

Second FY14 rebate representations, opinions and conduct

- 376. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the Second FY14 Rebate Representations.
- 377. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the Second FY14 Rebate Opinion Representations.
- 378. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the Second FY14 Rebate Conduct.

FY14 anticipated unqualified audit report representations and conduct

- 379. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Anticipated Unqualified Audit Report Representation.
- 380. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Anticipated Unqualified Audit Report Conduct.

FY14 clearance representations, opinions and conduct

- 381. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Clearance Representations.
- 382. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Clearance Opinion Representations.
- 383. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Clearance Conduct.

FY14 Corporations Act compliance representation, opinion and conduct

- 384. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Corporations Act Compliance Representation.
- 385. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Corporations Act Compliance Opinion Representation.
- 386. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Corporations Act Compliance Conduct.

FY14 audit compliance representation, opinion and conduct

387. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Audit Compliance Representation.
388. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Audit Compliance Opinion Representation.
389. Each of Wavish, Raine, Cave, Murray, Ishak and DSH relied on the FY14 Audit Compliance Conduct.

FY14 causation, loss or damage*First FY14 inventory representations, opinions and conduct*

390. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:
- (a) making the First FY14 Inventory Representations;
 - (b) making the First FY14 Inventory Opinion Representations; or
 - (c) engaging in the First FY14 Inventory Conduct,
- in contravention of:
- (d) section 1041H(1) of the Corporations Act; and/or
 - (e) section 12DA of the ASIC Act; and/or
 - (f) section 18 of the ACL.

First FY14 rebate representations, opinions and conduct

391. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:
- (a) making the First FY14 Rebate Representations;
 - (b) making the First FY14 Rebate Opinion Representations; or
 - (c) engaging in the First FY14 Rebate Conduct,
- in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

FY14 internal control deficiencies representation and non-disclosure

392. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the FY14 No Internal Control Deficiencies Representation; or
- (b) engaging in the FY14 Internal Control Deficiencies Non-Disclosure,
in contravention of:
 - (c) section 1041H(1) of the Corporations Act; and/or
 - (d) section 12DA of the ASIC Act; and/or
 - (e) section 18 of the ACL.

Second FY14 inventory representations, opinions and conduct

393. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the Second FY14 Inventory Representations;
- (b) making the Second FY14 Inventory Opinion Representations; or
- (c) engaging in the Second FY14 Inventory Conduct,
in contravention of:
 - (d) section 1041H(1) of the Corporations Act; and/or
 - (e) section 12DA of the ASIC Act; and/or
 - (f) section 18 of the ACL.

Second FY14 rebate representations, opinions and conduct

394. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the Second FY14 Rebate Representations;
- (b) making the Second FY14 Rebate Opinion Representations; or
- (c) engaging in the Second FY14 Rebate Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

FY14 anticipated unqualified audit report representations and conduct

395. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the FY14 Anticipated Unqualified Audit Report Representations; or
- (b) engaging in the FY14 Anticipated Unqualified Audit Report Conduct,

in contravention of:

- (c) section 1041H(1) of the Corporations Act; and/or
- (d) section 12DA of the ASIC Act; and/or
- (e) section 18 of the ACL.

FY14 clearance representations, opinions and conduct

396. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the FY14 Clearance Representations;
- (b) making the FY14 Clearance Opinion Representations; or

- (c) engaging in the FY14 Clearance Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

FY14 Corporations Act compliance representation, opinion and conduct

397. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the FY14 Corporations Act Compliance Representation;
- (b) making the FY14 Corporations Act Compliance Opinion Representation; or
- (c) engaging in the FY14 Corporations Act Compliance Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

FY14 audit compliance representation, opinion and conduct

398. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the FY14 Audit Compliance Representation;
- (b) making the FY14 Audit Compliance Opinion Representation; or
- (c) engaging in the FY14 Audit Compliance Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or

- (f) section 18 of the ACL.

FY14 recovery of loss or damage

First FY14 inventory representations, opinions and conduct

399. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:

- (a) making the First FY14 Inventory Representations;
- (b) making the First FY14 Inventory Opinion Representations; or
- (c) engaging in the First FY14 Inventory Conduct,

pursuant to:

- (d) section 1041I of the Corporations Act; and/or
- (e) section 12GF of the ASIC Act; and/or
- (f) section 236 of the ACL.

First FY14 rebate representations, opinions and conduct

400. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:

- (a) making the First FY14 Rebate Representations;
- (b) making the First FY14 Rebate Opinion Representations; or
- (c) engaging in the First FY14 Rebate Conduct,

pursuant to:

- (d) section 1041I of the Corporations Act; and/or
- (e) section 12GF of the ASIC Act; and/or
- (f) section 236 of the ACL.

FY14 internal control deficiencies representation and non-disclosure

401. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the FY14 No Internal Control Deficiencies Representation; or
 - (b) engaging in the FY14 Internal Control Deficiencies Non-Disclosure, pursuant to:
 - (c) section 1041I of the Corporations Act; and/or
 - (d) section 12GF of the ASIC Act; and/or
 - (e) section 236 of the ACL.

Second FY14 inventory representations, opinions and conduct

402. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the Second FY14 Inventory Representations;
 - (b) making the Second FY14 Inventory Opinion Representations; or
 - (c) engaging in the Second FY14 Inventory Conduct, pursuant to:
 - (d) section 1041I of the Corporations Act; and/or
 - (e) section 12GF of the ASIC Act; and/or
 - (f) section 236 of the ACL.

Second FY14 rebate representations, opinions and conduct

403. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the Second FY14 Rebate Representations;
 - (b) making the Second FY14 Rebate Opinion Representations; or

- (c) engaging in the Second FY14 Rebate Conduct,
pursuant to:
- (d) section 1041I of the Corporations Act; and/or
- (e) section 12GF of the ASIC Act; and/or
- (f) section 236 of the ACL.

FY14 anticipated unqualified audit report representations and conduct

404. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the FY14 Anticipated Unqualified Audit Report Representations; or
 - (b) engaging in the FY14 Anticipated Unqualified Audit Report Conduct,
pursuant to:
 - (c) section 1041I of the Corporations Act; and/or
 - (d) section 12GF of the ASIC Act; and/or
 - (e) section 236 of the ACL.

FY14 clearance representations, opinions and conduct

405. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the FY14 Clearance Representations;
 - (b) making the FY14 Clearance Opinion Representations; or
 - (c) engaging in the FY14 Clearance Conduct,
pursuant to:
 - (d) section 1041I of the Corporations Act; and/or
 - (e) section 12GF of the ASIC Act; and/or
 - (f) section 236 of the ACL.

FY14 Corporations Act compliance representation, opinion and conduct

406. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the FY14 Corporations Act Compliance Representation;
 - (b) making the FY14 Corporations Act Compliance Opinion Representation; or
 - (c) engaging in the FY14 Corporations Act Compliance Conduct,
pursuant to:
 - (d) section 1041I of the Corporations Act; and/or
 - (e) section 12GF of the ASIC Act; and/or
 - (f) section 236 of the ACL.

FY14 audit compliance representation, opinion and conduct

407. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:
- (a) making the FY14 Audit Compliance Representation;
 - (b) making the FY14 Audit Compliance Opinion Representation; or
 - (c) engaging in the FY14 Audit Compliance Conduct,
pursuant to:
 - (d) section 1041I of the Corporations Act; and/or
 - (e) section 12GF of the ASIC Act; and/or
 - (f) section 236 of the ACL.

FY14 representations that services were of a particular standard or qualityAustralian Auditing Standards

408. Further, or in the alternative, the FY14 Audit Compliance Representation was a representation that Deloitte had provided its services to a particular standard or quality, namely the Australian Auditing Standards.
409. Deloitte did not conduct its audit of the FY14 Financial Report in accordance with Australian Auditing Standards.
410. In the premises, the FY14 Audit Compliance Representation was false or misleading.
411. The FY14 Audit Compliance Representation was conduct by Deloitte in trade or commerce in connection with the supply of services within the meaning of section 29 of the ACL.
412. Further, or alternatively, the FY14 Audit Compliance Representation was conduct by Deloitte in trade or commerce in connection with the supply of financial services within the meaning of section 12DB of the ASIC Act.
413. By reason of the matters referred to at paragraphs 337 and 408 to 409 above, by making the FY14 Audit Compliance Representation, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
414. Each of Wavish, Cave, Raine, Ishak, Murray and DSH relied on the FY14 Audit Compliance Representation.
415. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the FY14 Audit Compliance Representation in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
416. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte making the FY14 Audit Compliance Representation from Deloitte pursuant to:
- (a) section 12GF of the ASIC Act; and/or
 - (b) section 236 of the ACL.

Degree of skill, care and diligence expected of a professional providing services of the same kind and/or reasonable skill and care

417. Further, or in the alternative, each of the:

- (a) First FY14 Inventory Opinion Representations;
- (b) First FY14 Rebate Opinion Representations;
- (c) Second FY14 Inventory Opinion Representations;
- (d) Second FY14 Rebate Opinion Representations;
- (e) FY14 Anticipated Unqualified Audit Report Representations;
- (f) FY14 Clearance Opinion Representations;
- (g) FY14 Corporations Act Compliance Opinion Representations;
- (h) FY14 Audit Compliance Opinion Representations,

was a representation that Deloitte had provided its services to a particular standard or quality, namely with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.

418. In making the First FY14 Inventory Opinion Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
419. In making the First FY14 Rebate Opinion Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
420. In making the Second FY14 Inventory Opinion Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
421. In making the Second FY14 Rebate Opinion Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.

422. In making the FY14 Anticipated Unqualified Audit Report Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
423. In making the FY14 Clearance Opinion Representations, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
424. In making the FY14 Corporations Act Compliance Opinion Representation, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
425. In making the FY14 Audit Compliance Opinion Representation, Deloitte did not provide its services with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or with reasonable skill and care.
426. In the premises, each of the:
- (a) First FY14 Inventory Opinion Representations;
 - (b) First FY14 Rebate Opinion Representations;
 - (c) Second FY14 Inventory Opinion Representations;
 - (d) Second FY14 Rebate Opinion Representations;
 - (e) FY14 Anticipated Unqualified Audit Report Representations;
 - (f) FY14 Clearance Opinion Representations;
 - (g) FY14 Corporations Act Compliance Opinion Representations; and
 - (h) FY14 Audit Compliance Opinion Representations,
- was false or misleading.
427. The making of each of the:
- (a) First FY14 Inventory Opinion Representations;
 - (b) First FY14 Rebate Opinion Representations;
 - (c) Second FY14 Inventory Opinion Representations;

- (d) Second FY14 Rebate Opinion Representations;
- (e) FY14 Anticipated Unqualified Audit Report Representations;
- (f) FY14 Clearance Opinion Representations;
- (g) FY14 Corporations Act Compliance Opinion Representations;
- (h) FY14 Audit Compliance Opinion Representations;

was conduct by Deloitte:

- (i) in trade or commerce in connection with the supply of services within the meaning of section 29 of the ACL; and/or
 - (j) in trade or commerce in connection with the supply of financial services within the meaning of section 12DB of the ASIC Act.
428. By reason of the matters referred to at paragraphs 314, 417(a), 418, 426(a) and 427(a) above, by making the First FY14 Inventory Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
429. By reason of the matters referred to at paragraphs 317, 417(b), 419, 426(b) and 427(b) above, by making the First FY14 Rebate Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
430. By reason of the matters referred to at paragraphs 324, 417(c), 420, 426(c) and 427(c) above, by making the Second FY14 Inventory Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.

431. By reason of the matters referred to at paragraphs 327, 417(d), 421, 426(d) and 427(d) above, by making the Second FY14 Rebate Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
432. By reason of the matters referred to at paragraphs 329, 417(e), 422, 426(e) and 427(e) above, by making the FY14 Anticipated Unqualified Audit Report Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
433. By reason of the matters referred to at paragraphs 332, 417(f), 423, 426(f) and 427(f) above, by making the FY14 Clearance Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
434. By reason of the matters referred to at paragraphs 335, 417(g), 424, 426(g) and 427(g) above, by making the FY14 Corporations Act Compliance Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
435. By reason of the matters referred to at paragraphs 338, 417(h), 425, 426(h) and 427(h) above, by making the FY14 Audit Compliance Opinion Representations, Deloitte has contravened:
- (a) section 12DB(1)(a) of the ASIC Act; and/or
 - (b) section 29(1)(b) of the ACL.
436. Paragraphs 367, 370, 374, 377, 379, 382, 385, and 388 are repeated.

437. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the First FY14 Inventory Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
438. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the First FY14 Rebate Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
439. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the Second FY14 Inventory Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
440. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the Second FY14 Rebate Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
441. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the FY14 Anticipated Unqualified Audit Report Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
442. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the FY14 Clearance Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
443. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the FY14 Corporations Act Compliance Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
444. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte making the FY14 Audit Compliance Opinion Representations in contravention of section 12DB(1)(a) of the ASIC Act and/or section 29(1)(b) of the ACL.
445. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte making the:
- (a) First FY14 Inventory Opinion Representations;
 - (b) First FY14 Rebate Opinion Representations;

- (c) Second FY14 Inventory Opinion Representations;
- (d) Second FY14 Rebate Opinion Representations;
- (e) FY14 Anticipated Unqualified Audit Report Representations;
- (f) FY14 Clearance Opinion Representations;
- (g) FY14 Corporations Act Compliance Opinion Representations;
- (h) FY14 Audit Compliance Opinion Representations;

from Deloitte pursuant to:

- (i) section 12GF of the ASIC Act; and/or
- (j) section 236 of the ACL.

VIII. FY14 BREACH OF DUTY OF CARE

FY14 Duty of Care

- 446. Deloitte owed DSH a duty of care to exercise reasonable skill, care and diligence in performing its services as auditor pursuant to the FY14 Deloitte Retainer, including in auditing the FY14 Financial Report.
- 447. Further, or in the alternative, Deloitte held itself out as having special, skill, knowledge and expertise as professional auditors to carry out the audit of the FY14 Financial Report as required by s 301 of the Corporations Act.
- 448. Further, as auditors of DSH and the DSE Group, Deloitte owed the FY14 Statutory Auditing Obligations.
- 449. Deloitte, by voluntarily accepting the FY14 Deloitte Retainer (**FY14 Engagement**) and by permitting the accepting of that FY14 Engagement by White, accepted a general professional responsibility to ensure that the FY14 Engagement was carried out in relation to the FY14 Audit with the degree of care, skill and diligence expected of a professional providing the services of the same kind.
- 450. Deloitte was paid by DSH for its professional services in carrying out the FY14 Audit.
- 451. Deloitte had exclusive control over the carrying out of the FY14 Audit.

452. At all material times, Deloitte was afforded access to:
- (a) the persons within DSH from whom Deloitte determined it necessary to obtain evidence; and
 - (b) all information of DSH that was relevant,
- in respect of the preparation of the FY14 Financial Report and the conduct of the FY14 Audit.
453. Deloitte, as auditors of the FY14 Financial Report, was in a situation of particular advantage to know or ascertain whether DSH had complied with the Corporations Act in respect of the matters pleaded in paragraphs 81 to 83 above.
454. At all material times, DSH:
- (a) was vulnerable in that it was unable to protect itself from the consequences of Deloitte's failure to exercise the degree of skill, care and diligence expected of a professional providing the services of the same kind in conducting the FY14 Audit;
 - (b) could suffer loss and damage if Deloitte did not exercise the degree of skill, care and diligence expected of a professional providing the services of the same kind in carrying out its audit of the FY14 Financial Report.
455. In the premises, at all material times, Deloitte knew, or ought to have known:
- (a) of the matters set out in paragraph 454 above;
 - (b) that DSH would rely upon Deloitte to exercise the degree of skill, care and diligence expected of a professional providing the services of the same kind in:
 - (i) conducting the FY14 Audit; and
 - (ii) making statements or forming opinions in respect of the FY14 Financial Report; and
 - (c) that DSH would be likely to suffer economic loss if Deloitte did not exercise the degree of skill, care and diligence expected of a professional providing the services of the same kind in performing each of the matters referred to in paragraphs (b)(i) and (b)(ii) above.

456. By reason of the matters pleaded in paragraphs 447 to 455 above, the relationship between DSH on the one hand, and Deloitte on the other, was such that Deloitte owed to DSH a duty to exercise the degree of skill, care and diligence expected of a professional providing the services of the same kind, in:

- (a) conducting the FY14 Audit; and
- (b) making statements or forming opinions in respect of the FY14 Financial Report,
(FY14 Duty of Care).

FY14 Breaches of the FY14 Duty of Care

457. In breach of the FY14 Duty of Care, Deloitte failed to exercise the degree of skill, care and diligence expected of a professional providing services of the same kind when:

- (a) conducting the FY14 Audit; and
- (b) making statements or forming opinions in respect of the FY14 Financial Report,
(FY14 Breach).

458. By reason of the FY14 Breach, DSH has suffered loss and damage.

FY14 Negligent Misstatement - DSH

459. At all material times, Deloitte knew or ought to have known that DSH would rely upon its statements or opinions expressed in the course of performing the FY14 Deloitte Retainer in respect of the FY14 Audit, including in:

- (a) preparing a financial report for FY14 in compliance with the obligations alleged in paragraphs 81(b) to 81(d) above;
- (b) determining the accounting treatment of rebates in DSH's accounts which complied with Australian Accounting Standards;
- (c) maintaining or developing appropriate and effective inventory management systems;
- (d) determining the provisions to be made in respect of inventory, including whether the existing provisions were appropriate; and

- (e) forming the view that the inventory acquired, and being acquired, by DSH was saleable at an appropriate margin and in an appropriate timeframe.
460. Deloitte, in making any statement or opinion expressed by Deloitte in the course of the performance of the FY14 Audit in accordance with the FY14 Deloitte Retainer, assumed the responsibility of exercising reasonable care in making any such statement or opinion.
461. In the premises, Deloitte owed DSH a duty to use reasonable skill and care in making any statement or expressing any opinion in the course of the performance of the FY14 Audit in accordance with the FY14 Deloitte Retainer (**FY14 Misstatement Duty**).
462. In breach of the FY14 Misstatement Duty, Deloitte failed to use reasonable care and skill in making statements or expressing opinions in the course of the performance of the FY14 Audit in accordance with the FY14 Deloitte Retainer (**FY14 Misstatement Breach**).
463. By reason of the FY14 Misstatement Breach, DSH has suffered loss or damage.

FY14 Contribution

464. For the purpose of this cross-claim only, and without admission, the NED Cross-Claimants repeat paragraphs 1 to 124 of the TACLS.
465. Further, or in the alternative, for the purpose of this cross-claim only, and without admission, the NED Cross-Claimants repeat paragraphs 25(b), 26, 99-113, 114(c)-(h), 115-116, 117(c)-(g), 118-119, 123(c)-(f), 124 and 125 of the TACLS.
466. In the premises, if DSH establishes the matters alleged in paragraph 464 or 465 above (which are denied), then by reason of the matters alleged in:
- (a) paragraphs 446 to 458 above;
 - (b) further or alternatively, paragraphs 459 to 463 above;
 - (c) further or alternatively, paragraphs 313 to 407 above,

Deloitte is a tortfeasor which, had it been sued by DSH, would have been liable in respect of the same damage for which the NED Cross-Claimants are sued in tort by DSH in the main proceedings.

467. If the Plaintiff succeeds in its action against the NED Cross-Claimants in the main proceedings, the NED Cross-Claimants are entitled to recover contribution from Deloitte pursuant to section 5(1)(c) of the LRMPA in the amount that the Court finds to be just and equitable having regard to the extent of Deloitte's responsibility for that damage.

FY14 Equitable Contribution

468. In the event only that DSH establishes that:

- (a) the NED Cross-Claimants breached the Alleged Duties; and
- (b) by reason of those breaches, DSH has suffered loss and damage,

the NED Cross-Claimants plead as follows.

469. For the purposes only of this claim for contribution, and without admission, the NED Cross-Claimants repeat paragraphs 99-113, 114(c)-(h), 115-116, 117(c)-(g), 118-119, 123(c)-(f), 124 and 125 of the TACLS.

470. If the matters alleged in:

- (a) paragraphs 114(c)-(h), 115 and 116 of the TACLS are established (which are denied) then by reason of the breaches of the Alleged Duties alleged in paragraph 114(c)-(h) of the TACLS, DSH suffered loss or damage by reason of the acquisition and accumulation of significant quantities of Bad Stock;
- (b) paragraphs 117(c)-(g), 118 and 119 of the TACLS are established (which are denied), then by reason of the breaches of the Alleged Duties alleged in paragraph 117(c)-(g) of the TACLS, DSH suffered loss or damage by reason of the paying of the 2015 Interim Dividend;
- (c) paragraphs 123(c)-(f), 124 and 125 of the TACLS are established (which are denied), then by reason of the breaches of the Alleged Duties alleged in paragraph 123(c)-(f) of the TACLS, DSH suffered loss or damage by reason of the paying of the 2015 Final Dividend.

471. Further, by reason of the conduct of Deloitte alleged in paragraphs 313 to 339 above, which contravened section 18 of the ACL and/or section 1041H of the Corporations Act and/or section 12DA of the ASIC Act and/or section 29(1) of the ACL and/or section 12DB of the ASIC Act, DSH suffered loss or damage by reason of:

- (a) the acquisition and accumulation of significant quantities of Bad Stock;
 - (b) the payment of the 2015 Interim Dividend;
 - (c) the payment of the 2015 Final Dividend.
472. Further, or in the alternative, by reason of the conduct of Deloitte alleged in paragraphs 409 and/or 457 and/or 462 above:
- (a) Deloitte has breached the term of the FY14 Deloitte Retainer alleged in paragraph 89 above;
 - (b) further or alternatively, Deloitte has breached the term of the FY14 Deloitte Retainer alleged in paragraph 90 above;
 - (c) further or alternatively, Deloitte has breached the term of the FY14 Deloitte Retainer alleged in paragraph 91 above.
473. By reason of the breach or breaches alleged in paragraph 472 above, DSH has suffered loss or damage by reason of:
- (a) the acquisition and accumulation of significant quantities of Bad Stock;
 - (b) the payment of the 2015 Interim Dividend; and
 - (c) the payment of the 2015 Final Dividend.
474. By reason of the matters referred to in paragraphs 471 and/or 472 to 473 above:
- (a) Deloitte's conduct caused the same loss or damage to DSH as that allegedly caused by the NED Cross-Claimants (which is denied);
 - (b) Deloitte and the NED Cross-Claimants are co-ordinately liable to DSH in respect of any such loss or damage.
475. By reason of the matters referred to in paragraph 474 above, if it is established (which is denied) that the NED Cross-Claimants are liable for the loss or damage allegedly suffered by DSH, then the NED Cross-Claimants are entitled to recover contribution in respect of any such liability from Deloitte in equity.

HY15 REVIEW

IX. HY15 REVIEW OBLIGATIONS

DSH's HY15 Statutory Obligations

476. For the half-year ended 28 December 2014, DSH:

- (a) was required, by section 286(1)(b) of the Corporations Act, to keep written financial records that would enable true and fair financial statements to be prepared and reviewed;
- (b) was required, by section 302 of the Corporations Act, to prepare a financial report and directors' report for each half year;
- (c) was required, by sections 303(1) and 303(2) of the Corporations Act and by AASB 134, to include in the financial report:
 - (i) the financial statements for the half year in relation to DSH the Consolidated Entity presented as those of a single economic entity, that were required by the accounting standards;
 - (ii) the notes to those financial statements; and
 - (iii) the directors' declaration about the statement and notes;
- (d) was required, by section 303(4) of the Corporations Act, to include a declaration by the directors of DSH whether, in the directors' opinion:
 - (i) there were reasonable grounds to believe that DSH and the Consolidated Entity would be able to pay their debts as and when they became due and payable; and
 - (ii) the financial statements and notes were in accordance with the Corporations Act, including s 304 (compliance with accounting standards) and s 305 (true and fair view).
- (e) prepared the HY15 Financial Report, in compliance with the obligations pleaded in paragraphs (b) to (d) above, which included the financial statements in relation to DSH and the Consolidated Entity, the notes to those statements and the directors' declaration.

477. Pursuant to section 302(b) of the Corporations Act, DSH was required to have the HY15 Financial Report reviewed in accordance with Division 3 of the Corporations Act and to obtain an auditor's review report.
478. The HY15 Financial Report was required to:
- (a) comply with the accounting standards and any further requirements in the Corporations Regulations pursuant to section 304 of the Corporations Act; and
 - (b) give a true and fair view of the financial position and performance of DSH and the consolidated entity pursuant to section 305 of the Corporations Act.
479. The Australian Accounting Standards with which the HY15 Financial Report needed to comply included AASB Standard 134 "*Interim Financial Reporting*" (21 July 2014) (**AASB 134**) and AASB 101 [15]-[35].

Deloitte's HY15 Statutory Review Obligations

480. As auditor of DSH for the half-year ended 28 December 2014, Deloitte was required:
- (a) pursuant to section 307A of the Corporations Act to conduct the review of the HY15 Financial Report in accordance with applicable auditing standards (as that term is defined in section 9 of the Corporations Act),
 - (b) pursuant to section 309(4) of the Corporations Act, to report to members in relation to its review of the HY15 Financial Report, whether it became aware of any matter in the course of its review that made it believe that the financial report does not comply with Part 2M.3 of the Corporations Act, including whether:
 - (i) the HY15 Financial Report complied with the accounting standards (s 304 of the Corporations Act);
 - (ii) the financial statements and notes for the half-year gave a true and fair view of the financial position and performance of DSH and the DSE Group (s 305 of the Corporations Act),
 - (c) through White, to report to ASIC in accordance with section 311 of the Corporations Act;
 - (d) to, and had the powers set out in sections 310, 323A and 323C of the Corporations Act to, obtain information,

(HY15 Statutory Review Obligations).

481. The auditing standards with which Deloitte needed to comply included Auditing Standard on Review Engagements ASRE 2410 "*Review of a Financial Report Performed by the Independent Auditor of the Entity*" (**ASRE 2410**).

FY15 Deloitte Retainer

482. On or about 13 November 2014, DSH retained Deloitte to, inter alia, perform the review, as required by section 302 of the Corporations Act, of the HY15 Financial Report (**HY15 Review**) (**FY15 Deloitte Retainer**).
483. It was a term of the FY15 Deloitte Retainer that Deloitte would report whether it had become aware of any matter that made it believe that the HY15 Financial Report was not prepared in all material respects in accordance with the Corporations Act including:
- (a) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the interim period ended on that date; and
 - (b) complying with AASB 134 and the Corporations Regulations.
484. It was a term of the FY15 Deloitte Retainer that Deloitte would provide its services pursuant to the FY15 Deloitte Retainer with the degree of skill, care and diligence expected of a professional providing services of the same kind.
485. Further, or in the alternative to paragraph 484 above, it was a term of the FY15 Deloitte Retainer that Deloitte would use reasonable skill and care in providing services pursuant to the FY15 Deloitte Retainer.
486. It was a term of the FY15 Deloitte Retainer that Deloitte would perform its review of the HY15 Financial Report in accordance with ASRE 2410, with the objective of providing it with a basis for reporting whether it had become aware of any matter that made it believe that the interim financial report was not prepared in all respects, in accordance with the Corporations Act and Accounting Standard AASB 134.

X. DELOITTE'S CONDUCT OF THE HY15 REVIEW**FY15 Audit Strategy**

487. In or about November 2014, Deloitte provided DSH with its audit strategy in respect of the financial period ending 28 June 2015 (**FY15 Audit Strategy**).

488. In its FY15 Audit Strategy Presentation, Deloitte stated, *inter alia*, that:

- (a) Deloitte had developed a comprehensive understanding of DSH and an appreciation of the changing environment, both internal and external, that DSH had faced and was currently facing;
- (b) through Deloitte's detailed knowledge of DSH's business, discussions with management and review of monthly finance reports and board minutes, Deloitte had focussed its audit strategy on specific areas which were detailed, along with its proposed responses, in Section 3;
- (c) Deloitte's "Quality Imperatives" included, *inter alia*:
 - (i) exercising professional scepticism – audit procedures must clearly reflect acting as an evaluator with an attitude of professional scepticism not just an explainer;
 - (ii) becoming experts in internal controls – demonstrating expertise in understanding process flows and testing internal controls where applicable;
 - (iii) becoming experts in risk assessments and audit responses – Deloitte's deep understanding of Dick Smith and its environment results in improved application of the risk assessment procedures.

489. Deloitte stated that its audit would be focused on the key audit and business risks facing the DSE Group, and was designed to ensure:

- (a) overall integrity of DSH's financial statements, as well as the Dick Smith New Zealand subsidiary financial statements;
- (b) appropriate consideration was given to focus areas identified;
- (c) appropriate accounting for significant transactions undertaken by DSH;
- (d) consistent application of DSH's accounting policies;
- (e) all audit and accounting issues were resolved on a timely basis in consultation with management and that its audit provided "no surprises" to either management or the Board;

- (f) both management and the Board received early warning of proposed changes to accounting standards and their potential impact on DSH; and
 - (g) compliance with ASX and ASIC regulatory requirements.
490. Deloitte stated that in respect of the financial period ending 28 June 2015, the key audit and business risks facing the DSE Group included:
- (a) rebates and vendor allowances;
 - (b) the stock obsolescence provision; and
 - (c) impairment.
491. Deloitte stated that its audit procedures would be focused on the key audit and business risks identified at paragraph 490 above.

FY15 rebate & vendor allowances audit procedures

492. In respect of rebates and vendor allowances, Deloitte stated that its audit procedures would include:
- (a) understanding the key controls associated with the completeness and validity of the recording of rebate income;
 - (b) critically evaluating management's methodologies in capturing, calculating and recognising rebates received/receivable, including the underlying key assumptions;
 - (c) testing the controls in place to ensure that they are operating effectively throughout the year;
 - (d) performing substantive testing on a sample of rebates recorded/accrued at balance sheet date as well as reviewing a sample of supplier agreements to ensure they have been correctly treated; and
 - (e) assessing the completeness and accuracy of the provision for any disputed claims with suppliers.

FY15 stock obsolescence audit procedures

493. In respect of stock obsolescence provision, Deloitte stated that its audit procedures would include:

- (a) testing of controls around the inventory obsolescence reconciliation, review and approval process;
- (b) reviewing the inventory costing and provisioning methodologies adopted as required under AASB 102;
- (c) using data analytics to analyse reports developed by management to track actual selling prices for stock sold during the period and the allocation of 'scan' provision utilisation rates;
- (d) reviewing management's assessment based on this information and other evidence as to the appropriateness of the percentages provided on stock lines; and
- (e) reviewing management's allocation of the 1% of purchases to ensure that the appropriate amount has been taken to profit or loss.

FY15 impairment procedures

494. In respect of impairment, Deloitte stated that its procedures would include:

- (a) reviewing management's assessment of whether there were indicators of impairment at each reporting period;
- (b) where there were indicators of impairment, audit management's impairment models and assessing whether they were in accordance with AASB 136;
- (c) considering whether appropriate disclosure of any impairment had been included in the financial statements.

FY15 internal control and system procedure reporting

495. Deloitte stated that it would provide the FAC with a report which would include "*findings from performance of internal control and system procedures*".

FAC Meeting on 25 November 2014

496. White and Cork attended the FAC Meeting held on 25 November 2014.

497. On 25 November 2014, Deloitte stated to Wavish, Raine and Ishak and DSH that if Deloitte found any significant deficiency in DSH's internal controls, it would be reported to the Board in writing.

Performance of the HY15 Review

498. For the purpose of performing the HY15 Statutory Review Obligations and its obligations pursuant to the FY15 Deloitte Retainer, Deloitte performed the HY15 Review in about January and February 2015.
499. Deloitte was required by ASRE 2410 [13] and [A9] to update its understanding of DSH and the DSE Group and its environment, including its internal control, and to obtain a sufficient understanding of internal control as it relates to the preparation of the financial report subject to review.
500. For the purposes of completing the HY15 Review, Deloitte:
- (a) attended the premises at which books of DSH were held;
 - (b) required officers and employees of DSH to provide Deloitte with and obtained:
 - (i) access to the books of DSH and the consolidated entity; and
 - (ii) information, explanation and assistance to enable Deloitte to form opinions about the books of DSH and the consolidated entity;
 - (c) had access to and reviewed Board Papers and Board Minutes;
 - (d) had access to and reviewed books and other documents of DSH including in relation to inventory and rebates;
 - (e) understood and appreciated the need to consider the reliability of representations made by the executive management team of DSH and to corroborate those representations by reviewing supporting evidence; and
 - (f) had access to standard tests and guidance relevant to the accounting treatment of inventory and rebates.

HY15 FAC Report

501. On or about 11 February 2015, Deloitte reported to the FAC that:

Rebates

- (a) management continued to maximise its vendor rebates, either through price protection, advertising subsidies or O&A rebates. Where these relate to stock on hand, the income should be deferred into a future period;

- (b) since June 2014, management had undertaken a review of the process for tracking and recognising rebates and Deloitte noted a significant improvement in the quality of information and supporting evidence for rebates accrued;
- (c) vendor receivables remained a key element of DSH's strategy for growth in gross margin and overall profitability;
- (d) Deloitte had noted a number of improvements in the recognition and reconciliation process around O&A rebates in the half year;
- (e) the increase in rebate receivables at 28 December 2014 was due to the increased amount of purchasing for the new stores opened and anticipated sales over the coming months;
- (f) where a rebate related specifically to a product purchase or promotion, the income relating to the rebate received should be deferred so as to match the recognition of the cost of that product or promotion in profit or loss. Generally, over & above rebates were not specifically allocated to a product purchase or promotion, however were often negotiated in parallel to a purchase of inventory or the clearance of an existing product;
- (g) Deloitte's procedures in relation to rebates had consisted of:
 - (i) discussing the rebates with key members of DSH's management;
 - (ii) analysing the various types of rebates recognised;
 - (iii) reviewing the rebates receivable as at 28 December 2014;
 - (iv) performing a walkthrough of the updated process; and
 - (v) assessment of whether any rebates represented amounts which should be deferred;
- (h) during the FY14 Audit, Deloitte had highlighted internal control deficiencies in the accrual process for O&A rebates. Since then, management had undertaken a review of the process for recognition of these rebates and while Deloitte's work at the half year was limited in scope in comparison to the year-end audit, Deloitte noted a significant improvement in the quality of information and supporting evidence for rebates accrued. Deloitte identified an immaterial unadjusted difference of \$0.4 million;

- (i) all claims were uploaded in Profectus and there was an automatic interface with the accounting system. In addition, management now also reviewed the listing of O&A rebates that was maintained by the buying department as part of its month end reporting processes and investigated any reconciling differences between the listing and Profectus;
- (j) in relation to the classification of O&A rebates, Deloitte's procedures included an analysis of the gross margin, net advertising costs and overall costs of doing business as a percentage of sales to determine whether the recognition of rebates was reasonable and reflected the fundamental economic nature of the activities. Nothing had come to its attention that this recognition was not appropriate at 28 December 2014;

Inventory provision

- (k) the inventory obsolescence provision had decreased by \$3.3 million, due to both seasonal factors and the change in the calculation methodology since 29 June 2014;
- (l) an immaterial unadjusted difference of \$1.2 million had been recognised at Appendix A in relation to an understatement in the provision following revisions made to the provisioning policy in respect of aged stock;
- (m) inventory balances had increased from FY14 as a result of additional stores opened as at 28 December 2014 and increased buying practices in the period;
- (n) the value of inventory as at 28 December 2014 was \$335.8 million;
- (o) the value of inventory of \$335.8 million as at 28 December 2014 included:
 - (i) AASB 102 inventory costs of \$12.7 million;
 - (ii) a reduction for AASB 102 rebates of \$27.7 million;
 - (iii) a provision for obsolete stock of \$5.4 million; and
 - (iv) other provisions of \$3.2 million;
- (p) obsolescence provisions had decreased due to the change in the obsolescence methodology to reflect an improved stock quality and profile;

- (q) the inventory provisioning methodology developed throughout FY14 has been implemented at 28 December 2014 but has also been further refined by management;
- (r) the overall impact has been a decrease in the inventory obsolescence provision of \$1.6 million;
- (s) during FY14 management had reviewed its methodology for calculating its inventory provision in light of the continued evolution of the business operating model. As at 29 June 2014, a process was undertaken to assess the inventory obsolescence provision based on:
 - (i) inventory status;
 - (ii) inventory ageing;
 - (iii) sell through rates and months cover;
 - (iv) negative margins at current selling prices; and
 - (v) current promotions or other adjustments;
- (t) this process also included investigation of major product lines with the buying team to understand the expected future sell through and potential future write-downs;
- (u) management has further refined the calculation in the period whereby aged stock items which are selling at significant positive margins are provided for. This adjustment of \$1.26 million represents an amendment to the policy that was developed over the course of FY14.

Inventory costing

- (v) included in the cost of inventory were capitalised rebates and supply chain costs which had been recognised in the total cost of inventory under AASB 102 Inventories. Management had re-evaluated certain amounts and percentages in the costing allocations during the half year, and along with increased Christmas stock holdings had resulted in an increase in the AASB 102 costs capitalised from \$7.1 million to \$12.7 million;

- (w) in accordance with AASB 102, the value of inventory should include the cost of purchase inclusive of costs incurred in bringing the inventory to its required location and condition and net of purchase rebates;
- (x) there had been an increase in the AASB 102 costs of \$5.6 million, from \$7.1 million at 29 June 2014 to \$12.7 million at 28 December 2014. This had been driven by seasonality of stock holding but also by changes made to the methodology as follows:
 - (i) adjustments to the period used to calculate overhead allocations; and
 - (ii) the percentages applied for buying costs (which had increased from 60% to 90%) and the allocation of occupancy costs between warehouse and administration at the Chullora site (with the allocation increased from 70% to 80%);
- (y) Deloitte had reviewed the changes in assumptions and concluded that they were not unreasonable;

Asset impairment

- (z) DSE Group's fixed assets had been assessed for indicators of impairment and no change to the impairment provision of \$0.7 million had been required since 29 June 2014;
- (aa) Deloitte had reviewed the assumptions underlying the impairment assessment and have not identified any additional property, plant and equipment as impaired;
- (bb) however should expected improvements in the performance of the David Jones' stores not materialise in the coming months, there was an increased risk that these store assets might become impaired and an onerous contract for the remaining contract period arise;

General

- (cc) in performing the HY15 Review, Deloitte had not identified any significant deficiencies in internal controls relating to the prevention and detection of fraud and error which would impact upon its ability to provide its conclusion on the HY15 Financial Report;

- (dd) Deloitte's review procedures included an assessment of the status of the DSE Group's accounting records and reconciliations in line with the requirements of section 286 of the Corporations Act;
- (ee) notwithstanding that the scope of its review was generally limited to analytical procedures and inquiries of management, Deloitte noted that the internal control environment had continued to improve since the FY14 year end, specifically around (*inter alia*) rebates, impairment and the financial statements process;
- (ff) Deloitte would update the FAC further on the progress of internal controls in its audit for the year ended 28 June 2015, and report any deficiencies.

FAC Meeting on 12 February 2015

502. White and Cork attended the FAC Meeting on 12 February 2015.
503. On or about 12 February 2015, Deloitte took those present through the HY15 Financial Report and stated to Wavish, Raine and Ishak and DSH that:
- (a) Deloitte expect to issue an unmodified review conclusion on the half year financial report, with no unadjusted differences of a material nature or significant issues raised;
 - (b) there had been a significant improvement in the quality of information and supporting evidence for rebates accrued;
 - (c) a more automated process of rebate collection was being put in place by DSH to further improve the rebate collection process;
 - (d) as the quality and management of inventory improved during the half year, the current obsolescence provision methodology did not accurately reflect this. While management believed the provision to be conservative in nature, the adjustment to the provision represented an amendment to the previous obsolescence methodology. It was agreed that DSH would review the methodology before year end to more accurately reflect the markdown provision required;
 - (e) while the overall DSH business did not exhibit signs of impairment, DSH had undertaken an asset impairment review at store or CGU level as required by AASB 136. Deloitte noted that, while nothing had come to its attention that the provision was not appropriate, the David Jones stores were in a turnaround

phase that would require management to execute its strategy to ensure there was no impairment in the future.

HY15 Board Meeting

504. White attended part of the Board Meeting held on 16 February 2015, by telephone.
505. At the Board Meeting on 16 February 2015, Deloitte outlined the procedures undertaken in its HY15 Review and advised that an unqualified review report would be issued.
506. At the Board meeting on 16 February 2015, the Board:
- (a) resolved that DSH pay the 2015 Interim Dividend; and
 - (b) adopted the HY15 Financial Report and authorised DSH's company secretary to release the approved documents to the ASX.

HY15 Review Report

507. On 16 February 2015, Deloitte issued its independent review report in respect of the HY15 Financial Report (**HY15 Review Report**).
508. In the HY15 Review Report, Deloitte stated that:
- (a) Deloitte had reviewed the HY15 Financial Report;
 - (b) Deloitte had conducted its review in accordance with ASRE 2410;
 - (c) it had not become aware of any matter that made it believe that the HY15 Financial Report was not in accordance with the Corporations Act, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the 26 weeks then ended;
 - (ii) complying with AASB 134 and the Corporations Regulations.

HY15 Financial Report

509. On 16 February 2015, DSH issued the consolidated accounts of the DSE Group for the half year ended 28 December 2014 which included the HY15 Financial Report reviewed by Deloitte.

510. The condensed consolidated statement of financial position in the HY15 Financial Report recorded:
- (a) trade and other receivables of \$79.590 million;
 - (b) inventories of \$335.843 million (**HY15 Inventories**).
511. The segment information in Note 3 in the HY15 Financial Report recorded in respect of Australia:
- (a) total revenue of \$606.191 million;
 - (b) net profit for the period of \$24.252 million.

HY15 Inventories

512. The HY15 FAC Report disclosed inventory of \$335.8 million, which was the net of:
- (a) gross stock of \$359.4 million;
 - (b) reduced by AASB 102 costs net of rebates of \$15 million;
 - (c) against which a total provision of \$8.6 million was recognised, comprising:
 - (i) provision for obsolescence of \$5.4 million; and
 - (ii) provision for shrinkage of \$3.2 million.

HY15 Rebates

513. In the 6 months to 28 December 2014, O&A rebate income in respect of Australia of \$47.384 million was credited to DSH's profit and loss, of which:
- (a) \$36.549 million was recorded in COS Account 3324;
 - (b) \$10.835 million was recorded in CODB, as follows:
 - (i) \$8.394 million was recorded in Account 4232;
 - (ii) \$0.907 million was recorded in Account 4237; and
 - (iii) \$1.534 million was recorded in Account 4219.

514. Of the \$47.384 million of O&A rebates recognised by DSH in relation to Australia during HY15, \$29.431 million (62.1%) was unclaimed by DSH and was therefore recorded in Account 1392 as an asset disclosed in the balance sheet of DSH as at 28 December 2014.
515. The balance of O&A rebates unclaimed and recorded in Account 1392 in respect of Australia increased from \$15.94 million (FY14) to \$29.431 million (HY15).
516. Of the \$29.431 million O&A rebates unclaimed and recorded in Account 1392 in respect of Australia as at HY15:
- (a) one journal for \$26 million was posted on 4 January 2015 in relation to "Period 6" (being December 2014), reclassifying rebate income from CODB Account 4232 to COS Account 3324;
 - (b) one journal was posted on 7 January 2015 in relation to "Period 6", which:
 - (i) reversed October and November 2014 O&A subsidies of \$21.132 million from Account 1392 and Account 4232 (thus decreasing the balance of Account 1392);
 - (ii) recognised O&A subsidies for October, November and December 2014 of \$22.835 million in Account 1392 and Account 4232 (thus increasing the balance of Account 1392); and
 - (iii) recognised O&A Fixtures subsidies of \$3.5 million for November 2014 in Account 1392 and Account 4232 (thus increasing the balance of Account 1392).

XI. HY15 RISKS OF HARM

HY15 risks relating to FY14 audit findings

517. Paragraphs 188, 230, 267 to 268, 287 and 299 above are repeated.
518. In respect of HY15, there was a risk that:
- (a) DSH had not implemented new controls or systems to ensure that:
 - (i) the entries in Account 1392 were only recognised as receivables when a valid invoice or debit note had been raised by DSH;

- (ii) journals were only posted when it was appropriate to do so;
 - (iii) each of the Rebate Control Deficiencies were addressed;
 - (iv) inventory was accounted for in accordance with AASB 102;
- (b) as a result of one or more of the matters referred to in this paragraph:
- (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;
 - (2) comply with Australian Accounting Standards and the Corporations Regulations 2001;
 - (ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

519. Deloitte knew, or ought to have known, of the risks alleged in paragraph 518 above.

520. The risks alleged in paragraph 518 above were not insignificant.

HY15 risks relating to rebates

521. Paragraphs 153 to 155 above are repeated.

522. In respect of HY15, there was a risk that:

- (a) rebate amounts had been recognised inappropriately, including where they did not meet the accounting definition of an asset or where rebate income should be deferred from the consolidated statement of profit or loss and other comprehensive income in the HY15 Financial Report (**HY15 P&L**) to the FY15 P&L;

- (b) rebates had not been accounted for in accordance with the requirements of the Australian Accounting Standards, including the Framework, AASB 101 and AASB 102;
- (c) claims had been raised or recognised which were not approved rebates;
- (d) DSH's internal controls in relation to rebates were inadequate;
- (e) the Rebate Maximisation Policy had led to the Rebate Driven Buying Practices which had resulted in the consequences alleged in paragraphs 24 and 25 above;
- (f) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;
 - (2) comply with Australian Accounting Standards and the Corporations Regulations 2001;
 - (ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

523. Deloitte knew, or ought to have known, of the risks alleged in paragraph 522 above.

524. The risks alleged in paragraph 522 above were not insignificant.

Recognition of O&A rebates as receivables

525. For the purpose of the HY15 Review, Deloitte identified the balance of Account 1392 as a "significant risk", due to:

- (a) the lack of formal documentation supporting O&A rebates, which made it hard to substantiate the rebate accruals from an audit testing point of view;
- (b) the limited information provided as support for the accrual, including lack of description including of the "substance" of the rebate, lack of terms and conditions; and
- (c) the potentiality for a rebate accrual to be used to enable the manipulation of revenue through over-accrual, by being wrongly recorded as income (negative expense) immediately in profit and loss instead of as a reduction in the cost of inventory not recognised until the goods were sold.

526. Paragraphs 156 to 160 above are repeated.

527. In respect of HY15, there was a risk that:

- (a) the transactions recorded in Account 1392:
 - (i) did not meet the accounting definition of an asset;
 - (ii) should not have been recognised as an asset in the HY15 Balance Sheet;
 - (iii) would not be accounted for in accordance with the requirements of the Australian Accounting Standards, including the Framework and AASB 101;
- (b) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;

(2) comply with Australian Accounting Standards and the Corporations Regulations 2001;

(ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

528. Deloitte knew, or ought to have known, of the risks alleged in paragraph 527 above.

529. The risks alleged in paragraph 527 above were not insignificant.

Rebate treatment risks

530. Paragraphs 161 to 163 above are repeated.

531. In respect of HY15, there was a risk that:

- (a) rebates, including O&A rebates, had been applied so as to increase profit in circumstances where the rebates should have been applied so as to decrease the costs of purchase of inventory and therefore its carrying value;
- (b) DSH had failed to correctly defer the profit impact of rebates until the inventory to which they related was sold;
- (c) where it was appropriate to apply a rebate so as to increase profit, that DSH had incorrectly classified rebates as part of COS rather than CODB, or would incorrectly reclassify rebates from CODB to COS;
- (d) further or alternatively, DSH had failed to defer some O&A rebates from HY15 to FY15 including where they related to promotional support and the promotional activity to which they related had not been completed;
- (e) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:

- (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;
 - (2) comply with Australian Accounting Standards and the Corporations Regulations 2001;
- (ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

532. Deloitte knew, or ought to have known, of the risks alleged in paragraph 531 above.

533. The risks alleged in paragraph 531 above were not insignificant.

HY15 risks relating to COS

534. Paragraphs 164 to 166 above are repeated.

535. In respect of HY15, there was a risk that:

- (a) COS had been misstated due to:
 - (i) transactions being included in COS that had not occurred;
 - (ii) amounts being included in COS relating to fictitious or unauthorised transactions; or
 - (iii) COS transactions not being recognised in the correct period;
- (b) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;

(2) comply with Australian Accounting Standards and the Corporations Regulations 2001;

(ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

536. Deloitte knew, or ought to have known, of the risks alleged in paragraph 535 above.

537. The risks alleged in paragraph 535 above were not insignificant.

HY15 risks relating to inventory

538. Paragraphs 167 to 170 above are repeated.

539. In respect of HY15, there was a risk that:

- (a) inventory obsolescence existed but had not been recorded against inventory;
- (b) inventory had been misstated due to cost price changes not being accurately recorded in AS400 and not appropriately approved;
- (c) DSH had Inadequate Inventory Management;
- (d) inventory had not been correctly valued (adjustments and related COS adjustments not being correctly recorded or recorded at all) due to the lower of NRV or cost not being used;
- (e) DSH had acquired Bad Stock against which provision needed to be made;
- (f) the Rebate Maximisation Policy had led to the Rebate Driven Buying Practices which had resulted in the consequences alleged in paragraphs 24 and 25 above;
- (g) DSH had incorrectly capitalised overhead costs into inventory, contrary to AASB 102;
- (h) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;

- (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
- (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;
 - (2) comply with Australian Accounting Standards and the Corporations Regulations 2001;

- (ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

540. Deloitte knew, or ought to have known, of the risks alleged in paragraph 539 above.

541. The risks alleged in paragraph 539 above were not insignificant.

HY15 risks in relation to journal entries

542. Paragraphs 171 to 173 above are repeated.

543. In respect of HY15, there was a risk that:

- (a) journal entries had been made without appropriate support or otherwise inappropriately;
- (b) journal entries had been overridden by management;
- (c) there had been fraud at the assertion level;
- (d) as a result of one or more of the matters referred to in this paragraph:
 - (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;

(C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:

(1) give a true and fair view of the financial position and performance of DSH and the DSE Group;

(2) comply with Australian Accounting Standards and the Corporations Regulations 2001;

(ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

544. Deloitte knew, or ought to have known, of the risks alleged in paragraph 543 above.

545. The risks alleged in paragraph 543 above were not insignificant.

HY15 risks relating to other accounting issues

546. In respect of HY15, there was a risk that:

- (a) DSH had misstated its operating profit, including by reason of the materialisation of one of the risks referred to in paragraphs 517 to 545 above;
- (b) DSH had misstated its net current liability position, including by reason of the materialisation of one of the risks referred to in paragraphs 517 to 545 above;
- (c) there were uncertainties as to DSH's ability to continue as a going concern;
- (d) DSH had failed to disclose the existence of uncertainties as to DSH's ability to continue as a going concern, contrary to the requirements of AASB 101 [25]-[26] and the Framework [23];
- (e) DSH had incorrectly recognised tax assets, contrary to the requirements of AASB 112;
- (f) DSH had failed to impair its property, plant and equipment, as required by AASB 136;
- (g) DSH had failed to recognise onerous lease provisions, as required by AASB 137,
- (h) as a result of one or more of the matters referred to in this paragraph:

- (i) the HY15 Financial Report:
 - (A) would not be free from material misstatement;
 - (B) further or in the alternative, would not be prepared in all material respects in accordance with the applicable financial reporting framework;
 - (C) further, or in the alternative, would not comply with the Corporations Act, including that it would not:
 - (1) give a true and fair view of the financial position and performance of DSH and the DSE Group;
 - (2) comply with Australian Accounting Standards and the Corporations Regulations 2001;
- (ii) further, or in the alternative, DSH and/or the NED Cross-Claimants would suffer economic loss.

547. Deloitte knew, or ought to have known, of the risks alleged in paragraph 546 above.

548. The risks alleged in paragraph 546 above were not insignificant.

XII. HY15 REVIEW DEFICIENCIES

HY15 Failure to Test Controls

549. Paragraphs 517 to 520, 521 to 524, 526 to 529, 530 to 533, 534 to 537, 538 to 541, 542 to 545 and 546 to 548 above are repeated.

550. In accordance with ASRE 2410 [13], Deloitte was required to obtain an understanding of DSH and its environment, including its internal controls, as it related to both the preparation of the HY15 Financial Report, sufficient to plan and conduct the engagement so as to be able to:

- (a) identify the types of material misstatements and consider the likelihood of their occurrence;
- (b) select the enquiries, analytical and other review procedures what would provide Deloitte with a basis for reporting that nothing had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all

material respects, in accordance with the applicable financial reporting framework.

551. In accordance with ASRE 2410 [16], Deloitte was required to make enquiries, and perform analytical and other review procedures, to enable it to conclude whether, on the basis of the procedures performed, anything had come to Deloitte's attention that caused it to believe that the HY15 Financial Report had not been prepared, in all material respects, in accordance with the applicable financial reporting framework.
552. In accordance with ASRE 2410 [A4], in the course of conducting the HY15 Review Deloitte was required to update the understanding it had obtained of DSH and its environment, including DSH's internal controls, to assist Deloitte in focusing the enquiries to be made and the analytical and other review procedures to be applied.
553. In accordance with ASRE 2410 [A9]:
- (a) in planning its review of the HY15 Financial Report, Deloitte was required to update its understanding of DSH and its environment, including DSH's internal controls; and
 - (b) Deloitte was required to obtain a sufficient understanding of internal controls as they related to the preparation of the HY15 Financial Report.
554. In accordance with ASRE 2410 [A10], Deloitte needed to use its understanding of DSH and its environment, including DSH's internal controls, to:
- (a) determine the enquiries to be made and the analytical and other review procedures to be applied; and
 - (b) to identify the particular events, transactions or assertions to which enquiries may be directed or analytical or other review procedures applied.
555. Pursuant to ASRE 2410 [A19]:
- (a) Deloitte's understanding of DSH and its environment, including its internal controls of DSH;
 - (b) the results of risks assessments relating to the FY14 Audit; and
 - (c) Deloitte's consideration of materiality as it related to the HY15 Financial Report,

affected the nature and extent of the enquiries to be made, and the analytical and other review to be procedures applied, and Deloitte was required to consider the matters referred to in (a)-(c) above when determining the nature and extent of the enquiries to be made, and the analytical and other review procedures to be applied.

556. ASRE 2410 [A4] provides that, although other Auditing Standards did not apply to review engagements, they include guidance which may be helpful to auditors performing reviews covered by ASRE 2410.
557. ASRE 2410 [Appendix 2] sets out the analytical procedures which an auditor may consider when performing a review of a financial report.
558. In its conduct of the FY14 Audit, Deloitte had identified the existence of the Rebate Control Deficiencies.
559. In the premises, in accordance with ASRE 2410, in conducting the HY15 Review, Deloitte was required to review and evaluate whether the Rebate Control Deficiencies had been rectified, in respect of the reporting period to 28 December 2014 including:
- (a) enquiring with management the new controls they had designed and implemented;
 - (b) evaluating the design of the controls to assess whether it is capable of effectively preventing or detecting and correcting material misstatements;
 - (c) assessing the implementation of those new controls to check the new controls existed and DSH was using them to ensure that:
 - (i) O&A rebate transactions recorded in CODB and COS:
 - (A) reflected the substance of the transaction;
 - (B) satisfied the criteria for accounting for the rebate income in each respective account; and
 - (C) were supported by appropriate documentation;
 - (ii) proper records supported the posted O&A rebates accrued;
 - (d) not relying on the outcome of analytical review procedures without first establishing the matters pleaded at subparagraphs (a) and (c) above.

560. In its performance of the HY15 Review, Deloitte:
- (a) did not evaluate or assess the design and implementation of new controls in respect of the recognition of rebate income in CODB and COS;
 - (b) did not sufficiently test O&A rebates;
 - (c) conducted analytical review procedures in respect of CODB Account 4232 and COS Account 3324 (disclosed in the profit and loss) without establishing that the Rebate Control Deficiencies had been rectified;
 - (d) assumed that the Rebate Control Deficiencies had been rectified, and proper controls implemented; and
 - (e) assumed that data produced by DSH and DSE Group, and analysed by Deloitte, was complete, accurate and properly generated.
561. In the premises Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
562. A Reasonable Auditor in the position of Deloitte conducting the HY15 Review:
- (a) would have reviewed and evaluated whether the Rebate Control Deficiencies had been rectified, in respect of the reporting period to 28 December 2014;
 - (b) would have sought to satisfy themselves that controls had been designed and implemented to ensure that:
 - (i) O&A rebate transactions recorded in CODB and COS:
 - (A) reflected the substance of the transaction; and
 - (B) satisfied the criteria for accounting for the rebate income in each respective account; and
 - (C) were supported by appropriate documentation;
 - (ii) proper records supported the posted O&A rebates accrued;
 - (c) would not have relied upon the outcome of analytical review procedures without first establishing the matters pleaded at subparagraphs (a) and (b) above.
563. Paragraph 560 above is repeated.

564. Deloitte did not take the steps referred to in paragraph 562 above.
565. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
566. Had Deloitte taken the steps pleaded at paragraph 562 above, when performing the HY15 Review, it would have:
- (a) discovered that, in the interval between the performance of the FY14 Audit and the performance of the HY15 Review, DSH and the DSE Group had not designed and implemented effective internal controls surrounding rebates;
 - (b) discovered the matters referred to in the First Mills Affidavit at [92], [95], [102], [165] to [183], [191] to [194] and [208] to [225];
 - (c) further or alternatively, discovered the matters referred to in Basford at [86];
 - (d) concluded that:
 - (i) the Rebate Control Deficiencies had not been rectified;
 - (ii) undertaking only analytical review procedures on account CODB Account 4232 and COS Account 3324 would not enable it to conclude that nothing had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all material respects in accordance with the applicable financial reporting framework;
 - (iii) other review procedures in respect of CODB Account 4232 and COS Account 3324 were required to be undertaken;
 - (e) reported to those charged with governance that Rebate Control Deficiencies had not been rectified;
 - (f) obtained reasonable audit evidence that the HY15 Financial Report was not materially misstated by reason of the Rebate Control Deficiencies;
 - (g) not provided an unqualified review conclusion in relation to the HY15 Financial Report until the step at (f) above had been taken;
 - (h) advised the FAC in writing:

- (i) of the Rebate Control Deficiencies;
- (ii) that the Rebate Control Deficiencies were deficiencies in internal control which, individually or in combination, constituted significant deficiencies; and
- (iii) that it was necessary for DSH to implement new controls to address each of the Rebate Control Deficiencies.

HY15 recognition of unclaimed HY15 O&A rebates as assets

567. Paragraphs 521 to 524 and 525 to 529 above are repeated.

568. Deloitte's testing of Account 1392 during the HY15 Review:

- (a) consisted of testing on the balance of Account 1392, namely:
 - (i) documentation of the rebate approval process;
 - (ii) obtaining the account reconciliation for Account 1392 from Mills;
 - (iii) judgementally selecting four buyers (three from Australia and one from New Zealand), and obtaining a detailed breakdown of and supporting documentation for two rebate transactions per buyer;
 - (iv) obtaining support from the buyers, "*in most instances...limited to emails from vendors confirming amounts*";
 - (v) in respect of that support, ensuring the emails approving the details contained in DSH buyer emails to vendors:
 - (A) were from an authorised representative of the vendor through the inspection of their email address and their stated position;
 - (B) contained a description of the type of rebate, which used words such as "*marketing and promotional support*", "*Launch and Showcase*" or some other variant;
 - (C) mentioned a period to which the rebate related, such as "Q2" or "*December*"; and
 - (vi) tracing the amount by reference to supporting documentation to the general ledger;

- (b) resulted in the conclusion that Deloitte was "*satisfied that there is no material misstatement in Rebates*", such that no further testing needed to be performed.
569. For the purpose of conducting its testing of rebates recorded in Account 1392 during the HY15 Review, Deloitte:
- (a) relied upon the assertions contained in emails from vendors to DSH buyers as supporting DSH's accounting treatment, provided that the email cited as support for the transaction:
 - (i) mentioned an amount that was consistent with the amount being recognised;
 - (ii) used words such as "*marketing support*", "*product training support*", "*promotional support*", "*catalogue support*", "*promotional activity*" or some other variant, which was consistent with the accounting treatment; and
 - (iii) mentioned a date or period occurring prior to 28 December 2014; and
 - (b) in doing so, assumed that assertions in the said emails reflected the substance of the transaction,

(HY15 Rebate Asset Evidence).

570. In accordance with ASRE 2410 [10], Deloitte was required to plan and perform the HY15 Review by exercising professional judgement and with an attitude of professional scepticism, recognising that circumstances may exist that cause the financial report to require a material adjustment for it to be prepared, in all material respects, in accordance with the applicable financial reporting framework.
571. In accordance with ASRE 2410 [44], Deloitte was required to prepare review documentation that was sufficient and appropriate to provide a basis for its conclusion, and to provide evidence that the review was performed in accordance with ASRE 2410 and applicable legal and regulatory requirements.
572. In accordance with ASRE 2410 [A7]:
- (a) Deloitte was required to make a critical assessment, with a questioning mind, of the validity of evidence obtained and be alert to evidence that contradicted or

brought into question the reliability of documents or representations by DSH's management;

(b) ASA 200 included guidance that may be helpful in that regard.

573. Paragraph 177 above is repeated.
574. In its conduct of the FY14 Audit, Deloitte had identified the existence of the Rebate Control Deficiencies.
575. Paragraph 525 above is repeated.
576. Further, Deloitte knew in its conduct of the HY15 Review that there had been a significant increase in the balance of Account 1392 in the period to 28 December 2014, which had increased to a balance of \$29.431 million in respect of Australia.
577. Paragraphs 132 and 181 above are repeated.
578. Because it did not constitute valid invoices or debit notes raised by DSH, the HY15 Rebate Asset Evidence obtained by Deloitte was not valid evidence to justify the recognition of the entries in Account 1392 as receivables.
579. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
580. A Reasonable Auditor in the position of Deloitte would not have recognised O&A rebates in Account 1392 (or the HY15 Balance Sheet) until DSH had raised a valid invoice or debit note in respect of those rebates.
581. Deloitte did not conduct the HY15 Review in accordance with paragraph 580 above.
582. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
583. Had Deloitte conducted the HY15 Review in accordance with paragraph 580 above, it would have:
- (a) not recognised the O&A rebates in Account 1392 as a receivable in the HY15 Balance Sheet;

- (b) advised the FAC that DSH's current assets and total assets should be \$32.696 million less than reported;
- (c) advised the FAC that DSH's gross profit and net profit should be \$16.759 million less than reported;
- (d) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless the O&A rebates in Account 1392 were removed from the HY15 Balance Sheet and the HY15 P&L;
- (e) advised the FAC in writing that:
 - (i) in accordance with AASB 134 and the Framework, the entries in Account 1392 should only have been recognised as receivables when a valid invoice or debit note was raised by DSH;
 - (ii) DSH had been recognising the entries in Account 1392 in the absence of a valid invoice or debit note raised by DSH;
 - (iii) it was necessary for DSH to implement new controls to ensure that the entries in Account 1392 were only recognised as receivables when a valid invoice or debit note had been raised by DSH.

584. Further, a Reasonable Auditor in the position of Deloitte having recognised the Rebate Control Deficiencies in the FY14 Audit, and that the Rebate Control Deficiencies had not been rectified in HY15, would have evaluated the design and implementation procedures, and tested as part of the FY15 Audit, that DSH had implemented new controls in accordance with the advice referred to above.

HY15 inadequate testing of Account 1392

585. Paragraphs 517 to 520, 521 to 524, 525 to 533 and 534 to 537 above are repeated.

586. Paragraphs 550, 553 and 554 above are repeated.

587. By reason of the matters referred to in paragraphs 513 to 516 and 585 above, Account 1392 was at risk of material misstatement.

588. A Reasonable Auditor in the position of Deloitte would have tested the credit side of transactions selected from Account 1392 to:

- (a) determine in which account the credit had been recorded, namely CODB Account 4232 or COS Account 3324 or some other account (whether a balance sheet or profit and loss account)
 - (b) conclude whether there was justification for crediting the rebate in the respective account; and
 - (c) satisfy itself as to whether anything had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all material respects, with the applicable financial reporting framework, including in relation to about whether DSH's treatment of O&A rebates complied with AASB 102.
589. Paragraph 568 above is repeated.
590. Deloitte did not test the credit side of the transactions selected from Account 1392.
591. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
592. Had Deloitte taken the steps referred to in paragraph 588 above, it would have:
- (a) assessed the economic substance of the rebates recorded in Account 1392 and whether they related to inventory or "marketing support";
 - (b) assessed whether rebates relating to inventory could be recognised immediately in the HY15 P&L or needed to be deferred until the inventory to which it related had been sold;
 - (c) assessed whether rebates relating to promotional support could be recognised immediately in the HY15 P&L or needed to be deferred until the promotional activity to which it related had been completed;
 - (d) determined, based on those assessments, that O&A rebates were being applied by DSH so as to increase profit in circumstances where the rebates should have been applied so as to decrease the costs of purchase of inventory and therefore its carrying value;
 - (e) not recognised O&A rebate income in DSH's profit and loss account but instead would have recognised it as a reduction in the cost of the purchase of inventory;

- (f) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless O&A rebate income improperly credited to the profit and loss account was instead recognised as a reduction in the cost of the purchase of inventory;
- (g) advised the FAC in writing that:
 - (i) DSH had been applying O&A rebates so as to increase profit in circumstances where the rebates should have been applied so as to decrease the costs of purchase of inventory and therefore its carrying value;
 - (ii) this accounting treatment was not in accordance with AASB 102;
 - (iii) it was necessary for DSH to adopt a new accounting treatment for O&A rebates that complied with Australian Accounting Standards.

HY15 inadequate testing of Account 4232

593. Paragraphs 521 to 524 above are repeated.

594. Paragraphs 551, 552 and 555 above are repeated.

595. Deloitte's testing of Account 4232 during the HY15 Review:

- (a) consisted of a review procedure limited to summing all HY15 CODB general ledger accounts relating to advertising expense and rebate income and comparing net "*Advertising and Rebates*" income (of \$2.108 million credit) to the HY14 net balance calculated on the same basis (**Account 4232 Procedure**);
- (b) resulted in the conclusion that "*the net amount of -2 m represents net marketing recovery after O&A rebates had been reclassified to COS. This amount is consistent with PY [\$1.78m], therefore DTT accepts*", and
- (c) involved no further testing, including no testing on journal entry number 399871 (**Journal No 399871**).

596. The Account 4232 Procedure relied upon a comparison of net "*Advertising and Rebates*" income between HY15 and HY14, where:

- (a) in HY14, DSH was not reallocating O&A rebates from CODB to COS; and

- (b) the HY15 accounts comprising the net "*Advertising and Rebates*" balance were different accounts some of which record a \$nil balance and others which had increased or decreased compared to HY14.
597. In the premises, the simple net off of all advertising accounts was not a like for like comparison and did not enable the auditor to identify significant and/or unexpected movement in account balances.
598. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
599. Having regard to the Rebate Control Deficiencies and having identified that the Rebate Control Deficiencies had not been rectified in HY15, a Reasonable Auditor in the position of Deloitte conducting the HY15 Review would have undertaken other review procedures on CODB Account 4232 in order to satisfy itself that nothing had come to its attention in respect of Account 4232 that caused it to believe that the HY15 Financial Report was not prepared in all material respects in accordance with the applicable financial reporting framework, including (inter alia) satisfying itself:
- (a) that DSH had recognised credits corresponding to debits in Account 1392 and the immediate recognition of the rebate income in the respective general ledger account was appropriate;
 - (b) that there was justification for recording the rebate income in the respective general ledger account;
 - (c) that the substance of the transactions reclassified from CODB to COS was consistent with the accounting treatment.
600. Deloitte did not take the steps referred to in paragraph 599 above.
601. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
602. Further, had Deloitte taken the steps referred to in paragraph 599 above, it would have:
- (a) discovered the reclassification of O&A rebate income from CODB Account 4232 to COS Account 3324 referred to in paragraph 612 below;
 - (b) discovered the matters and taken the steps referred to in paragraph 613 below.

HY15 inadequate testing of Account 3324

603. Paragraphs 521 to 524, 530 to 533 and 535 to 537 above are repeated.

604. Paragraphs 550, 553 and 554 above are repeated.

605. Deloitte's testing of Account 3324 during the HY15 Review:

- (a) was limited to a review of the movement in COS and CODB (and respective percentages);
- (b) disregarded monthly spikes in the reallocation of rebate income from CODB to COS, and instead reviewed the CODB and COS percentages for the 6-month period to December 2014;
- (c) involved a comparison of CODB percentage as a percentage of revenue as between the 6 months to 28 December 2014 (18.60%) to the 6 months to 29 December 2013 (18.71%);
- (d) did not involve any testing as to whether the \$42.672 million transferred from CODB to COS in HY15 was appropriate and in accordance with accounting standards, including AASB 102;
- (e) led Deloitte to conclude that:

"It is noted that the CODB for the current period is slightly lower than that in the prior year which is in line with our expectation. Therefore it is noted that the reallocation which occurs sporadically during the period does not have an effect on the overall CODB for the period and therefore no issues noted."

606. In HY14, DSH did not transfer O&A rebate income from CODB to COS.

607. In the premises, the comparison referred to in paragraph 605(c) above:

- (a) was not like-for-like;
- (b) should not have resulted in a consistent outcome;
- (c) did not provide a proper basis for Deloitte to conclude that the reallocation from CODB to COS recorded in Account 3324 was justified;
- (d) did not provide a proper basis for Deloitte to conclude that nothing had come to its attention that caused it to believe that the HY15 Financial Report had not

been prepared, in all material respects, in accordance with the applicable financial reporting framework.

608. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 [133].
609. Having regard to the Rebate Control Deficiencies and having identified that the Rebate Control Deficiencies had not been rectified in HY15, a Reasonable Auditor in the position of Deloitte conducting the HY15 Review, would have:
- (a) conducted other review procedures (constituting detailed testing) on COS Account 3324 to satisfy itself:
 - (i) that DSH had recognised credits corresponding to debits in Account 1392 and the immediate recognition of the rebate income in the respective general ledger account was appropriate;
 - (ii) that there was justification for recording the rebate income in the respective general ledger account;
 - (iii) the substance of the transactions reclassified from CODB to COS were consistent with the accounting treatment;
 - (b) analysed the “consistency” of CODB percentages and COS percentages for each 6-month period, and critically assessed spikes in the reallocation of rebate income from CODB to COS and the effect on these key financial ratios if this rebate income was not reallocated.
610. Deloitte did not take the steps referred to in paragraph 609 above.
611. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
612. On or around 4 January 2015, DSH reclassified \$26 million of rebate income from CODB Account 4232 to COS Account 3324 in respect of the period to 28 December 2014 via Journal No 399871.
613. Had Deloitte taken the steps pleaded at paragraph 609(b) above, when performing the HY15 Review, it would have:

- (a) discovered that 88% of the balance of Account 3324 in respect of Australia comprised Journal No 399871;
- (b) selected Journal No 399871 for testing, and requested a copy of the journal and the documents substantiating the journal entry;
- (c) identified that \$26 million of O&A rebate income had been reclassified from CODB Account 4232 to COS Account 3324 on 4 January 2015;
- (d) discovered some or all of the matters described in the First Mills Affidavit at paragraphs [130]-[149];
- (e) identified the \$26 million in COS (and hence gross profit) or a potential error and sought sufficient audit evidence in relation to the transaction to permit it to conclude that it was satisfied that nothing had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all material respect, in accordance with the applicable financial reporting framework;
- (f) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless it had obtained sufficient audit evidence in respect of the \$26 million reclassification;
- (g) advised the FAC in writing:
 - (i) of the matters referred to in sub-paragraphs (c) to (e) above; and
 - (ii) that it was necessary for DSH to implement new controls to ensure that journals were posted only when it was appropriate to do so.

HY15 inadequate journal testing

614. Paragraphs 542 to 545 above are repeated.
615. In accordance with ASRE 2410 [16], Deloitte was required to perform analytical and other review procedures to enable it to conclude whether, on the basis of the procedures performed, anything had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all material respects, with the applicable financial reporting framework.
616. In accordance with ASRE 2410 [4], in conducting the HY15 Review, Deloitte's objective was to plan and perform the review to enable it to express a conclusion whether, on

the basis of the review, anything had come to Deloitte's attention that could cause Deloitte to believe that the HY15 Financial Report was not prepared in accordance with the applicable financial reporting framework.

617. In its conduct of the HY15 Review, and in responding to the risk of material misstatement due to management override of controls, Deloitte:
- (a) planned to test the appropriateness of the journal entries recorded in the General Ledger; and
 - (b) identified the testing procedure to achieve that objective as testing "*the appropriateness of the consolidation journal entries recorded for the half year report as at 29 December 2014*".
618. In conducting the HY15 Review, Deloitte:
- (a) did not test the appropriateness of journal entries recorded in the General Ledger;
 - (b) instead, tested the appropriateness of the consolidation journal entries recorded in consolidation workpapers as at 28 December 2014 used to prepare the HY15 Financial Report; and
 - (c) in the premises, did not meet the HY15 Review objective, in that the consolidation journal entries were not the journal entries recorded in the General Ledger.
619. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
620. A Reasonable Auditor in the position of Deloitte in conducting the HY15 Review would have selected and tested the appropriateness of journal entries recorded in the General Ledger as part of the HY15 Review.
621. Deloitte did not take the steps referred to in paragraph 620 above.
622. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

623. On 4 January 2015, \$26 million of O&A rebate income was reclassified from CODB Account 4232 to COS Account 3324 by Journal No 399871.
624. On 7 January 2015, \$21.132 million of O&A rebates for the months of October and November was derecognised from Account 1392 and Account 4232, followed by a journal entry in Account 1392 and Account 4232 that recognised \$22.835 million of O&A rebates in respect of the months October, November and December by journal number 399978.
625. On 7 January 2015, \$3.5 million of O&A rebates recorded in Account 1392 by journal number 399978, related to fixtures.
626. Had Deloitte undertaken the steps referred to in paragraph 620 above, in the conduct of the HY15 Review, it would have:
- (a) identified eight significant journals totalling \$85,602,611 that were posted after 28 December 2014 and prior to the signing of the HY15 Financial Report, in respect to the month of December 2014;
 - (b) identified that four of those journal entries provided the following further detail:

“Over the last 6 months, Vendors have supplied O&A rebates that support the business in scan and promotional sell through activities. It has been agreed to transfer these rebates to Gross Profit which reflect the true nature of these rebates. Refer discussions with Michael Potts and attached sample list of claims that support the transfer.”
 - (c) identified that the four journals referred to in (b) above were significant and met Deloitte’s criteria for selection for testing;
 - (d) checked the sample list of claims to ensure that the transactions were accurately recorded; and
 - (e) discovered the further matters, and taken the steps, referred to in paragraph 613 above.

HY15 inadequate testing of inventory

627. Paragraphs 546 to 548 above are repeated.
628. DSH was obliged by AASB 102 [9] to record stock in the HY15 Financial Report at the lower of cost and NRV.

629. Paragraphs 291 and 550 to 554 above are repeated.
630. For the purposes of the HY15 Review, Deloitte:
- (a) identified the change in the assumptions made by management in relation to inventory costing adjustments;
 - (b) performed review procedures concerning the stock listing, which procedures were limited to:
 - (i) agreeing stock listing to the general ledger;
 - (ii) performing analytical review on the comparison of HY15 balances to FY14 balances; and
 - (iii) ageing analysis of stock balances at HY15 compared to FY14 balances;
 - (c) performed review procedures to test the stock obsolescence calculation, which was limited to:
 - (i) agreeing the provision calculation to the general ledger;
 - (ii) performing analytical review involving comparison of HY15 balances to FY14 balances;
 - (iii) ageing analysis of stock balances at HY15 compared to FY14 balances; and
 - (iv) reviewing assumptions that had changed in respect of the Revised Obsolescence Methodology from FY14.
631. Deloitte's approach to the testing of inventory, and the testing of the stock obsolescence calculation, for the purposes of the HY15 Review relied on the adequacy of the audit procedures that Deloitte had conducted in respect of the Revised Obsolescence Methodology as part of the FY14 Audit.
632. Deloitte's conduct of the FY14 Audit in respect of the Revised Obsolescence Methodology was deficient.
633. In the premises, in the conduct of the HY15 Review, Deloitte:
- (a) failed to exercise professional judgement with an attitude of professional scepticism;

- (b) conducted analytical review procedures without establishing that the deficiencies in the Revised Obsolescence Methodology had been rectified;
 - (c) undertook insufficient review procedures to gain a basis for reporting whether anything had come to the Deloitte's attention causing Deloitte to believe that the HY15 Financial Report was not prepared, in all material respects, in accordance with the applicable financial reporting framework.
634. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
635. A Reasonable Auditor in the position of Deloitte, when conducting the HY15 Review, would have:
- (a) in updating their understanding of the entity and its environment, including its internal control:
 - (i) reviewed documentation from the FY14 Audit to identify matters affecting the current period;
 - (ii) considered significant risks identified in the FY14 Audit;
 - (b) in doing so, where reliance was to be placed on the result of audit procedures conducted during the FY14 Audit, taken steps to confirm that the audit procedures conducted during the FY14 Audit and upon which reliance was to be placed, were adequate to enable Deloitte to conclude whether anything had come to its attention that caused it to believe that the HY15 Financial Report was not prepared, in all material respects, in accordance with the applicable financial reporting framework, for the purposes of the HY15 Review;
 - (c) if the audit procedures conducted during the FY14 Audit were inadequate for these purposes, conducted other review procedures (in addition to analytical review and enquiry) prior to:
 - (i) accepting the assumptions underlying the HY15 provision for obsolescence calculation; and
 - (ii) concluding that nothing had come to its attention to cause it to believe that the provision for obsolescence was not in all material respects, in accordance with the applicable financial reporting framework.

636. Deloitte did not take the steps referred to in paragraph 635 above.
637. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.
638. Had Deloitte taken the steps referred to in paragraph 635 above, it would have determined that the Revised Obsolescence Methodology was flawed because:
- (a) it did not take into account whether DSH held excess inventory which was unlikely to be realised for its cost;
 - (b) DSH should have, but failed to, analyse the number of weeks cover it held for each SKU and make an assessment of whether that stock amount was likely to be saleable given the nature of the product;
 - (c) it depended on the appropriate categorisation was applied to each product line, and DSH may not have been categorising its Active stock correctly; and
 - (d) the trigger for the provision policy for Active and End of Life was flawed and did not calculate NRV because it applied a lookback method, rather than considering likely realisable value of the inventory based on future sales.
639. Further, a Reasonable Auditor in the position of Deloitte, having determined the matters at paragraph 638 above, would have:
- (a) concluded that the Revised Obsolescence Methodology was not operating effectively;
 - (b) ensured that the HY15 Financial Report was not materially misstated by reason of not including an adequate provision in respect of inventory in accordance with AASB 102;
 - (c) not provided an unqualified conclusion in relation to the HY15 Financial Report unless an adequate provision in respect of inventory in accordance with AASB 102 was included in the HY15 Financial Report;
 - (d) advised the FAC in writing:
 - (i) of the matters referred to in paragraph 638 above;

- (ii) that DSH's methodology for calculating the provision for inventory was inadequate and not in accordance with AASB 102;
- (iii) that it was necessary for DSH to implement new systems to ensure that inventory was accounted for in accordance with AASB 102;
- (iv) that DSH should adopt the provisioning methodology referred to in Basford at [160] or some other alternative that complied with Australian Accounting Standards, including AASB 102;
- (v) that by reason of the adoption of the provision levels referred to in subparagraph (iv) above, DSH should report a provision of \$58.236 million instead of \$4.271 million (or some other amount materially greater than the amount in fact adopted).

640. Further, a Reasonable Auditor in the position of Deloitte would have included as part of its design and implementation procedures and tested as part of the FY15 Audit, that DSH had implemented new systems in accordance with the advice referred to above.

HY15 failure to advise in relation to improper capitalisation of overhead costs into inventory

641. Paragraph 539(g) above is repeated.
642. AASB 102 [10] provided that the cost of inventories should comprise all costs of purchase, costs of conversion, and other costs incurred in bringing the inventories to their present location and condition.
643. AASB 102 [16(b)-(c)] provided that examples of costs excluded from the cost of inventories and recognised as expenses included:
- (a) storage costs, unless those costs were necessary in the production process before a further production stage; and
 - (b) administrative overheads that did not contribute to bringing inventories to their present location and condition.
644. Paragraphs 289 to 291 and 304 above are repeated.
645. Deloitte was aware, or ought reasonably to have been aware, of the Capitalisation Policy.

646. The capitalisation of warehousing costs and some of the costs of the buying department in accordance with the Capitalisation Policy was not in accordance with AASB 102.
647. In accordance with ASRE 2410 [Appendix 2, 91], Deloitte was required to discuss the policy in respect of capitalisation of interest and whether it is in accordance with Australian Accounting Standards.
648. Deloitte did not advise DSH of the matter alleged at paragraph 646 above.
649. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410.
650. A Reasonable Auditor in Deloitte's position would have:
- (a) determined that the Capitalisation Policy was not in accordance with AASB 102;
 - (b) not provided an unqualified conclusion in relation to the HY15 Financial Report until the warehousing costs and costs of the buying department were excluded from the capitalisation;
 - (c) advised the FAC in writing of the matter referred to in sub-paragraph (a) above.
651. Deloitte did not take the steps referred to in paragraph 650 above.
652. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

HY15 going concern

653. Paragraphs 546 to 548 above are repeated.
654. In accordance with AASB 101 [25], the HY15 Financial Report was required to disclose if there were material uncertainties as to DSH's ability to continue as a going concern.
655. In accordance with ASRE 2410 [41] if a material uncertainty that cast significant doubt on DSH's ability to continue as a going concern was not adequately disclosed in the HY15 Financial Report, Deloitte was required to express a qualified or adverse conclusion, as appropriate, and the HY15 Financial Report was required to include specific reference to the fact that there was such a material uncertainty.

656. A Reasonable Auditor in the position of Deloitte conducting the HY15 Review would have:

- (a) become aware, by reason of the matters referred to in paragraph 583 above, that DSH's profit had been overstated by \$16.756 million in respect of rebates;
- (b) become aware, by reason of the matters referred to in paragraph 583 above, that DSH's assets had been overstated by \$32.696 million in respect of rebates;
- (c) become aware, by reason of the matters referred to in paragraph 638 above, that DSH had large quantities of excess inventory on hand;
- (d) become aware, by reason of the matters referred to in paragraph 639 above, that DSH should report a provision in respect of inventory of \$58.236 million instead of \$4.271 million (or some other amount materially greater than the amount that was adopted), resulting in a reduction of \$53.966 million (or some other amount) in DSH's profit and assets;
- (e) become aware, by reason of the matter referred to in sub-paragraphs (c)-(d) above, that DSH had a net current liability position as at 28 December 2014;
- (f) become aware, by reason of the matters referred to above, that there were material uncertainties as to DSH's ability to continue as a going concern;
- (g) ensured that the HY15 Financial Report was not materially misstated by reason of it not including a disclosure as to DSH's ability to continue as a going concern;
- (h) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless:
 - (i) it included a satisfactory disclosure as to DSH's ability to continue as a going concern; or
 - (ii) it included a disclosure of emphasis of matter;
- (i) advised the FAC in writing:
 - (i) of the matters referred to in sub-paragraphs (a) to (f) above;
 - (ii) that it needed to disclose in the HY15 Financial Report the existence of material uncertainties as to DSH's ability to continue as a going concern.

657. Deloitte did not take the steps referred to in paragraph 656 above.
658. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

HY15 deferred tax assets

659. Paragraphs 546 to 548 above are repeated.
660. In accordance with AASB 112:
- (a) DSH could recognise deferred tax assets for all deductible differences only to the extent that it was probable that taxable profits would be available against which the deductible temporary difference could be utilised;
 - (b) DSH could recognise deferred tax assets for the carry forward of unused tax losses and unused tax credits only to the extent that it was probable that taxable profits would be available against which the unused tax losses and unused tax credits could be utilised;
 - (c) where DSH had a history of recent losses, DSH could recognise a deferred tax asset arising from unused tax losses or tax credits only to the extent that DSH had sufficient taxable temporary differences or there was convincing other evidence that sufficient taxable profit would be available against which the unused tax losses or unused tax credits could be used by DSH.
661. In accordance with ASRE 2410 [Appendix 2, 75], Deloitte was required to enquire from management as to the adequacy of the recognised deferred and current tax assets and/or liabilities including provisions in respect of prior periods.
662. As at 28 December 2014, DSH recognised \$28.734 million of deferred tax assets.
663. A Reasonable Auditor in the position of Deloitte conducting the HY15 Review would have:
- (a) become aware of the matters referred to in paragraphs 656(a) to (f) above;
 - (b) become aware, by reason of the matters referred to in paragraphs 656(a) to (f) and 659 to 660 above, that DSH was not entitled to recognise deferred tax

assets of \$28.734 million and so DSH's profit after tax and assets needed to be reduced by that amount;

- (c) ensured that the HY15 Financial Report was not materially misstated by reason of it including deferred tax assets of \$28.734 million;
- (d) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless it excluded deferred tax assets of \$28.734 million;
- (e) advised the FAC in writing of the matters referred to in sub-paragraphs (a) to (b) above.

664. Deloitte did not take the steps referred to in paragraph 663 above.

665. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

HY15 property, plant and equipment impairment

666. Paragraphs 546 to 548 above are repeated.

667. In accordance with AASB 136:

- (a) DSH was required to assess at the end of each reporting period whether there was any indication that an asset may be impaired;
- (b) if any such indication existed, DSH was required to estimate the recoverable amount of the asset;
- (c) in assessing whether there was any indication that an asset may be impaired, DSH was required to consider, inter alia, evidence available from internal reporting that indicated that the economic performance of an asset was, or would be, worse than expected;
- (d) evidence from internal reporting that indicated that an asset may be impaired includes the existence of:
 - (i) cash flows for acquiring the asset, or subsequent cash needs for operating or maintaining it that were significantly higher than those originally budgeted;

- (ii) actual net cash flows or operating profit or loss flowing from the asset that were significantly worse than those budgeted;
 - (iii) a significant decline in budgeted net cash flows or operating profit, or a significant increase in budgeted loss, flowing from the asset; or
 - (iv) operating losses or net cash outflows for the asset, when current period amounts were aggregated with budgeted amounts for the future;
- (e) an asset must be carried at the lower of its depreciated amount or its recoverable amount;
- (f) Deloitte was required to enquire of persons responsible within DSH about the policies and procedures used to assess asset impairment and any consequential estimation of recoverable amount;
- (g) Deloitte was required to enquire about the accounting policy applied regarding residual values, provisions to allocate the cost of property, plant and equipment over their estimated useful lives using the expected pattern of consumption of the future economic benefits and distinguishing between capital and maintenance items and consider whether there were any indicators of impairment and whether the property, plant and equipment had suffered a material, permanent impairment in value.
668. As at 28 December 2014, the carrying value of DSH's plant and equipment was \$86.745 million.
669. A Reasonable Auditor in the position of Deloitte conducting the HY15 Review would have:
- (a) become aware of the matters referred to in paragraphs 656(a) to (f) above and that, by reason of those matters, DSH's retail operations were not operating as budgeted or planned;
 - (b) become aware, by reason of the matters referred to in sub-paragraph (a) above, that DSH was required to test its assets for impairment;
 - (c) tested DSH's assets by conducting value in use projections including budgets of realistic cash flows being generated by its stores, recognising the issues with disposing of its excess inventory;

- (d) alternatively, advised the FAC that DSH needed to test its assets by conducting value in use projections including budgets of realistic cash flows being generated by its stores, recognising the issues with disposing of its excess inventory;
- (e) ensured that the HY15 Financial Report was not materially misstated by reason of it including plant and equipment with a carrying value of \$86.745 million which needed to be impaired;
- (f) not provided an unqualified conclusion in relation to the HY15 Financial Report unless DSH's plant and equipment was tested and impaired appropriately;
- (g) advised the FAC in writing of the matters referred to in sub-paragraphs (a)-(b) and (c) or (d) above.

670. Deloitte did not take the steps referred to in paragraph 669 above.

671. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

HY15 onerous lease provisions

672. Paragraphs 546 to 548 above are repeated.

673. In accordance with AASB 137:

- (a) an onerous contract was a contract in which the unavoidable costs of meeting the obligations under the contract exceeded the economic benefits expected to be received under it;
- (b) if DSH had a contract that was onerous, the present obligation under the contract was required to be recognised and measured as a provision.

674. A Reasonable Auditor in the position of Deloitte conducting the HY15 Review would have:

- (a) become aware of the matters referred to in paragraphs 656(a) to (f) above;
- (b) become aware, by reason of the matters referred to in paragraphs 656(a) to (f) and 659 to 660 above, that DSH would likely need to reduce its number of

leases both in order to increase profitability and through the likely greater constraints on working capital;

- (c) become aware that, to the extent that DSH needed to close stores, onerous lease provisions should have been recognised;
- (d) ensured that the HY15 Financial Report was not materially misstated by reason of it failing to recognise an appropriate impairment onerous lease provisions;
- (e) not provided an unqualified review conclusion in relation to the HY15 Financial Report unless it impaired appropriately recognised onerous lease provision;
- (f) advised the FAC in writing of the matters referred to in sub-paragraphs (a)-(c).

675. Deloitte did not take the steps referred to in paragraph 674 above.

676. In the premises, Deloitte did not conduct the HY15 Review in accordance with ASRE 2410 or with the degree of skill, care and diligence of a professional person providing professional services of the same kind.

XIII. HY15 MISLEADING OR DECEPTIVE CONDUCT

HY15 representations, opinions and conduct

First HY15 inventory representations, opinions and conduct

677. On or about 11 February 2015, Deloitte represented that:

- (a) the quality and ageing of inventory had improved;
- (b) obsolescence provisions had decreased due to the change in the obsolescence methodology to reflect an improved stock quality and profile;
- (c) the value of DSH's inventory as at 28 December 2014 was \$335.8 million;
- (d) the provision for obsolete stock was \$5.4 million, which was appropriate and complied with Australian Accounting Standards, including AASB 102;
- (e) inventory balances had increased from FY14 as a result of additional stores opened as at 28 December 2014 and increased buying practices in the period;

- (f) the Revised Obsolescence Methodology (which had been approved by Deloitte during the FY14 Audit) had been implemented as at 28 December 2014 and further refined by management;
- (g) (save for the further refinement, in respect of which an immaterial unadjusted difference of \$1.26 million had been identified) the Revised Obsolescence Methodology was appropriate for adoption by DSH to determine its inventory provision in accordance with AASB 102;
- (h) the costs that DSH had included in the value of inventory, including the increased warehouse costs and the increased costs of the buying team, were appropriate and complied with Australian Accounting Standards, including AASB 102;
- (i) the manner in which DSH accounted for inventory (including the value of inventory and level of provisioning) was appropriate and complied with Australian Accounting Standards, including AASB 102,

(First HY15 Inventory Representations).

678. Further, or in the alternative, on or about 11 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 677 above and:

- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(First HY15 Inventory Opinion Representations).

679. Further, or in the alternative to paragraphs 677 and/or 678 above, on or about 11 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 677 and/or 678 above (**First HY15 Inventory Conduct**).

First HY15 rebate representations, opinions and conduct

680. On or about 11 February 2015, Deloitte represented that:

- (a) the increase in rebate receivables at 28 December 2014 was due to the increased amount of purchasing for the new stores opened and anticipated sales over the coming months;
- (b) there had been a significant improvement in the quality of information and supporting evidence for rebates accrued;
- (c) there had been a number of improvements in the recognition and reconciliation process around O&A rebates in the half year;
- (d) all claims were uploaded in Profectus and there was an automatic interface with the accounting system;
- (e) management now also reviewed the listing of O&A rebates that was maintained by the Buying department as part of its month end reporting processes and investigated any reconciling differences between the listing and Profectus;
- (f) Deloitte had assessed whether any rebates represented amounts which should be deferred into the next period;
- (g) none of the rebates that were included in the HY15 Financial Report should have been deferred into the next period;
- (h) in relation to the classification of O&A rebates, Deloitte's procedures included an analysis of the gross margin, net advertising costs and overall costs of doing business as a percentage of sales to determine whether the recognition of rebates was reasonable and reflected the fundamental economic nature of the activities;
- (i) having conducted those procedures, nothing had come to Deloitte's attention that this recognition was not appropriate at 28 December 2014;
- (j) the recognition of O&A rebates was reasonable and reflected the economic nature of the activities;
- (k) the manner in which DSH accounted for rebates (including the value of rebates recognised by DSH) was appropriate and complied with Australian Accounting Standards, including AASB 102,

(First HY15 Rebate Representation).

681. Further, or in the alternative, on or about 11 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 680 above and:

(a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and

(b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(First HY15 Rebate Opinion Representations).

682. Further, or in the alternative to paragraphs 680 and/or 681 above, on or about 11 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 680 and/or 681 above (**First HY15 Rebate Conduct**).

HY15 No Internal Control Deficiencies representation

683. On or about 11 February 2015, Deloitte represented that:

(a) it had not identified any significant deficiencies in internal controls relating to the prevention and detection of fraud and error which would impact on Deloitte's ability to provide its opinion on the HY15 Financial Report;

(b) the internal control environment had continued to improve since the FY14 year and, specifically around (inter alia) rebates, impairment and the financial statement process,

(HY15 No Internal Control Deficiencies Representation).

684. Further, or in the alternative, on or about 11 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 683 above and:

(a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and

(b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(HY15 No Internal Control Deficiencies Opinion Representation).

685. Further, or in the alternative to paragraphs 683 and/or 684 above, on or about 11 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 683 and/or 684 above (**HY15 No Internal Control Deficiencies Conduct**).

First HY15 impairment representation, opinion and conduct

686. On or about 11 February 2015, Deloitte represented that in the half year ended 28 December 2014, no change to the impairment provision of \$0.7 million was required in respect of DSH's property, plant and equipment (**First HY15 Impairment Representation**).

687. Further, or in the alternative, on or about 11 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 686 above and:

- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(First HY15 Impairment Opinion Representation).

688. Further, or in the alternative to paragraphs 686 and/or 687 above, on or about 11 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 686 and/or 687 above (**First HY15 Impairment Conduct**).

Second HY15 inventory representations, opinions and conduct

689. On or about 12 February 2015, Deloitte represented that:

- (a) the quality and management of inventory improved during HY15;
- (b) the manner in which DSH accounted for inventory (including the value of inventory and level of provisioning) was appropriate and complied with Australian Accounting Standards, including AASB 102,

(Second HY15 Inventory Representations).

690. Further, or in the alternative, on or about 12 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 689 above and:
- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
 - (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(Second HY15 Inventory Opinion Representations).

691. Further, or in the alternative to paragraphs 689 and/or 690 above, on or about 12 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 689 and/or 690 above (**Second HY15 Inventory Conduct**).

Second HY15 rebate representations, opinions and conduct

692. On or about 12 February 2015, Deloitte represented that:
- (a) there had been a significant improvement in the quality of information and supporting evidence for rebates accrued;
 - (b) the manner in which DSH accounted for rebates (including the value of rebates recognised by DSH) was appropriate and complied with Australian Accounting Standards, including AASB 102,

(Second HY15 Rebates Representations).

693. Further, or in the alternative, on or about 12 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 692 above and:
- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and

- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(Second HY15 Rebate Opinion Representations).

694. Further, or in the alternative to paragraphs 692 and/or 693 above, on or about 12 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 692 and/or 693 above **(Second HY15 Rebate Conduct)**.

HY15 Anticipated Unqualified Review Report representation and conduct

695. On or about 12 February 2015, Deloitte represented that:
- (a) Deloitte expected issuing an unmodified review conclusion with no unadjusted differences of a material nature, or significant issues raised;
 - (b) in reaching the conclusion that it would issue an unmodified review conclusion, Deloitte:
 - (i) had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care; and
 - (ii) further, or in the alternative, it had reasonable grounds for reaching that conclusion based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(HY15 Anticipated Unqualified Review Report Representation).

696. Further, or in the alternative to paragraph 695 above, on or about 12 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraph 695 above **(HY15 Anticipated Unqualified Review Report Conduct)**.

Second HY15 impairment representations, opinions and conduct

697. On or about 12 February 2015, Deloitte represented that:
- (a) DSH did not exhibit signs of impairment;

- (b) DSH had undertaken an asset impairment review at store or CGU level as required by AASB 136;
- (c) nothing had come to Deloitte's attention that the provision was not appropriate;
- (d) DSH's asset impairment review was appropriate and complied with Australian Accounting Standards, including AASB 136;

(Second HY15 Impairment Representations)

698. Further, or in the alternative, on or about 12 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 697 above and:

- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(Second HY15 Impairment Opinion Representations)

699. Further, or in the alternative to paragraph 697 above, on or about 12 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraph 697 above (**Second HY15 Impairment Conduct**).

HY15 unqualified review report representations, opinions and conduct

700. On or about 16 February 2015, Deloitte, by its audit partner, White, represented that:

- (a) Deloitte would issue an unqualified review report of DSH for the period ended 28 December 2014;
- (b) the HY15 Financial Report was appropriate for adoption by DSH;
- (c) the HY15 Financial Report was in accordance with the Corporations Act, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the half-year ended on that date;

- (ii) complying with Australian Accounting Standards and the Corporations Regulations 2001;
- (d) in the alternative to (c), that Deloitte had not become aware of any matter that made it believe that the HY15 Financial Report was not in accordance with the Corporations Act, including:
 - (i) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the half-year ended on that date;
 - (ii) complying with Australian Accounting Standards and the Corporations Regulations 2001;
- (e) the manner in which DSH accounted for rebates (including the value of rebates recognised by DSH) was appropriate and complied with Australian Accounting Standards, including AASB 102; and
- (f) the manner in which DSH accounted for inventory (including the value of inventory and level of provisioning) was appropriate and complied with AASB 102,

(HY15 Unqualified Review Report Representations).

701. Further, or in the alternative, on or about 16 February 2015, Deloitte, by its audit partner, White, represented that it held opinions to the effect set out in paragraph 700 above and:
- (a) had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
 - (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(HY15 Unqualified Review Report Opinion Representations).

702. Further, or in the alternative to paragraphs 700 and/or 701 above, on or about 16 February 2015, Deloitte engaged in conduct that had the effect of conveying the

matters referred to at paragraphs 700 and/or 701 above (**HY15 Unqualified Review Report Conduct**).

HY15 Corporations Act compliance representations, opinion and conduct

703. On 16 February 2015, Deloitte represented that the HY15 Financial Report was in accordance with the Corporations Act, including:

- (a) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the half year ended on that date;
- (b) complying with Australian Accounting Standards and the Corporations Regulations 2001,

(HY15 Corporations Act Compliance Representations).

704. Further, or in the alternative, on or about 16 February 2015, Deloitte represented that it held opinions to the effect set out in paragraphs 703 above and:

- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(HY15 Corporations Act Compliance Opinion Representations).

705. Further, or in the alternative, on 16 February 2015, Deloitte represented that, having conducted the HY15 Review, it had not become aware of any matter that made it believe that the HY15 Financial Report was not in accordance with the Corporations Act, including:

- (a) giving a true and fair view of the consolidated entity's financial position as at 28 December 2014 and of its performance for the half year ended on that date;
- (b) complying with Australian Accounting Standards and the Corporations Regulations 2001,

and

- (c) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in making the above statements; and
- (d) further, or in the alternative, it had reasonable grounds for making the above statements based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(Second HY15 Corporations Act Compliance Representations).

706. Further, or in the alternative to paragraphs 703 and/or 704 and/or 705 above, on or about 16 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 703 and/or 704 and/or 705 above (**HY15 Corporations Act Compliance Conduct**).

HY15 review compliance representation, opinion and conduct

707. On 16 February 2015, Deloitte represented that it had conducted its review of the HY15 Financial Report in accordance with ASRE 2410 (**HY15 Review Compliance Representation**).

708. Further, or in the alternative, on or about 16 February 2015, Deloitte represented that it held opinions to the effect set out in paragraph 707 above and:

- (a) it had acted with the degree of skill, care and diligence expected of a professional providing services of the same kind and/or exercised reasonable skill and care in reaching those opinions; and
- (b) further, or in the alternative, it had reasonable grounds for reaching those opinions based upon sufficient appropriate audit evidence and a proper interpretation of the Australian Accounting Standards,

(HY15 Review Compliance Opinion Representation).

709. Further, or in the alternative to paragraphs 707 and/or 708 above, on or about 16 February 2015, Deloitte engaged in conduct that had the effect of conveying the matters referred to at paragraphs 707 and/or 708 above (**HY15 Review Compliance Conduct**).

HY15 trade/commerce, financial product, financial services

710. Each of the:

- (a) First HY15 Inventory Representations;
- (b) First HY15 Inventory Opinion Representations;
- (c) First HY15 Inventory Conduct;
- (d) First HY15 Rebate Representations;
- (e) First HY15 Rebate Opinion Representations;
- (f) First HY15 Rebate Conduct;
- (g) HY15 No Internal Control Deficiencies Representation;
- (g1) HY15 No Internal Control Deficiencies Opinion Representation;
- (g2) HY15 No Internal Control Deficiencies Conduct;
- (h) First HY15 Impairment Representation;
- (i) First HY15 Impairment Opinion Representation;
- (j) First HY15 Impairment Conduct;
- (k) Second HY15 Inventory Representations;
- (l) Second HY15 Inventory Opinion Representations;
- (m) Second HY15 Inventory Conduct;
- (n) Second HY15 Rebate Representations;
- (o) Second HY15 Rebate Opinion Representations;
- (p) Second HY15 Rebate Conduct;
- (q) HY15 Anticipated Unqualified Review Report Representation;
- (r) HY15 Anticipated Unqualified Review Report Conduct;
- (s) Second HY15 Impairment Representation;

- (t) Second HY15 Impairment Opinion Representation;
- (u) Second HY15 Impairment Conduct;
- (v) HY15 Unqualified Review Report Representations;
- (w) HY15 Unqualified Review Report Opinion Representations;
- (x) HY15 Unqualified Review Report Conduct;
- (y) HY15 Corporations Act Compliance Representations;
- (z) HY15 Corporations Act Compliance Opinion Representations;
- (aa) Second HY15 Corporations Act Compliance Representations;
- (bb) HY15 Corporations Act Compliance Conduct;
- (cc) HY15 Review Compliance Representations;
- (dd) HY15 Review Compliance Opinion Representations; and
- (ee) HY15 Review Compliance Conduct,

constituted conduct by Deloitte:

- (ff) in trade or commerce within the meaning of section 18 of the ACL; and/or
- (gg) in relation to a financial product or a financial service within the meaning of section 1041H of the Corporations Act; and/or
- (hh) in trade or commerce in relation to financial services within the meaning of section 12DA of the ASIC Act.

HY15 misleading or deceptive conduct

First HY15 inventory representations, opinions and conduct

711. The First HY15 Inventory Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or

- (c) section 18 of the ACL.
712. The First HY15 Inventory Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
713. The First HY15 Inventory Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

First HY15 rebate representations, opinions and conduct

714. The First HY15 Rebate Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
715. The First HY15 Rebate Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
716. The First HY15 Rebate Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or

- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

HY15 No Internal Control Deficiencies Representation

717. The HY15 No Internal Control Deficiencies Representation was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
718. The HY15 No Internal Control Deficiencies Opinion Representation was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
719. The HY15 No Internal Control Deficiencies Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

First HY15 impairment representation, opinion and conduct

720. The First HY15 Impairment Representation was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

721. The First HY15 Impairment Opinion Representation was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
722. The First HY15 Impairment Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

Second HY15 inventory representations, opinions and conduct

723. The Second HY15 Inventory Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
724. The Second HY15 Inventory Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
725. The Second HY15 Inventory Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or

- (c) section 18 of the ACL.

Second HY15 rebate representations, opinions and conduct

726. The Second HY15 Rebate Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

727. The Second HY15 Rebate Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

728. The Second HY15 Rebate Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

HY15 Anticipated Unqualified Review Report representation and conduct

729. The HY15 Anticipated Unqualified Review Report Representation was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

730. The HY15 Anticipated Unqualified Review Report Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

Second HY15 impairment representation, opinion and conduct

731. The Second HY15 Impairment Representation was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

732. The Second HY15 Impairment Opinion Representation was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

733. The Second HY15 Impairment Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or
- (c) section 18 of the ACL.

HY15 unqualified review report representations, opinions and conduct

734. The HY15 Unqualified Review Report Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

- (a) section 1041H(1) of the Corporations Act; and/or
- (b) section 12DA of the ASIC Act; and/or

(c) section 18 of the ACL.

735. The HY15 Unqualified Review Report Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

(a) section 1041H(1) of the Corporations Act; and/or

(b) section 12DA of the ASIC Act; and/or

(c) section 18 of the ACL.

736. The HY15 Unqualified Review Report Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:

(a) section 1041H(1) of the Corporations Act; and/or

(b) section 12DA of the ASIC Act; and/or

(c) section 18 of the ACL.

HY15 Corporations Act compliance representation, opinion and conduct

737. The HY15 Corporations Act Compliance Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

(a) section 1041H(1) of the Corporations Act; and/or

(b) section 12DA of the ASIC Act; and/or

(c) section 18 of the ACL.

738. The HY15 Corporations Act Compliance Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

(a) section 1041H(1) of the Corporations Act; and/or

(b) section 12DA of the ASIC Act; and/or

(c) section 18 of the ACL.

738A. The Second HY15 Corporations Act Compliance Representations were misleading or deceptive or likely to mislead or deceive in contravention of:

(d) section 1041H(1) of the Corporations Act; and/or

- (e) section 12DA of the ASIC Act; and/or
 - (f) section 18 of the ACL.
739. The HY15 Corporations Act Compliance Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

HY15 review compliance representation, opinion and conduct

740. The HY15 Review Compliance Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
741. The HY15 Review Compliance Opinion Representations were misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.
742. The HY15 Review Compliance Conduct was misleading or deceptive or likely to mislead or deceive in contravention of:
- (a) section 1041H(1) of the Corporations Act; and/or
 - (b) section 12DA of the ASIC Act; and/or
 - (c) section 18 of the ACL.

HY15 reliance*First HY15 inventory representations, opinions and conduct*

743. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Inventory Representations.
744. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Inventory Opinion Representations.
745. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Inventory Conduct.

First HY15 rebate representations, opinions and conduct

746. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Rebate Representations.
747. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Rebate Opinion Representations.
748. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Rebate Conduct.

HY15 No Internal Control Deficiencies Representation

749. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 No Internal Control Deficiencies Representation.
- 749A. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 No Internal Control Deficiencies Opinion Representation.
- 749B. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 No Internal Control Deficiencies Conduct.

First HY15 impairment representation, opinion and conduct

750. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Impairment Representation.
751. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Impairment Opinion Representation.

752. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the First HY15 Impairment Conduct.

Second HY15 inventory representations, opinions and conduct

753. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Inventory Representations.
754. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Inventory Opinion Representations.
755. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Inventory Conduct.

Second HY15 rebate representations, opinions and conduct

756. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Rebate Representations.
757. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Rebate Opinion Representations.
758. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Rebate Conduct.

HY15 Anticipated Unqualified Review Report representation and conduct

759. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Anticipated Unqualified Review Report Representation.
760. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Anticipated Unqualified Review Report Conduct.

Second HY15 impairment representation, opinion and conduct

761. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Impairment Representation.
762. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Impairment Opinion Representation.
763. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Impairment Conduct.

HY15 unqualified review report representations, opinions and conduct

764. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Unqualified Review Report Representations.
765. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Unqualified Review Report Opinion Representations.
766. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Unqualified Review Report Conduct.

HY15 Corporations Act compliance representation, opinion and conduct

767. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Corporations Act Compliance Representation.
768. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Corporations Act Compliance Opinion Representation.
- 768A. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the Second HY15 Corporations Act Compliance Representation.
769. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Corporations Act Compliance Conduct.

HY15 review compliance representation, opinion and conduct

770. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Review Compliance Representation.
771. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Review Compliance Opinion Representation.
772. Each of Wavish, Cave, Raine, Murray, Ishak and DSH relied on the HY15 Review Compliance Conduct.

HY15 causation, loss or damage

First HY15 inventory representations, opinions and conduct

773. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the First HY15 Inventory Representations;
- (b) making the First HY15 Inventory Opinion Representations;
- (c) engaging in the First HY15 Inventory Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

First HY15 rebate representations, opinions and conduct

774. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the First HY15 Rebate Representations;
- (b) making the First HY15 Rebate Opinion Representations;
- (c) engaging in the First HY15 Rebate Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

HY15 No Internal Control Deficiencies Representation

775. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the HY15 No Internal Control Deficiencies Representation;
- (b) making the HY15 No Internal Control Deficiencies Opinion Representation;
- (c) engaging in the HY15 No Internal Control Deficiencies Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

First HY15 impairment representation, opinion and conduct

776. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the First HY15 Impairment Representations;
- (b) making the First HY15 Impairment Opinion Representations;
- (c) engaging in the First HY15 Impairment Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

Second HY15 inventory representations, opinions and conduct

777. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the Second HY15 Inventory Representations;
- (b) making the Second HY15 Inventory Opinion Representations;
- (c) engaging in the Second HY15 Inventory Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

Second HY15 rebate representations, opinions and conduct

778. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the Second HY15 Rebate Representations;
- (b) making the Second HY15 Rebate Opinion Representations;
- (c) engaging in the Second HY15 Rebate Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

HY15 Anticipated Unqualified Review Report representation and conduct

779. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the HY15 Anticipated Unqualified Review Report Representation;
- (b) engaging in the HY15 Anticipated Unqualified Review Report Conduct,

in contravention of:

- (c) section 1041H(1) of the Corporations Act; and/or
- (d) section 12DA of the ASIC Act; and/or
- (e) section 18 of the ACL.

Second HY15 impairment representation, opinion and conduct

780. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the Second HY15 Impairment Representations;
- (b) making the Second HY15 Impairment Opinion Representations;

- (c) engaging in the Second HY15 Impairment Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

HY15 unqualified review report representations, opinions and conduct

781. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the HY15 Unqualified Review Report Representations;
- (b) making the HY15 Unqualified Review Report Opinion Representations;
- (c) engaging in the HY15 Unqualified Review Report Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

HY15 Corporations Act compliance representations, opinions and conduct

782. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the HY15 Corporations Act Compliance Representations;
- (b) making the Second HY15 Corporations Act Compliance Representations;
- (c) making the HY15 Corporations Act Compliance Opinion Representations;
- (d) engaging in the HY15 Corporations Act Compliance Conduct,

in contravention of:

- (e) section 1041H(1) of the Corporations Act; and/or

- (f) section 12DA of the ASIC Act; and/or
- (g) section 18 of the ACL.

HY15 review compliance representations, opinions and conduct

783. Each of the NED Cross-Claimants and DSH has suffered loss or damage by the conduct of Deloitte:

- (a) making the HY15 Review Compliance Representations;
- (b) making the HY15 Review Compliance Opinion Representations;
- (c) engaging in the HY15 Review Compliance Conduct,

in contravention of:

- (d) section 1041H(1) of the Corporations Act; and/or
- (e) section 12DA of the ASIC Act; and/or
- (f) section 18 of the ACL.

HY15 recovery of loss or damage

First HY15 inventory representations, opinions and conduct

784. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:

- (a) making the First HY15 Inventory Representations;
- (b) making the First HY15 Inventory Opinion Representations;
- (c) engaging in the First HY15 Inventory Conduct,

pursuant to:

- (d) section 1041I of the Corporations Act; and/or
- (e) section 12GF of the ASIC Act; and/or
- (f) section 236 of the ACL.

First HY15 rebate representations, opinions and conduct

785. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:

- (a) making the First HY15 Rebate Representations;
- (b) making the First HY15 Rebate Opinion Representations;
- (c) engaging in the First HY15 Rebate Conduct,

pursuant to:

- (d) section 1041I of the Corporations Act; and/or
- (e) section 12GF of the ASIC Act; and/or
- (f) section 236 of the ACL.

HY15 No Internal Control Deficiencies Representation

786. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte making the HY15 No Internal Control Deficiencies Representation

pursuant to:

- (a) section 1041I of the Corporations Act; and/or
- (b) section 12GF of the ASIC Act; and/or
- (c) section 236 of the ACL.

First HY15 impairment representation, opinion and conduct

787. Each of the NED Cross-Claimants and DSH is entitled to recover the amount of the loss or damage they have suffered by reason of Deloitte:

- (a) making the First HY15 Impairment Representations;
- (b) making the First HY15 Impairment Opinion Representations;
- (c) engaging in the First HY15 Impairment Conduct,