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Document Lodged: Defence - Form 33 - Rule 16.32
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 6/11/2024 7:39:51 PM AEDT
Date Accepted for Filing: 7/11/2024 4:57:07 PM AEDT
File Number: VID172/2024
File Title: DANIEL MCDONALD v AUSTRALIAN LIFE INSURANCE
DISTRIBUTION PTY LTD (ACN 103 157 811) & ANOR
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.

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Form 33
Rule 16.32

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL**

VID 172 of 2024

DANIEL McDONALD

Applicant

and

AUSTRALIAN LIFE INSURANCE DISTRIBUTION PTY LTD (ACN 103 157 811)

First Respondent

LENDI GROUP DISTRIBUTION PTY LTD (ACN 105 265 861)

Second Respondent

FIRST RESPONDENT'S DEFENCE

In answer to the Applicant's Amended Statement of Claim dated 16 September 2024 (**Amended Statement of Claim**), the First Respondent (**ALID**) says as follows.

Defined terms have the same meaning as in the Amended Statement of Claim unless otherwise stated.

A. CLAIMANTS

1. ALID admits the allegations in paragraph 1.
2. ALID does not plead to paragraph 2 as it contains no allegations against it.
3. ALID denies the allegations in paragraph 3.

Filed on behalf of:	The First Respondent
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B. RESPONDENTS AND INSURERS

4. In response to the allegations in paragraph 4, ALID:
 - (a) admits the allegations in subparagraph 4(a);
 - (b) admits the allegations in subparagraph 4(b);
 - (c) admits the allegations in subparagraph 4(c);
 - (d) admits the allegations in subparagraph 4(d) subject to reference to the full terms and effect of the ALID AFSL; and
 - (e) in response to the allegations in subparagraph 4(e):
 - (i) admits that MPP and MyPP were distributed by Brokers;
 - (ii) denies that MPP or MyPP were ever distributed by AHL or brokers engaged by AHL; and
 - (iii) otherwise denies the allegations in subparagraph 4(e).
5. In response to the allegations in paragraph 5, ALID:
 - (a) does not plead to subparagraphs 5(a)-(f) as they contain no allegations against it;
 - (b) in response to the allegations in subparagraph 5(g):
 - (i) admits that, during the Claim Period, MPP was offered for sale by certain Brokers between 28 February 2018 and 21 June 2020 and MyPP was offered for sale by certain Brokers between 22 June 2020 and 29 February 2024; and
 - (ii) otherwise denies the allegations in subparagraph 5(g);
 - (c) admits the allegations in subparagraph 5(h); and
 - (d) does not plead to subparagraphs 5(i)-(k) as they contain no allegations against it.

6. In response to the allegations in paragraph 6, ALID:
- (a) admits the allegations in subparagraph 6(a);
 - (b) in response to the allegations in subparagraph 6(b):
 - (i) repeats subparagraph 5(b)(i) above;
 - (ii) says that Hannover Re was the insurer in respect of the DTI benefits:
 - 1. under MPP until 21 June 2020; and
 - 2. under MyPP until 4 April 2021; and
 - (c) otherwise denies the allegations in subparagraph 6(b).
7. In response to the allegations in paragraph 7, ALID:
- (a) says that the name of the insurer in respect of the Involuntary Unemployment Benefit under MPP was QBE Insurance (Australia) Limited (and not QBE Insurance);
 - (b) says that QBE Insurance (Australia) Limited did not operate a life insurance business insofar as it underwrote benefits in MPP;
 - (c) does not know and cannot admit whether QBE Insurance (Australia) Limited was registered under s 21 of the LI Act to issue life policies within the meaning of the LI Act or otherwise carried on a life insurance business at the relevant time;
 - (d) otherwise admits the allegations in subparagraph 7(a) subject to reference to the full terms and effect of the QBE AFSL;
 - (e) repeats subparagraph 5(b)(i) above and says that QBE Insurance (Australia) Limited was the insurer in respect of the Involuntary Unemployment Benefit under MPP until 21 June 2020; and
 - (f) otherwise denies the allegations in subparagraph 7(b).

8. In response to the allegations in paragraph 8, ALID:
- (a) admits the allegations in subparagraph 8(a) subject to reference to the full terms and effect of the Zurich AFSL; and
 - (b) says that Zurich was the insurer in respect of all benefits under MyPP from 5 April 2021 and otherwise denies the allegations in subparagraph 8(b).

C. THE PRODUCTS - MPP AND MYPP

9. In response to the allegations in paragraph 9, ALID:
- (a) repeats subparagraph 5(b)(i) above;
 - (b) admits that, on the terms set out in the relevant MPP product disclosure statements and policy documents, MPP provided insurance cover with respect to:
 - (i) death;
 - (ii) terminal illness;
 - (iii) eleven specified and defined conditions;
 - (iv) involuntary unemployment; and
 - (v) optionally, disabling injury; and
 - (c) otherwise denies the allegations.
10. In response to the allegations in paragraph 10, ALID:
- (a) repeats subparagraph 5(b)(i) above;
 - (b) admits that, on the terms set out in the relevant MyPP product disclosure statements and policy documents, MyPP provided insurance cover with respect to:
 - (i) death; and
 - (ii) terminal illness;

- (c) says that, from 22 June 2020 to 4 April 2021, on the terms set out in the relevant MyPP product disclosure statements and policy documents, MyPP provided insurance cover with respect to:
 - (i) thirteen specified and defined conditions; and
 - (ii) disabling injury;
 - (d) says that, from 5 April 2021, on the terms set out in the relevant MyPP product disclosure statements and policy documents, MyPP provided insurance cover with respect to:
 - (i) seventeen specified and defined conditions; and
 - (ii) the fracture of any of ten specified body parts; and
 - (e) otherwise denies the allegations.
11. In response to the allegations in paragraph 11, ALID:
- (a) says that MPP and MyPP are contracts of insurance which are:
 - (i) life policies within the meaning of s 9 of the LI Act; and
 - (ii) therefore financial products within the meaning of s 764A(1)(e) of the Corporations Act;
 - (b) says that the duration of each of the MPP and MyPP policies was or is shorter than three years and therefore denies that the death and terminal illness benefits in MPP and MyPP are continuous disability policies within the meaning of s 9A of the LI Act; and
 - (c) admits the allegations in subparagraph 11(b).
- 11A. In response to the allegations in paragraph 11A, ALID:
- (a) repeats subparagraph 5(b)(i) and paragraphs 9 and 10 above;
 - (b) admits subparagraph 11A(a)(i) subject to reference to the full terms and effect of MPP and MyPP;

- (c) admits subparagraph 11A(a)(ii) subject to reference to the full terms and effect of MPP and MyPP;
 - (d) admits that, during the Claim Period and on the terms set out in the relevant product disclosure statements and policy documents:
 - (i) MPP provided insurance cover with respect to involuntary unemployment; and
 - (ii) MyPP provided, from 5 April 2021, insurance cover with respect to the fracture of any of ten specified body parts;
 - (e) denies the allegations in subparagraph 11A(b); and
 - (f) otherwise denies the allegations.
12. In response to the allegations in paragraph 12, ALID:
- (a) repeats subparagraph 11A(e) above; and
 - (b) denies the allegations.

D. BROKER NETWORK AND REGULATORY REGIME

13. In response to the allegations in paragraph 13, ALID:
- (a) admits that Brokers provided mortgage broking services to customers and potential customers through the Aussie Network; and
 - (b) otherwise denies the allegations in paragraph 13.
14. ALID does not plead to paragraph 14 as it contains no allegations against it.
15. ALID does not plead to paragraph 15 as it contains no allegations against it.
- 15A. ALID does not plead to paragraph 15A as it contains no allegations against it.
- 15B. ALID does not plead to paragraph 15B as it contains no allegations against it.
16. ALID does not plead to paragraph 16 as it contains no allegations against it.
17. ALID does not plead to paragraph 17 as it contains no allegations against it.

18. ALID does not plead to paragraph 18 as it contains no allegations against it.
19. In response to the allegations in paragraph 19, ALID:
- (a) admits that the Brokers were authorised representatives of ALID;
 - (b) says that:
 - (i) those representatives were authorised to provide specified financial services on behalf of ALID, which services ALID was licensed to provide under the ALID AFSL; and
 - (ii) the financial services that the representatives were authorised to provide were limited to:
 - 1. the provision of general financial product advice; and
 - 2. dealing in a financial product by applying for, acquiring, varying, or disposing of a financial product; and
 - (c) otherwise denies the allegations.
20. In response to the allegations in paragraph 20, ALID:
- (a) admits the allegations in subparagraph 20(a) subject to reference to the full terms and effect of the relevant agreements;
 - (b) admits that ALID appointed AHLI and the Brokers as authorised representatives of ALID to distribute MPP and MyPP, and otherwise refers to the full terms and effect of the relevant agreements;
 - (c) admits the allegations in subparagraph 20(c) subject to reference to the full terms and effect of the relevant agreements;
 - (d) admits the allegations in subparagraph 20(d) subject to reference to the full terms and effect of the relevant agreements; and
 - (e) does not plead to subparagraph 20(e) as it contains no allegations against it.

E. THE AUSSIE SALES SYSTEM FOR MPP AND MYPP

21. In response to the allegations in paragraph 21, ALID:
- (a) admits that Brokers, for the purposes of assisting customers or potential customers to obtain or refinance home loans:
 - (i) obtained from certain customers or potential customers some or all of the information set out in subparagraphs 21(a)(i)-(vii) of the Amended Statement of Claim; and
 - (ii) requested from certain customers or potential customers some or all of the documents set out in subparagraphs 21(b)(i)-(viii) of the Amended Statement of Claim;
 - (b) otherwise does not know and cannot admit the allegations in subparagraphs 21(a) and 21(b);
 - (c) does not know and cannot admit the allegations in subparagraph 21(c);
 - (d) with respect to the allegations in subparagraph 21(d):
 - (i) denies that Brokers were trained by Aussie with respect to MPP or MyPP;
 - (ii) repeats paragraphs 26 and 40 below;
 - (iii) says that Brokers were not required or expected to recommend MPP or MyPP and therefore denies the allegations in subparagraph 21(d)(iv);
 - (iv) denies the allegations in subparagraphs 21(d)(v)-(vii); and
 - (v) otherwise does not know and cannot admit the allegations in subparagraph 21(d);
 - (e) with respect to the allegations in subparagraph 21(e):
 - (i) does not know and cannot admit the allegations in subparagraph 21(e)(i);

- (ii) says that Brokers submit applications for MPP or MyPP with Australian Life Insurance Administration Pty Ltd for processing; and
 - (iii) otherwise denies the allegations in subparagraph 21(e);
 - (f) with respect to the allegations in subparagraph 21(f):
 - (i) says that ALID pays commissions and fees to AHLI; and
 - (ii) otherwise does not know and cannot admit the allegations in subparagraph 21(f);
 - (g) in the circumstances, denies the existence of the Aussie MPP Sales System as defined and alleged; and
 - (h) otherwise denies the allegations.
- 21A. ALID does not know and cannot admit the allegations in paragraph 21A.
- 21B. In response to the allegations in paragraph 21B, ALID:
- (a) says that the Applicant and his wife each agreed and acknowledged in writing at the time of their application for MPP that, inter alia, they:
 - (i) had received a financial services guide and product disclosure statement for MPP; and
 - (ii) had not been given any advice on whether the insurance was suitable for their individual financial circumstances, personal needs and objectives and that they understood that they need to consider this before deciding whether to take out the insurance;

Particulars

‘Aussie Mortgage Protection Plan application form’ with acknowledgment by Daniel McDonald and Jessica McDonald dated 8 October 2019.

- (b) says that when the Applicant and his wife gave the acknowledgements in subparagraph (a) immediately above, they were under a duty to take

reasonable care not to make a misrepresentation before entering into the contract for the insurance; and

Particulars

Insurance Contracts Act 1984 (Cth), s 20B.

- (c) says that the Brokers did not recommend to customers or potential customers that they purchase MPP or MyPP;
 - (d) admits that the Brokers did not offer customers or potential customers insurance products other than MPP or MyPP (as relevant); and
 - (e) otherwise denies the allegations.
- 21C. In response to the allegations in paragraph 21C, ALID:
- (a) repeats paragraph 21 above; and
 - (b) otherwise denies the allegations.
- 21D. ALID denies the allegations in paragraph 21D.
- 21E. In response to the allegations in paragraph 21E, ALID:
- (a) repeats paragraph 21 above and paragraph 26 below;
 - (b) says that:
 - (i) page 7 of the MyPP product disclosure statement and policy document dated 27 September 2021 states that MyPP is optional insurance and that approval of a customer's or potential customer's application for a loan does not depend on their buying an MPP policy;
 - (ii) clause 2(b)(vii) of the 'Terms and Conditions of Appointment' for individual authorised representatives prohibits the representatives from stating or implying to customer or potential customer that they are required to obtain a MPP or MyPP (as relevant) as a condition of a credit facility;

- (c) says otherwise that the Amended Statement of Claim does not properly plead a claim or a basis for relief against ALID with respect to the Necessity Representation; and
 - (d) otherwise does not know and cannot admit the allegations.
- 22. In response to the allegations in paragraph 22, ALID:
 - (a) repeats paragraphs 21 to 21E above and paragraph 26 below; and
 - (b) denies the allegations.
- 23. In response to the allegations in paragraph 23, ALID:
 - (a) repeats paragraph 21 above;
 - (b) denies the existence of the Aussie MPP Sales System as defined and alleged; and
 - (c) in those circumstances, denies the allegations.
- 23A. In response to the allegations in paragraph 23A, ALID:
 - (a) repeats paragraphs 21D and 21E above; and
 - (b) denies the allegations.
- 24. In response to the allegations in paragraph 24, ALID:
 - (a) repeats paragraph 21 above;
 - (b) says that the Brokers did not recommend to customers or potential customers that they purchase MPP or MyPP; and
 - (c) otherwise denies the allegations.
- 25. In response to the allegations in paragraph 25, ALID:
 - (a) refers to paragraph 21 above; and
 - (b) says that the brokers did not recommend to customers or potential customers that they purchase MPP or MyPP; and

(c) in those circumstances, denies the allegations.

26. In response to the allegations in paragraph 26, ALID:

(a) repeats paragraph 21 above;

(b) says that:

(i) ALID trained Brokers, depending on the MPP or MyPP product being offered at the relevant time:

1. to provide customers or potential customers with the financial services guide and product disclosure statement and policy document before the Broker's first meeting with the customer or potential customer;
2. to provide customers or potential customers with the product disclosure statement and policy document during a face-to-face meeting with the customer or potential customer;
3. to distinguish between their role as accredited lenders and authorised representatives of ALID;
4. to offer MPP or MyPP (as relevant) to each eligible customer or potential customer;
5. to provide general advice warnings to the customer or potential customer;
6. not to discuss the suitability of the type or amount of cover already held by customers or potential customers;
7. not to give any opinion or recommendation which takes into account a customer's or potential customer's personal needs or situation;
8. not to discuss a suitable amount of cover; and/or

9. to provide customers or potential customers with the product disclosure statement and policy document before submitting any application for MPP or MyPP;
 - (ii) each MPP and MyPP product disclosure statement and policy document contained a statement to the effect that the information therein:
 1. is general information; and
 2. does not take into account a customer's or potential customer's personal objectives, financial situation or needs;
 - (iii) MPP and MyPP product disclosure statements and policy documents contained a statement to the effect that the customer or potential customer should consider whether the product is appropriate for them and their circumstances; and
 - (iv) as part of the MPP and MyPP application process, customers or potential customers signed a declaration acknowledging that they had not been given any advice on whether the insurance was suitable for their individual financial circumstances, personal needs and objectives and that they understood that they need to consider that before deciding to take out the insurance; and
 - (c) denies the allegations.
27. In response to the allegations in paragraph 27, ALID:
- (a) repeats paragraph 21 above;
 - (b) admits that, in offering MPP or MyPP to customers or potential customers, the Brokers were providing a financial service;
 - (c) otherwise denies the allegations in subparagraph 27(a); and
 - (d) denies the allegations in subparagraph 27(b).

28. In response to the allegations in paragraph 28, ALID:

- (a) repeats paragraph 21 above; and
- (b) denies the allegations.

F. REGULATORY FRAMEWORK

29. In response to the allegations in paragraph 29, ALID:

- (a) admits that s 961L of the Corporations Act requires financial services licensees to take reasonable steps to ensure that representatives of the licensee comply with ss 961B, 961G, 961H and 961J of the Corporations Act when providing personal advice;
- (b) repeats paragraph 26 above; and
- (c) therefore denies the allegations in paragraph 29.

30. ALID does not plead to paragraph 30 as it contains no allegations against it.

30A. ALID does not plead to paragraph 30A as it contains no allegations against it.

30B. ALID does not plead to paragraph 30B as it contains no allegations against it.

30C. ALID does not plead to paragraph 30C as it contains no allegations against it.

30D. ALID does not plead to paragraph 30D as it contains no allegations against it.

31. ALID does not plead to paragraph 31 as it contains no allegations against it.

31A. ALID does not plead to paragraph 31A as it contains no allegations against it.

32. ALID does not plead to paragraph 32 as it contains no allegations against it.

33. In response to the allegations in paragraph 33, ALID:

- (a) repeats paragraph 26 above; and
- (b) denies the allegations in paragraph 33.

33A. ALID does not plead to paragraph 33A as it contains no allegations against it.

G. CONTRAVENTIONS

34. In response to the allegations in paragraph 34, ALID:
- (a) with respect to the allegations in subparagraph 34(a):
 - (i) admits that neither MPP nor MyPP provided a benefit which paid or pays the insured part of their lost income if they are unable to work due to an injury, illness or disability;
 - (ii) otherwise denies the allegations in subparagraph 34(a);
 - (b) denies the allegations in subparagraph 34(b);
 - (c) admits the allegations in subparagraph 34(c);
 - (d) admits the allegations in subparagraph 34(d);
 - (e) admits the allegations in subparagraph 34(e); and
 - (f) denies the allegations in subparagraph 34(f).
35. In response to the allegations in paragraph 35, ALID:
- (a) says that the definition of 'Alternative Policies' is ambiguous and embarrassing in that it is unclear whether:
 - (i) the particulars to paragraph 35 are intended to qualify or limit the definition of 'Alternative Policies' as otherwise defined in paragraph 35; and
 - (ii) the policies enumerated in Schedule 1 to the Amended Statement of Claim are intended to comprise all of the 'Alternative Policies' otherwise defined in paragraph 35 in circumstances where:
 1. the heading above those enumerated policies is 'Alternate Policies'; and
 2. the particulars to paragraph 35 state that further particulars may later be provided;

- (b) admits that certain of the benefits set out in paragraph 34 of the Amended Statement of Claim are offered in certain of the policies enumerated in Schedule 1 to the Amended Statement of Claim;
 - (c) denies that all of the benefits set out in paragraph 34 of the Amended Statement of Claim are offered in all of the policies enumerated in Schedule 1 to the Amended Statement of Claim; and
 - (d) otherwise denies the allegations.
36. In response to the allegations in paragraph 36, ALID:
- (a) denies the allegations in subparagraph 36(a);
 - (b) admits the allegations in subparagraph 36(b);
 - (c) says that MPP, but not MyPP, provided insurance cover with respect to involuntary unemployment but otherwise admits the allegations in subparagraph 36(c); and
 - (d) admits that the 'Specified Injury Benefit' offered in MyPP from 5 April 2021 was equal to 3% of the insured's 'Death and Terminal Illness Benefit' amount, up to \$7,500.
37. In response to the allegations in paragraph 37, ALID:
- (a) repeats subparagraph 35(a) above;
 - (b) says that the use of the word 'usually' is vague and embarrassing; and
 - (c) otherwise denies the allegations.
38. In response to the allegations in paragraph 38, ALID:
- (a) repeats subparagraph 35(a) above; and
 - (b) otherwise denies the allegations.
39. ALID denies the allegations in paragraph 39.
40. In response to the allegations in paragraph 40, ALID:

- (a) repeats paragraphs 21 and 26 above;
 - (b) admits that:
 - (i) Brokers were not, under the terms of their engagement, permitted to offer customers or potential customers insurance products other than MPP or MyPP; and
 - (ii) Brokers were not, under the terms of their engagement, required to compare MPP or MyPP to other policies;
 - (c) says that Brokers were trained to offer MPP or MyPP (as relevant) to all customers and potential customers; and
 - (d) otherwise denies the allegations in paragraph 40.
41. In response to the allegations in paragraph 41, ALID:
- (a) repeats paragraphs 26 and 40 above;
 - (b) admits that Brokers:
 - (i) did not, for the purposes of offering of MPP or MyPP, obtain from customers or potential customers details of insurance they held or their objectives, financial situation or needs with respect to insurance;
 - (ii) did not investigate or assess whether MPP or MyPP was appropriate for customers or potential customers; and
 - (iii) did not investigate or assess whether MPP or MyPP was the most suitable insurance product available in the market; and
 - (c) otherwise denies the allegations to the extent that they allege a failure by the Brokers to fulfil an obligation.
42. ALID denies the allegations in paragraph 42.
43. In response to the allegations in paragraph 43, ALID:
- (a) repeats paragraphs 26, and 40 to 42 above;

- (b) denies that Brokers were under the apparently alleged obligations in paragraph 43; and
 - (c) otherwise denies the allegations.
44. In response to the allegations in paragraph 44, ALID:
- (a) repeats paragraphs 26 and 39 to 43 above; and
 - (b) otherwise denies the allegations.
45. In response to the allegations in paragraph 45, ALID:
- (a) repeats paragraphs 21 and 26 above;
 - (b) denies that Brokers were under the apparently alleged obligation to give the warnings set out in paragraph 45; and
 - (c) otherwise denies the allegations.
46. In response to the allegations in paragraph 46, ALID:
- (a) repeats paragraphs 21 and 26 above;
 - (b) admits that Brokers did not give customers or potential customers a warning that the Broker:
 - (i) was or may be submitting an application for MPP or MyPP without having obtained all the information that might reasonably be regarded as relevant to the assessment of whether MPP or MyPP was appropriate for the customer or potential customer's circumstances; or
 - (ii) was or may be submitting an application for MPP or MyPP for the customer without having given specific consideration to whether the MPP or MyPP was appropriate for the customer's circumstances;
 - (c) denies that Brokers were under the apparently alleged obligation to give the warnings set out in paragraph 46; and

- (d) otherwise denies the allegations.
47. ALID denies the allegations in paragraph 47.
48. In response to the allegations in paragraph 46, ALID:
- (a) repeats paragraphs 21, 21C, 22, 23, 26 and 34 to 39 above;
 - (b) otherwise denies the allegations.
49. ALID denies the allegations in paragraph 49.
50. ALID denies the allegations in paragraph 50.
51. In response to the allegations in paragraph 51, ALID:
- (a) says that the allegations are made on the premise that personal advice was being given by Brokers to Claimants with respect to insurance, which premise is denied;
 - (b) repeats paragraph 26 above; and
 - (c) in those circumstances, denies the allegations.
52. In response to the allegations in paragraph 52, ALID:
- (a) says that the allegations are made at such a level of abstraction and hypotheticality that they are embarrassing; and
 - (b) in those circumstances, denies the allegations.
53. ALID denies the allegations in paragraph 53.
54. In response to the allegations in paragraph 54, ALID:
- (a) repeats paragraph 53 above; and
 - (b) accordingly, denies the allegations.
55. In response to the allegations in paragraph 55, ALID:
- (a) repeats paragraphs 21, 26 and 53 above; and

- (b) denies the allegations.
56. ALID denies the allegations in paragraph 56.
57. In response to the allegations in paragraph 57, ALID:
- (a) repeats paragraphs 21 and 26 above; and
 - (b) denies the allegations.
58. ALID denies the allegations in paragraph 58.
59. In response to the allegations in paragraph 59, ALID:
- (a) repeats paragraphs 21, 21E and 26 above;
 - (b) admits that Brokers were providing a financial service in offering MPP or MyPP to customers or potential customers; and
 - (c) otherwise denies the allegations.
60. In response to the allegations in paragraph 60, ALID:
- (a) repeats paragraphs 21, 21E and 26 above; and
 - (b) otherwise does not know and cannot admit the allegations.
61. In response to the allegations in paragraph 60, ALID:
- (a) admits that, pursuant to s 917B of the Corporations Act, ALID is responsible, as between ALID and a client, for the conduct of the Brokers;
 - (b) admits that, pursuant to s 917E of the Corporations Act, ALID's responsibility for Brokers' conduct under s 917B extends so as to make ALID liable for any loss or damage suffered by a Claimant as a result of a Broker's conduct;
 - (c) says that:

- (i) it repeats subparagraphs 21B(a) and 26(b)(iv) above and says that the acknowledgments referred to therein constitute a disclosure under s 917D of the Corporations Act;
 - (ii) the requirements of s 917D of the Corporations Act are otherwise satisfied; and
 - (iii) pursuant to s 917D of the Corporations Act, ALID is not therefore responsible under s 917B for the conduct of its representatives to the extent that their conduct was not within authority (which is denied);
 - (d) denies that any Claimant has suffered loss or damage; and
 - (e) otherwise denies the allegations.
- 61A. ALID does not plead to paragraph 61A as it contains no allegations against it.
62. ALID does not plead to paragraph 62 as it contains no allegations against it.
63. ALID does not plead to paragraph 63 as it contains no allegations against it.
64. ALID does not plead to paragraph 64 as it contains no allegations against it.
65. [Not used]
- 65A. ALID does not plead to paragraph 65A as it contains no allegations against it.
- 65B. ALID does not plead to paragraph 65B as it contains no allegations against it.
- 65C. ALID does not plead to paragraph 65C as it contains no allegations against it.
- 65D. ALID does not plead to paragraph 65D as it contains no allegations against it.
- 65E. ALID does not plead to paragraph 65E as it contains no allegations against it.
- 65F. ALID does not plead to paragraph 65F as it contains no allegations against it.
- 65G. ALID does not plead to paragraph 65G as it contains no allegations against it.
- 65H. ALID does not plead to paragraph 65H as it contains no allegations against it.

- 66. ALID does not plead to paragraph 66 as it contains no allegations against it.
- 67. ALID does not plead to paragraph 67 as it contains no allegations against it.
- 68. ALID does not plead to paragraph 68 as it contains no allegations against it.
- 69. ALID does not plead to paragraph 69 as it contains no allegations against it.
- 69A. ALID does not plead to paragraph 69A as it contains no allegations against it.
- 69B. ALID does not plead to paragraph 69B as it contains no allegations against it.

H. MISLEADING CONDUCT

- 69C. ALID does not plead to paragraph 69C as it contains no allegations against it.
- 70. ALID does not plead to paragraph 70 as it contains no allegations against it.
- 70A. ALID does not plead to paragraph 70A as it contains no allegations against it.
- 70B. ALID does not plead to paragraph 70B as it contains no allegations against it.
- 70C. ALID does not plead to paragraph 70C as it contains no allegations against it.
- 71. ALID does not plead to paragraph 71 as it contains no allegations against it.
- 72. ALID does not plead to paragraph 72 as it contains no allegations against it.
- 73. ALID does not plead to paragraph 73 as it contains no allegations against it.
- 74. ALID does not plead to paragraph 74 as it contains no allegations against it.

I. CLAIMANTS' LOSS AND DAMAGE

- 75. In response to the allegations in paragraph 75, ALID:
 - (a) repeats paragraphs 21, 21E and 26 above;
 - (b) admits that, to the extent that Claimants obtained MPP or MyPP, those products were offered to the Claimants by Brokers authorised by ALID to do so;

- (c) says that applicants for MPP and MyPP have at all material times been required to sign a declaration to the effect that they had not been given any advice on whether the products were suitable for their individual circumstances, needs and objectives, and that the applicants understand that they need to consider that before deciding to obtain the insurance;
- (d) does not plead to subparagraphs 75(b) and 75(c) as they contain no allegations against it; and
- (e) otherwise denies the allegations.

76. In response to the allegations in paragraph 76, ALID:

- (a) repeats paragraphs 44, 47, 50, 56, 58, 59 and 73 above and says that certain of the allegations in those paragraphs are not made against ALID;
- (b) says that in or about October 2021 the Applicant successfully made a claim for an Involuntary Unemployment Benefit under his MPP policy and consequently received \$749.97;
- (c) says that any benefits paid to or otherwise received by Claimants under an MPP or MyPP policy, including in accordance with the 'ALID Extra Benefits' program, are relevant to the calculation of the alleged loss and damage;
- (d) says that the benefits referred to in subparagraph 76(c) above may exceed the value of the total premiums paid for MPP or MyPP;
- (e) says that the Claimants who have made a claim under an MPP or MyPP Policy have sought to avail themselves of benefits under those products and are therefore, by virtue of the doctrines of election and/or approbation and reprobation, prevented from now asserting or seeking relief with respect to an inconsistent set of rights; and
- (f) otherwise denies the allegations.

77. ALID denies the allegations in paragraph 77.

78. To the extent that paragraph 78 makes any allegations, ALID denies them.

J. RELIEF

79. ALID does not plead to paragraph 79 as it contains no allegations against it.

K. COMMON QUESTIONS OF FACT OR LAW

80. ALID does not plead to paragraph 80 as it contains no allegations against it.

DATED: 6 November 2024

A handwritten signature in black ink, appearing to read "Justin Vaatstra", with a long horizontal flourish extending to the right.

Signed by Justin Vaatstra
Solicitor for the First Respondent

This pleading was prepared by Banjo McLachlan and settled by Kathleen Foley of Counsel.

Certificate of lawyer

I Justin Vaatstra certify to the Court that, in relation to the defence filed on behalf of the First Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date: 6 November 2024

A handwritten signature in black ink, appearing to read "Justin Vaatstra", with a long horizontal flourish extending to the right.

Signed by Justin Vaatstra
Solicitor for the First Respondent