

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 20/08/2020 1:17:40 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	NSD917/2020
File Title:	COMPUMOD INVESTMENTS PTY LIMITED AS TRUSTEE FOR THE COMPUMOD PTY LIMITED STAFF SUPERANNUATION FUND v A.C.N. 603 323 182 LIMITED (FORMERLY AXSESSTODAY LIMITED) (SUBJECT TO A DEED OF COMPANY ARRANGEMENT) & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Sia Lagos

Dated: 20/08/2020 6:22:32 PM AEST

Registrar

Important Information

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

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

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



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

No. _____ of 2020

Federal Court of Australia
District Registry: New South Wales
Division: General

**Compumod Investments Pty Limited as trustee for the Compumod Pty Limited Staff
Superannuation Fund**

Applicant

**A.C.N. 603 323 182 Limited (formerly Axesstoday Limited) (Subject to a Deed of
Company Arrangement)**

First Respondent

PricewaterhouseCoopers Securities Limited.

Second Respondent

To the Respondents

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

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

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

Time and date for hearing:

Place:

Filed on behalf of (name & role of party) The Applicant
Prepared by (name of person/lawyer) Chris Moore & Chloe Ellis
Law firm (if applicable) Hicksons Lawyers
Tel (02) 9293 5311 Fax (02) 9264 4790
Email chris.moore@hicksons.com.au & chloe.ellis@hicksons.com.au
Address for service Hicksons Lawyers
(include state and postcode) Level 24, 100 Barangaroo Avenue
BARANGAROO NSW 2000



Date: 20 August 2020

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

Details of claim

On the grounds stated in the accompanying Statement of Claim (**SOC**) (and adopting the definitions therein), the Applicant claims:

Against the First Respondent

1. Recovery of loss and damage pursuant to s 729(1) of the Corporations Act incurred by reason of the First Respondent's contraventions of s 728(1) of the Corporations Act in circumstances where it:
 - a. made the Prospectus Omissions;
 - b. made the Prospectus Misrepresentations;
 - c. failed to disclose the effect of the New Circumstances.

2. Further, or alternatively by reason of making of the Prospectus Omissions and/or Prospectus Misrepresentations and/or the failure to disclose the effect of the New Circumstances, recovery of loss or damage pursuant to:
 - a. section 1041H(1) of the Corporations Act; and
 - b. section 12DA(1) of the ASIC Act.



Against the Second Respondent

3. Recovery for loss and damage incurred by reason of the First Respondent's contraventions of s 728(1) of the Corporations Act on the basis it was a person involved in the First Respondent's contraventions in accordance with s 729(1) of the Corporations Act.
4. Further, or alternatively by reason of it performing accounting services upon which the information was presented in the Prospectus, loss and damage pursuant to:
 - a. section 1041H(1) of the Corporations Act; and
 - b. section 12DA(1) of the ASIC Act.

Against both Respondents

5. Interest.
6. Costs.
7. Such further or other relief as the Court may deem appropriate.

Questions common to claims of Group Members

The questions of law or fact common to the claims of the Group Members are:

1. Whether Prospectus Omissions were:
 - a. matters that the Applicant, the Group Members and their advisors reasonably required to make an informed assessment of the financial position and prospects of the First Respondent within the meaning of that concept in s.710 of the Corporations Act;



- b. matters that Applicant, the Group Members and/or their advisors reasonably expected to find in the Prospectus (within that concept in s.710 of the Corporations Act) by reason of the fact that (at the very least) AASB 9 was soon after the date of the Prospectus to become compulsory as noted in the Prospectus.
2. Whether the Prospectus Misrepresentations were misleading and deceptive.
3. Whether the New Circumstances were:
 - a. new circumstances that arose after the Prospectus was lodged with ASIC and before each of the opening date for the Offer and lodgement for the replacement Offer Specific Prospectus with ASIC and when the Applicant and Group Members accepted the Offer or the Offer closed;
 - b. required to be included in the Prospectus for the purposes of s 728(1)(c) of the Corporations Act;
4. Whether the Prospectus Omissions constituted a breach of s 728(1)(b) of the Corporations Act.
5. Whether the Prospectus Misrepresentations constituted a breach of s 728(1)(a) of the Corporations Act.
6. Whether the effect of the New Circumstances were that the offer of the Bonds pursuant to the Prospectus was in breach of s 728(1)(c) of the Corporations Act.
7. Whether, by reason of the First Respondent's breaches of s 728(1) of the Corporations Act, the Applicant and the Group Members have an entitlement to recover loss or damage from both Respondents pursuant to s 729(1) of the Corporations Act.
8. Further, or alternatively, whether by reason of the Prospectus Omissions and the Prospectus Misrepresentation, and/or alternatively, by the failure to disclose the effect of the New Circumstances, the Respondents engaged in conduct which was:



- a. in relation to financial products within the meaning of subsections 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - b. in trade or commerce, in relation to financial services within the meaning of s12DA(1) of the Australian Securities and Investments Act;
 - c. likely to induce persons in Australia to subscribe for or purchase financial products;
 - d. misleading or deceptive, or likely to mislead or deceive, in contravention of:
 - i. s1041H(1) of the Corporations Act;
 - ii. s12DA(1) of the ASIC Act.
9. If any contravention was a cause or a consequence referred to above, what is the measure of the loss and damage recoverable by a person in respect of any such contravention.

Representative action

10. The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976* on behalf of persons who:
- a. subscribed to the Bonds (either directly or through nominees or trustees) issued by the First Respondent under an Offer Specific Prospectus and Base Prospectus dated 26 June 2018;
 - b. suffered loss or damage by, or resulting from, the conduct of the Respondents pleaded below;
 - c. have entered into a litigation funding agreement, in respect of these proceedings, with Therium Litigation Finance Atlas AFP IC;



- d. have entered into a retainer agreement, in respect of these proceedings, with Hicksons Lawyers;
- e. are not:
- iii. the Respondents, a related party, a related body corporate or an associated entity;
 - iv. have not been directors, officers or employees of AXL;
 - v. persons listed in s 33E(2) of the FCA.

(Group Members)

11. As at the date of commencement of these proceedings there are 7 or more Group Members.

Applicant's address

The Applicant's address for service is:

Place: Hicksons Lawyers Level 24, 100 Barangaroo Avenue, Barangaroo NSW 2000.

Email: chris.moore@hicksons.com.au & chloe.ellis@hicksons.com.au

The Applicant's address is 3 Bilgola Avenue, BILGOLA BEACH NSW 2107.

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 20 August 2020

A handwritten signature in black ink that reads "Chris Moore".

Signed by Chris Moore
Lawyer for the Applicant

**Schedule**

No. of 2020

Federal Court of Australia
District Registry: New South Wales
Division: General

Applicant: **Compumod Investments Pty Limited as trustee for the
Compumod Pty Limited Staff Superannuation Fund**
3 Bilgola Avenue
BILGOLA BEACH NSW 2107

First Respondent: **A.C.N. 603 323 182 Limited (formerly Axesstoday
Limited) (Subject to a Deed of Company Arrangement)**
Deloitte Australia
Grosvenor Place
Level 9, 225 George Street
SYDNEY NSW 2000

Second Respondent: **PricewaterhouseCoopers Securities Limited**
Tower One International Towers Sydney
Level 17, 100 Barangaroo Avenue
BARANGAROO NSW 2000

Date: 20 August 2020