

- (d) was not formed after Mr Abboud had taken a diligent and intelligent interest in the information available to him or which he might with fairness have demanded from the executives or other employees and agents of DSH and the DSH Group.

Particulars

The particulars at paragraph 243 are repeated.

294 Further, when Mr Abboud made the Directors' FY14 Implied Representation, he made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 239 is repeated.

- (b) were likely to induce, directly or indirectly the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on the ASX.

Particulars

The particulars at paragraph 254(c) are repeated.

295 Mr Abboud ought reasonably to have known that the Directors' FY14 Implied Representation was false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 255 and 259, and because the Directors' FY14 Implied Representation was a representation of his own opinion.

296 In the premises, Mr Abboud contravened s 1041E of the CA.

D.4.3. FY14 ASX Announcement & Results Briefing

297 Mr Abboud had knowledge of the contents of the FY14 ASX Announcement & Results Briefing.

Particulars

The text of the FY14 ASX Announcement & Results Briefing was provided to the Board of DSH prior to its meeting on 18 August 2014: Board Papers for 18 August 2014.

- 298 Mr Abboud authorised the issue and publication of the FY14 ASX Announcement & Results Briefing.

Particulars

Minutes of meeting of the Board of DSH dated 18 August 2014.

- 299 Further, the 'FY2014 Results Briefing' which formed part of the FY14 ASX Announcement & Results Briefing was presented by Mr Abboud and Mr Potts.

- 300 Mr Abboud's conduct pleaded in the preceding two paragraphs was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY14 ASX Announcement & Results Briefing which was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised at paragraph 244 above.

- 301 Further, when Mr Abboud authorised the issue and publication, and presented the FY14 ASX Announcement & Results Briefing, Mr Abboud made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 244 is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 261(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

Positive statements made by Mr Abboud in the FY14 ASX Announcement & Results Briefing that were based on the FY14 Financial Statements and that did not disclose the matters pleaded in paragraph 244 were likely to have the effect of increasing, maintaining or stabilising the price of DSH Shares from what they would otherwise have been had the FY14 Financial Statements been prepared in compliance with the accounting standards and gave a true and fair view of the financial position and performance of DSH and the information pleaded at paragraph 244 been disclosed.

302 When Mr Abboud authorised the issue and publication, and presented the FY14 ASX Announcement & Results Briefing, Mr Abboud ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading because they reported the financial results from DSH's FY14 Financial Statements which DSH ought to have known were false in a material particular or materially misleading for the reasons pleaded and particularised in paragraph 255.

303 In the premises, Mr Abboud contravened s 1041E of the CA.

D.4.4. FY15 Financial Statements and DSH's FY15 Express Representation

304 Mr Abboud had knowledge of the contents of the FY15 Financial Statements and DSH's FY15 Express Representation therein.

Particulars

The FY15 Financial Statements were provided to the Board of DSH prior to its meeting on 17 August 2015: Board Papers for 17 August 2015.

The FY15 Financial Statements were presented, discussed, and adopted by the Board of DSH on 17 August 2015: Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

The Directors' Declaration that accompanied the FY15 Financial Statements was signed by the Chairman of DSH on behalf of Mr Abboud.

305 Mr Abboud authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein.

Particulars

Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

The Directors' Declaration that accompanied the FY15 Financial Statements was signed by the Chairman of DSH on behalf of Mr Abboud.

- 306 Mr Abboud's conduct pleaded in the preceding paragraph was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein which were misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised above in sections D.1.5 and D.1.6.
- 307 Further, in authorising the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein, Mr Abboud made statements, or disseminated information, which:
- (a) were false in a material particular or materially misleading;

Particulars

Sections D.1.5 and D.1.6 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 264(c) are repeated.

- 308 When Mr Abboud authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein, he ought reasonably to have known that the

statements, or dissemination of information, were false in a material particular or materially misleading for the reasons pleaded above in paragraph 265.

309 In the premises, Mr Abboud contravened s 1041E of the CA.

D.4.5. Directors' FY15 Implied Representation

310 Mr Abboud's making of the Directors' FY15 Implied Representation was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because the opinion pleaded at paragraph 105 held by him was not:

- (a) held on a reasonable basis and was not the product of the application of reasonable care and skill by Mr Abboud;
- (b) a matter to which Mr Abboud had turned his mind, having informed himself as to the financial affairs of the company to the extent necessary to form an opinion as to the truth and fairness of the accounts;
- (c) formed after Mr Abboud had read and understood the financial statements and considered whether the financial statements were consistent with his knowledge of DSH's and the DSH Group's financial position and financial performance; or
- (d) formed after Mr Abboud had taken a diligent and intelligent interest in the information available to him or which he might with fairness have demanded from the executives or other employees and agents of DSH and the DSH Group.

Particulars

The particulars at paragraph 269 are repeated.

311 Further, when Mr Abboud made the Directors' FY15 Implied Representation, he made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 310 is repeated.

- (b) were likely to induce, directly or indirectly the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 264(c) are repeated.

312 Mr Abboud ought reasonably to have known that the Directors' FY15 Implied Representation was false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 265 and 269, and because the Directors' FY15 Implied Representation was a representation of his own opinion.

313 In the premises, Mr Abboud contravened s 1041E of the CA.

D.4.6. FY15 ASX Announcement & Results Briefing

314 Mr Abboud had knowledge of the contents of the FY15 ASX Announcement & Results Briefing.

Particulars

The text of the FY15 ASX Announcement & Results Briefing was provided to the Board of DSH prior to its meeting on 17 August 2015: Board Papers for 17 August 2015.

315 Mr Abboud authorised the issue and publication of the FY15 ASX Announcement & Results Briefing.

Particulars

Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

316 Further, the 'FY2015 Results Briefing' which formed part of the FY15 ASX Announcement & Results Briefing was presented by Mr Abboud and Mr Potts.

317 Mr Abboud's conduct pleaded in the preceding two paragraphs was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY15 ASX Announcement & Results Briefing which was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s

18 of the Australian Consumer Law for the reasons pleaded and particularised at paragraph 250 above.

318 Further, when Mr Abboud authorised the issue and publication, and presented the FY15 ASX Announcement & Results Briefing, Mr Abboud made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 250 is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 261(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

Positive statements made by Mr Abboud in the FY15 ASX Announcement & Results Briefing that were based on the FY15 Financial Statements and that did not disclose the matters pleaded in paragraph 250 were likely to have the effect of increasing, maintaining or stabilising the price of DSH Shares from what they would otherwise have been had the FY15 Financial Statements been prepared in compliance with the accounting standards and gave a true and fair view of the financial position and performance of DSH and the information pleaded at paragraph 250 been disclosed.

319 When Mr Abboud authorised the issue and publication, and presented the FY15 ASX Announcement & Results Briefing, Mr Abboud ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading because it reported the financial results from DSH's FY15 Financial Statements which DSH ought to have known were false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 250 and 265.

320 In the premises, Mr Abboud contravened s 1041E of the CA.

D.5. MR POTTS' CONTRAVENTIONS

321 Mr Potts:

- (a) authorised the issue and publication of each of the FY14 Financial Statements and FY15 Financial Statements;
- (b) made each of the Directors' FY14 Express Representation, Directors' FY14 Implied Representation, Directors' FY15 Express Representation and Directors' FY15 Implied Representation;
- (c) caused each of the FY14 ASX Announcement & Results Briefing and FY15 ASX Announcement & Results Briefing to be issued and published; and
- (d) presented the Results Briefings forming part of the FY14 ASX Announcement & Results Briefing and FY15 ASX Announcement & Results.

322 By reason of his conduct pleaded in the preceding paragraph, Mr Potts, on each of those occasions, engaged in conduct:

- (a) in relation to an offer of securities under a disclosure document, within the meaning of Chapter 6D of the CA;
- (b) in relation to a financial product or a financial service within the meaning of Part 7.1 of the CA;
- (c) in trade or commerce in relation to financial services within the meaning of s 12DA of the ASIC Act; and/or
- (d) in trade or commerce within the meaning of s 4 of the Australian Consumer Law.

D.5.1. FY14 Financial Statements and DSH's FY14 Express Representation

323 Mr Potts had knowledge of the contents of the FY14 Financial Statements and DSH's FY14 Express Representation therein.

Particulars

The FY14 Financial Statements were provided to the Board of DSH prior to its meeting on 18 August 2014: Board Papers for 18 August 2014.

The FY14 Financial Statements were presented, discussed, and adopted by the Board of DSH on 18 August 2014: Minutes of meeting of the Board of DSH dated 18 August 2014.

The Directors' Declaration that accompanied the FY14 Financial Statements was signed by the Chairman of DSH on behalf of Mr Potts.

- 324 Mr Potts authorised the issue and publication of the FY14 Financial Statements and DSH's FY14 Express Representation therein.

Particulars

Minutes of meeting of the Board of DSH dated 18 August 2014.

The Directors' Declaration that accompanied the FY14 Financial Statements was signed by the Chairman of DSH on behalf of Mr Potts.

- 325 Mr Potts' conduct pleaded in the preceding paragraph was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY14 Financial Statements and DSH's FY14 Express Representation therein which were misleading or deceptive or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised above in sections D.1.2 and D.1.3.
- 326 Further, in authorising the issue and publication of the FY14 Financial Statements and DSH's FY14 Express Representation therein, Mr Potts made statements, or disseminated information, which:
- (a) were false in a material particular or materially misleading;

Particulars

Sections D.1.2 and D.1.3 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 254(c) are repeated.

- 327 When Mr Potts authorised the issue and publication of the FY14 Financial Statements and DSH's FY14 Express Representation therein, he ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading for the reasons pleaded and particularised above in paragraph 255.
- 328 In the premises, Mr Potts contravened s 1041E of the CA.

D.5.2. Directors' FY14 Implied Representation

329 Mr Potts' making of the Directors' FY14 Implied Representation was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because the opinion pleaded at paragraph 92 held by him:

- (a) was not held on a reasonable basis and was not the product of the application of reasonable care and skill by Mr Potts;
- (b) was not a matter to which Mr Potts had turned his mind, having informed himself as to the financial affairs of the company to the extent necessary to form an opinion as to the truth and fairness of the accounts;
- (c) was not formed after Mr Potts had read and understood the financial statements and considered whether the financial statements were consistent with his knowledge of DSH's and the DSH Group's financial position and financial performance; or
- (d) was not formed after Mr Potts had taken a diligent and intelligent interest in the information available to him or which he might with fairness have demanded from the executives or other employees and agents of DSH and the DSH Group.

Particulars

The particulars at paragraph 243 are repeated.

330 Further, when Mr Potts made the Directors' FY14 Implied Representation, he made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 239 is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 254(c) are repeated.

331 Mr Potts ought reasonably to have known that the Directors' FY14 Implied Representation was false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 255 and 259, and because the Directors' FY14 Implied Representation was a representation of his own opinion.

332 In the premises, Mr Potts contravened s 1041E of the CA.

D.5.3. FY14 ASX Announcement & Results Briefing

333 Mr Potts had knowledge of the contents of the FY14 ASX Announcement & Results Briefing.

Particulars

The text of the FY14 ASX Announcement & Results Briefing was provided to the Board of DSH prior to its meeting on 18 August 2014: Board Papers for 18 August 2014.

334 Mr Potts authorised the issue and publication of the FY14 ASX Announcement & Results Briefing.

Particulars

Minutes of meeting of the Board of DSH dated 18 August 2014.

- 335 Further, the 'FY2014 Results Briefing' which formed part of the FY14 ASX Announcement & Results Briefing was presented by Mr Abboud and Mr Potts.
- 336 Mr Potts' conduct pleaded in the preceding two paragraphs was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY14 ASX Announcement & Results Briefing which was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised in paragraph 244 above.
- 337 Further, when Mr Potts authorised the issue and publication, and presented the FY14 ASX Announcement & Results Briefing, Mr Potts made statements, or disseminated information, which:
- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 244 above is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 261(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

Positive statements made by Mr Potts in the FY14 ASX Announcement & Results Briefing that were based on the FY14 Financial Statements and that did not disclose the matters pleaded in paragraph 244 were likely to have the effect of increasing, maintaining or stabilising the price of DSH Shares from what they

would otherwise have been had the FY14 Financial Statements been prepared in compliance with the accounting standards and gave a true and fair view of the financial position and performance of DSH and the information pleaded at paragraph 244 been disclosed.

338 When Mr Potts authorised the issue and publication, and presented the FY14 ASX Announcement & Results Briefing, Mr Potts ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading because it reported the financial results from DSH's FY14 Financial Statements which DSH ought to have known were false in a material particular or materially misleading for the reasons pleaded and particularised in paragraph 255.

339 In the premises, Mr Potts contravened s 1041E of the CA.

D.5.4. FY15 Financial Statements and DSH's FY15 Express Representation

340 Mr Potts had knowledge of the contents of the FY15 Financial Statements and DSH's FY15 Express Representation therein.

Particulars

The FY15 Financial Statements were provided to the Board of DSH prior to its meeting on 17 August 2015: Board Papers for 17 August 2015.

The FY15 Financial Statements were presented, discussed, and adopted by the Board of DSH on 17 August 2015: Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

The Directors' Declaration that accompanied the FY15 Financial Statements was signed by the Chairman of DSH on behalf of Mr Potts.

341 Mr Potts authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein.

Particulars

Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

The Directors' Declaration that accompanied the FY15 Financial Statements was signed by the Chairman of DSH on behalf of Mr Potts.

342 Mr Potts' conduct pleaded in the preceding paragraph was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein which were misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised above in sections D.1.5 and D.1.6.

343 Further, in authorising the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein, Mr Potts made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Sections D.1.5 and D.1.6 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 264(c) are repeated.

344 When Mr Potts authorised the issue and publication of the FY15 Financial Statements and DSH's FY15 Express Representation therein, he ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading for the reasons pleaded above in paragraph 265.

345 In the premises, Mr Potts contravened s 1041E of the CA.

D.5.5. Directors' FY15 Implied Representation

346 Mr Potts' making of the Directors' FY15 Implied Representation was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because the opinion pleaded at paragraph 105 held by him was not:

- (a) held on a reasonable basis and was not the product of the application of reasonable care and skill by Mr Potts;
- (b) a matter to which Mr Potts had turned his mind, having informed himself as to the financial affairs of the company to the extent necessary to form an opinion as to the truth and fairness of the accounts;
- (c) formed after Mr Potts had read and understood the financial statements and considered whether the financial statements were consistent with his knowledge of DSH's and DSH the Group's financial position and financial performance; or
- (d) formed after Mr Potts had taken a diligent and intelligent interest in the information available to him or which he might with fairness have demanded from the executives or other employees and agents of DSH and the DSH Group.

Particulars

The particulars at paragraph 269 are repeated.

347 Further, when Mr Potts made the Directors' FY15 Implied Representation, he made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 346 is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 254(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

The particulars at paragraph 264(c) are repeated.

348 Mr Potts ought reasonably to have known that the Directors' FY15 Implied Representation was false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 265 and 269, and because the Directors' FY15 Implied Representation was a representation of his own opinion.

349 In the premises, Mr Potts contravened s 1041E of the CA.

D.5.6. FY15 ASX Announcement & Results Briefing

350 Mr Potts had knowledge of the contents of the FY15 ASX Announcement & Results Briefing.

Particulars

The text of the FY15 ASX Announcement & Results Briefing was provided to the Board of DSH prior to its meeting on 17 August 2015: Board Papers for 17 August 2015.

351 Mr Potts authorised the issue and publication of the FY15 ASX Announcement & Results Briefing.

Particulars

Minutes of meeting of the Board of DSH dated 17 August 2015 at pages 2-3.

352 Further, the 'FY2015 Results Briefing' which formed part of the FY15 ASX Announcement & Results Briefing was presented by Mr Abboud and Mr Potts.

353 Mr Potts' conduct pleaded in the preceding two paragraphs was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law because he authorised the issue and publication of the FY15 ASX Announcement & Results Briefing which was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the CA, s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law for the reasons pleaded and particularised in paragraph 250 above.

354 Further, when Mr Potts authorised the issue and publication, and presented the FY15 ASX Announcement & Results Briefing, Mr Potts made statements, or disseminated information, which:

- (a) were false in a material particular or materially misleading;

Particulars

Paragraph 250 above is repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH; and

Particulars

The particulars at paragraph 261(b) are repeated.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH Shares on ASX.

Particulars

Positive statements made by Mr Potts in the FY15 ASX Announcement & Results Briefing that were based on the FY15 Financial Statements and that did not disclose the matters pleaded in paragraph 250 were likely to have the effect of increasing, maintaining or stabilising the price of DSH Shares from what they would otherwise have been had the FY15 Financial Statements been prepared in compliance with the accounting standards and gave a true and fair view of the financial position and performance of DSH and the information pleaded at paragraph 250 been disclosed.

355 When Mr Potts authorised the issue and publication, and presented the FY15 ASX Announcement & Results Briefing, Mr Potts ought reasonably to have known that the statements, or dissemination of information, were false in a material particular or materially misleading because it reported the financial results from DSH's FY15 Financial Statements which DSH ought to have known were false in a material particular or materially misleading for the reasons pleaded and particularised in paragraphs 250 and 265.

356 In the premises, Mr Potts contravened s 1041E of the CA.

E. CAUSATION, LOSS AND DAMAGE

357 The plaintiffs and Group Members acquired interests in DSH Shares.

Particulars

With respect to the plaintiffs, paragraphs 38 and 39 are repeated.

358 The plaintiffs and Group Members acquired their interests in DSH Shares in a market:

- (a) regulated by ss 728 and 729 of the CA;
- (b) regulated by the ASX Listing Rules and s 674 of the CA;
- (c) regulated by ss 1041E and 1041H of the CA;
- (d) where the price or value of DSH Shares would reasonably be expected to have been informed or affected by information disclosed in accordance with the ASX Listing Rules and ss 674, 728, 1041E and 1041H of the CA; and
- (e) where matters pleaded and particularised in sections C.2 to C.9 had not been disclosed, each of which a reasonable person would expect, had it been disclosed, would have had a material effect on the price or value of DSH Shares.

359 But for the conduct pleaded in sections B.1, C.2, C.4, C.5 and C.6 and the contraventions pleaded above in sections D.1.1 and D.2.1:

- (a) the Prospectus would not have been issued;
- (b) DSH would not have made the offer to subscribe for shares to the public;
- (c) the DSH IPO would not have proceeded and DSH would not have been listed or quoted on ASX; and
- (d) in the premises, the plaintiffs and Group Members would not have acquired interests in DSH Shares.

Particulars

Report of Rowan Johnston dated 30 October 2018.

360 Further, or in the alternative, had the shares in DSH been listed and quoted:

- (a) the contraventions of the CA (or any one or a combination of them) pleaded above caused the shares acquired on the DSH IPO to be acquired at a price substantially greater than:
 - (i) their true value; or
 - (ii) the market price that would have prevailed but for the pleaded contraventions; and
- (b) from the moment of quotation, the contraventions of the CA (or any one or a combination of them) pleaded above caused the market price of the DSH Shares traded on ASX to be substantially greater than:
 - (iii) their true value; or
 - (iv) the market price that would have prevailed but for the pleaded contraventions.

Particulars

Report of Frank Torchio, dated 31 October 2018.

Report of Michael Potter, dated 29 October 2018.

361 Further, or in the alternative, after 19 February 2014, the contraventions of the CA (or any one or a combination of them) pleaded above caused the market price of the DSH Shares traded on ASX to be substantially greater than:

- (a) their true value; or
- (b) the market price that would have prevailed but for the pleaded contraventions.

Particulars

Report of Frank Torchio, dated 31 October 2018.

Report of Michael Potter, dated 29 October 2018.

362 The plaintiffs and Group Members would not have purchased DSH Shares at the prevailing market price at the time of purchase if they had been aware of the pleaded contraventions of the CA.

Particulars

Further particulars will be supplied following procedural directions as to the order of determination of the issues in these proceedings

363 In the alternative, in the absence of the contraventions of the CA (or any one or a combination of them) pleaded above, the plaintiffs and Group Members would not have suffered loss by reason of their purchase of DSH Shares at a price substantially greater than:

- (a) their true value; or
- (b) the market price that would have prevailed but for the pleaded contraventions.

Particulars

Report of Frank Torchio, dated 31 October 2018.

Report of Michael Potter, dated 29 October 2018.

364 The misleading statements and information conveyed through the Prospectus and each of the FY14 Financial Statements and FY15 Financial Statements were not corrected by the publication by DSH of its results for the half year 2014 or the half year 2015.

365 The plaintiffs and Group Members have suffered loss and damage by, or which resulted from, the pleaded contraventions (or any one or combination of the contraventions).

Particulars

The loss suffered by the plaintiffs and Group Members is:

- *to be determined at the trial of these proceedings on behalf of the plaintiffs and all Group Members on a no-transaction basis, for the reasons pleaded at paragraph 359 above, on the basis that DSH would not have been listed on the ASX and therefore none of the plaintiffs or Group Members would ever have acquired an interest in DSH Shares in which case the plaintiffs and Group Members' damages should be determined as the difference between the price at which they acquired their interest in DSH Shares plus the amount paid for any brokerage or transaction costs and any value obtained from the sale of that interest, taking into accounts any benefit received via dividends; or*
- *on the basis that the contraventions beginning with the publication of the Prospectus were continuing and caused or contributed to the share price of DSH to be artificially inflated, in which case the plaintiffs' and Group Members' damages should be determined as:*

- *the difference between the price at which they acquired their interest in DSH Shares and the true value of that interest (the difference will be proved in the evidence), making allowance for any sales of interests in DSH Shares; or*
- *the difference between the price at which they acquired their interest in DSH Shares and the market price that would have prevailed but for the pleaded contraventions (that difference will be proved in the evidence), making allowance for any sales of interests in DSH Shares.*

366 The plaintiffs and Group Members claim the relief set out in this statement of claim.

367 [Not used / moved]

368 [Not used / moved]

369 [Not used / moved]

370 [Not used / moved]

371 [Not used / moved]

372 [Not used / moved]

373 [Not used / moved]

374 [Not used / moved]

375 [Not used / moved]

F. CLAIM AGAINST DELOITTE

F.1. BACKGROUND

376 On or about 3 December 2012, Deloitte was retained by DSSH (then known as Dick Smith Holdings Pty Limited), to audit DSSH's financial report for the 10-month period ended 30 June 2013 (the **FY13 Retainer**).

Particulars

The FY13 Retainer was in writing and was comprised of:

- (a) *the letter of engagement dated 3 December 2012 from Deloitte, and signed by Mr White on behalf of Deloitte, to the Board of Directors of DSSH, care of Tim Fawaz (the **FY13 Engagement Letter**) (DEL.002.001.0143); and*
- (b) *Deloitte's Standard Terms and Conditions.*

377 It was a term of the FY13 Retainer that, in performing the audit of the FY13 Financial Statements (the **FY13 Audit**), Deloitte would:

- (a) conduct its audit pursuant to the CA;
- (b) conduct its audit in accordance with the applicable auditing standards (the **Auditing Standards**);
- (c) perform procedures to obtain audit evidence about the amounts and disclosures in DSSH's financial report;
- (d) evaluate the appropriateness of DSSH's accounting policies;
- (e) evaluate the reasonableness of accounting estimates made by DSSH's management;
- (f) evaluate the overall presentation of DSSH's financial report;
- (g) communicate with DSSH in writing concerning any significant deficiencies in internal control relevant to the audit of DSSH's financial report that Deloitte identified during the audit;
- (h) express an opinion on DSSH's financial report and report to the members of DSSH in the format outlined in the example Independent Auditor's Report as per Appendix A to the FY13 Engagement Letter.

Particulars

FY13 Engagement Letter, pages 1 and 2.

378 Mr White was the lead audit partner for the FY13 Audit.

Particulars

FY13 Engagement Letter was signed by Mr White at page 4. Working paper 2302 "Dick Smith – Board report template RELEASE" (FY13 Board Report) (DEL.002.001.1211) was signed by Mr White as "Lead Audit Partner" at page 2.

379 On or about 13 December 2013, Deloitte was retained by DSH to audit the FY14 Financial Statements (the **FY14 Retainer**).

Particulars

The FY14 Retainer was in writing and was comprised of:

- (a) the letter of engagement dated 13 December 2013 from Deloitte and signed by Mr White on behalf of Deloitte to Bill Wavish of DSH (the **FY14 Engagement Letter**) (DSE.300.001.5768); and*
- (b) Deloitte's Standard Terms and Conditions.*

380 It was a term of the FY14 Retainer that, in performing the audit of the FY14 Financial Statements (the **FY14 Audit**), Deloitte would:

- (a) conduct its audit pursuant to the CA;
- (b) conduct its audit in accordance with the Auditing Standards;
- (c) perform procedures to obtain audit evidence about the amounts and disclosures in the FY14 Financial Statements;
- (d) evaluate the appropriateness of DSH's accounting policies;
- (e) evaluate the reasonableness of accounting estimates made by DSH's management;
- (f) evaluate the overall presentation of the FY14 Financial Statements;
- (g) communicate with DSH in writing concerning any significant deficiencies in internal control relevant to the audit of the FY14 Financial Statements that Deloitte identified during the audit;

- (h) express an opinion on the FY14 Financial Statements and report to the members of DSH in the format outlined in the example Independent Auditor's Report as per Appendix A to the FY14 Engagement Letter.

Particulars

FY14 Engagement Letter, page 2.

- 381 Mr White was the lead audit partner for the FY14 Audit.

Particulars

FY14 Engagement Letter was signed by Mr White at page 5. Report by Deloitte entitled "Report to the Finance and Audit Committee for the year ended 29 June 2014" and dated 6 August 2014 (FY14 FAC Report) (DSE.003.047.7218) was signed by Mr White as "Lead Audit Partner" at page 2.

- 382 On or about 13 November 2014, Deloitte was retained by DSH to audit the FY15 Financial Statements (the **FY15 Retainer**).

Particulars

The FY15 Retainer was in writing and was comprised of:

- (a) *the letter of engagement dated 13 November 2014 from Deloitte and signed by Mr White on behalf of Deloitte to Bill Wavish of DSH (the **FY15 Engagement Letter**) (DSE.002.011.1055); and*
 - (b) *Deloitte's Standard Terms and Conditions.*
- 383 It was a term of the FY15 Retainer that, in performing the audit of the FY15 Financial Statements (**FY15 Audit**), Deloitte would:
- (a) conduct its audit pursuant to the CA;
 - (b) conduct its audit in accordance with the Auditing Standards;
 - (c) perform procedures to obtain audit evidence about the amounts and disclosures in the FY15 Financial Statements;
 - (d) evaluate the appropriateness of DSH's accounting policies;
 - (e) evaluate the reasonableness of accounting estimates made by DSH's management;
 - (f) evaluate the overall presentation of the FY15 Financial Statements;

- (g) communicate with DSH in writing concerning any significant deficiencies in internal control relevant to the audit of the FY15 Financial Statements that Deloitte identified during the audit;
- (h) express an opinion on the FY15 Financial Statements and report to the members of DSH in the format outlined in the example Independent Auditor's Report as per Appendix A to the FY15 Engagement Letter.

Particulars

FY15 Engagement Letter, page 2.

384 Mr White was the lead audit partner for the FY15 Audit.

Particulars

FY15 Engagement Letter was signed by Mr White at page 5. Report by Deloitte entitled "Report to the Finance and Audit Committee for the year ended 28 June 2015" and dated 6 August 2015 (FY15 FAC Report) (DSE.003.035.7799) was signed by Mr White as "Lead Audit Partner" on page 2.

385 It was a term of each of the FY13 Retainer, the FY14 Retainer and the FY15 Retainer that Deloitte would exercise reasonable skill, care and diligence in the performance of services as auditor, including in performing (respectively) the FY13 Audit, the FY14 Audit and the FY15 Audit.

Particulars

Clause 3.1 of the Deloitte's Standard Terms and Conditions (DSE.300.001.2024).

386 DSSH (in FY13) and DSH (in FY14 and FY15) appointed Deloitte as its auditor for the purposes of CA, Chapter 2M, Division 6 and in compliance with its obligations under s 301 of the CA.

F.2. ACCOUNTING AND AUDITING FRAMEWORK

387 Deloitte was required by s 307A of the CA to conduct the FY13 Audit, the FY14 Audit and the FY15 Audit in accordance with the Auditing Standards in force under s 336 of the CA, including:

- (a) Auditing Standard ASA 200 *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Australian Auditing Standards (ASA 200)*;
- (b) Auditing Standard ASA 210 *Agreeing the Terms of Audit Engagements (ASA 210)*;

- (ba) ASA 220 Quality Control for an Audit of a Financial Report and Other Historical Financial Information (ASA 220);
- (bb) ASA 230 Audit Documentation (ASA 230);
- (c) Auditing Standard ASA 240 *The Auditor's Responsibilities Relating to Fraud in an Audit of a Financial Report (ASA 240);*
- (d) Auditing Standard ASA 260 *Communication with Those Charged with Governance (ASA 260);*
- (da) ASA 265 Communicating Deficiencies in Internal Control to Those Charged with Governance and Management (ASA 265);
- (db) ASA 300 Planning an Audit of a Financial Report (ASA 300);
- (e) Auditing Standard ASA 315 *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment (ASA 315);*
- (f) Auditing Standard ASA 320 *Materiality in Planning and Performing an Audit (ASA 320);*
- (g) Auditing Standard ASA 330 *The Auditor's Responses to Assessed Risks (ASA 330);*
- (h) Auditing Standard ASA 450 *Evaluation of Misstatements Identified during the Audit (ASA 450);*
- (i) Auditing Standard ASA 500 *Audit Evidence (ASA 500);*
- (ia) ASA 501 Audit Evidence – Specific Considerations for Inventory and Segment Information (ASA 501);
- (ib) ASA 510 Initial Audit Engagements—Opening Balances (ASA 510);
- (j) Auditing Standard ASA 530 *Audit Sampling (ASA 530);*
- (k) Auditing Standard 540 *Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures (ASA 540);*
- (ka) ASA 560 Subsequent Events (ASA 560);
- (kb) ASA 570 Going Concern (ASA 570);

- (l) Auditing Standard ASA 700 *Forming an Opinion and Reporting on a Financial Report (ASA 700)*; and
- (m) Auditing Standard ASA 705 *Modifications to the Opinion in the Independent Auditor's Report (ASA 705)*.

388 In conducting the FY13 Audit, the FY14 Audit and the FY15 Audit, Deloitte was required by s 307 of the CA to form an opinion about, inter alia:

- (a) whether the full year financial statements were in accordance with the CA, including s 296 (compliance with accounting standards) and s 297 (true and fair view);
- (b) whether Deloitte had been given all information, explanation and assistance necessary for the conduct of the relevant audit; and
- (c) whether DSH had kept financial records sufficient to enable the full year financial statements to be prepared and audited.

389 In conducting the FY13 Audit, the FY14 Audit and the FY15 Audit, pursuant to s 308 of the CA:

- (a) Deloitte was required to report to the members of DSSH and DSH on whether Deloitte was of the opinion that the full year financial statements were in accordance with the CA, including s 296 (compliance with accounting standards) and s 297 (true and fair view) and, if not of such opinion, to say why;
- (b) if Deloitte was of the opinion that the full year financial statements did not comply with an accounting standard, Deloitte's report was required, to the extent practicable to do so, to quantify the effect that non-compliance had on the full year financial statements, and if not practicable to quantify the effect fully, to say why; and
- (c) Deloitte was required in its report to describe any defect or irregularity in the full year financial statements, and any deficiency, failure or shortcoming in respect of the matters referred to above.

390 In conducting the FY13 Audit, the FY14 Audit and the FY15 Audit, Pursuant to s 310 of the CA Deloitte:

- (a) had a right of access at all reasonable times to the books of DSSH and DSH; and

- (b) could require any officer of DSSH and DSH to give Deloitte information, explanations or other assistance for the purposes of the FY13 Audit, the FY14 Audit or the FY15 Audit, so long as such request was reasonable.

391 Mr White was obliged, pursuant to s 307A(2) of the CA, to ensure that the audit for each of FY13, FY14 and FY15 was conducted in accordance with the auditing standards.

F.3. AUDITING STANDARDS

F.3.1. ASA 200

392 In complying with ASA 200, Deloitte was required:

- (a) as the basis for Deloitte's opinion, to obtain reasonable assurance about whether the financial report as a whole was free from material misstatement, whether due to fraud or error;

Particulars

ASA 200, paragraph 5.

- (b) in obtaining reasonable assurance, to obtain a high level of assurance by obtaining sufficient appropriate audit evidence to reduce audit risk (that is, the risk that Deloitte express an inappropriate opinion when the financial report was materially misstated) to an acceptably low level;

Particulars

ASA 200, paragraph 5.

- (c) to exercise professional judgment and maintain professional scepticism, being an attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud, and a critical assessment of the audit evidence, throughout the planning and performance of the audits;

Particulars

ASA 200, paragraphs 7 and 13(l).

- (d) to form an opinion on the financial report based on conclusions drawn from the audit evidence obtained, with the form of opinion expressed depending upon the applicable financial reporting framework and any applicable law or regulation;

Particulars

ASA 200, paragraphs 7 and 8.

- (e) to have the overall objectives of obtaining reasonable assurance about whether the financial report as a whole was free from material misstatement, whether due to fraud or error, thereby enabling Deloitte to express an opinion on whether the financial report was prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on the financial report, and communicate as required by the Auditing Standards, in accordance with Deloitte's findings;

Particulars

ASA 200, paragraph 11.

- (f) to plan and perform the audit with professional scepticism recognising that circumstances may exist that cause the financial report to be materially misstated;

Particulars

ASA 200, paragraphs 15, A18-A22.

- (g) in obtaining reasonable assurance, to obtain sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and thereby enable Deloitte to draw reasonable conclusions on which to base Deloitte's opinion; and

Particulars

ASA 200, paragraph 17.

- (h) to comply with all Auditing Standards relevant to the audit.

Particulars

ASA 200, paragraphs 18-20.

F.3.2. ASA 210

393 In complying with ASA 210, Deloitte was required to determine whether the financial reporting framework to be applied in the preparation of the financial report was acceptable.

Particulars

ASA 210, paragraph 6.

F.3.3. ASA 240

394 In complying with ASA 240, irrespective of Deloitte's assessment of the risks of management override of controls, Deloitte was required to test the appropriateness of journal entries recorded in the general ledger, and in designing and performing audit procedures for such tests to:

- (a) make enquiries of individuals involved in the financial reporting process about inappropriate or unusual activity relating to the processing of journal entries and other adjustments;
- (b) select journal entries and other adjustments made at the end of a reporting period; and
- (c) consider the need to test journal entries and other adjustments throughout the period.

Particulars

ASA 240, paragraph 32, A41-A44.

F.3.4. ASA 260

395 In complying with ASA 260, Deloitte:

- (a) was required to communicate with those charged with governance Deloitte's views about significant qualitative aspects of DSSH's and DSH's accounting practices, significant difficulties, if any, encountered during the audit, significant matters, if any, arising from the audit that were discussed or subject to correspondence with management and written representations requested by Deloitte, and other matters, if any, arising from the audit that, in Deloitte's professional judgment, were significant to the oversight of the financial reporting process;

Particulars

ASA 260, paragraph 16.

- (b) may have discussed matters with DSSH and DSH management in the ordinary course of the audits, including matters required by ASA 260 to be communicated with those charged with governance; and

Particulars

ASA 260, paragraph A32.

- (c) before communicating matters with those charged with governance, may have discussed them with management of DSSH and DSH, unless that was inappropriate; with such initial discussions clarifying facts and issues and giving management an opportunity to provide further information and explanations.

Particulars

ASA 260, paragraph A33.

- 396 At all relevant times, ASA 260 provided that, if the auditor encounters significant difficulties, including but not limited to the matters at ASA 260 paragraph A18, in some circumstances such difficulties may constitute a scope limitation that leads to a modification of the auditor's opinion.

Particulars

ASA 260, paragraph A18.

F.3.5. ASA 315

- 397 In complying with ASA 315, Deloitte was required to:

- (a) perform risk assessment procedures to provide a basis for the identification and assessment of risks of material misstatement at the financial report and assertion levels;

Particulars

ASA 315, paragraph 5.

- (b) include, as part of the risk assessment procedures, enquiries of management and of others within DSSH and DSH who in Deloitte's judgment may have information that was likely to assist in identifying risks of material misstatement due to fraud or error, analytical procedures, and observation and inspection;

Particulars

ASA 315, paragraph 6; paragraphs A6-A11 (FY13 Audit and FY14 Audit); paragraphs A6-A18 (FY15 Audit).

- (c) where Deloitte intended to use information obtained from Deloitte's previous experience with DSSH and DSH, determine whether changes have occurred since the previous audit that may affect its relevance to the current audit;

Particulars

ASA 315, paragraph 9.

- (d) obtain an understanding of DSSH's and DSH's selection and application of accounting policies, including the reasons for changes thereto, and evaluate whether DSSH's and DSH's accounting policies were appropriate for its business and consistent with the applicable financial reporting framework and accounting policies used in the relevant industry;

Particulars

ASA 315, paragraph 11(c).

- (e) obtain an understanding of internal controls relevant to the audit, and evaluate the design of those controls and determine whether they had been implemented, by performing procedures in addition to enquiry of DSSH's and DSH's personnel; and

Particulars

ASA 315, paragraphs 12-14, 18, and 20-22.

- (f) identify and assess the risks of material misstatement at the financial report level and the assertion level for classes of transactions, account balances and disclosures, in order to provide a basis for designing and performing further audit procedures.

Particulars

ASA 315, paragraphs 25-26.

- 398 In complying with ASA 315, when performing the FY14 and FY15 Audit, Deloitte was required to consider whether information obtained was relevant to identifying risks of material misstatement.

Particulars

ASA 315, paragraph 8.

The fourth defendant was the engagement partner for the review of DSH's half-year financial report for the 26 weeks ended 29 December 2013.

F.3.6. ASA 320

399 At all material times, ASA 320 provided that:

- (a) the auditor's determination of materiality is a matter of professional judgment and is affected by the auditor's perception of the financial information needs of users of the financial report, and it was reasonable for the auditor to assume that users make reasonable economic decisions on the basis of the information in the financial report;
- (b) performance materiality means the amount or amounts set by the auditor at less than materiality for the financial report as a whole to reduce to an appropriately low level the probability that the aggregate of uncorrected and undetected misstatements exceeds materiality for the financial report as a whole; and
- (c) if applicable, performance materiality also refers to the amount or amounts set by the auditor at less than the materiality level or levels for particular classes of transactions, account balances or disclosures.

Particulars

ASA 320, paragraphs 4 and 9.

400 In complying with ASA 320, Deloitte was required:

- (a) to have the objective of applying the concept of materiality appropriately in planning and performing the audit;

Particulars

ASA 320, paragraph 8.

- (b) when establishing the overall audit strategy, to determine materiality for the financial report as a whole;

Particulars

ASA 320, paragraph 10.

- (c) if applying a benchmark as a starting point in determining materiality for the financial report as a whole, to consider the nature of DSSH and DSH, where DSSH and DSH were in their life cycles and the industry and economic environment in which DSSH and DSH operated;

Particulars

ASA 320, paragraph A3.

- (d) when applying a percentage to a chosen benchmark, take account of the relationship between the percentage and the chosen benchmark, such that a percentage applied to profit before tax from continuing operations will normally be higher than a percentage applied to total revenue;

Particulars

ASA 320, paragraph A7.

- (e) if, in the specific circumstances of DSSH and DSH, there were one or more particular classes of transactions, account balances or disclosures for which misstatements of lesser amounts than materiality for the financial report as a whole could reasonably be expected to influence the economic decisions of users taken on the basis of the financial report, to also determine the materiality level or levels to be applied to those particular classes of transactions, account balances or disclosures;

Particulars

ASA 320, paragraph 10.

- (f) to determine performance materiality for purposes of assessing the risks of material misstatement and determining the nature, timing and extent of further audit procedures;

Particulars

ASA 320, paragraph 11.

- (g) to revise materiality for the financial report as a whole (and, if applicable, the materiality level or levels for particular classes of transactions, account balances or disclosures) in

the event of becoming aware of information during the audit that would have caused Deloitte to have determined a different amount (or amounts) initially; and

Particulars

ASA 320, paragraph 12.

- (h) if Deloitte concluded that a lower materiality for the financial report as a whole (and, if applicable, materiality level or levels for particular classes of transactions, account balances or disclosures) than that initially determined was appropriate, to determine whether it was necessary to revise performance materiality, and whether the nature, timing and extent of the further audit procedures remained appropriate.

Particulars

ASA 320, paragraph 13.

F.3.7. ASA 330

401 In complying with ASA 330, Deloitte was required to:

- (a) have the objective of obtaining sufficient appropriate audit evidence regarding the assessed risks of material misstatement, through designing and implementing appropriate responses to those risks;

Particulars

ASA 330, paragraph 3.

- (b) design and implement overall responses to address the assessed risks of material misstatement at the financial report level, and design and perform further audit procedures whose nature, timing and extent were based on and were responsive to the assessed risks of material misstatement at the assertion level;

Particulars

ASA 330, paragraphs 5-7, A1, A4, A19.

- (c) design and perform tests of controls so as to obtain sufficient appropriate audit evidence regarding the operating effectiveness of such controls if Deloitte's assessment of risks of material misstatement at the assertion level included an expectation that the controls were operating effectively (that is, Deloitte intended to rely on the operating

effectiveness of controls in determining the nature, timing and extent of substantive procedures) or substantive procedures alone could not provide sufficient appropriate audit evidence at the assertion level;

Particulars

ASA 330, paragraphs 8-10, 16 and 17.

- (d) design and perform substantive procedures for each material class of transactions, account balance and disclosure, irrespective of the assessed risks of material misstatement;

Particulars

ASA 330, paragraph 18.

- (e) consider whether external confirmation procedures were to be performed as substantive audit procedures;

Particulars

ASA 330, paragraph 19.

- (f) if Deloitte had determined that an assessed risk of material misstatement at the assertion level was a significant risk, perform substantive procedures that were specifically responsive to that risk;

Particulars

ASA 330, paragraph 21.

- (g) perform audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework;

Particulars

ASA 330, paragraph 24.

- (h) based on the audit procedures performed and the audit evidence obtained, evaluate before the conclusion of the audit whether the assessments of the risks of material misstatement at the assertion level remained appropriate and conclude whether sufficient appropriate audit evidence had been obtained; and

Particulars

ASA 330, paragraphs 25-26.

- (i) if Deloitte had not obtained sufficient appropriate audit evidence as to a material financial report assertion, attempt to obtain further audit evidence and, if Deloitte was unable to obtain sufficient appropriate audit evidence, to express a qualified opinion or disclaim an opinion on the financial report.

Particulars

ASA 330, paragraph 27.

F.3.8. ASA 450

402 In auditing any pro forma financial information in respect of FY14 and FY15, Deloitte was also required to comply with Auditing Standard ASA 450.

Particulars

CA, s 307A; ASA 450, paragraph Aus 0.2

403 At all material times, ASA 450 provided that:

- (a) misstatement means a difference between the reported amount, classification, presentation, or disclosure of a financial report item and the amount, classification, presentation, or disclosure that is required for the item to be in accordance with the applicable financial reporting framework. Misstatements can arise from error or fraud; and
- (b) when the auditor expresses an opinion on whether the financial report is presented fairly, in all material respects, or gives a true and fair view, misstatements also include those adjustments of amounts, classifications, presentation, or disclosures that, in the auditor's judgement, are necessary for the financial report to be presented fairly, in all material respects, or to give a true and fair view.

Particulars

ASA 450, paragraph 4.

404 In complying with ASA 450, Deloitte was required to:

- (a) have the objective of evaluating the effect of identified misstatements on the audit and the effect of uncorrected misstatements, if any, on the financial report;

Particulars

ASA 450, paragraph 3.

- (b) accumulate misstatements identified during the audit, other than those that are clearly trivial;

Particulars

ASA 450, paragraph 5.

- (c) determine whether the overall audit strategy and audit plan needed to be revised if:
 - (i) the nature of identified misstatements and the circumstances of their occurrence indicated that other misstatements may exist that, when aggregated with misstatements accumulated during the audit, could be material; or
 - (ii) the aggregate of misstatements accumulated during the audit approaches materiality determined in accordance with ASA 320;

Particulars

ASA 450, paragraph 6.

- (d) if, at Deloitte's request, management examined a class of transactions, account balances or disclosures and corrected misstatements that were detected, perform additional audit procedures to determine whether misstatements remain;

Particulars

ASA 450, paragraph 7.

- (e) communicate, unless prohibited by law or regulation, on a timely basis all misstatements accumulated during the audit with the appropriate level of management and request management to correct those misstatements;

Particulars

ASA 450, paragraph 8.

- (f) if management refused to correct some or all of the misstatements communicated by Deloitte, obtain an understanding of management's reasons for not making the corrections and take that understanding into account when evaluating whether the financial report as a whole was free from material misstatement;

Particulars

ASA 450, paragraph 9.

- (g) prior to evaluating the effect of uncorrected misstatements, reassess materiality determined in accordance with ASA 320 to confirm whether it remained appropriate in the context of DSSH's and DSH's actual financial results;

Particulars

ASA 450, paragraph 10.

- (h) determine whether uncorrected misstatements are material, individually or in aggregate, and in making that determination, consider:
 - (i) the size and nature of the misstatements, both in relation to particular classes of transactions, account balances or disclosures and the financial report as a whole, and the particular circumstances of their occurrence; and
 - (ii) the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial report as a whole;

Particulars

ASA 450, paragraph 11.

- (i) communicate with those charged with governance uncorrected misstatements and the effect that they, individually or in aggregate, may have on the opinion in Deloitte's report, unless prohibited by law or regulation. That communication was required to identify material uncorrected misstatements individually, and Deloitte was required to request that uncorrected misstatements be corrected;

Particulars

ASA 450, paragraph 12.

- (j) also communicate with those charged with governance the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial report as a whole; and

Particulars

ASA 450, paragraph 13.

- (k) request a written representation from management and, where appropriate, those charged with governance whether they believed the effects of uncorrected misstatements are immaterial, individually and in aggregate, to the financial report as a whole. A summary of such items was required to be included in or attached to the written representation.

Particulars

ASA 450, paragraph 14.

F.3.9. ASA 500

405 In complying with ASA 500, Deloitte was required to:

- (a) have the objective of designing and performing audit procedures in such a way as to enable Deloitte to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base Deloitte's opinion;

Particulars

ASA 500, paragraph 4.

- (b) design and perform audit procedures that were appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence, so as to support Deloitte's opinion and report; and

Particulars

ASA 500, paragraphs 6, A1-A25.

- (c) when using information produced by DSSH and DSH, evaluate whether the information was sufficiently reliable for Deloitte's purposes, including, as necessary in the circumstances, obtaining audit evidence about the accuracy and completeness of the

information and evaluating whether the information was sufficiently precise and detailed for Deloitte's purposes.

Particulars

ASA 500, paragraphs 7, 9, A26-A33, A49-A51.

F.3.10. ASA 530

406 In complying with ASA 530, Deloitte was required to:

- (a) have the objective, when using audit sampling, to provide a reasonable basis for Deloitte to draw conclusions about the population from which the sample was selected;

Particulars

ASA 530, paragraph 4.

- (b) when designing an audit sample, consider the purpose of the audit procedure and the characteristics of the population from which the sample was drawn, determine a sample size sufficient to reduce sampling risk to an acceptably low level, and select items for the sample in such a way that each sampling unit in the population had a chance of selection;

Particulars

ASA 530, paragraph 6-8, A4-A13.

- (c) perform audit procedures, appropriate to the purpose, on each item selected;

Particulars

ASA 530, paragraph 9.

- (d) investigate the nature and cause of any deviations or misstatements identified, and evaluate their possible effect on the purpose of the audit procedure and on other areas of the audit;

Particulars

ASA 530, paragraph 12, A17.

- (e) when Deloitte considered a misstatement or deviation discovered in a sample to be an anomaly, obtain a high degree of certainty that such misstatement was not representative of the population; and

Particulars

ASA 530, paragraph 13.

- (f) evaluate the results of the sample and whether the use of audit sampling had provided a reasonable basis for conclusions about the population that had been tested.

Particulars

ASA 530, paragraph 15, A21-A23.

F.3.11. ASA 540

407 In complying with ASA 540, Deloitte was required to:

- (a) have the objective of obtaining sufficient appropriate audit evidence about whether accounting estimates, including fair value accounting estimates, in the financial report, whether recognised or disclosed, were reasonable in the context of the applicable financial reporting framework;

Particulars

ASA 540, paragraph 6.

- (b) in order to provide a basis for the identification and assessment of the risks of material misstatement for accounting estimates, obtain an understanding of how DSSH and DSH made the accounting estimates, and an understanding of the data on which they were based, including the method used in making the accounting estimate, the assumptions underlying the accounting estimates, and whether and how DSSH and DSH had assessed the effect of estimation uncertainty;

Particulars

ASA 540, paragraph 8.

- (c) evaluate the degree of estimation uncertainty associated with an accounting estimate, and determine whether any of those accounting estimates that had been identified as having high estimation uncertainty gave rise to significant risks;

Particulars

ASA 540, paragraph 10-11, A45-A51.

- (d) based on the assessed risks of material misstatement, determine whether management had appropriately applied the requirements of the applicable financial reporting framework relevant to the accounting estimate, and whether the methods for making the accounting estimates were appropriate and had been applied consistently, and whether changes, if any, in accounting estimates or in the method for making them from the prior period were appropriate in the circumstances;

Particulars

ASA 540, paragraph 12, A52-A58.

- (e) respond to the assessed risks of material misstatement by undertaking one or more of the steps outlined in paragraph 13 of ASA 540, taking account of the nature of the accounting estimate;

Particulars

ASA 540, paragraphs 13 and A59-A95.

- (f) for accounting estimates that gave rise to significant risks, in addition to other substantive procedures performed, evaluate whether the significant assumptions used by DSSH and DSH were reasonable; and

Particulars

ASA 540, paragraph 15.

- (g) evaluate, based on the audit evidence, whether the accounting estimates in the financial report were either reasonable in the context of the applicable financial reporting framework, or were misstated.

Particulars

ASA 540, paragraph 18.

F.3.12. ASA 700

408 In complying with ASA 700, Deloitte was required to evaluate whether the financial report was prepared, in all material respects, in accordance with the requirements of the applicable financial reporting framework.

Particulars

ASA 700, paragraph 12.

F.3.13. ASA 705

409 In complying with ASA 705, Deloitte was required to:

- (a) express a qualified opinion when Deloitte, having obtained sufficient appropriate audit evidence, concluded that misstatements, individually or in the aggregate, were material, but not pervasive, to the financial report, or Deloitte was unable to obtain sufficient appropriate audit evidence on which to base the opinion, but Deloitte concluded that the possible effects on the financial report of undetected misstatements, if any, could be material but not pervasive;

Particulars

ASA 705, paragraph 7.

- (b) disclaim an opinion when Deloitte was unable to obtain sufficient appropriate audit evidence on which to base the opinion, and Deloitte concluded that the possible effects on the financial report of undetected misstatements, if any, could be both material and pervasive; and when, in circumstances involving multiple uncertainties, Deloitte concluded that, notwithstanding having obtained sufficient appropriate audit evidence regarding each of the individual uncertainties, it was not possible to form an opinion on the financial report due to the interaction of the uncertainties and their possible cumulative effect on the financial report;

Particulars

ASA 705, paragraph 9-10.

- (c) if there was a material misstatement of the financial report that related to specific amounts in the financial report (including quantitative disclosures), include in the basis for modification paragraph a description and quantification of the financial effects of the

misstatement, unless impracticable, and if it was not practicable to quantify the financial effects, to state so in the basis for modification paragraph; and

Particulars

ASA 705, paragraph 17.

- (d) when Deloitte expected to modify the opinion in Deloitte's report, communicate with those charged with governance the circumstances that led to the expected modification and the proposed wording of the modification.

Particulars

ASA 705, paragraph 28.

F.4. REASONABLE AUDITOR

- 410 In the pleadings that follow, references to a "**Reasonable Auditor**" means an auditor acting in accordance with the obligations pleaded above at Parts F.2 and F.3 and acting with the degree of skill and care of a professional person providing professional services in the position of Deloitte.

F.5. DELOITTE'S AUDIT REPORTS

F.5.1. The FY13 Audit Report

- 411 Following its performance of the FY13 Audit, Deloitte prepared an Independent Auditor's Report to the Members of DSSH (the **FY13 Audit Report**).

Particulars

Independent Auditor's Report to the Members of Dick Smith Sub-holdings Pty Ltd signed by Mr White on behalf of Deloitte on or around 23 October 2013.

- 412 On 31 October 2013, DSSH published and lodged with ASIC its consolidated financial report for the 10-month period ended 30 June 2013 (the **FY13 Financial Statements**).

- 413 The FY13 Audit Report was included in the FY13 Financial Statements.

Particulars

Commencing page 5 of the FY13 Financial Statements.

- 414 Deloitte authorised the inclusion of the FY13 Audit Report in the FY13 Financial Statements and thereby issued and published the FY13 Audit Report upon the issuance and publication of the FY13 Financial Statements.

Particulars

Deloitte authorised the inclusion of the FY13 Audit Report in the FY13 Financial Statements on or before 23 October 2013, being the date upon which the FY13 Audit Report was signed (see page 6 of the FY13 Financial Statements).

Deloitte's authorisation was implied by its provision of the signed FY13 Audit Report to DSSH on or before 23 October 2013, in circumstances where the FY13 Audit Report constituted Deloitte's report to the members of DSSH on the FY13 Financial Statements in purported fulfilment of its obligations under both s 308 of the CA and the FY13 Engagement Letter (see particulars to paragraph 377 above) and the requirement for DSSH to report to members in accordance with s 314 of the CA.

F.5.2. Deloitte's FY13 Representations

415 In the FY13 Audit Report, Deloitte represented that:

- (a) Deloitte had conducted an audit of DSSH's FY13 Financial Statements in accordance with the Auditing Standards;
- (b) Deloitte believed the audit evidence it had obtained in carrying out the FY13 Audit was sufficient and appropriate to provide a basis for its audit opinion;
- (c) Deloitte was of the opinion that the FY13 Financial Statements were in accordance with the CA, including:
 - (i) giving a true and fair view of the Group's financial position as at 30 June 2013 and of its performance for the period ended on that date; and
 - (ii) complying with the Australian Accounting Standards and the Corporations Regulations 2001,

(collectively, **Deloitte's FY13 Express Representations**).

Particulars

FY13 Audit Report, pages 5-6 of the FY13 Financial Statements.

416 In making Deloitte's FY13 Express Representations, Deloitte impliedly represented to investors and potential investors in DSSH that:

- (a) those representations were the product of Deloitte having conducted the FY13 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;
 - (b) those representations were the product of Deloitte having exercised reasonable care and skill in performing the FY13 Audit; and
 - (c) there were reasonable grounds for the making those representations,
- (collectively, **Deloitte's FY13 Implied Representations**).

Particulars

Deloitte's FY13 Implied Representations were implied by reason of:

- (a) the terms of the FY13 Audit Report;*
- (b) Deloitte's FY13 Express Representations;*
- (c) the obligations imposed by law on Deloitte in relation to the FY13 Audit as pleaded above at Parts F.2 and F.3 and interpreted by the courts;*
- (d) Deloitte holding itself out to the world as specialist auditors and accountants with professional expertise and competence in the provision of auditing and accounting services.*

F.5.3. The FY14 Audit Report

417 Following its performance of the FY14 Audit, Deloitte prepared an Independent Auditor's Report to the Members of DSH (the **FY14 Audit Report**).

Particulars

Independent Auditor's Report to the Members of Dick Smith Holdings Limited signed by Mr White on behalf of Deloitte on or about 18 August 2014.

418 The FY14 Audit Report was included in the FY14 Financial Statements.

Particulars

Commencing page 45 of the FY14 Financial Statements.

- 419 Deloitte authorised the inclusion of the FY14 Audit Report in the FY14 Financial Statements and thereby issued and published the FY14 Audit Report upon the issuance and publication of the FY14 Financial Statements.

Particulars

Deloitte authorised the inclusion of the FY14 Audit Report in the FY14 Financial Statements on or before 18 August 2014, being the date upon which the FY14 Audit Report was signed (see page 46 of the FY14 Financial Statements, published in the Dick Smith Annual Report 2014).

Deloitte's authorisation was implied by its provision of the FY14 Audit Report to DSH on or before 18 August 2014, in circumstances where the FY14 Audit Report constituted Deloitte's report to the members of DSH on the FY14 Financial Statements in purported fulfilment of its obligations under both s 308 of the CA and the FY14 Engagement Letter (see particulars to paragraph 380 above) and the requirement for DSH to report to members in accordance with s 314 of the CA.

F.5.4. Deloitte's FY14 Representations

420 In the FY14 Audit Report Deloitte represented that:

- (a) Deloitte had conducted an audit of DSH's FY14 Financial Statements in accordance with the Auditing Standards;
- (b) Deloitte believed the audit evidence it had obtained in carrying out the FY14 Audit was sufficient and appropriate to provide a basis for its audit opinion;
- (c) Deloitte was of the opinion that the FY14 Financial Statements were in accordance with the CA, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 29 June 2014 and of its performance for the year ended on that date; and
 - (ii) complying with Australian Accounting Standards and the Corporations Regulations 2001,

(collectively, **Deloitte's FY14 Express Representations**).

Particulars

FY14 Audit Report, pages 45-46 of the FY14 Financial Statements.

421 In making Deloitte's FY14 Express Representations, Deloitte impliedly represented to investors and potential investors in DSH that:

- (a) those representations were the product of Deloitte having conducted the FY14 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;
- (b) those representations were the product of Deloitte having exercised reasonable care and skill in performing the FY14 Audit; and
- (c) there were reasonable grounds for the making those representations,

(collectively, **Deloitte's FY14 Implied Representations**).

Particulars

Deloitte's FY14 Implied Representations were implied by reason of:

- (a) *the terms of the FY14 Audit Report;*
- (b) *Deloitte's FY14 Express Representations;*
- (c) *the obligations imposed by law on Deloitte in relation to the FY14 Audit as pleaded above at Parts F.2 and F.3 and interpreted by the courts;*
- (d) *Deloitte holding itself out to the world as specialist auditors and accountants with professional expertise and competence in the provision of auditing and accounting services.*

F.5.5. The FY15 Audit Report

422 Following its performance of the FY15 Audit, Deloitte prepared an Independent Auditor's Report to the Members of DSH (the **FY15 Audit Report**).

Particulars

Independent Auditor's Report to the Members of Dick Smith Holdings Limited signed by Mr White on behalf of Deloitte on or about 17 August 2015.

423 The FY15 Audit Report was included in the FY15 Financial Statements.

Particulars

Commencing page 48 of the FY15 Financial Statements.

424 Deloitte authorised the inclusion of the FY15 Audit Report in the FY15 Financial Statements and thereby issued and published the FY15 Audit Report upon the issuance and publication of the FY15 Financial Statements.

Particulars

Deloitte authorised the inclusion of the FY15 Audit Report in the FY15 Financial Statements on or before 17 August 2015, being the date upon which the FY15 Audit Report was signed (see page 49 of the FY15 Financial Statements, published in the Dick Smith Annual Report 2015).

Deloitte's authorisation was implied by its provision of the FY15 Audit Report to DSH on or before 17 August 2015, in circumstances where the FY15 Audit Report constituted Deloitte's report to the members of DSH on the FY15 Financial Statements in purported fulfilment of its obligations under both s 308 of the CA and the FY15 Engagement Letter (see particulars to paragraph 383 above) and the requirement for DSH to report to members in accordance with s 314 of the CA.

F.5.6. Deloitte's FY15 Representations

425 In the FY15 Audit Report, Deloitte represented that:

- (a) Deloitte had conducted an audit of DSH's FY15 Financial Statements in accordance with the Auditing Standards;
- (b) Deloitte believed the audit evidence it had obtained in carrying out the FY15 Audit was sufficient and appropriate to provide a basis for its audit opinion;
- (c) Deloitte was of the opinion that the FY15 Financial Statements were in accordance with the CA, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 June 2015 and of its performance for the year ended on that date; and
 - (ii) complying with the Australian Accounting Standards and the Corporations Regulations 2001,

(collectively, **Deloitte's FY15 Express Representations**).

Particulars

FY15 Audit Report, pages 48-49 of the FY15 Financial Statements, published in the Dick Smith Annual Report 2015.

426 In making Deloitte's FY15 Express Representations, Deloitte impliedly represented to investors and potential investors in DSH that:

- (a) those representations were the product of Deloitte having conducted the FY15 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;
- (b) those representations were the product of Deloitte having exercised reasonable care and skill in performing the FY15 Audit; and
- (c) there were reasonable grounds for making those representations,

(collectively, **Deloitte's FY15 Implied Representations**).

Particulars

Deloitte's FY15 Implied Representations were implied by reason of:

- (a) *the terms of the FY15 Audit Report;*
- (b) *Deloitte's FY15 Express Representations;*
- (c) *the obligations imposed by law on Deloitte in relation to the FY15 Audit as pleaded above at Parts F.2 and F.3 and interpreted by the courts; and*
- (d) *Deloitte holding itself out to the world as specialist auditors and accountants with professional expertise and competence in the provision of auditing and accounting services.*

F.6. DELOITTE'S AUDIT CONDUCT

F.6.1. FY13 Audit in relation to inventory provisioning

427 By the time of the delivery to DSSH of the FY13 Audit Report, Deloitte knew or ought to have known of DSSH's failure to write down, or make a provision, allowance or impairment against, the carrying value of inventory and DSSH's inventory management and accounting practices (together, **Inventory Practices and Effects**) as pleaded above at Part C.2 in respect of FY13, because:

- (a) Deloitte was provided with documents and information as to DSSH's Inventory Practices and Effects in the course of the FY13 Audit;

Particulars

Working paper 5411a "Memo Dick Smith Inventory Valuation" (and the documents and information referred to therein, see at page5) (DEL.002.001.1629).

- (b) Deloitte identified DSSH's inventory provisions as an area of focus in the FY13 Audit;

Particulars

Working Paper 1812 "Listing of all Significant Risks & Areas of Focus" (DEL.002.001.0578) identifies "inventory" as a significant risk.

- (c) Deloitte had been the auditor of Woolworths Group Limited, an ASX listed entity with the listing code "WOW" (**WOW**), while the Dick Smith business had been operated as a WOW subsidiary and Deloitte was therefore familiar with and aware of the inventory ageing system used in the DSH Group and its limitations, including that it did not reliably record the age of any SKU within inventory; and
- (d) a Reasonable Auditor carrying out the FY13 Audit, having been provided with the documents to which Deloitte had access, and having been made aware of DSSH's accounting treatment of inventory as set out above at (a)-(c), would have:
- (i) recognised that inventory provisioning was an area of high risk for DSSH, given that the nature of the consumer electronics market is such that there is an ongoing risk of inventory obsolescence;
 - (ii) designed and implemented an appropriate testing strategy in respect of management's assumptions and methodology with respect to inventory provisioning in order to ascertain the nature and extent of any material misstatement in the carrying value of inventory;
 - (iii) requested, to the extent necessary, if any, further information to ascertain the Inventory Practices and Effects;
 - (iv) evaluated whether DSSH's management's assumptions and methodology with respect to inventory provisioning were appropriate, including considering whether DSSH's failure to write down inventory and DSSH's inventory management and accounting practices were in accordance with the Australian Accounting Standards; and

- (v) having taken the steps set out in sub-paragraphs (i)-(iv) above as further particularised below, concluded that the Inventory Practices and Effects were as pleaded above at Part C.2, in respect of FY13.

Particulars

A Reasonable Auditor would in the course of the FY13 Audit have:

- (a) *determined the assumptions and methodology used by DSSH to assess whether a provision should be made to reduce the carrying value of inventory to the lower of cost or the net realisable value of the inventory;*
- (b) *taken steps to understand the basis and application of DSSH's assumptions and methodology used to determine inventory provisions;*
- (c) *determined the appropriateness of DSSH's inventory provisioning methodology, and the appropriateness of the assumptions used in that methodology, through adequate testing and the application of the requisite degree of professional scepticism called for in the circumstances, in order to ascertain, and report on, whether the application of the assumptions and methodology provided an appropriate measure of the cost of DSSH's inventory as required by AASB 102;*
- (d) *determined the process by which DSSH undertook its analysis used in the provisioning process (whether based on age, future sales or re-order profile), and would have determined the controls and processes adopted by DSSH to ensure the accuracy of the analysis;*
- (e) *determined whether or not to rely on the controls and checks operated by DSSH, exercising the requisite level of professional scepticism called for in the circumstances. If the Reasonable Auditor chose to rely on such controls he or she would have tested the operations of those controls through an appropriately sized sample. If the auditor chose not to rely on such controls, he or she would have selected a sample of inventory items for testing to determine whether, based on that sample, he or she could conclude that DSSH's estimation of the amount of the provision to reduce inventory to the lower of cost and net realisable value was appropriate;*

- (f) *if the Reasonable Auditor concluded that the provisioning was materially inadequate, requested management to recalculate the provision on a basis consistent with AASB 102 or calculated, using the data available, the Reasonable Auditor's own estimate and adjustment to the carrying value and, if material, requested that adjustment to be made. In so doing, the Reasonable Auditor would take into account the following factors:*
- (i) *the ageing of SKUs or, if no reliable report on the ageing of SKUs was available, estimating the ageing of SKUs using available data such as purchases and sales data;*
 - (ii) *discounts on SKUs and discounts below costs;*
 - (iii) *the nature of SKUs and whether they have been superseded or newer models were available;*
 - (iv) *weeks or months cover for SKUs; and*
 - (v) *trends within the industry including changes in technology products and the competitive landscape;*
- (g) *insofar as such audit work identified any deficiencies in the provisioning process or methodology undertaken by DSSH, reported such matters to those charged with governance, including the FAC or the Board of DSSH.*

428 The FY13 Audit Report did not conclude or express the opinion that the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSSH;
- (b) meant the FY13 Financial Statements did not give a true and fair view of the financial position and performance of DSSH and the DSH Group;
- (c) meant that the FY13 Financial Statements had not been prepared in accordance with the Australian Accounting Standards;
- (d) caused the FY13 Financial Statements to be materially misstated.

429 This was despite the fact that, for the reasons pleaded above at Part C.2 in respect of FY13, the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSSH;
- (b) meant the FY13 Financial Statements did not give a true and fair view of the financial position and performance of DSSH and the DSH Group;
- (c) meant the FY13 Financial Statements were not prepared in accordance with the Australian Accounting Standards; and
- (d) caused the FY13 Financial Statements to be materially misstated.

430 Notwithstanding the matters pleaded at Part C.2 in respect of FY13, which Deloitte knew or ought to have known for the reasons pleaded and particularised above at paragraph 427, Deloitte:

- (a) failed to obtain a sufficient understanding of the assumptions and methodology applied by DSSH management in determining inventory provisions, including by failing to apply an adequate level of professional scepticism to the information produced by DSSH, and the assumptions and methodology applied by management in determining inventory provisions in the FY13 Financial Statements (ASA 200, paragraphs 7, 15, A18-A22; ASA 540, paragraphs 8, 18);
- (b) having determined that there was a significant risk of material misstatement in respect of inventory provisions in the FY13 Financial Statements, failed to perform substantive procedures that are specifically responsive to that risk, including for the purpose of obtaining sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in the FY13 Financial Statements (ASA 330 paragraphs 21, A1, A4, A19; ASA 500 paragraphs 6, A1-A3, A10, A14-A15);
- (c) failed to design and implement adequate testing of the age of stock and the appropriateness of the obsolescence percentages by reference to stock turnover, volume of stock on hand, and broader industry factors in order to obtain reasonable assurance as to whether the Inventory Practices and Effects complied with Australian Accounting Standards (ASA 330 paragraph 21, A1, A4, A19);

(ca) by reason of the failures pleaded in paragraph 436 below, failed to determine a sample size sufficient to reduce sampling risk to an acceptably low level (ASA 530, paragraph 7);

(cb) failed to project errors or misstatements identified in their testing of samples (ASA 530, paragraph 14);

- (d) by reason of the failures pleaded in sub-paragraphs (a)-(c) above failed to gather sufficient appropriate audit evidence in order to enable Deloitte to express an opinion on whether the assumptions and methodology applied by management in determining the provision in respect of inventory in the FY13 Financial Statements complied with AASB 102, in circumstances where Deloitte had identified inventory provisioning as a key area of risk in the FY13 Audit (ASA 200 paragraphs 5, 7, 17; ASA 330 paragraphs 3, 5-7, ASA 540 paragraphs 6, 13, 15);
- (e) by reason of having failed to obtain sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in the FY13 Financial Statements so as to reduce audit risk to an acceptably low level:
 - (i) failed to obtain reasonable assurance about whether the FY13 Financial Statements as a whole were free from material misstatement, whether due to fraud or error (ASA 200 paragraph 5 and 17);
 - (ii) was unable to draw reasonable conclusions on which to base the auditor's opinion on whether the FY13 Financial Statements were prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on the FY13 Financial Statements in accordance with the auditor's findings (ASA 200 paragraphs 11 and 17);
- (f) in circumstances where Deloitte had not obtained sufficient appropriate audit evidence in respect of DSSH's provisioning for inventory in the FY13 Financial Statements, failed to express a modified opinion on the FY13 Financial Statements (ASA 330 paragraphs 26-27; ASA 260 paragraph A18; ASA 705 paragraphs 7, 9-10);
- (g) failed properly to apply the requirements of AASB 102 to such audit evidence as Deloitte obtained in assessing the issue of whether the inventory provisions in the FY13 Financial Statements complied with AASB 102 (ASA 200 paragraph 11);
- (h) failed to perform adequate audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24) and to evaluate whether the assessments of risks of material misstatement at the assertion level remained appropriate (ASA 330 paragraph 25).
- (i) failed to require management to account for the carrying value of inventory in accordance with Australian Accounting Standards;

- (j) failed to quantify or estimate the extent of the misstatement in the FY13 Financial Statements as a result of the Inventory Practices and Effects; and / or
- (k) did not express the opinion pleaded above at paragraph 428.

431 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.2. Materiality in the FY13 Audit and implications for Warranty Sign On Liability

F.6.2.1. Failure to properly determine materiality in the FY13 Audit

432 When designing procedures for the FY13 Audit, Deloitte knew or ought to have known that DSH was intending to list on the ASX in the near future.

Particulars

The FY13 Board Report states at page 16: "We understand that as part of the proposed IPO structure, the Company will be acquired by a newly created holding company and that a tax consolidated group will be formed..."

433 The fact that DSH was intending to list on the ASX in the near future was relevant to the determination of materiality for the FY13 Audit.

Particulars

An auditor's determination of materiality is affected by the auditor's perception of the financial information needs of users of the financial statements being audited: ASA 320 paragraphs 4 and A3. In circumstances where an IPO is contemplated in the near future, the users of an audit report would include prospective investors in the entity being audited in an IPO. Accordingly, the fact of an upcoming IPO would be relevant to the determination of materiality.

Further particulars will be provided with the plaintiffs' expert evidence.

434 In performing the FY13 Audit, Deloitte set materiality at \$6 million and performance materiality at \$5.4 million.

Particulars

*1710 "Materiality Worksheet – Group & AU (including component considerations)"
(DEL.002.001.0540)*

435 A Reasonable Auditor carrying out the FY13 Audit would have determined materiality at a figure at least as low as \$1.5 million.

Particulars

A Reasonable Auditor carrying out the FY13 Audit would have:

- (a) considered a number of possible benchmarks for materiality, including profit before tax, EBITDA, revenue, net assets and total assets, and concluded that multiple benchmarks ought be considered in determining materiality in all the circumstances;*
- (b) recognised the nature of the FY13 Audit as a 'high risk' engagement in circumstances where DSSH had recently undergone a restructure, and where an initial public offering was contemplated, and adopted a percentage at the bottom end of the acceptable range for the chosen benchmark;*
- (c) recognised that DSSH's business had a number of inherent risks from an auditing perspective, given the nature of the consumer electronics market and the ongoing risk of inventory obsolescence in that industry, and adopted a percentage at the bottom end of the acceptable range for the chosen benchmark.*

Further particulars may be provided after discovery and evidence.

436 In setting materiality at \$6 million, and performance materiality at \$5.4 million, in conducting the FY13 Audit, Deloitte:

- (a) failed to adequately consider the financial information needs of the users of the FY13 Audit Report, namely prospective investors in DSH upon the company's initial public offering (ASA 320 paragraph 4);
- (b) failed to adequately consider the nature of DSSH, and its upcoming initial public offering (ASA 320 paragraph A3);
- (c) failed to adequately consider the industry and economic environment in which DSSH operated, namely the electronics consumer market (ASA 320 paragraph A3);
- (d) failed to determine an appropriate percentage to be applied to Deloitte's chosen benchmark in circumstances where DSSH was a retailer of consumer electronic goods; where DSSH had recently been the subject of a restructure of its business; and where an initial public offering was contemplated in the near future (ASA 320 paragraph A7).

437 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.2.2. Failure to adjust for Warranty Sign On Liability

438 In conducting the FY13 Audit, Deloitte identified that the Warranty Sign On Liability in FY13 ought to have been ascribed a fair value of "nil", as pleaded in Part C.4, and included an adjustment for the Warranty Sign On Liability in its schedule of unadjusted differences.

Particulars

FY13 Board Report, pages 7 and 19. As pleaded at paragraph 193 to 194, DSSH recognised a warranty sign-on liability of approximately \$2.1 million in March 2013, and wrote back the warranty liability in the amount of approximately \$0.4 million during FY13. Accordingly, Deloitte included a \$1.7 million adjustment in its schedule of unadjusted differences.

439 A Reasonable Auditor carrying out the FY13 Audit, would have required management to account for the recognition of the Warranty Sign On Liability in accordance with the Australian Accounting Standards.

Particulars

As pleaded in paragraph 435, a Reasonable Auditor would have determined materiality to be at a figure at least as low as \$1.5 million and, therefore, recognised that the Warranty Sign On Liability was material and therefore required an adjustment to be made in the FY13 Financial Statements.

The particulars to paragraph 435 are repeated.

440 For the reasons pleaded above at Part C.4, DSSH's recognition of \$1.7 million of the Warranty Sign On Liability:

- (a) meant the FY13 Financial Statements did not give a true and fair view of the financial position and performance of DSSH and the DSH Group;
- (b) meant that the FY13 Financial Statements did not comply with the Australian Accounting Standards; and
- (c) caused the FY13 Financial Statements to be materially misstated.

441 The FY13 Audit Report did not conclude or express the opinion that DSSH's recognition of \$1.7 million of the Warranty Sign On Liability:

- (a) meant the FY13 Financial Statements did not give a true and fair view of the financial position and performance of DSSH and the DSH Group;
- (b) meant the FY13 Financial Statements did not comply with the Australian Accounting Standards;
- (c) caused the FY13 Financial Statements to be materially misstated.

442 Notwithstanding the matters pleaded at Part C.4 which Deloitte knew or ought to have known in light of its identification of the Warranty Sign On Liability in the course of the FY13 Audit as pleaded in paragraph 438 and the fact that a Reasonable Auditor would determine materiality as pleaded in paragraph 435, Deloitte:

- (a) did not require management to account for the recognition of the Warranty Sign On Liability in accordance with Australian Accounting Standards;
- (b) did not quantify or estimate the extent of the misstatement in the FY13 Financial Statements by reason of the recognition of the Warranty Sign On Liability; and /or
- (c) did not express the opinion pleaded above at paragraph 441.

443 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.3. Effect of Deloitte's failures in carrying out the FY13 Audit

444 Deloitte's failures in carrying out the FY13 Audit, as set out above at paragraphs 430 to 431, 436 to 437 and 442 to 443, both individually and cumulatively meant that Deloitte:

- (a) did not conduct the FY13 Audit in accordance with the Auditing Standards;
- (b) did not conduct the FY13 Audit in accordance with Deloitte's auditing obligations as pleaded above at Part F.2;
- (c) did not exercise reasonable care and skill in performing the FY13 Audit;
- (d) did not have reasonable grounds for believing that the audit evidence Deloitte obtained to carry out the FY13 Audit was sufficient and appropriate to provide a basis for its audit opinion;
- (e) did not have reasonable grounds for the opinion that the FY13 Financial Statements were in accordance with the CA, including:

- (i) giving a true and fair view of the Group's financial position as at 30 June 2013 and of its performance for the period ended on that date; and
- (ii) complying with the Australian Accounting Standards and the Corporations Regulations 2001.

F.6.4. FY14 Audit in relation to inventory provisions

445 By the time of delivery to DSH of the FY14 Audit Report, Deloitte knew or ought to have known of DSH's Inventory Practices and Effects as pleaded in Part C.2 in respect of FY14, because:

- (a) Deloitte was provided with documents and information as to DSH's Inventory Practices and Effects in the course of the FY14 Audit;

Particulars

See working paper 23403 "Inventory Obsolescence Memo" (DEL.001.001.4003) demonstrating Deloitte's understanding of DSH's methodology for stock obsolescence at year end.

- (b) Deloitte was previously made aware of and had had regard to DSH's inventory provisioning;

Particulars

20 May 2014 email from DSH to Deloitte, attaching a position paper on inventory provisions (DSE.002.016.5847, DSE.002.016.5849).

FY14 FAC Report, page 10, section 3.2.

Minutes of the FAC meeting of 12 August 2014 (DSE.003.047.0973).

The particulars to paragraph 427 are repeated.

- (c) Deloitte identified DSH's inventory provisions as a key area of focus in the FY14 Audit;

Particulars

FY14 FAC Report, page 10, section 3.2.

Deloitte presentation to DSH entitled "External audit strategy for the financial year ending 29 June 2014" dated January 2014 (FY14 Audit Strategy Presentation), page 9 (DSE.003.056.1846).

- (d) Deloitte had performed the statutory audit for DSSH for the 10 month period ended 30 June 2013 and had, immediately prior to conducting the FY13 Audit, been the auditor of WOW while the Dick Smith business had been operated as a WOW subsidiary and Deloitte was therefore familiar with and aware of the inventory ageing system used in the DSH Group and its limitations including that it did not reliably record the age of any SKU within inventory; and
- (e) a Reasonable Auditor carrying out the FY14 Audit, having been provided with the documents to which Deloitte had access, and having been made aware of DSH's accounting treatment of inventory as set out above at (a)-(d), would have:
 - (i) recognised that inventory provisioning was an area of high risk for DSH, given that the nature of the consumer electronics market is such that there is an ongoing risk of inventory obsolescence;
 - (ii) designed and implemented an appropriate testing strategy in respect of management's assumptions and methodology with respect to inventory provisioning in order to ascertain the nature and extent of any material misstatement in the carrying value of inventory;
 - (iii) requested, to the extent necessary, if any, further information to ascertain the Inventory Practices and Effects;
 - (iv) evaluated whether DSH's management's assumptions and methodology with respect to inventory provisioning were appropriate, including considering whether DSH's failure to write down inventory and DSH's inventory management and accounting practices were in accordance with the Australian Accounting Standards;
 - (v) concluded that the Inventory Practices and Effects were as pleaded above at Part C.2, in respect of FY14.

Particulars

A Reasonable Auditor would have, in the course of the FY14 Audit, taken the steps particularised at paragraph 427 above.

446 The FY14 Audit Report did not conclude or express the opinion that the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY14 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY14 Financial Statements did not comply with the Australian Accounting Standards;
- (d) caused the FY14 Financial Statements to be materially misstated.

447 This was despite the fact that, for the reasons pleaded above at Part C.2 in respect of FY14, the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY14 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY14 Financial Statements did not comply with the Australian Accounting Standards; and
- (d) caused the FY14 Financial Statements to be materially misstated.

448 Notwithstanding the matters pleaded at Part C.2 in respect of FY14, which Deloitte knew or ought to have known for the reasons pleaded and particularised above at paragraph 445, Deloitte:

- (a) failed to obtain an adequate understanding of the application of accounting policies by DSH in respect of inventory provisioning, sufficient to evaluate whether those policies were appropriate for its business and consistent with the applicable financial reporting framework (ASA 315 paragraph 11);
- (b) failed to obtain a sufficient understanding of the assumptions and methodology applied by DSH management in determining inventory provisions, including by failing to apply an adequate level of professional scepticism to the information produced by DSH, and the assumptions and methodology applied by management in determining inventory provisions in the FY14 Financial Statements (ASA 200, paragraphs 7, 15, A18-A22; ASA 540, paragraphs 8, 18);

- (c) failed to perform appropriate risk assessment procedures (including enquiries of DSH personnel, analytical procedures and observation and inspection) sufficient to provide a basis for the identification and assessment of risks of material misstatement at the financial report level, and to provide a basis for designing and performing further audit procedures in respect of inventory provisions (ASA 315 paragraphs 5-6, 25-26; ASA 540 paragraphs 10-12);
- (d) having determined that there was a significant risk of material misstatement in respect of inventory provisions in the FY14 Financial Statements, failed to perform substantive procedures that are specifically responsive to that risk, including for the purpose of obtaining sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in the FY14 Financial Statements (ASA 330 paragraphs 21, A1, A4, A19; ASA 500 paragraphs 6, A1-A3, A10, A14-A15);
- (da) failed to comply with its auditing obligations, and, in particular, Mr White, failed to comply with his auditing obligations, because:
- (i) Deloitte's purported testing of the unit cost of a sample of 46 stock items in workpaper 23401AU, tab 6 identified nil variances between the stock listing and the relevant supplier invoices, and included figures with up to eleven decimal places as the amounts said to appear in supplier invoices (Purported Cost Testing);
- (ii) a Reasonable Auditor would have recognised that DSH's inventory system artificially added 1% to the cost of each purchase in FY14 (1% Stock Uplift);
- (iii) a Reasonable Auditor would have recognised that the presence of the 1% Stock Uplift would mean that all stock items selected for testing should have a unit cost in the stock listing of 1% greater than what is shown on the invoice in respect of that stock item;
- (iv) a Reasonable Auditor would have recognised that supplier invoices are unlikely to include amounts with up to eleven decimal places;

- (v) by reason of the matters set out in (ii) – (iv) above, a Reasonable Auditor would have recognised that the nil variances identified in the Purported Cost Testing and the inclusion of figures with up to eleven decimal places as the amounts said to appear in supplier invoices could have been because the person responsible for carrying out the Purported Cost Testing did not check supplier invoices against the stock listings when carrying out the Purported Cost Testing;
- (vi) a Reasonable Auditor therefore would have sought to verify the Purported Cost Testing by causing the supplier invoices to be checked to determine whether the person responsible for carrying out the Purported Cost Testing had in fact checked the supplier invoices;
- (vii) in failing to identify the matters pleaded in (iii) – (v) above, Mr White:
1. did not adequately review workpaper 23401AU, tab 6 despite being identified in Deloitte's audit software as having reviewed the workpaper; and
 - 1-2. did not cause checks of the kind described in (vi) above to be undertaken with respect to the Purported Cost Testing.
- (e) failed to design and implement adequate testing of the age of stock and the appropriateness of the obsolescence percentages by reference to stock turnover, volume of stock on hand, and broader industry factors in order to obtain reasonable assurance as to whether the Inventory Practices and Effects complied with Australian Accounting Standards (ASA 330 paragraph 21, A1, A4, A19);
- (f) by reason of the failures pleaded in sub-paragraphs (a)-(e) above failed to gather sufficient appropriate audit evidence in order to enable Deloitte to express an opinion on whether the assumptions and methodology applied by management in determining the provision in respect of inventory in the FY14 Financial Statements complied with AASB 102, in circumstances where Deloitte had identified inventory provisioning as a key area of risk in the FY14 Audit (ASA 200 paragraphs 5, 7, 17; ASA 330 paragraphs 3, 5-7, ASA 540 paragraphs 6,13, 15);
- (g) by reason of having failed to obtain sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in the FY14 Financial Statements so as to reduce audit risk to an acceptably low level:

- (i) failed to obtain reasonable assurance about whether the FY14 Financial Statements as a whole were free from material misstatement, whether due to fraud or error (ASA 200 paragraph 5 and 17);
- (ii) was unable to draw reasonable conclusions on which to base the auditor's opinion on whether the FY14 Financial Statements were prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on the FY14 Financial Statements in accordance with the auditor's findings (ASA 200 paragraphs 11 and 17);
- (h) in circumstances where Deloitte had not obtained sufficient appropriate audit evidence in respect of DSH's provisioning for inventory in the FY14 Financial Statements, failed to express a modified opinion on the FY14 Financial Statements (ASA 330 paragraphs 26-27; ASA 260 paragraph A18; ASA 705 paragraphs 7, 9-10);
- (l) failed properly to apply the requirements of AASB 102 to such audit evidence as Deloitte obtained in assessing the issue of whether the inventory provisions in the FY14 Financial Statements complied with AASB 102 (ASA 200 paragraph 11);
- (m) failed to perform adequate audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24) and to evaluate whether the assessments of risks of material misstatement at the assertion level remained appropriate (ASA 330 paragraph 25);
- (n) failed to require management to account for the carrying value of inventory in accordance with Australian Accounting Standards;
- (o) failed to quantify or estimate the extent of the misstatement in the FY14 Financial Statements as a result of the Inventory Practices and Effects; and / or
- (p) did not express the opinion pleaded above at paragraph 446.

449 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.5. FY14 Audit in relation to the accounting treatment of Volume Rebates and O&A Rebates

450 By the time of delivery to DSH of the FY14 Audit Report, Deloitte knew or ought to have known that DSH's accounting treatment of Volume Rebates and O&A Rebates was as pleaded above at Part C.3 in respect of FY14 because:

- (a) Deloitte was provided with documents and information as to DSH's accounting treatment of Volume Rebates and O&A Rebates in the course of the FY14 Audit;

Particulars

Email from Damien Cork of Deloitte to Mr Potts, copied to Nigel Mills of DSH and to Mr White of Deloitte, sent on Monday 26 May 2014, entitled 'Dick Smith: O&A Rebates' (DSE.003.054.4114)

Email from Mr Potts to Mr White of Deloitte, copied to Damien Cork of Deloitte, sent on Friday 6 June 2014, entitled 'RE:O&A' (DSE.003.054.0824), attaching two papers, entitled:

- *'Position Paper – Vendor Rebates – Profit/Loss and Balance Sheet Recognition, dated 28 May 2014 and prepared by Nigel Mills of DSH' (DSE.003.054.0826)*
- *'Vendor Rebates – O&A' (DSE.003.054.0826)*

Email from Damien Cork of Deloitte to Mr Potts, copied to Nigel Mills of DSH and to Mr White of Deloitte, sent on Tuesday 10 June 2014, entitled "RE: O&A" (DSE.003.053.9575).

- (b) Deloitte was previously made aware of and had regard to the accounting treatment of rebates by DSH;

Particulars

FY14 Audit Strategy Presentation, page 11.

FY14 FAC Report, section 3.3, page 11.

- (c) Deloitte identified DSH's accounting treatment of rebates as a key area of focus in the FY14 Audit;

Particulars

FY14 FAC Report, section 3.3. See also working paper 23303 "Memo Vendor receivables and disputed claims" (DEL.001.001.3973), which identifies rebates as a significant risk, and O&A rebates as the riskiest type of rebate.

- (d) a Reasonable Auditor carrying out the FY14 Audit, having been provided with the documents to which Deloitte had access, and having been made aware of DSH's accounting treatment of rebates as set out above at (a)-(c), would have:
- (i) designed and implemented an appropriate testing strategy in respect of management's assumptions and methodology with respect to rebates;
 - (ii) requested, to the extent necessary, if any, further information to ascertain the accounting treatment of the Volume Rebates and O&A Rebates;
 - (iii) evaluated whether DSH's accounting treatment of Volume Rebates and O&A Rebates was appropriate, including considering whether the accounting treatment was in accordance with Australian Accounting Standards; and
 - (iv) concluded that the accounting treatment and its effects were as pleaded in Part C.3 in respect of FY14.

Particulars

A Reasonable Auditor would have, in the course of the FY14 Audit:

- (a) *obtained a sufficient understanding of the different categories of rebates and the basis and application of the accounting treatment of the Volume Rebates and O&A Rebates;*
- (b) *obtained sufficient appropriate audit evidence to reduce audit risk to an acceptably low level and thereby enable Deloitte to draw reasonable conclusions on which to base its opinion, as required by ASA 200 paragraph 17;*
- (c) *considered the relevance and reliability of the information to be used as audit evidence, as required by ASA 500 paragraph 7;*
- (d) *when using information provided by DSH, evaluated whether the information was sufficiently reliable for Deloitte's purposes, as required by ASA 500 paragraph 9;*
- (e) *applied an adequate level of professional scepticism when considering the validity of DSH's arrangements in respect of the Volume Rebates and O&A Rebates, particularly in light of the informality of the relevant arrangements;*
- (f) *determined whether it was necessary to disclose in the FY14 Financial Statements the different categories of rebates and the accounting treatment of the Volume*

Rebates and O&A Rebates, by reason of the fact that these were significant accounting policies relevant to understanding the financial statements;

- (g) *determined whether the accounting treatment of the Volume Rebates and O&A Rebates complied with Australian Accounting Standards by:*
 - (i) *obtaining a sufficient understanding of the different categories of rebates and the processes for dealing with rebates;*
 - (ii) *ascertaining the level of risk relating to the accounting treatment of rebates;*
 - (iii) *having regard to the level of risk, designing testing work to consider an appropriately sized sample that takes account of the different providers of rebates;*
 - (iv) *obtaining, in respect of the rebates within that sample, evidence of the nature of any marketing and promotional support, the terms and conditions of such support, or whether those terms and conditions had been fulfilled, in order to form a view whether it was appropriate for such rebates to be taken up in profits in the reporting period;*
 - (v) *making enquiries of management as to whether the services to be provided in exchange for the rebate had been fully provided by DSH; and*
 - (vi) *considering whether there was a basis for relying on the systems and processes used to determine whether rebates were included in profits;*
- (h) *performed testing on those accounts affected by the Volume Rebates and O&A Rebates to gain reasonable assurance the rebates were accounted for as represented by management and attempted to quantify or estimate any misstatement in the event that management refused or failed to alter the accounting treatment adopted by DSH to conform with the correct accounting treatment pleaded in Part C.3 in respect of FY14.*

451 The FY14 Audit Report did not conclude or express the opinion that the accounting treatment of the Volume Rebates and/or O&A Rebates:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY14 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;

- (c) meant that the FY14 Financial Statements did not comply with the Australian Accounting Standards;
- (d) caused the FY14 Financial Statements to be materially misstated.

452 This was despite the fact that, for the reasons pleaded above at Part C.3 in respect of FY14, the accounting treatment of the Volume Rebates and/or O&A Rebates:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY14 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY14 ~~Fianncial~~Financial Statements did not comply with the Australian Accounting Standards; and
- (d) caused the FY14 Financial Statements to be materially misstated.

453 Notwithstanding the matters pleaded at Part C.3 in respect of FY14, which Deloitte knew or ought to have known for the reasons pleaded and particularised above at paragraph 450, Deloitte:

- (a) failed to obtain an understanding of the application of accounting policies by DSH in respect of rebates, sufficient to evaluate whether those policies were appropriate for its business and consistent with the applicable financial reporting framework (ASA 315 paragraph 11);
- (b) failed to obtain a sufficient understanding of the accounting treatment of the Volume Rebates and O&A Rebates (ASA 200, paragraphs 7, 15, A18-A22);
- (c) failed adequately to evaluate whether the accounting treatment of the Volume Rebates and/or O&A Rebates was consistent with the applicable financial reporting framework and accounting policies used in the relevant industry (ASA 315 paragraph 11);
- (cb) failed to project errors or misstatements identified in their testing of samples (ASA 530, paragraph 14);
- (d) failed adequately to perform audit procedures so as to evaluate whether the overall presentation of the FY14 Financial Statements, including in respect of the accounting treatment of the Volume Rebates and/or O&A Rebates was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24);

- (e) failed properly to apply the requirements of AASB 101, AASB 102 and/or AASB 108 to such audit evidence as Deloitte obtained in assessing the issue of whether the accounting treatment of the Volume Rebates and O&A Rebates in the FY14 Financial Statements complied with AASB 101, AASB 102 and/or AASB 108 (ASA 200 paragraph 8; ASA 210 paragraph 6; ASA 700 paragraph 12);
- (f) failed to perform appropriate risk assessment procedures (including enquiries of DSH personnel, analytical procedures and observation and inspection) sufficient to provide a basis for the identification and assessment of risks of material misstatement at the financial report level, and to provide a basis for designing and performing further audit procedures (ASA 315 paragraphs 5-6, paragraphs 25-26);
- (g) failed to design and perform audit procedures that were appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence in respect of the recording, calculation and recognition of rebates in the FY14 Financial Statements (ASA 500 paragraphs 4, 6, A1- A25);
- (h) failed to obtain sufficient appropriate audit evidence regarding the assessed risks of material misstatement (one of the key areas of risk identified by Deloitte being the recording of rebates in the FY14 Financial Statements), through designing and implementing appropriate responses to those risks (ASA 330 paragraphs 3, 5-7);
- (i) by reason of having failed to obtain sufficient appropriate audit evidence in respect of the recording of rebates so as to reduce audit risk to an acceptably low level:
 - (i) failed to obtain reasonable assurance about whether the FY14 Financial Statements as a whole were free from material misstatement, whether due to fraud or error (ASA 200 paragraph 5); and
 - (ii) was unable to draw reasonable conclusions on which to base the auditor's opinion on whether the FY14 Financial Statements were prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on the FY14 Financial Statements in accordance with the auditor's findings (ASA 200 paragraphs 11, 17);
- (j) in circumstances where Deloitte had not obtained sufficient appropriate audit evidence in respect of the recording of rebates in the FY14 Financial Statements, failed to express a modified opinion on the FY14 Financial Statements (ASA 330 paragraphs 26-27; ASA 705 paragraphs 7, 9-10);

- (k) failed to perform adequate audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24) and to evaluate whether the assessments of risks of material misstatement at the assertion level remained appropriate (ASA 330 paragraph 25);
- (l) did not require management to account for Volume Rebates or O&A Rebates in accordance with Australian Accounting Standards;
- (m) did not quantify or estimate the extent of the misstatement in the FY14 Financial Statements as a result of the accounting treatment of rebates; and / or
- (n) did not express the opinion pleaded above at paragraph 451.

454 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.6. Effect of Deloitte's failures in carrying out the FY14 Audit

455 Deloitte's failures in carrying out the FY14 Audit, as set out above at paragraphs 448 to 449 and 453 to 454, both individually and cumulatively meant that Deloitte:

- (a) did not conduct the audit of DSH's FY14 Financial Statements in accordance with the Auditing Standards;
- (b) did not conduct the FY14 Audit in accordance with Deloitte's auditing obligations as pleaded above at Part F.2;
- (c) did not exercise reasonable care and skill in performing the FY14 Audit;
- (d) did not have reasonable grounds for believing that the audit evidence Deloitte obtained to carry out the FY14 Audit was sufficient and appropriate to provide a basis for its audit opinion; and
- (e) did not have reasonable grounds for the opinion that the FY14 Financial Statements were in accordance with the CA, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 June 2014 and of its performance for the year ending on that date; and
 - (ii) complied with the Australian Accounting Standards and the Corporations Regulations 2001.

F.6.7. FY15 Audit in relation to inventory provisions

456 By the time of delivery to DSH of the FY15 Audit Report, Deloitte knew or ought to have known of the Inventory Practices and Effects as pleaded in Part C.2 in respect of FY15, because:

- (a) Deloitte was provided with documents and information as to DSH's Inventory Practices and Effects;

Particulars

The particulars to paragraph 445(a) above are repeated.

20 May 2014 email from DSH to Deloitte, attaching a position paper on inventory provisions (DSE.002.016.5847, DSE.002.016.5849)

- (b) Deloitte was previously made aware of and had had regard to DSH's inventory provisioning;

Particulars

The particulars to paragraph 445(b) above are repeated.

FY14 FAC Report , section 3.2.

See also Deloitte working paper 23403 "Inventory Obsolescence Memo" (DEL.001.001.4003) demonstrating Deloitte's understanding of DSH's methodology for stock obsolescence at year end.

- (c) Deloitte identified DSH's inventory provisions as a key area of focus in the FY15 Audit;

Particulars

Deloitte presentation to DSH entitled "External audit strategy for the year ending 28 June 2015" (FY15 Audit Strategy Presentation) (DSE.003.043.8812), page 8.

FY15 FAC Report, page 9.

- (d) a Reasonable Auditor in the position of Deloitte, carrying out the FY15 Audit, having been provided with the documents to which Deloitte had access, and having been made aware of DSH's accounting treatment of inventory as set out above at (a)-(c), would have:
 - (i) recognised that inventory provisioning was an area of high risk for DSH, given that the nature of the consumer electronics market is such that there is an ongoing risk of inventory obsolescence;

- (ii) designed and implemented an appropriate testing strategy in respect of management's assumptions and methodology with respect to inventory provisioning in order to ascertain the nature and extent of any material misstatement in the carrying value of inventory;
- (iii) requested, to the extent necessary, if any, further information to ascertain the Inventory Practices and Effects;
- (iv) evaluated whether DSH's management's assumptions and methodology with respect to inventory provisioning were appropriate, including considering whether DSH's failure to write down inventory and DSH's inventory management and accounting practices were in accordance with the Australian Accounting Standards;
- (v) concluded that the Inventory Practices and Effects were as pleaded above at Part C.2 in respect of FY15.

Particulars

A Reasonable Auditor would have, in the course of the FY14 Audit, taken the steps particularised at paragraph 427 above.

457 The FY15 Audit Report did not conclude or express the opinion that the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY15 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY15 Financial Statements did not comply with the Australian Accounting Standards;
- (d) caused the FY15 Financial Statements to be materially misstated.

458 This was despite the fact that, for the reasons pleaded above at Part C.2 in respect of FY15, the Inventory Practices and Effects:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY15 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;

(c) meant that the FY15 Financial Statements did not comply with the Australian Accounting Standards; and

(d) caused the FY15 Financial Statements to be materially misstated.

459 Notwithstanding the matters pleaded at Part C.2 in respect of FY15, which Deloitte knew or ought to have known for the reasons pleaded above at paragraph 456, Deloitte:

(a) failed to obtain an adequate understanding of the application of accounting policies by DSH in respect of inventory provisioning, sufficient to evaluate whether those policies were appropriate for its business and consistent with the applicable financial reporting framework (ASA 315 paragraph 11);

(b) failed to obtain a sufficient understanding of the assumptions and methodology applied by DSH management in determining inventory provisions, including by failing to apply an adequate level of professional scepticism to the information produced by DSH, and the assumptions and methodology applied by management in determining inventory provisions in the FY15 Financial Statements (ASA 200, paragraphs 7, 15, A18-A22; ASA 540, paragraphs 8, 18);

(c) failed to perform appropriate risk assessment procedures (including enquiries of DSH personnel, analytical procedures and observation and inspection) sufficient to provide a basis for the identification and assessment of risks of material misstatement at the financial report level, and to provide a basis for designing and performing further audit procedures in respect of inventory provisions (ASA 315 paragraphs 5-6, 25-26; ASA 540 paragraphs 10-12);

(d) having determined that there was a significant risk of material misstatement in respect of inventory provisions in the FY15 Financial Statements, failed to perform substantive procedures that are specifically responsive to that risk, including for the purpose of obtaining sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in the FY15 Financial Statements (ASA 330 paragraphs 21, A1, A4, A19; ASA 500 paragraphs 6, A1-A3, A10, A14-A15);

- (e) failed to design and implement adequate testing of the age of stock and the appropriateness of the obsolescence percentages by reference to stock turnover, volume of stock on hand, and broader industry factors in order to obtain reasonable assurance as to whether the Inventory Practices and Effects complied with Australian Accounting Standards (ASA 330 paragraph 21, A1, A4, A19);
- (f) by reason of the failures pleaded in sub-paragraphs (a)-(e) above failed to gather sufficient appropriate audit evidence in order to enable Deloitte to express an opinion on whether the assumptions and methodology applied by management in determining the provision in respect of inventory in the FY15 Financial Statements complied with AASB 102, in circumstances where Deloitte had identified inventory provisioning as a key area of risk in the FY15 Audit (ASA 200 paragraphs 5, 7, 17; ASA 330 paragraphs 3, 5-7, ASA 540 paragraphs 6, 13, 15);
- (g) by reason of having failed to obtain sufficient appropriate audit evidence in respect of the assumptions and methodology applied by management in determining inventory provisions in FY15 Financial Statements so as to reduce audit risk to an acceptably low level:
 - (i) failed to obtain reasonable assurance about whether the FY15 Financial Statements as a whole were free from material misstatement, whether due to fraud or error (ASA 200 paragraph 5 and 17);
 - (ii) was unable to draw reasonable conclusions on which to base the auditor's opinion on whether the FY15 Financial Statements were prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on the FY15 Financial Statements in accordance with the auditor's findings (ASA 200 paragraphs 11 and 17);
- (h) in circumstances where Deloitte had not obtained sufficient appropriate audit evidence in respect of DSH's provisioning for inventory in the FY15 Financial Statements, failed to express a modified opinion on the FY15 Financial Statements (ASA 330 paragraphs 26-27; ASA 260 paragraph A18; ASA 705 paragraphs 7, 9-10);
- (q) failed properly to apply the requirements of AASB 102 to such audit evidence as Deloitte obtained in assessing the issue of whether the inventory provisions in the FY15 Financial Statements complied with AASB 102 (ASA 200 paragraph 11);

- (r) failed to perform adequate audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24) and to evaluate whether the assessments of risks of material misstatement at the assertion level remained appropriate (ASA 330 paragraph 25);
- (s) did not require management to account for the carrying value of inventory in accordance with Australian Accounting Standards;
- (t) did not quantify or estimate the extent of the misstatement in the FY15 Financial Statements as a result of the Inventory Practices and Effects; and / or
- (u) did not express the opinion pleaded above at paragraph 457.

460 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.8. FY15 Audit in relation to the accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates

461 By the time of delivery to DSH of the FY15 Audit Report, Deloitte knew or ought to have known that DSH's accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates was as pleaded above at Part C.3 in respect of FY15 because:

- (a) Deloitte was previously made aware of and had regard to to DSH's accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates;

Particulars

The particulars to paragraphs 450(a) and 450(b) above are repeated.

- (b) Deloitte identified DSH's accounting treatment of rebates as a key area of focus in the FY15 Audit;

Particulars

FY15 Audit Strategy Presentation, page 8.

FY15 FAC Report, page 10.

Working paper 23303 "Memo – Vendor receivables and disputed claims" (DEL.001.002.1449) page 5, identifying that O&A rebates were an area of "significant risk" in the FY15 Financial Statements.

- (c) a Reasonable Auditor in the position of Deloitte, carrying out the FY15 Audit, having been provided with the documents to which Deloitte had access, and having been made aware of DSH's accounting treatment of rebates as set out above at (a)-(b), would have:
- (i) designed and implemented an appropriate testing strategy in respect of management's assumptions and methodology with respect to rebates;
 - (ii) requested, to the extent necessary, if any, further information to ascertain the accounting treatment of the Switched Invoice Rebates, Volume Rebates and O&A Rebates;
 - (iii) evaluated whether DSH's accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates was appropriate, including considering whether the accounting treatment was in accordance with the Australian Accounting Standards;
 - (iv) concluded that the accounting treatment and its effects were as pleaded in Part C.3 in respect of FY15.

Particulars

A Reasonable Auditor would have, in the course of the FY15 Audit, taken the steps particularised at paragraph 450 above.

462 The FY15 Audit Report did not conclude or express the opinion that the accounting treatment of the Switched Invoice Rebates, Volume Rebates and/or O&A Rebates:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY15 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY15 Financial Statements did not comply with the Australian Accounting Standards;
- (d) caused the FY15 Financial Statements to be materially misstated.

463 This was despite the fact that, for the reasons pleaded above at Part C.3 in respect of FY15, the accounting treatment of the Switched Invoice Rebates, Volume Rebates and/or O&A Rebates:

- (a) needed to be disclosed in the financial reports of DSH;
- (b) meant the FY15 Financial Statements did not give a true and fair view of the financial position and performance of DSH and the DSH Group;
- (c) meant that the FY15 Financial Statements did not comply with the Australian Accounting Standards; and
- (d) caused the FY15 Financial Statements to be materially misstated.

464 Notwithstanding the matters pleaded at Part C.3 in respect of FY15, which Deloitte knew or ought to have known for the reasons pleaded and particularised above at paragraph 461, Deloitte:

- (a) failed to obtain an understanding of the application of accounting policies by DSH in respect of rebates, sufficient to evaluate whether those policies were appropriate for its business and consistent with the applicable financial reporting framework (ASA 315 paragraph 11);
- (b) failed to obtain a sufficient understanding of the accounting treatment of the Switched Invoice Rebates, Volume Rebates and O&A Rebates (ASA 200, paragraphs 7, 15, A18-A22);
- (c) failed adequately to evaluate whether the accounting treatment of the Switched Invoice Rebates, Volume Rebates and/or O&A Rebates was consistent with the applicable financial reporting framework and accounting policies used in the relevant industry (ASA 315 paragraph 11);
- (d) failed adequately to perform audit procedures so as to evaluate whether the overall presentation of the FY15 Financial Statements, including in respect of the accounting treatment of the Switched Invoice Rebates, Volume Rebates and/or O&A Rebates was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24);
- (e) failed properly to apply the requirements of AASB 101, AASB 102 and/or AASB 108 to such audit evidence as Deloitte obtained in assessing the issue of whether the accounting treatment of the Switched Invoice Rebates, Volume Rebates and O&A Rebates in the FY15 Financial Statements complied with AASB 101, AASB 102 and/or AASB 108 (ASA 200 paragraph 8; ASA 210 paragraph 6; ASA 700 paragraph 12);

- (f) failed to perform appropriate risk assessment procedures (including enquiries of DSH personnel, analytical procedures and observation and inspection) sufficient to provide a basis for the identification and assessment of risks of material misstatement at the financial report level, and to provide a basis for designing and performing further audit procedures (ASA 315 paragraphs 5-6, paragraphs 25-26);
- (g) failed to design and perform audit procedures that were appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence in respect of the recording, calculation and recognition of rebates in the FY15 Financial Statements, and in order to obtain reasonable assurance whether the accounting treatment of the Switched Invoice Rebates, Volume Rebates and O&A Rebates complied with Australian Accounting Standards (ASA 500 paragraphs 4, 6, A1- A25);
- (h) failed to determine an appropriate approach to sampling to reduce sampling risk to an acceptably low level (ASA 530 paragraph 7, A10-A11);
- (i) failed adequately to perform audit procedures on each item selected as part of the audit sample conducted in carrying out the FY15 Audit (ASA 530 paragraph 9), including failing to test a random, systematic or haphazard selection or a representative sample of entries in DSH's accounts, and failing to test samples based on larger value items (ASA 530 paragraph A13);
- (j) failed to test the appropriateness of journal entries recorded in the general ledger (ASA 240 paragraphs 32, A41-A44);
- (k) failed to obtain sufficient appropriate audit evidence regarding the assessed risks of material misstatement (one of the key areas of risk identified by Deloitte being the recording of rebates in the FY15 Financial Statements), through designing and implementing appropriate responses to those risks (ASA 330 paragraphs 3, 5-7);
- (l) by reason of having failed to obtain sufficient appropriate audit evidence in respect of the recording of rebates so as to reduce audit risk to an acceptably low level:
 - (i) failed to obtain reasonable assurance about whether the FY15 Financial Statements as a whole were free from material misstatement, whether due to fraud or error (ASA 200 paragraph 5); and
 - (ii) was unable to draw reasonable conclusions on which to base the auditor's opinion on whether the FY15 Financial Statements were prepared, in all material respects, in accordance with the applicable financial reporting framework, and to report on

the FY15 Financial Statements in accordance with the auditor's findings (ASA 200 paragraphs 11, 17);

- (m) in circumstances where Deloitte had not obtained sufficient appropriate audit evidence in respect of the recording of rebates in the FY15 Financial Statements, failed to express a modified opinion on the FY15 Financial Statements (ASA 330 paragraphs 26-27; ASA 705 paragraphs 7, 9-10);
- (n) failed to perform adequate audit procedures to evaluate whether the overall presentation of the financial report was in accordance with the applicable financial reporting framework (ASA 330 paragraph 24) and to evaluate whether the assessments of risks of material misstatement at the assertion level remained appropriate (ASA 330 paragraph 25);
- (o) did not require management to account for Switched Invoice Rebates, Volume Rebates and O&A Rebates in accordance with Australian Accounting Standards;
- (p) did not quantify or estimate the extent of the misstatement in the FY15 Financial Statements as a result of the accounting treatment of rebates; and / or
- (q) did not express the opinion pleaded above at paragraph 462.

465 In the premises, Deloitte failed to act as a Reasonable Auditor.

F.6.9. Effect of Deloitte's FY2015 failures

466 Deloitte's failures in carrying out the FY15 Audit, as set out above at paragraphs 459 to 460 and 464 to 465, both individually and cumulatively, meant that Deloitte:

- (a) did not conduct an audit of DSH's FY15 Financial Statements in accordance with the Auditing Standards;
- (b) did not conduct the FY15 Audit in accordance with Deloitte's auditing obligations as pleaded above at Part F.2;
- (c) did not exercise reasonable care and skill in performing the FY15 Audit;
- (d) did not have reasonable grounds for believing that the audit evidence Deloitte obtained to carry out the FY15 Audit was sufficient and appropriate to provide a basis for its audit opinion;

- (e) did not have reasonable grounds for the opinion that the FY15 Financial Statements were in accordance with the CA, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 June 2015 and of its performance for the year ended on that date; and
 - (ii) complying with the Australian Accounting Standards and the Corporations Regulations 2001.

F.7. DELOITTE'S CONTRAVENTIONS

F.7.1. Deloitte's FY13 Contraventions

467 By authorising the inclusion of the FY13 Audit Report in the FY13 Financial Statements and thereby publishing the FY13 Audit Report, and by making Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations, Deloitte, on one or more or all of those occasions, engaged in conduct:

- (a) in relation to a financial product or a financial service within the meaning of s 1041H of the CA; and/or
- (b) in trade or commerce within the meaning of section 18 of the Australian Consumer Law; and/or
- (c) in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

468 Further, or in the alternative, by authorising the inclusion of the FY13 Audit Report in the FY13 Financial Statements and thereby publishing the FY13 Audit Report, and by making Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations, Deloitte, on one or more or all of those occasions, made representations:

- (a) in connection with the supply of services, being the services supplied by Deloitte in performing the FY13 Audit, that those services were of a particular standard or quality, within the meaning of s 29(1)(b) of the ACL; and/or
- (b) in connection with the supply of financial services, being the services supplied by Deloitte in performing the FY13 Audit, that those services were of a particular standard or quality, within the meaning of s 12DB(1)(a) of the ASIC Act.

Particulars

The services being supplied by Deloitte were its services as auditor of DSSH.

Deloitte's FY13 Express Representations, being representations that Deloitte had conducted the FY13 Audit in accordance with, inter alia, applicable Auditing Standards, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY13 Audit engagement.

Deloitte's FY13 Implied Representations, being representations that Deloitte had exercised reasonable care and skill in performing the FY13 Audit, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY13 Audit engagement.

469 Deloitte's FY13 Express Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraphs 430 to 431, 436 to 437 and/or 442 to 443, the FY13 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.1, F.6.2 and F.6.3 are repeated.

470 Deloitte's FY13 Express Representations were false or misleading, in contravention of s 29(1)(a) of the Australian Consumer Law and/or s 12DB(1)(b) of the ASIC Act, because, for the reasons pleaded at paragraphs 430 to 431, 436 to 437 and/or 442 to 443, the FY13 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.1, F.6.2 and F.6.3 are repeated.

471 Deloitte's FY13 Implied Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraph 444:

- (a) Deloitte's FY13 Express Representations were not the product of Deloitte having conducted its FY13 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2;
- (b) Deloitte's FY13 Express Representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY13 Audit;

- (c) there were no reasonable grounds for making Deloitte's FY13 Express Representations.

Particulars

Parts F.6.1, F.6.2 and F.6.3 are repeated.

- 472 Deloitte's FY13 Implied Representations were false or misleading, in contravention of s 29(1)(b) of the Australian Consumer Law and/or s 12DB(1)(a) of the ASIC Act, because, for the reasons pleaded at paragraph 444, the FY13 Audit was not performed with reasonable care and skill.

Particulars

Parts F.6.1, F.6.2 and F.6.3 are repeated.

- 473 Mr White authorised the issuance and the publication of the FY13 Audit Report.

Particulars

Mr White's authorisation is implied from his acceptance of his role as the lead auditor of the FY13 Audit, and from his signing of the FY13 Audit Report, addressed to the members of DSSH.

- 474 By authorising the issuing and publishing of the FY13 Audit Report, Mr White made statements, or disseminated information, being Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations, which:

- (a) were false in a material particular or materially misleading;

Particulars

Parts F.6.1, F.6.2 and F.6.3 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH following the initial public offering of DSH shares;

Particulars

The plaintiffs and Group Members were likely to become aware of Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations, being statements made, or information disseminated by, Mr White, in the following way:

- (a) *by obtaining the FY13 Audit Report through ASIC's website or by otherwise obtaining a copy of the FY13 Audit Report from ASIC;*
- (b) *by obtaining the FY13 Audit Report from DSH;*
- (c) *by obtaining DSSH's FY13 Financial Statements;*
- (d) *by their financial advisors obtaining the FY13 Audit Report (whether from ASIC or DSH) or DSSH's FY13 Financial Statements;*
- (e) *by stockbrokers obtaining the FY13 Audit Report (whether from ASIC or DSH) or DSSH's FY13 Financial Statements.*

Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations were likely to be, and were, material to the plaintiffs and Group Members, being persons interested in acquiring shares in DSH, following the initial public offering of DSH shares.

For example, persons interested in acquiring shares in DSH were likely to be induced to do so by Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations, which were to the effect that:

- (a) *the FY13 Financial Statements were the subject of an audit carried out in accordance with the Auditing Standards;*
- (b) *Deloitte was of the opinion that the FY13 Financial Statements were prepared in accordance with the CA, including:*
 - (i) *giving a true and fair view of the Group's financial position as at 30 June 2013 and of its performance for the period ended on that date, and*
 - (ii) *complying with Australian Accounting Standards and the Corporations Regulations 2001; and*
- (c) *that opinion was:*
 - (i) *the product of Deloitte having conducted the FY13 Audit in accordance with Deloitte's auditing obligations;*
 - (ii) *the product of Deloitte having exercised reasonable care and skill in performing the FY13 Audit; and*
 - (iii) *based on reasonable grounds.*

Further particulars may be provided after evidence.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH shares on the ASX, following the initial public offering of DSH shares.

Particulars

The particulars to paragraphs 504 and 505 below are repeated.

Further particulars may be provided following discovery and evidence.

- 475 Mr White authorised the issuing and publishing of the FY13 Audit Report which contained representations, namely Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations.

Particulars

The particulars to paragraphs 415, 416 and 473 are repeated.

- 476 Mr White ought reasonably to have known that those representations were false in a material particular or materially misleading because:
- (a) Mr White was an experienced auditor;
 - (b) Mr White knew and understood the Auditing Standards;
 - (c) Mr White read and signed the FY13 Audit Report;
 - (d) Mr White was the lead audit partner in charge of the FY13 Audit;
 - (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY13 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY13 Audit, including the information pleaded at paragraph 427 above;
 - (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY13 Audit;
 - (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;

- (h) as lead audit partner, Mr White was obliged to ensure that the FY13 Audit was conducted in accordance with the Auditing Standards under s 307(2) of the CA;
- (i) had Mr White discharged his duty to ensure that the FY13 Audit was conducted in accordance with the Auditing Standards, he would have ascertained that the Inventory Practices and Effects were as pleaded in Part C.2 in respect of FY13 for the reasons pleaded at paragraph 427;
- (j) had Mr White discharged his duty to ensure that the FY13 Audit was conducted in accordance with the Auditing Standards, he would therefore have formed the view that the FY13 Financial Statements were not prepared in accordance with the Australian Accounting Standards;
- (k) by reason of the matters pleaded in sub-paragraphs (a)-(j) above, Mr White ought reasonably to have known that the FY13 Financial Statements were not prepared in accordance with the Australian Accounting Standards and, therefore, that Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations were false in a material particular or materially misleading.

477 Further or in the alternative, Mr White ought to have known that Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations were false in a material particular or materially misleading because:

- (a) Mr White was an experienced auditor;
- (b) Mr White knew and understood the Auditing Standards;
- (c) Mr White read and signed the FY13 Audit Report;
- (d) Mr White was the lead audit partner in charge of the FY13 Audit;
- (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY13 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY13 Audit, including the information pleaded at paragraph 427 above; .
- (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY13 Audit;

- (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;
- (h) Mr White ought reasonably to have tested and reviewed the audit processes followed by Deloitte in respect of the FY13 Audit;
- (i) by reason of the matters pleaded in sub-paragraphs (a)-(h) above and by reason of his role in relation to the FY13 Audit, and his significant expertise and experience as an auditor, Mr White ought reasonably to have known of the deficiencies in Deloitte's conduct of the FY13 Audit as pleaded at paragraphs 430, 431, 436, 437, 442 and 443 above;
- (j) by reason of the matters pleaded in sub-paragraph (i) above, Mr White ought reasonably to have known that the FY13 Audit was not conducted in accordance with the Auditing Standards and therefore that:
 - (i) Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations were not the product of Deloitte having conducted the FY13 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;
 - (ii) those representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY13 Audit; and
 - (iii) there were not reasonable grounds for making Deloitte's FY13 Express Representations and Deloitte's FY13 Implied Representations.

478 By reason of the matters pleaded in paragraphs 473 to 477, Mr White contravened s 1041E of the CA by authorising the issuance and publication of the FY13 Audit Report.

F.7.2. Deloitte's FY14 Contraventions

479 By authorising the inclusion of the FY14 Audit Report in the FY14 Financial Statements and thereby publishing the FY14 Audit Report, and by making Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations, Deloitte, on one or more or all of those occasions, engaged in conduct:

- (a) in relation to a financial product or a financial service within the meaning of s 1041H of the CA; and/or

- (b) in trade or commerce within the meaning of section 18 of the Australian Consumer Law; and/or
- (c) in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

480 Further, or in the alternative, by authorising the inclusion of the FY14 Audit Report in the FY14 Financial Statements and thereby publishing the FY14 Audit Report, and by making Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations, Deloitte, on one or more or all of these occasions, made representations:

- (a) in connection with the supply of services, being the services supplied by Deloitte in performing the FY14 Audit, that those services were of a particular standard or quality, within the meaning of s 29(1)(b) of the ACL; and/or
- (b) in connection with the supply of financial services, being the services supplied by Deloitte in performing the FY14 Audit, that those services were of a particular standard or quality, within the meaning of s 12DB(1)(a) of the ASIC Act.

Particulars

The services being supplied by Deloitte were its services as auditor of DSH.

Deloitte's FY14 Express Representations, being representations that Deloitte had conducted the FY14 Audit in accordance with, inter alia, applicable Auditing Standards, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY14 Audit engagement.

Deloitte's FY14 Implied Representations, being representations that Deloitte had exercised reasonable care and skill in performing the FY14 Audit, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY14 Audit engagement.

481 Deloitte's FY14 Express Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraphs 448 to 449 and/or 453 to 454 the FY14 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.4, F.6.5 and F.6.6 are repeated.

482 Deloitte's FY14 Express Representations were false or misleading, in contravention of s 29(1)(a) of the Australian Consumer Law and/or s 12DB(1)(b) of the ASIC Act, because, for the reasons pleaded at paragraphs 448 to 449 and/or 453 to 454, the FY14 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.4, F.6.5 and F.6.6 are repeated.

483 Deloitte's FY14 Implied Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraph 455:

- (a) Deloitte's FY14 Express Representations were not the product of Deloitte having conducted its FY14 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2;
- (b) Deloitte's FY14 Express Representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY14 Audit;
- (c) there were no reasonable grounds for making Deloitte's FY14 Express Representations.

Particulars

Parts F.6.4, F.6.5 and F.6.6 are repeated.

484 Deloitte's FY14 Implied Representation was false or misleading, in contravention of s 29(1)(b) of the Australian Consumer Law and/or s 12DB(1)(a) of the ASIC Act, because, for the reasons pleaded at paragraphs 455, the FY14 Audit was not performed with reasonable care and skill.

Particulars

Parts F.6.4, F.6.5 and F.6.6 are repeated.

485 Mr White authorised the issuance and the publication of the FY14 Audit Report.

Particulars

Mr White's authorisation is implied from his acceptance of his role as the lead auditor of the FY14 Audit, and from his signing of the FY14 Audit Report, addressed to the members of DSH.

486 By authorising the issuing and publishing of the FY14 Audit Report, Mr White made statements, or disseminated information, being Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations, which:

- (a) were false in a material particular or materially misleading;

Particulars

Parts F.6.4, F.6.5 and F.6.6 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH;

Particulars

The plaintiffs and Group Members were likely to become aware of Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations, being statements made, or information disseminated by, Mr White, in the following way:

- (a) *by obtaining the FY14 Audit Report through ASIC's website or by otherwise obtaining a copy of the FY14 Audit Report from ASIC;*
- (b) *by obtaining the FY14 Audit Report from DSH;*
- (c) *by obtaining the FY14 Financial Statements;*
- (d) *by their financial advisors obtaining the FY14 Audit Report (whether from ASIC or DSH) or the FY14 Financial Statements;*
- (e) *by stockbrokers obtaining the FY14 Audit Report (whether from ASIC or DSH) or the FY14 Financial Statements.*

Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations were likely to be, and were, material to the plaintiffs and Group Members, being persons interested in acquiring shares in DSH, following the initial public offering of DSH shares.

For example, persons interested in acquiring shares in DSH were likely to be induced to do so by Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations, which were to the effect that:

- (a) *the FY14 Financial Statements were the subject of an audit carried out in accordance with the Auditing Standards;*

(b) *Deloitte was of the opinion that the FY14 Financial Statements were prepared in accordance with the CA, including:*

(i) *giving a true and fair view of the DSH Group's financial position as at 29 June 2014 and of its performance for the period ended on that date, and*

(ii) *complying with Australian Accounting Standards and the Corporations Regulations 2001; and*

(c) *that opinion was:*

(i) *the product of Deloitte having conducted the FY14 Audit in accordance with Deloitte's auditing obligations;*

(ii) *the product of Deloitte having exercised reasonable care and skill in performing the FY14 Audit; and*

(iii) *based on reasonable grounds.*

Further particulars may be provided after evidence.

(c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH shares on the ASX, following the initial public offering of DSH shares.

Particulars

The particulars to paragraphs 507 and 508 below are repeated.

Further particulars may be provided following discovery and evidence.

487 Mr White authorised the issuing and publishing of the FY14 Audit Report which contained representations, namely Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations.

Particulars

The particulars to paragraphs 420, 421 and 485 are repeated.

488 Mr White ought reasonably to have known that those representations were false in a material particular or materially misleading because:

- (a) Mr White was an experienced auditor;
- (b) Mr White knew and understood the Auditing Standards;
- (c) Mr White read and signed the FY14 Audit Report;
- (d) Mr White was the lead audit partner in charge of the FY14 Audit;
- (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY14 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY14 Audit, including the information pleaded at paragraphs 445 and 450 above;
- (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY14 Audit;
- (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;
- (h) as lead audit partner, Mr White was obliged to ensure that the FY14 Audit was conducted in accordance with the Auditing Standards under s 307(2) of the CA;
- (i) had Mr White discharged his duty to ensure that the FY14 Audit was conducted in accordance with the Auditing Standards, he would have ascertained that:
 - (i) the Inventory Practices and Effects were as pleaded in Part C.2 in respect of FY14 for the reasons pleaded at paragraph 445;
 - (ii) DSH's accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates was as pleaded above at Part C.3 in respect of FY14 for the reasons pleaded at paragraph 450;
- (j) had Mr White discharged his duty to ensure that the FY14 Audit was conducted in accordance with the Auditing Standards, he would therefore have formed the view that the FY14 Financial Statements were not prepared in accordance with the Australian Accounting Standards;

- (k) by reason of the matters pleaded in sub-paragraphs (a)-(j) above, Mr White ought reasonably to have known that the FY14 Financial Statements were not prepared in accordance with the Australian Accounting Standards and, therefore, that Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations were false in a material particular or materially misleading.

489 Further or in the alternative, Mr White ought to have known that Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations were false in a material particular or materially misleading because:

- (a) Mr White was an experienced auditor;
- (b) Mr White knew and understood the Auditing Standards;
- (c) Mr White read and signed the FY14 Audit Report;
- (d) Mr White was the lead audit partner in charge of the FY14 Audit;
- (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY14 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY14 Audit, including the information pleaded at paragraphs 445 and 450 above;
- (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY14 Audit;
- (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;
- (h) Mr White ought reasonably to have tested and reviewed the audit processes followed by Deloitte in respect of the FY14 Audit;
- (i) by reason of the matters pleaded in sub-paragraphs (a)-(h) and by reason of his role in relation to the FY14 Audit, and his significant expertise and experience as an auditor, Mr White ought reasonably to have known of the deficiencies in Deloitte's conduct of the FY14 Audit as pleaded at paragraphs 448 to 449 and 453 to 454 above;

(j) by reason of the matters pleaded in sub-paragraph (i) above, Mr White ought reasonably to have known that the FY14 Audit was not conducted in accordance with the Auditing Standards and therefore that:

- (i) Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations were not the product of Deloitte having conducted the FY14 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;
- (ii) those representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY14 Audit; and
- (iii) there were not reasonable grounds for making Deloitte's FY14 Express Representations and Deloitte's FY14 Implied Representations.

490 By reason of the matters pleaded in paragraphs 485 to 489, Mr White contravened s 1041E of the CA by authorising the issuance and publication of the FY14 Audit Report.

F.7.3. Deloitte's FY15 Contraventions

491 By authorising the inclusion of the FY15 Audit Report in the FY15 Financial Statements and thereby publishing the FY15 Audit Report, and by making Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations, Deloitte, on one or more or all of those occasions, engaged in conduct:

- (a) in relation to a financial product or a financial service within the meaning of s 1041H of the CA; and/or
- (b) in trade or commerce within the meaning of section 18 of the Australian Consumer Law; and/or
- (c) in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

492 Further, or in the alternative, by authorising the inclusion of the FY15 Audit Report in the FY15 Financial Statements and thereby publishing the FY15 Audit Report, and by making Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations Deloitte, on one or more or all of these occasions, made representations:

- (a) in connection with the supply of services, being the services supplied by Deloitte in performing the FY15 Audit, that those services were of a particular standard or quality, within the meaning of s 29(1)(b) of the ACL; and/or
- (b) in connection with the supply of financial services, being the services supplied by Deloitte in performing the FY15 Audit, that those services were of a particular standard or quality, within the meaning of s 12DB(1)(a) of the ASIC Act.

Particulars

The services being supplied by Deloitte were its services as auditor of DSH.

Deloitte's FY15 Express Representations, being representations that Deloitte had conducted the FY15 Audit in accordance with, inter alia, applicable Auditing Standards, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY15 Audit engagement.

Deloitte's FY15 Implied Representations, being representations that Deloitte had exercised reasonable care and skill in performing the FY15 Audit, were representations regarding the standard or quality of Deloitte's services as an auditor in respect of the FY15 Audit engagement.

- 493 Deloitte's FY15 Express Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraphs 459 to 460 and/or 464 to 465, the FY15 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.7, F.6.8 and F.6.9 are repeated.

- 494 Deloitte's FY15 Express Representations were false or misleading in contravention of s 29(1)(b) of the Australian Consumer Law and/or s 12DB(1)(a) of the ASIC Act, because, for the reasons pleaded at paragraphs 459 to 460 and/or 464 to 465, the FY15 Audit was not conducted in accordance with the Auditing Standards.

Particulars

Parts F.6.7, F.6.8 and F.6.9 are repeated.

495 Deloitte's FY15 Implied Representations were misleading or deceptive in contravention of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, because, for the reasons pleaded at paragraph 466:

- (a) Deloitte's FY15 Express Representations were not the product of Deloitte having conducted its FY15 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2;
- (b) Deloitte's FY15 Express Representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY15 Audit; and/or
- (c) there were no reasonable grounds for making Deloitte's FY15 Express Representations.

Particulars

Parts F.6.7, F.6.8 and F.6.9 are repeated.

496 Deloitte's FY15 Implied Representation was false or misleading, in contravention of s 29(1)(b) of the Australian Consumer Law and/or s 12DB(1)(a) of the ASIC Act, because, for the reasons pleaded at paragraph 466, the FY15 Audit was not performed with reasonable care and skill.

Particulars

Parts F.6.7, F.6.8 and F.6.9 are repeated.

497 Mr White authorised the issuance and the publication of the FY15 Audit Report.

Particulars

Mr White's authorisation is implied from his acceptance of his role as the lead auditor of the FY15 Audit, and from his signing of the FY15 Audit Report, addressed to the members of DSH.

498 By authorising the issuing and publishing of the FY15 Audit Report, Mr White made statements, or disseminated information, being Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations, which:

- (a) were false in a material particular or materially misleading;

Particulars

Parts F.6.7, F.6.8 and F.6.9 are repeated.

- (b) were likely to induce, directly or indirectly, the plaintiffs and Group Members to acquire shares in DSH;

Particulars

The plaintiffs and Group Members were likely to become aware of Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations, being statements made, or information disseminated by, Mr White, in the following way:

- (a) by obtaining the FY15 Audit Report through ASIC's website or by otherwise obtaining a copy of the FY15 Audit Report from ASIC;*
- (b) by obtaining the FY15 Audit Report from DSH;*
- (c) by obtaining the FY15 Financial Statements;*
- (d) by their financial advisors obtaining the FY15 Audit Report (whether from ASIC or DSH) or the FY15 Financial Statements;*
- (e) by stockbrokers obtaining the FY15 Audit Report (whether from ASIC or DSH) or the FY15 Financial Statements.*

Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations were likely to be, and were, material to the plaintiffs and Group Members, being persons interested in acquiring shares in DSH, following the initial public offering of DSH shares.

For example, persons interested in acquiring shares in DSH were likely to be induced to do so by Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations, which were to the effect that:

- (a) the FY15 Financial Statements were the subject of an audit carried out in accordance with the Auditing Standards;*
- (b) Deloitte was of the opinion that the FY15 Financial Statements were prepared in accordance with the CA, including:*
 - (i) giving a true and fair view of the DSH Group's financial position as at 28 June 2015 and of its performance for the period ended on that date, and*
 - (ii) complying with Australian Accounting Standards and the Corporations Regulations 2001; and*

(c) *that opinion was:*

- (i) *the product of Deloitte having conducted the FY15 Audit in accordance with Deloitte's auditing obligations;*
- (ii) *the product of Deloitte having exercised reasonable care and skill in performing the FY15 Audit; and*
- (iii) *based on reasonable grounds.*

Further particulars may be provided after evidence.

- (c) further, or in the alternative to paragraph (b), were likely to have the effect of increasing, maintaining or stabilising the price for trading in DSH shares on the ASX, following the initial public offering of DSH shares.

Particulars

The particulars to paragraphs 509 and 511 below are repeated.

Further particulars may be provided following discovery and evidence.

- 499 Mr White authorised the issuing and publishing of the FY15 Audit Report which contained representations, namely Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations.

Particulars

The particulars to paragraphs 425, 426 and 497 are repeated.

- 500 Mr White ought reasonably to have known that those representations were false in a material particular or materially misleading because:

- (a) Mr White was an experienced auditor;
- (b) Mr White knew and understood the Auditing Standards;
- (c) Mr White read and signed the FY15 Audit Report;
- (d) Mr White was the lead audit partner in charge of the FY15 Audit;

- (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY15 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY15 Audit, including the information pleaded at paragraphs 456 and 461 above;
- (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY15 Audit;
- (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;
- (h) as lead audit partner, Mr White was obliged to ensure that the FY15 Audit was conducted in accordance with the Auditing Standards under s 307(2) of the CA;
- (i) had Mr White discharged his duty to ensure that the FY15 Audit was conducted in accordance with the Auditing Standards, he would have ascertained that:
 - (i) the Inventory Practices and Effects were as pleaded in Part C.2 in respect of FY15 for the reasons pleaded at paragraph 456;
 - (ii) DSH's accounting treatment of Switched Invoice Rebates, Volume Rebates and O&A Rebates was as pleaded above at Part C.3 in respect of FY15 for the reasons pleaded at paragraph 461;
- (j) had Mr White discharged his duty to ensure that the FY15 Audit was conducted in accordance with the Auditing Standards, he would therefore have formed the view that the FY15 Financial Statements were not prepared in accordance with the Australian Accounting Standards;
- (k) by reason of the matters pleaded in sub-paragraphs (a)-(j) above, Mr White ought reasonably to have known that the FY15 Financial Statements were not prepared in accordance with the Australian Accounting Standards and, therefore, that Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations were false in a material particular or materially misleading.

501 Further or in the alternative, Mr White ought to have known that Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations were false in a material particular or materially misleading because:

- (a) Mr White was an experienced auditor;
- (b) Mr White knew and understood the Auditing Standards;
- (c) Mr White read and signed the FY15 Audit Report;
- (d) Mr White was the lead audit partner in charge of the FY15 Audit;
- (e) as the lead audit partner, Mr White had access to Deloitte's audit file for the FY15 Audit, including all of Deloitte's working papers and all information provided to Deloitte as part of the FY15 Audit, including the information pleaded at paragraphs 456 and 461 above;
- (f) as the lead audit partner, Mr White had a responsibility to supervise those persons assisting him with the FY15 Audit;
- (g) those persons assisting Mr White with the audit had an obligation to provide him with all information and take all steps necessary for him to ensure, pursuant to his obligations under s 307A(2) of the CA, that the audit was conducted in accordance with the Auditing Standards;
- (h) Mr White ought reasonably to have tested and reviewed the audit processes followed by Deloitte in respect of the FY15 Audit;
- (i) by reason of the matters pleaded in sub-paragraphs (a)-(h) above and his role in relation to the FY15 Audit, and his significant expertise and experience as an auditor, Mr White ought reasonably to have known of the deficiencies in Deloitte's conduct of the FY15 Audit as pleaded at paragraphs 459 to 460 and 464 to 465 above;
- (j) by reason of the matters pleaded in sub-paragraph (i) above, Mr White ought reasonably to have known that the FY15 Audit was not conducted in accordance with the Auditing Standards and therefore that:
 - (i) Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations were not the product of Deloitte having conducted the FY15 Audit in accordance with Deloitte's auditing obligations as pleaded above at Parts F.2 and F.3;

- (ii) those representations were not the product of Deloitte having exercised reasonable care and skill in performing the FY15 Audit; and
- (iii) there were not reasonable grounds for making Deloitte's FY15 Express Representations and Deloitte's FY15 Implied Representations.

502 By reason of the matters pleaded in paragraphs 497 to 501, Mr White contravened s 1041E of the CA by authorising the issuance and publication of the FY15 Audit Report.

F.8. CAUSATION, LOSS AND DAMAGE

F.8.1. FY13 Causation

503 But for Deloitte's conduct pleaded in Parts F.6.1 and F.6.2 (Deloitte's FY13 Audit conduct) and the contraventions pleaded in Part F.7.1 (Deloitte's and Mr White's contraventions in respect of the FY13 Audit), Deloitte would have communicated to DSSH's management and those charged with governance the fact that:

- (a) DSSH's inventory provisioning was as pleaded above in Part C.2 in respect of FY13; and
- (b) DSSH's writing back of the Warranty Sign On Liability in FY13 was as pleaded above in Part C.4 in respect of FY13.

Particulars

ASA 450 paragraph 8 required Deloitte to communicate the matters pleaded in Parts C.2 and C.4 in respect of FY13 to the appropriate level of management of DSSH on a timely basis, because each of those matters gave rise to material misstatements in the FY13 Financial Statements for the reasons pleaded in Parts C.2 and C.4 in respect of FY13 respectively. Deloitte was further required to request management to correct the material misstatements arising out of the matters pleaded in Parts C.2 and C.4 in respect of FY13.

504 Had Deloitte communicated the matters pleaded in paragraph 503 to DSSH's management and those charged with governance, then either:

(a) the FY13 Financial Statements would have been corrected so as to reflect the financial position and performance of DSSH as at 30 June 2013, unaffected by the matters pleaded in Parts C.2 and C.4 in FY13, and, consequentially, the financial results for 1Q14 would have been corrected to reflect the financial position and performance of DSH as at 29 September 2013, unaffected by the matters pleaded in Part C.2 and C.4 in 1Q14, in which case:

(i) the FY13 pro forma and statutory financials would have been corrected by reference to the financial position and performance of DSSH as at 30 June 2013, unaffected by the matters pleaded in Parts C.2 and C.4 in FY13 (the Corrected FY13 Pro Forma and Statutory Financials);

(ii) the 1Q14 pro forma financials would have been corrected by reference to the financial position and performance of DSH as at 29 September 2013, unaffected by the matters pleaded in Part C.2 and C.4 in 1Q14 (the Corrected 1Q14 Pro Forma Financials);

(iiia) any forecasts prepared in respect of FY14 would have been prepared using the gross margin that was adopted in the Corrected 1Q14 Pro Forma Financials, and would have been set at a lower value than were in fact provided in the Prospectus;

(iii) the Prospectus would not have been issued;

(iv) DSH would not have made the offer to subscribe for shares to the public;

(v) the DSH IPO would not have proceeded and DSH would not have been listed or quoted on the ASX; and

(vi) in the premises the plaintiffs and the Group Members would not have acquired interests in DSH Shares; or

Particulars

The Corrected 1Q14 Pro Forma Financials would have been prepared having regard to the corrected treatment of the warranty sign on liability and the corrected treatment of inventory provisioning used to prepare the Corrected FY13 Pro Forma and Statutory Financials. This would have resulted in an adjusted gross margin appearing in the 1Q14

Pro Forma Financials, and the same gross margin being used to prepare the forecasts, with the effect that any forecasts prepared in respect of FY14 would have been set at a lower value than were in fact provided in the Prospectus.

Further particulars may be provided after the completion of evidence.

- (b) the FY13 Financial Statements would not have been corrected so as to reflect financial position and performance of DSH as at 30 June 2013, unaffected by the matters pleaded in Parts C.2 and C.4 in FY13, in which case:
- (i) Deloitte would have issued a qualified audit opinion in the FY13 Audit Report;
 - (ii) the Prospectus would not have been issued;
 - (iii) DSH would not have made the offer to subscribe for shares to the public;
 - (iv) ~~The~~ the DSH IPO would not have proceeded and DSH would not have been listed or quoted on the ASX; and
 - (v) in the premises the plaintiffs and the Group Members would not have acquired interests in DSH Shares.

Particulars

If management failed to correct the material misstatements raised by Deloitte, Deloitte would have been required to communicate the uncorrected misstatements and the effect that they, individually or in aggregate, may have had on Deloitte's audit opinion to those charged with governance: ASA 450 paragraph 12. See also ASA 705 paragraph 28.

If management and those charged with governance failed to correct one, a combination of, or all of the misstatements arising from the Inventory Practices and Effects and the Warranty Sign On Liability in the FY13 Financial Statements, Deloitte would have issued a qualified audit opinion, in accordance with ASA 705 paragraph 7(a), given that each of the Inventory Practices and Effects and the Warranty Sign On Liability individually resulted in material misstatements in the FY13 Financial Statements for the reasons pleaded above in Parts C.2 and C.4 in respect of FY13 respectively.

The FY13 Audit Report would, in those circumstances, have included a section entitled "Basis for Qualified Opinion", which would set out a description and quantification of the financial effects of the misstatement(s), unless impracticable. If it were not practicable to quantify the financial effects of the misstatement(s), Deloitte would so state in the "Basis

for Qualified Opinion” section (ASA 705 paragraph 17). Further, in those circumstances, the Opinion Paragraph would include the matters set out in paragraph 23 of ASA 705.

The description and quantification of the financial effects of the misstatement(s) appearing in the “Basis for Qualified Opinion” section of the FY13 Audit Report would depend upon whether management and those charged with governance corrected misstatements arising from one, some or all of the Inventory Practices and Effects and the Warranty Sign On Liability, following Deloitte’s communication of the misstatements in relation to these matters to management and those charged with governance.

DSH would not have been listed in circumstances where Deloitte issued a modified audit opinion: see ASX Listing Rules: r 1.1, condition 9 (requiring an entity to satisfy either the profit test in r 1.2 or the assets test in r 1.3 in order to be admitted to the official list as an ASX Listing); r 1.2.3 (requiring an entity to provide an audit report that does not contain a modified opinion in order to satisfy the profit test); r 1.3.5 (requiring the provision of an audit report that does not contain a modified opinion in order to satisfy the assets test, unless the ASX agrees otherwise).

Further, if Deloitte had issued a modified audit opinion, the market would have been alerted to the shortcomings in the FY13 Financial Statements pleaded above at Parts C.2 and C.4 in respect of FY13 as these matters would have been set out in the “Basis for Qualified Opinion” section of the FY13 Audit Report, and DSH would not have been listed: Report of Rowan Johnston dated 30 October 2018.

Further particulars may be provided after the completion of evidence.

- 505 In the alternative to the scenarios pleaded in paragraph 504, had the shares in DSH been listed and quoted following Deloitte communicating the matters pleaded in paragraph 503 to DSSH’s management and those charged with governance::
- (a) either the FY13 Financial Statements and 1Q14 financial results would have been corrected by DSSH (as pleaded above in paragraph 504(a)), or Deloitte would have issued a qualified audit opinion (as pleaded in paragraph 504(b)); and
 - (b) the shares acquired on the DSH IPO ~~to~~would have been acquired at:
 - (i) the shares’ true value, or
 - (ii) the market price that would have prevailed but for the contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them)

pleaded above in Part F.7.1 (Deloitte's and Mr White's contraventions in respect of the FY13 Audit),

being a price substantially less than the price at which DSH shares were acquired on the DSH IPO; and

- (c) from the moment of quotation, the market price of the DSH Shares traded on the ASX would have been:
- (i) the shares' true value, or
 - (ii) the market price that would have prevailed but for the contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.1 (Deloitte's and Mr White's contraventions in respect of the FY13 Audit),

being a price substantially less than the market price of the DSH Shares traded on the ASX from the moment of quotation.

Particulars

Had Deloitte and Mr White not committed the pleaded contraventions in respect of the FY13 Audit, the market would have been alerted to the shortcomings in the FY13 Financial Statements pleaded above at Parts C.2 and C.4, whether because the FY13 Financial Statements and 1Q14 financial results were corrected by DSSH (as pleaded above in paragraph 504(a)), or because Deloitte issued a qualified audit opinion which disclosed those shortcomings (as pleaded in paragraph 504(b)).

In either circumstance, had DSH been listed, its shares would have been acquired at, and from the moment of quotation would have traded at, either the shares' true value or the market price that would have prevailed but for Deloitte's contraventions in respect of the FY13 Audit, as pleaded in Part F.7.1.

Further particulars may be provided after the completion of evidence.

F.8.2. FY14 Causation

506 Further or in the alternative, but for Deloitte's conduct pleaded in Parts F.6.4 and F.6.5 (Deloitte's FY14 Audit conduct), and the contraventions pleaded in Part F.7.2 (Deloitte's and Mr White's contraventions in respect of the FY14 Audit), Deloitte would have communicated to DSH's management and those charged with governance the fact that:

- (a) DSH's Inventory Practices and Effects were as pleaded above in Part C.2 in respect of FY14; and
- (b) DSH's rebate accounting practices were as pleaded above in Part C.3 in respect of FY14.

Particulars

ASA 450 paragraph 8 required Deloitte to communicate the matters pleaded in Parts C.2 and C.3 in respect of FY14 to the appropriate level of DSH management on a timely basis, because each of those matters gave rise to material misstatements in the FY14 Financial Statements for the reasons pleaded in Parts C.2 and C.3 in respect of FY14 respectively. Deloitte was further required to request management to correct the material misstatements arising out of the matters pleaded in Parts C.2 and C.3 in respect of FY14.

507 Had Deloitte communicated the matters pleaded in paragraph 506 to DSH's management and those charged with governance, then either:

- (a) the FY14 Financial Statements would have been corrected so as to reflect the financial position and performance of DSH as at 29 June 2014, unaffected by the matters pleaded in Parts C.2 and C.3 in FY14, in which case the market price of the DSH Shares traded on the ASX from on or around 18 August 2014 (being the date of publication of the FY14 Audit Report in the FY14 Financial Statements) would have reflected:
 - (i) the shares' true value; or
 - (ii) the market price that would have prevailed but for Deloitte's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.2 (Deloitte's and Mr White's contraventions in respect of the FY14 Audit); or
- (b) the FY14 Financial Statements would not have been corrected so as to reflect the financial position and performance of DSH as at 29 June 2014, unaffected by the matters pleaded in Parts C.2 and C.3 in FY14, in which case Deloitte would have issued a qualified audit opinion in the FY14 Audit Report, alerting the market to the material misstatements in the FY14 Financial Statements pleaded above at Parts C.2 and C.3 in respect of FY14, in which case the market price of the DSH Shares traded on the ASX from on or around 18 August 2014 (being the date of publication of the FY14 Audit Report in the FY14 Financial Statements) would have reflected:
 - (i) the shares' true value; or

- (ii) the market price that would have prevailed but for Deloitte's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.2 (Deloitte's and Mr White's contraventions in respect of the FY14 Audit).

Particulars

If management failed to correct the material misstatements raised by Deloitte, Deloitte would have been required to communicate the uncorrected misstatements and the effect that they, individually or in aggregate, may have had on Deloitte's audit opinion to those charged with governance: ASA 450 paragraph 12. See also ASA 705 paragraph 28.

If management and those charged with governance failed to correct either or both of the misstatements arising from the Inventory Practices and Effects and the rebate accounting practices in the FY14 Financial Statements, Deloitte would have issued a qualified audit opinion, in accordance with ASA 705 paragraph 7(a), given that each of the Inventory Practices and Effects and the rebate accounting practices individually resulted in material misstatements in the FY14 Financial Statements for the reasons pleaded above in Parts C.2 and C.3 in respect of FY14 respectively.

As to the contents of the qualified audit opinion, the particulars to paragraph 504 are repeated.

Further particulars may be provided after the completion of evidence, including as to the market price at which DSH Shares would have traded on the ASX from on or around 18 August 2014, but for Deloitte's contraventions.

508 In the premises, from the date of the publication of Deloitte's FY14 Audit Report in the FY14 Financial Statements, Deloitte's and Mr White's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.2 caused the market price of the DSH Shares traded on ASX to be substantially greater than:

- (a) their true value, or
- (b) the market price that would have prevailed but for the pleaded contraventions.

Particulars

Further particulars may be provided after the completion of evidence.

F.8.3. FY15 Causation

509 Further or in the alternative, but for the conduct pleaded in Parts F.6.7 and F.6.8 (Deloitte's FY15 Audit conduct), and the contraventions pleaded in Part F.7.3 (Deloitte's and Mr White's contraventions in respect of the FY15 Audit), Deloitte would have communicated to DSH's management and those charged with governance the fact that:

- (a) DSH's Inventory Practices and Effects were as pleaded above in Part C.2 in respect of FY15; and
- (b) DSH's rebate accounting practices were as pleaded above in Part C.3 in respect of FY15.

Particulars

ASA 450 paragraph 8 required Deloitte to communicate the matters pleaded in Parts C.2 and C.3 in respect of FY15 to the appropriate level of DSH management on a timely basis, because each of those matters gave rise to material misstatements in the FY15 Financial Statements for the reasons pleaded in Parts C.2 and C.3 in respect of FY15 respectively. Deloitte was further required to request management to correct the material misstatements arising out of the matters pleaded in Parts C.2 and C.3 in respect of FY15. The particulars to paragraph 506 are repeated.

510 509A _____ Had Deloitte communicated the matters pleaded in paragraph 509 to DSH's management and those charged with governance, then either:

- (a) the FY15 Financial Statements would have been corrected so as to reflect the financial position and performance of DSH as at 28 June 2015, unaffected by the matters pleaded in Parts C.2 and C.3 in FY15, in which case the market price of the DSH Shares traded on the ASX from on or around 17 August 2015 (being the date of publication of the FY15 Audit Report in the FY15 Financial Statements) would have reflected:
 - (i) the shares' true value; or
 - (ii) the market price that would have prevailed but for Deloitte's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.3 (Deloitte's contraventions in respect of the FY15 Audit); or

(b) the FY15 Financial Statements would not have been corrected so as to reflect the financial position and performance of DSH as at 28 June 2015, unaffected by the matters pleaded in Parts C.2 and C.3 in FY15, in which case Deloitte would have issued a qualified audit opinion in the FY15 Audit Report, alerting the market to the material misstatements in the FY15 Financial Statements pleaded above at Parts C.2 and C.3 in respect of FY15, in which case the market price of the DSH Shares traded on the ASX from on or around 17 August 2015 (being the date of publication of the FY15 Audit Report in the FY15 Financial Statements) would have reflected:

- (i) the shares' true value; or
- (ii) the market price that would have prevailed but for Deloitte's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above in Part F.7.3 (Deloitte's and Mr White's contraventions in respect of the FY15 Audit).

Particulars

If management failed to correct the material misstatements raised by Deloitte, Deloitte would have been required to communicate the uncorrected misstatements and the effect that they, individually or in aggregate, may have had on Deloitte's audit opinion to those charged with governance: ASA 450 paragraph 12. See also ASA 705 paragraph 28.

If management and those charged with governance failed to correct either or both of the misstatements arising from the Inventory Practices and Effects and the rebate accounting practices in the FY15 Financial Statements, Deloitte would have issued a qualified audit opinion, in accordance with ASA 705 paragraph 7(a), given that each of the Inventory Practices and Effects and the rebate accounting practices individually resulted in material misstatements in the FY15 Financial Statements for the reasons pleaded above in Parts C.2 and C.3 in respect of FY15 respectively.

As to the contents of the qualified audit opinion, the particulars to paragraph 504 are repeated.

The particulars to paragraph 507 are repeated.

Further particulars may be provided after the completion of evidence.

511 In the premises, from the date of the publication of Deloitte's FY15 Audit Report in the FY15 Financial Statements, Deloitte's and Mr White's contraventions of the CA, the ASIC Act and the

Australian Consumer Law (or any one or a combination of them) in respect of the FY15 Audit pleaded above in Part F.7.3 caused the market price of the DSH Shares traded on ASX to be substantially greater than:

- (a) the shares' true value, or
- (b) the market price that would have prevailed but for the pleaded contraventions.

Particulars

Further particulars may be provided after the completion of evidence.

F.8.4. Causation based on reliance

512 The plaintiffs and Group Members would not have purchased DSH shares at the prevailing market price at the time of purchase if they had been aware of Deloitte's and Mr White's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above at Part F.7.

Particulars

Further particulars may be provided after the completion of evidence.

F.8.5. Causation based on Abboud and Potts' reliance on Deloitte's contraventions

513 Further, or in the alternative, for the purposes of this claim against Deloitte only, the plaintiffs repeat the allegations made by Mr Abboud and Mr Potts in their Cross-Claims filed on 27 August 2018 in the Findlay proceedings and say that if and to the extent Mr Abboud and Mr Potts establish:

- (a) that Deloitte made the representations pleaded in their Cross-Claim to them;
- (b) that those representations were misleading or deceptive in breach of s 1041H of the CA, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act, and/or were false or misleading in breach of s 29(1)(b) of the Australian Consumer Law and/or s 12DB(1)(a) of the ASIC Act for the reasons set out in their Cross-Claims;
- (c) Mr Abboud and Mr Potts relied on those representations in making the resolutions to approve the issue of the FY14 Financial Statements and the FY15 Financial Statements, and in making the directors' declarations which accompanied those reports; and

- (d) Mr Abboud and Mr Potts would not have joined in making the resolutions to approve the issue of the FY14 Financial Statements and the FY15 Financial Statements, and/or in making the directors' declarations which accompanied those reports,

then those representations that were made by Deloitte to Mr Abboud and Mr Potts caused the plaintiffs and the Group Members to suffer loss and damage.

F.8.6. Loss caused by Deloitte

514 In the absence of Deloitte's and Mr White's contraventions of the CA, the ASIC Act and the Australian Consumer Law (or any one or a combination of them) pleaded above at Part F.7, for the reasons pleaded at Parts F.8.1, F.8.2, F.8.3, F.8.4 and/or F.8.5, the plaintiffs and Group Members would not have suffered loss by reason of their purchase of DSH shares at a price substantially greater than:

- (a) their true value, or
- (b) the market price that would have prevailed but for Deloitte's and Mr White's pleaded contraventions.

Particulars

The particulars to Parts F.8.1, F.8.2, F.8.3, F.8.4 and F.8.5 are repeated.

515 In the premises, the plaintiffs and Group Members have suffered loss and damage by, or which resulted from, the contraventions pleaded at Part F.7.

Particulars

The loss suffered by the plaintiffs and Group Members is:

- to be determined at the trial of these proceedings on behalf of the plaintiffs and all Group Members on a no-transaction basis, for the reasons pleaded at paragraph 504 above, on the basis that DSH would not have been listed on the ASX and therefore none of the plaintiffs or Group Members would ever have acquired an interest in DSH Shares in which case the plaintiffs and Group Members' damages should be determined as the difference between the price at which they acquired their interest in DSH Shares plus the amount paid for any brokerage or transaction cost and any value obtained from the sale of that interest, taking into account any benefit received via dividends; or*

- *on the basis that the contraventions beginning with the publication of the Prospectus were continuing and caused or contributed to the share price of DSH to be artificially inflated, in which case the plaintiffs' and Group Members' damages should be determined as:*
 - *the difference between the price at which they acquired their interest in DSH Shares and the true value of that interest (the difference will be proved in the evidence), making allowance for any sales of interests in DSH Shares; or*
 - *the difference between the price at which they acquired their interest in DSH Shares and the market price that would have prevailed but for the pleaded contraventions (that difference will be proved in the evidence), making allowance for any sales of interests in DSH Shares.*

G. COMMON QUESTIONS

516 The following common questions of fact or law arise in the proceeding:

- (aa) whether the FY13 Financial Statements were prepared in accordance with Australian Accounting Standards;
- (ab) whether the FY13 Financial Statements gave a true and fair view of the financial position and performance of DSSH;
- (ac) whether, in conducting the FY13 Audit, Deloitte failed to act as a Reasonable Auditor;
- (a) whether DSH contravened s 728 of the CA in issuing and publishing the Prospectus;
- (b) whether the Prospectus would have been issued and the offer to issue shares in DSH would have been made had the financial statements prepared by DSH at the time of the Prospectus been prepared in accordance with Australian Accounting Standards;
- (c) whether the FY14 Financial Statements were prepared in accordance with Australian Accounting Standards;
- (d) whether the FY14 Financial Statements gave a true and fair view of the financial position and performance of DSH and the DSH Group;
- (da) whether, in conducting the FY14 Audit, Deloitte failed to act as a Reasonable Auditor;
- (e) whether the FY15 Financial Statements were prepared in accordance with Australian Accounting Standards;
- (f) whether the FY15 Financial Statements gave a true and fair view of the financial position and performance of DSH and the DSH Group;
- (g) whether, in conducting the FY15 Audit, Deloitte failed to act as a Reasonable Auditor;.

517 Whether DSH contravened ss 1041H and/or 1041E of the CA and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law in:

- (a) issuing and publishing the FY14 Financial Statements including the declaration pleaded at paragraph 89;
- (b) making DSH's FY14 Express Representation and DSH's FY14 Implied Representation;

- (c) making the FY14 ASX Announcement & Results Briefing;
- (d) issuing and publishing the FY15 Financial Statements including the declaration pleaded at paragraph 103;
- (e) making DSH's FY15 Express Representation and DSH's FY15 Implied Representation; and/or
- (f) making the FY15 ASX Announcement & Results Briefing.

518 Whether each of Mr Abboud and Mr Potts contravened ss 1041H and/or 1041E of the CA and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law in:

- (a) authorising the issuing and publishing the FY14 Financial Statements, including the declaration pleaded at paragraph 89;
- (b) making the Directors' FY14 Express Representation and the Directors' FY14 Implied Representation;
- (c) authorising the issuing and publication of the FY14 ASX Announcement & Results Briefing;
- (d) presenting the Results Briefing (forming part of the FY14 ASX Announcement & Results Briefing).
- (e) authorising the issuing and publishing the FY15 Financial Statements, including the declarations pleaded at paragraph 103;
- (f) making the Directors' FY15 Express Representation and the Directors' FY15 Implied Representation;
- (g) authorising the issuing and publication of the FY15 ASX Announcement & Results Briefing;
- (h) presenting the Results Briefing (forming part of the FY15 ASX Announcement & Results Briefing).

519 Whether DSH contravened s 674(2) of the CA by reason of DSH's failure to disclose the matters pleaded above in paragraphs 279, 280 and 281.

520 Whether Deloitte contravened s 1041H of the CA and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law in:

- (a) making Deloitte's FY13 Express Representations;
- (b) making Deloitte's FY13 Implied Representations;
- (c) making Deloitte's FY14 Express Representations;
- (d) making Deloitte's FY14 Implied Representations;
- (e) making Deloitte's FY15 Express Representations; and / or
- (f) making Deloitte's FY15 Implied Representations.

521 Whether Deloitte contravened s 12DB(1)(b) of the ASIC Act and/or s 29(1)(a) of the Australian Consumer Law in:

- (a) making Deloitte's FY13 Express Representations;
- (b) making Deloitte's FY13 Implied Representations;
- (c) making Deloitte's FY14 Express Representations;
- (d) making Deloitte's FY14 Implied Representations;
- (e) making Deloitte's FY15 Express Representations; and / or
- (f) making Deloitte's FY15 Implied Representations.

522 Whether Mr White contravened s 1041E of the CA in:

- (a) authorising the issuing and publishing of the FY13 Audit Report;
- (b) making Deloitte's FY13 Express Representations;
- (c) making Deloitte's FY13 Implied Representations;
- (d) authorising the issuing and publishing of the FY14 Audit Report;
- (e) making Deloitte's FY14 Express Representations;
- (f) making Deloitte's FY14 Implied Representations;

- (g) authorising the issuing and publishing of the FY15 Audit Report;
- (h) making Deloitte's FY15 Express Representations; and/or
- (i) making Deloitte's FY15 Implied Representations.

523 Whether Mr Abboud and/or Mr Potts relied on representations made by Deloitte in:

- (a) authorising the issuing and publishing the FY14 Financial Statements, including the declaration pleaded at paragraph 89;
- (b) making the Directors' FY14 Express Representation and the Directors' FY14 Implied Representation;
- (c) authorising the issuing and publication of the FY14 ASX Announcement & Results Briefing;
- (d) presenting the Results Briefing (forming part of the FY14 ASX Announcement & Results Briefing).
- (e) authorising the issuing and publishing the FY15 Financial Statements, including the declarations pleaded at paragraph 103;
- (f) making the Directors' FY15 Express Representation and the Directors' FY15 Implied Representation;
- (g) authorising the issuing and publication of the FY15 ASX Announcement & Results Briefing;
- (h) presenting the Results Briefing (forming part of the FY15 ASX Announcement & Results Briefing).

524 Whether the plaintiffs and Group Members have suffered loss or damage as a result of the contraventions by DSH, Mr Abboud, Mr Potts and/or Deloitte (or any of them).

525 The correct measure of compensation payable to the plaintiffs and Group Members.

526 Whether a reasonably accurate assessment can be made of the total amount to which Group Members will be entitled under an award of damages in an aggregate amount.

527 Whether the Court can, and should, make an award of damages in an aggregate amount for Group Members pursuant to s 177(1) of the Civil Procedure Act 2005 (NSW).

528 The quantum of compensation payable to the plaintiffs and Group Members.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiffs that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Name and Capacity

Ian Dallen, solicitor on record for the plaintiffs in proceedings 2017/294069

Date of signature

7 January 2020

Signature

Name and Capacity

Robert Johnston, solicitor on record for the plaintiffs in proceedings 2018/52431

Date of signature

NOTICE TO DEFENDANT

If you do not file a defence within 28 days of being served with this statement of claim:

- You will be in default in these proceedings.
- The court may enter judgment against you without any further notice to you.

The judgment may be for the relief claimed in the statement of claim and for the plaintiff's costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

HOW TO RESPOND

Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the claim from:

- A legal practitioner.

- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

You can respond in one of the following ways:

- 1 If you intend to dispute the claim or part of the claim**, by filing a defence and/or making a cross-claim.
- 2 If money is claimed, and you believe you owe the money claimed**, by:
 - Paying the plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
 - Filing an acknowledgement of the claim.
 - Applying to the court for further time to pay the claim.
- 3 If money is claimed, and you believe you owe part of the money claimed**, by:
 - Paying the plaintiff that part of the money that is claimed.
 - Filing a defence in relation to the part that you do not believe is owed.

Court forms are available on the UCPR website at www.ucprforms.justice.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Law Courts Building, 184 Phillip Street, Sydney NSW 2000 Australia
Postal address	Supreme Court of NSW, GPO Box 3, Sydney NSW 2001 Australia
Telephone	1300 679 272

PARTY DETAILS

PARTIES TO THE PROCEEDINGS

Plaintiffs in 2017/294069

Haliburton Charles David Findlay, first plaintiff

Marian Jennifer Denny Findlay, second plaintiff

Defendants (both proceedings)

DSHE Holdings Limited (receivers and managers appointed) (in liquidation)

ACN 166 237 841, first defendant

Nicholas Abboud, second defendant

Michael Thomas Potts, third defendant

Plaintiffs in 2018/52431

Epaminondas Mastoris, first plaintiff

Lena Mastoris, second plaintiff

FURTHER DETAILS ABOUT PLAINTIFFS in 2017/294069

First Plaintiff

Name Haliburton Charles David Findlay

Address

Second Plaintiff

Name Marian Jennifer Denny Findlay

Address

Legal representative for plaintiffs

Name Ian Dallen

Practising certificate number 23097

Firm Corrs Chambers Westgarth

Address c/- Corrs Chambers Westgarth, Level 9, 8 Chifley

8-12 Chifley Square

Sydney NSW 2000

Telephone

Fax [REDACTED]

Email [REDACTED]

FURTHER DETAILS ABOUT PLAINTIFFS in 2018/52431

First Plaintiff

Name Epaminondas Mastoris

Address [REDACTED]
[REDACTED]

Second Plaintiff

Name Lena Mastoris

Address [REDACTED]
[REDACTED]

Legal representative for plaintiffs

Name Robert Johnston

Practising certificate number 9240

Firm Johnson Winter & Slattery

Address Level 25, 20 Bond Street
Sydney NSW 2000

Telephone [REDACTED]

Fax [REDACTED]

Email [REDACTED]

DETAILS ABOUT DEFENDANTS

First Defendant

Name DSHE Holdings Limited (receivers and managers
appointed) (in liquidation)
ACN 166 237 841

Address [REDACTED]
[REDACTED]

Second Defendant

Name Nicholas Abboud

Address [REDACTED]
[REDACTED]

Third Defendant

Name Michael Thomas Potts

Address [REDACTED]
[REDACTED]

Fourth to 457th Defendants

Names David White and the others listed in Annexure A trading as
Deloitte Touche Tohmatsu (ABN 74 490 121 060)

Address Level 9, 225 George Street
Sydney NSW 2000

ANNEXURE A – Restated FY13 and 1Q14 financials

Restated pro-forma FY13 and 1Q14 profit and loss statements

(\$ million)	Restated pro-forma FY13 profit and loss	Restated pro-forma 1Q14 profit and loss
Sales	1,280.4	273.3
Less: Cost of Sales	(1,000.1)	(211.2)
Gross Profit	280.3	62.1
Less: Cost of doing business	(278.0)	(58.7)
EBITDA	2.4	3.5
Depreciation and amortisation	(12.5)	(2.7)
EBIT	(10.1)	0.8
Net interest expense	(1.4)	(0.3)
Profit before tax	(11.5)	0.5
Income tax (expense)/benefit	3.5	(0.1)
NPAT	(8.0)	0.3

Second Potter Report, Tables 25 and 26

Restated pro-forma and statutory FY13 balance sheet

(\$ million)	Restated statutory FY13 balance sheet	Restated pro-forma FY13 balance sheet
Assets		
Cash and equivalents	52.9	19.3
Trade and other receivables	10.4	10.4
Inventories	147.9	145.6
Plant and equipment	60.3	60.3
All other assets	56.3	54.7
Total assets	327.8	290.3
Liabilities	184.0	186.5
Net assets	143.8	103.8

Second Potter Report, Tables 27 and 28

Pro-forma FY14 forecast profit and loss statement adjusted

(\$ million)	Restated pro-forma 1Q14 forecast profit and loss
Sales	1,226.0
Adjusted gross profit	278.8
<i>Adjusted gross profit margin</i>	22.7%
CODB	(236.0)
EBITDA	42.8
Depreciation and amortisation	(13.1)
EBIT	29.7
Net interest expense	(1.4)
Profit before tax	28.3
Income tax expense	(8.5)
NPAT	19.8

Second Potter Report, Table 39

Restated operating metrics

(\$ million)	FY11	FY12	FY13	1Q14
Sales	1,281.1	1,369.5	1,280.4	273.3
Sales growth on pcp	-	6.9%	(6.5%)	(10.6%)
Pro-forma adjusted sales			1,177.8	273.3
Pro-forma adjusted sales growth on pcp			-	(2.2%)
Gross margin (impairment adjusted)	26.2%	24.8%	21.9%	22.7%
CODB margin	23.3%	22.4%	21.7%	21.5%
EBITDA margin	2.8%	2.4%	0.2%	1.3%
EBIT margin	1.9%	1.5%	(0.8%)	0.3%
Continuing stores (period end)	320	325	323	327

Second Potter Report, Table 23

ANNEXURE B – Restated FY14 and FY15 financials

Restated statutory profit and loss statements

(\$ million)	Restated statutory FY14 profit and loss	Restated statutory FY15 profit and loss
Sales	1,227.6	1,319.7
Less: Cost of Sales	(950.5)	(1,062.6)
Gross Profit	277.1	257.1
Less: Cost of doing business	(257.1)	(214.9)
EBITDA	20.8	42.7
Depreciation and amortisation	(12.9)	(14.8)
EBIT	7.9	27.8
Net interest expense	(2.3)	(3.7)
Profit before tax	5.6	24.2
Income tax (expense)/benefit	(1.9)	(6.7)
NPAT	3.7	17.4

Second Potter Report, Tables 31 and 36

Restated pro-forma and 'underlying' profit and loss statements

(\$ million)	Restated pro-forma FY14 profit and loss	Restated 'underlying' FY15 profit and loss
Sales	1,227.6	1,319.7
Less: Cost of Sales	(950.5)	(1,062.6)
Gross Profit	277.1	257.1
Less: Cost of doing business	(225.8)	(205.1)
EBITDA	51.3	52.0
Depreciation and amortisation	(12.8)	(14.9)
EBIT	38.5	37.1
Net interest expense	(1.4)	(3.7)
Profit before tax	37.1	33.4
Income tax (expense)/benefit	(11.1)	(9.5)
NPAT	21.9	23.9

Second Potter Report, Tables 32 and 37

Restated statutory balance sheets

(\$ million)	Restated statutory FY14 balance sheet	Restated statutory FY15 balance sheet
Assets		
Cash and equivalents	43.2	51.5
Trade and other receivables	37.0	22.1
Inventories	223.8	256.7
Plant and equipment	76.1	
All other assets	42.0	130.1
Total assets	422.1	460.3
Liabilities	284.0	340.5
Net assets	138.1	119.8

Second Potter Report, Tables 33 and 38

ANNEXURE C – Verification Tables

Verification Table, as referred to in paragraph 63

Statement No	Statement	Basis of verification and description of source document(s)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial statements will be prepared for future financial periods.	Statement of intention

Verification Table, as referred to in paragraph 66

Statement No	Statement	Basis of verification and description of source document(s)
IO359	The content of the <i>Sales</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO365	The content of the Gross profit line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO371	The content of the EBITDA line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO377	The content of the EBIT line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO383	The content of the NPAT line in the table on pg 12	Statement of fact based on Financials pack (page A4)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial	Statement of intention

Statement No	Statement	Basis of verification and description of source document(s)
	statements will be prepared for future financial periods.	
FI124	The content of Table 5.4.1.1	Statement of fact – Financials pack (pages A2, A4, E2, R and S)
FI170	The content of Table 5.4.3.1	Statement of fact – Financials pack (pages A2, A3, E2, H1, T1 and X)

Verification Table, as referred to in paragraph 68

Statement No	Statement	Basis of verification and description of source document(s)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial statements will be prepared for future financial periods.	Statement of intention
FI220	The content of Table 5.5.1.1	Statement of fact – Financials pack (pages E5 and P9)
XA18	Inventories note (k) on page 149	Statement of fact based on DS Sub financial report (page 21)

Verification Table, as referred to in paragraph 70

Statement No	Statement	Basis of verification and description of source document(s)
CO689	<i>Significantly reduced Dick Smith's level of obsolete stock</i>	Statement of fact based on Reduction of stocks

Verification table, as referred to in paragraph 72

Statement No	Statement	Basis of verification and description of source document(s)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial statements will be prepared for future financial periods.	Statement of intention
FI356	The content of Table 5.10.2.1	Statement of fact – Financials pack (pages A2, R and S)
FI359	As a result, the 1Q2014 results represent the first period of financial performance which has not been materially impacted by the strategic decisions and operational execution of the previous management team.	Statement of belief
FI360	Dick Smith's historical pro forma results for 1Q2014 demonstrate a significantly improved financial performance, as further transformation initiatives were implemented during the period and the collective benefit of the implemented initiatives delivered improved performance.	Statement of belief

Verification Table, as referred to in paragraph 75

Statement No	Statement	Basis of verification and description of source document(s)
CL19	<i>Dick Smith has undergone a significant transformation under the leadership of Managing Director and CEO, Nick Abboud.</i>	Statement of belief – Board Matter
CL20	<i>Nick and his management team have driven a comprehensive program of strategic, customer, operational and cultural initiatives</i>	Statement of belief – Board Matter
CL21	<i>which, supported by the enthusiasm and commitment of the store and store support teams, have already delivered substantial improvements to financial performance,</i>	Statement of fact based on FY14 financial projections (pro forma)

Statement No	Statement	Basis of verification and description of source document(s)
CL22	<i>and have positioned the Company for future growth.</i>	Statement of belief – Board Matter
CL23	<i>It is expected that these programs will continue to deliver additional financial benefits in the coming years.</i>	Statement of belief – Board Matter
CL24	<i>The transformation and growth initiatives underpin Dick Smith's forecast growth to an expected pro forma EBITDA of \$71.8 million in FY2014.</i>	Statement of belief – Board Matter based on (i) FY14 financial projections (pro forma) and (ii) Financial pack (page A2)
CL25	<i>The Directors believe that the significant increase in the underlying profitability of Dick Smith and the sustainability of the increase have been evidenced in our strong 1Q2014 results</i>	Statement of fact based on FY14 financial projections (pro forma)
CL30	<i>As part of the transformation program, Nick has established a platform for the future growth of the business based on four main initiatives: growing the store network, expanding our omni-channel offering, driving growth in our mobility category and expanding our private label offering.</i>	Statement of belief – Board Matter based on The Story of Dick Smith (page 74)
IO48	<i>In the period since the Acquisition, the new management team,</i>	Statement of fact – management emails dated 30 October 2013
IO49	<i>led by Nick Abboud,</i>	Statement of fact – self evident (see IO44)
IO50	<i>has driven a rapid transformation of Dick Smith</i>	Statement of belief – Board Matter
IO51	<i>through the implementation of a comprehensive program of strategic,</i>	Statement of belief – Board Matter
IO52	<i>customer, operational</i>	Statement of belief – Board Matter
IO53	<i>and cultural initiatives,</i>	Statement of belief – Board Matter
IO54	<i>which have already delivered substantial improvements to financial performance and have positioned the Company for ongoing future growth</i>	Statement of belief – Board Matter
IO185	<i>Dick Smith's new</i>	Statement of fact – Self evident (see IO48)
IO186	<i>and experienced management team,</i>	Statement of fact – Self evident (see IO48)

Statement No	Statement	Basis of verification and description of source document(s)
IO187	<i>led by Nick Abboud,</i>	Statement of fact – Letter of Offer (Abboud)
IO188	<i>has driven a significant transformation of the business</i>	Statement of belief – Board Matter
IO189	<i>through a comprehensive program</i>	Statement of belief – Board Matter
IO190	<i>of strategic,</i>	Statement of belief – Board Matter
IO191	<i>customer,</i>	Statement of belief – Board Matter
IO192	<i>operational</i>	Statement of belief – Board Matter
IO193	<i>and cultural initiatives.</i>	Statement of belief – Board Matter
IO194	<i>This program has already delivered substantial improvements to financial performance,</i>	Statement of fact based on Financials pack
IO195	<i>as evidenced in the 1Q2014 results.</i>	Statement of fact based on Financials pack (page A2)
IO196	<i>It is expected that these programs will continue to deliver additional financial benefits in the coming years.</i>	Statement of belief – Board Matter
IO197	<i>Pro forma EBITDA is forecast to grow to \$71.8 million in FY2014</i>	Statement of fact - Financials pack (page A2)
IO198	<i>from \$23.4 million in FY2013.</i>	Statement of fact - Financials pack (page A2)
IO390	<i>The transformation and growth initiatives underpin Dick Smith's forecast growth</i>	Statement of belief – Board Matter
IO391	<i>to an expected pro forma EBITDA of \$71.8 million in FY2014.</i>	Statement of fact based on Financials pack (page A2)
IO392	<i>The Directors believe that the significant increase in the underlying profitability of Dick Smith</i>	Statement of belief – Board Matter
IO393	<i>and the sustainability of the increase have been evidenced in the 1Q2014 results.</i>	Statement of belief – Board Matter
IO394	<i>It is expected that this transformation program will continue to deliver additional financial benefits in the coming years.</i>	Statement of belief – Board Matter
CO82	<i>Since the Acquisition, Nick Abboud and his new senior management team have substantially transformed Dick Smith,</i>	Statement of belief – Board Matter

Statement No	Statement	Basis of verification and description of source document(s)
CO83	<i>revitalising all areas of the business</i>	Statement of belief – Board Matter
CO84	<i>and repositioning Dick Smith for ongoing future growth.</i>	Statement of belief – Board Matter
CO85	<i>By June 2013, the major transformation initiatives had been implemented</i>	Statement of belief – Board Matter
CO86	<i>and Dick Smith centred its focus on the next stage of its growth agenda.</i>	Statement of belief – Board Matter
CO87	<i>Anchorage is a turnaround-focused investor</i>	Statement based on Anchorage News
CO88	<i>and therefore, upon successful implementation of the major transformation initiatives, began to consider alternatives to reduce its investment</i>	Statement of belief – Board Matter
CO89	<i>and create an ownership structure that would better enable Dick Smith to achieve its growth objectives.</i>	Statement of belief – Board Matter
CO97	<i>At the time of the Acquisition, Dick Smith was experiencing declining profitability.</i>	Without prior period financial statements which attest to Dick Smith's declining profitability, this is a statement of belief
CO98	<i>Following the Acquisition, the Dick Smith management team, led by Nick Abboud,</i>	Statement of fact – Self evident
CO99	<i>rapidly implemented a comprehensive transformation program,</i>	Statement of belief – Board Matter
CO100	<i>positioning the business for sustainable growth.</i>	Statement of belief – Board Matter
CO101	<i>The program covered all areas of the business</i>	Statement of belief – Board Matter
CO102	<i>and addressed revenues,</i>	Statement of belief – Board Matter
CO103	<i>gross profits,</i>	Statement of belief – Board Matter
CO104	<i>costs and the balance sheet,</i>	Statement of belief – Board Matter
CO105	<i>as well as customer experience</i>	Statement of belief – Board Matter
CO106	<i>and internal culture.</i>	Statement of belief – Board Matter
CO107	<i>New management talent was also added to the business</i>	Statement of fact – Self evident

Statement No	Statement	Basis of verification and description of source document(s)
CO108	<i>to complement the existing management team,</i>	Statement of fact – Self evident
CO109	<i>to bring additional retail</i>	Statement of fact based on internal cross reference, section 7.1
CO110	<i>and transformation expertise</i>	Statement of fact based on internal cross reference, section 7.1
CO111	<i>and to provide management the capacity to progress multiple transformation and growth initiatives in parallel.</i>	Statement of belief – Board Matter
CO112	<i>Nick Abboud and the management team, with over 200 years of cumulative retail experience,</i>	Statement of fact based on personal analysis Internal cross reference, section 7.1
CO113	<i>also drove an internal cultural shift towards a customer-centric focus,</i>	Statement of belief – Board Matter
CO114	<i>a bias to action and accountability for results.</i>	Statement of belief – Board Matter
FI13	<i>The FY2014 pro forma forecast represents the Directors' expectations for the first full year of Dick Smith's financial performance under the new management team.</i>	Statement of fact – Self evident
FI13A	<i>The Directors believe that 1Q2014 is the first actual reporting period under the new management team that reflects the impact of the transformation program undertaken and is not impacted by the strategic decisions and operational execution of the previous management team and owner.</i>	Statement of belief
CO127	<i>An overview of the major initiatives under the transformation program, including the benefits already delivered and the benefits that the company believes are still to be realised, is set out below</i>	Internal cross reference
CO128	<i>4.1.3.1 Figure: Dick Smith's transformation strategy</i>	Title
CO129	<i>Examples of initiatives, Benefits realised, Benefits still to be realised</i>	Title
CO130	<i>Stores and staff</i>	Title
CO131	■ <i>Rolled out new store key performance indicator ("KPI") dashboards to all stores</i>	Statement of fact based on Operations dashboard
CO132	■ <i>Implemented new staff incentive model linked to KPI dashboards</i>	Statement of fact based on Staff commissions

Statement No	Statement	Basis of verification and description of source document(s)
CO133	■ <i>Implemented new staff rostering processes</i>	Statement of fact based HR strategy
CO134	<i>and staffing policies</i>	Statement of fact based on HR strategy
CO135	■ <i>Implemented "Serve Forward" staff training program for in-store staff focused on customer service</i>	Statement of fact based on Serve forward
CO136	<i>and empathy</i>	Statement of fact based on Serve forward
CO137	■ <i>Improved in-store markdown policies</i>	Statement of fact based on The Story of Dick Smith (page 31)
CO138	■ <i>Developed strong alliances with major landlords</i>	Statement of fact based on Landlord alliances email. Amended in Nov 7.
CO139	■ <i>Improved recruiting profiles</i>	Statement of fact based on HR strategy
CO140	<i>and policies</i>	Statement of fact based on HR strategy
CO141	■ <i>Improved store labour efficiency</i>	Statement of fact – (i) Operations dashboard, (ii) HR strategy, and (ii) Staff commissions
CO142	<i>and profitability</i>	Statement of fact – (i) Operations dashboard, (ii) HR strategy, and (ii) Staff commissions
CO143	■ <i>Improved in-store customer experience</i>	Statement of fact based on Perception Survey
CO144	■ <i>Improved gross margins through better promotion management</i>	Statement of fact – (i) Scan management and (ii) Margin review. Amended in Nov 7.
CO148	<i>Suppliers and buying</i>	Title
CO149	■ <i>Developed strategic relationships with key suppliers</i>	Statement of fact/observation based on agreements with Apple and Samsung (note agreements are confidential) and Apple store presence and Samsung SIS stores
CO150	■ <i>Renegotiated a number of supplier agreements (e.g. pricing and terms)</i>	Statement of fact based on (i) The Story of Dick Smith (page 69), (ii) Apple reseller agreement dated 6 September 2011, (iii) Apple reseller agreement (iv) Samsung

Statement No	Statement	Basis of verification and description of source document(s)
		agreement dated 30 January 2004, and (v) Samsung agreement dated 1 January 2013. Amended in Nov 7.
CO151	■ <i>Revamped range</i>	Statement of belief – Board Matter based on SKU count
CO152	<i>and mix of brands and products,</i>	Statement of belief – Board Matter based on SKU count and Brand count
CO153	<i>and increased focus on mobility and private label</i>	Statement of fact based on The Story of Dick Smith (page 69) and DS private label yearly spreadsheet dated 2013
CO154	■ <i>Developed new pricing and promotional practices in collaboration with suppliers</i>	Statement of fact based on The Story of Dick Smith (page 31)
CO155	■ <i>Opened new Hong Kong sourcing office</i>	Statement of fact based on (i) Headcount summary – all countries dated 15 October 2013, and (ii) The Story of Dick Smith (page 67)
CO156	<i>and re-tendering of sourcing costs</i>	Statement of fact based on Inside Scoop spring editions (page 15)
CO157	■ <i>Improved buyer disciplines and accountability</i>	Statement of fact – (i) Scan managements and (ii) assertion by Neil Merola
CO158	■ <i>Improved collaboration between buying and operations</i>	Statement of belief
CO159	■ <i>Store-in-store relationships with Apple</i>	Statement of fact based on Apple store presence
CO160	<i>and Samsung</i>	Statement of fact based on Samsung SIS stores
CO161	■ <i>Mutually beneficial supplier agreements on commercially competitive terms</i>	Statement of belief – Board Matter
CO162	■ <i>Improved gross margins</i>	Statement of fact – Margin review
CO163	<i>from pricing</i>	Statement of fact – SKU count
CO164	<i>and product mix</i>	Statement of belief- Board Matter
CO165	■ <i>Clarity on range and price strategies</i>	Statement of belief- Board Matter
CO166	■ <i>Access to latest products and brands</i>	Statement of fact/observation based on (i) SKU count, (ii)

Statement No	Statement	Basis of verification and description of source document(s)
		Brand count, and (iii) Perception Survey
CO176	<i>Marketing</i>	Title
CO177	■ <i>Developed new marketing program</i>	Statement of Fact based on The Story of Dick Smith (pages 34 and 35)
CO178	■ <i>Implemented 'Dick Live Daily Deals'</i>	Statement of fact based on 'Dick Live' photo
CO179	■ <i>Renegotiated marketing supplier agreements</i>	Statement of fact based on Deloitte review (page 31)
CO180	■ <i>Conducted extensive customer research and engagement</i>	Statement of fact based on Perception Survey
CO181	■ <i>Substantial increase in marketing volumes,</i>	Statement of fact based on Deloitte review (page 31)
CO182	<i>efficiency</i>	Statement of fact based on Deloitte review (page 31)
CO183	<i>and 'share of voice',</i>	Statement of fact based on Deloitte review (page 31)
CO184	<i>including greater frequency of catalogues</i>	Statement of fact based on Deloitte review (page 31)
CO185	<i>and increased number of days of television commercials</i>	Statement of fact based on Deloitte review (page 31)
CO186	■ <i>Improved collaboration with suppliers</i>	Statement of fact based on Deloitte review (page 31) and The Story of Dick Smith (page 31)
CO189	<i>Inventory and supply chain management</i>	Title
CO190	■ <i>Undertook significant clearance of aged and obsolete stock</i>	Statement of fact – Reduction of stocks
CO191	■ <i>Improved stock management</i>	Statement of fact based on inventory management system
CO192	<i>and ordering practices</i>	Statement of fact based on Order to buy system
CO193	■ <i>Upgraded store replenishment system</i>	Statement of fact – SAS forecasting tool
CO194	■ <i>Streamlined and right sized distribution network</i>	Statement of fact – (i) The Story of Dick Smith (page 41), and (ii) Email from Guthrie
CO195	■ <i>Optimised freight movements including adding direct to store</i>	Statement of fact based on (i) Deloitte review (page 28), (ii) Contracts with Temando and Startrack and (iii) Distribution

Statement No	Statement	Basis of verification and description of source document(s)
		agreements with distributors (informal agreements)
CO196	<i>and direct to customer shipping</i>	Statement of fact/observation based on contract with Temando (direct to customer freighting)
CO197	■ <i>Optimised staffing to reflect new inventory levels</i>	Statement of fact/observation based on HR strategy
CO198	■ <i>Significant reduction in aged and obsolete stock</i>	Statement of fact – Reduction of stocks
CO199	■ <i>Reduction in freight and inventory handling costs</i>	Statement of fact based on Deloitte review (page 28, page 31)
CO200	■ <i>Reduction in 'out of stocks'</i>	Statement of fact based on Reduction of stocks
CO204	<i>Omni-channel</i>	Title
CO205	■ <i>Migrated website to new digital platform allowing greater flexibility,</i>	Statement of fact based on Platform presentation
CO206	<i>functionality,</i>	Statement of fact based on Platform presentation
CO207	<i>efficiency</i>	Statement of fact based on Platform presentation
CO208	<i>and customer experience</i>	Statement of belief based on Conversion chart
CO209	■ <i>Improved visitation and sales through improved pricing,</i>	Statement of belief – Board Matter. Amended in Nov 7.
CO210	<i>convenience,</i>	Statement of belief – Board Matter
CO211	<i>attachment</i>	Statement of belief – Board Matter
CO212	<i>and delivery functionality</i>	Statement of belief – Board Matter
CO220	<i>Other</i>	Title
CO221	■ <i>Renegotiated all key contracts and procurement agreements</i>	Statement of fact – Contracts with Temando and Startrack as examples of key contracts
CO222	■ <i>Addressed excess space issues</i>	Statement of fact based on email from Guthrie
CO223	■ <i>Sustained lower</i>	Statement of belief – Board Matter

Statement No	Statement	Basis of verification and description of source document(s)
CO224	<i>and more flexible cost base</i>	Statement of belief – Board Matter
CO226	<i>In Australia, these initiatives have already delivered significant improvements to Dick Smith's financial performance</i>	Statement of belief – Board Matter
CO227	<i>(detailed further in Section 5).</i>	Internal cross reference
CO228	<i>The Directors believe that the significant increase in the underlying profitability of Dick Smith and the sustainability of the increase have been evidenced in the 1Q2014 results.</i>	Statement of belief – Board Matter
CO229	<i>In Australia, Dick Smith is now positioned for growth</i>	Statement of belief – Board Matter
CO230	<i>and has already commenced implementation of its growth plan</i>	Statement of belief – Board Matter based on (i) New stores listing, and (ii) DS Private label yearly 2013
CO231	<i>(described in more detail in Section 4.4).</i>	Internal cross reference

Verification Table, as referred to in paragraph 77

Statement No	Statement	Basis of verification and description of source document(s)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial statements will be prepared for future financial periods.	Statement of intention
FI308	The content of Table 5.9.1.1, so far as concerns Pro forma forecast.	Statement of fact – Financials pack (pages 15 of A1 and page E4)
FI310	FY2014 pro forma forecast EBITDA takes into account expected profitability improvements from the transformation program.	Statement of belief
FI311	Management believes that in FY2014, the seasonality of EBITDA represents a split	Statement of belief

Statement No	Statement	Basis of verification and description of source document(s)
	between interim periods which is more indicative of future management operating conditions.	
IO197	Pro forma EDITDA is forecast to grow to \$71.8 million in FY2014	Statement of fact based on Financials pack (page A2)
IO198	From \$23.4 million in FY2013	Statement of fact based on Financials pack (page A10)
IO359	The content of the <i>Sales</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO365	The content of the <i>Gross profit</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO371	The content of the <i>EBITDA</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO377	The content of the <i>EBIT</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO383	The content of the <i>NPAT</i> line in the table on pg 12	Statement of fact based on Financials pack (page A4)
IO390	<i>The transformation and growth initiatives underpin Dick Smith's forecast growth</i>	Statement of belief – Board Matter
IO391	<i>to an expected pro forma EBITDA of \$71.8 million in FY2014</i>	Statement of fact based on Financials pack (page A2, A10)
IO392	<i>The Directors believe that the significant increase in the underlying profitability of Dick Smith</i>	Statement of belief – Board Matter
IO393	<i>and the sustainability of the increase have been evidenced in the 1Q2014 results.</i>	Statement of belief – Board Matter
IO394	<i>It is expected that this transformation program will continue to deliver additional financial benefits in the coming years.</i>	Statement of belief – Board Matter
FI124	The content of Table 5.4.1.1	Statement of fact – Financials pack (pages A2, A4, E2, R and S)
FI170	The content of Table 5.4.3.1	Statement of fact – Financials pack (pages A2, A3, E2, H1, T1 and X)
FI415	The content of Table 5.10.4.1	Statement of fact – Financials pack (pages E2 and R)
FI447	The content of Table 5.11.2.1, including forecast	Statement of fact – Financials pack (pages E2 and A2)
FI198	<i>A number of improvement initiatives were driven in key head office functional areas.</i>	Statement of belief

Statement No	Statement	Basis of verification and description of source document(s)
FI199	<i>Dick Smith management has increased the efficiency of media expenditure, substantially increasing media volumes and share of voice, and also increased marketing collaboration with suppliers.</i>	Statement of fact – The Story of Dick Smith (page 34)
FI200	<i>Lease agreements for corporate offices were also renegotiated, as were all major corporate supply agreements.</i>	Statement of fact – Kayn lease agreement. Amended in Nov 7.
FI209A2	<i>Pro forma gross margin is forecast to increase from 23.7% in FY2013 to 25.1% in FY2014</i>	Statement of fact – Financials pack (pages A2 and A10)
FI209A3	<i>as a result of a wide range of pricing, supplier and range mix initiatives, as well as improvements to buying and stock management practices.</i>	Statement of belief
FI210	<i>Agreements with major suppliers have been renegotiated</i>	Statement of fact based on The Story of Dick Smith (page 69)
FI210A	<i>and new buying disciplines introduced to improve planning and increase accountability for stock levels and discounting.</i>	Statement of belief
FI211	<i>New pricing and promotion practices were developed in collaboration with suppliers,</i>	Statement of fact based on The Story of Dick Smith (page 31)
FI211A	<i>and improvements were made to in-store markdown procedures.</i>	Statement of fact based on The Story of Dick Smith (page 69)
FI212	<i>Dick Smith's range was revamped to focus on higher margin products and brands,</i>	Statement of belief based on (i) SKU count, (ii) Brand count, and (iii) DS private label yearly
FI212A	<i>and a new direct sourcing office was established in Hong Kong to enable more efficient purchasing,</i>	Statement of fact – self-evident based on (i) Headcount summary – all countries dated 15 October 2013, and (2) The Story of Dick Smith (page 67)
	<i>particularly for private label products and accessories.</i>	
FI213	<i>In addition, the roll out of new stores is forecast to contribute to an increase in gross profit in FY2014.</i>	Statement of fact based on financials pack (page B) and Deloitte review (page 24)
FI214	<i>Despite the forecast increase in gross margin in FY2014, the gross profit contribution of existing stores in dollar terms is expected to be lower than in FY2013</i>	Statement of fact – Financials pack (page B)

Statement No	Statement	Basis of verification and description of source document(s)
FI215	<i>due to higher sales in FY2013 as a result of increased promotional and inventory clearance activity</i>	Statement of fact – (i) The Dick Smith Story (page 34), and (ii) Reduction of stocks

Verification Table, as referred to in paragraph 84

Statement No	Statement	Basis of verification and description of source document(s)
FI46	The Financial Information has been prepared in accordance with the recognition and measurement principles described in Australian Accounting Standards (including the Australian Accounting Interpretations)	Statement of belief
FI47	and the summarised accounting policies of Dick Smith as set out in Appendix 1.	Internal cross reference
FI96	The statutory forecast income statement has been prepared on a basis consistent with how Dick Smith's statutory financial statements will be prepared for future financial periods.	Statement of intention
FI607	<i>Dick Smith expects to remain in compliance with these undertakings</i>	Statement of belief
FI617	<i>Management believes that the financial covenants are appropriate</i>	Statement of belief
FI618	<i>and will be complied with in FY2014 based on the FY2014 forecasts and the significantly transformed performance of Dick Smith in FY2014 relative to that of FY2013</i>	Statement of belief

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ANNEXURE E – 5th to 457th Defendants

5. Brett Douglas Streatfeild
6. Sneza Pelusi
7. James Patrick Hickey
8. Alastair Banks
9. Tara Cathy Hili
10. Paul Jeremy Klein
11. Frank Scott Farrali
12. Christopher Donald Noble
13. Alec Paul Bash Insky
14. George Nicholas Kyriakakis
15. Roan Rolles Fryer
16. Stuart Johnston
17. Kaylene O'Brien
18. Craig Patrick O'Hagan
19. Leanne Karamfiles
20. Neil Graham Smith
21. Demostanies Krallis
22. David John Lombe
23. Christian John Biermann
24. Jonathan Paul
25. Michael James Clarke
26. Roger Jeffrey
27. Rachel Andrea Foley-Lewis
28. Franco Claudio Santucci
29. Michelle Robyn Hartman
30. Matthew Christopher Saines

31. Francis Thomas
32. Robert Basker
33. Alan Eckstein
34. Donal Graham
35. Andrew Raymond Hill
36. Patrick McLay
37. Paul Bernal Liggins
38. David Ocello
39. Paul Scott Holman
40. Paul Robert Wiebusch
41. Murray Peck
42. Julie Michelle Stanley
43. John Bland
44. Timothy Carberry
45. Alvaro Ramos
46. Graeme John Adams
47. Suzanne Archbold
48. Tim Richards
49. Timothy Geoffrey Maddock
50. Xenia Delaney
51. Reuben Saayman
52. Ronaldus Lambertus Van Beek
53. Liesbet Ann Juliette Spanjaard
54. Christopher John Richardson
55. Martin Harry Read
56. Mark Reuter
57. Stuart Thomas Ciocarelli
58. Paul Wayne Hockridge

59. Vikas Khanna
60. Paul Thomas Carr
61. Weng Yen Ching
62. Rodger Stewart Muir
63. Mark Cover
64. Robert Hillard
65. Michael John Lynn
66. Gaile Anthea Pearce
67. Isabelle Emilienne Lefevre
68. Phillip Andrew Roberts
69. Stuart Alexander Rodger
70. Paul Leonard Wensor
71. Claudio Cimetta
72. Simon Tarte
73. Stephen Charles Gustafson
74. Geoffrey William Cowen
75. Geoffrey Gill
76. Steven John Simionato
77. Jason John Handel
78. Declan O'Callaghan
79. Michael Andrew Kissane
80. Kurt Proctor-Parker
81. Richard Davies Wanstall
82. Johan Simon Duivenvoorde
83. Benjamin John Shields
84. John Meacock
85. Ian Michael Turner
86. David Harradine

87. Muhunthan Kanagaratnam
88. Marc Philipp
89. Kamlee Anne Coorey
90. Hugh William Mosley
91. Paul Masters
92. David Shane Egan
93. Alison Margaret Brown
94. Stavroula Papadatos
95. Damien Tampling
96. Alexandra Jane Spark
97. Monica Ellen Campigli
98. Craig Peter Mitchell
99. Robert John McConnel
100. Alyson Rodi
101. Andrew Charles Price
102. Mark Hadassin
103. Anthony James Robinson
104. Garry Ian Millhouse
105. Ashley Graham Miller
106. Craig Stephen Smith
107. Margaret Lynne Pezzullo
108. Adam Barringer
109. Campbell James Jackson
110. Jason Charles Crawford
111. Kevin Michael Russo
112. Adele Christine Watson
113. Neil Anthony Brown
114. Gordon James Thring

115. Brett William Greig
116. Steven James Shirliff
117. Robert Donald Collie
118. Spyros Kotsopoulos
119. Austin John Scott
120. Jenny Lyn Wilson
121. Peter John Bars
122. Elizma Bolt
123. Stephen Thomas Harvey
124. Fiona Lea Cahill
125. Jonathan Mark Schneider
126. Michael McNulty
127. Katherine Louise Howard
128. Juliet Elizabeth Bourke
129. Peter Gerard Forrester
130. Carl Jonathan Gerrard
131. Jody Michelle Burton
132. Rachel Frances Smith
133. Peter Martin Rupp
134. Helen Elena Fisher
135. Geoffrey Ronald Sincock
136. Nicholas Harwood
137. John Clement Malcom Randall
138. Todd Kayle Fielding
139. Geoffrey Bruce Stalley
140. Russell Bradley Norman Mason
141. Paul Leon Rubinstein
142. Andrew Ignatius Muir

143. Lisa Barry
144. Alfred Alan Nehama
145. Michael Paul Stibbard
146. Paul Childers
147. Angelo Karelis
148. Sarah Caroline Woodhouse
149. Richard John Hughes
150. Christopher Robert Masterman
151. Robin Poison
152. Megan Joy Field
153. Christopher Guy Nunns
154. Clare Helen Harding
155. Simon Cook
156. Stephen Carl Tarling
157. Leslie Coleman
158. Samuel James Vorweg
159. Helen Hamilton-James
160. Coert Grobbelaar Du Plessis
161. Stephen George Stavrou
162. Steven Christopher Cunico
163. Mark Ekkel
164. Soulla McFall
165. Leigh Matthew Pieroni
166. Mark Colin Woodley
167. Stephen James Healey
168. Sandeep Chadha
169. Margaret Clare Bower
170. Anna Victoria Crawford

171. Robert Howard Dowling
172. Greg Janes
173. Colin Mckay Methven Scott
174. Richard Mark Simes
175. Dharmalingum Shunmugam Chithiray
176. Nicole Marie Vignaroli
177. John Giannakopoulos
178. Vaughan Neil Strawbridge
179. Judith Anne Donovan
180. Nicole Wakefield
181. Paula Teresa Capaldo
182. Michael Rath
183. Karen Rachel Stein
184. Brett Todd
185. Julian Craig Dolby
186. Robert Kim Arvai
187. Catherine Jane Hill
188. Richard Michael Thomas
189. Timothy John Gullifer
190. Peter James Pagonis
191. Michael Damon Cantwell
192. Joseph Frank Galea
193. Nicolette Louise Ivory
194. John Leotta
195. Darren James Hall
196. Stephen Huppert
197. Elma Von Vielligh-Louw
198. Michael Anthony Kennedy

199. Stuart James Alexander
200. YiMeiTsang
201. Christopher Wilson
202. Joshua David Tanchel
203. Tendal Sitenisiyo Mkwanzani
204. Richard Nigel Raphael
205. Jacqueline Ann Clarke
206. Rodney James Whitehead
207. Heather Park
208. John Lethbridge Greig
209. Adrian Charles O'Dea
210. Grant Cameron
211. Gregory Couttas
212. Steven Allan Hernyl
213. Gary John McLean
214. Jonathan Ma
215. Suzie Gough
216. Mark Douglas Ian Allsop
217. Jennifer Anne Exner
218. Ryan Quintin Hansen
219. Jamie Brian Hamilton
220. David Mark Hill
221. Jason Bruce Dunnachie
222. John Christopher McCourt
223. Gerhard Vorster
224. David John Boyd
225. Andrew Kingsley Johnstone-Burt
226. Dwayne Barrie Sleep

227. David Black
228. Gerard Michael Meade
229. Francis Patrick O'Toole
230. Tony Garrett
231. Danny Rezek
232. Mark Goldsmith
233. David Watkins
234. Patrick Broughan
235. Jeremy Drumm
236. Michael John Whyte
237. Mark Andrew Stretton
238. Weng Wee Ching
239. Robert Malcolm Spittle
240. Marisa Orbea
241. Frances Rita Borg
242. David Barrie Brown
243. David Sherwin McCloskey
244. Philip Walter Teale
245. Jan Hein Alexander Alpert
246. Katherine Anne Milesi
247. Kevin Kiazim Nevrous
248. Andrew Paul Annand
249. Carl Richard Harris
250. Philip Malcolm Moore Hardy
251. Derek Rodney Bryan
252. Gregory Gyorgy Janky
253. David John Redhill
254. Guillaume Johannes Swiegers

255. Peter Ronald Ryan
256. Brennan Ursula
257. Fiona Dawn Craig
258. Sarah Lane
259. George Stathos
260. Richard Adam Young
261. Marc Hofmann
262. Brad Joel Pollock
263. Mark Justin Kuzma
264. Warren Green
265. Stuart Osborne
266. Garry Lance Bourke
267. Andrew Vaughn Griffiths
268. Adam Powick
269. Margaret Dreyer
270. Timothy Bryce Norman
271. David McCarthy
272. Neil Pereira
273. Michael Robert Gastevich
274. Elizabeth Ann Brown
275. Lakshman Kumar Gunaratnam
276. Monish Paul
277. Alexander Collinson
278. Bruce John Williamson
279. Luke Bramwell Houghton
280. Aldrin Anthony De Silva
281. Neil McLeod
282. Gerard Lucien Belleville

283. Michael Kaplan
284. Mark David Irving
285. Alison Lorna White
286. Haiderali Hussein Hussein
287. Martyn Charles Barrett Strickland
288. Caroline Jane Bennet
289. Christopher Robert Campbell
290. Gary Peter Doran
291. Mark Steven Wright
292. Peter Matruglio
293. John Koutsogiannis
294. Selvyn Peter D'Souza
295. Keith William Skinner
296. Clive Charles Alan Mottershead
297. Karen Lynette Green
298. Jason Mark Thorne
299. Andrew Stuart Christopher Reid
300. Mark Richard Weaver
301. Matthew Robert Broadfoot
302. Michael Mauro De Palo
303. Peter Arthur Caldwell
304. Tracey Con Dous
305. Shelley Rae Nolan
306. Ian Grant Levi
307. Grant Arthur Hyde
308. Timothy Francis Nugent
309. Andrea Csontos
310. Geoffrey Colin Lamont

311. Christopher John Nicoloff
312. Craig Maxwell Bryan
313. Peter Madden
314. Jeremy Jurriaan Walton Cooper
315. Neil Robert Cussen
316. Robert Southern
317. Andy Peck
318. Colin Radford
319. Hendri Mentz
320. Robert Nguyen
321. Shinji Tsutsui
322. Philippa Simone Dexter
323. Timothy Fleming
324. Cynthia Hook
325. James Campbell Down
326. Kate McDonald
327. Stephen John Coakley
328. Keith Francis Jones
329. Serg Duchini
330. Stephen James Reid
331. Max Andreas Persson
332. Graham Mott
333. Anthony John Viel
334. David Joseph Murray
335. Richard Antony Jamieson
336. Bradley James Burt
337. Anthony Goroslav Buntic
338. Paul Gerard Fogarty

339. Jamie Christopher Gatt
340. Geoffrey Ian Roberts
341. Melissa Jayne Cabban
342. Matthew Fraser
343. Thomas Fredrick Viljoen
344. Julie Christine Crisp
345. Paul Bernard Riley
346. Salvatore Algeri
347. Ross Ian Jerrard
348. Avi Sharabi
349. Ian Geoffrey Sanders
350. Dale McCauley
351. Iain Maxwell Gerrard
352. David Hobbis
353. Scott Conrad Bailey
354. Stephen Gregory Brown
355. Ian Ross Harper
356. Shashi Vicknekumeran Sivayoganathan
357. Jowita Gartlan
358. Mark Ingham
359. Viswa Phani Kumar Padiseti
360. Ian Charles Thatcher
361. Ian Andrew Trevorah
362. Dennis Leslie Moth
363. Jacques Louis Van Rhyn
364. Paul Swinhoe
365. Greg Fitzgerald
366. Steven Alexander Hallam

367. Stuart Lynn Black
368. Stephen Woosnam
369. Andrew John Culley
370. Stephen James Ferris
371. Timothy Arbuckie
372. David Amis Rumbens
373. Matthew James Williams
374. Jason Frederick Bender
375. Patrick Lane
376. Martin Paul Langridge
377. Caithlin Mary McCabe
378. Simon Alexander Wallace-Smith
379. Adrian Clyde Batty
380. Tapan Parekh
381. Masaaki Mark Nakamura
382. Roger Geoffrey McBain
383. Graeme John Hodge
384. RickShaw
385. Marina Ruth Stuart
386. Tom Christopher Imbesi
387. Eric Angelucci
388. Harvey Christophers
389. John Kingsley Rawson
390. Mark Richard Sercombe
391. Phillip Kravaritis
392. Gary Christie
393. Wayne Edward Walker
394. John Womack

395. Peter Grainger
396. Samantha Louise Lewis
397. Ashley Jonathon King
398. Peter Francis Williams
399. Alexander Aitken
400. Timothy Gordon Biggs
401. Ian McCall
402. Johannes Laubscher Venter
403. Roberto Dimonte
404. Alan Gordon Weeks
405. Ian John Breedon
406. Peter Michael Roberson
407. Michael David Nelson
408. Lindsay James Stanton
409. Craig Paul Johnson
410. Timothy Riordan
411. Anthony James Cipriano
412. Phil Hopwood
413. Dai-Trang Le Duncanson
414. David Jonathan Graham
415. Andre Spnovic
416. William Harold Wardrop
417. David Erskine Thompson
418. David Kyffin Willington
419. Stephen Mark Holdstock
420. Dean John Grandy
421. Harold Scott Payne
422. Jean-Marie Abi-Ghanem

423. Fraser Ross
424. Roberto Krizman
425. Caroline McGlashan
426. William Robert McAinsh
427. Osamu Uchimura
428. Glendon Moss Sanford
429. Simon James Lester
430. Stephen James Jones
431. Kristen Jay Wydell
432. John Guthrie Hood
433. Paul Martin Radici
434. Frank Klasic
435. Mark John Pittorino
436. David Anthony Cooper
437. Matthew Sheerin
438. Tony Brain
439. Henry John Kidd
440. Matt Gerald Tengu Whitesky Kuperholz
441. Gordon Pattison
442. Branko Panich
443. Julian Christopher Cheng
444. David William Pring
445. Peter Andre Jovic
446. Craig Goldberg
447. Bruce Robert Dungey
448. Dean Robert Edward Kingsley
449. David Alan Watson
450. Bernard Spencer Gild

451. Graham John Newton
452. Dwight Murray Hooper
453. Michael Rosendorfer
454. Richard Roy Porter
455. John George Azarias
456. Donna Maree Carey
457. Christopher Paul Cass