

ASIC v ISIGNTHIS LTD & ANOR VID 773/2020

Melbourne, 16th March 2021:

The Company refers to its announcement on 7 December 2020 relating to the commencement of proceedings by ASIC. The Company and its Managing Director have filed Defences, and ASIC has yesterday file its formal Reply, copies of which are attached.

The Company and its Managing Director are confident of their position as set out in their respective Defences.

Authorised by the Chairman and Managing Director.

About iSignthis Ltd

iSignthis Ltd is regulatory technology/ financial technology hybrid, specialising in software development for remote identity verification, payment authentication, transactional banking and payment processing. iSignthis provides an end-to-end on-boarding service for merchants, with a unified payment and identity service via our Payidentity™ and ISXPay® solutions, ad a retail electronic money service via flykk® (www.flykk.it)

iSignthis' subsidiaries include UK and EEA authorised eMoney Monetary Financial Institutions, offering card acquiring in the EEA and United Kingdom. ISXPay is a principal member of Mastercard International, Diners, Discover, ChinaUnionPay, JCB International and SEPA.

Probanx Solutions provides CORE banking and interbank network solutions for EEA/UK regulated financial institutions.

Read more about the company at our website www.isignthis.com. For more information, please contact: contact@isignthis.com

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/03/2021 9:43:12 AM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Defence - Form 33 - Rule 16.32
File Number: VID773/2020
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
ISIGNTHIS LIMITED & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 1/03/2021 9:43:19 AM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

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 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.



Defence

No. VID773/2020

Federal Court of Australia
District Registry: Victoria
Division: General

IN THE MATTER OF ISIGNTHIS LIMITED (ACN 075 419 715)

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

ISIGNTHIS LIMITED (ACN 075 419 715)

First Defendant

NICKOLAS JOHN KARANTZIS

Second Defendant

To the Statement of Claim dated 6 December 2020 (**Claim**), the First Defendant (**iSignthis**) says as follows:

Parties

1. It admits paragraph 1.
2. As to paragraph 2, iSignthis:
 - (a) admits paragraphs (a) and (b);
 - (b) says that, through its subsidiaries, it is a company carrying on business in the application software sector, offering remote identity verification, payment authentication with electronic money issue, transactional banking and payment processing capabilities; and

Filed on behalf of (name & role of party)	The First Defendant		
Prepared by (name of person/lawyer)	Colin Almond		
Law firm (if applicable)	HWL Ebsworth Lawyers		
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Level 8, 447 Collins Street, Melbourne VIC 3000
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Email: calmond@hwle.com.au

- (c) otherwise denies paragraph 2.
 - 3. It admits paragraph 3.
 - 4. It admits paragraph 4.
 - 5. As to paragraph 5, iSignthis:
 - (a) admits paragraph (a);
 - (b) denies paragraph (b); and
 - (c) says further that Authenticate BV is and was at all material times a wholly owned subsidiary of iSignthis BV, a company incorporated in the Netherlands which is wholly owned by iSignthis.
 - 6. It admits paragraph 6 and says further that:
 - (a) on 31 March 2017 the Central Bank of Cyprus authorised iSignthis eMoney Ltd to operate an electronic money institution which extends to the provision of payment services not related to the issue of electronic money (**Licence**);
 - (b) the terms of the Licence included, among other things, that iSignthis eMoney Ltd:
 - (i) shall not be able to provide services for the issue and/or of payment instruments before it becomes a member of Visa and/or Mastercard (paragraph 6 of the Licence);
 - (ii) is expected to inform the Central Bank of Cyprus if its application to become a member of those organisations is not approved (paragraph 6 of the Licence); and
 - (iii) is obliged to notify the Central Bank of Cyprus promptly of any change affecting the accuracy of the information, data and forms it has submitted to the Central Bank of Cyprus in order to be granted the authorisation for the operation of an electronic money institution, as well as the information, data and forms which shall be submitted in the future (Final paragraph of the Licence);
- and,

- (c) at all material iSignthis eMoney Ltd was required to comply with the Cypriot Electronic Money Law of 2012 which provided, among other things that:
- (i) “*Competent Authority*” relevantly means the Central Bank of Cyprus (Part I, section 2);
 - (ii) a person wishing to be authorised as an electronic money institution, shall submit an application to the Competent Authority accompanied with all documents and information specified by the Competent Authority by directive. The Competent Authority may at any time request an authorised money institution to submit any documents and information in order to verify that the electronic money institution complies with this Part (Part III, section 6(1));
 - (iii) an electronic money institution shall notify the Competent Authority without undue delay and at any time during its operation, of any amendment that affects the accuracy of the information, data and documents submitted by virtue of section 6(1) or section 10 (Part III, section 9(1));
 - (iv) the Competent Authority may revoke in whole or in part the authorisation of an electronic money institution if the electronic money institution does not comply with the requirements of Part III (Part III, section 17(1)); and
 - (v) in lieu of revocation or simultaneously with the commencement of revocation procedures, the Competent Authority may suspend in part or in whole the authorisation of an electronic money institution (Part III, section 18).

Acquisition and Performance Shares

7. It admits paragraph 7 and says further that the share sale agreement was:
- (a) the subject of a Notice of General Meeting and Explanatory Memorandum dated 17 November 2014, an Independent Expert’s Report prepared by RSM Bird Cameron in November 2014 (**Bird Cameron Expert Report**) and a Prospectus dated 22 December 2014 (**Prospectus**); and
 - (b) approved on 22 December 2014 by the shareholders of the company (then known as Otis Energy Limited).

8. As to paragraph 8, iSignthis:
- (a) denies paragraph (a) and says further that 311,903,934 fully paid ordinary shares were issued, which included 3,370,600 fully paid ordinary shares in satisfaction of the cash shortfall as part of the consideration; and
 - (b) says that subject to the production of the Prospectus at trial, the full terms of which will be relied on, it admits paragraphs (b) to (d) and says further that the 112,222,222 Class A Performance Shares, 112,222,222 Class B Performance Shares and 112,222,222 Class C Performance Shares were to be issued to iSignthis Ltd BVI as part of the consideration for the acquisition on the terms and conditions in section 14.2 of the Prospectus (clause 6.7, page 24).
9. It denies paragraph 9 and says further that:
- (a) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$5,000,000 (**Milestone A**), each Class A Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(1)(a), page 92 of the Prospectus);
 - (b) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$7,500,000 (**Milestone B**), each Class B Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(3)(a), page 94 of the Prospectus);
 - (c) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$10,000,000 (**Milestone C**), each Class C Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(5)(a), page 96 of the Prospectus);
 - (d) Milestone A, Milestone B and Milestone C each had to be achieved on or before 5:00pm on the date which was 14 days after the release of the audited financial

reports for the third full financial year after Completion (as defined in the prospectus) being the financial year 2017/2018 (**Expiry Date**) (clauses 14.2(1)(b), 3(b) and 5(b), pages 92, 94, and 96 respectively of the Prospectus); and

- (e) to extent that the Class A Performance Shares, Class B Performance Shares and Class C Performance Shares had not converted into fully paid ordinary shares in the capital of iSignthis on or before the Expiry Date, then:
 - (i) all such unconverted Class A Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(1)(d), page 93 of the Prospectus);
 - (ii) all such unconverted Class B Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(3)(d), page 95 of the Prospectus); and
 - (iii) all such unconverted Class C Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(5)(d), page 97 of the Prospectus).

10. As to paragraph 10, iSignthis:

- (a) says that the revenue of \$28,962 in paragraph (a) was for the 12 months to 30 June 2015, not the 6 months as alleged; and
- (b) otherwise admits paragraph 10.

11. As to paragraph 11, iSignthis says that as a result of the revenue achieved over the 6 month reporting period to 30 June 2018:

- (a) Milestone A, Milestone B and Milestone C were all achieved; and
- (b) the Class A Performance Shares, Class B Performance Shares and Class C Performance Shares converted into a total of 336,666,667 fully paid ordinary shares in iSignthis,

and otherwise denies paragraph 11.

12. As to paragraph 12, iSignthis:

- (a) admits that Red 5 Solutions Limited (BVI) is a company who had as a director and shareholder Andrew Karantzis, Director of Sales Operations at iSignthis and the brother of the second defendant (**Karantzis**);
- (b) admits that Icebreak Flow Global Limited is a company whose sole director and shareholder was Todd Richards, but says that he is the former Chief Financial Officer and Company Secretary of iSignthis;
- (c) admits that Vastium Holdings Limited is a company whose sole director and shareholder was Timothy Hart, the Chairman of iSignthis;
- (d) admits that Cili Padi Limited is a company whose sole director and shareholder was Scott Minehane, a non-executive director of iSignthis;
- (e) admits that Barnaby Ian Robert Egerton-Warburton is a non-executive director of iSignthis;
- (f) admits that Triple Smile International Limited is a company associated with Christakis Taoushanis, the Chairman of iSignthis eMoney Ltd, and says further that he is also a non-executive director of iSignthis;
- (g) admits that Konstantina Karantzis is the mother of Karantzis;
- (h) admits that James Lindsay Cameron is the Chief Risk Officer of iSignthis;
- (i) denies that John Hyun-Suk Kim is the Chief Engineer of iSignthis and says that he is the former Chief Engineer of iSignthis;
- (j) admits that Luckystar Group Ltd is a company associated with Or Kapelinsky but says that he is a former director, Executive General Manager and Chief Operating Officer of iSignthis eMoney Ltd;
- (k) admits that Domenic Melo is the Chief Product Officer of iSignthis;
- (l) otherwise denies paragraph 12;

- (m) says that of the 336,666,667 ordinary shares which converted from the “*Performance Shares*”:
- (i) pursuant to pre-existing arrangements:
- (A) Red 5 Solutions Limited (BVI), was to receive 100,000,000 ordinary shares;
 - (B) Icebreak Flow Global Limited was to receive 7,350,783 ordinary shares;
 - (C) Vastium Holdings Limited was to receive 5,684,097 ordinary shares; and
 - (D) Cili Padi Limited was to receive 4,375,466 ordinary shares;
- (ii) as a bonus to directors and executives of iSignthis:
- (A) Barnaby Egerton-Warburton was to receive 2,000,000 ordinary shares;
 - (B) Triple Smile International Limited was to receive 2,000,000 ordinary shares;
 - (C) Vastium Holdings Limited was to receive 2,000,000 ordinary shares;
 - (D) Cili Padi Limited was to receive 2,000,000 ordinary shares;
 - (E) Icebreak Flow Global Limited was to receive 10,000,000 ordinary shares; and
 - (F) James Lindsay Cameron, John Hyun-Suk Kim, Dominic Melo and Luckystar Group Ltd were each to receive 500,000 ordinary shares;
- and
- (iii) iSignthis Ltd BVI was to receive the remaining 199,256,321 ordinary shares,
- and

(n) says further that:

- (i) before the 336,666,667 ordinary shares were issued, iSignthis Ltd BVI held a total of 49,601,667 shares in iSignthis on trust for Red 5 Solutions Limited (BVI), Icebreak Flow Global Limited, Vastium Holdings Limited, Cili Padi Limited and Konstantina Karantzis; and
- (ii) when the 336,666,667 ordinary shares were issued, Karantzis directed that the total ordinary shares to be transferred to iSignthis Ltd BVI be reduced by 49,601,667 and those shares be used to satisfy the obligations of iSignthis Ltd BVI such that:
 - (A) iSignthis Ltd BVI received 149,654,654 ordinary shares;
 - (B) Red 5 Solutions Limited received 130,000,000 ordinary shares;
 - (C) Icebreak Flow Global Limited received 23,615,783 ordinary shares;
 - (D) Vastium Holdings Limited received 15,291,597 ordinary shares;
 - (E) Cili Padi Limited received 10,104,633 ordinary shares;
 - (F) Barnaby Ian Robert Egerton-Warburton received 2,000,000 ordinary shares;
 - (G) Triple Smile International Limited received 2,000,000 ordinary shares;
 - (H) Konstantina Karantzis received 2,000,000 ordinary shares;
 - (I) James Lindsay Cameron received 500,000 ordinary shares;
 - (J) John Hyun-Suk Kim received 500,000 ordinary shares;
 - (K) Luckystar Group Limited received 500,000 ordinary shares; and
 - (L) Domenic Melo received 500,000 ordinary shares.

PARTICULARS

The parties to whom the ordinary shares were transferred, and the number of ordinary shares transferred, were recorded in a spreadsheet

held by iSignthis, which was provided to ASIC on 25 October 2019.

The “integration agreements”

13. As to paragraph 13, iSignthis:

- (a) says that Authenticate BV entered into services agreements with:
 - (i) Corp Destination Pty Ltd (**Corp Destination**) dated 15 May 2018 (**Corp Destination Services Agreement**);
 - (ii) Fcorp Services Ltd (**Fcorp**) dated 30 May 2018 (**Fcorp Services Agreement**);
and
 - (iii) IMMO Servis Group s.r.o (**IMMO**) dated 6 June 2018 (**IMMO Services Agreement**);

respectively for the provision by Authenticate BV of:

- (A) licences, software, services, development, integration and maintenance;
 - (B) technical support services;
 - (C) 6 months software support; and
 - (D) training;
- (b) says that Authenticate BV and Corp Destination also entered into an agreement for variations to the trading platform configuration to be undertaken by Authenticate BV (**Corp Destination Variation**); and

PARTICULARS

- A. The Corp Destination Variation was oral and in writing. Insofar as it was oral it was discussed between Andrew Karantzis and Gilad Shaelem of Corp Destination before 23 May 2018. Insofar as it was in writing, it was recorded in a letter dated 23 May 2018, which was sent by Viera Mylonas

of customer services via Autotask. A copy of the letter was resent via Autotask on 7 June 2018.

- B. The letter sent on 23 May 2018 via Autotask is no longer in the possession of iSignthis. A screenshot of the document and its metadata is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.
- C. The letter resent on 7 June 2018 via Autotask is no longer in the possession of iSignthis.

(c) says further that:

- (i) before Corp Destination entered into the Corp Destination Services Agreement and Corp Destination Variation with Authenticate BV, it had already executed a written agreement with Authenticate Pty Ltd for the provision of payment facilitation and identity services; and
- (ii) before Fcorp entered into the Fcorp Services Agreement with Authenticate BV, it had already executed a written agreement with iSignthis eMoney Ltd for the provision of eMoney accounts and Merchant eMoney Payment Services for payment to Suppliers;

PARTICULARS

- A. The written agreement with Corp Destination was signed on or about 17 April 2018. A copy of the agreement is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.
- B. The written agreement with Fcorp was signed on 25 April 2018. A copy of the agreement is in the possession of the solicitors acting for iSignthis and may be

inspected during business hours by appointment.

and,

(d) otherwise denies paragraph 13.

14. As to paragraph 14, iSignthis:

(a) admits that each of the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement was signed by Karantzis; and

(b) otherwise denies paragraph 14.

15. As to paragraph 15, iSignthis:

(a) says that:

(i) pursuant to the Corp Destination Services Agreement and the Corp Destination Variation, Corp Destination agreed to pay Authenticate BV a total of €526,525, which included:

(A) €270,000 for a trading platform licence according to the agreed specifications;

(B) €2,500 for training;

(C) €2,200 per calendar month (for 6 months) for end licensee support;

(D) €2,200 per calendar month (for 6 months) for CRM maintenance; and

(E) €183,025 for variations to the trading platform configuration to be undertaken by Authenticate BV;

PARTICULARS

A. The fees and associated services in paragraphs (A) to (D) were enumerated in the service agreement dated 15 May 2018.

B. The fee and associated services in paragraph (E) were enumerated in the letter dated 23 May 2018, which was resent on 7 June 2018.

(ii) pursuant to the Fcorp Services Agreement, Fcorp agreed to pay Authenticate BV a total of €478,500, which included:

(A) €405,000 for a trading platform licence according to the agreed specifications;

(B) €2,500 for training;

(C) €2,200 per calendar month (for 6 months) for end licensee support; and

(D) €2,200 per calendar month (for 6 months) for CRM maintenance; and,

(iii) pursuant to the IMMO Services Agreement, IMMO agreed to pay Authenticate BV a total of €900,000, which included:

(A) €421,100 for a trading platform licence according to the agreed specifications in respect of each of the two brands;

(B) €2,500 for training in respect of each brand;

(C) €2,200 per calendar month (for 6 months) for end licensee support in respect of each brand; and

(D) €2,200 per calendar month (for 6 months) for CRM maintenance in respect of each brand;

being a total committed amount of €1,905,025;

(b) says that:

(i) pursuant to the Corp Destination Services Agreement, subject to receipt of an invoice, by 22 May 2018 Corp Destination was required to pay €242,845;

- (ii) pursuant to the Fcorp Services Agreement, subject to receipt of an invoice, by 6 June 2018 Fcorp was required to pay €223,550; and
 - (iii) pursuant to the IMMO Services Agreement, subject to receipt of an invoice, by 13 June 2018 IMMO was required to pay €463,200;
 - (c) says further that, pursuant to the Corp Destination Variation, subject to receipt of an invoice, the fee of €183,025 was due within seven days of acceptance of the variations to the trading platform configuration to be undertaken by Authenticate BV; and
 - (d) otherwise denies paragraph 15.
16. As to paragraph 16, iSignthis:
- (a) says that pursuant to the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement, in the period from 1 April 2018 to 30 June 2018 Authenticate BV issued invoices totalling €1,905,025; and
 - (b) otherwise denies paragraph 16.
17. It denies paragraph 17 and says further that:
- (a) on 18 June 2018, Karantzis asked Karolos Shabbenderian to raise the invoices referred to in paragraph 4 of the particulars under paragraph 16 of the Claim; and
 - (b) on 19 June 2018, Karantzis asked Andrew Karantzis to send the invoices referred to in paragraph 4 of the particulars under paragraph 16 of the Claim to the respective parties.

PARTICULARS

- A. The request on 18 June 2018 was in writing.
It was contained in an email sent by Karantzis to Karolos Shabbenderian, and copied to Todd Richards and Andrew Karantzis.
- B. The request on 19 June 2018 was in writing.
It was contained in an email sent by Karantzis

to Andrew Karantzis, and copied to Todd Richards and Karolos Shahbenderian.

18. As to paragraph 18, iSignthis:

(a) says that it:

(i) told its auditors, among other things, that:

(A) it had made available to them all financial records and related data, other information, explanations and assistance necessary for the conduct of the audit as well as minutes of all meetings of the shareholders, directors and committees of directors;

(B) revenue had been recognised in accordance with AASB118, and where applicable, its assessment of the percentage completion accurately reflects the status of the project in accordance with project milestones; and

(C) the work required under all contracts with customers for the provision of integration, establishment, project and platform services had been completed by 30 June 2018;

PARTICULARS

The statements were in writing. They were made in paragraphs 1, 46 and 47 of the letter dated 28 August 2018 signed by both Karantzis and Todd Richards, who at the time was the Chief Financial Officer and Company Secretary of iSignthis.

(ii) gave its auditors a copy of the Certificates of Practical Completion, signed on behalf of Corp Destination, Fcorp and IMMO respectively, which certified that all work required had been satisfactorily completed by 30 June 2018; and

- (iii) gave its auditors a copy of the PCI DSS Compliance Assessment Certificates which had been signed on behalf of Corp Destination, Fcorp and IMMO respectively;

PARTICULARS

The PCI DSS Compliance Assessment Certificates were in writing. A copy of the documents is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (b) says that revenue from the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement was included in the audited iSignthis 2018 Annual Report released to the market on 29 August 2018, which said (in note 5, on page 34), among other things, that:
- (i) under the heading “*Accounting policy for revenue recognition*”, revenue is recognised when it is probable that the economic benefit will flow to the consolidated entity and the revenue can be reliably measured. Revenue is measured at the fair value of the consideration received or receivable;
 - (ii) consolidated revenue for the financial year ended 30 June 2018 was \$6,338,969, of which \$5,780,429 was in respect of “*Contracted service fees*”;
 - (iii) “*Contracted service fees*” included revenue generated from “*Know Your Customer (KYC) verification*”, “*Payment processing function*”, “*Settlement of payments*” and “*Integration, Establishment, Project and Platform Fees*”; and
 - (iv) revenue generated from the initial integration and merchant operational set up is billed on contract signing and service go live, recognised once the service has been performed;
- (c) says further that both the document entitled “*Report to shareholders for the Quarter Ended 30th June 2018*” dated 31 July 2018 and the letter from Karantzis to shareholders, which was included in the iSignthis 2018 Annual Report released to the

market on 29 August 2018, said that revenue for the 6 months from 1 January 2018 to 30 June 2018 was in excess of \$5.5 million and that:

“The Company is pleased to advise that it has created market opportunities to explore and generate new revenue streams in the quarter ending 30 June 2018. These new revenue streams involving eMoney accounts and direct service integration on behalf of existing and new merchants and other forms of settlement and payment services to merchants operating in high risk industries will provide the following benefits:

- *eMoney accounts now servicing several customers, with remittance services to within and outside the EEA.*
- *Additional one off revenues to new merchants enabling direct connection to our core services. These revenues are at low margin and have a direct correlation with an increase in cost of goods sold but they will enable long term, consistent revenues via our core services and creates a stickier relationship with the merchant.*
- *A shorter integration cycle. By directly enabling platform software provided by third parties with the ISX services, the Company is able to reduce the time involved that would normally be the case if the merchant purchased the platform licence directly from the provider, integrated to their own systems and then integrated with ISX.*

ISX will benefit from future delivery of core services to the merchant and has identified further market opportunities by way of providing banking services to high risk merchants under the EMI licence/EEA Authorisation issued by the Central Bank of Cyprus.

.....

The GPTV processed by the Company did not experience the growth expected by the Company, due to a number of unforeseeable events, including a technical issue with our

suppliers, which meant that growth was intentionally subdued until such time as the Company was satisfied that it had resolved the issue.

....

Until such time as our Tier 1 connections are concluded across the entire network, gross profit margins will be impacted by our temporary supply chain solutions.”

and,

(d) otherwise denies paragraph 18.

19. It admits paragraph 19 and says further that:

- (a) Karantzis is not, and was not at the time, a member of the Audit Committee;
- (b) Karantzis did not attend the Audit Committee meeting held on 23 August 2018;
- (c) the Audit Committee meeting held on 23 August 2018 was attended by:
 - (i) Scott Minehane, Tim Hart, Barnaby Egerton-Warburton and Todd Richards of iSignthis;
 - (ii) Brad Taylor and Brad Krafft of Grant Thornton; and
 - (iii) Mathew Watkins of Leydin Freyer;
- (d) at the Audit Committee meeting:
 - (i) the Auditor’s Findings Report was also reviewed and it was noted that there were no significant findings;
 - (ii) the Audit Committee discussed certain elements of the report and Grant Thornton said that:
 - (1) they were satisfied as to the current process of reporting and treatment of revenue;
 - (2) an increase in revenue contributed to a strong focus by them on revenue; and

- (3) they were satisfied that the revenue was accurately recorded and that revenue targets in place and disclosed in the Prospectus had been met;

PARTICULARS

The statements are recorded in section 3.2 of the Minutes of the August 2018 Meeting (**Minutes**). A copy of the Minutes is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (iii) it was also resolved to recommend that the Board of Directors accept the Management Representation Letter and that it be signed;

and,

- (e) the Auditor's Findings Report also confirmed, among other things, that:
- (i) they had been presented with all necessary books and records and explanations requested of management;
 - (ii) they had not detected any material deficiencies in the accounting policies disclosed;
 - (iii) there had not been any disagreements with management;
 - (iv) there were no difficulties encountered during the audit;
 - (v) there were no exceptions to the audit report; and
 - (vi) no discrepancies or instances of fraud had been identified.

20. It admits paragraph 20 and says further that each of Corp Destination, Fcorp and IMMO first entered into the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement respectively with iSignthis' wholly owned subsidiaries in the second half of the financial year ended 30 June 2018.

PARTICULARS

iSignthis refers to and repeat paragraphs 13(a) to 13(c) above and their respective particulars.

21. As to paragraph 21, iSignthis:

- (a) admits that it did not record any revenue as having been received from Corp Destination or IMMO but says that revenue of €14,136 was recorded as having been received from IMMO's successor, BitConvert Ltd;
- (b) denies paragraph (b) and says that revenue of €3,737 was recorded as having been received from Fcorp; and
- (c) says further that:
 - (i) in April 2018, Corp Destination had executed a written agreement with Authenticate Pty Ltd for the provision of payment facilitation and identity services;
 - (ii) in April 2018, Fcorp had executed a written agreement with iSignthis eMoney Ltd for the provision of eMoney accounts and Merchant eMoney Payment Services for payment to Suppliers; and
 - (iii) in July 2018, BitConvert Ltd had executed a written agreement for the provision of payment facilitation and identity services in respect of the platform supplied to IMMO, trading as TheChange.io, as well as a written agreement for the provision of eMoney and Client eMoney Payment Service eMoney accounts;

PARTICULARS

- A. Insofar as paragraphs (c)(i) and (c)(ii) are concerned, iSignthis refers to and repeats the particulars under paragraph 13(c) above.
- B. The written agreement with BitConvert Ltd for the provision of payment facilitation and identity services was signed on 2 July 2018. The written agreement with BitConvert Ltd

for the provision of eMoney and Client eMoney Payment Service eMoney accounts was signed on or about 17 August 2018. A copy of the agreements is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (iv) in the 6 month period from 1 July 2018 to 31 December 2018:
- (A) Corp Destination failed to obtain an Australian Financial Services Licence that it was seeking and needed to conduct its intended business; and
 - (B) there was a substantial decline in the revenue of iSignthis due to, among other things, the Kobenhavns Andelkasse Bank (**KAB**) issue, a technical issue caused by Apple as well as decisions made by National Australia Bank Limited and Worldline to impose limits on particular transaction types.

PARTICULARS

- A. Insofar as the KAB issue is concerned, iSignthis refers to and repeats paragraphs 28(e)(i) to 28(e)(v) below.
- B. The technical issue arose because of changes made by Apple to privacy settings, which prevented users from accessing the iSignthis payment website via iFrame.
- C. Insofar as the decisions are concerned, National Australia Bank Limited and Worldline imposed limits on particular transaction types that they would process, being card transaction types MCC 6211 & 6051. At the time, National Australia Bank Limited was the regulated financial

institution for clearing and settling the Australian card transactions of Authenticate Pty Ltd and Worldline was the regulated financial institution for clearing and settling the European card transactions of iSignthis eMoney Ltd.

- (v) the platforms supplied to Fcorp and IMMO resulted in iSignthis processing \$43,851,845 million Gross Processed Turnover Volume (**GPTV**) between these platforms and receiving combined revenue of \$1,057,068 in the financial year ended 31 December 2019;
- (vi) iSignthis would not have earned the revenue referred to in paragraph (v) above if Authenticate BV had not entered into the Fcorp Services Agreement and IMMO Services Agreement; and
- (vii) by integrating iSignthis' platforms with third party CRM systems integrated with either a trading platform or exchange platform in the second half of the financial year ended 30 June 2018:
 - (A) iSignthis gained valuable knowledge that it has since been able to deploy for subsequent customers who have elected to use the same or similar third party CRM system integrated with either a trading platform or exchange platform; and
 - (B) this has enabled iSignthis to connect new customers using, or who are wanting to use, the same or similar third party CRM system integrated with either a trading platform or exchange platform much faster than it would otherwise have been able to do.

The “out-sourcing agreements”

22. iSignthis denies paragraph 22 and says further that:

- (a) Authenticate BV entered into services agreements with:
 - (i) Fino Software Technologies Ltd (**Fino**) dated 15 May 2018 (**First Fino Services Agreement**);

- (ii) Fino dated 30 May 2018 (**Second Fino Services Agreement**); and
 - (iii) Gibi Tech Ltd (**Gibi Tech**) dated 7 June 2018 (**Gibi Tech Services Agreement**);
- (b) the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement also required Fino and Gibi Tech respectively to provide additional services in the form of “*Integration Support to iSignthis*”; and
- (c) the variations to the trading platform configuration, which were the subject of the Corp Destination Variation, was not included in the services to be provided by Fino to Authenticate BV.
23. As to paragraph 23, iSignthis:
- (a) admits that the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement respectively were dated on or around the same day as the relevant corresponding Corp Destination Services Agreement, Fcorp Services Agreement and IMMO Services Agreement;
 - (b) denies paragraph (b) and says that:
 - (i) the First Fino Services Agreement and Second Fino Services Agreement were similar to the Corp Destination Services Agreement and Fcorp Services Agreement; and
 - (ii) Appendix A in the Gibi Tech Services Agreement was substantially different to Appendix A in the IMMO Services Agreement;
 - (c) says that the fees payable by Authenticate BV to each of Fino and Gibi Tech were different to the fees receivable by Authenticate BV from Corp Destination, Fcorp and IMMO as follows:
 - (i) for services in respect of Corp Destination, the fees payable by Authenticate BV to Fino totalled €316,000, being:
 - (A) €270,000 for the trading platform licence, which was the same amount charged by Authenticate BV to Corp Destination;

- (B) €2,500 for training, which was the same amount charged by Authenticate BV to Corp Destination;
 - (C) €19,500 for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to Corp Destination;
 - (D) €2,000 per month for 6 months licence support, which was instead charged by Authenticate BV to Corp Destination in the amount of €2,200 per month for 6 months licence support; and
 - (E) €2,000 per month for 6 months CRM maintenance, which was instead charged by Authenticate BV to Corp Destination in the amount of €2,200 per month for 6 months;
- (ii) for services in respect of Fcorp, the fees payable by Authenticate BV to Fino totalled €442,000, being:
- (A) €395,000 for the trading platform licence, which was instead charged by Authenticate BV to Fcorp in the amount of €405,000;
 - (B) €2,500 for training, which was the same amount charged by Authenticate BV to Fcorp;
 - (C) €20,500 for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to Fcorp;
 - (D) €2,000 per month for 6 months licence support, which was instead charged by Authenticate BV to Fcorp in the amount of €2,200 per month for 6 months licence support; and
 - (E) €2,000 per month for 6 months CRM maintenance, which was instead charged by Authenticate BV to Fcorp in the amount of €2,200 per month for 6 months;

- (iii) for services in respect of IMMO, the fees payable by Authenticate BV to Gibi Tech totalled €884,000 for two brands, being:
 - (A) €395,000 for the trading platform licence (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €421,100 for the trading platform licence (per each brand);
 - (B) €2,500 for training (per each brand), which was the same amount charged by Authenticate BV to IMMO (per each brand);
 - (C) €20,500 (per each brand) for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to IMMO;
 - (D) €2,000 per month for 6 months licence support (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €2,200 per month for 6 months licence support (per each brand); and
 - (E) €2,000 per month for 6 months CRM maintenance (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €2,200 per month for 6 months (per each brand);
- (d) says further that:
 - (i) pursuant to the agreements with each of Fino and Gibi Tech, subject to receipt of an invoice, Authenticate BV agreed to pay a percentage of the fees for the trading platform licences, training and “*Integration Support to iSignthis*” within 7 days of execution of the respective agreements;
 - (ii) whereas, subject to receipt of an invoice, each of Corp Destination, Fcorp and IMMO agreed to pay Authenticate BV a percentage of the fees for the trading platform licences, training and licence support within 7 days of execution of the respective agreements;
- (e) admits that Karantzis signed the First Fino Services Agreement and the Gibi Tech Services Agreement; and
- (f) otherwise denies paragraph 23.

24. As to paragraph 24, iSignthis:

- (a) says that the costs in respect of the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement were included in the audited iSignthis 2018 Annual Report released to the market on 29 August 2018;
- (b) says that the iSignthis 2018 Annual Report recorded cost of sales for the financial year ended 30 June 2018 in the amount of \$4,363,097 compared to cost of sales for the financial year ended 30 June 2017 in the amount of \$263,252 (note 6 on page 35);
- (c) says further that both the document entitled “*Report to shareholders for the Quarter Ended 30th June 2018*” dated 31 July 2018 and the letter from Karantzis to shareholders, which was included in the iSignthis 2018 Annual Report, said that the additional one off revenues in the quarter ending 30 June 2018 “... *have a direct correlation with an increase in cost of goods sold...*”; and

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iSignthis refers to and repeat the italicised text in paragraph 18(c) above.

- (d) otherwise denies paragraph 24.

The alleged “One-off Revenue Representation”

25. As to paragraph 25, iSignthis:

- (a) says that on 31 July 2018 and 3 August 2018 it said that the unaudited management accounts reflected revenue in the period from 1 April 2018 to 30 June 2018 in excess of \$3.95 million; and
- (b) otherwise denies paragraph 25.

26. As to paragraph 26, iSignthis:

- (a) denies paragraph 26; and
- (b) says that:
 - (i) page 3 of the written presentation, headed “*Quarterly summary*”, did not contain the alleged representation and, in fact, said “...*our Cost of Goods have*

temporarily increased to facilitate sustainable long term growth under unexpected conditions”;

- (ii) page 6 of the written presentation, headed “*Discussing the ‘Cash to Revenue Lag’*”, dealt with the issues faced by iSignthis generally, not specifically in the period from 1 April 2018 to 30 June 2018; and
 - (iii) page 8 of the written presentation, headed “*Recurring Revenue & Margins*”, dealt with contributions to recurring revenue, including anticipated GPTV being greater than \$600 million, and did not contain the alleged representation.
27. Save that iSignthis admits that shares in the company are a “*financial product*” within the meaning of sections 763A and 764A of the Corporations Act 2001 (Cth) (**Corporations Act**), it denies paragraph 27.
28. As to paragraph 28, iSignthis:
- (a) denies paragraph 28;
 - (b) refers to and repeats paragraphs 18(b), 18(c), 24 and 26(b) above;
 - (c) says that the oral statement, made during the 3 August 2018 briefing, expressly referred the listener to the written presentation;
 - (d) says that as at 3 August 2018, it:
 - (i) had announced a change in its financial reporting period from 30 June to 31 December;
 - (ii) had not yet fully appreciated the impact which the KAB, Worldline and Apple issues would have on its ability to generate revenue from GPTV using its Tier 2 payment network;
 - (iii) reasonably expected that its capability to process GPTV using its Tier 2 payment network was imminent such that one-off integration fees would in fact be less than 15% of revenue; and
 - (iv) still expected to receive the significant anticipated GPTV revenue in the six months ending on 31 December 2018;

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The change in iSignthis' financial year from the Australian standard 1 July to 30 June to the European position of reporting on a calendar basis was approved by ASIC and announced to the market on 24 April 2018.

and,

- (e) says further that, on 26 September 2018, iSignthis told the market that:
- (i) information which it had received from the Danish State administration company for banks meant that iSignthis' clearing and settlement of its partner card networks via KAB was no longer possible;
 - (ii) the KAB issue had already impacted processing, clearing and settlement intermittently during July and August, and most of September 2018; as iSignthis eMoney Ltd no longer had access to accounts at KAB in which it could receive deposits, and could thus not receive settlements from card schemes or Worldline;
 - (iii) iSignthis' revenue and cash flows will be impacted in that quarter as a consequence of settlement funds being returned up the supply chain and settlement being deferred or via alternate (non company) channels;
 - (iv) September quarter receipts will be down significantly from the last quarter, with cash receipts possibly as low as \$1.2 million;
 - (v) the KAB issue meant that iSignthis will not be processing European Union card transactions, which would have a corresponding impact on revenue, until its own central bank facilities are commissioned; and
 - (vi) iSignthis' core banking and Tier 1 card processing systems will be going live progressively through October into early December, with Electronic Money Accounts going live before the end of October,

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The statements were in writing, contained in an announcement released on the Market Announcements Platform on 26 September 2018. A copy of the document is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

such that a reasonable person would have understood that the statement on page 6 of the presentation in relation to “*One off Fees / One-off Setups (Integrations)*” would be affected and would not have continued to consider the fees as a fixed percentage of revenue, as the anticipated GPTV revenue component of the calculation was no longer known.

29. As to paragraph 29, iSignthis says that:

- (a) paragraph 29 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 29.

30. As to paragraph 30, iSignthis says that:

- (a) paragraph 30 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 30.

31. As to paragraph 31, iSignthis says that:

- (a) paragraph 31 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 31.

32. As to paragraph 32, iSignthis says that:

- (a) paragraph 32 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 32.

Alleged material non-disclosure (one-off revenue/costs)

33. As to paragraph 33, iSignthis:
- (a) says that by 31 July 2018 it was aware that the unaudited management accounts reflected revenue in the period from 1 April 2018 to 30 June 2018 in excess of \$3.95 million; and
 - (b) otherwise denies paragraph 33.
34. As to paragraph 34, iSignthis:
- (a) refers to and repeats paragraphs 18(b) and 18(c) above;
 - (b) refers to and repeats paragraph 24 above; and
 - (c) otherwise denies paragraph 34.
35. As to paragraph 35, iSignthis:
- (a) denies paragraph 35;
 - (b) refers to and repeats paragraphs 18(b) and 18(c) above;
 - (c) refers to and repeats paragraph 24 above; and
 - (d) says further that:
 - (i) at all material times the Australian Accounting Standards did not require companies to separately report one-off revenue or one-off costs;
 - (ii) at all material times Appendix 4C entitled “*Quarterly report for entities subject to Listing Rule 4.7B*” and the ASX Listing Rules did not require companies to separately report one-off revenue or one-off costs;
 - (iii) information is generally considered not to be market sensitive if it appears to have moved the market price of the entity’s securities (relative to the prices in the market generally or in the entity’s sector) by roughly 5% or less, and the materiality threshold is 10%, or close to it, for smaller entities;

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Section 8.7 of ASX Guidance Note 8.

- (iv) it is actual and anticipated GPTV which affects the price or value of iSignthis' shares, not revenue generated from "*Integration, Establishment, Project and Platform Fees*";
- (v) the revenue earned from the Corp Destination Services Agreement, Fcorp Services Agreement and IMMO Services Agreement contracts between Authenticate BV and each of Corp Destination, Fcorp and IMMO respectively was insignificant when properly considered in context, both temporally and relative to the anticipated GPTV; and
- (vi) although the revenue earned from each of those three contracts contributed to the conversion of the "*Performances Shares*" to ordinary shares being triggered (through the achievement of the milestones set out in the Prospectus), the conversion of the "*Performance Shares*" to ordinary shares did not have a material effect on the price or value of iSignthis' shares.

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- A. On 30 July 2018 the price of iSignthis' shares closed at \$0.215.
- B. On 31 July 2018 iSignthis told the market (in its "*Report to shareholders for the Quarter Ended 30th June 2018*") that:
 - (a) the GPTV processed by the company did not experience the growth expected by the company due to a number of unforeseeable events, including technical issues with its suppliers; and
 - (b) based on the unaudited revenue for the 6 months from 1 January 2018 to 30 June 2018, it estimated that the requirements for all three tranches of the "*Performance*

Shares” would be met such that 336,666,667 ordinary shares would be issued in the September quarter period, taking the total number of shares on issue for the company to 1,004,832,159.

- C. On 31 July 2018 the price of iSignthis’ shares closed at \$0.205.
- D. In the circumstances set out in paragraphs (A) and (C) above, the information set out in paragraph (B) above only had a negative impact on iSignthis’ share price of 4.65%, which is significantly less than 10%.

36. As to paragraph 36, iSignthis:

- (a) denies paragraph 36;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above; and
- (d) refers to and repeats paragraph 35(d) above.

37. As to paragraph 37, iSignthis:

- (a) denies paragraph 37;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above;
- (d) refers to and repeats paragraph 35(d) above; and
- (e) say further that:
 - (i) on 27 November 2018, iSignthis gave ASIC a breakdown of the revenue reported as at 30 June 2018 (**Breakdown of Revenue Information**);

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The information was in writing. It was contained in a letter dated 27 November 2018 sent by iSignthis to Shanny Chen of ASIC. A copy of the letter is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (ii) after 27 November 2018, ASIC did not require iSignthis to disclose the Breakdown of Revenue Information to the market;
 - (iii) at all material times, if ASIC considered that the Breakdown of Revenue Information ought to be disclosed to the market it could have:
 - (A) pursuant to section 127(4)(B) of the *Australian Securities and Investments Commission Act 2001* (Cth), provided a copy of the letter dated 27 November 2018 to ASX and, pursuant to section 794D of the Corporations Act, directed ASX to release the letter to the market; or
 - (B) pursuant to section 798J of the Corporations Act, directed iSignthis to release the letter dated 27 November 2018 to the market, alternatively to release the breakdown of the revenue contained in that letter to the market,
- and,
- (iv) ASIC did not take any of the steps referred to in paragraph (iii) above.

38. It denies paragraph 38.

39. As to paragraph 39, iSignthis says that:

- (a) paragraph 39 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 39.

40. As to paragraph 40, iSignthis says that:
- (a) paragraph 40 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 40.
41. As to paragraph 41, iSignthis says that:
- (a) paragraph 41 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 41.
42. As to paragraph 42, iSignthis says that:
- (a) paragraph 42 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 42.
43. As to paragraph 43, iSignthis says that:
- (a) paragraph 43 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 43.
44. As to paragraph 44, iSignthis says that:
- (a) paragraph 44 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 40.
45. As to paragraph 45, iSignthis says that:
- (a) paragraph 45 does not make any allegations against it; and
 - (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 45.

Visa termination

46. iSignthis admits paragraph 46 and says further that:
- (a) on or about 26 June 2017, iSignthis announced that it had signed a Licence Agreement with JCB International Co Ltd, the international operations subsidiary of JCB, to process JCB transactions in the Single Euro Payments Area (**SEPA**) so as to

offer card acquiring, settlement and processing services to European Union and European Economic Area merchants;

- (b) on 4 August 2017, iSignthis eMoney Ltd was accepted as a Principal Member of Mastercard Inc;
- (c) on 4 October 2017, iSignthis eMoney Ltd notified the Central Bank of Cyprus that it has been accepted as a Principal Member of Visa Inc;
- (d) on 15 December 2017, iSignthis announced that the Poli Payments service was now integrated with the ISXPay[®] and Payidentity[™] platforms, which provided consumers with an alternative payment method to make “instant” payment to merchants instead of using cards;
- (e) on 2 October 2018, iSignthis announced that its wholly owned subsidiary, iSignthis eMoney (AU) Pty Ltd, had entered into a card not present/online agreement with UnionPay International, to act as a card acquirer of China UnionPay issued cards;
- (f) on 14 November 2018, iSignthis announced that it had executed an eCommerce Acquiring Business agreement with Diners Club International Ltd, which would allow the iSignthis group of companies located in Australia, the European Union and elsewhere in the world (except North America), by arrangement to acquire Diners Club and Discover Network branded cards directly, as an online (Tier 1) acquirer;
- (g) on 28 March 2018, iSignthis announced that its wholly owned subsidiary, iSignthis eMoney (AU) Pty Ltd, had executed a payment aggregation agreement with American Express Australia;
- (h) on 5 March 2020, iSignthis announced that it is the first Central Bank of Cyprus authorised institution to enable SEPA Instant payments processing for its customers, via its ISXPay[®] payments network; and
- (i) by 6 March 2020:
 - (i) iSignthis, through its wholly owned subsidiaries, was a member of five other card schemes, being Mastercard, JCB, China UnionPay, Amex as well as Diners and Discovery;

- (ii) the technical integrations of Mastercard, JCB, Diners and Discovery had all been completed; and
- (iii) iSignthis, through its wholly owned subsidiaries, was also able to provide merchants with access to payments via alternative methods including SEPA, Poli Payments, Sofort, WeChat and AliPay.

47. iSignthis admits paragraph 47 and says further that:

- (a) iSignthis, through its wholly owned subsidiary iSignthis eMoney (AU) Pty Ltd, was already a Principal Member of Mastercard for the Australian region, having executed a Principal Membership agreement in July 2018; and
- (b) before 6 March 2020, iSignthis did not process any transactions under the Principal Licence with Visa in Australia.

48. As to paragraph 48, iSignthis:

- (a) says that the letter dated 6 March 2020 (**6 March Letter**) was first received by email at 9:07pm on 9 March 2020 and it said that Visa had decided to suspend the Bank Identification Numbers of iSignthis and iSignthis eMoney Ltd in Europe and Australia effective immediately (**the suspension**);
- (b) says that the 6 March Letter did not give only one reason for the suspension as alleged in paragraph (b) of the Claim and that it will rely on the full terms and effect of the 6 March Letter at trial;
- (c) says that the 6 March Letter required iSignthis and iSignthis eMoney Ltd to provide it with information by no later than 16 March 2020;
- (d) says that the 6 March Letter said that the suspension would continue until such time as the required further information was provided to Visa's satisfaction;
- (e) says further that iSignthis and iSignthis eMoney Ltd disputed the matters raised by Visa in the 6 March Letter, including the alleged violation of Visa Rule ID #0000652;

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The dispute was raised in:

- (i) an email sent at 9:51pm on 9 March 2020 by Karantzis to Visa's nominated email address, copied to legal@isignthis.com and James Cameron. A copy of the email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment; and
- (ii) a letter dated 11 March 2020, which was signed by Karantzis in his capacity as Managing Director and Chief Executive Officer of iSignthis and iSignthis eMoney Ltd. The letter was sent at 9:40pm on 10 March 2020 to Visa's nominated email address, copied to legal@isignthis.com, James Cameron and directors@isignthis.com. A copy of the letter and email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

and,

- (f) otherwise denies paragraph 48.

49. As to paragraph 49, iSignthis:

- (a) says that the letter dated 17 April 2020 (**17 April Letter**) was received by email at 10:15pm on Friday, 17 April 2020;
- (b) says that, by the 17 April Letter, Visa purported to terminate its relationship with iSignthis and iSignthis eMoney Ltd in Australia and Europe and it will rely on the full terms and effect of the 17 April Letter at trial;
- (c) otherwise denies paragraph 49;

- (d) says further that, in the period from 17 April 2020 to 12 May 2020, iSignthis and iSignthis eMoney Ltd:
- (i) submitted a complaint to, and sought advice from, the European Central Bank (**ECB**) regarding Visa's purported termination;
 - (ii) considered the response received from the ECB and whether iSignthis eMoney Ltd should make an out-of-court complaint to, and seek redress from, the Central Bank of Cyprus, as the national competent authority in Cyprus where it is licensed;
 - (iii) disputed Visa's purported termination of the two separate relationships in Australia and Europe, asserted that Visa had failed to afford them procedural fairness, natural justice and due process and raised further concerns, including in relation to the factual accuracy and bona fides of the reasons given by Visa for the purported termination;
 - (iv) provided further information in support of their assertions of wrongful termination, requested that Visa withdraw the 17 April Letter and sought to have a discussion between representatives of the parties to resolve the matter;

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- A. The communication with the ECB was in writing. It was contained in an online submission made on 17 April 2020 by Karantzis to the ECB. A copy of the submission is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.
- B. The response from the ECB was in writing. It was contained in an email received at 8:27am on 20 April 2020 by Karantzis. A copy of the email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.
- C. Insofar as paragraphs (iii) and (iv) are concerned, the communications were in writing. They were contained in:

- (i) an email sent at 11:35am on 21 April 2020 by Karantzis to the email address nominated by Visa, and copied to numerous people at iSignthis, iSignthis eMoney Ltd and Visa;
- (ii) an email sent at 6:06pm on 27 April 2020 by Karantzis to Martin Elliot and Morhaf Mahrous of Visa, and copied to numerous other people at Visa as well as iSignthis and iSignthis eMoney Ltd including directors and executives;
- (iii) a letter dated 5 May 2020 signed by Karantzis in his capacity as Managing Director of iSignthis and iSignthis eMoney Ltd (**5 May Letter**);
- (iv) an email sent at 4:28pm on 6 May 2020 by Karantzis to Sam Gianniotis of Visa;
- (v) an email received at 8:42am on 7 May 2020 by Karantzis from Sam Gianniotis of Visa;
- (vi) an email sent at 8:48am on 7 May 2020 by Karantzis to Sam Gianniotis of Visa; and
- (vii) an email sent at 8:49pm on 7 May 2020 by Karantzis to Sam Gianniotis of Visa.

A copy of the correspondence is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (e) says that at 7:40pm on 12 May 2020 (Australian time) Visa told iSignthis and iSignthis eMoney Ltd that it had reviewed all of the further information provided in the 5 May Letter, had decided not to alter its decision of 17 April 2020 and would not review any further information relating to the basis of its decision to terminate (**12 May Letter**);

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The statements were in writing. They were contained in a letter dated 12 May 2020 which was received by email at 7:40pm that day. A copy of the email and letter is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

and,

(f) says further that:

(i) on 12 May 2020:

- (A) iSignthis and iSignthis eMoney Ltd acknowledged receipt of the 12 May Letter, said that there are no anti-money laundering (AML) breaches alleged or recorded against them in any jurisdiction, asserted that Visa was in fact engaging in anti-competitive practices and continued to seek a meaningful dialogue with a decision maker at Visa;
- (B) pursuant to its obligations under the Licence and the Cypriot Electronic Money Law of 2012 (as set out in paragraph 6 above), iSignthis eMoney Ltd notified the Central Bank of Cyprus of Visa's decision to terminate the relationship;

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- A. Insofar as paragraph (i)(A) above is concerned, the communication with Visa was in writing. It was contained in an email sent at 9:52pm on 13 May 2020 by Karantzis to the email address nominated by Visa, and copied to numerous people at iSignthis, iSignthis eMoney Ltd and Visa;
- B. The notification to the Central Bank of Cyprus was oral. It was made by Anna Ilina

of iSignthis eMoney Ltd during a telephone call to the Central Bank of Cyprus.

- (ii) on 15 May 2020, the Central Bank of Cyprus asked iSignthis eMoney Ltd to provide it with information;

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The requested was in writing. It was contained in an email received by Anna Ilina from Maria Kontou of the Central Bank of Cyprus. A copy of the email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (iii) on 18 May 2020, pursuant to its obligations under the Licence and the Cypriot Electronic Money Law of 2012 (as set out in paragraph 6 above), iSignthis eMoney Ltd submitted the requisite information to the Central Bank of Cyprus; and

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The information was submitted in writing. It was contained in a letter which Anna Ilina sent by email to Maria Kontou of the Central Bank of Cyprus, copied to various individuals at the bank as well as the email addresses exec@isignthis.com, directors@isignthis.com and legal@isignthis.com. A copy of the email and letter is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (iv) at about 8:00pm on Thursday, 21 May 2020 (Australian time), iSignthis eMoney Ltd received an acknowledgement from the Central Bank of Cyprus in respect of its submission.

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The acknowledgement was oral. It was made by Maria Kontou of the Central Bank of Cyprus to Anna Ilina of iSignthis eMoney Ltd during a telephone call.

Alleged false or misleading Visa information given to ASX

50. As to paragraph 50, iSignthis:

- (a) says that at 10:42pm on 7 May 2020 it received a query letter from ASX (**7 May Query Letter**), which was purportedly issued pursuant to Listing Rule 18.7;
- (b) admits that the 7 May Query Letter asked questions and sought information in relation to iSignthis' relationship with Visa and says further that it will rely on the full terms and effect of the 7 May Query Letter at trial; and
- (c) otherwise denies paragraph 50.

51. Save that iSignthis admits that on 25 May 2020 it sent ASX a response to the 7 May Query Letter (**25 May Letter**), it denies paragraph 51 and says further that:

- (a) iSignthis also sent ASX responses to the 7 May Query Letter on 13 May 2020 and 20 May 2020;
- (b) the 6 March Letter did not give only one reason for the suspension as alleged in paragraph 48(b) of the Claim and it will rely on the full terms and effect of the 6 March Letter at trial; and
- (c) it will rely on the full terms and effect of the 17 April Letter at trial.

52. As to paragraph 52, iSignthis says that:

- (a) paragraph 52 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 52.

53. As to paragraph 53, iSignthis:

- (a) says that on 5 August 2020 it received a further query letter from ASX (**5 August Query Letter**), which was purportedly issued pursuant to Listing Rule 18.7;

- (b) admits that the 5 August Query Letter asked further questions and sought further information in relation to iSignthis' relationship with Visa and says further that it will rely on the full terms and effect of the 5 August Query Letter at trial; and
 - (c) otherwise denies paragraph 53.
54. Save that iSignthis admits that on 17 August 2020 it sent ASX a letter (**17 August Letter**) which responded to the 5 August Query Letter, it denies paragraph 54 and says further that:
- (a) on 16 April 2020 Visa did in fact inform iSignthis of changes to the rules that were inconsistent with the business model of iSignthis;
 - (b) it will rely on the full terms and effect of the 17 April Letter at trial; and
 - (c) on 15 July 2020 and 22 July 2020 ASIC provided ASX with a copy of correspondence, between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter (**Visa Correspondence**), such that:
 - (i) as at 17 August 2020, ASX was already in possession of the 17 April Letter; and
 - (ii) having regard to the full terms and effect of the 17 August Letter read fairly as a whole, and in the context of the Visa Correspondence, the alleged statement was not false or misleading and ASX was not misled.

PARTICULARS

Insofar as subparagraph (a) is concerned, the information was in writing. It was contained in a document entitled "*Enhancement of High-Risk Brand Acquiring Rules*" dated 16 April 2020. A copy of the document is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

55. As to paragraph 55, iSignthis says that:
- (a) paragraph 55 does not make any allegations against it; and

(b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 55.

56. As to paragraph 56, iSignthis says that:

(a) paragraph 56 does not make any allegations against it; and

(b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 56.

Alleged material non-disclosure (Visa termination)

57. iSignthis denies paragraph 57 and refers to and repeats paragraph 49 above.

58. iSignthis denies paragraph 58 and says further that from 24 May 2020, alternatively 7 September 2020, the termination of the relationship with Visa was generally available information.

PARTICULARS

Karantzis refers to and repeats paragraphs
60(d)(ii) to 60(d)(iv) and 60(e) below.

59. iSignthis denies paragraph 59 and says further that:

(a) in the period from 17 April 2020 to 24 May 2020, trading in its shares was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:

(i) there was no risk to the integrity and efficiency of the market;

(ii) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;

(iii) there was no risk of trading in iSignthis' shares on an uninformed basis; and

(iv) there was no risk of insider trading in iSignthis' shares;

(b) by reason of the matters in paragraph 46 above, by 17 April 2020 iSignthis, through its wholly owned subsidiaries, was:

(i) a member of five other card schemes, being Mastercard, JCB, China UnionPay, Amex as well as Diners and Discovery; and

- (ii) also providing merchants with access to payments via alternative methods including SEPA, Poli Payments, Sofort, WeChat and AliPay;
- (c) by 17 April 2020, iSignthis, through its wholly owned subsidiaries, had also:
- (i) completed its own Tier 1 card scheme and central banking connections and infrastructure;
 - (ii) acquired UAB Baltic Banking Services, which:
 - (A) gave iSignthis access to SEPA Core and SEPA instant network capabilities; and
 - (B) allowed iSignthis to fully integrate its eMoney institutions and International Bank Account Number operations to the Central Bank of Lithuania;
- and,
- (iii) invested in NSX Limited, which operates Australia's second-largest market operator, and entered into a joint venture with NSX Limited in ClearPay;
- (d) Visa is not an AML regulator and, as at 17 April 2020, no anti-money laundering and counter-terrorism financing regulator, including in Australia, the United Kingdom and Europe, had imposed any sanction, issued any corrective notice or taken any regulatory action against iSignthis or any of its wholly owned subsidiaries; and
- (e) the announcement made on 4 October 2017 by iSignthis, that iSignthis eMoney Ltd had been granted Principal Membership of Visa Inc, did not have a material effect on the price or value of iSignthis' shares such that, having regard to:
- (i) all of the developments since 4 October 2017, including those set out in paragraphs (b) and (c) above; and
 - (ii) the matters set out in paragraph (d) above,

Visa's decision to terminate the relationship is unlikely to have had a material effect on the price or value of iSignthis' shares if trading had been permitted by ASX, which it was not.

PARTICULARS

- A. On 3 October 2017 the price of iSignthis' shares closed at \$0.15.
- B. On 4 October 2017 the price of iSignthis' shares closed at \$0.16.
- C. In the circumstances set out in paragraphs A and B above, the announcement on 4 October 2017 had a positive impact on iSignthis' share price of 6.67%, which is significantly less than 10%.

60. As to paragraph 60, iSignthis:

- (a) denies paragraph 60;
- (b) says that in the circumstance set out in paragraphs 46(c) and 49(b) to 49(e) above:
 - (i) iSignthis and iSignthis eMoney Ltd were engaged in confidential communications with Visa in relation to the purported termination of the relationship which was disputed and subject to ongoing negotiations; and
 - (ii) Visa's decision to terminate the relationship with iSignthis and iSignthis eMoney Limited was not final until 12 May 2020,

such that, prior to 12 May 2020, a reasonable person would not have expected that information to be disclosed and iSignthis was entitled to rely on Listing Rule 3.1A;

- (c) says further that by reason of the matters set out in paragraphs 6 and 46(c) above:
 - (i) on and from 12 May 2020, pursuant to its legal obligations under the Licence and the Cypriot Electronic Money Law of 2012, iSignthis eMoney Ltd was obliged to notify the Central Bank of Cyprus that Visa had terminated its membership such that it was no longer an approved member of that organisation;
 - (ii) in the period from 12 May 2020 to 21 May 2020, iSignthis eMoney Ltd was engaged in confidential communications with the Central Bank of Cyprus in

order to notify it that Visa had terminated its relationship and the circumstances which led to that event; and

- (iii) a failure by iSignthis eMoney Ltd to notify the Central Bank of Cyprus that Visa had terminated its relationship before iSignthis disclosed the termination of the relationship to the market would have caused iSignthis eMoney Ltd to breach the terms of the Licence and the Cypriot Electronic Money Law 2012,

such that a reasonable person would not have expected the information to be disclosed and iSignthis was entitled to continue to rely on Listing Rule 3.1A until 22 May 2020;

- (d) says that:

- (i) in the period from 17 April 2020 to 25 May 2020, trading in its shares was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:

- (A) there was no risk to the integrity and efficiency of the market;
- (B) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;
- (C) there was no risk of trading in iSignthis' shares on an uninformed basis; and
- (D) there was no risk of insider trading in iSignthis' shares;

- (ii) in the period from 22 May 2020 to 24 May 2020, a letter to shareholders was drafted to notify them of the termination of the Visa relationship (**Letter**);

- (iii) at 2:30pm on Sunday, 24 May 2020, the Letter was sent to shareholders; and

PARTICULARS

The Letter was sent by email from Karantzis to shareholders of iSignthis. A copy of the email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (iv) at 2:33pm on Sunday, 24 May 2020, a copy of the Letter was sent to ASX for release on the Market Announcements Platform, which occurred on 25 May 2020;

PARTICULARS

The letter was sent by email from Karantzis to Dean Litis at ASX. A copy of the email is in the possession of the solicitors acting for iSignthis and may be inspected during business hours by appointment.

- (e) says that the independent experts appointed by iSignthis at the request of ASX, Michael Linehan and Brendan Groves of Clayton Utz:
- (i) said that based on their review of the information available to them, nothing had come to their attention which caused them to believe that iSignthis' reliance on ASX Listing Rule 3.1A during the periods from 17 April 2020 to 12 May 2020 and 12 May 2020 to 21 May 2020 was not appropriate; and
- (ii) concluded that:
- (A) the obligation of iSignthis to disclose the termination of the arrangements between iSignthis and Visa in accordance with Listing Rule 3.1 first arose on 21 May 2020; and
- (B) there was a technical breach of ASX Listing Rule 3.1 that arose from a 1 to 2 business day delay by iSignthis in formally announcing the termination to the market, but that as iSignthis' shares were suspended at this time iSignthis did not have the ability to use a trading halt to assist in managing its continuous disclosure obligations, which it may have otherwise done to cover the period of the delay.

PARTICULARS

- A. The ASX request was in writing. It was contained in an email sent at 3:27pm on 30 July 2020 by Janine Ryan and in an email sent at 8:46am on 5 August 2020 by Janine Ryan. A copy of the two emails is in the possession of the solicitors acting

for the Applicants and may be inspected during business hours by appointment.

- B. iSignthis' request was in writing, contained in an email sent at 5:51pm on 16 August 2020. A copy of the email is in the possession of the solicitors acting for the Applicants and may be inspected during business hours by appointment.
- C. The statements in paragraphs (e)(ii)(A) and (e)(ii)(B) above were in writing, contained in paragraphs 2.4 to 2.9 of the supplementary report of the independent experts dated 3 September 2020, which was provided to ASX on 7 September 2020 and released that same day on the Market Announcements Platform together with the first report of the independent experts.

and,

(f) says further that:

- (i) in the period from 26 May 2020 to 26 October 2020:
 - (A) sections 674(2)(c) and 677 of the Corporations Act were modified; and

PARTICULARS

Sections 5 and 7 of the *Corporations*
(*Coronavirus Economic Response*)
Determination (No.2) 2020 (Cth) made under
section 1362A of the Corporations Act.

- (B) trading in its shares was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:
 - (1) there was no risk to the integrity and efficiency of the market;

- (2) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;
- (3) there was no risk of trading in iSignthis' shares on an uninformed basis; and
- (4) there was no risk of insider trading in iSignthis' shares;

and,

- (ii) in the circumstances set out in paragraph (f)(i) above, iSignthis did not have the alleged obligation.

61. As to paragraph 61, iSignthis:

- (a) denies paragraph 61;
 - (b) says that on 24 May 2020:
 - (i) iSignthis sent the Letter to its shareholders, which notified them of the termination of the Visa relationship; and
 - (ii) sent a copy of the Letter to ASX, for release the following day on the Market Announcements Platform;
- and,
- (c) further or alternatively, say that from at least 15 July 2020, alternatively 22 July 2020, ASX was aware that Visa had terminated the relationship with iSignthis and iSignthis eMoney Ltd, as ASIC had provided ASX with a copy of the correspondence between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter.

62. As to paragraph 62, iSignthis:

- (a) denies paragraph 62;
- (b) refers to and repeats paragraph 61(b) above; and
- (c) further or alternatively, says that from at least 15 July 2020, alternatively 22 July 2020, ASX was aware of the reasons alleged by Visa as the basis for the termination

of the relationship with iSignthis and iSignthis eMoney Ltd, as ASIC had provided ASX with a copy of the correspondence between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter.

63. As to paragraph 63, iSignthis:

- (a) denies paragraph 63;
- (b) refers to and repeats paragraphs 59(a) to 59(e) above;
- (c) refers to and repeats paragraphs 60(a) to 60(f) above; and
- (d) in respect of the period from 26 May 2020 to 17 August 2020, says further that in the circumstances set out in paragraphs (b) and (c) above, iSignthis did not know, alternatively was not reckless or negligent, with respect to whether the information in the 17 April Letter would have a material effect on the price or value of its shares.

64. As to paragraph 64, iSignthis:

- (a) denies paragraph 64;
- (b) refers to and repeats paragraphs 59(a) to 59(e) above;
- (c) refers to and repeats paragraphs 60(a) to 60(f) above; and
- (d) in respect of the period from 26 May 2020 to 26 October 2020, says further that in the circumstances set out in paragraphs (b) and (c) above, iSignthis did not know, alternatively was not reckless or negligent, with respect to whether the information in the 17 April Letter would have a material effect on the price or value of its shares.

65. As to paragraph 65, iSignthis says that:

- (a) paragraph 65 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 65.

66. As to paragraph 66, iSignthis says that:

- (a) paragraph 66 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 66.

67. As to paragraph 67, iSignthis says that:

- (a) paragraph 67 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 67.

68. As to paragraph 68, iSignthis says that:

- (a) paragraph 68 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 68.

Alleged breach of directors' duties by the second defendant

69. As to paragraph 69, iSignthis says that:

- (a) paragraph 69 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 69.

70. As to paragraph 70, iSignthis says that:

- (a) paragraph 70 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 70.

71. As to paragraph 71, iSignthis says that:

- (a) paragraph 71 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 71.

72. As to paragraph 72, iSignthis says that:

- (a) paragraph 72 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 72.

73. As to paragraph 73, iSignthis says that:

- (a) paragraph 73 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 73.

74. As to paragraph 74, iSignthis says that:

- (a) paragraph 74 does not make any allegations against it; and
- (b) to the extent that it is asserted otherwise, iSignthis does not admit paragraph 74.

Dated: 1 March 2021

P W Collinson

J S Mereine

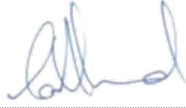
HWL Ebsworth

HWL Ebsworth Lawyers
Solicitors for the First Defendant

Certificate of lawyer

I Colin Almond certify to the Court that, in relation to the Defence filed on behalf of the First Defendant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 1 March 2021



Signed by Colin Almond, Partner
HWL Ebsworth Lawyers
Lawyer for the First Defendant

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/03/2021 9:43:12 AM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Defence - Form 33 - Rule 16.32
File Number: VID773/2020
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
ISIGNTHIS LIMITED & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 1/03/2021 9:43:17 AM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

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 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.



Defence

No. VID773/2020

Federal Court of Australia
District Registry: Victoria
Division: General

IN THE MATTER OF ISIGNTHIS LIMITED (ACN 075 419 715)

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

ISIGNTHIS LIMITED (ACN 075 419 715)

First Defendant

NICKOLAS JOHN KARANTZIS

Second Defendant

The Second Defendant (**Karantzis**) claims, and reserves his right to claim, penalty privilege in the proceeding. Subject to that claim and reservation, to the Statement of Claim dated 6 December 2020 (**Claim**), Karantzis says as follows:

Parties

1. He admits paragraph 1.
2. As to paragraph 2, Karantzis:
 - (a) admits paragraphs (a) and (b);
 - (b) says that, through its subsidiaries, the first defendant (**iSignthis**) is a company carrying on business in the application software sector, offering remote identity

Filed on behalf of (name & role of party)	The Second Defendant		
Prepared by (name of person/lawyer)	Colin Almond		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	+61 3 8644 3500	Fax	1300 365 323
Email	calmond@hwle.com.au	Ref:	CA:LC:1023424
Address for service (include state and postcode)	HWL EBSWORTH LAWYERS Level 8, 447 Collins Street, Melbourne VIC 3000 DX 564 MELBOURNE Email: calmond@hwle.com.au		

verification, payment authentication with electronic money issue, transactional banking and payment processing capabilities; and

- (c) otherwise denies paragraph 2.
3. He admits paragraph 3.
 4. He admits paragraph 4.
 5. As to paragraph 5, Karantzis:
 - (a) admits paragraph (a);
 - (b) denies paragraph (b); and
 - (c) says further that Authenticate BV is and was at all material times a wholly owned subsidiary of iSignthis BV, a company incorporated in the Netherlands which is wholly owned by iSignthis.
 6. He admits paragraph 6 and says further that:
 - (a) on 31 March 2017 the Central Bank of Cyprus authorised iSignthis eMoney Ltd to operate an electronic money institution which extends to the provision of payment services not related to the issue of electronic money (**Licence**);
 - (b) the terms of the Licence included, among other things, that iSignthis eMoney Ltd:
 - (i) shall not be able to provide services for the issue and/or of payment instruments before it becomes a member of Visa and/or Mastercard (paragraph 6 of the Licence);
 - (ii) is expected to inform the Central Bank of Cyprus if its application to become a member of those organisations is not approved (paragraph 6 of the Licence); and
 - (iii) is obliged to notify the Central Bank of Cyprus promptly of any change affecting the accuracy of the information, data and forms it has submitted to the Central Bank of Cyprus in order to be granted the authorisation for the operation of an electronic money institution, as well as the information, data and forms which shall be submitted in the future (Final paragraph of the Licence);

and,

- (c) at all material iSignthis eMoney Ltd was required to comply with the Cypriot Electronic Money Law of 2012 which provided, among other things that:
- (i) “*Competent Authority*” relevantly means the Central Bank of Cyprus (Part I, section 2);
 - (ii) a person wishing to be authorised as an electronic money institution, shall submit an application to the Competent Authority accompanied with all documents and information specified by the Competent Authority by directive. The Competent Authority may at any time request an authorised money institution to submit any documents and information in order to verify that the electronic money institution complies with this Part (Part III, section 6(1));
 - (iii) an electronic money institution shall notify the Competent Authority without undue delay and at any time during its operation, of any amendment that affects the accuracy of the information, data and documents submitted by virtue of section 6(1) or section 10 (Part III, section 9(1));
 - (iv) the Competent Authority may revoke in whole or in part the authorisation of an electronic money institution if the electronic money institution does not comply with the requirements of Part III (Part III, section 17(1)); and
 - (v) in lieu of revocation or simultaneously with the commencement of revocation procedures, the Competent Authority may suspend in part or in whole the authorisation of an electronic money institution (Part III, section 18).

Acquisition and Performance Shares

7. He admits paragraph 7 and says further that the share sale agreement was:

- (a) the subject of a Notice of General Meeting and Explanatory Memorandum dated 17 November 2014, an Independent Expert’s Report prepared by RSM Bird Cameron in November 2014 (**Bird Cameron Expert Report**) and a Prospectus dated 22 December 2014 (**Prospectus**); and

- (b) approved on 22 December 2014 by the shareholders of the company (then known as Otis Energy Limited).
- 8. As to paragraph 8, Karantzis:
 - (a) denies paragraph (a) and says further that 311,903,934 fully paid ordinary shares were issued, which included 3,370,600 fully paid ordinary shares in satisfaction of the cash shortfall as part of the consideration; and
 - (b) says that subject to the production of the Prospectus at trial, the full terms of which will be relied on, he admits paragraphs (b) to (d) and says further that the 112,222,222 Class A Performance Shares, 112,222,222 Class B Performance Shares and 112,222,222 Class C Performance Shares were to be issued to iSignthis Ltd BVI as part of the consideration for the acquisition on the terms and conditions in section 14.2 of the Prospectus (clause 6.7, page 24).
- 9. He denies paragraph 9 and says further that:
 - (a) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$5,000,000 (**Milestone A**), each Class A Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(1)(a), page 92 of the Prospectus);
 - (b) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$7,500,000 (**Milestone B**), each Class B Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(3)(a), page 94 of the Prospectus);
 - (c) on achievement, within three full financial years from Completion (as defined in the Prospectus), of revenue over a 6 month reporting period (being for a 6 month period ending 30 June or 31 December), on an annualised basis, to annual revenue of at least \$10,000,000 (**Milestone C**), each Class C Performance Share would convert on a one for one basis into a fully paid ordinary share in the capital of iSignthis (clause 14.2(5)(a), page 96 of the Prospectus);

- (d) Milestone A, Milestone B and Milestone C each had to be achieved on or before 5:00pm on the date which was 14 days after the release of the audited financial reports for the third full financial year after Completion (as defined in the Prospectus) being the financial year 2017/2018 (**Expiry Date**) (clauses 14.2(1)(b), 3(b) and 5(b), pages 92, 94, and 96 respectively of the Prospectus); and
 - (e) to extent that the Class A Performance Shares, Class B Performance Shares and Class C Performance Shares had not converted into fully paid ordinary shares in the capital of iSignthis on or before the Expiry Date, then:
 - (i) all such unconverted Class A Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(1)(d), page 93 of the Prospectus);
 - (ii) all such unconverted Class B Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(3)(d), page 95 of the Prospectus); and
 - (iii) all such unconverted Class C Performance Shares would automatically consolidate into one fully paid ordinary share in the capital of iSignthis (clause 14.2(5)(d), page 97 of the Prospectus).
10. As to paragraph 10, Karantzis:
- (a) says that the revenue of \$28,962 in paragraph (a) was for the 12 months to 30 June 2015, not the 6 months as alleged; and
 - (b) otherwise admits paragraph 10.
11. As to paragraph 11, Karantzis says that as a result of the revenue achieved over the 6 month reporting period to 30 June 2018:
- (a) Milestone A, Milestone B and Milestone C were all achieved; and
 - (b) the Class A Performance Shares, Class B Performance Shares and Class C Performance Shares converted into a total of 336,666,667 fully paid ordinary shares in iSignthis,
- and otherwise denies paragraph 11.

12. As to paragraph 12, Karantzis:

- (a) admits that Red 5 Solutions Limited (BVI) is a company who had as a director and shareholder Andrew Karantzis, Director of Sales Operations at iSignthis and his brother;
- (b) admits that Icebreak Flow Global Limited is a company whose sole director and shareholder was Todd Richards, but says that he is the former Chief Financial Officer and Company Secretary of iSignthis;
- (c) admits that Vastium Holdings Limited is a company whose sole director and shareholder was Timothy Hart, the Chairman of iSignthis;
- (d) admits that Cili Padi Limited is a company whose sole director and shareholder was Scott Minehane, a non-executive director of iSignthis;
- (e) admits that Barnaby Ian Robert Egerton-Warburton is a non-executive director of iSignthis;
- (f) admits that Triple Smile International Limited is a company associated with Christakis Taoushanis, the Chairman of iSignthis eMoney Ltd, and says further that he is also a non-executive director of iSignthis;
- (g) admits that Konstantina Karantzis is his mother;
- (h) admits that James Lindsay Cameron is the Chief Risk Officer of iSignthis;
- (i) denies that John Hyun-Suk Kim is the Chief Engineer of iSignthis and says that he is the former Chief Engineer of iSignthis;
- (j) admits that Luckystar Group Ltd is a company associated with Or Kapelinsky but says that he is a former director, Executive General Manager and Chief Operating Officer of iSignthis eMoney Ltd;
- (k) admits that Domenic Melo is the Chief Product Officer of iSignthis;
- (l) otherwise denies paragraph 12;

- (m) says that of the 336,666,667 ordinary shares which converted from the “*Performance Shares*”:
- (i) pursuant to pre-existing arrangements:
- (A) Red 5 Solutions Limited (BVI), was to receive 100,000,000 ordinary shares;
 - (B) Icebreak Flow Global Limited was to receive 7,350,783 ordinary shares;
 - (C) Vastium Holdings Limited was to receive 5,684,097 ordinary shares; and
 - (D) Cili Padi Limited was to receive 4,375,466 ordinary shares;
- (ii) as a bonus to directors and executives of iSignthis:
- (A) Barnaby Egerton-Warburton was to receive 2,000,000 ordinary shares;
 - (B) Triple Smile International Limited was to receive 2,000,000 ordinary shares;
 - (C) Vastium Holdings Limited was to receive 2,000,000 ordinary shares;
 - (D) Cili Padi Limited was to receive 2,000,000 ordinary shares;
 - (E) Icebreak Flow Global Limited was to receive 10,000,000 ordinary shares; and
 - (F) James Lindsay Cameron, John Hyun-Suk Kim, Dominic Melo and Luckystar Group Ltd were each to receive 500,000 ordinary shares;
- and
- (iii) iSignthis Ltd BVI was to receive the remaining 199,256,321 ordinary shares,
- and

- (n) says further that:
- (i) before the 336,666,667 ordinary shares were issued, iSignthis Ltd BVI held a total of 49,601,667 shares in iSignthis on trust for Red 5 Solutions Limited (BVI), Icebreak Flow Global Limited, Vastium Holdings Limited, Cili Padi Limited and Konstantina Karantzis; and
 - (ii) when the 336,666,667 ordinary shares were issued, Karantzis directed that the total ordinary shares to be transferred to iSignthis Ltd BVI be reduced by 49,601,667 and those shares be used to satisfy the obligations of iSignthis Ltd BVI such that:
 - (A) iSignthis Ltd BVI received 149,654,654 ordinary shares;
 - (B) Red 5 Solutions Limited received 130,000,000 ordinary shares;
 - (C) Icebreak Flow Global Limited received 23,615,783 ordinary shares;
 - (D) Vastium Holdings Limited received 15,291,597 ordinary shares;
 - (E) Cili Padi Limited received 10,104,633 ordinary shares;
 - (F) Barnaby Ian Robert Egerton-Warburton received 2,000,000 ordinary shares;
 - (G) Triple Smile International Limited received 2,000,000 ordinary shares;
 - (H) Konstantina Karantzis received 2,000,000 ordinary shares;
 - (I) James Lindsay Cameron received 500,000 ordinary shares;
 - (J) John Hyun-Suk Kim received 500,000 ordinary shares;
 - (K) Luckystar Group Limited received 500,000 ordinary shares; and
 - (L) Domenic Melo received 500,000 ordinary shares.

PARTICULARS

The parties to whom the ordinary shares were transferred, and the number of ordinary shares transferred, were recorded in a spreadsheet

held by iSignthis, which was provided to ASIC on 25 October 2019.

The “integration agreements”

13. As to paragraph 13, Karantzis:

- (a) says that Authenticate BV entered into services agreements with:
 - (i) Corp Destination Pty Ltd (**Corp Destination**) dated 15 May 2018 (**Corp Destination Services Agreement**);
 - (ii) Fcorp Services Ltd (**Fcorp**) dated 30 May 2018 (**Fcorp Services Agreement**);
and
 - (iii) IMMO Servis Group s.r.o (**IMMO**) dated 6 June 2018 (**IMMO Services Agreement**);

respectively for the provision by Authenticate BV of:

- (A) licences, software, services, development, integration and maintenance;
 - (B) technical support services;
 - (C) 6 months software support; and
 - (D) training;
- (b) says that Authenticate BV and Corp Destination also entered into an agreement for variations to the trading platform configuration to be undertaken by Authenticate BV (**Corp Destination Variation**); and

PARTICULARS

- A. The Corp Destination Variation was oral and in writing. Insofar as it was oral it was discussed between Andrew Karantzis and Gilad Shaelem of Corp Destination before 23 May 2018. Insofar as it was in writing, it was recorded in a letter dated 23 May 2018, which was sent by Viera Mylonas

of customer services via Autotask. A copy of the letter was resent via Autotask on 7 June 2018.

B. The letter sent on 23 May 2018 via Autotask is no longer in the possession of Karantzis. A screenshot of the document and its metadata is in the possession of the solicitors acting for the Karantzis and may be inspected during business hours by appointment.

C. The letter resent on 7 June 2018 via Autotask is no longer in the possession of the Karantzis.

(c) says further that:

- (i) before Corp Destination entered into the Corp Destination Services Agreement and Corp Destination Variation with Authenticate BV, it had already executed a written agreement with Authenticate Pty Ltd for the provision of payment facilitation and identity services; and
- (ii) before Fcorp entered into the Fcorp Services Agreement with Authenticate BV, it had already executed a written agreement with iSignthis eMoney Ltd for the provision of eMoney accounts and Merchant eMoney Payment Services for payment to Suppliers;

PARTICULARS

A. The written agreement with Corp Destination was signed on or about 17 April 2018. A copy of the agreement is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

B. The written agreement with Fcorp was signed on 25 April 2018. A copy of the agreement is in the possession of the solicitors acting for Karantzis and may be

inspected during business hours by
appointment.

and,

(d) otherwise denies paragraph 13.

14. As to paragraph 14, Karantzis:

(a) admits that each of the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement was signed by him; and

(b) otherwise denies paragraph 14.

15. As to paragraph 15, Karantzis:

(a) says that:

(i) pursuant to the Corp Destination Services Agreement and the Corp Destination Variation, Corp Destination agreed to pay Authenticate BV a total of €526,525, which included:

(A) €270,000 for a trading platform licence according to the agreed specifications;

(B) €2,500 for training;

(C) €2,200 per calendar month (for 6 months) for end licensee support;

(D) €2,200 per calendar month (for 6 months) for CRM maintenance; and

(E) €183,025 for variations to the trading platform configuration to be undertaken by Authenticate BV;

PARTICULARS

A. The fees and associated services in paragraphs (A) to (D) were enumerated in the service agreement dated 15 May 2018.

B. The fee and associated services in paragraph (E) were enumerated in the letter dated 23 May 2018, which was resent on 7 June 2018.

(ii) pursuant to the Fcorp Services Agreement, Fcorp agreed to pay Authenticate BV a total of €478,500, which included:

(A) €405,000 for a trading platform licence according to the agreed specifications;

(B) €2,500 for training;

(C) €2,200 per calendar month (for 6 months) for end licensee support; and

(D) €2,200 per calendar month (for 6 months) for CRM maintenance;

and,

(iii) pursuant to the IMMO Services Agreement, IMMO agreed to pay Authenticate BV a total of €900,000, which included:

(A) €421,100 for a trading platform licence according to the agreed specifications in respect of each of the two brands;

(B) €2,500 for training in respect of each brand;

(C) €2,200 per calendar month (for 6 months) for end licensee support in respect of each brand; and

(D) €2,200 per calendar month (for 6 months) for CRM maintenance in respect of each brand;

being a total committed amount of €1,905,025;

(b) says that:

(i) pursuant to the Corp Destination Services Agreement, subject to receipt of an invoice, by 22 May 2018 Corp Destination was required to pay €242,845;

- (ii) pursuant to the Fcorp Services Agreement, subject to receipt of an invoice, by 6 June 2018 Fcorp was required to pay €223,550; and
 - (iii) pursuant to the IMMO Services Agreement, subject to receipt of an invoice, by 13 June 2018 IMMO was required to pay €463,200;
 - (c) says further that pursuant to the Corp Destination Variation, subject to receipt of an invoice, the fee of €183,025 was due within seven days of acceptance of the variations to the trading platform configuration to be undertaken by Authenticate BV; and
 - (d) otherwise denies paragraph 15.
16. As to paragraph 16, Karantzis:
- (a) says that pursuant to the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement, in the period from 1 April 2018 to 30 June 2018 Authenticate BV issued invoices totalling €1,905,025; and
 - (b) otherwise denies paragraph 16.
17. Karantzis denies paragraph 17 and says further that:
- (a) on 18 June 2018, he asked Karolos Shahbenderian to raise the invoices referred to in paragraph 4 of the particulars under paragraph 16 of the Claim; and
 - (b) on 19 June 2018, he asked Andrew Karantzis to send the invoices referred to in paragraph 4 of the particulars under paragraph 16 of the Claim to the respective parties.

PARTICULARS

- A. The request on 18 June 2018 was in writing.
It was contained in an email sent by Karantzis to Karolos Shahbenderian, and copied to Todd Richards and Andrew Karantzis.
- B. The request on 19 June 2018 was in writing.
It was contained in an email sent by Karantzis

to Andrew Karantzis, and copied to Todd Richards and Karolos Shahbenderian.

18. As to paragraph 18, Karantzis:

(a) says that iSignthis:

(i) told its auditors, among other things, that:

(A) it had made available to them all financial records and related data, other information, explanations and assistance necessary for the conduct of the audit as well as minutes of all meetings of the shareholders, directors and committees of directors;

(B) revenue had been recognised in accordance with AASB118, and where applicable, its assessment of the percentage completion accurately reflects the status of the project in accordance with project milestones; and

(C) the work required under all contracts with customers for the provision of integration, establishment, project and platform services had been completed by 30 June 2018;

PARTICULARS

The statements were in writing. They were made in paragraphs 1, 46 and 47 of the letter dated 28 August 2018 signed by both Karantzis and Todd Richards, who at the time was the Chief Financial Officer and Company Secretary of iSignthis.

(ii) gave its auditors a copy of the Certificates of Practical Completion, signed on behalf of Corp Destination, Fcorp and IMMO respectively, which certified that all work required had been satisfactorily completed by 30 June 2018; and

(iii) gave its auditors a copy of the PCI DSS Compliance Assessment Certificates which had been signed on behalf of Corp Destination, Fcorp and IMMO respectively;

PARTICULARS

The PCI DSS Compliance Assessment Certificates were in writing. A copy of the documents is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (b) says that revenue from the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement was included in the audited iSignthis 2018 Annual Report released to the market on 29 August 2018, which said (in note 5, on page 34), among other things, that:
- (i) under the heading “*Accounting policy for revenue recognition*”, revenue is recognised when it is probable that the economic benefit will flow to the consolidated entity and the revenue can be reliably measured. Revenue is measured at the fair value of the consideration received or receivable;
 - (ii) consolidated revenue for the financial year ended 30 June 2018 was \$6,338,969, of which \$5,780,429 was in respect of “*Contracted service fees*”;
 - (iii) “*Contracted service fees*” included revenue generated from “*Know Your Customer (KYC) verification*”, “*Payment processing function*”, “*Settlement of payments*” and “*Integration, Establishment, Project and Platform Fees*”; and
 - (iv) revenue generated from the initial integration and merchant operational set up is billed on contract signing and service go live, recognised once the service has been performed;
- (c) says further that both the document entitled “*Report to shareholders for the Quarter Ended 30th June 2018*” dated 31 July 2018 and the letter from Karantzis to shareholders, which was included in the iSignthis 2018 Annual Report released to the market on 29 August 2018, said that revenue for the 6 months from 1 January 2018 to 30 June 2018 was in excess of \$5.5 million and that:

“The Company is pleased to advise that it has created market opportunities to explore and generate new revenue streams in the

quarter ending 30 June 2018. These new revenue streams involving eMoney accounts and direct service integration on behalf of existing and new merchants and other forms of settlement and payment services to merchants operating in high risk industries will provide the following benefits:

- eMoney accounts now servicing several customers, with remittance services to within and outside the EEA.*
- Additional one off revenues to new merchants enabling direct connection to our core services. These revenues are at low margin and have a direct correlation with an increase in cost of goods sold but they will enable long term, consistent revenues via our core services and creates a stickier relationship with the merchant.*
- A shorter integration cycle. By directly enabling platform software provided by third parties with the ISX services, the Company is able to reduce the time involved that would normally be the case if the merchant purchased the platform licence directly from the provider, integrated to their own systems and then integrated with ISX.*

ISX will benefit from future delivery of core services to the merchant and has identified further market opportunities by way of providing banking services to high risk merchants under the EMI licence/EEA Authorisation issued by the Central Bank of Cyprus.

.....

The GPTV processed by the Company did not experience the growth expected by the Company, due to a number of unforeseeable events, including a technical issue with our suppliers, which meant that growth was intentionally subdued until such time as the Company was satisfied that it had resolved the issue.

....

Until such time as our Tier 1 connections are concluded across the entire network, gross profit margins will be impacted by our temporary supply chain solutions.”

and,

(d) otherwise denies paragraph 18.

19. He admits paragraph 19 and says further that:

(a) he is not, and was not at the time, a member of the Audit Committee;

(b) he did not attend the Audit Committee meeting held on 23 August 2018;

(c) the Audit Committee meeting held on 23 August 2018 was attended by:

(i) Scott Minehane, Tim Hart, Barnaby Egerton-Warburton and Todd Richards of iSignthis;

(ii) Brad Taylor and Brad Krafft of Grant Thornton; and

(iii) Mathew Watkins of Leydin Freyer;

(d) at the Audit Committee meeting:

(i) the Auditor’s Findings Report was also reviewed and it was noted that there were no significant findings;

(ii) the Audit Committee discussed certain elements of the report and Grant Thornton said that:

(1) they were satisfied as to the current process of reporting and treatment of revenue;

(2) an increase in revenue contributed to a strong focus by them on revenue; and

(3) they were satisfied that the revenue was accurately recorded and that revenue targets in place and disclosed in the Prospectus had been met;

PARTICULARS

The statements are recorded in section 3.2 of the Minutes of the August 2018 Meeting (**Minutes**). A copy of the Minutes is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (iii) it was also resolved to recommend that the Board of Directors accept the Management Representation Letter and that it be signed;

and,

- (e) the Auditor's Findings Report also confirmed, among other things, that:
- (i) they had been presented with all necessary books and records and explanations requested of management;
 - (ii) they had not detected any material deficiencies in the accounting policies disclosed;
 - (iii) there had not been any disagreements with management;
 - (iv) there were no difficulties encountered during the audit;
 - (v) there were no exceptions to the audit report; and
 - (vi) no discrepancies or instances of fraud had been identified.

20. He admits paragraph 20 and says further that each of Corp Destination, Fcorp and IMMO first entered into the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement respectively with iSignthis' wholly owned subsidiaries in the second half of the financial year ended 30 June 2018.

PARTICULARS

He refers to and repeat paragraphs 13(a) to 13(c) above and their respective particulars.

21. As to paragraph 21, Karantzis:

- (a) admits that iSignthis did not record any revenue as having been received from Corp Destination or IMMO but says that revenue of €14,136 was recorded as having been received from IMMO's successor, BitConvert Ltd;
- (b) denies paragraph (b) and says that revenue of €3,737 was recorded as having been received from Fcorp; and
- (c) says further that:
 - (i) in April 2018, Corp Destination had executed a written agreement with Authenticate Pty Ltd for the provision of payment facilitation and identity services;
 - (ii) in April 2018, Fcorp had executed a written agreement with iSignthis eMoney Ltd for the provision of eMoney accounts and Merchant eMoney Payment Services for payment to Suppliers; and
 - (iii) in July 2018, BitConvert Ltd had executed a written agreement for the provision of payment facilitation and identity services in respect of the platform supplied to IMMO, trading as TheChange.io, as well as a written agreement for the provision of eMoney and Client eMoney Payment Service eMoney accounts;

PARTICULARS

- A. Insofar as paragraphs (c)(i) and (c)(ii) are concerned, Karantzis refers to and repeats the particulars under paragraph 13(c) above.
- B. The written agreement with BitConvert Ltd for the provision of payment facilitation and identity services was signed on 2 July 2018. The written agreement with BitConvert Ltd for the provision of eMoney and Client eMoney Payment Service eMoney accounts was signed on or about 17 August 2018. A copy of the agreements is in the possession

of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (iv) in the 6 month period from 1 July 2018 to 31 December 2018:
- (A) Corp Destination failed to obtain an Australian Financial Services Licence that it was seeking and needed to conduct its intended business; and
 - (B) there was a substantial decline in the revenue of iSignthis due to, among other things, the Kobenhavns Andelkasse Bank (**KAB**) issue, a technical issue caused by Apple as well as decisions made by National Australia Bank Limited and Worldline to impose limits on particular transaction types.

PARTICULARS

- A. Insofar as the KAB issue is concerned, Karantzis refers to and repeats paragraphs 28(e)(i) to 28(e)(v) below.
- B. The technical issue arose because of changes made by Apple to privacy settings, which prevented users from accessing the iSignthis payment website via iFrame.
- C. Insofar as the decisions are concerned, National Australia Bank Limited and Worldline imposed limits on particular transaction types that they would process, being card transaction types MCC 6211 & 6051. At the time, National Australia Bank Limited was the regulated financial institution for clearing and settling the Australian card transactions of Authenticate Pty Ltd and Worldline was the regulated financial institution for clearing and settling

the European card transactions of iSignthis
eMoney Ltd.

- (v) the platforms supplied to Fcorp and IMMO resulted in iSignthis processing \$43,851,845 million Gross Processed Turnover Volume (**GPTV**) between these platforms and receiving combined revenue of \$1,057,068 in the financial year ended 31 December 2019;
- (vi) iSignthis would not have earned the revenue referred to in paragraph (v) above if Authenticate BV had not entered into the Fcorp Services Agreement and IMMO Services Agreement; and
- (vii) by integrating iSignthis' platforms with third party CRM systems integrated with either a trading platform or exchange platform in the second half of the financial year ended 30 June 2018:
 - (A) iSignthis gained valuable knowledge that it has since been able to deploy for subsequent customers who have elected to use the same or similar third party CRM system integrated with either a trading platform or exchange platform; and
 - (B) this has enabled iSignthis to connect new customers using, or who are wanting to use, the same or similar third party CRM system integrated with either a trading platform or exchange platform much faster than it would otherwise have been able to do.

The “out-sourcing agreements”

22. Karantzis denies paragraph 22 and says further that:

- (a) Authenticate BV entered into services agreements with:
 - (i) Fino Software Technologies Ltd (**Fino**) dated 15 May 2018 (**First Fino Services Agreement**);
 - (ii) Fino dated 30 May 2018 (**Second Fino Services Agreement**); and
 - (iii) Gibi Tech Ltd (**Gibi Tech**) dated 7 June 2018 (**Gibi Tech Services Agreement**);

- (b) the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement also required Fino and Gibi Tech respectively to provide additional services in the form of “*Integration Support to iSignthis*”; and
- (c) the variations to the trading platform configuration, which were the subject of the Corp Destination Variation, was not included in the services to be provided by Fino to Authenticate BV.

23. As to paragraph 23, Karantzis:

- (a) admits that the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement respectively were dated on or around the same day as the relevant corresponding Corp Destination Services Agreement, Fcorp Services Agreement and IMMO Services Agreement;
- (b) denies paragraph (b) and says that:
 - (i) the First Fino Services Agreement and Second Fino Services Agreement were similar to the Corp Destination Services Agreement and Fcorp Services Agreement; and
 - (ii) Appendix A in the Gibi Tech Services Agreement was substantially different to Appendix A in the IMMO Services Agreement;
- (c) says that the fees payable by Authenticate BV to each of Fino and Gibi Tech were different to the fees receivable by Authenticate BV from Corp Destination, Fcorp and IMMO as follows:
 - (i) for services in respect of Corp Destination, the fees payable by Authenticate BV to Fino totalled €316,000, being:
 - (A) €270,000 for the trading platform licence, which was the same amount charged by Authenticate BV to Corp Destination;
 - (B) €2,500 for training, which was the same amount charged by Authenticate BV to Corp Destination;
 - (C) €19,500 for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to Corp Destination;

- (D) €2,000 per month for 6 months licence support, which was instead charged by Authenticate BV to Corp Destination in the amount of €2,200 per month for 6 months licence support; and
 - (E) €2,000 per month for 6 months CRM maintenance, which was instead charged by Authenticate BV to Corp Destination in the amount of €2,200 per month for 6 months;
- (ii) for services in respect of Fcorp, the fees payable by Authenticate BV to Fino totalled €442,000, being:
- (A) €395,000 for the trading platform licence, which was instead charged by Authenticate BV to Fcorp in the amount of €405,000;
 - (B) €2,500 for training, which was the same amount charged by Authenticate BV to Fcorp;
 - (C) €20,500 for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to Fcorp;
 - (D) €2,000 per month for 6 months licence support, which was instead charged by Authenticate BV to Fcorp in the amount of €2,200 per month for 6 months licence support; and
 - (E) €2,000 per month for 6 months CRM maintenance, which was instead charged by Authenticate BV to Fcorp in the amount of €2,200 per month for 6 months;
- (iii) for services in respect of IMMO, the fees payable by Authenticate BV to Gibi Tech totalled €884,000 for two brands, being:
- (A) €395,000 for the trading platform licence (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €421,100 for the trading platform licence (per each brand);
 - (B) €2,500 for training (per each brand), which was the same amount charged by Authenticate BV to IMMO (per each brand);
 - (C) €20,500 (per each brand) for “*Integration Support to iSignthis*”, which was not charged by Authenticate BV to IMMO;

- (D) €2,000 per month for 6 months licence support (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €2,200 per month for 6 months licence support (per each brand); and
 - (E) €2,000 per month for 6 months CRM maintenance (per each brand), which was instead charged by Authenticate BV to IMMO in the amount of €2,200 per month for 6 months (per each brand);
- (d) says further that:
- (i) pursuant to the agreements with each of Fino and Gibi Tech, subject to receipt of an invoice, Authenticate BV agreed to pay a percentage of the fees for the trading platform licences, training and “*Integration Support to iSignthis*” within 7 days of execution of the respective agreements;
 - (ii) whereas, subject to receipt of an invoice, each of Corp Destination, Fcorp and IMMO agreed to pay Authenticate BV a percentage of the fees for the trading platform licences, training and licence support within 7 days of execution of the respective agreements;
- (e) admits that he signed the First Fino Services Agreement and the Gibi Tech Services Agreement; and
- (f) otherwise denies paragraph 23.

24. As to paragraph 24, Karantzis:

- (a) says that the costs in respect of the First Fino Services Agreement, Second Fino Services Agreement and Gibi Tech Services Agreement were included in the audited iSignthis 2018 Annual Report released to the market on 29 August 2018;
- (b) says that the iSignthis 2018 Annual Report recorded cost of sales for the financial year ended 30 June 2018 in the amount of \$4,363,097 compared to cost of sales for the financial year ended 30 June 2017 in the amount of \$263,252 (note 6 on page 35);
- (c) says further that both the document entitled “*Report to shareholders for the Quarter Ended 30th June 2018*” dated 31 July 2018 and the letter from Karantzis to shareholders, which was included in the iSignthis 2018 Annual Report, said that the

additional one off revenues in the quarter ending 30 June 2018 “... *have a direct correlation with an increase in cost of goods sold...*”; and

PARTICULARS

Karantzis refers to and repeats the italicised text in paragraph 18(c) above.

- (d) otherwise denies paragraph 24.

The alleged “One-off Revenue Representation”

25. As to paragraph 25, Karantzis:

- (a) says that on 31 July 2018 and 3 August 2018 iSignthis said that the unaudited management accounts reflected revenue in the period from 1 April 2018 to 30 June 2018 in excess of \$3.95 million; and
- (b) otherwise denies paragraph 25.

26. As to paragraph 26, Karantzis:

- (a) denies paragraph 26;
- (b) says that:
- (i) page 3 of the written presentation, headed “*Quarterly summary*”, did not contain the alleged representation and, in fact, said “...*our Cost of Goods have temporarily increased to facilitate sustainable long term growth under unexpected conditions*”;
- (ii) page 6 of the written presentation, headed “*Discussing the ‘Cash to Revenue Lag’*”, dealt with the issues faced by iSignthis generally, not specifically in the period from 1 April 2018 to 30 June 2018; and
- (iii) page 8 of the written presentation, headed “*Recurring Revenue & Margins*”, dealt with contributions to recurring revenue, including anticipated GPTV being greater than \$600 million, and did not contain the alleged representation;

and,

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
27. Save that Karantzis admits that shares in iSignthis are a “*financial product*” within the meaning of sections 763A and 764A of the Corporations Act 2001 (Cth) (**Corporations Act**), he denies paragraph 27.
28. As to paragraph 28, Karantzis:
- (a) denies paragraph 28;
 - (b) refers to and repeats paragraphs 18(b), 18(c), 24 and 26(b) above;
 - (c) says that the oral statement, made during the 3 August 2018 briefing, expressly referred the listener to the written presentation;
 - (d) says that as at 3 August 2018, iSignthis:
 - (i) had announced a change in its financial reporting period from 30 June to 31 December;
 - (ii) had not yet fully appreciated the impact which the KAB, Worldline and Apple issues would have on its ability to generate revenue from GPTV using its Tier 2 payment network;
 - (iii) reasonably expected that its capability to process GPTV using its Tier 2 payment network was imminent such that one-off integration fees would in fact be less than 15% of revenue; and
 - (iv) still expected to receive the significant anticipated GPTV revenue in the six months ending on 31 December 2018;

PARTICULARS

The change in iSignthis' financial year from the Australian standard 1 July to 30 June to the European position of reporting on a calendar basis was approved by ASIC and announced to the market on 24 April 2018.

and,

- (e) says further that, on 26 September 2018, iSignthis told the market that:
- (i) information which it had received from the Danish State administration company for banks meant that iSignthis' clearing and settlement of its partner card networks via KAB was no longer possible;
 - (ii) the KAB issue had already impacted processing, clearing and settlement intermittently during July and August, and most of September 2018; as iSignthis eMoney Ltd no longer had access to accounts at KAB in which it could receive deposits, and could thus not receive settlements from card schemes or Worldline;
 - (iii) iSignthis' revenue and cash flows will be impacted in that quarter as a consequence of settlement funds being returned up the supply chain and settlement being deferred or via alternate (non company) channels;
 - (iv) September quarter receipts will be down significantly from the last quarter, with cash receipts possibly as low as \$1.2 million;
 - (v) the KAB issue meant that iSignthis will not be processing European Union card transactions, which would have a corresponding impact on revenue, until its own central bank facilities are commissioned; and
 - (vi) iSignthis' core banking and Tier 1 card processing systems will be going live progressively through October into early December, with Electronic Money Accounts going live before the end of October,

PARTICULARS

The statements were in writing, contained in an announcement released on the Market Announcements Platform on 26 September 2018. A copy of the document is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

such that a reasonable person would have understood that the statement on page 6 of the presentation in relation to “*One off Fees / One-off Setups (Integrations)*” would be affected and would not have continued to consider the fees as a fixed percentage of revenue, as the anticipated GPTV revenue component of the calculation was no longer known.

29. As to paragraph 29, Karantzis:

- (a) denies paragraph 29;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above;
- (d) refers to and repeats paragraph 26(b) above;
- (e) refers to and repeats paragraphs 28(c) to 28(e) above; and
- (f) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.

30. As to paragraph 30, Karantzis:

- (a) denies paragraph 30;
- (b) refers to and repeats paragraph 26(b) above;
- (c) refers to and repeats paragraphs 28(c) to 28(e) above; and
- (d) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.

31. Karantzis denies paragraph 31 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.

32. As to paragraph 32, Karantzis:

- (a) denies paragraph 32;

- (b) says further that if he contravened section 180 of the Corporations Act as alleged (which is denied), the contravention was not “*serious*” within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to:
- (i) all of the circumstances of the case, including the matters in paragraphs 18(b), 18(c) and 26(b) above as well as in paragraphs 35(d), 37(e) and 40(e) below; and
 - (ii) the fact that the information provided during the 3 August 2018 briefing did not have a material effect on the price or value of iSignthis’ shares.

PARTICULARS

- A. On 2 August 2018 the price of iSignthis’ shares closed at \$0.185.
- B. On 3 August 2018 the price of iSignthis’ shares closed at \$0.185.
- C. On 6 August 2018 the price of iSignthis’ shares closed at \$0.195.
- D. In the circumstances set out in paragraphs A to C above, at the end of trading on 3 August 2018 the share price of iSignthis had not increased and, at the end of the next trading day, being 6 August 2018, it had only increased by 5.41%, which is significantly less than 10%.

and,

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.
- 32A. Further, if Karantzis did contravene section 180 of the Corporations Act as alleged (which is denied), he says that:
- (a) at all material times he acted honestly;

- (b) having regard to all the circumstances of the case, including the matters in paragraphs 18(b), 18(c), 26(b) and 28(c) to 28(e) above as well as in paragraphs 35(d), 37(e) and 40(e) below, he ought fairly to be excused for the contravention (which is denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively pursuant to section 1318(1) of the Corporations Act; and
- (c) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

Alleged material non-disclosure (one-off revenue/costs)

33. As to paragraph 33, Karantzis:

- (a) says that by 31 July 2018 iSignthis was aware that the unaudited management accounts reflected revenue in the period from 1 April 2018 to 30 June 2018 in excess of \$3.95 million; and
- (b) otherwise denies paragraph 33.

34. As to paragraph 34, Karantzis:

- (a) refers to and repeats paragraphs 18(b) and 18(c) above;
- (b) refers to and repeats paragraph 24 above; and
- (c) otherwise denies paragraph 34.

35. As to paragraph 35, Karantzis:

- (a) denies paragraph 35;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above; and
- (d) says further that:
 - (i) at all material times the Australian Accounting Standards did not require companies to separately report one-off revenue or one-off costs;

- (ii) at all material times Appendix 4C entitled “*Quarterly report for entities subject to Listing Rule 4.7B*” and the ASX Listing Rules did not require companies to separately report one-off revenue or one-off costs;
- (iii) information is generally considered not to be market sensitive if it appears to have moved the market price of the entity’s securities (relative to the prices in the market generally or in the entity’s sector) by roughly 5% or less, and the materiality threshold is 10%, or close to it, for smaller entities;

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Section 8.7 of ASX Guidance Note 8.

- (iv) it is actual and anticipated GPTV which affects the price or value of iSignthis’ shares, not revenue generated from “*Integration, Establishment, Project and Platform Fees*”;
- (v) the revenue earned from the Corp Destination Services Agreement, Fcorp Services Agreement and IMMO Services Agreement respectively was insignificant when properly considered in context, both temporally and relative to the anticipated GPTV; and
- (vi) although the revenue earned from each of those three contracts contributed to the conversion of the “*Performances Shares*” to ordinary shares being triggered (through the achievement of the milestones set out in the Prospectus), the conversion of the “*Performance Shares*” to ordinary shares did not have a material effect on the price or value of iSignthis’ shares.

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- A. On 30 July 2018 the price of iSignthis’ shares closed at \$0.215.
- B. On 31 July 2018 iSignthis told the market (in its “*Report to shareholders for the Quarter Ended 30th June 2018*”) that:
 - (a) the GPTV processed by the company did not experience the growth expected by the

company due to a number of unforeseeable events, including technical issues with its suppliers; and

- (b) based on the unaudited revenue for the 6 months from 1 January 2018 to 30 June 2018, it estimated that the requirements for all three tranches of the “*Performance Shares*” would be met such that 336,666,667 ordinary shares would be issued in the September quarter period, taking the total number of shares on issue for the company to 1,004,832,159.

C. On 31 July 2018 the price of iSignthis’ shares closed at \$0.205.

D. In the circumstances set out in paragraphs (A) and (C) above, the information set out in paragraph (B) above only had a negative impact on iSignthis’ share price of 4.65%, which is significantly less than 10%.

36. As to paragraph 36, Karantzis:

- (a) denies paragraph 36;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above; and
- (d) refers to and repeats paragraph 35(d) above.

37. As to paragraph 37, Karantzis:

- (a) denies paragraph 37;
- (b) refers to and repeats paragraphs 18(b) and 18(c) above;
- (c) refers to and repeats paragraph 24 above;

- (d) refers to and repeats paragraph 35(d) above; and
- (e) say further that:
 - (i) on 27 November 2018, iSignthis gave ASIC a breakdown of the revenue reported as at 30 June 2018 (**Breakdown of Revenue Information**);

PARTICULARS

The information was in writing. It was contained in a letter dated 27 November 2018 sent by iSignthis to Shanny Chen of ASIC. A copy of the letter is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (ii) after 27 November 2018, ASIC did not require iSignthis to disclose the Breakdown of Revenue Information to the market;
 - (iii) at all material times, if ASIC considered that the Breakdown of Revenue Information ought to be disclosed to the market it could have:
 - (A) pursuant to section 127(4)(B) of the *Australian Securities and Investments Commission Act 2001* (Cth), provided a copy of the letter dated 27 November 2018 to ASX and, pursuant to section 794D of the Corporations Act, directed ASX to release the letter to the market; or
 - (B) pursuant to section 798J of the Corporations Act, directed iSignthis to release the letter dated 27 November 2018 to the market, alternatively to release the breakdown of the revenue contained in that letter to the market,
- and,
- (iv) ASIC did not take any of the steps referred to in paragraph (iii) above.

38. He denies paragraph 38.

39. He denies paragraph 39 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
40. As to paragraph 40, Karantzis:
- (a) denies paragraph 40;
 - (b) refers to and repeats paragraphs 18(b) and 18(c) above;
 - (c) refers to and repeats paragraph 24 above;
 - (d) refers to and repeats paragraph 35(d) above;
 - (e) say further that the written statement of Martyn Jacobs, which is relied on by ASIC:
 - (i) was contained in an email sent on 6 August 2018, which recorded his unchanged recommendation (made on 1 August 2018) of "Buy" and his unchanged valuation price of \$0.45c per share;
 - (ii) was made expressly in the context of, and associated with, iSignthis having achieved the three milestones which triggered the conversion of the "Performance Shares" to ordinary shares;
 - (iii) was not mentioned or referred to under the heading "Impact"; and
 - (iv) did not have a material effect on the price or value of iSignthis' shares;

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- A. On 3 August 2018 the price of iSignthis' shares closed at \$0.185.
- B. On 6 August 2018 the price of iSignthis' shares increased by \$0.010 to close at \$0.195.
- C. In the circumstances set out in paragraphs A and B above, the share price of iSignthis only increased by 5.41% which is significantly less than 10%.

and,

- (f) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
41. He denies paragraph 41 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
42. As to paragraph 42, Karantzis:
- (a) denies paragraph 42;
 - (b) says further that if he contravened section 674(2A) of the Corporations Act as alleged (which is denied), the contravention was not "*serious*" within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to all of the circumstances of the case, including the matters in paragraphs 35(d), 37(e), 40(b) and 40(e) above; and
 - (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
- 42A. Further, if Karantzis did contravene section 674(2A) of the Corporations Act as alleged (which is denied), he says that:
- (a) at all material times he acted honestly;
 - (b) having regard to all the circumstances of the case, including the matters in paragraphs 18(b), 18(c), 26(b), 35(d), 37(e) and 40(e) above, he ought fairly to be excused for the contravention (which is denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively pursuant to section 1318(1) of the Corporations Act; and
 - (c) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
43. He denies paragraph 43 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

44. He denies paragraph 44 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
45. As to paragraph 45, Karantzis:
- (a) denies paragraph 45;
 - (b) says further that if he contravened section 180 of the Corporations Act as alleged (which is denied), the contravention was not "*serious*" within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to all of the circumstances of the case, including the matters in paragraphs 18(b), 18(c), 26(b), 35(d), 37(e) and 40(e) above; and
 - (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
- 45A. Further, if Karantzis did contravene section 180 of the Corporations Act as alleged (which is denied), he says that:
- (a) at all material times he acted honestly;
 - (a) having regard to all the circumstances of the case, including the matters in paragraphs 18(b), 18(c), 26(b), 35(d), 37(e) and 40(e) above, he ought fairly to be excused for the contravention (which is denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively pursuant to section 1318(1) of the Corporations Act; and
 - (b) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

Visa termination

46. Karantzis admits paragraph 46 and says further that:
- (a) on or about 26 June 2017, iSignthis announced that it had signed a Licence Agreement with JCB International Co Ltd, the international operations subsidiary of JCB, to process JCB transactions in the Single Euro Payments Area (**SEPA**) so as to

offer card acquiring, settlement and processing services to European Union and European Economic Area merchants;

- (b) on 4 August 2017, iSignthis eMoney Ltd was accepted as a Principal Member of Mastercard Inc;
- (c) on 4 October 2017, iSignthis eMoney Ltd notified the Central Bank of Cyprus that it has been accepted as a Principal Member of Visa Inc;
- (d) on 15 December 2017, iSignthis announced that the Poli Payments service was now integrated with the ISXPay[®] and Payidentity[™] platforms, which provided consumers with an alternative payment method to make “instant” payment to merchants instead of using cards;
- (e) on 2 October 2018, iSignthis announced that its wholly owned subsidiary, iSignthis eMoney (AU) Pty Ltd, had entered into a card not present/online agreement with UnionPay International, to act as a card acquirer of China UnionPay issued cards;
- (f) on 14 November 2018, iSignthis announced that it had executed an eCommerce Acquiring Business agreement with Diners Club International Ltd, which would allow the iSignthis group of companies located in Australia, the European Union and elsewhere in the world (except North America), by arrangement to acquire Diners Club and Discover Network branded cards directly, as an online (Tier 1) acquirer;
- (g) on 28 March 2018, iSignthis announced that its wholly owned subsidiary, iSignthis eMoney (AU) Pty Ltd, had executed a payment aggregation agreement with American Express Australia;
- (h) on 5 March 2020, iSignthis announced that it is the first Central Bank of Cyprus authorised institution to enable SEPA Instant payments processing for its customers, via its ISXPay[®] payments network; and
- (i) by 6 March 2020:
 - (i) iSignthis, through its wholly owned subsidiaries, was a member of five other card schemes, being Mastercard, JCB, China UnionPay, Amex as well as Diners and Discovery;

- (ii) the technical integrations of Mastercard, JCB, Diners and Discovery had all been completed; and
- (iii) iSignthis, through its wholly owned subsidiaries, was also able to provide merchants with access to payments via alternative methods including SEPA, Poli Payments, Sofort, WeChat and AliPay.

47. Karantzis admits paragraph 47 and says further that:

- (a) iSignthis, through its wholly owned subsidiary iSignthis eMoney (AU) Pty Ltd, was already a Principal Member of Mastercard for the Australian region, having executed a Principal Membership agreement in July 2018; and
- (b) before 6 March 2020, iSignthis did not process any transactions under the Principal Licence with Visa in Australia.

48. As to paragraph 48, Karantzis:

- (a) says that the letter dated 6 March 2020 (**6 March Letter**) was first received by email at 9:07pm on 9 March 2020 and it said that Visa had decided to suspend the Bank Identification Numbers of iSignthis and iSignthis eMoney Ltd in Europe and Australia effective immediately (**the suspension**);
- (b) says that the 6 March Letter did not give only one reason for the suspension as alleged in paragraph (b) of the Claim and that he will rely on the full terms and effect of the 6 March Letter at trial;
- (c) says that the 6 March Letter required iSignthis and iSignthis eMoney Ltd to provide it with information by no later than 16 March 2020;
- (d) says that the 6 March Letter said that the suspension would continue until such time as the required further information was provided to Visa's satisfaction;
- (e) says further that iSignthis and iSignthis eMoney Ltd disputed the matters raised by Visa in the 6 March Letter, including the alleged violation of Visa Rule ID #0000652;

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The dispute was raised in:

- (i) an email sent at 9:51pm on 9 March 2020 by Karantzis to Visa's nominated email address, copied to legal@isignthis.com and James Cameron. A copy of the email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment; and
- (ii) a letter dated 11 March 2020, which was signed by Karantzis in his capacity as Managing Director and Chief Executive Officer of iSignthis and iSignthis eMoney Ltd. The letter was sent at 9:40pm on 10 March 2020 to Visa's nominated email address, copied to legal@isignthis.com, James Cameron and directors@isignthis.com. A copy of the letter and email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

and,

- (f) otherwise denies paragraph 48.

49. As to paragraph 49, Karantzis:

- (a) says that the letter dated 17 April 2020 (**17 April Letter**) was received by email at 10:15pm on Friday, 17 April 2020;
- (b) says that, by the 17 April Letter, Visa purported to terminate its relationship with iSignthis and iSignthis eMoney Ltd in Australia and Europe and he will rely on the full terms and effect of the 17 April Letter at trial;

- (c) otherwise denies paragraph 49;
- (d) says further that, in the period from 17 April 2020 to 12 May 2020, iSignthis and iSignthis eMoney Ltd:
 - (i) submitted a complaint to, and sought advice from, the European Central Bank (**ECB**) regarding Visa's purported termination;
 - (ii) considered the response received from the ECB and whether iSignthis eMoney Ltd should make an out-of-court complaint to, and seek redress from, the Central Bank of Cyprus, as the national competent authority in Cyprus where it is licensed;
 - (iii) disputed Visa's purported termination of the two separate relationships in Australia and Europe, asserted that Visa had failed to afford them procedural fairness, natural justice and due process and raised further concerns, including in relation to the factual accuracy and bona fides of the reasons given by Visa for the purported termination;
 - (iv) provided further information in support of their assertions of wrongful termination, requested that Visa withdraw the 17 April Letter and sought to have a discussion between representatives of the parties to resolve the matter;

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- A. The communication with the ECB was in writing. It was contained in an online submission made on 17 April 2020 by Karantzis to the ECB. A copy of the submission is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.
- B. The response from the ECB was in writing. It was contained in an email received at 8:27am on 20 April 2020 by Karantzis. A copy of the email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.
- C. Insofar as paragraphs (iii) and (iv) are concerned, the communications were in writing. They were contained in:

- (i) an email sent at 11:35am on 21 April 2020 by Karantzis to the email address nominated by Visa, and copied to numerous people at iSignthis, iSignthis eMoney Ltd and Visa;
- (ii) an email sent at 6:06pm on 27 April 2020 by Karantzis to Martin Elliot and Morhaf Mahrous of Visa, and copied to numerous other people at Visa as well as iSignthis and iSignthis eMoney Ltd including directors and executives;
- (iii) a letter dated 5 May 2020 signed by Karantzis in his capacity as Managing Director of iSignthis and iSignthis eMoney Ltd (**5 May Letter**);
- (iv) an email sent at 4:28pm on 6 May 2020 by Karantzis to Sam Gianniotis of Visa;
- (v) an email received at 8:42am on 7 May 2020 by Karantzis from Sam Gianniotis of Visa;
- (vi) an email sent at 8:48am on 7 May 2020 by Karantzis to Sam Gianniotis of Visa; and
- (vii) an email sent at 8:49pm on 7 May 2020 by Karantzis to Sam Gianniotis of Visa.

A copy of the correspondence is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (e) says that at 7:40pm on 12 May 2020 (Australian time) Visa told iSignthis and iSignthis eMoney Ltd that it had reviewed all of the further information provided in the 5 May Letter, had decided not to altered its decision of 17 April 2020 and would not review any further information relating to the basis of its decision to terminate (**12 May Letter**);

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The statements were in writing. They were contained in a letter dated 12 May 2020 which was received by email at 7:40pm that day. A copy of the email and letter is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

and,

(f) says further that:

(i) on 12 May 2020:

- (A) iSignthis and iSignthis eMoney Ltd acknowledged receipt of the 12 May Letter, said that there are no anti-money laundering (AML) breaches alleged or recorded against them in any jurisdiction, asserted that Visa was in fact engaging in anti-competitive practices and continued to seek a meaningful dialogue with a decision maker at Visa;
- (B) pursuant to its obligations under the Licence and the Cypriot Electronic Money Law of 2012 (as set out in paragraph 6 above), iSignthis eMoney Ltd notified the Central Bank of Cyprus of Visa's decision to terminate the relationship;

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- A. Insofar as paragraph (i)(A) above is concerned, the communication with Visa was in writing. It was contained in an email sent at 9:52pm on 13 May 2020 by Karantzis to the email address nominated by Visa, and copied to numerous people at iSignthis, iSignthis eMoney Ltd and Visa;
- B. The notification to the Central Bank of Cyprus was oral. It was made by Anna Ilina

of iSignthis eMoney Ltd during a telephone call to the Central Bank of Cyprus.

- (ii) on 15 May 2020, the Central Bank of Cyprus asked iSignthis eMoney Ltd to provide it with information;

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The requested was in writing. It was contained in an email received by Anna Ilina from Maria Kontou of the Central Bank of Cyprus. A copy of the email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (iii) on 18 May 2020, pursuant to its obligations under the Licence and the Cypriot Electronic Money Law of 2012 (as set out in paragraph 6 above), iSignthis eMoney Ltd submitted the requisite information to the Central Bank of Cyprus; and

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The information was submitted in writing. It was contained in a letter which Anna Ilina sent by email to Maria Kontou of the Central Bank of Cyprus, copied to various individuals at the bank as well as the email addresses exec@isignthis.com, directors@isignthis.com and legal@isignthis.com. A copy of the email and letter is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (iv) at about 8:00pm on Thursday, 21 May 2020 (Australian time), iSignthis eMoney Ltd received an acknowledgement from the Central Bank of Cyprus in respect of its submission.

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The acknowledgement was oral. It was made by Maria Kontou of the Central Bank of Cyprus to Anna Ilina of iSignthis eMoney Ltd during a telephone call.

Alleged false or misleading Visa information given to ASX

50. As to paragraph 50, Karantzis:

- (a) says that at 10:42pm on 7 May 2020 iSignthis received a query letter from ASX (**7 May Query Letter**), which was purportedly issued pursuant to Listing Rule 18.7;
- (b) admits that the 7 May Query Letter asked questions and sought information in relation to iSignthis' relationship with Visa and says further that he will rely on the full terms and effect of the 7 May Query Letter at trial; and
- (c) otherwise denies paragraph 50.

51. Save that Karantzis admits that on 25 May 2020 iSignthis sent ASX a response to the 7 May Query Letter (**25 May Letter**), he denies paragraph 51 and says further that:

- (a) iSignthis also sent ASX responses to the 7 May Query Letter on 13 May 2020 and 20 May 2020;
- (b) the 6 March Letter did not give only one reason for the suspension as alleged in paragraph 48(b) of the Claim and he will rely on the full terms and effect of the 6 March Letter at trial;
- (c) he will rely on the full terms and effect of the 17 April Letter at trial; and
- (d) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

52. As to paragraph 52, Karantzis:

- (a) denies paragraph 52;
- (b) relies upon sections 1309(7), 1309(8), 1309(9) and 1309(10) of the Corporations Act; and

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

53. As to paragraph 53, Karantzis:

- (a) says that on 5 August 2020 iSignthis received a further query letter from ASX (**5 August Query Letter**), which was purportedly issued pursuant to Listing Rule 18.7;
- (b) admits that the 5 August Query Letter asked further questions and sought further information in relation to iSignthis' relationship with Visa and says further that he will rely on the full terms and effect of the 5 August Query Letter at trial; and
- (c) otherwise denies paragraph 53.

54. Save that Karantzis admits that on 17 August 2020 iSignthis sent ASX a letter (**17 August Letter**) which responded to the 5 August Query Letter, he denies paragraph 54 and says further that:

- (a) on 16 April 2020 Visa did in fact inform iSignthis of changes to the rules that were inconsistent with the business model of iSignthis;
- (b) he will rely on the full terms and effect of the 17 April Letter at trial; and
- (c) on 15 July 2020 and 22 July 2020 ASIC provided ASX with a copy of correspondence, between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter (**Visa Correspondence**), such that:
 - (i) as at 17 August 2020, ASX was already in possession of the 17 April Letter; and
 - (ii) having regard to the full terms and effect of the 17 August Letter read fairly as a whole, and in the context of the Visa Correspondence, the alleged statement was not false or misleading and ASX was not misled.

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Insofar as subparagraph (a) is concerned, the information was in writing. It was contained in a document entitled “*Enhancement of High-Risk Brand Acquiring Rules*” dated 16 April 2020. A copy of the document is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

55. As to paragraph 55, Karantzis:

- (a) admits that he signed and authorised the 17 August Letter;
- (b) otherwise denies paragraph 55;
- (c) relies upon sections 1309(7), 1309(8), 1309(9) and 1309(10) of the Corporations Act; and
- (d) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.

56. As to paragraph 56, Karantzis:

- (a) denies paragraph 56;
- (b) says further that if he did contravene sections 1309(2) and (12) of the Corporations Act as alleged (which is denied), the contraventions were not “*serious*” within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to all of the circumstances of the case, including that at all material times trading in the shares of iSignthis was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:
 - (i) there was no risk to the integrity and efficiency of the market;
 - (ii) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;

- (iii) there was no risk of trading in iSignthis' shares on an uninformed basis; and
 - (iv) there was no risk of insider trading in iSignthis' shares;
- and,

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

56A. Further, if Karantzis did contravene sections 1309(2) and (12) of the Corporations Act as alleged (which is denied), he says that:

- (a) at all material times he acted honestly;
- (b) having regard to all the circumstances of the case, he ought fairly to be excused for the contraventions (which are denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively section 1318(1) of the Corporations Act; and
- (c) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

Alleged material non-disclosure (Visa termination)

57. Karantzis denies paragraph 57 and refers to and repeats paragraph 49 above.

58. Karantzis denies paragraph 58 and says further that from 24 May 2020, alternatively 7 September 2020, the termination of the relationship with Visa was generally available information.

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Karantzis refers to and repeats paragraphs 60(d)(ii) to 60(d)(iv) and 60(e) below.

59. Karantzis denies paragraph 59 and says further that:

- (a) in the period from 17 April 2020 to 24 May 2020, trading in the shares of iSignthis was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:
 - (i) there was no risk to the integrity and efficiency of the market;
 - (ii) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;
 - (iii) there was no risk of trading in iSignthis' shares on an uninformed basis; and
 - (iv) there was no risk of insider trading in iSignthis' shares;
 - (b) by reason of the matters in paragraph 46 above, by 17 April 2020 iSignthis, through its wholly owned subsidiaries, was:
 - (i) a member of five other card schemes, being Mastercard, JCB, China UnionPay, Amex as well as Diners and Discovery; and
 - (ii) also providing merchants with access to payments via alternative methods including SEPA, Poli Payments, Sofort, WeChat and AliPay;
 - (c) by 17 April 2020, iSignthis, through its wholly owned subsidiaries, had also:
 - (i) completed its own Tier 1 card scheme and central banking connections and infrastructure;
 - (ii) acquired UAB Baltic Banking Services, which:
 - (A) gave iSignthis access to SEPA Core and SEPA instant network capabilities; and
 - (B) allowed iSignthis to fully integrate its eMoney institutions and International Bank Account Number operations to the Central Bank of Lithuania;
- and,

- (iii) invested in NSX Limited, which operates Australia's second-largest market operator, and entered into a joint venture with NSX Limited in ClearPay;
- (d) Visa is not an AML regulator and, as at 17 April 2020, no anti-money laundering and counter-terrorism financing regulator, including in Australia, the United Kingdom and Europe, had imposed any sanction, issued any corrective notice or taken any regulatory action against iSignthis or any of its wholly owned subsidiaries; and
- (e) the announcement made on 4 October 2017 by iSignthis, that iSignthis eMoney Ltd had been granted Principal Membership of Visa Inc, did not have a material effect on the price or value of iSignthis' shares such that, having regard to:
 - (i) all of the developments since 4 October 2017, including those set out in paragraphs (b) and (c) above; and
 - (ii) the matters set out in paragraph (d) above,

Visa's decision to terminate the relationship is unlikely to have had a material effect on the price or value of iSignthis' shares if trading had been permitted by ASX, which it was not.

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- A. On 3 October 2017 the price of iSignthis' shares closed at \$0.15.
 - B. On 4 October 2017 the price of iSignthis' shares closed at \$0.16.
 - C. In the circumstances set out in paragraphs A and B above, the announcement on 4 October 2017 had a positive impact on iSignthis' share price of 6.67%, which is significantly less than 10%.
60. As to paragraph 60, Karantzis:
- (a) denies paragraph 60;
 - (b) says that in the circumstance set out in paragraphs 46(c) and 49(b) to 49(e) above:

- (i) iSignthis and iSignthis eMoney Ltd were engaged in confidential communications with Visa in relation to the purported termination of the relationship which was disputed and subject to ongoing negotiations; and
- (ii) Visa's decision to terminate the relationship with iSignthis and iSignthis eMoney Limited was not final until 12 May 2020,

such that, prior to 12 May 2020, a reasonable person would not have expected that information to be disclosed and iSignthis was entitled to rely on Listing Rule 3.1A;

(c) says further that by reason of the matters set out in paragraphs 6 and 46(c) above:

- (i) on and from 12 May 2020, pursuant to its legal obligations under the Licence and the Cypriot Electronic Money Law of 2012, iSignthis eMoney Ltd was obliged to notify the Central Bank of Cyprus that Visa had terminated its membership such that it was no longer an approved member of that organisation;
- (ii) in the period from 12 May 2020 to 21 May 2020, iSignthis eMoney Ltd was engaged in confidential communications with the Central Bank of Cyprus in order to notify it that Visa had terminated its relationship and the circumstances which led to that event; and
- (iii) a failure by iSignthis eMoney Ltd to notify the Central Bank of Cyprus that Visa had terminated its relationship before iSignthis disclosed the termination of the relationship to the market would have caused iSignthis eMoney Ltd to breach the terms of the Licence and the Cypriot Electronic Money Law 2012,

such that a reasonable person would not have expected the information to be disclosed and iSignthis was entitled to continue to rely on Listing Rule 3.1A until 22 May 2020;

(d) says that:

- (i) in the period from 17 April 2020 to 25 May 2020, trading in the shares of iSignthis was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:
 - (A) there was no risk to the integrity and efficiency of the market;

- (B) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;
 - (C) there was no risk of trading in iSignthis' shares on an uninformed basis; and
 - (D) there was no risk of insider trading in iSignthis' shares;
- (ii) in the period from 22 May 2020 to 24 May 2020, a letter to shareholders was drafted to notify them of the termination of the Visa relationship (**Letter**);
 - (iii) at 2:30pm on Sunday, 24 May 2020, the Letter was sent to shareholders; and

PARTICULARS

The Letter was sent by email from Karantzis to shareholders of iSignthis. A copy of the email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (iv) at 2:33pm on Sunday, 24 May 2020, a copy of the Letter was sent to ASX for release on the Market Announcements Platform, which occurred on 25 May 2020;

PARTICULARS

The letter was sent by email from Karantzis to Dean Litis at ASX. A copy of the email is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

- (e) says that the independent experts appointed by iSignthis at the request of ASX, Michael Linehan and Brendan Groves of Clayton Utz:

- (i) said that based on their review of the information available to them, nothing had come to their attention which caused them to believe that iSignthis' reliance on ASX Listing Rule 3.1A during the periods from 17 April 2020 to 12 May 2020 and 12 May 2020 to 21 May 2020 was not appropriate; and

- (ii) concluded that:
- (A) the obligation of iSignthis to disclose the termination of the arrangements between iSignthis and Visa in accordance with Listing Rule 3.1 first arose on 21 May 2020; and
 - (B) there was a technical breach of ASX Listing Rule 3.1 that arose from a 1 to 2 business day delay by iSignthis in formally announcing the termination to the market, but that as iSignthis' shares were suspended at this time iSignthis did not have the ability to use a trading halt to assist in managing its continuous disclosure obligations, which it may have otherwise done to cover the period of the delay.

PARTICULARS

- A. The ASX request was in writing. It was contained in an email sent at 3:27pm on 30 July 2020 by Janine Ryan and in an email sent at 8:46am on 5 August 2020 by Janine Ryan. A copy of the two emails is in the possession of the solicitors acting for the Applicants and may be inspected during business hours by appointment.
- B. iSignthis' request was in writing, contained in an email sent at 5:51pm on 16 August 2020. A copy of the email is in the possession of the solicitors acting for the Applicants and may be inspected during business hours by appointment.
- C. The statements in paragraphs (e)(ii)(A) and (e)(ii)(B) above were in writing, contained in paragraphs 2.4 to 2.9 of the supplementary report of the independent experts dated 3 September 2020, which was provided to ASX on 7 September 2020 and released that same day on the Market Announcements Platform together with the first report of the independent experts.

and,

(f) says further that:

(i) in the period from 26 May 2020 to 26 October 2020:

(A) sections 674(2)(c) and 677 of the Corporations Act were modified; and

PARTICULARS

Sections 5 and 7 of the Corporations

(Coronavirus Economic Response)

Determination (No.2) 2020 (Cth) made under

section 1362A of the Corporations Act.

(B) trading in the shares of iSignthis was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:

(1) there was no risk to the integrity and efficiency of the market;

(2) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;

(3) there was no risk of trading in iSignthis' shares on an uninformed basis; and

(4) there was no risk of insider trading in iSignthis' shares;

and,

(ii) in the circumstances set out in (f)(i) above, iSignthis did not have the alleged obligation.

61. As to paragraph 61, Karantzis:

(a) denies paragraph 61;

(b) says that on 24 May 2020:

(i) iSignthis sent the Letter to its shareholders, which notified them of the termination of the Visa relationship; and

(ii) sent a copy of the Letter to ASX, for release the following day on the Market Announcements Platform;

and,

(c) further or alternatively, say that from at least 15 July 2020, alternatively 22 July 2020, ASX was aware that Visa had terminated the relationship with iSignthis and iSignthis eMoney Ltd, as ASIC had provided ASX with a copy of the correspondence between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter.

62. As to paragraph 62, Karantzis:

(a) denies paragraph 62;

(b) refers to and repeats paragraph 61(b) above; and

(c) further or alternatively, says that from at least 15 July 2020, alternatively 22 July 2020, ASX was aware of the reasons alleged by Visa as the basis for the termination of the relationship with iSignthis and iSignthis eMoney Ltd, as ASIC had provided ASX with a copy of the correspondence between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter.

63. As to paragraph 63, Karantzis:

(a) denies paragraph 63;

(b) refers to and repeats paragraphs 59(a) to 59(e) above;

(c) refers to and repeats paragraphs 60(a) to 60(f) above; and

(d) in respect of the period from 26 May 2020 to 17 August 2020, says further that in the circumstances set out in paragraphs (b) and (c) above, and in paragraphs 68(b)(iv) and 68(b)(v) below, iSignthis did not know, alternatively was not reckless or negligent, with respect to whether the information in the 17 April Letter would have a material effect on the price or value of its shares.

64. As to paragraph 64, Karantzis:
- (a) denies paragraph 64;
 - (b) refers to and repeats paragraphs 59(a) to 59(e) above;
 - (c) refers to and repeats paragraphs 60(a) to 60(f) above; and
 - (d) in respect of the period from 26 May 2020 to 26 October 2020, says further that in the circumstances set out in paragraphs (b) and (c) above, and in paragraphs 68(b)(iv) and 68(b)(v) below, iSignthis did not know, alternatively was not reckless or negligent, with respect to whether the information in the 17 April Letter would have a material effect on the price or value of its shares.
65. As to paragraph 65, Karantzis:
- (a) says that he was aware of the 17 April Letter;
 - (b) refers to and repeats paragraph 49 above;
 - (c) admits that before 24 May 2020, alternatively 7 September 2020, the termination of the relationship with Visa was not generally available information;
 - (d) otherwise denies paragraph 65; and
 - (e) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.
66. As to paragraph 66, Karantzis:
- (a) denies paragraph 66;
 - (b) refers to and repeats paragraphs 59(a) to 59(e) above;
 - (c) refers to and repeats paragraphs 60(a) to 60(f) above;
 - (d) says that in the circumstances set out in paragraphs (a) to (c) above, a reasonable person acting as a Chief Executive Officer would not have disclosed the termination of the relationship with Visa until 24 May 2020;

- (e) says further that the shares of iSignthis were already suspended such that the company was already effectively in a trading halt between 21 May 2020, when the acknowledgement was received from the Central Bank of Cyprus, and 25 May 2020, when the information was released to the market; and
- (f) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

67. As to paragraph 67, Karantzis:

- (a) denies paragraph 67;
- (b) refers to and repeats paragraphs 66(a) to 66(e) above;
- (c) says that in the circumstances set out in paragraph (b) above, he did not fail to discharge his duties with the degree of care and diligence that a reasonable person would exercise if they were Chief Executive Officer of a company in iSignthis' circumstances and did not contravene section 180 of the Corporations Act; and
- (d) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

67A. Further, Karantzis:

- (a) says that:
 - (i) he made the judgment in good faith for a proper purpose;
 - (ii) did not have a material personal interest in the subject matter of the judgment;
 - (iii) informed himself of the subject matter of the judgment to the extent he reasonably believed to be appropriate; and
 - (iv) rationally believed that the judgment was in the best interests of the corporation,

such that, pursuant to section 180(2) of the Corporations Act, he is taken to have met the requirements of section 180(1) of the Corporations Act; and

- (b) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

68. As to paragraph 68, Karantzis:

- (a) denies paragraph 68;
- (b) says further that if he contravened section 180 of the Corporations Act as alleged (which is denied), the contravention was not “*serious*” within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to all of the circumstances of the case, including that:
 - (i) at all material times trading in the shares of iSignthis was still suspended and, in fact, none of its shares were sold or bought either in on-market or off-market trading such that:
 - (A) there was no risk to the integrity and efficiency of the market;
 - (B) there was no risk to investors as the information could not influence them to buy or sell their shares in iSignthis;
 - (C) there was no risk of trading in iSignthis' shares on an uninformed basis; and
 - (D) there was no risk of insider trading in iSignthis' shares;
 - (ii) iSignthis disclosed the termination of the relationship with Visa as soon as practicable (on 24 May 2020), after its subsidiary, iSignthis eMoney Ltd had complied with the terms of its Licence and the Cypriot Electronic Money Law of 2012 by notifying the Central Bank of Cyprus of the termination;
 - (iii) by 15 July 2020, alternatively 22 July 2020, ASIC had provided ASX with a copy of correspondence, between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter;
 - (iv) pursuant to ASX's requests, on 16 August 2020 iSignthis asked the independent experts, Michael Linehan and Brendan Groves, to review the correspondence which ASX had obtained from ASIC and update their report as necessary; and

PARTICULARS

- A. The ASX request was in writing. It was contained in an email sent at 3:27pm on 30 July 2020 by Janine Ryan and in an email sent at 8:46am on 5 August 2020 by Janine Ryan. A copy of the two emails is in the possession of the solicitors acting for the Applicants and may be inspected during business hours by appointment.
 - B. iSignthis' request was in writing, contained in an email sent at 5:51pm on 16 August 2020. A copy of the email is in the possession of the solicitors acting for the Applicants and may be inspected during business hours by appointment.
- (v) the supplementary report of the independent experts dated 3 September 2020 (which was provided to ASX on 7 September 2020 and released that same day on the Market Announcements Platform together with the first report of the independent experts):
- (A) said that they had considered the additional correspondence relating to the suspension and termination of the arrangements between iSignthis and Visa;
 - (B) said that based on their review of the information available to them, nothing had come to their attention which caused them to believe that iSignthis' reliance on ASX Listing Rule 3.1A during the periods from 17 April 2020 to 12 May 2020 and 12 May 2020 to 21 May 2020 was not appropriate; and
 - (C) concluded that:
 - (1) the obligation of iSignthis to disclose the termination of the arrangements between iSignthis and Visa in accordance with Listing Rule 3.1 first arose on 21 May 2020; and
 - (2) there was a technical breach of ASX Listing Rule 3.1 that arose from a 1 to 2 business day delay by iSignthis in formally

announcing the termination to the market, but that as iSignthis' shares were suspended at this time iSignthis did not have the ability to use a trading halt to assist in managing its continuous disclosure obligations, which it may have otherwise done to cover the period of the delay.

PARTICULARS

The statements in paragraphs (A) to (C) above were in writing, contained in paragraphs 2.4 to 2.9 of the supplementary report of the independent experts dated 3 September 2020.

and,

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

68A. Further, if Karantzis did contravene section 180 of the Corporations Act as alleged (which is denied), he says that:

- (a) at all material times he acted honestly;
- (b) having regard to all the circumstances of the case, including the matters in paragraphs 68(b) above, he ought fairly to be excused for the contravention (which is denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively section 1318(1) of the Corporations Act; and
- (c) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

Alleged breach of directors' duties by the Second Defendant

69. As to paragraph 69, Karantzis:

- (a) admits the allegation in paragraph (a) and says further that, by reason of the matters in paragraphs 12(a) to 12(m) above, each of the non-executive directors and chairman of

iSignthis as well as other officers of the company had a material personal financial interest in iSignthis achieving Milestone A, Milestone B and Milestone C;

- (b) says that on 22 December 2014 the shareholders of the company (then known as Otis) passed Resolution 2 which provided:

“That, subject to Resolutions 1,3,4,5,6,7 and 8 being passed, and for the purpose of section 611 item 7 of the Corporations Act, and all other purposes, Shareholders approve the issue of Shares and Performance Shares (and Shares on conversion of Performance Shares) under the terms of the Acquisition Agreement (together, the Vendor Securities), to the Vendor as consideration for the Acquisition on the terms and conditions in the Explanatory Memorandum accompanying this Notice.”

- (c) says further that before the shareholders approved the issue of the “*Performance Shares*” the company (then known as Otis Energy Limited) disclosed, among other things, that:
- (i) iSignthis Ltd BVI is a company based in the British Virgin Islands and that Karantzis had a relevant interest in iSignthis achieving the milestones because he held an interest exceeding 20% of iSignthis Ltd BVI;
 - (ii) a disadvantage associated with the proposed transaction proceeding was that if all of the milestones were achieved then the interest of iSignthis Ltd BVI would increase to 73.7%, thereby further increasing its capacity to influence passing of special resolutions;
 - (iii) the transaction was not fair to shareholders if the minimum requirement for Milestone A was met but would be fair if each of the next two milestones were met; and
 - (iv) the conversion of the “*Performance Shares*” into ordinary shares was linked to turnover and not to profitability such that the incentive to grow revenue could come at the expense of profits;

PARTICULARS

The disclosure was made in sections 6.7, 8.3 and 14.3 of the Prospectus, paragraph 5.2 of the Explanatory Memorandum and paragraphs 2.6, 2.10, 12.15 and 2.19 of the Bird Cameron Expert Report.

- (d) admits the allegation in paragraph (b)(i);
- (e) denies each and every allegation in paragraph (b)(ii) and say further that he will rely on the matters pleaded in paragraph 9 above; and
- (f) otherwise denies paragraph 69.

70. As to paragraph 70, Karantzis:

- (a) says that he signed the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement but that he did not:
 - (i) initiate the communications with Corp Destination, Fcorp or Immo;
 - (ii) introduce Corp Destination, Fcorp or Immo to iSignthis or any of its subsidiaries; or
 - (iii) communicate with Corp Destination, Fcorp or Immo in relation to any offers to provide the services to each of them respectively;
- (b) says that he signed the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement for the purpose of building the business of iSignthis and making it profitable;
- (c) says that by 22 June 2018 he knew that:
 - (i) the cash receipts in the second half of the financial year ending 30 June 2018 were in excess of \$3,750,000; and

- (ii) consequently, subject to audit, Milestone A and Milestone B would be satisfied so as to trigger the issue of the Class A and Class B “*Performance Shares*” under section 14.2 of the Prospectus;
 - (d) refers to and repeats paragraph 17 above;
 - (e) refers to and repeats paragraphs 19(a) to 19(e);
 - (f) says further that he did not communicate with Corp Destination, Fcorp or Immo in relation to the provision of the services or the Certificates of Practical Completion;
 - (g) otherwise denies paragraph 70; and
 - (h) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.
71. He denies paragraph 71 and reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.
72. As to paragraph 72, Karantzis:
- (a) denies paragraph 72;
 - (b) refers to and repeat paragraphs 69(b) and 69(c) above;
 - (c) says that in the circumstances set out in paragraph (b) above, the company and the shareholders approved the issue of the “*Performance Shares*” knowing that if Milestone A, Milestone B and Milestone C were all achieved it would substantially dilute the share capital of iSignthis;
 - (d) refers to and repeats paragraphs 70(a) and 70(b) above;
 - (e) says further that:
 - (i) by integrating iSignthis’ platforms with third party CRM systems integrated with either a trading platform or exchange platform in the second half of the financial year ended 30 June 2018:

- (A) iSignthis gained valuable knowledge that it has since been able to deploy for subsequent customers who have elected to use the same or similar third party CRM system integrated with either a trading platform or exchange platform; and
 - (B) this has enabled iSignthis to connect new customers using, or who are wanting to use, the same or similar third party CRM system integrated with either a trading platform or exchange platform much faster than it would otherwise have been able to do;
 - (ii) the platforms supplied to Fcorp and IMMO resulted in iSignthis processing \$43,851,845 million GPTV between these platforms and receiving combined revenue of \$1,057,068 in the financial year ended 31 December 2019; and
 - (iii) iSignthis would not have earned the revenue referred to in paragraph (ii) above if Authenticate BV had not entered into the Fcorp Services Agreement and IMMO Services Agreement;
- (f) says that in the circumstances set out in paragraphs (d) and (e) above, the Corp Destination Services Agreement, Corp Destination Variation, Fcorp Services Agreement and IMMO Services Agreement were central to iSignthis:
- (i) establishing itself as an entity able to provide identity verification and transaction processing services to anti-money laundering regulated entities;
 - (ii) gaining valuable knowledge that it was able to deploy for subsequent customers;
 - (iii) gaining substantial revenue from GPTV; and
 - (iv) achieving a cash flow positive position by mid-May 2019;

PARTICULARS

The achievement was announced on 14 May 2019. A copy of the written announcement is in the possession of the solicitors acting for Karantzis and may be inspected during business hours by appointment.

and,

- (g) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

73. As to paragraph 73, Karantzis:

- (a) denies paragraph 73;
- (b) refers to and repeats paragraphs 19(a) to 19(e) above;
- (c) refers to and repeat paragraphs 72(b) to 72(f) above; and
- (d) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

74. As to paragraph 74, Karantzis:

- (a) denies paragraph 74;
- (b) says further that if he did contravene sections 181 and 182 of the Corporations Act as alleged (which is denied), the contraventions were not "*serious*" within the meaning of section 1317G(1)(b)(iii) of the Corporations Act having regard to all of the circumstances of the case, including that:
 - (i) before the shareholders approved the issue of the "*Performance Shares*" the company disclosed, among other things, that:
 - (A) Karantzis, through iSignthis Ltd BVI, had an interest in iSignthis achieving the milestones;
 - (B) a disadvantage associated with the proposed transaction proceeding was that if all of the milestones were achieved then the interest of iSignthis Ltd BVI would increase to 73.7%, thereby further increasing its capacity to influence passing of special resolutions
(Disadvantage);

- (C) the transaction was not fair to shareholders if the minimum requirement for Milestone A was met but would be fair if each of the next two milestones were met; and
- (D) the conversion of the “*Performance Shares*” into ordinary shares was linked to turnover and not to profitability such that the incentive to grow revenue could come at the expense of profits;

PARTICULARS

The disclosure was made in sections 6.7, 8.3 and 14.3 of the Prospectus, paragraph 5.2 of the Explanatory Memorandum and paragraphs 2.6, 2.10, 12.15 and 2.19 of the Bird Cameron Expert Report.

- (ii) by reason of the matters set out in paragraphs 12(m) and 12(n) above, Karantzis in fact substantially reduced the Disadvantage to the company and other shareholders; and
- (iii) the conversion of the “*Performance Shares*” to ordinary shares was not material to the price or value of iSignthis’ shares.

PARTICULARS

Karantzis refers to and repeats the particulars under paragraph 35(b)(vi) above.

and,

- (c) reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC’s case.

74A. Further, if Karantzis did contravene sections 181 and 182 of the Corporations Act as alleged (which is denied), he says that:

- (a) at all material times he acted honestly;

- (a) having regard to all the circumstances of the case, including the matters in paragraphs 74(b) above, he ought fairly to be excused for the contravention (which is denied) pursuant to section 1317S(2) of the Corporations Act, further or alternatively section 1318(1) of the Corporations Act; and
- (b) he reserves the right to advance in his case additional material in support of his defence, the details of which will be disclosed by amending this paragraph after the close of ASIC's case.

Dated: 1 March 2021

P W Collinson

J S Mereine

HWL Ebsworth
HWL Ebsworth Lawyers
Solicitors for the Second Defendant

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 15/03/2021 8:36:02 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Reply - Form 34 - Rule 16.33
File Number: VID773/2020
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
ISIGNTHIS LIMITED & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 15/03/2021 8:36:04 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

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 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.



Form 34
Rule 16.33

REPLY TO DEFENCES

No. VID773/2020

Federal Court of Australia
District Registry: Victoria
Division: General

IN THE MATTER OF ISIGNTHIS LIMITED (ACN 075 419 715)

BETWEEN

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

and

ISIGNTHIS LIMITED
(ACN 075 419 715)

First Defendant

NICKOLAS JOHN KARANTZIS

Second Defendant

This Reply adopts the defined terms in the Statement of Claim.

To the Defence of the First Defendant and the Defence of the Second Defendant, each dated 1 March 2021, the Plaintiff replies as follows:

- 1 The Plaintiff admits sub-paragraph 5(c).
- 2 The Plaintiff admits sub-paragraph 10(a).
- 3 The Plaintiff admits sub-paragraph 21(b).

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission, Plaintiff
Prepared by (name of person/lawyer)	Andrew Harpur
Law firm (if applicable)	Ashurst Australia
Tel (03) 9679 3896	Fax (03) 9679 3111
Email	andrew.harpur@ashurst.com
Address for service (include state and postcode)	Level 26, 181 William Street, Melbourne VIC 3000

4 As to sub-paragraph 37(e), the Plaintiff denies the sub-paragraph and says further:

(a) in accordance with an annual “Account Surveillance Program” (also known as “Financial Reporting Surveillance Program”), the ASIC Financial Reporting and Audit team:

- (i) reviewed the iSignthis financial report for the year ended 30 June 2018; and
- (ii) on 7 November 2018, wrote to iSignthis and requested, among other information, “[a] breakdown of \$5.8 million fee revenue and \$1.1 million trade receivables by types of revenue streams” reported in that financial report for the purpose of gaining an “understanding of the accounting treatment of trade receivables”;

Particulars

Letter from Shanny Chen, ASIC Financial Reporting and Audit to iSignthis dated 7 November 2018. ASIC Media Release 19-014MR Findings from 30 June 2018 financial reports published 25 January 2019.

(b) on 27 November 2018, iSignthis replied to the ASIC Financial Reporting and Audit team stating, among other matters:

1. Breakdown of the \$5.8m revenue reported as at 30 June 2018		
I.	Acquiring/Settlement of Funds	\$0.37m
II.	KYC/Evidence of Identity	\$1.497m
III.	Payment Processing (Gateway)	\$0.32m
IV.	integration & platform configuration	\$3.6m
	Total	\$5.8m

Note that the majority of revenue earned was invoiced in the second half of the year as business opportunities were generated and the increase in the client base (active customers). The total revenue was therefore significantly greater than when compared to 30 June 2017 and when also comparing the half year accounts as at 31 December 2017.

Particulars

Letter from iSignthis to Shanny Chen, ASIC Financial Reporting and Audit dated 27 November 2018.

(c) at all material times:

- (i) s 674 of the Corporations Act imposed a disclosure obligation on a listed disclosing entity with information of the kind referred to in s 674(2)(b) and (c);
 - (ii) iSignthis was a listed disclosing entity;
- (d) further to (c) above, the ASIC Financial Reporting and Audit team did not have:
- (i) the role of investigating iSignthis' compliance with its disclosure obligations under s 674(2) of the Corporations Act; and
 - (ii) any obligation to advise or assist iSignthis in complying with its obligations under s 674(2);
- (e) the Plaintiff commenced an investigation under s 13 of the ASIC Act in relation to suspected contraventions of s 674(2) by iSignthis on 2 October 2019.

5 As to sub-paragraph 54(c), the Plaintiff:

- (a) admits that on 15 July 2020 and 22 July 2020 ASIC provided the ASX with a copy of correspondence, between iSignthis and iSignthis eMoney Ltd on the one hand and Visa on the other hand, which included the 17 April Letter;
- (b) otherwise denies the sub-paragraph.

6 As to sub-paragraph 60(f)(i)(A), the Plaintiff:

- (a) repeats paragraph 60 of the Statement of Claim and says that iSignthis was required to notify the ASX of the VISA Termination Decision, further or alternatively, the VISA Termination Decision and the Reasons for VISA's Termination, under Rule 3.1 of the Listing Rules and s 674(2)(b) of the Corporations Act from 17 April 2020;
- (b) repeats paragraph 61 of the Statement of Claim and says that iSignthis did not notify the ASX of the VISA Termination Decision until 17 August 2020, alternatively 24 May 2020;
- (c) repeats paragraph 62 of the Statement of Claim and says that iSignthis did not notify the ASX of the Reasons for VISA's Termination; and

(d) says that sections 5 and 7 of the *Corporations (Coronavirus Economic Response) Determination (No. 2) 2020* (Cth) did not commence until 26 May 2020.

7 The Plaintiff otherwise joins issue on the Defences.

Date: 15 March 2021



Signed by Andrew Harpur
Lawyer for the Plaintiff

This reply was prepared by Michael Borsky QC, Mark Costello and Rudi Kruse.

Certificate of lawyer

I Andrew Harpur certify to the Court that, in relation to reply filed on behalf of the Plaintiff, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 15 March 2021



Signed by Andrew Harpur
Lawyer for the Plaintiff