate control environment.~~

**Particulars**

~~i. Regan Statement at paragraphs [144] [170].~~

~~ii. Breach Reports to ASIC dated 27 May 2015;  
5 December; 3 May 2017; 8 June 2017.~~

~~84. An aspect of the insufficiency of the clear policy and guidance was a business practice known as the '90 Day Exception' where an exception to the BOLR Policy was granted to allow OSFs to remain on when clients were transferred into the BOLR Pool.~~

**Particulars**

~~Regan Statement, at [165].~~

~~85. The inadequacy of systems, processes and controls identified above meant that sometimes clients who were the subject of the '90 Day Exception' had their OSFs kept on for longer than 90 days and, in some cases, significantly longer, without receiving services, as they were not transferred to a new servicing adviser.~~

**Particulars**

~~Regan Statement, at [167].~~

**I. TRAINING, SUPERVISION AND DETECTION/MANAGEMENT OF CONFLICTS**

**I.1 AMP Policies**

86. During the Relevant Period, each of the AMP Licensees:

86.1 had in place policies available to AMP Authorised Representatives (**AMP Policies**);

86.2 required AMP Authorised Representatives to have regard to policy guidelines including Quality Advice Fundamentals (**AMP QAFs**);

86.3 had in place general conflict of interest policies (**AMP Conflict Policies**); and

86.4 conducted a series of mandatory training modules for the AMP Authorised Representatives as part of its adviser on-boarding process including mandatory training on conflicts of interest and conflicted and banned remuneration (**AMP Mandatory Training**),

in relation to the obligations of the AMP Authorised Representatives with respect to acting in their clients' best interests and avoidance of conflicts.

### Particulars

- i. *Witness statement of Bradley John Green to the Banking Royal Commission dated 12 April 2018 (**Green Statement**), at [10], [17], [33] and [68] and the documents referred to therein.*
- ii. *A list of the AMP Policies, QAFs, Conflict Policies and Mandatory Training is at **Annexure A** to this Further Amended Statement of Claim.*

87. None of the AMP Policies, AMP QAFs, AMP Conflict Policies or AMP Mandatory Training:

87.1 ~~adequately~~ identified the Commissions, ~~or~~ Incentives or Buy-Back Benefits paid to the AMP Authorised Representatives (or their Practices) as payments which could be reasonably expected to influence the personal advice given to clients as pleaded in paragraphs ~~45 to 47~~ above irrespective of any "grandfathered" status; or

87.2 further or in the alternative to paragraph 87.1, ~~adequately~~ identified the AMP Life Commissions, the AMP Life Incentives, or the Buy-Back Benefits as matters which could be reasonably expected to influence the advice given to clients as pleaded in paragraphs ~~47, and 51 and 54~~ above irrespective of any "grandfathered" status; or

87.3 ~~adequately~~ identified the Commissions, ~~or~~ Incentives or Buy-Back Benefits paid to the AMP Authorised Representatives (or their Practices) as payments which might give rise to a conflict between the interests of the client and those of the relevant AMP Authorised Representative, requiring preference to be given to the client's interests irrespective of any "grandfathered" status; or

87.4 further or in the alternative to paragraph 87.3, ~~adequately~~ identified the AMP Life Commissions, the AMP Life Incentives, the Buy-Back Benefits or the premiums payable on AMP Life Products as matters which might give rise to a conflict between the interests of the client on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, the AMP

Licenseses and/or AMP Life on the other, requiring preference to be given to the client's interests irrespective of any "grandfathered" status; or

87.5 gave adequate guidance as to how the relevant AMP Authorised Representatives should ensure that they acted in the best interests of their clients when advising in relation to the AMP Life Products; or

87.6 gave adequate guidance as to how the relevant AMP Authorised Representatives should ensure that they acted in the best interests of their clients when advising in relation to ~~Relevant~~ Commissioned Products which carried Commissions and/or Incentives; or

87.7 gave adequate guidance as to how the relevant AMP Authorised Representatives should ensure that they acted in the best interests of their clients when advising in relation to AMP Life Products, which carried the AMP Life Commissions, the AMP Life Incentives and the Buy-Back Benefits; or

87.8 gave adequate guidance as to how the relevant AMP Authorised Representatives should manage the conflicts between the interests of the client on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, AMP Licensees and/or AMP Life on the other, requiring preference to be given to the client's interests; or

87.9 instructed AMP Authorised Representatives not to accept, or to rebate, remuneration pursuant to Commissions, or to reduce the AMP Authorised Representatives' OSFs by the amount of the Commissions; or

87.10 instructed AMP Authorised Representatives not to charge OSFs in addition to Commissions; or

87.11 consistently identified that the only way to manage the conflicts alleged in paragraphs 87.3 and/or 87.4 was to avoid the conflict; or

87.12 instructed AMP Authorised Representatives that Standard 3 of the Financial Adviser Standards and Ethics Authority Code (FASEA Code), which commenced on 1 January 2020, could only be complied with by avoiding the conflicts alleged in paragraphs 87.3 and/or 87.4 altogether; or

87.13 required Commissions to be dialled down, switched off or rebated on AMP Life Products in the circumstances pleaded in paragraphs 44A and/or 44B; or

87.14 required advisers to identify clients who were continuing to hold Legacy Products (defined in paragraph 103D below); or

87.15 required advisers to warn or advise clients who held Legacy Products that those products were considered by AMP to no longer be suitable for sale; or

87.16 required AMP Authorised Representatives not to recommend AMP Life Products on which Excess Premiums were payable.

## **I.2 Supervision and Training Failures – AMP Licensees**

### **Conflicts of Interest QAF**

88. During the Relevant Period, each of the AMP Licensees utilised a conflict of interest QAF to provide guidance to the AMP Authorised Representatives on the recognition and detection of AMP Authorised Representatives receiving conflicted remuneration in contravention of Division 4 of Part 7.7A of the Corporations Act (**Conflicts of Interest QAF**).

#### **Particulars**

*Green Statement, at [67].*

89. At all material times, the Conflicts of Interest QAF was limited to detecting and providing guidance to AMP Authorised Representatives on remuneration that was banned by Division 4 of Part 7.7A of the Corporations Act and did not identify the Commissions or Incentives as conflicted remuneration necessitating further investigation and/or explanation from the relevant AMP Authorised Representative who (or whose Practice) received the payment.

#### **Particulars**

- i. *Green Statement, at [67].*
- ii. *Conflicts of Interest QAF dated December 2014 page 16; Conflicts of Interest QAF dated November 2016 page 19; Conflicts of Interest QAF dated February 2017 page 24; and Conflicts of Interest QAF dated November 2017. page 27.*

90. During the Relevant Period, the AMP Licensees did not have an equivalent to the Conflicts of Interest QAF for detecting Commissions or Incentives other than those banned by Division 4 of Part 7.7A of the Corporations Act which might cause the personal advice of AMP Authorised Representatives to be influenced as pleaded in paragraphs 47 and ~~54~~ 50.2 above.
91. During the Relevant Period, the AMP Licensees did not monitor and/or supervise the payment arrangements between Practices and AMP Authorised Representatives ~~and their clients~~ in so far as those arrangements involved the payment of the Commissions.

#### Particulars

- i. Green Statement, at [70] and the reference to intra-practice remuneration therein.
  - ii. Transcript of Banking Royal Commission dated 17 April 2018, at 1153: PUB.0001.0001.0164.
  - iii. The Applicants refer to Authorised Representative Agreements in force during the Relevant Period which specified that the AMP Licensee would not supervise any AMP Authorised Representative that was employed or engaged by, or otherwise operated through, a Practice.
92. During the Relevant Period, the AMP Authorised Representatives were required to record and maintain a conflicts of interest register and register all conflicts of interest to enable AMP to monitor the receipt of these items (the **AMP Conflicts Register**).
93. The AMP Conflicts Register did not allow for the recording of the Commissions (including AMP Life Commissions) paid to the AMP Authorised Representatives (or their Practices).

#### Particulars

- Conflicts of Interest QAF dated December 2014 page 16; Conflicts of Interest QAF dated November 2016 page 19; Conflicts of Interest QAF dated February 2017 page 24; and Conflicts of Interest QAF dated November 2017 page 27.*
94. The policies, training, supervision, and monitoring systems and processes described in paragraphs 86 to 93 above:

- 94.1 were premised on it being appropriate for the AMP Licensees and AMP Authorised Representatives (or their Practices) to continue pursuing and receiving Commissions and Incentives;
- 94.2 did not adequately manage the conflicts described at paragraphs 87.3 and 87.4 above;
- 94.3 did not ensure that advisers gave personal advice that was in the best interests of clients, in that they did not ensure that advisers based all judgments on the clients' circumstances (rather than on the payment of Commissions, AMP Life Commissions, the AMP Life Incentives, or the Buy-Back Benefits, or the premiums payable on AMP Life Products);
- 94.4 had the defects identified at paragraph 87 above; ~~and~~
- 94.5 did not ensure that advisers complied with any contractual obligation to provide ongoing personal advice (as to which see paragraphs 70 to 85<sub>above</sub>).
- 94A. Throughout the Relevant Period, the AMP Limited Board Risk Committee frequently identified Commissions as presenting a conflict of interest between the AMP Authorised Representatives and the Applicants and Group Members.

#### **Particulars**

- i. *Enterprise Risk Management (ERM) Report, 14 November 2016, AMP.0005.0010.6393\_0027 and the words "conflicts of interest – maximise commission vs customer interests" at AMP.0005.0010.6393\_0036.*
- ii. *ERM Report, 24 April 2017, AMP.6000.0005.5113\_0020 and the words "inherent conflicts in AMP aligned financial planners" at AMP.6000.0005.5113\_0033.*
- iii. *ERM Report, 5 May 2018, AMP.6000.0230.3261\_0019.*
- iv. *ERM Report, 15 July 2019, AMP.6600.0005.0595\_0033.*
- v. *ERM Report, 10 January 2020, AMP.6600.0005.0700\_0064.*

#### **Commissions Termination**



94B. During the Relevant Period, the AMP Licensees expected that the payment of Commissions (irrespective of their grandfathered status) would cease to be payable to any AMP Authorised Representatives from on or around 1 January 2021 (the **Commissions Termination**).

#### **Particulars**

*The expectation is inferred from the assent of the Treasury Laws Amendment (Ending Grandfathered Conflicted Remuneration) Act 2019 on 28 October 2019 which prohibited the payment of Grandfathered Conflicted Remuneration on and from 1 January 2021.*

94C. During the Relevant Period, the AMP Limited Board Risk Committee considered that:

94C.1 the Commissions Termination was a good outcome for its clients:

94C.2 the Commissions Termination would have a significant financial impact on the AMP Authorised Representatives;

94C.3 the payment of Commissions gave rise to a conflict of interest between the interests of the AMP Authorised Representative and the Applicants and Group Members;

94C.4 the Buy-Back Option gave rise to a conflict of interest between the interests of the AMP Authorised Representative and the Applicants and Group Members;

94C.5 the Commissions Termination would result in higher account balances for the clients of the AMP Licensees; and

94C.6 the Commissions Termination was consistent with the AMP Group's strategy of being a client led business.

#### **Particulars**

*Memorandum for AMP Limited Board Risk Committee prepared by CEO of AMP Australia dated 29 January 2020: AMP.6600.0005.0700\_0174.*

94D Despite the matters pleaded in paragraphs 94A and 94C, at no stage during the Relevant Period did the AMP Licensees:

94D.1 instruct the AMP Authorised Representatives to dial down, switch off or rebate the Commissions to the Applicants and Group Members; or

94D.2 remove Commissions and Incentives from the calculation of client register rights when exercising the Buy-Back Option.

Audit Function

94E During the Relevant Period, AMP Licensees or wealth management advice personnel in the AMP Group undertook periodic audits of AMP Authorised Representatives as a control to detect poor quality and non-compliant personal advice (**Audit Function**).

Particulars

- i. Memorandum from AMP Limited Board Risk Committee dated 15 November 2016: AMP.0005.0010.6393\_0081.
- ii. The Audit Function assessed compliance with, amongst other things, the best interests duty, conflict priority rule, AMP policies (including those at Annexure A) and ongoing advice.

94F During the Relevant Period, the Audit Function:

94F.1 routinely deferred a large proportion of audits;

94F.2 routinely identified high rates of a failure to comply with the Best Interests Duty under s 961B(1) of the Corporations Act for those AMP Authorised Representatives which were audited; and

94F.3 was not operating as an effective tool to ensure compliance with an AMP Authorised Representative's statutory obligations.

Particulars

- i. Quarterly Advice Updates issued to the Risk Committees of AMP Limited and AMP Life during the Relevant Period identified a large proportion of adviser audits being deferred over an extended period: AMP.0005.0010.6393\_0081 (526 audits deferred); AMP.6000.0005.3211\_0096 (419 audits deferred); AMP.6000.0005.5113\_0094 (252 audits deferred).

- ii. During the period from 1 April 2019 to 30 June 2019, 89% of audited advisers failed at least one Best Interests Duty related question: AMP.6600.0005.0595\_0038.
- iii. During the period from 1 October 2019 to 31 December 2019, 86% of files audited were certified as not complying with s 961B(2) of the Act, whilst 17% of audits were assessed as ineffective and a further 37% assessed as partially ineffective: AMP.6600.0005.0700\_0065.
- iv. During the Relevant Period, AMP Limited recognised that the AMP Licensees had ongoing high rates of advice failure and commissioned PriceWaterhouseCoopers to undertake a "root cause" review: AMP.6600.0005.0700\_0065.
- v. As at January 2020 the provision of inappropriate or non-compliant advice was noted as a possible, severe risk which had been persisting for more than 12 months: AMP.6600.0005.0700\_0069.
- vi. Quarterly Internal Audit Report, 1 August 2018: AMP.4000.0469.1835\_0094 and the reference to ineffective controls to ensure the quality of advice audits.

94G In around July 2013, the AMP Licensees implemented a preventative vetting and review control of financial planning advice files (2013 Advice Vetting Program). As part of the 2013 Advice Vetting Program:

94G.1 the AMP Licensees required AMP Authorised Representatives to submit the first three advice documents and/or proposed Statements of Advice that each adviser produced to be assessed for compliance, including in relation to the obligations under s 961B(1) of the Corporations Act;

94G.2 in the first two weeks of July 2013, very few Statements of Advice passed vetting and a large backlog of cases built up for review;

94G.3 the key reasons for Statements of Advice not passing the 2013 Advice Vetting Program were inadequate or incomplete fact finds; file notes with insufficient detail to support advice recommendations; advisers struggling with the 'better position

statement'; and failures to appropriately document alternative strategies and products;

94G.4 the AMP Licensees identified that some AMP Authorised Representatives were not competent in preparing a FOFA compliant advice document / Statement of Advice;

94G.5 the AMP Licensees identified that a large number of less experienced AMP Authorised Representatives had difficulty identifying or determining the reasons why the client was better off as a result of the advice, particularly when the advice concerned relatively expensive products; and

94G.6 the AMP Licensees identified that AMP Authorised Representatives were “disenfranchised” by the high vetting failure rates.

### Particulars

- i. Future of Financial Advice (FOFA) and Stronger super Ready Program – Program Steering Committee Pack #18 – 30 Jul 2013, AMP.4000.0156.5470\_0060.*
- ii. Memorandum for FOFA Practice Proposition Steering Committee dated 14 July 2013, AMP.0005.0303.0129\_0039.*

94H On or about 12 July 2013, in response to the high vetting failure rates, backlog of review and “disenfranchisement” of advisers, the AMP Licensees modified the 2013 Advice Vetting Program (Modified 2013 Advice Vetting Program).

94I The Modified 2013 Advice Vetting Program:

94I.1 significantly reduced the level and standard of supervision of AMP Authorised Representatives;

94I.2 was implemented because AMP was concerned about adviser satisfaction; and

94I.3 remained in place until August 2018.

94J In or around August 2018, AMP implemented Audit 2.0. As part of Audit 2.0 Project, the Audit Function:

94J.1 reviewed the audit checklists in force prior to the Audit 2.0 Project;

94J.2 identified that the audit checklists that AMP was using were inappropriately designed to assess whether appropriate advice had been provided;

94J.3 identified that the questions were too broad and required an evaluation of whether issues were 'material' resulting in subjective assessments;

94J.4 identified that questions related to conduct and the quality of advice are not rated high, so advisers will 'pass' their audits even if there are multiple issues in these areas;

94J.5 identified that the new checklist under the Audit 2.0 Project would not address these issues.

#### **Particulars**

*Memorandum for AMP Limited Board Audit Committee, Update on High Internal Audit Items – Adviser Audits, 22 November 2018, AMP.4000.0469.2380 0055.*

94K Following the changes to the supervision of Authorised Representatives as part of the Audit 2.0 Project, Authorised Representatives were found to have engaged in far higher rates of breaches of their duties:

94K.1 between 1 August 2018 – 30 September 2018:

- (a) the rate for prevet rejection was 59%;
- (b) 25% of advisers failed to provide advice which met their client's goals and objectives;
- (c) 22% failed to keep sufficient notes; and
- (d) 22% failed to provide an accurate Fee Disclosure Statement (FDS) within the required timeframe;

#### **Particulars**

*Memorandum for AMP Licensees and AMP Direct Pty Ltd, Enterprise Risk Management (ERM) Report Quarter 3 2018 (Q318), 17 October 2018, AMP.4000.0075.2089 0138.*

94K.2 between 1 April to 30 June 2019:

- (a) the rate for prevet rejection was 40%;
- (b) 89% of advisers failed at least one best interests duty question; and
- (c) 10% failed to demonstrate ongoing service and provision of an FDS;

**Particulars**

Memorandum for AMP Licensees and AWM Services Pty Ltd (formerly AMP Direct Pty Ltd), Enterprise Risk Management Report, 7 August 2019, AMP.4000.0020.0575\_0066.

94K.3 between 1 July 2019 to 30 September 2019:

- (a) the rate for prevet rejection was 48%;
- (b) 92% failed at least one best interests duty question;
- (c) 50% failed to demonstrate the client was in a better position;
- (d) 22% failed to meet FDS obligations; and
- (e) 10% failed to provide services as agreed;

**Particulars**

Memorandum for AMP Licensees and AWM Services Pty Ltd (formerly AMP Direct Pty Ltd), Enterprise Risk Management Report – Q319, 16 October 2019, AMP.4000.0020.0577\_0067.

94K.4 in October 2019:

- (a) the rate for prevet rejection was 43%;
- (b) 84% failed at least one best interests duty related question;
- (c) 49% failed to demonstrate client was in a better position; and
- (d) 39% failed to meet FDS obligations.

**Particulars**

Memorandum for AMP Licensees and AWM Services Pty Ltd (formerly AMP Direct Pty Ltd), Enterprise Risk Management Report – October 2019, 5 December 2019, AMP.4000.0020.0576\_0083.

94K.5 in between 1 October 2019 and 31 December 2019:

- (a) 66% of files failed at least one best interests duty related question;
- (b) 33% of files tested failed to meet FDS obligations;
- (c) 11% of files tested for providing the services as agreed in the ongoing services agreement failed to meet obligations;
- (d) 84% of advisers (across all licensees) failed at least one best interests duty related question;
- (e) 72% of advisers failed at least two best interests duty related questions;
- (f) 50% of advisers failed to demonstrate the client was in a better position;
- (g) 1.5% of advisers provided inappropriate advice that placed the client in a worse position;
- (h) 33% of advisers failed to meet the FDS obligations; and
- (i) 11% of files tested for providing the services as agreed in the ongoing services agreement failed to meet obligations.

**Particulars**

- i. Memorandum for AMP Limited Board Risk Committee, Enterprise Risk Management Report – Advice Q4 2019, 20 January 2020, AMP.6600.0005.0700 0065.
- ii. Memorandum for AMP Licensees, Enterprise Risk Management (ERM) Report – Q419, 11 February 2020, AMP.4000.7535.0037 0076.

**OSF Failures**

94M. During the Relevant Period, the AMP Licensees were aware of a recurring failure by the AMP Authorised Representatives (or their Practices) to provide annual ongoing personal advice to the OSF Sub-Group Members.

**Particulars**

- i. ASIC Report 499: Financial advice: fees for no service (October 2016).

- ii. Royal Commission, AMP Fees for No Service Submission Fact Sheet dated 4 May 2018.

94N. During the Relevant Period, the AMP Licensees provided 'minimal supervision' of the contractual arrangements between AMP Authorised Representatives (or their Practices) and the OSF Sub-Group Members insofar as they concerned whether:

94N.1 the AMP Ongoing Service Package had been provided; and

94N.2 the services offered by the AMP Ongoing Services Package represented value for money.

#### **Particulars**

- i. Memorandum entitled 'update on advice review and remediation program' dated 27 January 2017: AMP.6000.0005.3211\_0116.
- ii. Memorandum entitled 'update on client review and remediation' dated 21 February 2017: AMP.0005.0011.0801\_0070.
- iii. The policies, training, supervision, and monitoring systems and processes described in paragraphs 86 to 94F above were not explicit and did not direct the AMP Authorised Representatives (or their Practices) on OSFs that should be charged, the services that must be offered for OSFs charged, and whether an AMP Authorised Representative was permitted to receive and retain OSFs in circumstances where only an 'offer' of a review had been made to the client.

94O. The failure to provide ongoing personal advice to the OSF Sub-Group Members (as referred to in paragraph 94G) arose by reason of the following failures in the AMP Licensees' systems and processes:

94O.1 the AMP Licensees did not have a central, automated process to switch off OSFs for OSF Sub-Group Members when they had ceased to be allocated to an AMP Authorised Representative;

94O.2 the AMP Licensees directed the OSF Sub-Group Members to contact the product provider to turn off OSFs, thereby placing the onus on the client to reduce OSFs rather than the AMP Authorised Representative;



94O.3 the AMP Licensees continued to receive OSFs and did not check that requests issued to product providers to turn off OSFs had been actioned by the product providers;

94O.4 the Audit Function routinely failed to detect instances of a failure to provide advice to OSF Sub-Group Members;

94O.5 the Audit Function did not assess whether ongoing advice had in fact been provided;

94O.6 the Audit Function only assessed whether an offer of an annual review had been provided under the AMP Ongoing Service Package rather than an actual review;

94O.7 the systems and processes relied on complex and manual systems for switching off OSFs rather than a central, automated process; and

94O.8 there was an inadequate control environment within AMP.

#### Particulars

- i. Quarterly Internal Audit Report, 6 August 2018, and the reference to no control to terminate ongoing fee arrangements originating through the Fee for Service and Fee for Advice Systems: AMP.4000.0469.1835\_098.
- ii. ERM Report, 20 August 2015: AMP.0005.0010.1204\_0112.
- iii. Regan Statement at paragraphs [144]-[170].
- iv. Breach Reports to ASIC dated 27 May 2015, 5 December; 3 May 2017; 8 June 2017.

## J APPROVED PRODUCTS, BENCHMARKS AND LEGACY PRODUCTS

### J.1 Approved Insurance Products

95. At all material times, the AMP Licensees had one or more approved product lists containing life and risk insurance products (**Insurance APLs**) that the AMP Authorised Representatives were and are authorised to recommend to retail clients.

#### Particulars

- i. AMP 'Advice Research Process Manual', dated March 2015, June 2016 and June 2017.

- ii. *Further particulars may be provided following receipt of the Respondents' discovery.*
- iii. *The authorisation to recommend products on Insurance APLs is referred to in AMP.6600.0001.0921; AMP.6000.0043.1190; AMP.6000.0043.1143; AMP.6000.0043.1531.*
- iv. *The authorisation to recommend products on Insurance APLs is also referred to in Authorised Representative Agreements during the Relevant Period including the words: "the representative must ... (b) only provide a Financial Service in relation to a Product or service if (i) the product is on the Approved Products and Services List at that time or the Product or Service is otherwise approved by AMPFP".*

96. At all material times, the AMP Life Products were included on the Insurance APLs.

96A. At all material times, the AMP Life Premiums on AMP Life Products were higher than the premiums on substantially equivalent or better insurance products issued by third-party insurers.

#### **Particulars**

- i. *Memorandum to the AMP Investment and Advice Commission 'Risk Insurance Benchmarking', dated 10 April 2021: AMP.5800.0170.0550\_0055.*
- ii. *Further particulars will be provided following discovery and exchange of expert evidence.*

97. At all material times, the Insurance APLs failed to include one or more insurance products from a third-party insurer that was substantially equivalent or better and ~~available for a~~ on which lower premiums were payable than the AMP Life Premiums payable on the AMP Life Products on the Insurance APLs. ~~acquired, renewed or held by the First Applicant and the Stack Sub-Group Members.~~

#### **Particulars**

*Further particulars of the Insurance APLs may be provided following receipt of the Respondents' discovery and exchange of expert evidence.*

98. At all material times, the AMP Authorised Representatives required one-off approval from AMP Advice Research to recommend an insurance product not on the Insurance APLs (**One-Off Approval Requirement**).

**Particulars**

- i. *AMP 'Advice Research Process Manual' March 2015, June 2016 and June 2017, at pp 22-23.*
- ii. *AMP Life Risk Insurance Research Policy and APL – AMPFP, Charter FP and Hillross FP.*
- iii. *Further particulars may be provided following receipt of the Respondents' discovery.*

- 98A. During the Relevant Period, in order to obtain one-off approval to recommend an insurance product not on the applicable Insurance APL in accordance with the One-Off Approval Requirement, the AMP Authorised Representatives:

98A.1 for new business, were required to provide evidence that no product on the Insurance APL included the feature requested and that there was a 10% and/or minimum \$300 per annum price saving compared to the products on the Insurance APL; and

98A.2 for existing business, where the client had an 'in-force' insurance product not on an Insurance APL, could only obtain approval where the client was exercising a buy-back facility, guaranteed or future insurability option, continuation option or where the client was applying for a change in policy terms and did not require underwriting.

**Particulars**

*Johnson Statement at [113] and [114].*

98B. The matters set out at paragraphs 98 and 98A above:

98B.1 could reasonably be expected to have influenced the AMP Authorised Representatives in relation to the provision of advice in respect of life or risk insurance products, including when recommending that the client acquire, renew or continue to hold one or more AMP Life Products:

98B.2 gave rise to a conflict between the interests of AMP Authorised Representatives, on the one hand, and the clients on the other hand:

98B.3 incentivised AMP Authorised Representatives to recommend acquiring, renewing or continuing to hold AMP Life Products, rather than substantially equivalent or better insurance products available for a cheaper premium from third party insurances, even if the AMP Life Products were not the products in the best interests of the clients.

#### **Particulars**

- i. By reason of the One-Off Approval Requirement, an AMP Authorised Representative had to take the additional steps of obtaining one-off approval to recommend to a client a life or risk insurance product issued by a third-party financial product insurer that was not on the Insurance APL than to recommend an AMP Life Product, regardless of whether the third-party product was better or equivalent and cheaper than the AMP Life Product.
- ii. Exhibit BJG-1, Tab 30 to the Green Statement and the analysis of premiums paid in respect on in-house products included therein.

## **J.2 Benchmarking Guidelines**

99. At all material times, the AMP Licensees had issued guidelines on how the products on their Insurance APLs are benchmarked (**Benchmarking Guidelines**) for the purpose of providing guidance to the AMP Authorised Representatives.

#### **Particulars**

- i. *AMPFP and Hillross 'Benchmarking Guideline – Life Risk Insurance', versions dated June 2014, 2016, 2017 and 2018.*
- ii. The Benchmarking Guidelines would assess product competitiveness (including price) against comparable peer group sets for the purpose of providing guidance to AMP authorised Representatives.
- iii. *#. Further particulars may be provided following receipt of the Respondents' discovery.*

100. At all material times, the Insurance APLs and Benchmarking Guidelines did not include sufficient information for the AMP Authorised Representatives to determine whether there were insurance products that were substantially equivalent or better than the AMP Life Products and available to be obtained from a third-party insurer for a lower premium.

### **J.3** **Approved Platforms**

101. At all material times, the AMP Licensees had issued approved product lists which contained the platforms that their Authorised Representatives were and are authorised to recommend to the retail clients (**Platform APLs**).

#### **Particulars**

*The particulars to paragraph 95 are repeated.*

102. At all material times, the platforms that were listed on the Platform APLs were primarily limited to AMP's platforms.

#### **Particulars**

*Banking Royal Commission, evidence of A G Regan, Transcript at p 1065, line 41. Benchmarking Approach Paper, 6 June 2018: AMP.5800.0170.0535\_0062.*

103. At all material times up until around late 2019, the only life and risk insurance products that could be placed on AMP's platforms were insurance products issued by AMP Life.

### **J.4** **Composition of APLs**

- 103A. At all material times:

103A.1 the AMP Licensees applied written policies which set out the process by which products were added to or removed from the Insurance APLs and Platform APLs; and

103A.2 the AMP Licensees Investment and Advice Committee or the AMP Product Review Committee were responsible for decisions about the composition of the Insurance APLs and Platform APLs.

#### **Particulars**

- i. *Green Statement at [21] to [23].*
- ii. *AMP 'Advice Research Process Manual' March 2015, June 2016 and June 2017.*
- iii. *Johnson Statement at [82].*

- 103AA. At all material times, the AMP Licensees benchmarked the products on the Insurance APLs and/or the Platform APLs according to the following process:

103AA.1 for Platform APLs, the Benchmarking Guidelines provided a range of outcomes for each product to enable an AMP Authorised Representative to identify a suitable product including:

- (a) outcome 1, where the product cost of the benchmarked product is relative to the peer group set;
- (b) outcome 2, where the product cost of the benchmarked product is less than or equal to 10% more than the average price or within \$100 per annum;
- (c) outcome 3, where the product cost of the benchmarked product is greater than 10% and less than 15% more than the average price; and
- (d) outcome 4, where the product cost of the benchmarked product is greater than 15% more than the average price.

103AA.2 for Insurance APLs, the Benchmarking Guidelines provided a range of outcomes for each product to enable an AMP Authorised Representative to identify a suitable product including:

- (a) tier 1 (green) – where the premium is less than or equal to the average price relative to its competitors;
- (b) tier 2 (amber) – where the premium is higher than the average price (up to 15%); and
- (c) tier 3 (red) – where the premium is greater than 15% more than the average price.

### **Particulars**

*Benchmarking Approach Paper, 6 June 2018:*  
*AMP.5800.0170.0535\_0062.*

103B. The benchmarking process referred to in paragraph 103AA was an inadequate mechanism to identify appropriate products, or an appropriate benchmark, because:

103B.1 the Platform APLs and/or Insurance APLs were not constructed to identify the best value products for clients;

103B.2 the Platform APLs and/or Insurance APLs generally contained products that were not the best value products for clients;

103B.3 despite 103B.1 and 103B.2, AMP Licensees did not require their Authorised Representatives to investigate products outside of the Platform APLs and/or Insurance APLs to find the best value product for a client;

103B.4 if a client was looking for the cheapest product available in the market, the AMP Authorised Representatives were instructed to decline to provide advice rather than to investigate the suitability of that product;

103B.5 the AMP Authorised Representatives were instructed that they did not need to recommend switching clients out of products that had been benchmarked as uncompetitive on price;

103B.6 for insurance products, individual price points that were categorised as red (Tier 3) would not require review provided 65% of price points reflected a Tier 1 pricing outcome.

#### **Particulars**

- i. Benchmarking Guideline, AMP.6000.0043.0409\_0413.
- ii. Benchmarking Guideline, AMP.6000.0043.1064\_1073.
- iii. Benchmarking Guideline, PUB.0003.0001.0626\_0645.

103C. In the premises of paragraphs 103B.1 to 103B.6, the Platform APLs and/or Insurance APLs had the effect of ensuring that AMP Authorised Representatives could not comply with their duties under ss 961B and 961J of the Corporations Act.

#### **J.5 Legacy Products**

103D. During the Relevant Period the Second, Third and Fourth Applicants and some Group Members continued to hold Commissioned Products that had previously been included on the Insurance APLs and/or Platform APLs with a 'buy' recommendation, but:

103D.1 had since been rated outcome 3 or outcome 4 by the Benchmarking Guidelines;  
or

103D.2 had since been placed on a "no-buy" list by the AMP Licensees; or

103D.3 otherwise were identified by AMP as part of a suite of legacy products that were closed to new clients.

(jointly or severally, **Legacy Products**).

### **Particulars**

- i. On or around 1 October 2017, the Flexible Lifetime – Protection product ceased to be available to be recommended to new policy holders.
- ii. By at least 14 August 2018, the ‘AMP Flexible Super’ product held by the Second, Third and Fourth Applicants was noted by the Investment and Advice Committee as consistently performing below competitors products in respect of price competitiveness and value offering: AMP.5800.0170.0536 0038.
- iii. In relation to the Fourth Applicant, his ‘Portfolio Care Investment Service’ product was ranked an outcome 3 or 4 in April 2015.
- iv. The Fourth Applicant refers to the AMP PRC Portfolio Care Review Paper which identified the Portfolio Care Investment Service as uncompetitively priced, raising questions about how advisers could meet their obligations in s 961B(1) of the Corporations Act: AMP.6600.0004.0028.
- v. By June 2017, approximately 65% of investment products offered by AMP were on the “no-buy” list equating to approximately 50% of AMP’s total cash inflows: AMP.6600.0004.0240 0036.
- vi. By June 2017 the PRC Board Pack had identified approximately 290 Legacy Products, of which 105 had balances of more than \$20m (totalling \$24.6b of funds under management): AMP.6600.0004.0240 0036.

103E. During the Relevant Period the AMP Licensees:

103E.1 knew that the Legacy Products were expensive and uncompetitively priced when benchmarked across the peer group;

103E.2 knew that failing to recommend a switch out of Legacy Products, or staying silent as to the price-competitiveness of Legacy Product(s), could adversely affect the



AMP Authorised Representatives' ability to comply with their Best Interests Duty under s 961B(1) of the Corporations Act:

103E.3 instructed the AMP Authorised Representatives that they were not required to search through their client registers to assess all clients with Legacy Products and provide them with new product recommendations; and

103E.4 did not direct the AMP Authorised Representatives to transition clients out of Legacy Products when providing personal advice, despite those products being uncompetitively priced.

### **Particulars**

The AMP Licensees' knowledge, instruction and/or direction is inferred from:

- i. The Best Interests Duty QAF, April 2014, and the reference to "expensive" Legacy Products and the words "you are not required to search through your client base to assess all clients with expensive legacy products and provide them all with new product recommendations:" AMF.3010.0001.1945 1971.
- ii. The instruction referred to in particular (i) was repeated in the Best Interests Duty QAF, June 2015: AMF.3014.0001.0490.
- iii. The results of the benchmarking carried out pursuant to the Benchmarking Guidelines demonstrated to the AMP Licensees that the Legacy Products were uncompetitively priced.
- iv. The Wealth Management product strategy update, 7 June 2018, Exhibit 1 – Stakeholder assessment: AMP.4000.0075.1675 0085 which was contained in a Board Pack for a concurrent meeting of the risk committees of AMP Limited, AMP Life and NMLA dated 2018. In particular, the reference therein to the "case against" maintaining the status quo to be "[Best Interests Duty] implications of retaining clients in legacy products".
- v. In or around March 2016 the AMP PRC acknowledged that the 'PortfolioCare' product had been benchmarked in April 2015 as "red (un-competitively priced) across most price points" and that the benchmarking "raises questions

on how advisers could meet BID requirements when recommending PortfolioCare”.

- vi. As the holder of the relevant AFSL, it can be inferred that the AMP Licensees had the power to direct their relevant AMP Authorised Representatives to transition clients out of Legacy Products.
- vii. By the Authorised Representative Agreements in force during the Relevant Period the AMP Licensees had the power to issue or update professional standards which the Practice was contractually bound to comply with: AMF.1001.0001.0041\_0053.

103F. The AMP Licensee’s instruction and/or failure to give the direction referred to in paragraphs 103E.3 and 103E.4 was motivated by a desire on the part of the AMP Licensees to:

103F.1 retain grandfathered Commissions on Legacy products;

103F.2 maintain profit margins for the AMP Licensees;

103F.3 preserve the security provided to AMP Bank Limited.

### **Particulars**

The AMP Licensees’ motivation and/or desire is inferred from:

- i. Business unit report, March 2017, AMP.6000.0005.3962\_01485 and the reference therein to AMP Licensees being “reluctant to engage about” changes to business rules and structures to address “large proportions of the customer base (both in value and volume) being underserved”, and the reference to advisers not being incentivised to service this group of customers and AMP’s expectation that it would be a “slow and difficult engagement”.
- ii. Memorandum prepared for the AMP Board dated 7 June 2018 which was tabled at the concurrent meeting of the boards of AMP, AMP Life and NMLA: AMP.4000.0075.1675\_0085 and the words “for our shareholders maintaining the status quo delivers greater certainty on near term

revenue outcomes". The "status quo" is a reference to "Commissions maintained".

- iii. Exhibit 1 to the document referred to in particular (ii) is dated 7 June 2018 and discusses the "case for" and "case against" maintaining Commissions. In the absence of a decision to remove Commissions on or around 7 June 2018 it can be inferred that the AMP Licensees elected to maintain Commissions consistently with the "case for" maintaining Commissions.
- iv. The "legacy book" of clients being identified as a "strategic priority" in the context of the statement that "closed products that are no longer open to new plans, drive 85% of the profitability. This legacy book has higher gross margin (77 to 205 bps) compared to Signature Super and Flexible Super (34bps and 55bps, respectively). Hence, optimising our legacy book is our second strategic priority": Corporate Super Update, 17 October 2012: AMP.0004.0059.7367 0042.
- v. The fact that the security provided to AMP Bank Limited, at least in part, came in the form of Buy-Back Benefits which were calculated on AMP Life Commissions or Incentives (as referred to in paragraph 53).
- vi. The matters pleaded in paragraphs 94B to 94D, and the particulars therein (it was acknowledged that terminating Commissions would be good for clients but this was not done at any stage during the Relevant Period).

## **JA. RELATED SUPERANNUATION FUND TRUSTEES**

### **JA.1 Third Party Insurance in Super Requirements**

104. At all material times, AMP Superannuation Limited (**ASL**) was:

104.1 part of the AMP Group;

104.2 a wholly owned subsidiary of AMP Life; and

104.3 the trustee of ~~a number of~~ the following superannuation funds:

- (a) AMP Superannuation Savings Trust (ASST);
- (b) AMP Retirement Trust (ART); and
- (c) AMP Eligible Rollover Fund,

**(ASL Super Funds).**

**Particulars**

*Banking Royal Commission, witness statement of Richard Hugh Allert dated 25 July 2018, Rubric 5-15, at [1], [15] and [17].*

105. N M Superannuation Proprietary Limited (**NMS**; together with ASL, the **AMP Trustees**):
- 105.1 was at all material times part of the AMP Group;
  - 105.2 was, since 1 January 2017, a wholly owned subsidiary of AMP Life; and
  - 105.3 was at all material times the trustee of a number of superannuation funds (**NMS Super Funds**, and together with the ASL Super Funds, the **AMP Super Funds**).

**Particulars**

*Banking Royal Commission, witness statement of Richard Hugh Allert dated 25 July 2018, Rubric 5-06, at [1], [15].*

106. At all material times:
- 106.1 the AMP Trustees permitted members of the AMP Super Funds to hold one or more AMP Life Products through or in their superannuation account and paid the premiums on those AMP Life Products directly to AMP Life from funds in the members' superannuation accounts;

**Particulars**

*The particulars to paragraph 39 are repeated.*

- 106.2 for a member of an AMP Super Fund to hold insurance issued by a third-party insurer through his or her superannuation account, and to have the premiums payable on that product paid to the third-party insurer from the funds in the member's superannuation account, the AMP Trustees required the establishment of:

- (a) a separate trust account from which the premiums payable on the third-party insurance product would be paid; and
- (b) a regular sweep of funds in the member's superannuation account to be deposited into the separate trust account,

(the **Third Party Insurance in Super Requirements**).

107. The matters set out at paragraphs ~~98 and~~ 106 above:

107.1 could reasonably be expected to have influenced the AMP Authorised Representatives in relation to the provision of advice in respect of life or risk insurance products, including when recommending that the client acquire, renew or continue to hold one or more AMP Life Products;

107.2 gave rise to a conflict between the interests of AMP Authorised Representatives, on the one hand, and the clients on the other hand; and

107.3 incentivised AMP Authorised Representatives to recommend acquiring, renewing or continuing to hold AMP Life Products, rather than substantially better or equivalent insurance products available for a cheaper premium from third parties, even if the AMP Life Products were not the products in the best interests of the clients.

#### Particulars

- ~~i. By reason of the One-Off Approval Requirement, an AMP Authorised Representative had to take the additional steps of obtaining one-off approval to recommend to a client a life or risk insurance product issued by a third party financial product insurer that was not on the Insurance APL than to recommend an AMP Life Product, regardless of whether the third party product was better or equivalent and cheaper than the AMP Life Product.~~
- ii. By reason of the Third Party Insurance in Super Requirements, an AMP Authorised Representative acting for a retail client who was a member of an AMP Super Fund, or had decided to join an AMP Super Fund, had to take additional steps to obtain insurance issued by a third-party insurer through the client's

*superannuation account than to obtain an AMP Life Product through the client's superannuation account.*

- iii. *Exhibit BJJ-1, Tab 30 to the Green Statement and the analysis of premiums paid in respect on in-house products included therein.*

## **JA.2 AMP Life Products held in ASL Super Funds**

**107A As trustee of ASST and/or ART, during the Relevant Period, ASL:**

**107A.1 was responsible for the management of ASST and/or ART for the benefit of fund members and their beneficiaries, including for the purposes of providing ancillary death, TPD and TSC benefits for members and/or their beneficiaries:**

**107A.2 was the owner of AMP Life Products held by members of ASST and/or ART within those funds:**

**107A.3 had issued to it and/or entered into master retail insurance policies or arrangements with insurers in relation to retail insurance products that could be held by or for the benefit of members of ASST and/or ART within the funds, including entering into master retail insurance policies or arrangements with AMP Life:**

**107A.4 could renegotiate the terms of the master retail insurance policies or arrangements with insurers and/or terminate those policies or arrangements:**

**107A.5 maintained a register of insurance policies and/or arrangements it had issued to it or it had entered into:**

**107A.6 was responsible for paying premiums on member's insurance products held with the fund to the insurer, including AMP Life Premiums charged by AMP Life on the AMP Life Products, and deducted and/or reimbursed itself for payment of those premiums from members' accounts:**

**107A.7 monitored and reviewed insurance arrangements and benefits of insurance products that could be held by members of ASST and/or ART within the funds:**

**107A.9 charged the members that held insurance products within ASST and/or ART fees including administration fees and insurance fees (**ASL Member Fees**).**

**Particulars**

- i. Trustees' Insurance Management Framework (IMF) dated 1 January 2018: PUB.0090.0001.0110; Trustees' IMF Operation Document: PUB.0090.0001.0075.
- ii. Flexible Lifetime – Super Fact Sheet 4 'Fees and Other Costs', dated 30 June 2014 at pp. 12-13. Administration fees are fees that relate to the administration or operation of the superannuation entity, and includes costs incurred that relate to the administration or operation of the entity. Insurance fees are fees which directly relate to either or both of (i) insurance premiums paid by the trustee in relation to a member or members; and (ii) costs incurred by the trustee in relation to the provision of insurance for a member or members (AMF.1005.0003.2641 at [2682]).
- iii. Master Outsourcing Agreement and Amending Deed between ASL, AMP Life and AMP Services Limited dated 23 June 2014, Appendix A, Schedule 1, Clause 1.9: PUB.0090.0001.0001.
- iv. ASL and NMS Fund Governance Charter dated 8 June 2018 at p.4.

107B. During the Relevant Period, ASL, AMP Life and AMP Services Limited were parties to an agreement (Master Outsourcing Agreement), pursuant to which:

107B.1 ASL appointed AMP Life to provide services for the operate and administer administration of ASST and ART, including by providing the following services:

- (a) maintaining proper records of the insurance each of the members held within the fund, including the insurance cover of each member at any point in time, and all transactions in members' accounts relating to insurance benefits;
- (b) processing deductions of insurance premiums from members' accounts relating to insurance benefits held within the funds and pay those premiums to the relevant insurers (including to AMP Life itself);

- (c) maintaining copies of all current and historical insurance policy documents;
- (d) undertaking reviews of ASL's insurance retail master insurance policies and/or arrangements, including costs of insurance, performance of incumbent insurers, choice of insurer, and report to ASL;
- (e) undertaking assessments of new or replacement insurers, recommending replacement insurance arrangements, and assisting ASL to negotiate the terms of insurance arrangements with the preferred insurer;
- (f) operating the contact centre for fund members and undertaking member education and communications with members.

107B.2 AMP Life undertook to provide the services under the agreement in accordance with ASL's duties and obligations as trustee of ASST and/or ART;

107B.3 AMP Life issued insurance policies to ASL and provided services under the agreement in relation to those policies in consideration for receiving the premiums payable under those policies;

107B.4 AMP Life provided the balance of the service under the agreement in consideration for receiving the ASL Member Fees.

### Particulars

- i. Master Outsourcing Agreement Amending Deed between ASL, AMP Life and AMP Services Limited dated 23 June 2014, Appendix A, clauses 2.1, 2.2(a), 7.1, Schedule 1, clauses 1.1, 1.9.
- ii. AMP Life's undertaking in 107B.2 included providing the services in accordance with ASL's duties and obligations as a trustee of ASST and/or ASL under general law, which included the fiduciary duties ASL owed to members pleaded at paragraph 174A below: Master Outsourcing Agreement Amending Deed between ASL, AMP Life and AMP Services Limited dated 23 June 2014, Appendix A, clause 2.2(a)(v).
- iii. Witness statement of Ms Rachel Catherine Sansom to the Banking Royal Commission dated



9 August 2018 (**Sansom Statement**), at [116]-[117].

107C. During the Relevant Period:

107C.1 ASL delegated the day-to-day administration and operations of the ASST and ART to AMP Life pursuant to the Master Outsourcing Agreement;

107C.2 ASL paid to AMP Life the ASL Member Fees;

107C.3 ASL paid to AMP Life the premiums payable on insurance products issued by AMP Life held by members within ASST and ART (including AMP Life Premiums payable on AMP Life Products), and deducted those premiums from members accounts;

107C.4 those AMP Life Premiums were higher than the premiums that would be payable on substantially equivalent or better insurance products issued by third-party insurers;

**Particulars**

- i. As to paragraph 107C.4, the particulars to paragraph 96A are relied on and repeated.

107C.5 ASL received payment from AMP Life of trustee service fees for acting as trustee of ASST and ART;

107C.6 ASL did not renegotiate or terminate the master retail insurance policies or arrangements with AMP Life in relation to the AMP Life Products;

107C.7 ASL had in place, and did not remove, the Third-Party Insurance in Super Requirements; and

107C.8 ASL failed to monitor and/or ensure that AMP Life complied with its obligations under the Master Outsourcing Agreement.

107D During the Relevant Period, AMP Life:

107D.1 administered and operated ASST and ART on behalf of ASL;

107D.2 prepared and distributed product documents (including disclosure documents) regarding the funds and retail insurance products that could be held by or for the benefit of members within the funds;

107D.3 processed applications for members of the funds and member's insurance applications;

107D.4 issued notices and undertook communications with fund members regarding their accounts, including in relation to insurance products held by or for the benefit of members within the funds and premiums on those products;

107D.5 processed deductions of insurance premiums from members' accounts in relation to insurance policies held within the funds and paid those premiums to the relevant insurers (including to AMP Life itself);

107D.6 had, by virtue of the Master Outsourcing Agreement, responsibility for identifying and protecting the interests of members in ASST and ART in respect of those funds;

107D.7 had, by virtue of the Master Outsourcing Agreement, responsibility for communicating with members in the ASST and ART;

107D.8 did not review the retail master insurance policies or arrangements between ASL and AMP Life and/or did not recommend that ASL terminate or renegotiate those policies or arrangements;

107D.9 did not review the insurance policies or arrangements available from third-party insurers or recommend that ASL replace its retail master policies and arrangements with AMP Life with those policies or arrangements;

107D.10 did not remove, or advise ASL to remove, the Third Party Insurance in Super requirements.

107E During the Relevant Period:

107E.1 the First and Third Applicants and some of the Group Members held their AMP Life Products within ASST and ART as members of those funds;

107E.2 AMP Life charged AMP Life Premiums on the AMP Life Products of the First and Third Applicants and those Group Members that held AMP Life Products within ASST and/or ART, and those premiums were paid to AMP Life in accordance with paragraph 107C.3 above;

107E.3 the AMP Life Premiums charged by AMP Life on those AMP Life Products included Excess Premiums, by reason that the AMP Life Premiums were higher than the premiums payable on substantially equivalent or better insurance products that could have been obtained by the First and Third Applicants and those Group Members from third-party insurers;

107E.4 there were AMP Life Commissions paid on those AMP Life Products held by the First and Third Applicants and those Group Members within ASST and ART by AMP Life to the AMP Licensees and AMP Authorised Representatives;

107E.5 ASL charged the First and Third Applicants and those Group Members the ASL Member Fees and paid those fees to AMP Life.

### **Particulars**

- i. The First and Third Applicants held their AMP Life Products in AMP Flexible Super Account, of which ASL was the trustee.
- ii. The matters in paragraphs 14, 16, 25, 26, 31A, 39, 43, 67 are relied on and repeated.
- iii. Sansom Statement at [87] and Tabs 10 and 26 of Exhibit RCS-1 to that statement.

## **K. RESPONSIBILITY OF THE AMP LICENSEES FOR THE AMP AUTHORISED REPRESENTATIVES**

108. In acting as pleaded in this Further Amended Statement of Claim in Sections C, F, G and H, the AMP Authorised Representatives were engaging in conduct:

108.1 within the scope of their authority as agents and authorised representatives of their respective AMP Licensee;

108.2 that relates to the provision of a financial service within the meaning of s 917A(1)(a) of the Corporations Act; and

108.3 on which the Applicants and each Group Member could reasonably be expected to rely within the meaning of s 917A(1)(b) of the Corporations Act.

109. The Applicants and each Group Member in fact relied in good faith upon the conduct of the AMP Authorised Representatives within the meaning of s 917A(1)(~~e~~) of the Corporations Act.
110. By reason of the matters pleaded in paragraphs 108 to 109, the relevant AMP Licensee is responsible for the conduct of its Authorised Representatives, by reason of ss 917B and 917E of the Corporations Act.
111. By reason of the matters pleaded in paragraph 110, the Applicants and Group Members have the same remedies pleaded in this Further Amended Statement of Claim against the AMP Licensees as they have against the AMP Authorised Representatives, by reason of s 917F of the Corporations Act.

#### **L. RELEVANT PERSONNEL**

112. Bradley John Green was, as at 12 April 2018:
- 112.1 Director of Advice and Research, AMP; and
  - 112.2 responsible for the management of the advice licensee policy function, including applicable AMP QAFs.
113. Anthony George Regan was, as at 11 April 2018:
- 113.1 Group Executive, Advice and New Zealand, AMP;
  - 113.2 the senior executive within the AMP Group responsible for the management of AMP's advice business;
  - 113.3 a member of the AMP Group Leadership Team; and
  - 113.4 a Director of AMPFP, Charter and Hillross.
114. Gregory Robert Johnson was, as at 10 September 2018, the Director of Insurance Proposition, AMP Life.
115. The knowledge of Mr Green is attributed to AMP, by reason of the fact that he was an agent and senior employee of AMP and as such was under a duty to communicate to the board of AMP the knowledge gained by him in his positions.

116. The knowledge of Mr Regan is attributed to AMP, AMPFP, Charter and Hillross, by reason of the fact that he was an agent and senior employee of AMP and a Director of AMPFP, Charter and Hillross and as such was under a duty to communicate to the board of AMP the knowledge gained by him in his positions.
117. The knowledge of Mr Johnson is attributed to AMP Life by reason of the fact that he was an agent and senior employee of AMP Life and as such was under a duty to communicate to the board of AMP Life the knowledge gained by him in his positions.
118. The admissions made by Mr Green in the statements provided to the Banking Royal Commission as pleaded in this Further Amended Statement of Claim are taken to be admissions by AMP, by reason of the fact that Mr Green had authority to make statements on behalf of AMP in relation to the matters with respect to which the statements were made.
119. The admissions made by Mr Regan in the statements provided to the Banking Royal Commission as pleaded in this Further Amended Statement of Claim are taken to be admissions by AMP, AMPFP, Charter and Hillross, by reason of the fact that Mr Regan had authority to make statements on behalf of AMP, AMPFP, Charter and Hillross in relation to the matters with respect to which the statements were made.
120. The admissions made by Mr Johnson in the statements provided to the Banking Royal Commission, as pleaded in this Further Amended Statement of Claim are taken to be admissions by AMP Life by reason of the fact that Mr Regan had authority to make statements on behalf of AMP Life in relation to the matters with respect to which the statements were made.

## **M. FUTURE OF FINANCIAL ADVICE OBLIGATIONS AND CONTRAVENTIONS**

### **M.1 Best Interests**

121. The advice provided by the AMP Authorised Representatives to the Applicants and Group Members, referred to in paragraphs 55, and further paragraph 64, was financial product advice within the meaning of s 766B(1) of the Corporations Act, in that the advice contained recommendations that:

121.1 were intended to influence the Applicants and Group Members in making a decision in relation to policies of insurance; or

121.2 could reasonably be regarded as being intended to have such an influence.

**Particulars**

- i. *The particulars to paragraph 55 and 64 are repeated.*
- ii. *Particulars in respect of the personal advice provided to Group Members will be provided following the initial trial of the common questions.*

122. The advice provided by the AMP Authorised Representatives (or some of them) to the Applicants and Group Members referred to in paragraph 121 above, was personal advice within the meaning of s 766B(3) of the Corporations Act, in that it was given to the Applicants and Group Members in circumstances where:

122.1 the AMP Authorised Representatives had considered one or more of the objectives, financial situation or needs of the Applicants and Group Members; or

122.2 a reasonable person might expect that the AMP Authorised Representatives had considered one or more of the objectives, financial situation or needs of the Applicants and Group Members.

**Particulars**

*The particulars at paragraph 121 are repeated.*

123. By providing personal advice to the Applicants and Group Members, the AMP Authorised Representatives were providing a financial service within the meaning of s 766A(1) of the Corporations Act.

124. The financial services were provided to the Applicants and Group Members as retail clients within the meaning of s 761G(1) of the Corporations Act.

125. In relation to the provision of the financial services, the AMP Authorised Representatives were providers within the meaning of s 961(2) of the Corporations Act.

126. By reason of the matters pleaded in paragraphs 121 to 125 above, at all material times each of the AMP Authorised Representatives was under an obligation to act in the best interests of the Applicants and each of the Group Members in relation to the personal advice.

**Particulars**

*Section 961B(1) of the Corporations Act.*

127. At all material times, there was a conflict between the interests of the Applicants and Group Members, on the one hand, and the interests of the relevant AMP Authorised Representatives (and, if applicable, their Practices) and AMP Licensees on the other.

**Particulars**

- i. *The particulars to paragraphs 47, ~~and~~ 51 and 54 above are repeated.*
  - ii. *It was in the interests of the Applicants and Group Members for the payment of Commissions payable on their Commissioned Products to cease.*
  - iii. *It was in the interests of the AMP Licensees to receive the Commissions and maximise the amount of Commissions they received.*
  - iv. *It was in the interests of the AMP Authorised Representatives (and, if applicable, their Practices) for them (and their Practices) to ~~receiving~~ receive the Commissions and maximise the amount of Commissions they received.*
128. Further or in the alternative to paragraph 127 above, at all material times, there was a conflict between the interests of the First and Third Applicants and Stack Sub-Group Members, on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, AMP Licensees and/or AMP Life on the other.

**Particulars**

- i. *The particulars to paragraphs 47, 51, 54, 98B and 107 are repeated.*
- ii. *It was in the interests of the First and Third Applicants and Stack Sub-Group Members to obtain, renew, or otherwise retain the best insurance product with the lowest premiums.*
- iii. *It was in the interests of the First and Third Applicants and Stack Sub-Group Members for the AMP Authorised Representatives to act in their best interests in relation to the advice provided to them.*
- iv. *It was in the interests of the First and Third Applicants and Stack Sub-Group Members for the AMP Authorised Representatives to give advice that was not affected, or potentially affected by any financial interest of the AMP*

*Licensee, the AMP Authorised Representative or their associates.*

- v. *By reason of the AMP Life Commissions, AMP Life Incentives, Buy-Back Benefits, One-Off Approval Requirement and the Third-Party Insurance in Super Requirements, it was in the interests of the AMP Authorised Representatives (and, if applicable, their Practices) for their clients, including the First and Third Applicants and Stack Sub-Group Members, to acquire, renew or continue to hold AMP Life Products rather than insurance products issued by a third-party provider.*
- vi. *By reason of the AMP Life Commissions and AMP Life Incentives, it was in the interests of the AMP Licensees for the First and Third Applicants and Stack Sub-Group Members to acquire, renew or continue to hold AMP Life Products rather than insurance products issued by a third-party provider.*
- vii. *By reason of the AMP Life Premiums payable to AMP Life on the AMP Life Products, it was in the interests of AMP Life for the First and Third Applicants and Stack Sub-Group Members to acquire, renew or continue to hold AMP Life Products.*

129. During the Relevant Period, the AMP Authorised Representatives failed to act in the best interests of the Applicants and Group Members by:

129.1A failing to advise clients who held Legacy Products that those products had been removed from the Platform APLs and/or Insurance APLs because they were no longer suitable products to hold;

129.1B complying with the Platform APLs and/or Insurance APLs when recommending financial products to acquire, renew or continue to hold in circumstances where those APLs did not include the lowest cost products available

~~129.1 failing to base all judgments in advising the Applicants and Group Members on the Applicants' and Group Members' relevant circumstances (rather than on the receipt of Commissions);~~



- ~~129.2 failing to take steps that, at the time the personal advice was provided, would reasonably be regarded as being in the Applicants' and Group Members' best interests;~~
- 129.3 failing to "dial down" or "switch off" the Commissions to remove any conflict;
- 129.4 failing to rebate the Commissions to the Applicants and Group Members;
- 129.4A failing to reduce the OSFs by the amount of the Commissions for Group Members paying OSFs in addition to Commissions;
- ~~129.5 failing to take reasonable steps to ensure that the financial interests of the Applicants and Group Members would not be adversely affected by the conflicts of interest referred to in paragraph 127 above;~~
- 129.6 pursuing, receiving or not rebating the Commissions in circumstances where:
- (a) no additional benefits or services would be received by the Applicants and Group Members in return for the payment of the Commissions;
  - (b) it was in the financial interests of the Applicants and Group Members for the Commission payments to cease;
  - (c) it was in the financial interests of the AMP Licensees and AMP Authorised Representatives (and, if applicable, their Practices) for the Applicants and Group Members to continue paying the Commissions; and
  - (d) it was in the interests of the AMP Licensees to maintain good relations with the AMP Authorised Representatives in relation to the promotion and distribution of the Commissioned Products by continuing to pay the AMP Authorised Representatives (or their Practices) the Commissions (or part of them);
  - (e) the Commissions made the Commissioned Products more expensive to acquire.
- ~~129.7 failing to consider, or advise whether, and to what extent, the financial interests of the Applicants and Group Members would be adversely affected by the payment of the Commissions or Incentives;~~

129.8 failing to disclose to the Applicants and Group Members that:

- (a) the advice, or the decision about whether to give advice, was influenced by the Commissions or Incentives; and
- (b) it would have been possible to obtain the same products without paying the Commissions, ~~and~~

~~129.9 failing to keep any records, or adequate records, of the advice given to the Applicants and Group Members by the AMP Authorised Representatives.~~

**Particulars**

- ~~i. The Respondents' have failed to keep documents, Statements of Advice and/or member statements of advice given to the Applicants.~~
- ~~ii. Particulars of the Group Members' claims will be provided following the initial trial of the common questions.~~

129.9A on and after 1 January 2020, failing to comply with Standard 3 of the FASEA Code by avoiding the conflicts of interest referred to in paragraphs 87.3 and 87.4 altogether.

130. Further to paragraph 129, during the Relevant Period, the AMP Authorised Representatives failed to act in the best interests of the First and Third Applicants and Stack Sub-Group Members by:

130.1 giving the personal advice to the First and Third Applicants and Stack Sub-Group Members referred to at paragraph 64 above, which included a recommendation ~~that the First Applicant Group Members~~ to acquire, renew or continue to hold one or more AMP Life Products at premiums which included the Excess Premiums;

~~130.2 failing to take reasonable steps to investigate, consider and assess insurance products which were substantially equivalent or better than the AMP Life Products and available to be obtained from third party insurers for a lower premium;~~

**Particulars**

- ~~i. The AMP Authorised Representatives failed to benchmark the AMP Life Products against one or more insurance products that were substantially equivalent or better than the AMP~~

~~Life Products and available to be obtained from third-party insurers for a lower premium.~~

- ~~ii. The AMP Authorised Representatives failed to use research reports by external research providers.~~
- ~~iii. The AMP Authorised Representatives relied on an Insurance APL that was not properly constructed, as alleged at paragraph 0 above.~~
- ~~iv. The AMP Authorised Representatives failed to obtain or review adequate information to enable the AMP Authorised Representatives to determine whether the Insurance APL had been properly constructed.~~

130.3 failing to instead recommend one or more insurance products that were substantially equivalent or better than the AMP Life Products and available to be obtained from third-party insurers for a lower premium;

130.4 failing to take reasonable steps to ensure that the financial interests of the First and Third Applicants and Stack Sub-Group Members would not be adversely affected by the conflicts of interest referred to in paragraph 128 above;

130.5 failing to take reasonable steps to ensure that the AMP Authorised Representatives' duties to the First and Third Applicants and Stack Sub-Group Members would be met despite the conflicts of interest referred to in paragraph 128 above;

### Particulars

The reasonable steps that the AMP Authorised Representatives failed to take that are pleaded in subparagraphs 130.4 and 130.5 are to not engage in the conduct pleaded at subparagraph 130.1 and failing to take the steps pleaded at: (i) subparagraph 130.3 (including, if necessary, obtaining one-off approval from AMP Advice Research to advise in relation to insurance products not on the relevant Insurance APLs); (ii) subparagraph 130.5A or (iii) subparagraph 130.9.

130.5A in the alternative to subparagraph 130.3 above, failing to instead recommend that the First and Third Applicants and Stack Sub-Group Members not obtain, renew or continue to hold an insurance product; and

~~130.6 failing to disclose to the First Applicant and Stack Sub-Group Members:~~

~~(a) that the premiums charged on the AMP Life Products included the Excess Premiums;~~

~~(b) the nature or amount of the Excess Premiums; and/or~~

~~(c) that substantially equivalent or better insurance products were available for which a premium was payable that did not include the Excess Premiums;~~

~~130.7 complying with the One-Off Approval Requirement not to advise the First Applicant and Stack Sub-Group Members in relation to insurance products not on the relevant Insurance APLs without obtaining one-off approval from AMP Advice Research;~~

~~130.8 failing to obtain one-off approval from AMP Advice Research to advise in relation to insurance products not on the relevant Insurance APLs; and~~

130.9 in the alternative to subparagraphs ~~130.4 to 130.8~~ 130.3 and 130.5A above, failing to decline to advise the client.

131. Further to paragraphs 129 and 130, during the Relevant Period the AMP Authorised Representatives failed to act in the best interests of the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members by failing to provide ongoing personal advice as alleged in Section H above in circumstances where:

131.1 the AMP Licensees and/or the AMP Authorised Representatives were contractually obliged to provide that advice; and

131.2 the AMP Licensees continued to charge fees to the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members for that advice notwithstanding the failure to provide that advice.

132. By reason of the conduct alleged in paragraphs ~~127-129~~ 129 to 131 above (individually, together or in any combination), the AMP Authorised Representatives contravened s 961B(1) of the Corporations Act.

## M.2 Conflict of Interests

133. Further or in the alternative to Section M.1, each of the AMP Authorised Representatives knew, or reasonably ought to have known, of the conflicts of interests referred to at paragraphs 127 and 128 above.

### Particulars

*The matters pleaded at paragraphs 45, 46, 50, 53, 98 and 106 above are repeated.*

134. By reason of the matters pleaded in paragraphs 121 to 125 and 132 above, at all material times, the AMP Authorised Representatives were under an obligation to give priority to the interests of the Applicants and Group Members.

### Particulars

*Section 961J(1) of the Corporations Act.*

135. During the Relevant Period, the AMP Authorised Representatives failed to give priority to the interests of the Applicants and Group Members in circumstances where there was a conflict between those interests on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices and the AMP Licensees on the other, by:

135.1 giving the personal advice referred to at paragraph 55 above to the Applicants and Group Members;

135.2 failing to disclose to the Applicants and Group Members that:

(a) the personal advice could reasonably be expected to have been influenced by the Commissions; and

(b) it would have been possible to obtain the same products without paying the Commissions;

135.2A failing to advise clients who held Legacy Products that those products were no longer included on the Platform APLs and/or Insurance APLs when providing personal advice (or otherwise):

135.2B complying with the Platform APLs and/or Insurance APLs when recommending financial products to acquire, renew or continue to hold in circumstances where those APLs did not include the lowest cost products available:

- 135.3 failing to “dial down” or “switch off” the Commissions to remove any conflict;
- 135.4 failing to rebate the Commissions to the Applicants and each of the Group Members;
- 135.5 failing to avoid the conflicts of interest referred to in paragraph 127 above;
- 135.6 improperly using his or her position to gain a benefit for the AMP Licensees and/or the AMP Authorised Representatives (or their Practices);
- 135.7 failing to advise the Applicants and Group Members that the Commissions could be “dialled down”, “switched off” or rebated to the client, or that the AMP Authorised Representatives’ fees could be reduced by the amount of the Commissions;
- 135.8 pursuing, receiving or not rebating the Commissions in circumstances where:
- (a) no additional benefits or services would be received by the Applicants and Group Members in return for the payment of the Commissions;
  - (b) it was in the financial interests of the Applicants and Group Members for the Commission payments to cease;
  - (c) it was in the financial interests of the AMP Licensees and the AMP Authorised Representatives (and if applicable, their Practices) for the Applicants and each of the Group Members to continue paying the Commissions; ~~and~~
  - (d) it was in the interests of the AMP Licensees to maintain good relations with the AMP Authorised Representatives in relation to the promotion and distribution of the Commissioned Products by continuing to pay the AMP Authorised Representatives (or their Practices) the Commissions (or part of them); and
  - (e) the Commissions made each of the Commissioned Products more expensive to acquire.
- ~~135.9 failing to keep any records, or adequate records, of the advice given to the Applicants and Group Member by the AMP Authorised Representatives.~~

136. Further to paragraph 135 above, during the Relevant Period, the AMP Authorised Representatives failed to give priority to the interests of the First and Third Applicants and Stack Sub-Group Members in circumstances where there was a conflict between those interests on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, AMP Licensees and AMP Life on the other, by:
- 136.1 giving the advice referred to at paragraph 64 above to the First and Third Applicants and Stack Sub-Group Members which included a recommendation that they acquire, renew or continue to hold one or more AMP Life Products;
- 136.2 failing instead to recommend one or more insurance products that were substantially equivalent or better than the AMP Life Products and available to be obtained from third-party insurers for a lower premium;
- 136.2A in the alternative to subparagraph 136.2 above, failing to instead recommend that the First and Third Applicants and Stack Sub-Group Members not obtain, renew or continue to hold an insurance product;
- 136.2B in the alternative to subparagraphs 136.2 and 136.2A above, failing to decline to advise the client;
- 136.3 failing to avoid the conflicts of interest referred to at paragraph 128 above;
- 136.4 failing to take reasonable steps to ensure that the AMP Authorised Representatives' obligation to give priority to the interests of the First and Third Applicants and Stack Sub-Group Members would be met despite the conflicts of interest referred to in paragraph 128 above;

#### **Particulars**

*The reasonable steps that the AMP Authorised Representatives failed to take were to not engage in the conduct pleaded at subparagraph 136.1 and failing to take the steps pleaded at subparagraph 130.3 to 130.9.*

- 136.5 improperly using their position to gain a benefit for themselves, the AMP Licensees and/or AMP Life;

### Particulars

- i. *The benefits to the AMP Authorised Representatives were the receipt of the AMP Life Commissions, the AMP Life Incentives and the Buy-Back Benefits, and avoiding the One-Off Approval Requirement and the Third-Party Insurance in Super Requirements.*
- ii. *The benefit to the AMP Licensees was the receipt of the AMP Life Commissions and the AMP Life Incentives.*
- iii. *The benefit to AMP Life was the receipt of the premiums charged on the AMP Life Products, which included the Excess Premiums.*

~~136.6 failing to obtain one-off approval from AMP Advice Research to advise the Applicants and Group Members in relation to insurance products not on the relevant Insurance APLs; and~~

~~136.7 failing to disclose to the First Applicant and Stack Sub-Group Members:~~

- ~~(a) that the premiums charged on the Insurance Policies included the Excess Premiums;~~
- ~~(b) of the nature or amount of the Excess Premiums; and/or~~
- ~~(c) that substantially equivalent or better policies of insurance were available for which a premium was payable that did not include the Excess Premiums.~~

137. Further to paragraphs 135 and 136, during the Relevant Period, the AMP Authorised Representatives failed to give priority to the interests of to the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members in circumstances where there was a conflict between those interests on the one hand, and the AMP Authorised Representatives' own interests and the interests of the AMP Licensees on the other, by failing to provide ongoing personal advice as alleged in Section H above in circumstances where:

137.1 the AMP Licensees and/or the AMP Authorised Representatives were contractually obliged to provide that advice; and



137.2 the AMP Licensees continued to charge fees to the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members for that advice notwithstanding the failure to provide that advice.

138. By reason of the conduct alleged at paragraphs 133 to 137 above (individually, together or in any combination) the AMP Authorised Representatives contravened s 961J(1) of the Corporations Act.

### **M.3 Failure to take reasonable steps**

139. Further to Section M.1 and M.2, at all material times, the AMP Licensees were under an obligation to take reasonable steps to ensure the AMP Authorised Representatives in their respective networks complied with ss 961B(1) and 961J(1) of the Corporations Act.

#### **Particulars**

##### *Section 961L of the Corporations Act.*

140. Each of the AMP Licensees knew, or ought reasonably to have known about, any or all of the matters pleaded at paragraphs 43A (dial down), 44A and 44B (dial down and increased cost), 47A (Commissions), 51 and 51A (Incentives), 54A and 54E (Buy-Back Benefit), 86 to 94E (training failures), 91 and 94F to 94O (supervision breaches), and 95 to 107 (approved products, legacy products, Third Party Insurance in Super Requirements) from the time that they occurred.

141. During the Relevant Period, the AMP Licensees failed to take reasonable steps to ensure that the AMP Authorised Representatives complied with ss 961B(1) and 961J(1) of the Corporations Act by (together, separately or in any combination):

141.1 by reason of the matters pleaded in paragraph 140 above, and any or all of the matters pleaded at paragraphs 43A (dial down), 44A and 44B (dial down and increased cost), 47A (Commissions), 51 and 51A (Incentives), 54A and 54E (Buy-Back Benefit), 86 to 94E (training failures), 91 and 94F to 94O (supervision breaches) and 95 to 103F (approved products, legacy products);

141.1A failing to instruct the AMP Authorised Representatives to advise clients who held Legacy Products that those products were no longer included on the Platform APLs and/or Insurance APLs when providing personal advice (or otherwise);

#### **Particulars**

- i. As pleaded in paragraph 87 above, none of the AMP Licensee policies required advisers to identify

clients who were continuing to hold Legacy Products (defined in paragraph 103D above) or required advisers to warn or advise clients who held Legacy Products that those products were considered by AMP to no longer be suitable for sale.

- ii. As pleaded in paragraphs 103D to 103F above, the failure of the AMP Licensees to direct its Authorised Representatives to identify and warn clients in Legacy Products was intentional, motivated by its own financial interests and occurred in the context of their knowledge that the Legacy Products were no longer appropriate to offer to clients.
- iii. The AMP Licensees could have, and should have, classified the Legacy Products with a "sell" determination.

141.1B developing and instructing the AMP Authorised Representatives to rely on the Platform APLs and/or Insurance APLs when recommending financial products to acquire, renew or continue to hold in circumstances where the APLs did not include the lowest cost products available;

141.2 failing to take reasonable steps to implement appropriate policies, systems and processes designed to ensure that the AMP Authorised Representatives did not engage in the conduct alleged at paragraphs 129 to 131 above in contravention of s 961B(1) of the Corporations Act;

141.3 failing to take reasonable steps to implement appropriate policies, systems and processes designed to ensure that the AMP Authorised Representatives did not engage in the conduct alleged at paragraphs 135 to 137 above in contravention of s 961J(1) of the Corporations Act;

~~141.3A reason that the policies, systems and processes, described in paragraphs 86 to 93 above, were premised on it being appropriate for the AMP Licensees and AMP Authorised Representatives (or their Practices) to pursue and receive Commissions;~~

~~141.4 failing to take reasonable steps to ensure that AMP Authorised Representatives were maintaining adequate records of the advice given (if any);~~

- 141.5 failing to instruct the AMP Authorised Representatives to “dial down”, “switch off” or rebate the Commissions; and
- 141.6 failing to instruct AMP Authorised Representatives to reduce the Representatives’ fees by the amount of the Commissions. ~~and~~
- ~~141.7 failing to take reasonable steps to ensure that the instructions referred to in paragraphs 141.5 and 141.6 above were complied with, and (in the event they were not) prohibited the AMP Authorised Representatives (or their Practices) to receive the Commissions.~~
142. Further or in the alternative to paragraph 141 above, during the Relevant Period, the AMP Licensees failed to take reasonable steps to ensure that the AMP Authorised Representatives complied with ss 961B and 961J of the Corporations Act with respect to the First and Third Applicants and Stack Sub-Group Members by (together, separately or in any combination):
- 142.1A reason of the matters pleaded in paragraphs 140 above, and each of the matters pleaded at paragraphs 47A (Commissions), 51A (Incentives), 54A (Buy-Back Benefit), and/or 95 to 107 (approved products, legacy products, Third Party Insurance in Super Requirements);
- 142.1B issuing Insurance APLs that included the AMP Life Products;
- 142.1C failing to remove the AMP Life Products from the Insurance APLs;
- 142.1D failing to instruct AMP Authorised Representatives not to recommend that clients obtain, renew or continue to hold AMP Life Products;
- 142.1E failing to prevent AMP Authorised Representatives from recommending that clients obtain, renew or continue to hold AMP Life Products;
- ~~142.1 failing to take reasonable steps to produce Insurance APLs and Benchmarking Guidelines which prioritised the interests of retail clients by including insurance products from third party insurers that were substantially equivalent or better than the AMP Life Products and available for lower premiums for the purpose of the AMP Authorised Representatives providing advice on insurance products which was in the best interests of retail clients;~~

142.2 ~~failing to take reasonable steps to~~ include on the Insurance APLs insurance products from third-party insurers that were substantially equivalent or better than the AMP Life Products and available for lower premiums, ~~thereby requiring the AMP Authorised Representatives to seek one-off approval to recommend these other insurance products;~~

### Particulars

*The particulars of the third-party insurance products in paragraph 97 are relied on and repeated.*

142.3 imposing the One-Off Approval Requirement on AMP Authorised Representatives to recommend insurance products from third-party insurers that were not on the Insurance APLs and were substantially equivalent or better than the AMP Life Products and available for lower premiums; ~~failing to take reasonable steps to amend or widen the Insurance APLs to include one or more insurance products from third party insurers that were substantially equivalent or better than the AMP Life Products and available for lower premiums, which the AMP Authorised Representatives could recommend without the need to seek one-off approval;~~

142.3A producing or having in place Platform APLs which contained Platforms on which the only life and risk insurance products that could be placed were products issued by AMP Life;

~~142.4 failing to take reasonable steps to amend or widen the Platform APLs which listed platforms that included one or more insurance products from third party insurers that were substantially equivalent or better than the AMP Life Products and available for lower premiums, which the AMP Authorised Representatives could recommend without the need to seek one-off approval;~~

142.5 ~~failing to take reasonable steps to~~ remove (or request the AMP Super Trustees remove) the incentive created by the Third Party Insurance in Super Requirements for AMP Authorised Representatives to recommend that ~~the First Applicant and Stack Sub-Group Members~~ clients who were members of an AMP Super Fund, or were advised to join an AMP Super Fund, acquire, renew or continue to hold an AMP Life Product through their superannuation account rather than acquire insurance issued by a third party insurer through their superannuation account;

- ~~142.6 failing to take reasonable steps to remove (or request AMP Life remove) the incentive created by the AMP Life Commissions, Incentives and Buy-Back Benefits for the AMP Authorised Representatives to recommend that clients ~~the First Applicant and Stack Sub Group Members~~ acquire, renew or continue to hold AMP Life Products;~~
- ~~142.7 failing to take reasonable steps to remove (or request AMP Life remove) the incentive created by the AMP Life Incentives for the AMP Authorised Representatives to recommend that the First Applicant and Stack Sub Group Members clients acquire, renew or continue to retain AMP Life Products;~~
- ~~142.8 failing to take reasonable steps to manage or address the conflict created between the First Applicant's and Stack Sub Group Members' interests on the one hand, and the AMP Licensees' own interests and the interests of the AMP Authorised Representatives (and, if applicable, their Practices) and AMP Life on the other, as a consequence of the Buy Back Benefits, and to manage or remove the incentive created by the Buy Back Benefits for the AMP Authorised Representatives to recommend that the First Applicant and Stack Sub Group Members acquire, renew or continue to retain AMP Life Products;~~
- ~~142.9 failing to take reasonable steps to ensure that there were policies and systems in place designed to safeguard against the AMP Authorised Representatives engaging in conduct (as alleged at paragraph 129 above) that would contravene s 961B(1) of the Corporations Act, and that those policies and systems were followed, enforced and regularly reviewed;~~
- ~~142.10 failing to take reasonable steps to ensure that there were policies and systems in place designed to safeguard against the AMP Authorised Representatives engaging in conduct (as alleged at paragraph 136 above) that would contravene s 961J(1) of the Corporations Act, and that those policies and systems were followed, enforced and regularly reviewed;~~
- ~~142.11 failing to take reasonable steps to ensure that:~~
- ~~(a) the AMP Authorised Representatives were adequately trained and competent to provide advice which did not cause them to contravene their obligations to the First Applicant and Stack Sub Group Members under ss 961B and 961J of the Corporations Act; and~~

~~(b) the AMP Licensees had in place adequate processes and systems to monitor and supervise the AMP Authorised Representatives to ensure compliance with ss 961B and 961J of the Corporations Act in relation to the provision of advice to the First Applicant and Stack Sub-Group Members; and~~

~~142.12 the AMP Licensees had in place adequate processes and systems to manage risks in their advice businesses as a consequence of the conflicts created by reason of the AMP Life Commissions, AMP Life Incentives, Buy Back Options, the One-Off Approval Requirement and the Third-Party Insurance in Super Requirements.~~

143. By reason of the conduct alleged in paragraphs 141 to 142 above (individually, together or in any combination), the AMP Licensees contravened s 961L of the Corporations Act.

143A. If the AMP Licensees had not engaged in the contraventions of s 961L of the Corporations Act alleged in paragraph 141 above then:

143A.1 the AMP Licensees would have uncovered from on or around the beginning of the Relevant Period high rates of a failure to comply with AMP Policies, AMP QAFs, AMP Conflict Policies, the obligations in ss 961B and 961J of the Corporations Act, and the AMP Authorised Representatives' fiduciary duties:

143A.2 the Applicants and Group Members would not have paid the Commissions, or the Commissions would have been rebated to the Applicants and Group Members:

143A.3 the AMP Authorised Representatives would not have received the Commissions or they would have rebated them to the Applicants and Group Members:

143A.4 the Applicants would have acquired a similar financial product for a materially cheaper cost.

143B. Further or in the alternative to paragraph 143A above, if the AMP Licensees had not engaged in the contraventions of s 961L of the Corporations Act alleged in paragraph 141 above then:

143B.1 the AMP Authorised Representatives would not have recommended that the First and Third Applicants and Stack Sub-Group Members acquire, renew or continue to hold one or more AMP Life Products:

143B.2 the AMP Authorised Representatives would have instead recommended that the First and Third Applicants and Stack Sub-Group Members acquire, renew or continue to hold one or more insurance products that were substantially equivalent or better than the AMP Life Products and available to be obtained from third-party insurers for a lower premium, or not obtain, renew or continue to hold an insurance product:

143B.3 the First and Third Applicants and Stack Sub-Group Members would not have paid the AMP Life Premiums, including the Excess Premiums, on the AMP Life Products acquired, renewed or continued to be held pursuant to the recommendations of the AMP Authorised Representatives:

143B.4 AMP Life would not have received the AMP Life Premiums paid on the AMP Life Products of the First and Third Applicants and Stack Sub-Group Members:

143B.5 the AMP Licensees and the AMP Authorised Representatives (or their Practices) would not have received the AMP Life Commissions in relation to the AMP Life Products of the First and Third Applicants and Stack Sub-Group Members.

#### **M.4 Loss and Damage**

144. The Applicants and Group Members each suffered loss or damage as a result of the contraventions pleaded at paragraphs 132, 138 and 143<sub>above</sub>.

##### **Particulars**

- i. *The Applicants and Group Members paid the Commissions, and further or in the alternative, the Respondents received and earned profit on the Commissions.*
- ii. *The particulars to paragraphs 15, 22, 31 and 36 above are repeated.*
- iii. *Further or in the alternative, the First and Third Applicants and the Stack Sub-Group Members paid the Excess Premiums on the AMP Life Products acquired, renewed or continued to be held pursuant to the recommendations of the AMP Authorised Representatives.*
- iv. *The particulars at paragraph 69 are repeated.*
- v. *Sections 961M(2) and (4) of the Corporations Act.*

vi. *Particulars relating to claims of Group Members will be provided following the initial trial of the common questions and the Applicants' claims.*

145. By reason of the matters pleaded in paragraph 7.2 above, the AMP Licensees were the responsible licensees within the meaning of s 961P of the Corporations Act in relation to the contraventions of ss 961B(1) and 961J(1) by their respective AMP Authorised Representatives pleaded at paragraphs 132 and 138 above.
146. By reason of the matters pleaded in paragraphs 144 to 145 above, the AMP Licensees are liable to compensate the Applicants and Group Members for such loss or damage, including profits resulting from the alleged contraventions that were made by the AMP Licensees and the AMP Authorised Representatives, pursuant to ss 961M(2) and (4) of the Corporations Act.

## N. ANTI-AVOIDANCE CONTRAVENTIONS

~~147. The matters in this Section are pleaded further or in the alternative to Section M.~~

~~148. Throughout the Relevant Period, AMP and the AMP Licensees were prohibited from entering into, beginning to carry out or carrying out a scheme or any part of a scheme:~~

~~148.1 for a non incidental purpose of avoiding the application of any provision of Part 7.7A of the Corporations Act; if~~

~~148.2 the scheme has achieved, or would achieve, that purpose,~~

~~(the **Anti-Avoidance Provision**).~~

### **Particulars**

~~Section 965(1) of the Corporations Act.~~

~~149. After 1 July 2013, AMP and the AMP Licensees expected Commissions payable on products other than insurance products (**Non-Insurance Product Commissions**) to the AMP Authorised Representatives to cease when a client or a book of clients transitioned from one AMP Authorised Representative to another AMP Authorised Representative with a different AFSL or from one AMP Authorised Representative's AFSL to another.~~

### **Particulars**

~~i. *Transcript of the Banking Royal Commission on 17 April 2018, at 1137-1140.*~~



~~ii. AMP Practice Proposition Steering Committee dated 24 May 2013.~~

~~150. After 1 July 2013, and during the Relevant Period, the AMP Licensees and wholly owned subsidiaries of AMP received substantial amounts of Non-Insurance Product Commissions.~~

**Particulars**

~~Transcript of the Banking Royal Commission on 17 April 2018, at 1138.~~

~~151. For the reasons given at paragraphs 45 to 47 above, Commissions are conflicted remuneration within the meaning of Division 4 of Part 7.7A of the Corporations Act.~~

~~152. From 1 July 2013, the AMP Licensees and the AMP Authorised Representatives were banned from receiving conflicted remuneration.~~

**Particulars**

~~Sections 963E(1) and 963G(1) of the Corporations Act.~~

~~153. On or around May or June 2013, the AMP Licensees and AMP entered into, began to carry out or carried out a restructure or part of a restructure with the non-incident purpose that Non-Insurance Product Commissions could continue to be paid after 1 July 2013 (the **Scheme**).~~

~~154. The Scheme was effected by the AMP Licensees and AMP restructuring its business by establishing the "Register Co" which held the AMP Licensees and AMP Authorised Representatives register (or book) of clients in a central pool so that they could be transitioned between AMP AFSL holders in order to maintain Product Commissions.~~

**Particulars**

~~i. Banking Royal Commission, 17 April Transcript at 1137 to 1140.~~

~~ii. AMP Practice Proposition Steering Committee dated 24 May 2013.~~

~~155. In the premise of paragraph 153, the non-incident purpose of the Scheme to avoid the ban on conflicted remuneration contained in Division 4 of Part 7.7A of the Corporations Act.~~

~~156. In the premise of paragraphs 148 to 149, the Scheme has achieved that purpose.~~

~~157. In the premise of paragraphs 147 to 156, AMP and the AMP Licensees have breached s 965(1) of the Corporations Act.~~

~~158. The Applicants and Group Members each suffered loss or damage as a result of the contraventions pleaded at paragraph 157 above.~~

**Particulars**

~~i. The Applicants and Group Members paid the Commissions, or alternatively the Respondents received and earned profit on the Commissions.~~

~~ii. Particulars relating to claims of Group Members will be provided following the initial trial of the common questions and the Applicants' claims.~~

~~159. In the premise of paragraph 158, the Applicants and Group Members are entitled to compensation.~~

**Particulars**

~~Sections 1317E(1) and 1317HA(1) of the Corporations Act.~~

**O. FIDUCIARY OBLIGATIONS AND BREACH**

**O.1 AMP Licensee and Authorised Representatives**

160. The matters in this Section and Section P below are pleaded further or in the alternative to Sections M and N.

161. By reason of the matters pleaded in paragraphs 7.3, 55, 56 and 61.2 above, at all material times the AMP Licensees owed to the Applicants and Group Members a fiduciary duty to:

161.1 avoid the real or substantial possibility of conflicts between the interests of the Applicants and Group Members, on the one hand, and the AMP Licensees' own interests and the interests of the AMP Authorised Representatives (and, if applicable, their Practices) on the other;

161.2 not improperly use its position to gain an advantage for itself or the AMP Authorised Representatives (or their Practices).

**Particulars**

*i. The particulars to paragraphs 55 and 57 are repeated.*

- ii. *The AMP Authorised Representatives were held out by the AMP Licensees, and further or in the alternative were authorised by the AMP Licensees, as having expertise in providing financial advice in relation to the Commissioned Products.*
- iii. *The AMP Licensees, and further the AMP Authorised Representatives acting as their agents, were able to control the flow of relevant information to the Applicants and Group Members in relation to the Commissioned Products.*
- iii. *The Applicants and Group Members were dependent upon the financial advice given to them by AMP Authorised Representatives, on behalf of the AMP Licensees, in relation to the Commissioned Products.*
- iv. *Further particulars relating to the claims of Group Members will be provided following the initial trial of the common questions and the Applicants' claims.*
- v. *The scope of the fiduciary duty owed to the Applicants and Group Members was to avoid the real or substantial possibility of conflicts and not to gain an advantage for themselves or the AMP Authorised Representatives (or their Practices) in circumstances of a conflict.*
- vi. *During the Relevant Period, AMPFP acknowledged that it owed a fiduciary duty to act in the best interests of its clients and to avoid unauthorised conflicts of interest when providing personal advice to retail clients: AMF.3014.0001.8173.*

162. Further or in the alternative to paragraph 161 above, by reason of the matters pleaded in paragraphs 7.3, 61.2, and 63 to 65 above, at all material times the AMP Licensees owed to the First and Third Applicants and Stack Sub-Group Members a fiduciary duty to:

162.1 avoid the real or substantial possibility of conflicts between the interests of the First and Third Applicants and Stack Sub-Group Members, on the one hand, and the AMP Licensees' own interests and the interests of the AMP Authorised Representatives and/or AMP Life on the other; and/or

162.2 not improperly use its position to gain an advantage for itself, the AMP Authorised Representatives and/or AMP Life.

#### Particulars

- i. *Particulars to paragraphs 63 to 65 above are repeated.*
- ii. *The AMP Authorised Representatives were held out by the AMP Licensees, and further or in the alternative were authorised by the AMP Licensees, as having expertise in providing financial advice on insurance and the premiums payable on insurance.*
- iii. *The AMP Licensees, and further the AMP Authorised Representatives acting as their agents, were able to control the flow of relevant information to each of the First and Third Applicants and Stack Sub-Group Members in relation to insurance and the premiums payable on that insurance.*
- iv. *Each of the ~~The~~ First and Third Applicants and each of the Stack Sub-Group Members were dependent upon the financial advice given to them by AMP Authorised Representatives, on behalf of the AMP Licensees, in deciding what policies of insurance they should obtain and the amount of the premiums that should be paid on those policies.*
- v. *Further particulars relating to the claims of Stack Sub-Group Members will be provided following the initial trial of the common questions and the Applicants' claims.*
- vi. *The scope of the fiduciary duty owed to the Applicant and Group Members was to avoid the real or substantial possibility of conflicts and not to gain an advantage for themselves or the AMP Authorised Representatives (or their Practices) in circumstances of a conflict.*
- vii. *During the Relevant Period, AMPFP acknowledged that it owed a fiduciary duty to act in the best interests of its clients and to avoid unauthorised conflicts of interest when providing personal advice to retail clients: AMF.3014.0001.8173.*

163. At all material times, there was an actual conflict between the interests of the Applicants and Group Members, on the one hand, and AMP Licensees' interests and the interests of the AMP Authorised Representatives (and their Practices) on the other.

**Particulars**

*The particulars to paragraph 127 above are repeated.*

164. Further or in the alternative to paragraph 163 above, at all material times, there was a conflict between the interests of the First and Third Applicants and Stack Sub-Group Members on the one hand, and the AMP Licensees' own interests and the interests of the AMP Authorised Representatives (and their Practices) and/or AMP Life on the other.

**Particulars**

*The particulars to paragraph 128 are repeated.*

165. During the Relevant Period, the AMP Licensees breached their fiduciary duties owed to the Applicants and the Group Members by:

165.1 failing to avoid the conflicts referred to in paragraph 163 above; and/or

**Particulars**

*The matters in paragraphs 135 to 137 are repeated.*

165.2 improperly using their position to gain a benefit for themselves and the AMP Authorised Representatives.

**Particulars**

i. *The benefit to the AMP Licensees was the receipt of the Commissions.*

ii. *The benefit to the AMP Authorised Representatives (and, if applicable, their Practices) was the (by them or their Practices) receipt of the Commissions and Incentives.*

166. Further or in the alternative to paragraph 165 above, the AMP Licensees breached their fiduciary duties owed to the First and Third Applicants and the Stack Sub-Group Members by:

166.1 failing to avoid the conflicts referred to in paragraph 164 above; and/or

**Particulars**

*The matters in paragraphs 135 to 137 are repeated.*

166.2 improperly using their position to gain a benefit for themselves, the AMP Authorised Representatives and/or AMP Life.

**Particulars**

- i. *The benefit to the AMP Licensees was the receipt of the Commissions and Incentives.*
- ii. *The benefit to the AMP Authorised Representatives (and, if applicable, their Practices) was the (by them or their Practices) receipt of the Commissions and Incentives.*
- iii. *The benefit to AMP Life was the receipt of the premiums charged on the AMP Life Products, which included the Excess Premiums.*

167. Further or in the alternative to paragraphs 161 and 166, by reason of the matters pleaded in paragraphs 7.3, 55, 56 and 61.2 above, at all material times the AMP Authorised Representatives owed to the Applicants and Group Members a fiduciary duty to:

167.1 avoid the real or substantial possibility of conflicts between the interests of the Applicants and Group Members, on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, the AMP Licensees on the other; and/or

167.2 not improperly use its position to gain an advantage for themselves or the AMP Licensees.

**Particulars**

*The particulars to paragraphs 55, 57 and 161.2 are repeated.*

168. Further or in the alternative to paragraph 167 above, by reason of the matters pleaded in paragraphs 7.3, 61.2, and 63 to 65 above, at all material times the AMP Authorised Representatives owed to the First and Third Applicants and the Stack Sub-Group Members a fiduciary duty to:

168.1 avoid the real or substantial possibility of conflicts between the interests of the First and Third Applicants and Stack Sub-Group Members, on the one hand, and the AMP Authorised Representatives' own interests and the interests of their Practices, the AMP Licensees and/or AMP Life on the other; and/or

168.2 not improperly use its position to gain an advantage for itself, the AMP Authorised Representatives and/or AMP Life.

**Particulars**

*Particulars to paragraphs 63 to 65 and 162 above are repeated.*

169. During the Relevant Period, the AMP Authorised Representatives breached their fiduciary duty owed to the Applicants and Group Members by:

169.1 failing to avoid the conflicts referred to in paragraph 163 above; and/or

**Particulars**

*The matters in paragraphs 135 to 137 are repeated.*

169.2 improperly using their position to gain a benefit for themselves, their Practices, the AMP Licensees and/or AMP Life.

**Particulars**

*The particulars at paragraph 165.2 above are repeated.*

170. Further or in the alternative to paragraph 169 above, the AMP Authorised Representatives breached their fiduciary duties owed to the First and Third Applicants and Stack Sub-Group Members by:

170.1 failing to avoid the conflicts referred to in paragraph 164 above; and/or

**Particulars**

*The matters in paragraphs 135 to 137 are repeated.*

170.2 improperly using their position to gain a benefit for themselves, their Practices, the AMP Authorised Representatives and/or AMP Life.

**Particulars**

*The particulars to paragraph 166.2 are repeated.*

171. By reason of the matters pleaded in paragraphs 108 to 111 above, the AMP Licensees are responsible for the conduct of their respective AMP Authorised Representatives alleged at paragraphs 169 and 170 above and for any loss or damage suffered by the Applicants and Group Members as a result.

172. In the premises, the AMP Licensees are liable to account for and pay to the Applicants and Group Members all benefits, profits and gains made or derived by the AMP Authorised

Representatives (and/or their Practices), the AMP Licensees and AMP Life by reason of the breaches of fiduciary duty by the AMP Licensees and/or their AMP Authorised Representatives.

**Particulars**

*The particulars at paragraph 166.1 and 166.2 above are repeated.*

173. Further or in the alternative, the Applicants and each of the Group Members suffered loss or damage by reason of the breaches of fiduciary duty by the AMP Licensees and/or their AMP Authorised Representatives.

**Particulars**

*The particulars at paragraph 144 are repeated.*

174. Pursuant to s 917E(1) of the Corporations Act, the AMP Licensees are liable to pay equitable compensation to each of the Applicants and Group Members for such loss or damage.

**O.2 ASL**

174A. By reason of being the trustee of ASST and ART, during the Relevant Period, ASL owed to the First and Third Applicants and the Group Members that were members of those funds fiduciary duties to:

174A.1 avoid the real or substantial possibility of conflicts between the interests of those members, on the one hand, and ASL's own interests and the interests of AMP Life on the other;

174A.2 not improperly use its position to gain an advantage for itself and/or AMP Life.

174B. At all material times, there was an actual conflict between the interests of the First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART, on the one hand, and ASL's interests and the interests of AMP Life, the AMP Licensees and the AMP Authorised Representatives (and, if applicable, their Practices) on the other.

**Particulars**

- i. *It was in the interests of the First and Third Applicants and those Group Members to have*



- the best insurance product with the lowest premiums.
- ii. It was in the interests of the First and Third Applicants and those Group Members to have the best insurance product with the lowest premiums available to hold within ASST and/or ART and/or not subject to the Third-Party Insurance in Super Requirements.
  - iii. By reason of the AMP Life Commissions, AMP Life Incentives, Buy-Back Benefits, One-Off Approval Requirement and the Third-Party Insurance in Super Requirements, it was in the interests of the AMP Authorised Representatives (and, if applicable, their Practices) for their clients, including the First and Third Applicants and those Group Members who held AMP Life Products within ASST and/or ART, to acquire, renew or continue to hold AMP Life Products rather than insurance products issued by a third-party provider.
  - iv. By reason of the AMP Life Commissions and AMP Life Incentives, it was in the interests of the AMP Licensees for clients of their AMP Authorised Representatives, including the First and Third Applicants and those Group Members who held AMP Life Products within ASST and/or ART, to acquire, renew or continue to hold AMP Life Products rather than insurance products issued by a third-party provider.
  - v. By reason of the AMP Life Premiums payable to AMP Life on AMP Life Products, it was in the interests of AMP Life that members of ASST and ART acquire, renew or continue to hold AMP Life Products rather than insurance products issued by a third-party provider, and that AMP Life Products were available to members of ASST and ART to hold within the fund; that other substantially equivalent or better insurance products with the lower premiums were not available and/or did not replace AMP Life Products in the funds, that ASL did not renegotiate the terms of the policies with AMP Life in relation to AMP Life Products to reduce

the costs for members; and that AMP Life receive the ASL Member Fees.

- vi. It was in the interests of ASL to receive the services from AMP Life pleaded in paragraph 107B.3; and that ASL receive the ASL Member Fees from members and the trustee service fees from AMP Life. As pleaded in paragraph 107B.3 above, ASL received the services from AMP Life in consideration for AMP Life receiving AMP Life Premiums. It was therefore in the interests of ASL that members of ASST and ART acquire, renew or continue to hold AMP Life Products on which AMP Life Premiums were payable, rather than insurance products issued by a third-party provider, and that AMP Life Products were available to members of ASST and ART to hold within the fund; that other substantially equivalent or better insurance products with the lower premiums were not available and/or did not replace AMP Life Products in the funds; that ASL did not renegotiate the terms of the policies with AMP Life in relation to AMP Life Products to reduce the AMP Life Premiums payable on those products.

174C. During the Relevant Period, ASL breached its fiduciary duties owed to the First and Third Applicants and those Group Members that held AMP Life Products within ASST and/or ART by:

174C.1 failing to avoid the conflicts referred to in paragraph 174B above; and/or

**Particulars**

The matters in paragraphs 106, 107C and to 107E are relied on and repeated.

174C.2 improperly using its position to gain a benefit for itself and/or AMP Life, the AMP Licensees and the AMP Authorised Representatives (and, if applicable, their Practices).

**Particulars**

- i. The benefits to ASL were the services from AMP Life pleaded in paragraph 107B.3, the ASL

Member Fees and the trustee service fees from AMP Life.

- ii. The benefits to AMP Life were the AMP Life Premiums, including the Excess Premiums, and the ASL Member Fees from ASL.
- iii. The benefits to the AMP Licensees and AMP Authorised Representatives (and, if applicable, their practices) were the AMP Life Commissions.
- iv. Further in respect of ASL's improper use of its position as trustee of the funds, the matters alleged in paragraphs 107A to 107E and 174B above are relied on and repeated.

### **O.3 AMP Life**

174CA. During the Relevant Period:

174CA.1 AMP Life undertook to act in the interests of and/or for the benefit of members of ASST and/or ART in its operation and administration of the funds:

#### **Particulars**

- i. As to AMP Life's operation and administration of ASST and/or ART, paragraphs 107B to 107D are relied on and repeated.
- ii. That undertaking was in part express and part implied.
- iii. To the extent it was express, it was contained in AMP Life's undertaking to provide the services under the Master Outsourcing Agreement in accordance with ASL's duties and obligations as trustee of ASST and/or ART pleaded at paragraph 107B.2 above.
- iv. To the extent it was implied, it was implied from AMP Life's undertaking pleaded at paragraph 107B.2 above; ASL's responsibility to manage the funds for the benefit of members as pleaded in paragraph 107A.1 above; AMP Life's knowledge that the functions and services it agreed to perform pursuant to the Master Outsourcing Agreement for ASL (as pleaded in paragraph 107B above) were to be performed for the benefit of members of the funds, which knowledge is inferred from the nature of those functions and services, and ASL's status

as a sole purpose superannuation trustee within the AMP Group; and AMP Life's conduct during the Relevant Period pleaded in paragraph 107D.1 to 107D.5 above.

- v. Further particulars may be provided following discovery.

174CA.2 the members of ASST and/or ART were vulnerable to the abuse by AMP Life of its position operating and administering ASST and/or ART;

**Particulars**

The exercise of the AMP Life's powers and functions in operating and administering ASST and/or ART would affect the interests of members.

174CA.3 AMP Life knew the vulnerability of members of ASST and/or ART pleaded in paragraph 174CA.2 above;

**Particulars**

AMP Life's knowledge is inferred from its operation and administration of ASST and/or ART, the nature of those powers and functions, and the undertaking referred to paragraph 174CA.1 above.

174CA.3 AMP Life was aware that the operation and administration of ASST and/or ART it was performing for ASL was for the benefit of fund members;

**Particulars**

AMP Life's awareness is inferred from the nature of those functions and ASL's status as a sole purpose superannuation trustee within the AMP Group.

174D. During the Relevant Period, AMP Life owed to the members of ASST and ART fiduciary duties to:

174D.1 avoid the real or substantial possibility of conflicts between the interests of those members, on the one hand, and ASL's own interests and the interests of AMP Life on the other;

174D.2 not improperly use its position to gain an advantage for itself and/or ASL.

**Particulars**

The duties arise from the matters pleaded in paragraphs 107A to 107D and 174CA above.

174E. At all material times, there was an actual conflict between the interests of the First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART, on the one hand, and AMP Life's interests and the interests of ASL, the AMP Licensees and the AMP Authorised Representatives (and, if applicable, their Practices) on the other.

**Particulars**

*The particulars to paragraph 174B are repeated.*

174F. During the Relevant Period, AMP Life breached their fiduciary duties owed to the First and Third Applicants and those Group Members that held AMP Life Products within ASST and/or ART by:

174F.1 failing to avoid the conflicts referred to in paragraph 174E above; and/or

**Particulars**

*The matters in paragraphs 107D and 107E repeated.*

174F.2 improperly using its position to gain a benefit for itself and/or ASL, the AMP Licensees and the AMP Authorised Representatives (and, if applicable, their Practices).

**Particulars**

- i. *The particulars (i) to (iii) to paragraph 174C.2 are repeated.*
- ii. *Further in respect of AMP Life's improper use of its position as operator and administrator of ASST and ART, the matters alleged in paragraphs 107A to 107E and 174E above are relied on and repeated.*

174G. In the premises, AMP Life is liable to account for and pay to the First and Third Applicants and those Group Members all benefits, profits and gains made or derived by the AMP Authorised Representatives (and/or their Practices), the AMP Licensees, ASL and AMP Life by reason of the breaches of fiduciary duty by AMP Life.

**Particulars**

*The particulars at paragraph 174C.2 above are repeated.*

174H. Further or in the alternative, the First and Third Applicants and those Group Members suffered loss or damage by reason of the breaches of fiduciary duty by AMP Life.

**Particulars**

- i. *The First and Third Applicants and those Group Members paid AMP Life Premiums on their AMP Life Products held within ASST and/or ART, which included Excess Premiums.*
- ii. *Further or in the alternative, the First Applicant and those Group Members paid Commissions on those AMP Life Products.*

174I. AMP Life is liable to pay equitable compensation to each to the First and Third Applicants and those Group Members for loss or damage suffered by reason of those breaches of fiduciary duty.

**P. KNOWING RECEIPT BY AMP LIFE**

**P.1 Breaches of duty by AMP Authorised Representatives and/or the AMP Licensees**

175. At the time that AMP Life received the Excess Premiums, it knew:

175.1 the material facts giving rise to the existence of the fiduciary duties owed by the AMP Authorised Representatives and/or the AMP Licensees to the First and Third Applicants and Stack Sub-Group Members as pleaded in paragraphs 162 and 168 above; and

**Particulars**

- i. *AMP Life's knowledge of those matters is to be inferred from AMP Life issuing the AMP Life Products to the First Applicant and Stack Sub-Group Members; its charging and receipt of the premiums on the AMP Life Products, including the Excess Premiums; and its payment of the AMP Life Commissions and AMP Life Incentives.*
- ii. *Further particulars may be provided following receipt of the Respondents' discovery.*

175.2 the material facts giving rise to the breaches of those fiduciary duties by the AMP Authorised Representatives and/or the AMP Licensees as paragraphs 166 and 169 ~~162 and 168~~ above.

**Particulars**

- i. *The particulars to paragraph 175.1 above are repeated.*
- ii. *Further particulars may be provided following receipt of the Respondents' discovery.*

176. Further or in the alternative to paragraph 175 above, at the time that AMP Life received the Excess Premiums, it knew of the circumstances that would have indicated to an honest and reasonable person the material facts referred to in paragraphs 175.1 and 175.2 above.

**Particulars**

*The particulars at paragraphs 175.1 and 175.2 are repeated.*

177. By reason of the matters pleaded in paragraphs 175 and 176 above, AMP Life is liable to account for and pay to the First and Third Applicants and Stack Sub-Group Members all benefits, profits and gains made or derived by AMP Life from its receipt and use of the AMP Life Premiums paid by the First and Third Applicants and Stack Sub-Group Members, including the Excess Premiums.

**Particulars**

*AMP Life received, and made or derived profits from, the premiums paid on the First and Third Applicant's and the Stack Sub-Group Members' AMP Life Products, including the Excess Premiums.*

178. Further or in the alternative, each of the First and Third Applicants and the Stack Sub-Group Members suffered loss or damage by reason of AMP Life knowingly receiving the Excess Premiums paid by the First and Third Applicants and Stack Sub-Group Members, as a result of the breach of fiduciary duty by the AMP Licensees and/or AMP Authorised Representatives.

**Particulars**

*The First and Third Applicants and the Stack Sub-Group Members paid premiums, which included the Excess Premiums, on the AMP Life Products.*

179. By reason of the matters pleaded in paragraphs 175, 176 and 178 above, AMP Life is liable to pay equitable compensation to the First and Third Applicants and Stack Sub-Group Members for such loss or damage

**P.2 Breaches of fiduciary duty by ASL**

- 179A. Further or in the alternative, at the time that AMP Life received the AMP Life Premiums on AMP Life Products of the First and Third Applicants and the Group Members that held those products within ASST and/or ART, which premiums included Excess Premiums, it knew:

179A.1 the material facts giving rise to the existence of the fiduciary duties owed by the ASL to the First and Third Applicants and those Group Members, as pleaded in paragraph 174A above; and

**Particulars**

- i. AMP Life's knowledge of the fact that ASL was trustee of ASST and ART, giving rise to fiduciary duties to members of those funds, is to be inferred from the matters pleaded in paragraphs 107B to 107D, including that AMP Life had entered into the Master Outsourcing Agreement with ASL to provide services for the administration of the funds and by that agreement undertook to provide services in accordance with ASL's obligations as trustee.
- ii. By reason of its obligations to maintain records of the insurance of each of the members held within the funds, its processing of deductions of insurance premiums from members' accounts in relation to those policies, and its communications with those members AMP Life is inferred to have been aware of the fiduciary duties owed by ASL to each of those members.

179A.2 the material facts giving rise to the breaches of those fiduciary duties by ASL pleaded in paragraph 174C above.

**Particulars**

AMP Life's knowledge of those matters is to be inferred from:

- i. the delegation of the administration of the funds by ASL to AMP Life pursuant to the Master Outsourcing Agreement, including its agreement to provide the services pleaded in paragraph 107B above;
- ii. the conduct of AMP Life pleaded in paragraphs 107D and 107E above;
- iii. its issue of the AMP Life Products held by or for the benefit of members within the funds and its charging of the premiums of those products;
- iv. its receipt of those premiums as the issuer of the AMP Life Products;
- v. particular (i) to paragraph 96A;



vi. in respect of the First and Third Applicants, its knowledge of deductions of the premiums payable of the First and Third Applicants' AMP Life Products and the consequential reduction of the balance of the funds in their superannuation accounts.

Further particulars may be provided following discovery.

179B. Further or in the alternative to paragraph 179A above, at the time that AMP Life received the Excess Premiums, it knew of the circumstances that would have indicated to an honest and reasonable person the material facts referred to in paragraphs 179A.1 and 179A.2 above.

#### **Particulars**

The particulars to paragraphs 179A.1 and 179A.2 are repeated.

179C. By reason of the matters pleaded in paragraphs 179A and 179B above, AMP Life is liable to account for and pay to the First and Third Applicants and those Group Members that held AMP Life Products within ASST and/or ART all benefits, profits and gains made or derived by AMP Life from its receipt and use of the AMP Life Premiums paid by the First and Third Applicants and those Group Members that held AMP Life Products within ASST and/or ART, including the Excess Premiums.

#### **Particulars**

AMP Life received, and made or derived profits from, the AMP Life Premiums paid on the AMP Life Products of the First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART, including the Excess Premiums.

179D. Further or in the alternative, each of the First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART suffered loss or damage by reason of AMP Life knowingly receiving the Excess Premiums paid by them, as a result of the breaches of fiduciary duty by ASL.

#### **Particulars**

The First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART paid premiums, which included the Excess Premiums, on the AMP Life Products.

179E. By reason of the matters pleaded in paragraphs 179A, 179B and 179D above, AMP Life is liable to pay equitable compensation to the First and Third Applicants and Group Members that held AMP Life Products within ASST and/or ART for such loss or damage.

**Q. OSF CONTRACTUAL BREACH**

180. The matters in this Section are pleaded further or in the alternative to Sections M to P.

181. Pursuant to the terms of the AMP Ongoing Service Package, during the Relevant Period:

181.1 the AMP Authorised Representatives were obliged to provide ongoing personal advice to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members;

181.2 any ongoing personal advice was required to comply with ss 961B and 961J of the Corporations Act; and

181.3 further to paragraph 181.1, the AMP Authorised Representatives were obliged to provide to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members the other services alleged at paragraph 71 as part of the AMP Ongoing Service Package.

**Particulars**

*The particulars in paragraph 76 are repeated.*

182. During the Relevant Period, in breach of the AMP Ongoing Service Package:

182.1 the AMP Authorised Representatives did not provide ongoing personal advice to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members in accordance with the terms of the AMP Ongoing Service Package;

182.2 further or in the alternative to paragraph 182.1, to the extent that the AMP Authorised Representatives did provide personal advice to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members during the Relevant Period, that advice did not comply with ss 961B and 961J of the Corporations Act; and

**Particulars**

*The matters in paragraphs 132 and 138 are repeated.*

182.3 the AMP Authorised Representatives did not provide the other services to be provided as part of the AMP Ongoing Service Package, alleged at paragraph 71 above, to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members.

183. By reason of the matters pleaded in paragraphs 108 to 111 above, the AMP Licensees are responsible for the conduct of their respective AMP Authorised Representatives alleged at paragraphs 182 above and for any loss or damage suffered by the Applicants and Group Members as a result.
184. By reason of the breaches alleged in paragraph 182 above, the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members have suffered loss or damage.

### Particulars

- i. *The amount of the OSFs charged to the ~~Second and Fourth~~ Applicants and the OSF Group Members.*
  - ii. *The Commissions paid in respect of the ~~Second and Fourth~~ Applicants and the OSF Group Members' Commissioned Products.*
185. Pursuant to s 917E(1) of the Corporations Act, the AMP Licensees are liable to pay damages to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members for such loss or damage.

## R. UNCONSCIONABLE CONDUCT

### R.1 OSF Conduct

186. The matters in this Section are pleaded further or in the alternative to Sections M to Q.
187. If the AMP Authorised Representatives had provided the ongoing personal advice referred to in paragraph 181.1 above then by reason of the matters pleaded in paragraphs 71 to 76 the AMP Authorised Representatives would have been:
- 187.1 contractually required to give personal advice;
  - 187.2 subject to the obligations referred to in paragraph 126 and 134 above; and
  - 187.3 required, in compliance with those obligations, to recommend products that did not have the Commissions, or otherwise required, in compliance with those obligations, to rebate those Commissions as part of giving that advice.
188. The Commissions could reasonably be expected to influence AMP Authorised Representatives not to provide ongoing personal advice, because that advice would have led to the termination of the Commissions.

189. The Commissions could reasonably be expected to influence AMP Licensees not to properly supervise whether the AMP Authorised Representatives were providing ongoing advice, because that advice would have led to the termination of the Commissions.
190. By contractually promising to provide to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members the ongoing personal advice pleaded in paragraphs 73 and 181.1 above, the AMP Authorised Representatives were engaging in conduct in connection with the possible supply of a financial service within the meaning of s 12BAB(1) of the ASIC Act.
191. The conduct in paragraph 190 was in trade or commerce within the meaning of s 12BA(1) of the ASIC Act.
192. The AMP Licensees, through their AMP Authorised Representatives were suppliers of those services within the meaning of s 12BD of the ASIC Act.
193. By reason of the matters pleaded in paragraphs 186 to 191 above, during the Relevant Period each of the AMP Authorised Representatives were prohibited by s 12CB(1) of the ASIC Act from engaging in conduct in connection with the possible supply of financial services to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members that was, in all the circumstances, unconscionable.
194. During the Relevant Period, the circumstances attendant upon the potential supply of the financial services pleaded in paragraph 190 above included:
- 194.1 the ~~Second and Fourth~~ Applicants and OSF Sub-Group Members were in a position of special disadvantage with AMP Licensees;

#### **Particulars**

- i. *AMP Licensees held out its financial advisers as having expertise in providing financial product advice in relation to Commissioned Products and Commissions.*
- ii. *AMP Licensees controlled the flow of information to clients of financial advisers in AMP Licensees in relation to Commissioned Products and Commissions.*
- iii. *The ~~Second and Fourth~~ Applicants and OSF Sub-Group Members were dependent on the financial product advice given by AMP*

*Authorised Representatives in relation to Commissioned Products and Commissions.*

- iv. *The ~~Second and Fourth~~ Applicants and OSF Sub-Group Members had no ability, by reason of inequality of bargaining power, to negotiate with the AMP Licensees in relation to payment of the Commissions.*

194.2 each of the AMP Licensees and the AMP Authorised Representatives were pursuing, receiving or not rebating Commissions;

194.3 the Commissions could reasonably be expected to influence the personal advice given to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members and whether to give personal advice to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members;

194.4 no additional benefits or services would be received by the ~~Second and Fourth~~ Applicants or the OSF Sub-Group Members in return for the continuation of the Commissions; and

194.5 it was in the financial interests of the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members for the Commission payments to cease.

195. In the premise of paragraph 194, the AMP Licensees continued to receive Commissions because AMP Authorised Representatives did not discharge their obligation to provide ongoing personal advice to the ~~Second and Fourth~~ Applicants and the OSF Sub-Group Members, which conduct breached the obligation in paragraph 193 above.

196. In the premise of paragraph 195, by continuing to receive Commissions in circumstances where the AMP Authorised Representatives did not discharge their obligation to provide ongoing personal advice, the AMP Licensees engaged in conduct that was, in all the circumstances, unconscionable.

196A. The Applicants and OSF Sub-Group Members each suffered loss or damage as a result of the contraventions pleaded at paragraphs 195 to 196 above.

#### **Particulars**

*The Applicants and OSF Sub-Group Members paid the OSFs and the Commissions.*

## **R.2 Legacy Products Conduct**

196AA. Further or in the alternative to paragraphs 187 to 196A, the Applicants refer to and repeat paragraphs 103D to 103F above (Part J.5, Legacy Products).

196B. By engaging in the conduct pleaded at paragraph 103E above, the AMP Licensees were engaging in conduct in connection with the possible supply of a financial service within the meaning of s 12BAB(1) of the ASIC Act.

196C. The conduct in paragraph 103E above was in trade or commerce within the meaning of s 12BA(1) of the ASIC Act.

196D. By reason of the matters pleaded in paragraphs 196A to 196C above, during the Relevant Period the AMP Licensees were prohibited by s 12CB(1) of the ASIC Act from engaging in conduct in connection with the possible supply of financial services that was, in all the circumstances, unconscionable.

196E. During the Relevant Period, the circumstances attendant upon the possible supply of the financial services pleaded in paragraph 103F above included:

196E.1 the matters pleaded in paragraph 103D above;

196E.2 the AMP Licensees did not require AMP Authorised Representatives to take any steps to notify existing clients who held Legacy Products that those products were no longer suitable to be recommended to clients;

196E.3 the reason the AMP Licensees did not require AMP Authorised Representatives to take the steps pleaded in 193E.2 was the desire by the AMP Licensees to preserve the source of revenue to the AMP Authorised Representatives and the AMP Licensees;

### **Particulars**

*The particulars to paragraph 103F above are repeated.*

196E.4 the Second, Third and Fourth Applicants and Group Members holding Legacy Products were in a position of special disadvantage, in that they could not know the matters in 196E.1 to 196E.3;

196E.5 the Second, Third and Fourth Applicants and Group Members:

- (a) held financial products that had been identified as Legacy Products;
- (b) paid Commissions as a result of holding those Legacy Products;
- (c) receiving no additional benefits or services in return for paying the Commissions on those Legacy Products;

196E.6 in the premises of paragraphs 196E.1 to 196E.4, the Second, Third and Fourth Applicants and Group Members holding Legacy Products were being kept in unsuitable products for the purpose of providing a source of revenue to the AMP Authorised Representatives and AMP Licensees that did not contain an obligation to provide ongoing service.

196F. In the premise of paragraphs 196AA to 196E, by not taking any steps to move the Second, Third and Fourth Applicants and Group Members out of the Legacy Products or to dial down, rebate or switch off the Commissions, the AMP Licensees engaged in conduct that was, in all the circumstances, unconscionable in breach of the obligations in paragraph 196D.

197. The Second, Third and Fourth Applicants, and ~~Group OSF Sub Group Members~~ Group Members holding Legacy Products, each suffered loss or damage as a result of the contraventions pleaded at paragraphs 196A to 196F above.

#### **Particulars**

*The Second, Third and Fourth Applicants and ~~OSF Sub Group Members~~ Group Members holding Legacy Products paid ~~the OSFs and the Commissions~~ on the Legacy Products.*

### **R.3 APL and Benchmarking Conduct**

197A. Further or in the alternative to paragraphs 187 to 197 above, the Applicants refer to and repeat paragraphs 95 to 103D above (Parts J.1 to J.4).

197B. During the Relevant Period, the AMP Authorised Representatives did not disclose to the Applicants and Group Members when providing them the personal advice as alleged in paragraphs 56 and 64 that the Benchmarking Guidelines, Platform APLs and/or Insurance APLs:

197B.1 restricted the AMP Authorised Representatives from recommending the lowest cost product that met the needs of the Applicants and Group Members;

- 197B.2 did not require the AMP Authorised Representatives to investigate products outside the Insurance and/or Platform APLs to find a cheaper product;
- 197B.3 included on the Platform APLs primarily AMP's platforms;
- 197B.4 included the AMP Life Products on the Insurance APLs in circumstances where the AMP Life Premiums charged on AMP Life Products were not competitive compared to the premiums payable on substantially equivalent or better insurance products issued by third-party insurers on the Insurance APLs;
- 197B.5 had the effect of ensuring that AMP Authorised Representatives could not comply with their duties under ss 961B and 961J of the Corporations Act when providing personal advice.
- 197C. By engaging in the conduct pleaded at paragraph 197B above, the AMP Authorised Representatives were engaging in conduct in connection with the supply or possible supply of a financial service within the meaning of s 12BAB(1) of the ASIC Act.
- 197D. The conduct in paragraphs 197B and 197C was in trade or commerce within the meaning of s 12BA(1) of the ASIC Act.
- 197E. The AMP Licensees, through their AMP Authorised Representatives were suppliers of those services within the meaning of s 12BD of the ASIC Act.
- 197F. By reason of the matters pleaded in paragraphs 197A to 197E, during the Relevant Period the AMP Authorised Representatives were prohibited by s 12CB(1) of the ASIC Act from engaging in conduct in connection with the supply or possible supply of financial services that was, in all the circumstances, unconscionable.
- 197G. During the Relevant Period, the circumstances attendant upon the supply or possible supply of the financial services pleaded in paragraph 197B above included that the Applicants and Group Members were in a position of special disadvantage with the AMP Licensees, in that they did not know and could not know the matters pleaded in subparagraphs 197B.1 to 197B.5 above.
- 197H. In the premise of paragraphs 196A to 196G, by the AMP Authorised Representatives failing to disclose to Applicants and Group Members the matters pleaded at paragraph 197B when providing personal advice to the Applicants and Group Members, the AMP



Licencees engaged in conduct that was, in all the circumstances, unconscionable in breach of the obligation in paragraph 197F.

197I. The Applicants and Group Members each suffered loss or damage as a result of the contraventions pleaded at paragraph 197H above.

#### **Particulars**

- i. The Applicants and Group Members paid the Commissions, and further or in the alternative, the Respondents received and earned profit on the Commissions.
- ii. Further or in the alternative, the First and Third Applicants and the Stack Sub-Group Members paid the Excess Premiums on the AMP Life Products.

#### **R.5 Commissions and Supervision Unconscionable Conduct**

197J. Further or in the alternative to paragraphs 187 to 197 above, the Applicants refer to and repeat paragraphs 41 to 54A and 86 to 94O above (Sections E and I).

197K. During the Relevant Period, the AMP Licensees:

197K.1 permitted the AMP Authorised Representatives (including through the AMP QAFs) to continue to receive Commissions, even in circumstances of a conflict of interest;

196K.2 permitted and incentivised the AMP Authorised Representatives (including through the remuneration arrangements) to receive Commissions and/or Incentives;

197K.3 did not require the AMP Authorised Representatives to:

- (a) provide any service in exchange for the Commissions;
- (b) dial down, switch off or rebate Commissions on Commissioned Products in circumstances where doing so would have made the product cheaper for the client;
- (c) charge Commissions or an ongoing service fee, rather than both or a combination of both;

197K.4 for most of the Relevant Period, failed to put in place any systems to monitor the AMP Authorised Representatives compliance with the terms of the AMP Ongoing Service Packages;

197K.5 had widespread failings in their advice businesses relating to “fees for no service” conduct and failed to rectify those failings.

197L. By engaging in the conduct pleaded at paragraph 197K above, the AMP Licensees were engaging in conduct in connection with the supply or possible supply of a financial service within the meaning of s 12BAB(1) of the ASIC Act.

197M. The AMP Licensees, through their AMP Authorised Representatives were suppliers of those services within the meaning of s 12BD of the ASIC Act.

197N. The conduct in paragraph 197K above was in trade or commerce within the meaning of s 12BA(1) of the ASIC Act.

197O. During the Relevant Period the AMP Licensees were prohibited by s 12CB(1) of the ASIC Act from engaging in conduct in connection with the possible supply of financial services that was, in all the circumstances, unconscionable.

197P. During the Relevant Period, the circumstances attendant upon the supply or possible supply of the financial services pleaded in paragraph 197K above included:

197P.1 that the Applicants and Group Members were at a special disadvantage to with the AMP Licensees, in that they did not know (and could not know) the matters in paragraph 197K;

197P.2 the matters alleged in subparagraphs 194.1 to 194.5 are relied on and repeated.

197Q. In the premise of paragraphs 197J to 197P, by engaging in the conduct alleged at paragraph 197K above, the AMP Licensees engaged in conduct that was, in all the circumstances, unconscionable in breach of the obligation in paragraph 197O.

197R. The Applicants, and Group Members each suffered loss or damage as a result of the contraventions pleaded at paragraphs 197A to 197I above.

#### **Particulars**

- i. *The Applicants and Group Members paid the Commissions, and further or in the alternative, the*

Respondents received and earned profit on the Commissions.

- ii. Further or in the alternative, the First and Third Applicants and the Stack Sub-Group Members paid the Excess Premiums on the AMP Life Products.
- iii. The Applicants and OSF Sub-Group Members paid the OSFs.

## **R.6 Relief**

198. In the premise of paragraphs ~~197 and 198~~ 196 and 196A, 196F and 197, 197H and 197I, and/or 197Q and 197R, the ~~Second and Fourth~~ Applicants and the ~~OSF Sub-Group~~ Members are entitled to compensation.

### **Particulars**

*Section 12GF(1) of the ASIC Act.*

199. By reason of the matters pleaded in paragraph 108 to 111 above, the AMP Licensees are responsible for the conduct of their respective AMP Authorised Representatives alleged at paragraphs 187 to ~~196~~ 197P above and for any loss or damage suffered by the ~~Second and Fourth~~ Applicants and ~~OSF Sub-Group~~ Members as alleged at paragraph 196A, 197, 197I, 197Q and 197R.

## **S UNCONSCIONABLE CONDUCT – INVOLVEMENT - AMP**

### **S.1 AMP's Involvement in the Legacy Products Conduct**

199A. During the Relevant Period, AMP knew each of the matters in:

199A.1 paragraphs 103D to 103F above (Part J. 5, Legacy Product); and

199A.2 paragraphs 196B to 196F.

### **Particulars**

AMP's knowledge of the matters in paragraph 103D is inferred from:

- i. The fact that its Investment and Advice Committee received the document referred to at particular (ii) to paragraph 103D;
- ii. The fact that its Product Review Committee received the document referred to at particular (iv)

to paragraph 103D and its members were asked by the Head of Advice Research, Governance and Complaints (Leanne Milton) to review it as a matter of urgency: AMP.6600.0004.0027.

- iii. The fact that its Product Review Committee received the document referred to at particulars (v) and (vi) to paragraph 103D and that the document was discussed at a meeting of its Product Review Committee.

AMP's knowledge of the matters in paragraph 103E is inferred from:

- i. The fact that AMP received the board pack referred to at particular (iv) to paragraph 103E.
- ii. Senior executives of AMP including members of its Product Review Committee were also directors of the AMP Licensees and so the knowledge of the individuals can be imputed to AMP by reason of their role in AMP, and their duty to report matters connected to the conduct in 199B below to the board of AMP.

AMP's knowledge of the matters in paragraph 103F is inferred from the fact that several of its senior executives and committee members (Mr Paff, Guggenheimer, Digby, Akers, Thomas and Swindell) were also directors of the AMP Licensees and so the knowledge of the individuals can be imputed to AMP by reason of their role in AMP, and their duty to report matters connected to the conduct in 199B below to the board of AMP.

AMP's knowledge of the matters in paragraphs 196B to 196F is inferred from the fact that several of its senior executives and committee members (Mr Paff, Guggenheimer, Digby, Akers, Thomas and Swindell) were also directors of the AMP Licensees and, the knowledge of the individuals can be imputed to AMP by reason of their role in AMP, and their duty to report matters connected to the conduct in 199B below to the board of AMP.

Further particulars will be provided following discovery.

199B. AMP, through its officers and employees made the decision or recommendation, which was expected to be followed, to the AMP Licensees:

199B.1 to classify some Commissioned Products as Legacy Products;

199B.2 that AMP's Legacy Products were to be reclassified as 'Closed to New Clients';

199B.3 that the AMP Licensees were not to require their advisers to search through their client registers to assess all clients with Legacy Products and provide them with new product recommendations; and

199B.4 did not direct the AMP Licensees to transition clients out of Legacy Products, despite those products being uncompetitively priced.

### **Particulars**

- i. The particulars to paragraph 103D are repeated.
- ii. The employees and executives of AMP included Leanne Milton, Michael Paff, Michael Guggenheimer, Chris Digby, Neil Swindalls and Justin Morgan, each being members of the AMP Product Research Committee with Mr Paff, Guggenheimer, Digby and Swindalls also directors of the AMP Licensees.
- iii. AMP PRC, Diversified Sector Review, June 2017, and the words "key recommendations ... that AMP's residual, legacy products are reclassified as closed to new clients": AMP.6600.0004.0240 0033.

## **S.2 Commissions Unconscionable Conduct**

199C. During the Relevant Period, AMP knew each of the matters in:

199C.1 paragraphs 41 to 54A and 86 to 94D above (Commissions Conduct); and

199C.2 paragraphs 197K to 197Q.

### **Particulars**

AMP's knowledge of the matters in paragraphs 41 to 54A is inferred from:

- i. The particulars to paragraphs 41 to 54A.
- ii. The fact that the AMP Licensees entered into the Distribution Agreements and directors of the AMP

Licensees were also senior executives of AMP being Anthony Regan, David Akers, Michael Paff, Michael Guggenheimer, Chris Digby and Neil Swindells and so it can be inferred that they knew of the Distribution Agreements and the Product Disclosure Statements.

- iii. The AMP Board Risk Committee frequently identified Commissions as presenting a conflict of interest as alleged at paragraph 94A and the particulars therein;
- iv. The exposure to the Buy-Back Benefits were characterised by the AMP Risk Committee as a likely and severe risk which had persisted for more than 34 months: AMP.6600.0005.0700.0068.

AMP's knowledge of the matters in paragraphs 197K to 197Q is inferred from:

- v. The matters in particulars (i) to (vi) above.
- vi. The ASX Announcement dated 20 April 2018, "AMP apologises unreservedly and acts to accelerate change" and the statement from the AMP Chairman therein (Catherine Brenner): "AMP apologises unreservedly for the misconduct and failures in regulatory disclosure in our advice business";
- vii. The quantum and scope of AMP's remediation into "fees for no service" conduct which, as at 23 March 2020, was at least \$264 million as announced by AMP Chairman David Murray AO in the AMP 2019 Annual Report, page 2.

Further particulars will be provided following discovery.

199D. During the Relevant Period, AMP:

199D.1 permitted the AMP Licensees (including through the AMP QAFs) to continue to receive Commissions, even in circumstances on a conflict of interest;

199D.2 did not require the AMP Licensees to:

- (a) provide any service in exchange for the Commissions;

- (b) dial down, switch off or rebate Commissions on Commissioned Products in circumstances where doing so would have made the product cheaper for the client;
- (c) charge Commissions or an ongoing service fee, rather than both or a combination of both.

**Particulars**

The particulars to paragraphs 41 to 54A and 86 to 94D are repeated.

**S.3 Involvement**

- 199E. In the premises of paragraphs 199A to 199D, AMP was involved in the unconscionable conduct of the AMP Licensees pleaded at R.2 and R.5 (Legacy Products Conduct and Commissions Conduct) within the meaning of s 12GBCL of the ASIC Act.
- 199F. In the premise of paragraphs 196 and 196A, 196F and 197, 197H and 197I, 197Q and 197R, 198 and 199E, the Applicants and the OSF Sub-Group Members are entitled to compensation from AMP.

**Particulars**

Section 12GF(1) of the ASIC Act.

~~**S MISLEADING OR DECEPTIVE CONDUCT**~~

~~200. The matters in this Section are pleaded further or in the alternative to Sections 0 to 0.~~

~~201. Throughout the Relevant Period, the AMP Licensees by themselves or through AMP Authorised Representatives represented to the Applicants and some or all of the Group Members that:~~

~~201.1 OSFs paid to the AMP Licensees and the AMP Authorised Representatives were paid in exchange for ongoing personal advice;~~

~~**Particulars**~~

~~The matters in paragraphs 71 and 76 above are repeated.~~

~~201.2 the AMP Licensees:~~

- ~~(a) had adequate systems and processes in place to address and manage the risks in their advice business generated by the Commissions and Incentives and the conflicts associated with the Commissions and Incentives;~~
- ~~(b) had adequate systems and processes in place to address and manage the risks in their advice business generated by the AMP Life Commissions, AMP Life Incentives, Buy Back Incentives, One Off Approval Requirement, and the Third Party Insurance in Super Requirements, and the conflicts associated with those matters;~~
- ~~(c) had taken reasonable steps to ensure that the AMP Authorised Representatives complied with their obligations to act in the best interests of clients in relation to personal advice;~~
- ~~(d) had taken reasonable steps to ensure that the AMP Authorised Representatives complied with their obligations to prioritise the interests of clients over their own interests when giving personal advice;~~
- ~~(e) had done all things necessary to ensure that the financial services provided to the Applicants and Group Members were provided efficiently, honestly and fairly; and~~
- ~~(f) had adequate systems and processes in place to ensure ongoing services were provided;~~

~~201.3 the AMP Licensees by themselves or through the AMP Authorised Representatives would inform the Applicants and some or all of the Group Members of circumstances that would make it inappropriate for the AMP Authorised Representatives to continue to charge and receive the OSFs and Commissions; and~~

~~(collectively, on their own, or in any combination, the **Commissions Representations**).~~

#### **Particulars**

- ~~i. The representations in paragraph 201.1 were implied and contained in the terms of the AMP Ongoing Service Package and by reason of the payment of OSFs in consideration for the AMP Ongoing Service Package.~~



- ~~ii. The representations in paragraphs 201.2 and 201.3 were implied and/or conveyed by silence as a reasonable person in the position of the Applicants and each other Group Member would, in the circumstances of the:~~
- ~~a. giving of personal advice; and~~
  - ~~b. receipt of OSFs and Commissions; and~~
  - ~~c. reasonably have expected the AMP Licensees and/or the AMP Authorised Representatives to disclose the matters the subject of the representation.~~
- ~~iii. Further, or in the alternative, the representations in paragraphs 201.2 and 201.3 implied from the circumstances referred to above and the Product Disclosure Statements and Financial Services Guides for the Commissioned Products.~~

~~202. Each of the Commissions Representations was:~~

~~202.1 made in relation to a financial product;~~

~~202.2 made in trade or commerce;~~

~~202.3 a continuing representation, from the date of the first advice to each Applicant and Group Member and lasting for the duration in which OSFs and Commissions were payable by the Applicant and Group Member.~~

~~203. Further or in the alternative to paragraph 200, during the Relevant Period, the AMP Licensees by themselves or through AMP Authorised Representatives represented to the First Applicant and Stack Sub Group Members that there was no substantially equivalent or better policies of insurance available from a third party insurer for a lower premium than the AMP Life Product recommended by the AMP Authorised Representatives (the **Premiums Representations**, and together with the Commissions Representations, collectively, on their own, or in any combination, the **Client Representations**).~~

#### **Particulars**

~~The matters in paragraphs 64 and 68 are repeated.~~

~~204. Each of the Premium Representations was:~~

~~204.1 made in relation to a financial product;~~

~~204.2 made in trade or commerce; and~~

~~204.3 a continuing representation, from the date that the AMP Authorised Representative made the recommendation (alleged at paragraph 64 above) that the First Applicant and Stack Sub Group Members acquire, renew or continue to hold one or more AMP Life Products, continuing until such time as the AMP Authorised Representatives withdraw that recommendation or otherwise advised the First or Second Applicant or Stack Sub Group Member that there was substantially equivalent or better policies of insurance available from a third party insurer for a lower premium than the AMP Life Product recommended by the AMP Authorised Representative.~~

~~205. By making the Representations and each of them, the AMP Licensees engaged in conduct:~~

~~205.1 in trade or commerce within the meaning of s 12BA(1) of the ASIC Act;~~

~~205.2 in trade or commerce within the meaning of s18 of the Australian Consumer Law (ACL);~~

~~205.3 in relation to a financial service within the meaning of:~~

~~(a) s 12BAB(1) of the ASIC Act; further or alternatively~~

~~(b) s 766A(1) of the Corporations Act; and~~

~~205.4 in relation to a financial product within the meaning of s76A(1) of the Corporations Act.~~

~~206. The Client Representations and each of them were misleading, in that:~~

~~206.1 the ongoing personal advice was not provided to the Second and Fourth Applicants and the OSF Sub Group Members;~~

**Particulars**

~~i. Section 961L of the Corporations Act.~~

~~ii. Regan Statement at paragraphs [163] to [170].~~

~~iii. The May 2015 Breach Report appearing at tab 24 of Ex AGR 1 to the Regan Statement.~~

~~206.2 the AMP Licensees:~~

- ~~(a) did not have adequate systems or processes in place to manage the risks in their advice business generated by the Commissions and Incentives and the conflicts associated with the Commissions and Incentives;~~
- ~~(b) did not have adequate systems and processes in place to address and manage the risks in their advice business generated by the AMP Life Commissions, AMP Life Incentives, Buy Back Incentives, One-Off Approval Requirement, and the Third Party Insurance in Super Requirements, and the conflicts associated with those matters;~~
- ~~(c) had not taken reasonable steps to ensure that the AMP Authorised Representatives complied with their obligations to act in the best interests of clients in relation to personal advice;~~
- ~~(d) had not taken reasonable steps to ensure that the AMP Authorised Representatives complied with their obligations and prioritised the interests of Group Members over their own interests when giving personal advice;~~
- ~~(e) had not done all things necessary to ensure that the financial services provided to the Applicants and Group Members were provided efficiently, honestly and fairly;~~
- ~~(f) did not have adequate systems or processes in place to ensure ongoing services were provided;~~

**Particulars**

~~The matters in paragraph 140 above are repeated.~~

- ~~(g) had no reasonable grounds to make the representation in paragraph 201.2 above; and~~
- ~~(h) did not adequately inform the Applicants and/or Group Members of the circumstances that made it inappropriate for the AMP Licensees to continue to charge and receive the OSFs and Commissions.~~

**Particulars**

~~Each of the matters in sub-paragraph 206.2 made it inappropriate for the AMP Licensees to continue to charge and receive the OSFs and Commissions.~~

~~206.3 at the time that the AMP Authorised Representatives recommended that the First Applicant and the Stack Sub Group Members acquire, renew or continue to hold one or more AMP Life Products, there were substantially equivalent or better policies of insurance available from a third party insurer for a lower premium than the AMP Life Products recommended by the AMP Authorised Representatives.~~

~~iv.—~~

~~207. By reason of the matters set out in paragraphs 200 to 206 above, by making the Representations and each of them, the AMP Licensees engaged in conduct in trade or commerce:~~

~~207.1 that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18(1) of the ACL; further or alternatively~~

~~207.2 in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA(1) of the ASIC Act; further or alternatively~~

~~207.3 in relation to a financial product or a financial service, that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H(1) of the Corporations Act.~~

~~208. The Applicants and some or all of the Group Members each suffered loss or damage as a result of the contraventions pleaded in paragraph iv above.~~

#### **Particulars**

- ~~i. The Applicants and Group Members paid the OSFs and Commissions.~~
- ~~ii. Further or in the alternative, the First Applicant and Stack Sub Group Members paid the Excess Premiums on the AMP Life Products acquired, renewed or continued to be held pursuant to the recommendations of the AMP Authorised Representatives.~~
- ~~iii. Particulars relating to claims of Group Members will be provided following the initial trial of the common questions and the Applicants' claims.~~

~~209. By reason of the matters alleged in paragraphs 201 to 208, the AMP Licensees are liable to compensate the Applicants and some or all of the Group Members for that loss or damage.~~

**Particulars**

~~Section 1041(1) of the Corporations Act; s 12GF(1)  
of the ASIC Act; s 236(1) of the ACL~~

**AND THE APPLICANTS CLAIM**, on their own behalf and on behalf of the Group Members, the relief set out in the Further Amended Originating Application.

**DICTIONARY**

~~90 Day Exception is defined at paragraph 84~~

**ACL** means the *Australian Consumer Law*

**AFSL** is defined at paragraph 5.2

**AMP Authorised Representatives** is defined at paragraph 6

**AMP Conflict Policies** is defined at paragraph 86.3

**AMP Conflicts Register** is defined at paragraph 92

**AMP Licensees** is defined at paragraph 5

**AMP Life Commissions** is defined at paragraph 42

**AMP Life Distribution Agreements** is defined at paragraph 42

**AMP Life Incentives** is defined at paragraph 49

**AMP Life** means the Fifth Respondent, formerly AMP Life Limited, now Resolution Life Australasia Limited (ACN 079 300 379)

**AMP Life Premiums** is defined at paragraph ~~40A~~ 66

**AMP Life Products** is defined at paragraph 39

**AMP Mandatory Training** is defined at paragraph 86.4

**AMP** means the Fourth Respondent, AMP Limited (ACN 079 354 519)

**AMP Ongoing Service Package** is defined at paragraph 71

**AMP Policies** is defined at paragraph 86.1

**AMP QAF's** is defined at paragraph 86.2

**AMP Super Funds** is defined at paragraph 105.3 0

**AMP Trustees** is defined at paragraph 105

**AMPFP Authorised Representatives** is defined at paragraph 6.1

**AMPFP** means the First Respondent, AMP Financial Planning Pty Limited

~~Anti-Avoidance Provision is defined at paragraph 148~~

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001* (Cth)

**ASL** means AMP Superannuation Limited

**ASL Super Funds** is defined at paragraph 104.3

**Banking Royal Commission** means the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

**Benchmarking Guidelines** is defined at paragraph 99

**BOLR** means Buyer of Last Resort

**Buy-Back Benefit** is defined at paragraph 53

**Buy-Back Option** is defined at paragraph 52

**Charter Authorised Representatives** is defined at paragraph 6.2

**Charter** means the Second Respondent, Charter Financial Planning Limited

**Commissioned Products** is defined at paragraph 37

**Commissions** is defined at paragraph 41

**Commissions Representations** is defined at paragraph 201

**Conflict of Interest QAF** is defined at paragraph 88

**Corporations Act** means the *Corporations Act 2001* (Cth)

**Distribution Agreements** is defined at paragraph 41

**DMA Advice** is defined at paragraph 50A.2 ~~49~~

**Excess Premiums** is defined at paragraph 67

**Green Statement** is defined at paragraph 86

**Group Members** is defined at paragraph 1

**Hillross Authorised Representatives** is defined at paragraph 6.3

**Hillross** means the Third Respondent, Hillross Financial Services Limited

**Incentives** is defined at paragraph 48

**Insurance APLs** is defined at paragraph 95

**Johnson Statement** means the witness statement of Mr Gregory Johnson dated 10 September 2018 to the Banking Royal Commission as defined at paragraph 42

**Life Insurance Act** means the *Life Insurance Act 1995* (Cth)

**NMS** means N M Superannuation Proprietary Limited

**NMS Super Funds** is defined at paragraph 105.3

~~**Non-Insurance Product Commissions** is defined at paragraph 149~~

**One-Off Approval Requirement** is defined at paragraph 98

**OSF** is defined at paragraph 73.4

**OSF Sub-Group Members** is defined at paragraph 3.2

**Platform APLs** is defined at paragraph 101

**Practice** is defined at paragraph 6A

~~**Premiums Representations** is defined at paragraph 203~~

**Regan Statement** is defined at paragraph 46

**Relevant Period** means period from 23 July 2014 until 15 February 2021 (inclusive)

~~**Representations** is defined at paragraph 203~~

~~**Scheme** is defined at paragraph 153~~

**Second AMP Authorised Representative** is defined at paragraph 46

**Stack Sub-Group Members** is defined at paragraph 3.1

**Third Party Insurance in Super Requirements** is defined at paragraph 106.2

**TPD** means total and permanent disablement

**TSC** means temporary salary continuance





Signed by Craig Allsopp  
Jointly appointed lawyer for the Applicants



Signed by ~~Simon Morris~~ Martin del Gallego  
Jointly appointed lawyer for the Applicants

This further amended pleading was prepared by B O'Connor, E L Olivier and T L Bagley of counsel and settled by M Hodge KC.

**Certificate of lawyers**

We, Craig Allsopp and ~~Simon Morris~~ Martin del Gallego, certify to the Court that, in relation to the further amended statement of claim filed on behalf of the Applicants, the factual and legal material available to us at present provides a proper basis for each allegation in the pleading.

Date: 15 December 2023



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Signed by Craig Allsopp  
Jointly appointed lawyer for the Applicants

Signed by ~~Simon Morris~~ Martin del Gallego  
Jointly appointed lawyer for the Applicants

**Schedule**

No. VID 489 of 2020

Federal Court of Australia  
District Registry: Victoria  
Division: General

**Nigel Peter Stack**  
First Applicant

**Melita Anna Winterton**  
Second Applicant

**Janelle Lodge ~~John Leslie Bretton~~**  
Third Applicant

**David James Brittain**  
Fourth Applicant

**AMP Financial Planning Pty Limited (ACN 051 208 327)**  
First Respondent

**Charter Financial Planning Limited (ACN 002 976 294)**  
Second Respondent

**Hillross Financial Services Limited (ACN 003 323 055)**  
Third Respondent

**AMP Limited (ACN 079 354 519)**  
Fourth Respondent

**Resolution Life Australasia Limited (ACN 079 300 379)**  
Fifth Respondent

## Annexure A OF FASOC

Document ID	Document Title
AMP.6000.0007.1931	2014 06 Quality Review Program - Audit Standards v1 June 2014.pdf
AMP.6600.0004.0340	Quality Assurance Framework - AMP Advice Complaints - DRAFT.pdf
AMF.3010.0001.3719	Guideline - Client Directives v4.3 November 2012.pdf
AMP.6000.0044.1439	Breaches and Conflicts of Interest QAF Version 3.2 August 2011
AMF.3014.0001.2805	QAF - FSG Version 3.0 January 2013.pdf
AMF.3014.0001.0984	QAF_Service Agreements_v2.0_October 2013.docx
AMF.3014.0001.0731	AEM QAF Service Agreements v2.1 Jun 2015.docx
AMF.3014.0001.0753	AEM QAF Service Agreements v2.2 November 2016.pdf
AMF.3014.0001.0774	AEM QAF Service Agreements v2.3 March 2017.pdf
AMF.3010.0001.2011	Quality Advice Fundamental_Best Interests Duty_OCT 2013 v1.1.pdf
AMF.3010.0001.2681	3. Conflicts of interest QAF_V1 Dec 2013.pdf
AMP.6000.0007.1655	AMP Conflicts of Interest QAF Version 1.1 December 2014
AMF.3010.0001.2751	5. Conflicts of interest QAF v1.2 Nov 2016.pdf
AMP.6000.0044.2175	AMP Conflicts of Interest QAF Version 2.0 February 2017
AMF.3014.0001.0877	QAF - Advice Fees v2.8 Dec 2013.pdf
AMF.3014.0001.0845	QAF - Advice Fees v2.10 October 2014.pdf
AMF.3010.0001.1890	AEM QAF Alternative strategies and products v1.1 Jan 2014.docx
AMF.3010.0001.1945	Best interests duty related obligations QAF v1.3 April 2014.pdf
AMF.3014.0001.0446	AEM QAF Best interests duty related obligations v1.4 June 2015.pdf
AMF.3010.0001.1312	QAF_Replacement of Product_v1.0_August 2014 (ex-FAN).pdf
AMF.3010.0001.2435	Record of Advice QAF v1.0 August 2014.pdf
AMF.3010.0001.2360	AEM QAF Record of Advice v1.1 Feb 2016.pdf
AMF.3010.0001.0525	Fact_find_and_inf_gather_QAF_1.0.pdf
AMF.3010.0001.0235	AEM QAF Fact Finding and information gathering v1.1 Aug 2015.pdf
AMF.3010.0001.0275	AEM QAF Fact Finding and information gathering v1.2 May 2017.docx
AMF.3014.0001.8102	Referral arrangements QAF_FINAL.pdf
AMF.3014.0001.7942	AEM QAF Referral arrangements and other business activities v1.1 June 2016.pdf
AMF.3014.0001.0490	Best interests duty related obligations v1.4 Jun 2015.pdf
AMF.3010.0001.1094	Providing services to clients QAF 1.0 Oct 2015 2.pdf
AMF.3010.0001.1123	Providing services to clients QAF 1.1 December 2015 2.pdf
AMF.3010.0001.0410	AEM QAF Providing services to clients v1.2 Nov 2016.pdf
AMF.3014.0001.0929	QAF_-_Charging_for_your_advice_and_services_v3 2 November 2015_final.pdf
AMF.3014.0001.0669	AEM QAF Charging for your advice and services v3.3 Jan 2016.pdf
AMF.3010.0001.1238	PSM_Charging for your advice and services_June 2016.docx
AMF.3014.0001.0706	AEM QAF Charging for your advice and services v3.5 May 2017.pdf
AMF.3014.0001.0806	Charging for your advice and services v3.6 November 2017.pdf
AMP.6000.0244.0535	Providing Service Final E-learning module
AMF.3010.0001.0179	AEM QAF Advising on guaranteed products v1.0 Feb 2016.pdf
AMF.3010.0001.0151	Advising on guaranteed products v1.1 Aug 2016.pdf
AMF.3014.0001.7879	AEM QAF Advising on guaranteed products v1.3 Feb 2019.docx
AMF.3010.0001.1661	Advice preparation v1.1 June 2016.pdf
AMF.3010.0001.1685	Advice preparation v1.2 July 2016.pdf
AMF.3010.0001.1725	Advice preparation v1.3 September 2016.pdf
AMF.3010.0001.0805	Personal insurance advice v1.0 Sep 2016.pdf
AMF.3010.0001.0865	Personal insurance advice v1.1 Nov 2016.pdf
AMF.3010.0001.0349	AEM QAF Personal insurance advice v1.2 March 2017.pdf
AMF.3010.0001.0464	Deommissioned - AEM QAF Personal insurance advice v1.3 April 2017.pdf
AMF.3010.0001.2381	Further advice - v1.0 Novmber 2016.pdf
AMF.3010.0001.2407	Further advice - v1.1 March 2017.pdf
AMF.3010.0001.2184	AEM QAF Further advice - v1.2 August 2017.pdf
AMF.3010.0001.2212	AEM QAF Further advice - v1.3 October 2016.pdf
AMF.3010.0001.2240	AEM QAF Further advice - v1.4 March 2018 Hillross_AMPFP v1.3 Charter.pdf
AMF.3010.0001.2269	AEM QAF Further advice - v1.5 June 2018.pdf
AMF.3010.0001.2298	AEM QAF Further advice - v1.6 July 2018.pdf
AMF.3010.0001.2184	AEM QAF Further advice - v1.2 August 2017.pdf
AMP.6000.0044.2791	AMP Conflicts of Interest QAF Version 2.1 November 2017
AMF.3010.0001.1821	Advice presentation and implementation QAF v1.1 May 2017 REPLACED BY V1.2 JULY 2017.pdf
AMF.3010.0001.1839	Advice presentation and implementation QAF v1.2July2017.pdf
AMF.3010.0001.0001	Advice presentation implementation QAF 1_3 August_2017.pdf

AMF.3010.0001.0016	Advice presentation implementation QAF 1_4 October 2017 .pdf
AMF.3010.0001.0043	Advice presentation implementation QAF 1_5 November 2017 watermark.pdf
AMF.3010.0001.1910	Decommissioned - AEM Alternative strategies and products March v1.2 2018.pdf
AMF.3010.0001.0446	AEM QAF Providing services to clients v1.3 April 2018.pdf
AMF.3014.0001.7863	advising on guaranteed products v2.0 November 2020.docx
AMF.3014.0001.8173	COPY - PSM, The advice process, Wholesale clients September 2013 (AMPFP).docx
AMF.3010.0001.1868	Advice Guideline - Alternative strategies and products Jan 2014 v1.1.pdf
AMF.1003.0004.5999	AMPFP - Risk Insurance benchmarking paper V2.pdf
AMP.6600.0004.0144	AMP FP Benchmarking Guidelines (December 2017).pdf
AMP.6600.0004.0143	AMP FP Benchmarking Guidelines (April 2018).pdf
AMF.1003.0004.5900	AMP FP Benchmarking Guidelines June 2019
AMF.1003.0004.5867	AMP FP Benchmarking Guidelines AUG 2020 FINAL
AMF.1003.0004.6028	Charter - Risk Insurance benchmarking paper.pdf
AMP.6600.0004.0265	Charter Benchmarking Guidelines (December 2017).pdf
AMP.6600.0004.0324	Charter FP Benchmarking Guidelines June 2019.pdf
AMP.6600.0004.0323	Charter FP Benchmarking Guidelines AUG 2020 FINAL.pdf
AMF.3014.0001.0534	Charging for Insurance Advice - The SPP Hybrid Commission Model (AMPFP).pdf
AMF.1003.0004.0001	Benchmarking Guideline - Life Risk Insurance 2016
AMF.1003.0004.0022	Benchmarking Guideline - Life Risk Insurance 2017
AMF.1003.0004.0041	Benchmarking Guideline – Life Risk Insurance 2018
AMP.6000.0043.1785	Benchmarking Guidelines for Hillross Financial Services Ltd
AMP.6100.0001.1114	Hillross Benchmarking Guidelines (December 2017).pdf
AMP.6100.0001.1113	Hillross Benchmarking Guidelines (April 2018).pdf
AMP.6100.0001.1117	Hillross Benchmarking Guidelines June 2019.pdf
AMF.3014.0001.7792	Final - Further Advice Process Guide.pdf
AMF.3010.0001.0926	personal-insurance-advice- v1.1 September 2018 print-all.pdf
AMF.3010.0001.0987	personal-insurance-advice-print-all Verison 1.2 October 2018.pdf
AMF.3010.0001.3615	Working papers alternative strategies and products v1.2 March 2019.docx
AMF.3010.0001.3305	Product Advice guide_ 1.1 March 2019.pdf
AMF.3010.0001.3020	Conflicts of interest and Conflicted remuneration standard v1.2 March 2019.pdf
AMF.3010.0001.0070	Advice presentation and implementation v2.0 August 2019 FINAL.pdf
AMF.3014.0001.0086	Advice presentation and implementation v2.1 May 2020.pdf
AMF.3014.0001.2575	Financial Planners and Advisers Code of Ethics Guide v2.5 Final.pdf
AMP.6600.0004.0339	Managing Advice Complaints Guide v2.2 102021.pdf
AMF.3014.0001.8082	Referral Agreements - JULY 2010 release clean.doc
AMF.1003.0002.0668	AMPFP - 2013 Remuneration and Rewards booklet
AMP.6000.0124.0615	Conflicts of Interest Policy (November 2016)
AMP.6000.0124.0620	Group Conflicts of Interests Standard (November 2016)
AMF.3010.0001.1552	AEM Advice Formulation and documentation standard v1.0 June 2018.docx
AMF.3010.0001.1578	AEM Advice Formulation and documentation standard v1.1 July 2018.pdf
AMF.3010.0001.1381	Advice Formulation and documentation v1.4 March 2019.pdf
AMF.3010.0001.1415	Advice Formulation and documentation v1.5 March 2019.pdf
AMF.3010.0001.1485	Advice Formulation and documentation v1.6 June 2019.pdf
AMF.3014.0001.0037	Advice Formulation and documentation v1.8 November 2020.docx
AMF.3010.0001.3062	AEM Product advice standard v1.0 June 2018.docx
AMF.3010.0001.3101	AEM Product advice standard v1.1 July 2018.docx
AMF.3010.0001.3153	AEM Product advice standard v1.2 November 2018.docx
AMF.3010.0001.3375	Product advice Standard - Policy v1.5 March 2019.pdf
AMF.3010.0001.3437	Product advice Standard - Policy v1.6 June 2019.pdf
AMF.3010.0001.3499	Product advice standard v1.6 February 2020.pdf
AMF.3014.0001.8008	AEM QAF Referral arrangements and other business activities v2.1 July 2018.pdf
AMF.3014.0001.8044	AEM QAF Referral arrangements and other business activities v2.2 May 2019.pdf
AMF.3010.0001.0128	Advice types and execution v1.0 July 2018.pdf
AMF.3010.0001.3686	AEM Advice types and execution only transations v1.2 September 2018.pdf
AMF.3010.0001.3620	Advice Types and Execution only standard v 2.0 February 2020.pdf
AMF.3010.0001.2130	AEM Fact finding and scope of advice standard v1.2 November 2018.pdf
AMF.3010.0001.2156	AEM Fact finding and scope of advice standard v1.3 February 2019.pdf
AMF.3010.0001.2047	AEM Fact finding and scope of advice standard v1.4 FINAL March 2019.pdf
AMF.3014.0001.2457	AEM Fact finding and scope of advice standard _v1.5 July 2020.pdf
AMF.3010.0001.2872	Conflict of interest and Conflicted remuneration standard v1.3 April 2019.pdf
AMF.3010.0001.2959	Conflicts of interest and conflicted remuneration standard Final v1.4 October 2019.pdf
AMF.3010.0001.2915	Conflicts of interest and conflicted remuneration standard Final v1.4 February 2020.pdf
AMF.3014.0001.7664	Further Advice standard v2.0 June 2019 Final.pdf

AMF.3014.0001.7698	Further Advice standard v2.1 July 2019 Final.pdf
AMF.3014.0001.0262	Annual advice and service agreements policy v1.0 - FINAL.pdf
AMF.3014.0001.0302	Annual advice and service agreements policy v1.2.pdf
AMF.3014.0001.0336	Annual_advice_agreements_standard_v1.3_ampfp_charter_printall.pdf
AMF.3010.0001.3003	Conflicts of interest and conflicted remuneration standard v 1.5 December 2020_POLICY.pdf
AMF.3010.0001.2661	PSM Advice Process Step 6 - Ongoing reviews October 2013 FINAL.doc
AMF.3014.0001.2767	PSM Advice Process Step 1 - Initial Engagement May 2014.docm
AMF.3010.0001.1185	PSM The Advice Process Charging for your advice and services, JULY 2014.doc
AMF.3010.0001.1170	PSM The Advice Process Charging for your advice and services, DEC 2014.doc
AMF.3010.0001.1203	PSM_Charging for your advice and services_July 2015.docx
AMF.3014.0001.0634	PSM_Charging for your advice and services_November 2015.docx
AMF.3014.0001.0615	PSM_Charging for your advice and services_May 2017.docx
AMF.3014.0001.0578	PSM_Charging for your advice and services_July 2017.docx
AMF.3010.0001.1291	PSM_Charging for your advice and services_November 2017.pdf
AMF.3014.0001.0158	PSM Advice Process Step 4 - Advice presentation and acceptance December 2014.doc
AMF.3010.0001.2587	PSM Advice Process Step 6 - Ongoing reviews June 2015 FINAL.doc
AMF.3010.0001.2606	PSM Advice Process Step 6 - Ongoing reviews March 2017 FINAL.doc
AMF.3010.0001.2624	PSM Advice Process Step 6 - Ongoing reviews March 2018 FINAL.doc
AMF.3010.0001.3297	Product advice FAQ v1.1 March 2019.pdf
AMF.3010.0001.1522	Advice Policy and Projects update - March19 - 20190315.mp4
AMP.6000.0244.0755	Insurance advice in practice E-learning module
AMP.6000.0249.0001	Personal Insurance M00 Intro E-learning module
AMP.6000.0244.0782	Personal Insurance Assessment Questions v9 Question Set
AMP.6000.0244.0798	Replacement of Product Assessment V201504 E-learning Questionnaire
AMP.6000.0244.0794	QAF Personal Advice Assessment E-learning Questionnaire
AMP.6000.0244.0803	Executing transactions without advice accreditation assessment E-learning Questionnaire
AMP.6000.0244.0806	Providing Services to Clients Assessment E-learning Questionnaire
AMP.6000.0244.0812	E-learning Questionnaire
AMP.6000.0244.0710	20180717 Product Advice Final V1.0 (E-learning module)
AMP.6600.0001.0151	Vetting Policy_V.15 - March 2014.docx
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