

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 11/11/2019 11:07:29 AM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	VID434/2015
File Title:	Cheryl Whittenbury v Vocation Ltd (in Liquidation) & Anor
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Dated: 11/11/2019 3:44:53 PM AEDT

A handwritten signature in blue ink that reads 'Warwick Soden'.

Registrar

Important Information

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

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

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



**Second Further Amended Consolidated Originating application
starting a representative proceeding under Part IVA of the Federal
Court of Australia Act 1976**

(filed pursuant to orders made by Middleton J on 11 October 2019 and 8 November 2019)

No. VID 434 of 2015

Federal Court of Australia
District Registry: Victoria
Division: General

Cheryl Whittenbury

Applicant

Vocation Limited (ACN 166 631 330)

First Respondent

**PricewaterhouseCoopers (a firm) (ABN 52 780 433 757) Vocation Limited (in liquidation)
(ACN 166 631 330) and others named in the schedule**

Second Respondent

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Filed on behalf of Cheryl Whittenbury (Applicant)

Joint Lawyers for the Applicant

Maurice Blackburn Lawyers
Telephone: (03) 9605 2892
Facsimile: (03) 9258 9600
Email: BDellavedova@mauriceblackburn.com.au

Slater and Gordon Lawyers
Telephone: (03) 9602 6969
Facsimile: (03) 9600 0290
Email: Andrew.Paull@slatergordon.com.au

Joint Address for Service

380 La Trobe Street
Melbourne VIC 3000
Email: service@vocationclassaction.com.au



Time and date for hearing:

Place: Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne

Date:

Signed by an officer acting with the authority
of the District Registrar

Details of claim

On the grounds stated in the accompanying Second Further Amended Consolidated Statement of Claim, the Applicant claims, in her own capacity and in her representative capacity on behalf of Group Members (as defined below):

1. ~~An order, pursuant to s 1317HA of the *Corporations Act 2001* (Cth) (**Corporations Act**), that the First Respondent (**Vocation**) compensate the Applicant and Group Members for the damage suffered by them which resulted from Vocation's contraventions of s 674(2) of the *Corporations Act*;~~
2. Compensation pursuant to s 729 of the *Corporations Act* for the damage suffered by them because of Vocation's contraventions of s 728 of the *Corporations Act*;
3. Further, or in the alternative, an order that Vocation pay to the Applicant and Group Members statutory compensation pursuant to:
 - (a) s 1041I of the *Corporations Act*;
 - (b) s 12GF of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**); and/or
 - (c) s 236 of the *Australian Consumer Law* (**ACL**);
4. An order, that the Second Respondent (**PWC**) pay to the Applicant and Group Members statutory compensation pursuant to:
 - (a) s 1041I of the *Corporations Act*;



- (b) s 12GF of the ASIC Act; and/or
 - (c) s 236 of the ACL;
5. An order, that the Third, Fourth or Fifth Respondents (Hutchinson, Gréwal and Dawkins) pay to the Applicant and Group Members statutory compensation pursuant to:
- (a) s 1041I of the Corporations Act;
 - (b) s 12GF of the ASIC Act; and/or
 - (c) s 236 of the ACL.
6. Interest pursuant to s 51A of the *Federal Court of Australia Act 1976* (Cth);
7. Costs;
8. Such further or other relief as the Court determines is appropriate.

Questions common to claims of Group Members

The questions of law or fact common to the claims of the Applicant and Group Members are (using definitions contained in the Second Further Amended Consolidated Statement of Claim):

(A) Claims against Vocation - Liability

1. Were;
- (a) the Prospectus Misleading Statements (~~namely, the First Prospectus Statement and/or the Second Prospectus Statement~~);
 - (b) the Prospectus Representations (namely, the First Prospectus Compliance Representation, the Second Prospectus Compliance Representation and the Prospectus Guidance Representations and Prospectus Guidance Basis Representation),
misleading?
2. Was the Replacement Prospectus required by s 710 of the Corporations Act to contain a statement disclosing the material the subject of the Prospectus Omissions, namely:
- (a) the BAWM Conduct Information;



- (b) the BAWM Conduct Non-Compliance Information;
 - (c) the BAWM Historical Non-Compliance Information;
 - (d) the BAWM Conduct Risk Information;
 - (e) the BAWM Conduct Further Risk Information;
 - (f) the BAWM Conduct Business Implication Information;
 - (g) the Systemic Conduct Information; ~~and/or~~
 - (h) the Systemic Conduct Non-Compliance Information;
 - (i) Systemic Historical Non-Compliance Information.
 - (j) the Systemic Conduct Risk Information;
 - (k) the Systemic Conduct Further Risk Information; and/or
 - (l) the Systemic Conduct Business Implication Information?
3. Did the offer under the Replacement Prospectus contravene s 728(1) of the Corporations Act by reason of (1) or (2)?
4. Further, or alternatively, did Vocation engage in misleading or deceptive conduct in contravention of s 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 236 of the ACL by making the Prospectus Misleading Statements and Prospectus Omissions?
- (B) Claims against Vocation – Causation
5. If the answer to (3) or (4) is “Yes”, and if the Replacement Prospectus had not contained the Prospectus Misleading Statements and/or omitted the material the subject of the Prospectus Omissions:
- (a) would the transactions contemplated by the Replacement Prospectus have occurred in the way in which they occurred, or at all?
 - (b) if the transactions contemplated by the Prospectus would not have occurred, is compensation recoverable by:
 - (i) Group Members who acquired Vocation Securities pursuant to the Initial Public Offering;



- (ii) Group Members who acquired Vocation Securities on-market;
- (iii) Group Members who acquired Vocation Securities pursuant to the Placement,

from Vocation?

- (c) If the transactions contemplated by the Prospectus would have occurred, then:
 - (i) was the Offer Price of Vocation Securities under the Initial Public Offering inflated (and if so, by how much), and can Group Members who acquired such Vocation Securities pursuant to the Initial Public Offering recover compensation from Vocation (and if so in what amount)?
 - (ii) was the market price of Vocation Securities during the Relevant Period, higher than their true value and/or what the prices would otherwise have been (that is, inflated), and if so, by how much, (and can Group Members who acquired such Vocation Securities on market recover compensation from Vocation, and if so in what amount)?
 - (iii) was the price of Vocation Securities under the Placement inflated, and if so, by how much, (and can Group Members who acquired such Vocation Securities pursuant to the Placement recover compensation from Vocation, and if so in what amount)?

~~(C) — Continuous Disclosure / Misleading Conduct Claims against Vocation — Liability~~

~~6. — At what date did Vocation become aware, within the meaning of the ASX Listing Rules, of:~~

- ~~(a) the BAWM Conduct Information;~~
- ~~(b) the BAWM Conduct Risk Information;~~
- ~~(c) the Systemic Conduct Information;~~
- ~~(d) the Systemic Conduct Risk Information;~~
- ~~(e) the BAWM Identified Non-Compliance Information;~~
- ~~(f) the BAWM Conduct Increased Risk Information;~~
- ~~(g) the BAWM Investigation Information;~~



- (h) the BAWM Investigation Risk Information;
- (i) the Victorian Investigation Information;
- (j) the Victorian Investigation Risk Information;
- (k) the Cash Requirement Information;
- (l) the Restructure Information;
- (m) the Post-DEECD Settlement Earnings Unreliability Information?

7. ~~Was any of the information referred to in (4) information that, throughout all or part (and if so, which part) of the Relevant Period, not generally available within the meaning of s 674(2)(c)(i) of the Corporations Act?~~

8. ~~Was any of the information referred to in (4) information that, throughout all or part (and if so, which part) of the Relevant Period, a reasonable person would expect to have a material effect on the price or value of Vocation Securities within the meaning of ASX Listing Rule 3.1 and s 674(2)(c)(ii) of the Corporations Act?~~

9. ~~Did Vocation, throughout all or part (and if so, which part) of the Relevant Period, contravene s 674(2) of the Corporations Act by not immediately telling ASX the information referred to in (4)?~~

Misleading or Deceptive Conduct Claims against Vocation - Liability

10. ~~Did Vocation make and/or fail to correct or qualify:~~

- (a) ~~the Prospectus Misleading Statements, being:~~
 - (i) ~~the First Prospectus Compliance Statement; and/or~~
 - (ii) ~~the Second Prospectus Compliance Statement;~~
- (b) ~~the Prospectus Representations, being:~~
 - (i) ~~the First Prospectus Compliance Representation;~~
 - (ii) ~~the Second Prospectus Compliance Representation;~~
 - (iii) ~~the Prospectus Guidance Representations and Prospectus Guidance Basis Representation;~~



- (c) the August Representations, being:
 - (i) ~~the August Compliance Representation;~~
 - (ii) ~~the August Materiality Representation; and/or~~
 - (iii) ~~the August Immaterial Risk Representation;~~
- (d) the August FY14 Results Representations, being:
 - (i) ~~the Outperformance Representation;~~
 - (ii) ~~the Same Basis Representation;~~
 - (iii) ~~the True and Fair View Representation; and/or~~
 - (iv) ~~the Reliability Representation;~~
- (e) the August FY15 Earnings Representations, being:
 - (i) ~~the August FY15 Earnings Guidance Representation; and/or~~
 - (ii) ~~the August FY15 Earnings Basis Representation;~~
- (f) the September Representations, being:
 - (i) ~~the September Compliance Representation;~~
 - (ii) ~~the September Materiality Representation;~~
 - (iii) ~~the September Immaterial Risk Representation; and/or~~
 - (iv) ~~the September Placement Representation;~~
- (g) the 16 October Representations, being:
 - (i) ~~the 16 October Compliance Representation;~~
 - (ii) ~~the 16 October Materiality Representation; and/or~~
 - (iii) ~~the 16 October Immaterial Risk Representation;~~
- (h) the Late October Representations, being:
 - (i) ~~the 27 October Disclosure Representation;~~



- ~~(ii) — the 27 October FY15 Earnings Guidance Representation;~~
 - ~~(iii) — the 27 October FY15 Earnings Guidance Basis Representation;~~
 - ~~(iv) — the 30 October Disclosure Representation;~~
 - ~~(v) — the 30 October FY15 Earnings Guidance Representation; and/or~~
 - ~~(vi) — the 30 October FY15 Earnings Guidance Basis Representation;~~
 - ~~(i) the November Representations, being:

 - ~~(i) — the November FY15 Earnings Guidance Representation; and/or~~
 - ~~(ii) — the November FY15 Earnings Guidance Basis Representation;~~~~
 - ~~(j) the Continuing Compliance Representation;~~
 - ~~(k) the Continuing Immaterial Risk Representations;~~
 - ~~(l) the Continuing Materiality Representation; and/or~~
 - ~~(m) the Continuous Disclosure Representations?~~
- ~~11. Did Vocation contravene s 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 236 of the ACL by engaging in any of the conduct referred to in (10)?~~
- ~~12. Did Vocation contravene s 1041E of the Corporations Act by engaging in any of the conduct referred to in (10)(c)(ii), (8)(d), (10)(f)(ii) and (iv), (10)(g)(ii) and (10)(l)?~~

(D) Claims against the Third (**Hutchinson**), Fourth (**Gréwal**) and Fifth (**Dawkins**) Respondents Liability

13. Did Hutchinson and/or Dawkins make the:
- ~~(a) the Directors' FY14 Accounts Representations; and~~
 - ~~(b) the Directors' FY14 Accounts Reasonable Grounds Representation?~~
14. Did Hutchinson and/or Dawkins contravene 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 18 of the ACL by engaging in the conduct referred to in (13)?
15. Did Hutchinson and/or Gréwal make the:



- (a) Officers' 21 August Accounts Representations;
- (b) Officers' 21 August Accounts Reasonable Grounds Representation;
- (c) Officers Further 21 August Representation;
- (d) Officers' 10 September DDQ Representations?
16. Did Hutchinson and/or Gréwal contravene 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 18 of the ACL by engaging in the conduct referred to in (15)?
17. Did Hutchinson make the:
- (a) Officers' 25 August Representations;
- (b) Officers' 25 August Reasonable Grounds Representation;
- (c) Officers' 10 September ASX Representations; and
- (d) Officers' 10 September Reasonable Grounds Representation?
18. Did Hutchinson contravene 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 18 of the ACL by engaging in the conduct referred to in (17)?
- (E) ~~Continuous Disclosure / Misleading Conduct~~ Claims against Hutchinson, Gréwal and Dawkins – Causation
19. If the answer to (13), (14), (15), (16), (17) or (18) is "Yes":
- (a) was the market price of Vocation Securities during the Relevant Period, higher than their true value and/or what the prices would otherwise have been (that is, inflated), and if so, by how much, (and can Group Members who acquired such Vocation Securities on market recover compensation Hutchinson, Gréwal and Dawkins, and if so in what amount)?
- (b) was the price of Vocation Securities under the Placement inflated, and if so, by how much, (and can Group Members who acquired such Vocation Securities pursuant to the Placement recover compensation from Vocation, and if so in what amount)?
- (E) PWC Claims - Liability
20. Did PWC make and/or fail to correct or qualify:



- (a) the PWC August Opinion;
 - (b) the PWC August Representation;
 - (c) the PWC September Opinions;
 - (d) the PWC September Representations.
21. Were Vocation's FY14 financial statements (upon which Vocation's FY14 Appendix 4E was based) and the FY14 Financial Statements prepared in compliance with Accounting Standards and give a true and fair view of Vocation's financial position and financial performance in FY14, as pleaded in the Second Further Amended Consolidated Statement of Claim, namely to the extent that they:
- (a) used the New Revenue Recognition Policy, without disclosing it was a change in accounting policy from the Prospectus Revenue Recognition Policy and without retrospectively restating comparative amounts, and disclosing the nature, reasons and quantification of the effect of the change;
 - (b) did not disclose that Vocation was subject to the BAWM Investigation, Aspin Investigation, Victorian Funding Suspensions, Victorian Enrolment Suspensions, and make any provision in relation thereto, impairment to goodwill as a consequence thereof, or disclose any uncertainty as to Vocation's ability to continue as a going concern?
22. Did Bourke (and by reason of Bourke's conduct, PWC) engage in misleading or deceptive conduct in contravention of s 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 236 of the ACL by making, and failing to correct or qualify:
- (a) the PWC August Opinion;
 - (b) the PWC August Representation;
 - (c) the PWC September Opinions;
 - (d) the PWC September Representations?
23. Was:
- (a) the PWC August Opinion;
 - (b) the PWC August Representation;



- (c) the PWC September Opinions;
- (d) the PWC September Representations,

likely to have the effect of increasing, maintaining or stabilising the price of Vocation Securities on the ASX?

24. Ought Bourke reasonably to have known that:

- (a) the PWC August Opinion;
- (b) the PWC August Representation;
- (c) the PWC September Opinions;
- (d) the PWC September Representations,

were not based on reasonable grounds, or were materially misleading?

25. Did Bourke contravene s 1041E of the Corporations Act?

PWC Claims – Causation

26. If the answer to (1622) or (1925) is “Yes”:

- (a) was the market price of Vocation Securities during the Relevant Period, higher than their true value and/or what the prices would otherwise have been (that is, inflated), and if so, by how much, (and can Group Members who acquired such Vocation Securities on market recover compensation from PWC, and if so in what amount)?
- (b) was the price of Vocation Securities under the Placement inflated, and if so, by how much, (and can Group Members who acquired such Vocation Securities pursuant to the Placement recover compensation from PWC, and if so in what amount)?

27. ~~If the answer to (3) is “Yes”:~~

- (a) ~~if the Replacement Prospectus had not contained the Prospectus Misleading Statements and/or omitted the material the subject of the Prospectus Omissions, would the transactions contemplated by the Prospectus have occurred in the way in which they occurred, or at all?~~



- (b) ~~if the transactions contemplated by the Prospectus would not have occurred in the way in which they occurred, or at all, is compensation recoverable by the Applicant and Group Members?~~

~~28. If the answer to (3), (7), (9), (10) or (11) is "Yes":~~

- (a) ~~did any and if so what conduct of Vocation and/or PWC have the effect that prices for Vocation Securities were, during the Relevant Period, higher than their true value and/or what the prices would otherwise have been, and if so to what extent?~~
- (b) ~~for days during and after the Relevant Period, were falls in the price of Vocation Securities caused or materially contributed to by conduct of Vocation and/or PWC, and if so to what extent?~~
- (c) ~~if conduct of Vocation and/or PWC had such effect or effects, is compensation recoverable by the Applicant and Group Members?~~

Loss

- ~~29. If the answer to 12(b) 12 or 19 13(c) is "Yes", Wwhat is the correct measure of the compensation for which the Respondents Vocation may be liable to the Applicant and Group Members?~~

Representative action

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976* (Cth).

The group members to whom this proceeding relates (**Group Members**) are persons who:

- (a) acquired an interest in fully paid ordinary shares in Vocation Limited (**Vocation Securities**) during the period between:

(i) 27 November 2013; and

(ii) 4 December 2014,

(**Relevant Period**), including securities purchased through the Initial Public Offering under the Replacement Prospectus (as defined in paragraph 7 of the Second Further Amended Consolidated Statement of Claim) or the Placement (as



defined in paragraph 91(a) of the Second Further Amended Consolidated Statement of Claim);

- (b) allege they suffered loss or damage by reason of the conduct of the First Respondent (**Vocation**), ~~and/or~~ Second Respondent (PWC), Third Respondent (Hutchinson), Fourth Respondent (Grewal) and/or Fifth Respondent (Dawkins) pleaded in the Second Further Amended Consolidated Statement of Claim;
- (c) were not during the Relevant Period, and are not, any of the following:
 - (i) a related party (as defined by s 228 of the Corporations Act) of Vocation;
 - (ii) a related body corporate (as defined by s 50 of the Corporations Act) of Vocation;
 - (iii) an associated entity (as defined by s 50AAA of the Corporations Act) of Vocation; and
 - (iv) an officer or a close associate (as defined by s 9 of the Corporations Act) of Vocation.
- (d) are not John William Cruse Webster (as Trustee for the Elcar Pty Ltd Super Fund Trust) being the Applicant in proceedings VID228/2017 against Vocation in the Federal Court of Australia.

Applicant's address

The Applicant's address for service is:

Place: 380 La Trobe Street, Melbourne Vic 3000.

Email: service@vocationclassaction.com.au

The Applicant's address is 58 Tester Road, Kangarilla SA 5157.

Service on the Respondent

It is intended to serve this application on the Respondents.



Date: 11 November 2019

Brooke Dellavedova

Andrew Paul

Signed by Brooke Dellavedova
Joint Lawyer for the Applicant

Signed by Andrew Paul
Joint Lawyer for the Applicant



Schedule

Federal Court of Australia
 District Registry: Victoria
 Division: General

No. VID 434 of 2015

Applicant Cheryl Whittenbury

Respondents

First Respondent Vocation Limited (ACN 166 631 330)

Second Respondent PricewaterhouseCoopers (a firm) (ABN 52 780 433 757)

Third Respondent Mark Edward Hutchinson

Fourth Respondent Manvinder Gréwal

Fifth Respondent John Sydney Dawkins

Details of all cross-claims in the proceeding

First Cross-Claim

Cross-Claimant Vocation Limited (ACN 166 631 330)

Cross-Respondent The Partners of Johnson Winter & Slattery

Second Cross-Claim

Cross-Claimant PricewaterhouseCoopers (a firm) (ABN.52 780 433 757)

Cross-Respondent The Partners of Johnson Winter & Slattery

Third Cross-Claim

Cross-Claimant PricewaterhouseCoopers (a firm) (ABN.52 780 433 757)

First Cross-Respondent Mark Edward Hutchinson

Second Cross-Respondent Manvinder Gréwal



Third Cross-Respondent	John Sydney Dawkins
Fourth Cross-Respondent	Stephen John Tucker
Fifth Cross-Respondent	Michelle Kim Tredenick
Sixth Cross-Respondent	Douglas James Halley
Seventh Cross-Respondent	Vocation limited (ACN 166 631 330)

Fourth Cross-Claim

Cross-Claimant	John Sydney Dawkins
Cross-Respondent	The Partners of Johnson Winter & Slattery

Fifth Cross-Claim

Cross-Claimant	The Partners of Johnson Winter & Slattery
First Cross-Respondent	Mark Edward Hutchinson
Second Cross-Respondent	Manvinder Gréwal
Third Cross-Respondent	John Sydney Dawkins
Fourth Cross-Respondent	Stephen John Tucker
Fifth Cross-Respondent	Michelle Kim Tredenick
Sixth Cross-Respondent	Douglas James Halley
Seventh Cross-Respondent	Vocation limited (ACN 166 631 330)

Sixth Cross-Claim

Cross-Claimant	Mark Edward Hutchinson
Cross-Respondent	The Partners of Johnson Winter & Slattery

Seventh Cross-Claim

Cross-Claimant	Manvinder Gréwal
Cross-Respondent	The Partners of Johnson Winter & Slattery